

# HEARING ON PENDING LEGISLATION

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## HEARING

BEFORE THE

### COMMITTEE ON VETERANS' AFFAIRS

### UNITED STATES SENATE

ONE HUNDRED FIFTEENTH CONGRESS

FIRST SESSION

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JUNE 15, 2017

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Printed for the use of the Committee on Veterans' Affairs



Available via the World Wide Web: <http://www.fdsys.gov>

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U.S. GOVERNMENT PUBLISHING OFFICE

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# C O N T E N T S

JUNE 15, 2017

## SENATORS

	Page
Isakson, Hon. Johnny, Chairman, U.S. Senator from Georgia .....	1
Tester, Hon. Jon, Ranking Member, U.S. Senator from Montana .....	1
Boozman, Hon. John, U.S. Senator from Arkansas .....	22
Tillis, Hon. Thom, U.S. Senator from North Carolina .....	24
Rounds, Hon. Mike, U.S. Senator from South Dakota .....	25

## WITNESSES

McCaskill, Hon. Claire, U.S. Senator from Missouri .....	2
Letters for the Record .....	4
Coy, Curtis L., Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, U.S. Department of Veterans Affairs; accompanied by Bradley Flohr, Senior Advisor for Compensation Service .....	8
Prepared statement .....	9
Response to request arising during the hearing by Hon. Mike Rounds .....	26
Hubbard, Will, Vice President of Government Affairs, Student Veterans of America .....	28
Prepared statement .....	30
Kamin, John, Assistant Director, Veterans Employment and Education, The American Legion .....	39
Prepared statement .....	41
Murray, Patrick, Associate Director, National Legislative Service, Veterans of Foreign Wars of the United States .....	55
Prepared statement .....	57
Robinson, Brig. Gen. Roy (Ret.), President, National Guard Association of the United States .....	62
Prepared statement .....	64

## APPENDIX

Burr, Hon. Richard, U.S. Senator from North Carolina; prepared statement ...	71
Crapo, Hon. Mike, U.S. Senator from Idaho; prepared statement .....	73
Heitkamp, Hon. Heidi, U.S. Senator from North Dakota; prepared statement ..	74
Inhofe, Hon. James, U.S. Senator from Oklahoma; prepared statement .....	74
Lachica, Eric, Executive Director for ACFV leaders, American Coalition for Filipino Veterans, Inc. (ACFV); letter .....	76
U.S. Department of Defense (DOD); prepared statement .....	77
Shellenberger, Sam, Deputy Assistant Secretary, Veterans' Employment and Training Service, U.S. Department of Labor (DOL); prepared statement .....	80
Enlisted Association of the National Guard of the United States (EANGUS); prepared statement .....	82
Crawford, Scott, High Ground Veterans Fellow, High Ground Veterans Advoca- cy (HGVA); letter .....	84
Porter, Tom, Legislative Director, Iraq and Afghanistan Veterans of America (IAVA); prepared statement .....	89
Military Officers Association of America (MOAA); prepared statement .....	94
Morosky, Aleks, National Legislative Director, Military Order of the Purple Heart (MOPH); prepared statement .....	97
National Association of College and University Business Officers (NACUBO); prepared statement .....	100

IV

	Page
Wescott, Dr. Joseph, Legislative Director, National Association of State Approving Agencies (NASAA); prepared statement .....	102
Gore, Phil, Legislative Director, National Association of Veterans' Program Administrators (NAVPA); prepared statement .....	107
National Military Family Association; prepared statement .....	112
Paralyzed Veterans of America (PVA); prepared statement .....	113
Reserve Officers Association of the United States (ROA); prepared statement ..	114
Tragedy Assistance Program for Survivors (TAPS); prepared statement .....	116
Veterans Educations Success (VES); prepared statement .....	120
Goldsmith, Kristofer, Assistant Director for Policy and Government Affairs, Vietnam Veterans of America (VVA); prepared statement .....	127
Attachment: Veterans Legal Services Clinic, Yale Law School; memorandum .....	136

## HEARING ON PENDING LEGISLATION

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THURSDAY, JUNE 15, 2017

U.S. SENATE,  
COMMITTEE ON VETERANS' AFFAIRS,  
*Washington, DC.*

The Committee met, pursuant to notice, at 11:10 a.m., in room 418, Russell Senate Office Building, Hon. Johnny Isakson, Chairman of the Committee, presiding.

Present: Senators Isakson, Boozman, Heller, Rounds, Tillis, Tester, and Brown.

### **OPENING STATEMENT OF HON. JOHNNY ISAKSON, CHAIRMAN, U.S. SENATOR FROM GEORGIA**

Chairman ISAKSON. I call this meeting of the Senate Veterans' Affairs Committee to order.

We are going to have a lot of things going on this morning. We have three critical votes that will start at eleven o'clock, which it is 11 right now. We have 14 bills that we are going to cover today or 30 different provisions included by members of the Senate. We have a lot of work to do. We have a lot of people to hear from. So, it is going to be a busy day with people coming in and out to go vote in the first hour and then finishing up in the second hour.

The order of business is going to be: I am going to make my opening statement, which I am making now, then we will go to Senator Tester, who will make his. We will go next to Senator McCaskill to make her statement. I want to thank her for being here on time and thank her for the work she has done on the issue of mustard gas and the Arla Harrell Act, which she has worked so hard on and I have committed for a long time to help her with. We are glad to have her, and she will talk about that.

When she is finished, John Boozman, Senator Boozman will be here from Arkansas to take my place and Senator Tester's place to conduct the rest of the meeting. I appreciate his being here. I also appreciate you being here, Senator McCaskill.

Ranking Member Tester?

### **OPENING STATEMENT OF HON. JON TESTER, RANKING MEMBER, U.S. SENATOR FROM MONTANA**

Senator TESTER. Thank you, Mr. Chairman. Today's agenda includes a number of really important bills that will affect VA benefits and critical to the veterans' ability to transition back into civilian life and get a good job and get an education.

I, too, want to thank Claire for being here today. I know she has worked very, very hard on this issue, and I will make a commit-

ment to you to do our level best to get this thing to the floor as soon as we can because it is important.

These bills also collectively symbolize the bipartisan cooperation on this Committee and the deference that we give to veterans and the organizations and advocates for their needs. Some of the organizations are going to be represented here today, and I want to welcome them. I especially want to thank the National Guard Association of the U.S. for joining us here today, because the fact is whether you are active duty, Guard, or Reserve, a deployment is a deployment, which is why I am proud to correct the unacceptable benefit inequity that currently exists for those deployed under 12304 Bravo orders. Those that deploy have our Nation's gratitude, and they should certainly be entitled to educational benefits as a result of their service.

In addition to correcting this benefit disparity, the Ed for Troops and Veterans Act also allows servicemembers and veterans to defer student loans during predeployment training. It also keeps tuition assistance for Reservists and Guardsmen on pace with the rising cost of higher education, and it provides grants for veteran education centers on college campuses.

I am also pleased to see legislation that attempts to fix lingering challenges to veterans being granted the benefits they deserve, bringing justice to veterans and their families.

The bills that we will discuss today aim to address some of the challenges our veterans face in getting the benefits they deserve. I look forward to eliminating those challenges, improving those benefits, and streamlining the delivery. I want to thank you, Mr. Chairman, for holding this hearing.

Chairman ISAKSON. Thank you, Senator Tester, and as is our tradition, if a member who is not a Member of the Committee but is a member of the Senate is here at our meeting and has a bill before the Committee, we will introduce them to present that bill, and as a courtesy, we do not bombard them with any questions. They can leave as soon as they have made their testimony.

With that said, Ms. McCaskill, you have free rein. The Senator from Missouri, Claire McCaskill.

**STATEMENT OF HON. CLAIRE McCASKILL,  
U.S. SENATOR FROM MISSOURI**

Senator MCCASKILL. Thank you. Thank you so much, Mr. Chairman and Ranking Member Tester. Thank you for the opportunity to address the Committee on an issue that is very, very important to, I think, our country.

I will confess that this is a big deal to me, but it is a big deal to me because of who Arla Harrell is.

This is an injustice that has been perpetrated against a small group of World War II veterans. Throughout World War II, the U.S. Government conducted a number of classified tests of mustard agents on U.S. soldiers. The intent was to better understand how chemicals like mustard gas and lewisite affected the human body and to help the military defend against these threats.

In total, approximately 60,000 servicemembers are estimated to have participated in these tests, with about 4,000 of them facing

the most extreme forms of full-body exposure. Fewer than 400 of them are still alive today.

While the intent of these tests was understandable, the impact on the health and well-being of the subjects has lasted a lifetime.

One of these servicemembers is a constituent of mine, Arla Harrell, who is very ill. He is 90 years old, whose photo you see beside me. Arla was twice subjected to the extreme form of full-body exposure of mustard gas while stationed at Camp Crowder in Neosho, MI, for basic training in 1945.

Arla's story is known to this Committee. As I have told you before, he and his fellow subjects were told they would be helping the military test summer clothing in exchange for additional leave. It was not until they arrived at the testing site that they were told they would be exposed to mustard gas.

Those who became sick during these tests, like Arla, were threatened with court-martial if they did not continue with the testing. Following his exposure, Arla was hospitalized twice, first at Camp Crowder while still in basic training and again at the 98th General Hospital in Munich, Germany. Despite the obvious medical impacts of the testing, Arla and thousands of veterans like him kept faith with the oath of secrecy they were forced to swear.

When the oath was finally lifted, 25 years ago, the VA attempted to establish a process to compensate these veterans, who were finally able to talk about what happened to them with their loved ones and their doctors. The VA's written testimony states these procedures are adequate and that they have and continue to lead to fair and equitable outcomes. That is a blatant lie. They have not led to fair and equitable outcomes.

I am not sure it is possible how they can make this statement since the VA has rejected 90 percent of the applicants who have applied for benefits concerning exposure to mustard gas. Of the thousands of veterans who were exposed, only about 40 who have applied for benefits, all but 40 have been denied. So, only 40 veterans have ever been given what they are entitled to after they did the patriotic thing for their country undergoing these tests.

To give you an example of how broken this system is, the VA rejected Arla's claim on the basis that due to a lack of proper record-keeping, it cannot confirm mustard gas testing occurred at Camp Crowder, given Arla's personal statements, medical records notwithstanding. In other words, they called him a liar.

As you can see in the handouts we have provided, we have been able to prove that mustard gas was used at Camp Crowder through reports published by the Army Corps of Engineers in the nineties, which even detailed the recovery of vials of mustard gas at Camp Crowder.

Despite all this evidence, the VA has repeatedly denied Arla's claim. His family has been working for 50 years to get him help—25 years actually since he was allowed to talk about it. While the current VA disability claims process may adequately address the needs of veterans with full access to their records, it simply is not capable of giving Arla and his fellow mustard gas veterans the fair treatment they deserve. The existing framework cannot adequately account for the classified nature of the testing, the years of secrecy, the poor recordkeeping, and for some veterans, the destruction of

their case files in the massive '73 fire at the Personnel Records Center.

My bill's scope is so narrowly tailored, you would have already had to apply for this benefit to have it impact you. This does not open the door to new applicants. It is very narrowly tailored.

He has suffered with the effects of full-body exposure since 1945, 70 years after the experiments took place. The government still has yet to appropriately assist and compensate Arla and his fellow subjects.

Arla's children have written letters outlining the terrible burden. I hope you will look at them. I have asked them to be made part of the record today, and I would ask that these letters be entered into the record.

I would like to highlight one passage written by his daughter, Trish Ayers, who wrote, "My dad and other living soldiers who endured the tests suffer with lifelong side effects and have kept the secrets that were required of them. They have all done their duty to their service and to their country. It is now time they are recognized and there is a more realistic path to securing the approval of their claims. It is time our country does their duty to these veterans."

Arla, his wife Betty, and their five children have fought for compensation, as I said, for 25 years. I think every Member of this Committee realizes that this is an extreme injustice.

It is, they say, maybe there is 400. Last year, they acknowledged there were 400 people this might apply to. Every day that passes there are fewer. I believe the amount of money that is put on this bill, Mr. Chairman, \$10 million, is high. I do not think it will even reach near that amount. It is \$1 million a year.

I implore this Committee to find that \$1 million a year for Arla Harrell and the handful of veterans across this country that deserve this.

I know the Secretary of the VA supports this. He has told me that he does. I have fought the staff at the VA repeatedly on this. It is hard for me to understand why. But I am very hopeful that this Committee will finally give these brave men, who kept a terrible secret for so many years because they were so patriotic and cared more about their country than their own health.

Thank you, Mr. Chairman.

[The letters follow:]

PREPARED STATEMENT FROM ARLA RAY HARRELL, SON OF ARLA WAYNE HARRELL

DEAR SENATOR MCCASKILL: My father, Arla Wayne Harrell, was drafted into the army in 1944. He had recently turned 18 and never been more than a few miles from his birthplace. His trip to Camp Crowder Missouri for basic training was not only farther than he had ever traveled, but had a larger population than he had ever witnessed. During basic training, he was told if he would volunteer for a special duty (timed exposure to mustard gas in a locked chamber), he would receive two extra weeks of leave. He was also told there would be minimal health risk. The potential that he would receive any harmful effects was minimized, and he was promised medical treatment if required.

For an 18 year old, an additional two weeks leave was an enticing and manipulative offer. To someone that age, the benefit of leave far outweighed the risks.

He was mandated to sign a vow of secrecy, which stated that he could not speak about any of these events for fifty years. Even though my Father suffered his entire life with medical conditions associated with exposure to mustard gas, he kept his word and did not speak about the experiment until the fifty year limit was reached.

To maintain this vow truly demonstrates his values of loyalty, duty, selfless service, honor, integrity and personal courage to the United States Armed Forces.

Fifty years later, my Dad applied for disability for his medical issues. Claims demanded that he show proof that he was exposed to mustard gas. This was impossible for him as many of the records had been burned in a fire. The records that were available regarding the mustard gas testing were still classified and not available to him. Any efforts to prove that he had been exposed to mustard gas were blocked at every path. He has received no compensation from any government agency or veterans association.

I am a retired Army Senior NCO and served my country proudly for 26 years. I feel betrayed and saddened by the way my father has been treated. I am saddened by the fact that the military would use American Soldiers as human guinea pigs and also for the fact that they refuse to acknowledge that it was done.

My dad is now 90 years old and his time is short. The Soldier's creed states that I will leave no Soldier behind. Please do not leave my father and his fellow Soldiers behind. My father will never have the same life he could have had without the medical issues he has dealt with, but it would be a great benefit to acknowledge it happened to him before he leaves us.

On my honor,

ARLA RAY HARRELL

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PREPARED STATEMENT FROM BETTY HARRELL AGAN,  
DAUGHTER OF ARLA WAYNE HARRELL

DEAR SENATOR MCCASKILL: Thank you for the support and hard work you and your staff have done for my dad, Arla Wayne Harrell—World War II veteran.

We, our family, is honored to have Senate Bill 75 named after our dad. When he was told this bill was named after him—a bill for World War II veterans who experienced Mustard Gas experiments, which was not part of regular military training, he had tears running down his face. My dad can no longer talk as a bad stroke took what was left of his voice away. He has had years of chronic hoarseness and laryngitis. My dad has over a quarter century of mustard gas claim denials from the VA.

They always say he is not on the DOD exposure database. We have found out on a statement of case from the VA, this is not true. In 2011 before Senator McCaskill knew my dad's story, the VA knew dad was on the DASD-HRPO (Deputy Assistant Secretary of Defense—Human Resource Protection Office) list. The VA was given this information by the Department of Defense. The VA never told my dad of this.

Also in the denials, he was never at a known site where mustard gas was found, according to the VA, Camp Crowder, Neosho, Missouri. There are others who have made the same claim as my dad while they were stationed at Camp Crowder.

I've received a disc from the Records Management Center—3, 183 pages of information on my dad I'm going through.

After dad's latest denial, 2016, we filed a NOD (Notice of Disagreement) with the VA. The VA denied it. Next we asked for an appeal in Washington, DC but as of yet we have not been given a date nor have we heard from anyone.

No one at the VA has ever offered to give us any help.

Senate Bill 75—the Arla Harrell Act—corrects a problem many of the remaining World War II veterans have faced with their claims. My dad and other veterans who were experimented on have faced an uphill battle. My dad would have had a better life starting in 1991 with his first mustard gas claim, as would have all of the vets. They would have been receiving medical care better suited to their illness caused by the experiments.

My dad and the other veterans whom are mostly dead now, served their country twice—once in the military and foremost in the sacrifice of their health. They insured those that followed got better and safer equipment when war gases were used. They insured mustard gas injuries had better medical care.

Senate Bill 75 removes road blocks for these World War II veterans.

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PREPARED STATEMENT FROM TRISH HARRELL AYERS,  
DAUGHTER OF ARLA WAYNE HARRELL

DEAR SENATOR MCCASKILL: I would like to share a bit about my dad, Arla Harrell, for whom the Arla Harrell Act is named. He is an honest and honorable man. Never in my life have I heard him utter a lie or shade the truth. He is loyal to his family and his country.

When he was eighteen years old, he joined the service and was sent to Camp Crowder for basic training. While there, he was part of the secret Mustard Gas pro-

gram and was informed that he could never speak of the test or he would be imprisoned. He kept his promise until, in his later years, when he learned he was no longer held to that promise. He kept the secret from his family and his medical providers.

I was present the day, at the V.A. Hospital in Columbia, MO, when he was first asked about exposure to Mustard Gas. A medical provider, while looking at dad's x-ray, questioned him about being exposed to Mustard Gas. I will never forget the look of terror on Dad's face. I suspect the medical provider also noticed Dad's fear. Once Dad was assured he could now speak of the tests, he quietly answered, "yes."

Our family quickly researched and found out that the veil of secrecy had been lifted and veterans were able to speak of the tests. Then it was like the flood gates opened. Dad told us the horrors that he held inside for over fifty years. He told me that he and a group of men were locked inside a room and were forced to breathe in Mustard Gas. He told me his lungs and skin burned during the tests. He had trouble breathing as did the other soldiers. He was hospitalized shortly after the exposure and, at least one other time.

Once Dad learned he could speak of the tests, he made the decision to submit a claim for the exposure. He thought it would be a simple thing. When he received his first denial, it hit him hard. He felt that he had done what was asked of him and now they were implying that it didn't happen and, ultimately, that he was not telling the truth. This was hard for my father to swallow, being a man of his word. He wanted to continue to pursue the claim so he, with my Mom's help, filed the appeal. Letters were written to his Members of Congress requesting assistance. He was denied again. For years, he and my mom did everything in their power to get a claim approved, but to no avail. With each denial, Dad became depressed and discouraged. The process was time consuming, but he continued on.

When Dad's health declined, my sisters and brother and I joined forces with Mom to continue the process. We searched the internet, read books about the subject and tried everything in our power to locate records that would prove Dad's claim.

Locating records became our biggest challenge. Many of his records were housed in the facility that burned. He, then, was being asked to submit records that no longer existed. Even with this, we still searched for records and often felt like we were being given the run-around.

In the past several years, while reading the report on a hearing on the Mustard Gas experiments, I read that it was noted that the Army did not keep good records of these experiments and who was exposed. So, in essence, we have been asked to supply records that may never have been created.

He was told that Mustard Gas testing did not happen at Camp Crowder. Later we found that the Army Corps of Engineers had located Mustard Gas buried at Camp Crowder. Dad was not informed of this change. Also, we learned that a number of veterans had filed claims that they, too, underwent testing at Camp Crowder. Their stories aligned perfectly. Dad did not know any of them but they all had the same memories.

At 90 years old, Dad's health continues to decline, to the point where he can only speak a few words. Dad is forced to communicate with his eyes. Whenever we spoke about the work we were doing on his Mustard Gas claim, he would smile. When he was told of the Arla Harrell Act, he teared up, and then smiled broadly.

Last week, when I told him that The Arla Harrell Act was going to be presented in The United States Committee on Veterans Affairs, his eyes filled with tears. We told him a number of times to make sure he understood it was the U.S. Senate. He continued to tear up. He wants to be acknowledged. Later, when I was telling a member of the nursing home staff about the upcoming hearing, he smiled the biggest smile, the same smile I see when he sees Mom the first time every day.

I grew up with a man who worked full-time in spite of physical challenges with his breathing. He could not be around perfumes, chemicals, and nail polish. His stamina was impacted but he still kept his secret and never told his doctor. I often wonder if he had been allowed to speak of this, at least to his doctor, that maybe there could have been something medically they could have done to ease his suffering. We will never know. I remember, when I was in college, he went with mom and me to a theme park where I worked. In a short time, the walking and heat impacted him so much that he sat down and told us to go ahead. He would wait on a bench until we were done. I knew he wanted to join us through the park and I knew he couldn't physically. Mom and I quickly went to a few places in the park and then returned to Dad. He told us he was OK, to stay longer, but we didn't want him to suffer. This was not a one-time situation. It was only after he was allowed to tell us about the Mustard Gas testing which was done on him that we finally understood what Dad had been dealing with most of his adult life.

My Dad, Arla Harrell, and other living soldiers who endured the tests, suffer with life-long side effects and have kept the secrets that were required of them. They have all done their duty to the service and their country. It is now time they are recognized and there is a more realistic path to securing approval of their claims. It is time our country does their duty to these Veterans.

Respectfully,

TRISH (HARRELL) AYERS,  
Berea, KY.

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PREPARED STATEMENT FROM BEVERLY HOWE,  
DAUGHTER OF ARLA WAYNE HARRELL

DEAR SENATOR MCCASKILL: I see my father as an American hero, that America has forgotten. The promises made to him as an 18 year old, have not been honored. He kept his promise to keep the mustard gas testing secret. Once released from his promise some 50 years later... America has not honored its promises to him.

My father has felt that with each denial for benefits from the VA, he is being called a liar. His disappointment is visible in his being, with each denial. My parents quit applying for benefits because of the depression that followed each denial. My Dad and Mom never expected that after 50 years that the VA would for another 22+ years, deny his claims, even with medical evidence to support his claim.

I want my father to be recognized for the sacrifice he made so long ago. He had no way of knowing at the time, how volunteering for the secret mustard gas testing would affect him every day of his life after the exposures. He has suffered from lung problems, shortness of breath, atypical pneumonias, emphysema, asthma, hoarseness, permanent scarring on multiple areas of his body, and squamous cell cancer, to name a few.

At the beginning of this process we were told there was no evidence of any mustard gas at Camp Crowder by many VA representatives, including Steve Westerfield. He was the Communications Director for the VA in the beginning of 2016. There was evidence from the Army Corp of Engineers in July 2012 that proved the existence of mustard gas at Camp Crowder, as well as memos from the Department of Defense and the Department of the Army from October 29th, 1996 that listed Missouri, Camp Crowder as a location for known or possible buried chemical warfare material-chemical agents.

My Dad as well as other, now deceased veterans, claimed exposure to mustard gas at Camp Crowder. One veteran described nearly identical exposures as my father at Camp Crowder at approximately the same time. All of his claims and appeals were denied. Common threads are: no documents available, possibly due to the fact that a fire occurred at the repository for veteran records in St. Louis; not on DOD list or no evidence that they were exposed; no credible evidence that mustard gas testing occurred or that secret information about the testing was removed from their records to be stored elsewhere.

My father was hospitalized for 6 days right after his exposure to mustard gas in the gas chamber. His symptoms were consistent with mustard gas exposure.

These men have been caught in a catch 22:

- Held to 50 year vow of secrecy.
- Secret records stored elsewhere.
- Records destroyed.
- No one knows where or if these records still exist due to the time that has passed.
- Preponderance of evidence supports veterans statements.
- VA puts all of the burden of proof on age 90 and up veterans.
- No one can say why mustard gas was even at Camp Crowder, Even after proof of its existence.
- No one can explain notations on my fathers records that are not on other veterans records of that era.
- VA states they must be on DOD list to approve claims.
- DOD says it is up to VA to approve claim.

I love my father and have watched his suffering for all of my 61 years. My wish is that he will rightfully receive the recognition and honor he deserves while he is alive.

He is in failing health. His wheelchair recently broke and it took several weeks to get the part. My mother paid for it. The VA has refused to help with the cost of his wheelchair. He is a tall man and requires a special chair. So, his wheelchair had to have the back propped up with a chair until it could be repaired.

The costs of such repairs comes out of my mothers funds. My father is on Medicaid. He never wanted to be on Medicaid. He worked and saved so that my mother and him could take care of themselves. My mother sold their home so there would be money to take care of him and herself. If the VA had approved my fathers claim, this would not have had to happen.

So many promises made and broken to my father by the Army have led to him living daily with the sadness of so many losses, loss of his health, loss of the support of the VA, loss of respect for his word, the loss of his home for his wife, the loss of being able to say he served this Nation as a proud veteran...proud of his country.

The bureaucracy of the VA has made it easy to deny claims from this era, for these men. We received the aid of Senator Claire McCaskill and her staff. Even with their assistance we have been met with nothing but denials. The VA demands absolute proof to approve a claim. We have consistently been told my Dad is not on the DOD list, but as of his last NOD denial it noted he was added to a list. I've requested detailed explanations of each point in the claims. We received very standard forms and no detailed explanations as requested. When I question VA staff about things in the case, I often get pat answers or silence. When I requested identification of terms, or forms, or acronyms, no response is provided except we don't know what it means. If the VA cannot assist the veteran when they have access to information how is the average person supposed to respond. No one at the VA is able to tell me what the full vials of mustard gas was used for at Camp Crowder. I was told it could have been used in training. My question was you mean they purposely exposed all soldiers in training. The response I received was "I hope not"

I hope that the VA is not waiting for all of these brave men to die so their horrific story dies with them.

Please provide my father with the honor he so deserves, by acknowledging the sacrifice he made in 1945.

Respectfully,

BEVERLY HOWE

Chairman ISAKSON. Well, thank you, Senator McCaskill; your tenacity will be noted. You have done a great job of pushing on this bill for a long period of time. The Committee will have a vote on it before—not today, but in the weeks ahead, and I appreciate very much your being here today. Thank you.

Senator McCASKILL. Thank you, Mr. Chairman.

Chairman ISAKSON. Senator Boozman is on the way to replace me, and while we are waiting for him to arrive, I would like our first panel to come forward. We have Mr. Curtis Coy, Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, U.S. Department of Veterans Affairs; and Bradley Flohr, Senior Advisor for Compensation Service, Department of Veterans Affairs. The order I have is Mr. Coy first and Mr. Flohr second, if that is OK with our guests in doing testimony.

Mr. Coy, you are recognized for your testimony.

**STATEMENT OF CURTIS L. COY, DEPUTY UNDER SECRETARY FOR ECONOMIC OPPORTUNITY, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS; ACCOMPANIED BY BRADLEY FLOHR, SENIOR ADVISOR FOR COMPENSATION SERVICE, VETERANS BENEFITS ADMINISTRATION**

Mr. COY. Good morning, Mr. Chairman, Ranking Member, and distinguished guests of the Committee. Thank you for the opportunity to be here to discuss legislation pertaining to the Department of Veterans Affairs programs. Thank you for your passionate interest in our Nation's veterans in working diligently to put together today's agenda. If I may, we would also like to compliment the Committee staff for their professionalism, hard work, and complementary passion to assist veterans.

Accompanying me today is Mr. Brad Flohr, Senior Advisor for Compensation Service.

We are encouraged by the number of bills aimed at improving education opportunities for veterans and their beneficiaries. Post-9/11 GI Bill is truly transformative. The original GI Bill, or the Servicemen's Readjustment Act of 1944, was the product of what happens when goodwill and the right thing come together in Congress. It created a civic renaissance by treating all veterans as first-class citizens. Empowering veterans proved and continues to prove to be the catalyst for revitalizing and driving America forward.

The original GI Bill was heralded as a success and major contributor to America's stock of human capital that sped long-term economic growth across the country.

Tom Brokaw wrote 8 million World War II veterans used the GI Bill, and Tom Brokaw wrote they were the greatest generations. Many believe, including me, that we are on the precipice of the next greatest generation, and that is no slight to the veterans in between, which includes myself.

I am hopeful that this hearing will be somewhat uneventful, as VA has outlined support with some concerns and a caveat that they are subject to offsets for almost all of these bills or sections of bills that we provided views on. We are happy to work with the Committee to ensure we achieve the best possible outcome for veterans, servicemembers, and their families.

We also note that many of these bills would require changes to our IT systems and will require staff and resources in order to successfully implement them.

Finally, several bills require relatively short implementation times, and we would ask the Committee to consider the workload implications of implementing all of the bills, should they be signed into law.

Rather than try and synopsise our views on each bill or section, I would like to return some of my time in my oral statement in order to have the opportunity for the Committee to ask questions and comment on my testimony.

Additionally, there are a few bills under discussion today, which would affect programs or laws administered by other agencies. As outlined in my testimony, we respectfully defer S. 111 and S. 410 to the Department of Defense and S. 1218 to the Office of Personnel Management.

Mr. Chairman, this concludes my statement. Thank you again for your generous interest in improving the lives of veterans and their families. I would be pleased to respond to any questions you or other Members of the Committee may have.

As a matter of record, Mr. Flohr does not have an opening statement.

[The prepared statement of Mr. Coy follows:]

PREPARED STATEMENT OF CURTIS COY, DEPUTY UNDER SECRETARY FOR ECONOMIC OPPORTUNITY, VETERANS BENEFITS ADMINISTRATION, U.S. DEPARTMENT OF VETERANS AFFAIRS

Good morning, Mr. Chairman and Members of the Committee. Joining me today is Brad Flohr, Senior Advisor for Compensation Service, (VBA). We are pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on

the following pending legislation affecting VA's compensation, education, and vocational rehabilitation programs: S. 75, S. 111, S. 410, S. 473, S. 758, S. 798, S. 844, S. 882, S. 1192, S. 1209, S. 1218, S. 1277, and a draft bill that would, among other things, consolidate the current amount of qualifying active duty service required after September 10, 2001 for payment of educational assistance at the 50-percent and 60-percent benefit levels under the Post-9/11 Educational Assistance Program, increase the amounts of educational assistance payable for pursuit of institutional courses and institutional courses with alternate phases of training in a business or industrial establishment under the Survivors' and Dependents' Educational Assistance Program, and authorize the use of Post-9/11 educational assistance to pursue independent study programs accredited by an accreditor recognized by the Secretary of Education at educational institutions that are not institutions of higher learning (IHLs), i.e., area career and technical education schools that provide postsecondary level education and postsecondary vocational institutions.

## S. 75

Section 3(a) of S. 75, the "Arla Harrell Act," would require the Secretary of Veterans Affairs, in consultation with the Secretary of Defense, to reconsider all claims for compensation based on exposure to mustard gas or Lewisite during World War II that were denied before enactment of the bill. If the Secretary of Veterans Affairs or Defense makes a determination regarding whether a Veteran experienced full-body exposure to mustard gas or Lewisite, such Secretary shall presume that the Veteran experienced such exposure "unless proven otherwise," and may not use information contained in the Department of Defense (DOD) and VA Chemical Biological Warfare Data base or any list of known testing sites for mustard gas or Lewisite as the sole reason for finding that the Veteran did not experience such exposure. Section 3(a)(4) would require the Secretary of Veterans Affairs to submit a report to the appropriate congressional committees every 90 days following enactment of the bill specifying the reconsidered claims that were denied during the previous 90 days, including the rationale for each denial.

Section 3(b) of the bill would also require the Secretaries of VA and Defense to establish a policy for processing future claims in connection with exposure to mustard gas or Lewisite within one year following enactment. In addition, under section 3(c), the Secretary of Defense would be required, within 180 days after enactment, to investigate and assess whether a site should be added to the DOD list of sites where mustard gas or Lewisite testing occurred based on whether the Army Corps of Engineers has uncovered evidence of such testing or more than two Veterans have submitted claims for VA compensation alleging such exposure and to submit a report to appropriate congressional committees on mustard gas and Lewisite experiments conducted by DOD during World War II, including a list of each location which such an experiment occurred, the dates of such experiment and the number of members of the Armed Forces who were exposed during such experiment. Section 3(d) would require the Secretary of Veterans Affairs, within 180 days after enactment, to investigate and assess actions taken to reach out to individuals who had mustard gas or Lewisite testing and the claims filed based on such testing and the percentage of such claims denied by VA and to submit a report on these findings to the appropriate congressional committees, along with a list of each location where mustard gas or Lewisite was tested.

VA respects the intent of this legislation and, if it is enacted, will do all we can to ensure that Veterans who are determined to have been exposed receive every benefit to which they may be entitled. Providing Veterans with the care they need when they need it remains VA's top priority. We owe it to Veterans to ensure our decisions are fair, clear, and consistent across the board. We support the intent of the bill but have significant concerns that should be resolved prior to moving forward. The suggestion that VA ignore certain evidence, which may already be in a Veteran's claims file, would not only be unfair to other Veterans, but would conflict with other applicable provisions of law. Under 38 U.S.C. § 1154(a), in determining whether a condition is related to service, VA must give "due consideration" to the "places, types, and circumstances of" a Veteran's service "as shown by such Veteran's service record, [and] the official history of each organization in which such Veteran served." In addition, 38 U.S.C. § 5107(b) requires VA to "consider all information and lay and medical evidence of record in a case before the Secretary with respect to benefits under laws administered by the Secretary." Finally, under 38 U.S.C. § 1154(b), in the case of a Veteran who engaged in combat with the enemy, VA must accept lay or other evidence of service regarding service incurrence of a disease or injury, notwithstanding the absence of an official record of such incurrence. However, the Veteran must first establish that he or she engaged in combat

with the enemy, which usually involves consideration of service department records, and the lay or other evidence must be “consistent with the circumstances, conditions, or hardships of such service.”

The proposed presumption of exposure to mustard gas and Lewisite, which would not require support by service department records or other objective evidence, would be unprecedented, if enacted. It appears that the presumption would be invoked solely on the basis of a Veteran’s statement that such exposure occurred. Existing presumptions of an in-service exposure or event apply to discrete groups of Veterans whose service records reflect unique circumstances of service. Examples include Vietnam and Korean Veterans who are presumed exposed to Agent Orange during certain time periods, Veterans whose records indicate participation in World War II and cold war nuclear weapon detonations who are presumed exposed to ionizing radiation, and combat Veterans of all eras who are presumed exposed to the sort of traumatic stressor that can cause Post Traumatic Stress Disorder. Each of these sets of Veterans will have service department evidence of an in-service event or circumstance that may have triggered post-service disability.

Under the standard proposed in the bill, any World War II Veteran who has claimed participation in a mustard gas or Lewisite test would be entitled to a presumption of full body exposure. This includes Veterans who may be confusing exposure to mustard gas or lewisite with more routine agents such as tear gas, or even to placebo agents. As a result, all prior World War II claimants essentially would be presumed exposed to mustard gas—even Veterans who participated in no chemical testing.

With regard to a joint VA/DOD policy for processing future disability compensation claims based on exposure to mustard gas or Lewisite, VA notes that mustard gas and Lewisite claim policies and procedures are already in place and have and continue to lead to fair and equitable outcomes. VA promulgated a regulation in 1994 to address full-body mustard gas and Lewisite claims (see 38 CFR §3.316) and recently updated procedural guidance directing VA claims processors to consider all relevant evidence, including both service department data and information from outside sources.

We share the Committee’s concern for these Veterans, and we will continue to do everything we can, to provide care for those who have been identified by DOD as having had full body exposure to mustard gas and have been diagnosed with conditions due to that exposure. Additionally, we remain eager to work with the Committee to address the concerns we have with S. 75 as currently drafted. We value our Veterans and want to ensure that each and every Veteran seeking care is treated fairly under the law.

#### S. 111

S. 111, the “Filipino Veterans Promise Act,” would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and military historians, to establish a process to determine whether a person who claims service as a member of the Philippine organized military forces under 38 U.S.C. §107(a) or Philippine Scouts under 38 U.S.C. §107(b) but who is not included in the Approved Revised Reconstructed Guerilla Roster of 1948 is in fact eligible for benefits under section 107(a) or (b).

VA defers to DOD on S. 111. To address the concerns that prompted this legislation, the previous Administration’s White House Initiative on Asian Americans and Pacific Islanders, in collaboration with the Office of Management and Budget and the Domestic Policy Council, created the FVEC Fund Interagency Working Group (IWG) in October 2012. The IWG was comprised of VA, the Department of Defense (DOD), and the National Archives and Record Administration (NARA), and was tasked with analyzing the process faced by Filipino Veterans in demonstrating eligibility for compensation in order to ensure that all applications receive thorough and fair review. This effort culminated in July 2013 with a report from each member of the IWG and resulted in increased transparency and accelerated the processing of appeals within the existing framework.

As a result of the IWG, VA created a special team to expedite the processing of FVEC appeals. In addition, VA created a standard notification letter for appellants requesting submission of all available service records and information. VA personnel also obtain copies of the Affidavit for Philippine Army Personnel (AGO Form 23) for appeals that are submitted without a Form 23 from the Adjutant General. VA anticipates these steps will further expedite the processing of appeals for the appellants with advanced age by minimizing the turnaround time for service verification requests and hearing requests.

S. 410, the “Shawna Hill Post-9/11 Education Benefits Transferability Act,” would amend 38 U.S.C. § 3319 to authorize transfer of unused Post-9/11 Education Assistance benefits to additional dependents upon the death of the originally designated dependent. The bill would apply to deaths occurring on or after August 1, 2009.

VA defers to DOD. Currently, an individual cannot designate a new dependent to receive a transfer of entitlement to Post-9/11 Education Assistance after separating from the Armed Forces.

Benefit costs are estimated to be \$6.3 million in the first year, \$20.5 million over 5 years, and \$31.7 million over 10 years. There are no additional full-time equivalents (FTE) or general operating expenses (GOE) costs associated with the proposed legislation. There currently are no identified costs required for changes to the Long Term Solution (LTS).

Section 2 of S. 473, the “Educational Development for Troops and Veterans Act of 2017,” would amend 38 U.S.C. § 3301(1)(B) to include, in the case of members of the Reserve Components of the Armed Forces, service on active duty under a call or order to active duty under 10 U.S.C. §§ 12304a and 12304b as service constituting active duty for purposes of Post-9/11 GI Bill benefits.

VA supports section 2 of the bill, subject to the Congress identifying acceptable offsets for the additional benefit costs. Under the current law, two Reserve Component members who are serving side-by-side on active duty may not receive similar benefits under the Post-9/11 GI Bill. The active duty time of a Reserve Component member who volunteers for active duty under 10 U.S.C. § 12301(d) is counted toward the aggregate required for Post-9/11 GI Bill eligibility. By contrast, the active duty time of a Reserve Component member who was involuntarily activated under 10 U.S.C. §§ 12304a or 12304b for similar duty does not count toward the aggregate for Post-9/11 GI Bill eligibility. This proposal would allow Reserve Component members who are involuntarily activated under 10 U.S.C. §§ 12304a or 12304b to receive the same benefits as those Reserve Component members who have volunteered to perform duty under 10 U.S.C. § 12301(d).

Benefit costs are estimated to be \$0 in the first year, \$53.7 million over 5 years, and \$140.5 million over 10 years. There are no additional FTE or GOE costs associated with section 2. We have not, however, fully determined if there would be any costs associated with any information technology (IT) changes to support the change.

VA defers to DOD with regard to sections 3 and 7 of the bill, and to the Department of Education on sections 5 and 6 of the bill.

Section 4 of the bill would amend 38 U.S.C. § 3103(f) to extend the eligibility period for participation in a vocational rehabilitation program for Reserve Component members who are involuntarily activated under 10 U.S.C. §§ 12304a or 12304b and are unable to participate in such program by length of time the Reserve Component member serves on active duty plus four months.

VA supports section 4. Currently 38 U.S.C. § 3103(f) provides an extension of the eligibility period for reservists who are ordered to active duty under certain provisions of title 10, United States Code. Section 4 would provide the same extended eligibility period for reservists who are prevented from participating in a vocational rehabilitation program during their period of eligibility because they are ordered to active duty to provide assistance in response to a major disaster or emergency, or to augment the active forces for a preplanned mission in support of a combatant command.

Section 8 would add a new paragraph to 38 U.S.C. § 3313 to provide for payment of the monthly housing allowance (MHA) on a pro rata basis for any period in which a reservist or individual pursuing a program of education is not performing active duty. This amendment would be applicable to a quarter, semester or term commencing on or after August 1, 2016.

VA supports section 8 as it would be equitable to prorate MHA payments for each day of the month an individual is not serving on active duty. We note, however, that section 8 would result in a decrease in the MHA for the month in which a reservist is ordered on active duty and in an increase in the MHA for the month in which a reservist is released from active duty. As a result, the amount of MHA that each reservist receives would depend upon the dates on which the reservist entered and was released from active duty. We note as well that new section 3313(j) would not apply to other persons on “active duty” as defined in 38 U.S.C. § 3301(1)(A) and (C). We have not, however, fully determined if there were to be any costs associated with IT changes.

Section 2(a) of S. 758, the “Janey Ensminger Act of 2017,” would require, within one year of the date of the enactment of the bill and at least once every three years thereafter, the Secretary of Health and Human Services, through the Administrator of the Agency for Toxic Substances and Disease Registry (ATSDR) to review the scientific literature relevant to the relationship between the employment or residence of individuals at Camp Lejeune, North Carolina, for not fewer than 30 days between August 1, 1953, and December 21, 1987, and specific illness or conditions incurred by those individuals. ATSDR would also be required to determine each illness or condition for which there is evidence that exposure to a toxic substance at Camp Lejeune during the specified time period may be a cause of such illness or condition, and to categorize the evidence of the connection of the illness or condition to exposure. ATSDR would be required to publish in the *Federal Register* and online a list of conditions or illnesses for which a determination has been made that exposure may be a cause of such condition or illness, and to provide bibliographic citations for reviewed literature.

While section 2(a) would impose obligations on to the Department of Health and Human Services, we do have several concerns with this provision. Specifically, we are concerned that requiring ATSDR to evaluate the likely causation between exposures and health effects is unnecessary given VA’s current reliance on the National Academies of Science, Engineering, and Medicine (NASEM). In addition to being duplicative, the proposed role of ATSDR would, in our view, be a less independent process than what is used by NASEM. Finally, we find the evidence bar that would be set for ATSDR’s review misleading—the focus on causation implies a level of confidence not scientifically possible for attributing the low doses likely received in this context with the chronic health effects of interest.

Section 2(b)(1) would amend 38 U.S.C. § 1710(e)(1)(F) to make Veterans eligible for care for any condition or illness for which the evidence of connection to exposure to toxic substances at Camp Lejeune is categorized as sufficient or modest by ATSDR. It would also require VA to continue providing hospital care and medical services to Veterans who have received such care or services under section 1710(e)(1)(F), notwithstanding a determination that the evidence of connection of an illness or condition and exposure is not categorized as sufficient or modest.

Section 2(b)(2) would make a similar amendment to 38 U.S.C. § 1787 to require VA to continue providing hospital care and medical services to eligible individuals notwithstanding that their illness or condition is no longer described in section 1710(e)(1)(F). Section 2(b)(3) would require, for FY 2017 and FY 2018, the Secretary to transfer \$2 million from funds made available to VA for medical support and compliance to the Chief Business Office and Financial Services Center of the Department to be used to continue building and enhancing the claims processing system, eligibility system, and web portal for the Camp Lejeune Family Member Program.

VA does not support sections 2(b)(1) and (b)(2), as they would effectively defer Veteran health care eligibility decisions to ATSDR. This is inappropriate for several reasons. First, VA insists that an internationally accepted standard of categorization be used to characterize the strength of evidence, such as that used by NASEM. A consistent standard is necessary to ensure fairness across time, population subgroup, chemical, and health endpoint. VA strongly advises against the use of the terms “cause” or “causation” in the context of the types of very low exposures received and the prevalence of the chronic health effects identified. Additionally, we recommend that ATSDR reports be submitted to VA in an advisory capacity only, as has been done with previous reports from NASEM. NASEM, in conducting independent reviews on behalf of VA, assembles a multidisciplinary committee that represents a breadth of knowledge relevant to the specific exposure scenario that is significantly more expansive than the subject matter expertise within ATSDR. Thus, VA should have the opportunity to review these reports and seek external opinions, if necessary, to make determinations about policy changes. If VA must rely on ATSDR reports in any capacity, we would suggest that the bill require that these reports be subjected to a rigorous, external, independent peer review process, consistent with OMB’s Information Quality Bulletin for Peer Review, before being published.

If enacted, VA would require additional resources to assist the Veterans and family members who would become eligible for hospital care and medical services, while continuing to care for Veterans who remain eligible following a determination that that the evidence of a causal connection is not categorized as sufficient or modest. Section 2(b)(3) would transfer \$2 million to the VA Chief Business Office and Financial Services Center to be used to enhance the Camp Lejeune Family Member Pro-

gram’s claim processing system, eligibility system, and web portal. While these funds could be used to enhance these systems, VA does not believe this would be a responsible use of funds. The Camp Lejeune Family Member Program is a small program with a volume of claims that VA does not believe warrants having separate claims processing and eligibility systems. VA prefers to focus on the creation of a single standardized claims processing and eligibility system for all programs supported by the Office of Community Care. We also note that the language does not appropriate additional funds—it merely requires the transfer of funds from other sources, which would impede VA’s ability to furnish services for other Veterans and beneficiaries.

We have several technical comments on the bill as well. First, we note that the time period specified in current 38 U.S.C. § 1710(e)(1)(F) ends on December 31, 1987; whereas, the time period in proposed 42 U.S.C. § 399V–7(a)(1)(A) of the Public Health Service Act would end on December 21, 1987. This should be changed in any further revisions of this legislation. Additionally, we note that section 2(b)(3) of the bill would apply to Fiscal Year (FY) 2017 and 2018, but because FY 2017 ends in 3½ months, we believe this should be updated. Last, we recommend the reference to the Chief Business Office be updated to the Office of Community Care.

VA cannot provide a cost estimate for the bill because we do not know for which illnesses and conditions, if any, ASTDR would determine there is evidence that exposure to a toxic substance at Camp Lejeune during the specified time period may be a cause of such illness or condition at the “sufficient” or “modest” standard. The cost to VA of implementing this provision would depend upon which illnesses or conditions ATSDR finds satisfy these requirements, how many Veterans and family members will qualify for hospital care and medical services for those conditions or illnesses, and the average cost for the necessary hospital care and medical services of those conditions or illnesses.

## S. 798

S. 798, the “Yellow Ribbon Improvement Act of 2017,” would amend 38 U.S.C. § 3317(a) to provide that recipients of the Marine Gunnery Sergeant John David Fry scholarship are covered under the Yellow Ribbon GI Education Enhancement Program and to expand the Program to include instances in which the amount of educational assistance provided to covered individuals for pursuit of a program of education leading to a degree while on active duty or for pursuit of a program of education on a half-time basis or less does not cover the full cost of established charges.

VA supports the intent of S. 798, subject to Congress identifying acceptable offsets for the additional benefit costs. Also, VA estimates that implementation of the bill would require one year from the date of enactment to make the changes to the Benefits Delivery Network, VA Online Certification of Enrollment system (VA-ONCE), and Long term Solution system (LTS) necessary to implement the bill.

## S. 844

S. 844, the “GI Bill Fairness Act of 2017,” would amend 38 U.S.C. § 3301(1)(B) to count the time that a reservist is ordered to active duty to receive authorized medical care, be medically evaluated for disability, or complete a required DOD health care study, as active duty for purposes of the Post-9/11 Veterans Educational Assistance Act of 2008. The amendment would be retroactive to immediately after enactment of the Post-9/11 Veterans Educational Assistance Act of 2008.

VA supports the intent of the bill, regarding the proposed changes to qualifying active duty service under the Post-9/11 GI Bill, subject to the Congress identifying acceptable offsets for the additional benefit costs. We note, however, that this change to the eligibility criteria would require VA to make modifications to the type of data exchanged between DOD and VA through the VA/DOD Identity Repository and displayed in the Veteran Information System. In addition, new rules would need to be programmed into LTS in order to calculate eligibility based on service described in new section 3301(1)(B) and to allow for retroactive benefit payments. VA estimates that it would need one year from enactment to complete these changes.

Benefit costs for S. 844 would be \$39.2 million for the first year, \$281.5 million over 5 years, and \$542.9 million over 10 years. There are no additional FTE or GOE costs associated with S. 844.

## S. 882

S. 882 would amend 38 U.S.C. § 3311(b) to provide for payment of Post-9/11 GI Bill educational assistance to individuals awarded the Purple Heart for service in the Armed Forces occurring on or after September 11, 2001, at the same rate (100%)

as for individuals entitled to Post-9/11 GI Bill educational assistance who served at least 3 years on active duty or who served at least 30 days on active duty and were discharged for a service-connected disability. The bill would also allow such Purple Heart recipients to participate in the Yellow Ribbon G.I. Education Enhancement Program.

VA supports the intent of the proposed bill. However, we note that the proposed bill contains no character of discharge requirement for payment of Post-9/11 GI Bill educational assistance to individuals awarded the Purple Heart. Consequently, an individual who receives the Purple Heart for service on or after September 11, 2001, and subsequently receives a dishonorable discharge would nonetheless be eligible for Post-9/11 GI Bill educational assistance at the 100-percent rate. This could be problematic to those recipients of other noteworthy medals such as the Medal of Honor, Silver Star, Bronze Star, etc. who may have a dishonorable discharge. If Congress wishes to address this issue, we recommend that the bill be amended to require that the individual also be discharged as described in section 3311(c).

Because VA would need to modify its existing information technology (IT) system to implement this bill, there would be associated IT costs. Specifically, VA would need to modify the Long-Term Solution, VA's Post-9/11 GI Bill processing system, to verify eligibility for Purple Heart recipients. VA would also need to make changes to the VA application forms (VA Form 22-1990 and Veterans On-Line Application (VONAPP)) to identify Purple Heart recipients. Costs related to this bill are not available at this time.

## S. 1192

S. 1192, the "Veterans To Enhance Studies Through Accessibility Act of 2017," or "Veterans TEST Accessibility Act," would amend 38 U.S.C. §§ 3315(c) and 3315A to allow for the proration of entitlement charges for licensing and certification examinations and national tests under the Post-9/11 GI Bill based on the actual amount of the fee charged for the test. The bill would also add educational assistance for a chapter-33 beneficiary for a "national test that evaluates prior learning and knowledge and provides an opportunity for course credit at an institution of higher learning as so described." The amendments made by this section would apply to a test taken more than 90 days after the date of the enactment of this legislation.

VA supports S. 1192 because it would benefit Post-9/11 GI Bill beneficiaries by reducing the negative impact of test reimbursement on their remaining benefit entitlement and increasing the months of training available for the beneficiaries, thus expanding educational opportunities. Under current sections 3315 and 3315A, an individual is charged a portion of his entitlement for the reimbursement of fees associated with a licensing or certification exam, or a national test, in whole months. Thus, VA charges an individual one month of entitlement for each \$1,832.96 reimbursed for the academic year beginning on August 1, 2016, rounded to the nearest whole month, regardless of the cost of the test.

As noted in VA's FY 2017 legislative proposal, the Department believes the law should be amended to charge entitlement for reimbursement of VA approved exams at a prorated number of days of entitlement based on the ratio of the cost of the test to the statutory amount. However, it should be noted that, as S. 1192 is currently drafted, sections 3315 and 3315A would no longer specify the amount of benefit payment equaling one month of entitlement. VA suggests that the draft language be amended in order to include that amount.

Benefit costs are estimated to be \$125,000 in the first year, \$676,000 over 5 years, and \$1.4 million over 10 years. There are no additional FTE or GOE costs associated with the proposed legislation. We have not, however, fully determined if there would be any costs associated with IT changes.

## S. 1209

S. 1209 would amend 38 U.S.C. § 1562(a) to increase the amount of special pension for Medal of Honor recipients to \$3000, effective 180 days after the date of enactment, but if this date is not the first day of a month, the first day of the first month beginning after the date that is 180 days after enactment. If the effective day is prior to December 1, 2018, the monthly rate of the pension would not be increased by the cost of living adjustment (COLA) for FY 2019, and the annual COLAs would resume effective December 1, 2018.

VA supports an increase in the pension for these heroes, subject to the Congress identifying acceptable offsets for the additional benefit costs. Currently our records show there are 72 living recipients of the Medal of Honor.

Benefit costs are estimated to be \$717,000 in the first year, \$6.5 million over 5 years, and \$14.6 million over 10 years. There are no additional FTE or GOE costs associated with the proposed legislation.

## S. 1218

S. 1218, the “Empowering Federal Employment for Veterans Act of 2017,” or the “Empowering FED Vets Act,” would establish, at VA and other covered agencies, a Veterans Employment Program Office. This Office would, among other things, promote employment opportunities for Veterans, develop and implement Veterans recruitment programs, and training programs for Veterans with disabilities. The Office would also provide mandatory annual training on Veterans’ employment issues to human resources employees and hiring managers, including training on Veterans’ preference and hiring authorities.

We defer to the Office of Personnel Management on S. 1218 because of the governmentwide impact of the bill.

## S. 1277

S. 1277, the “Veteran Employment Through Technology Education Courses Act,” would require the Secretary of Veterans Affairs to carry out a pilot program for five years under which eligible Veterans who are entitled to educational assistance would be able to enroll in high technology programs of education. The term “high technology program of education” would be defined as a program offered by an entity other than an IHL that does not lead to a degree and provides instruction in computer programming, computer software, media application, data processing, or information sciences. Within 180 days after the date of enactment, VA, in consultation with the State Approving Agencies VA considers applicable, would be required to enter into contracts with providers of such programs that have been operational for at least two years. Under these contracts, VA would agree to pay 25 percent of the cost of providing the program of education upon enrollment of an eligible Veteran; 25 percent upon the Veteran’s completion of the program; and 50 percent upon the employment of the Veteran in a field related to the course of study following completion of the program. Preference would be given to a qualified provider that offers tuition reimbursement for students who complete a program of education offered by the provider and do not find full-time meaningful employment within 180 days after completion of the program. The bill would also authorize VA to pay a MHA to eligible Veterans enrolled in this program on a full-time basis. The bill would authorize appropriations of \$15 million for each fiscal year during which the pilot program operates.

VA has significant concerns regarding implementation and administration of the pilot program. The bill would require VA to enter into contracts with multiple providers of high technology programs of education. However, the bill provides little guidance regarding the applicable standards for choosing qualified providers other than requiring that the provider have been operational for two years, verify that the credentials it plans to offer have demonstrated market value based on the employment and earnings of its participants in the programs, and has the ability to evaluate job placement rates and earnings through means other than survey data or self-reported data. This is a departure from VA’s current approval criteria for other programs of education.

VA estimates that it would require 12 to 18 months from the date of enactment to make the IT system changes necessary to implement the proposed legislation and the acquisition timeline for \$15 million in contracts.

The costs for S. 1277 are estimated to be \$15 million in the first year, \$75 million over 5 years, and \$150 million over 10 years.

## GI BILL DISCUSSION DRAFT

Section 2 would amend 38 U.S.C. § 3311(b) by consolidating the current amount of qualifying active duty service required after September 10, 2001, for payment of educational assistance at the 50-percent and 60-percent benefit levels under the Post-9/11 Educational Assistance Program. As a result, the current benefit level requiring at least six months but less than twelve months of active-duty service would be eliminated. This means that an individual with aggregate service of at least six months but less than eighteen months of active duty service (excluding entry and skill training) would qualify at the 60-percent benefit level.

VA supports the proposed legislation, subject to the Congress identifying acceptable offsets for the substantial benefit costs, because it would increase benefits for Veterans and Servicemembers. However, VA is concerned with the implementation of this bill. As drafted, the bill does not contain an effective date. Assuming that

this increase in rates would be effective on the date of enactment, LTS would be unable to immediately accommodate these increases in benefit levels. As a result, claims examiners would have to review and make manual adjustments to affected claims, which would negatively impact claims processing timeliness and the delivery of education benefits. VA estimates that it would require one year from the date of enactment to make the IT system changes necessary to implement the proposed legislation. We have not, however, fully determined if there would be any costs associated with IT changes.

Finally, additional conforming amendments to title 38, United States Code, would be required based upon the changes made by amending sections 3311(b) and 3313(c)(1).

Benefits costs for section 2 would be \$124.6 million in the first year, \$677.8 million over 5 years and \$1.5 billion over 10 years. There are no additional FTE or GOE costs associated with section 2.

Section 3 would add section 3320 to title 38, United States Code, which would authorize VA to provide up to nine months of additional Post-9/11 GI Bill benefits to an individual who has used all of his or her Post-9/11 GI Bill educational assistance and is enrolled in a program of education leading to a post-secondary degree that requires more than the standard 128 semester (or 192 quarter) credit hours for completion in biological or biomedical science, physical science, science technologies or technicians, computer and information science and support services, mathematics or statistics, engineering, engineering technologies or an engineering-related field, a health profession or related program, or medical residency program, or has earned a post-secondary degree in one of these fields and is enrolled in a program of education leading to a teaching certification. Priority would be given to individuals who are entitled to 100 percent of Post-9/11 GI Bill benefits and to those who require the most credit hours. Each eligible individual would be entitled to a lump sum payment that is the lesser of the amount available under 38 U.S.C. § 3313 for nine months of the program of education in which the individual is enrolled or \$30,000. These additional benefits would not be transferrable to a dependent. The total amount of benefits paid to all eligible individuals could not exceed \$100 million for any fiscal year.

VA supports the intent of the bill subject to the availability of funds. However, VA has concerns about the eligibility criteria for the additional educational assistance. As currently drafted, individuals who have been enrolled in a science, technology, engineering, and mathematics (STEM) program of education for only one day, week, or month at the point at which they exhaust the 36 months of chapter-33 entitlement would be eligible for an additional nine months of educational assistance. Additionally, individuals who enroll in a STEM program for the first time after they have exhausted their chapter-33 entitlement in a non-STEM program would also be eligible for an additional nine months of entitlement. We do not believe that providing additional benefits under these circumstances would serve the purpose of the legislation. This bill is designed for programs that require more than the standard 128 semester (or 192 quarter) credit hours for completion. However, the additional nine months of educational assistance would not enable individuals who previously enrolled in a limited number of STEM classes or have not previously enrolled in a STEM program to complete a STEM program.

To implement this legislation, VA would need to make modifications to VA-ONCE and LTS in order to verify eligibility and allow for the award of additional months of educational assistance. VA estimates that it would require one year from the date of enactment to make the IT changes necessary to implement the proposed legislation.

Benefit costs for section 3 would be \$100 million in the first year, \$500 million over 5 years, and \$1 billion over 10 years. There are no additional FTE or GOE costs associated with section 3.

Section 4 would increase the amounts of educational assistance payable for pursuit of institutional courses under the Survivors' and Dependents' Educational Assistance Program. An eligible person would be entitled to a monthly allowance of \$1224 for full-time coursework, \$967 for three-quarter time, and \$710 for half-time coursework. The increases would be effective 540 days after the date of enactment of the bill.

VA supports section 4, subject to the Congress identifying acceptable offsets for the additional benefit costs, because it would provide additional funding for individuals currently utilizing the benefit for pursuit of these types of programs. These rates were last increased in 2003 and have only been increased through an annual cost of living allowance in subsequent years.

Benefit costs for section 4 are estimated to be \$0 in the first year, \$586.3 million over 5 years, and \$1.7 billion over 10 years. There are no FTE or GOE costs associated with section 4.

Section 5 would amend 38 U.S.C. § 3680A(a)(4) to authorize the use of Post-9/11 educational assistance to pursue independent study programs accredited by an accreditor recognized by the Secretary of Education at the following educational institutions that are not IHLs: area career and technical education schools as defined in 20 U.S.C. § 2302(3) that provide postsecondary level education and postsecondary vocational institutions as defined in 20 U.S.C. § 1002(c). Currently, under section 3680A(a)(4), the Secretary may only approve enrollment in an “accredited independent study program (including open circuit television) leading (A) to a standard college degree, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning.” As such, VA is not authorized to pay educational assistance for independent study courses at an institution that is not considered to be an IHL.

VA supports section 5, subject to the Congress identifying acceptable offsets for the additional benefit costs. This section would expand VA’s approval authority to pay Post-9/11 GI Bill benefits for enrollment in accredited independent study certificate programs at educational institutions that are not IHLs but are accredited by an accreditor recognized by the Secretary of Education and at career and technical schools that lead to industry-recognized credentials and certificates for employment. VA understands and appreciates the importance of career and technical education courses and the growth in the utilization of online and other 21st century training modalities in the delivery of instruction for both degree and non-degree programs. As such, expanding the approval authority for certain independent study programs would be in the best interests of VA education beneficiaries.

We note that, because this bill would amend 38 U.S.C. § 3680A, the expansion of benefits would not be limited to Post-9/11 GI Bill benefits. If the intent of the bill is to limit this expansion to chapter-33 beneficiaries, the provision should be codified in chapter 33 or the bill should be revised to incorporate this limitation. We have not, however, fully determined if there would be any costs associated with IT changes.

Benefit costs are estimated to be \$49.7 million in the first year, \$268.4 million over 5 years, and \$595.7 million over 10 years. There are no additional FTE or GOE costs associated with the proposed legislation.

Section 6 would provide for the calculation of the amount of the MHA payable under the Post-9/11 Educational Assistance Program based on the location of the campus where the individual physically participates in a majority of classes, rather than the location of the IHL at which the individual is enrolled. The bill would apply to the initial enrollment in a program of education on or after the date of enactment of the legislation.

VA supports section 6 because it would make MHA payments commensurate with the cost of housing in the location where students actually attend classes. In particular, this bill would address two situations in which the current MHA is likely not aligned with the cost of living where an individual actually attends classes: (1) courses that are held at the branch or satellite location of an IHL rather than at the IHL’s main campus; and (2) online degree programs that require some in-residence courses. We believe that this bill would also remove the issue of the amount of the MHA as a factor in choosing a school and instead allow students to focus on the educational program when choosing an IHL.

VA is unable to determine if any costs or savings would result from this legislation because of a lack of data on trainees who attend school at a branch location with a zip code that is different than the main campus. There are no additional FTEs or GOE associated with this bill.

Section 7 would amend 38 U.S.C. § 3485(a)(4) by removing the expiration date for a qualifying work-study activity for which an individual may be paid an additional educational assistance allowance. These activities are providing outreach services to Servicemembers and Veterans furnished under the supervision of a State approving agency (SAA) employee and hospital and domiciliary care and medical treatment to Veterans in a State home and any activity relating to administration of a national cemetery or state Veterans’ cemetery.

VA supports section 7 because it would permanently authorize work-study allowances for individuals who are performing work-study activities that involve providing services to or on behalf of Servicemembers and Veterans.

The benefits costs for section 7 are estimated to be \$0 for the first year, \$277,000 over 5 years, and \$6.6 million over 10 years. There are no FTE or GOE costs associated with section 7.

Section 8 would amend 38 U.S.C. § 3319(f)(2) to allow dependents to whom entitlement to Post-9/11 GI Bill benefits is transferred by an individual who subsequently dies to transfer some or all of such entitlement to another dependent to whom entitlement was previously transferred by such individual.

VA supports section 8. Currently, if an individual who has transferred entitlement subsequently dies, no additional changes to the transferred entitlement are authorized. We believe that an eligible dependent should be given the authority to transfer entitlement to another eligible dependent. However, we interpret section 8 to provide that if a Servicemember or Veteran does not transfer the maximum entitlement to a dependent, the amount that was not transferred would be forfeited. We do not have costs at this time.

Section 9 would amend chapter 36 of title 38, United States Code, to add a new section 3697B, titled "On-campus educational and vocational counseling." New section 3697B would: (1) require VA to provide educational and vocational counseling services for Veterans at locations on IHL campuses as selected by VA; (2) provide criteria for the selection of IHLs to participate in these services, and (3) require that no later than 180 days after enactment, and each year thereafter, VA will submit a report to Congress regarding the average ratio of counselors providing these services to Veterans at each location, a description of the services provided, and recommendations for improving the provision of these services.

VA supports the objectives of providing veteran students with quality, readily available counseling services. However, we believe that this bill would duplicate the VetSuccess on Campus (VSOC) program, which VA already administers under the Secretary's authority in 38 U.S.C. §§ 3115 and 3116. VSOC aims to help Veterans, Servicemembers, and their qualified dependents succeed and thrive through a coordinated delivery of on-campus benefits assistance and counseling, leading to completion of their education and preparing them to enter the labor market in viable careers.

VA, however, is concerned about the language in section 9 regarding the population to be served. Currently as outlined in 38 U.S.C. §§ 3697 and 3697A, educational and vocational counseling services are available to Servicemembers, Veterans, and, in some instances, their eligible dependents. If the Congress were to enact this bill, VA recommends that Servicemembers and their eligible dependents be added to section 9(a), in order to preserve the benefit for the full population served by the existing VSOC program. In addition, VA does not believe that reporting on the ratio of individuals served to counselors would accurately reflect the amount of services provided because counselors often have multiple contacts with an individual and handle multiple issues for the individual. We believe that it would be more accurate to report on the number of contacts in which services were provided by a counselor.

Section 10(a) would amend 38 U.S.C. § 3312 to provide that, if VA finds that an individual was forced to discontinue pursuit of a course or courses under the Post-9/11 GI Bill as a result of permanent closure of an institution or did not receive credit or lost training time toward completion of the program for that course or courses, any payment of educational assistance to the individual for pursuit of the course or courses would not be charged against the individual's entitlement to benefits under the Post-9/11 GI Bill or counted against the aggregate period for which 38 U.S.C. § 3695 limits the individual's receipt of educational assistance. The period for which educational assistance will not be charged against entitlement or counted toward the aggregate period would not exceed the aggregate period permitted under section 3695. This new subsection would apply with respect to courses and programs of education discontinued in FY 2015 or thereafter.

Section 10(b) would amend 38 U.S.C. § 3680(a) to authorize the Secretary of Veterans Affairs to continue to pay a MHA to eligible persons during periods when schools are temporarily closed based on an Executive order of the President or due to an emergency situation for up to four weeks in a 12-month period. The MHA would also be payable during periods following a permanent school closure until the earlier of the date of the term, quarter, or semester during which the school closure occurred and the date that is four months after the date of the school closure.

VA supports section 10. The closure of educational institutions while GI Bill beneficiaries are actively pursuing an approved program of education or training negatively impacts Veterans and eligible dependents. While VA can pay benefits for the term, quarter, or semester up to the time of the school's closure, the student is charged entitlement for the period prior to the closure for which benefits are received, even if the student does not earn any credit toward completion of a program. In some instances, this could result in a beneficiary exhausting chapter-33 entitlement prior to being able to complete a program at another institution. Allowing VA to restore entitlement and to continue to pay MHAs in the event of a school closure

would be in the best interests of Veterans and eligible dependents because it would help ensure that they are able to successfully complete their educational goals.

We note that there appears to be a discrepancy between the new subsection (d)(2), which applies to an individual who meets the criteria of both (A) and (B) of that subsection, and the applicability provision in section 2(a)(2) of the bill, which describes new subsection (d) as applying if the criteria of either paragraph (A) or paragraph (B) of subsection (d)(2) are met.

We have not, however, fully determined if there were to be any costs associated with IT changes.

Section 11 would amend 38 U.S.C. § 3684(a) to require educational institutions to treat courses that begin seven or fewer days before or after the first day of an academic term as beginning on the first day of the academic term for purposes of reporting enrollment under section 3684.

VA understands that section 11 would eliminate the separate reporting requirement for reporting for courses that begin seven or fewer days before the first day of an academic term. We note however that VA policy guidance currently does not require schools to separately certify classes that begin within 7 calendar days after the start of the term, quarter, or semester. Nonetheless, it should be noted that amended section 3684(a) would not change the period(s) for which VA educational assistance can be paid, which are codified in 38 U.S.C. § 3680(a) and in the various education benefit chapters. As a result, the reporting period under amended section 3684(a) would be inconsistent with the enrollment period for which VA pays educational assistance.

Section 12(a) would require VA, to the maximum extent possible, to make changes and improvements to the VBA IT program to ensure that, to the maximum extent possible, original and supplemental claims for educational assistance under chapter 33 are adjudicated electronically and that rules-based processing is used to make decisions on such claims “with little human intervention.” Section 12(d) would authorize \$30 million for FY 2018 through FY 2019 to implement the changes.

VA concurs that there is room to improve the automation of the processing of education benefits claims. VBA is currently working with the Office of Information and Technology to assess IT capabilities. While VA is currently prioritizing replacement of legacy systems due to the risk of maintaining these systems, VA is also considering additional LTS functionality needed to provide faster and more accurate claims processing for those who apply for Post-9/11 GI Bill benefits and submit supplemental claims. The current average processing time for eligibility claims, which are not automated and are very labor-intensive, is 22 days. During calendar year 2017, an average of over 5,200 supplemental (reenrollment) claims were processed automatically each day using LTS, without human intervention. The remainder of supplemental claims are processed using partial automation. Section 12(b) would require VA to submit to Congress an implementation plan within 180 days after enactment of the bill and a report on implementation within one year of enactment. VA, however, would need at least 24 months from the date of enactment to report on changes due to the time needed for the procurement process, systems development, testing, and deployment.

Section 13 would add 38 U.S.C. § 3699 to authorize the Secretary to make available to educational institutions offering courses of education that have been approved for educational assistance to which a Veteran or individual is entitled information about the amount of assistance to which the Veteran or individual is entitled. The information would be provided via a secure IT system accessible by the educational institution and would be updated regularly.

VA supports the intent of section 13. However, section 13 would present implementation challenges for VA. Currently, VA provides the amount of a Veteran’s entitlement (original and remaining) and other information such as the delimiting date for educational assistance to the educational institution in which the individual is enrolled through VA-ONCE. This information is available for individuals training under chapter 30 of title 38, United States Code, and chapters 1606 and 1607 of title 10, United States Code, after VA processes an award for education benefits. This functionality is not currently available for Veterans or other individuals training under chapters 32, 33, or 35 of title 38, United States Code; therefore, VA would need to make programming changes to VA-ONCE in order to make this information available to these beneficiaries as well. We note in this regard that there are very few individuals who remain eligible for chapter 32 benefits. We have not, however, fully determined if there were to be any costs associated with IT changes.

There are no benefit costs or additional FTE or GOE costs associated with section 13.

Section 14 would amend 38 U.S.C. § 3692(c) to re-authorize the Veterans’ Advisory Committee on Education (VACOE) through December 31, 2022. VACOE provides ad-

vice to the Secretary on the administration of education and training programs for Veterans and Servicemembers, members of the National Guard and Reserve Components, and dependents of Veterans under chapters 30, 32, 33, and 35 of title 38, United States Code, and chapter 1606 of title 10, United States Code.

VA supports section 14. If reauthorized, the Secretary would be able to continue to receive recommendations and seek advice from VACOE in order to enhance VA's educational assistance programs.

GOE costs are \$51,000 for the first year and \$255,000 for 5 years.

Section 15 would amend section 3684(c) of title 38, United States Code, to revise requirements governing reporting fees payable to educational institutions and joint apprenticeship training committees. Section 15 would increase the annual fee to \$16 for each eligible individual enrolled in VA's education and vocational rehabilitation and employment programs. Section 15 would prohibit an educational institution or joint apprenticeship training committee from using reporting fees from VA for or merging such fees with the amounts available for the general fund of the educational institution or joint apprenticeship training committee.

As a technical matter, VA notes that both current 38 U.S.C. 3684(c) and the proposed revisions to section 3684(c) use the term "joint apprenticeship training committee." VA notes (and the Department of Labor agrees) that the term "joint apprenticeship training committees" is specific to the construction industry and refers to a subset of the possible universe of entities that could be apprenticeship program sponsors. Given that the bill does not focus strictly on the construction industry, the use of this term is problematic because the bill would exclude other industries which have registered apprenticeship programs. VA recommends revising section 15 of the bill to change the term "joint apprenticeship training committee" to "apprenticeship sponsor" whenever it is used in section 15 of the draft bill (amending 38 U.S.C. 3684(c)). With this technical change, VA can support section 15 because it would prohibit schools from using reporting fees for, or merging such fees with, their general funds. Educational institutions are required to use reporting fees solely for making certifications or otherwise supporting programs for Veterans, and this would ensure that the reporting fees are used solely for those purposes.

Benefit costs for section 15 would be \$6.9 million in the first year, \$34.7 million over 5 years, and \$67.3 million over 10 years. There would be no FTE or GOE costs associated with enactment of this section.

Section 16 would authorize VA, in consultation with the SAAs, to provide training requirements for school certifying officials employed by covered educational institutions that offer courses of education approved under chapter 36 of title 38, United States Code. If an educational institution does not ensure that a school certifying official meets the training requirements, VA may disapprove any course of education offered by the educational institution. A "covered educational institution" would refer to an educational institution that has enrolled 20 or more individuals using VA educational assistance and a "school certifying official" would be defined as an employee of an educational institution with primary responsibility for certifying Veteran enrollment at the educational institution.

VA supports section 16. VA currently provides guidance and training opportunities for school certifying officials via webinars, the School Certifying Official Handbook, and on the GI Bill website but does not have the authority to require school certifying officials to complete this training or to disapprove educational programs if the training is not completed. The proposed legislation would provide VA with the authority to require school certifying officials to meet certain training requirements as determined by VA.

VA suggests that the proposed requirements be codified in chapter 36 of title 38, United States Code.

There are no benefit costs or additional FTE or GOE costs associated with section 16.

Section 17 would amend 38 U.S.C. § 3674(a) to provide that reasonable and necessary salary and travel expenses of SAA employees and local agencies that VA has agreed to pay would be payable out of appropriated amounts as well as from amounts available for payment of readjustment expenses. Section 17 would authorize \$3 million in appropriated funds per fiscal year and the maximum total amount available under section 3674 for any fiscal year would be increased from \$19 million to \$21 million. The maximum total amount available for these expenses would increase by the same percentage as the annual increase in the benefit amounts payable under title II of the Social Security Act.

VA supports section 17. VA suggests a technical change to clarify the funding ceiling in this section. As drafted, new section 3674(a)(4) would conflict with new section 3674(a)(5)(A) because each appears to be setting a new funding ceiling. Also,

if enacted as drafted, VA would be limited to \$21 million per fiscal year for SAA payments.

Benefit costs for section 17 are estimated to be \$2 million in the first year, \$10 million over 5 years, and \$20 million over 10 years. There are no additional FTE or GOE costs associated with the proposed legislation.

Section 18 would amend 38 U.S.C. § 3313(c) to provide that scholarships or other Federal, State, institutional, or employer-based aid or assistance provided directly to the institution, to defray the amount of tuition and fees of persons entitled to less than 100 percent of the amounts payable under the Post-9/11 GI Bill for pursuing a program of education on more than a half-time basis, would not be deducted from the amount of tuition and fees assessed by the institution for the program of education for purposes of calculating the amount of educational assistance payable under the Post-9/11 GI Bill.

VA supports section 18 of this bill because it would reduce the out-of-pocket expenses of Veterans and dependents who do not qualify for 100-percent educational assistance under the Post-9/11 GI Bill. Additionally, section 18 could reduce the amount of educational loans that Veterans or dependents need and therefore reduce their financial burdens. However, some eligible individuals could receive more Post-9/11 educational assistance than the cost of the program in which they are enrolled. For example, if a scholarship paid to an institution on behalf of an individual who is entitled to VA educational assistance at the 90 percent rate exceeds 10 percent of the tuition and fees assessed by the institution, and VA is precluded from subtracting the amount of the scholarship from the educational assistance, the educational institution would refund the surplus to the student, who would receive a windfall. In addition, as a result of section 18, some eligible individuals who are entitled to educational assistance at less than the 100-percent rate could receive more funding for their education than an individual who is eligible at the 100 percent benefit level.

This concludes our statement, Mr. Chairman. I would be happy now to entertain any questions you or the other Members of the Committee may have.

**STATEMENT OF HON. JOHN BOOZMAN,  
U.S. SENATOR FROM ARKANSAS**

Senator BOOZMAN [presiding]. Thank you. I apologize. As you know, we have votes going on, and we are trying to continue forward. So, let me find my questions real quick.

Let me just say, first of all, that I am proud to sponsor two of the bills that were under consideration during today's hearing: the GI Fairness Act, cosponsored with my friend and colleague, Senator Wyden; and the VET TEC bill that I am proud to lead with Senators Heller, Capito, Risch, and Nelson.

Both bills aim to strengthen and advance education benefits provided to our Nation's veterans, the first by correcting existing inequalities and disparities in current law and the second by expanding the way we think about post-military employment skills and educational training.

The first bill, S. 844, the GI Bill Fairness Act, would allow servicemembers to receive GI Bill eligibility credit for service periods when Reserve component members are on active duty to receive medical care. I think this legislation is the fair and right thing to do. Servicemembers should receive credit for their time on active duty, particularly when they are receiving medical care.

The second, S. 1277, the Veteran Employment Through Technology Education Courses Act, or VET TEC, directs the VA to conduct a pilot program focused on nontraditional technology-based education. This pilot seeks to provide veterans with high-demand, sought-after, and employable IT skills and certifications that would not be provided under the traditional GI Bill.

Let us now go to the questions. Your testimony in Section 13 of the Discussion Draft states that VA currently provides information on a veteran's entitlement to certain educational benefits through the VA-ONCE processing system, and VA would need to make changes to VA-ONCE to provide that capability for the Post-9/11 GI Bill. Assuming there would be a significant cost to make IT changes to VA-ONCE, is that a system that education service plans to invest in or would development of an alternative system be preferable?

Mr. COY. Thank you for the question, sir. You are right. We have long wanted to have a system where schools could go into our system, find out how much eligibility a veteran has remaining. We have long wanted to have a system where veterans could go in and see what their eligibility was, too. This is not a desire problem; this is a resource issue. We are working with the Office of Technology to be able to put a system like that online. We have made some strides, but we are not there yet.

Senator BOOZMAN. Very good. You know, processing times for original Post-9/11 GI Bill benefit claims averages 22 days and is very labor-intensive. Can you give the Committee an approximate idea of how much actual working time VA and DOD employees might spend on one of these claims?

Mr. COY. That is difficult to measure. We do not measure it because we have claims examiners, and they go back and forth. Some do supplemental claims, and some do original claims.

Currently, our system for supplemental claims, about 85 percent of them go through the system with some information on it, and about 50 percent go through the system and are never touched by human hands. With respect to original claims, our target is 21 days. We are at 22 days. But, original claims done manually have to go through every veteran's record to see what their eligibilities are.

So, an opportunity to automate original claims would save a lot of time. Our end vision would be, as in our VA Home Loan Program, for example, if you wanted to get your certificate of eligibility for a VA home loan, you literally go into eBenefits and click a few buttons, and it will be printed out right there at your own printer or at your realtor's printer.

Senator BOOZMAN. So, in summary, automation would truly save a tremendous amount of time.

Mr. COY. Yes, sir. I mean, we have done a lot. When we automated supplemental claims back in 2012, we had processing times for original claims in the 50 to 60 days and for supplemental claims sometimes in the 20 to 30 days. We have got our supplemental claims down to about 7 or 8 days, which is pretty impressive, and that has relieved a lot of things, such that we can get our original claims down to about 22 days. We still think that is a little too high, and we are working hard to bring that down even further.

Senator BOOZMAN. Right.

Senator ROUNDS?

Senator ROUNDS. Mr. Chairman—

Senator BOOZMAN. Yes, sir.

Senator ROUNDS [continuing]. Would you like me to work on bills or would—

Senator BOOZMAN. Are they on the first vote now or the second?

Senator ROUNDS. Yeah. They are still in the middle of the first vote.

Senator BOOZMAN. OK. Go ahead. If you have your questions or Senator Tillis, whichever.

Senator ROUNDS. I do not have any questions right now, so I will defer at this time.

Senator BOOZMAN. That is fine.

Senator ROUNDS. I will hold my time for discussion on the three bills that we have introduced.

Senator BOOZMAN. Sounds good.

Senator Tillis, do you have any questions?

**STATEMENT OF HON. THOM TILLIS,  
U.S. SENATOR FROM NORTH CAROLINA**

Senator TILLIS. I will be very brief so that we—I know we have got to get back over to vote.

The one thing—I want to just get with the VA on the Janey Ensminger Act. I appreciate a lot of the work that the VA is doing, but I do have a concern with the difference in opinion as to ATSDR, which is where I think we should be focusing our attention versus the VA's current position. We will talk about that offline and not necessarily talk about it today.

The main thing I wanted to talk about briefly has to do with the GI Bill provisions. I am not going to be able to be here, I think, for the next panel, so I just want to make the statement that I look forward to working with my colleagues on the Committee to close the 12304 Bravo and 12304 Hotel loopholes. They have been denying our Guardsmen and Reservists the benefits that I believe they rightfully earned.

I appreciate The American Legion in particular for bringing the case of a specific North Carolina National Guardsman, Captain Lowman, to light. I look forward to supporting and cosponsoring Senate 844 of the GI Bill Fairness Act of 2017 that Senator Boozman and others have sponsored.

I also want to get the constructive feedback on the provisions for the Discussion Draft. I look forward to working with the VSOs on this to a successful conclusion.

Thank you all for being here, and again, I apologize. With multiple committees going on at the same time I cannot be here, and I think what I may start doing is back-end loading some of my VSO panel hearings and move some of the meetings forward, with all due respect to the Department. I have got to balance it out from time to time, but I thank all the VSOs for the hard work you are doing.

To the extent I never miss an opportunity to do this—I said this in the Aging Committee yesterday that had to do with caregiver support—we have got a lot of red tape to cut through, and until we can get that red tape out of the system as it relates to any veteran in North Carolina, let us be the scissors. Make sure they contact our office, [tillis.senate.gov](http://tillis.senate.gov). We have already processed 6,000 claims for veterans in the State since I came in, January 2015. I would like for that to be another 6,000 more before the end of next year because I think the need is out there.

Thank you, Mr. Chair.  
 Senator BOOZMAN. Thank you, Senator.  
 Senator Rounds.

**STATEMENT OF HON. MIKE ROUNDS,  
 U.S. SENATOR FROM SOUTH DAKOTA**

Senator ROUNDS. Thank you, Mr. Chairman.

I would take the opportunity right now to make just a few comments on several bills, and then I would like to ask a couple questions after that, as long as we have time to do it in that order, sir. Thank you.

I am pleased to have three pieces of legislation that are up for consideration at today's legislative hearing. I do appreciate the VA's support and technical assistance on Senate Bill 882, the Purple Heart GI Bill Act; Senate Bill 1192, the Veterans TEST Accessibility Act; and Senate Bill 1330, the Increasing Transferability of Entitlement to Post-9/11 Educational Assistance Act.

The provisions in S. 1330 was addressed in the VA's testimony under Section 8 of the GI Bill Discussion Draft. I look forward to working through any necessary technical changes in advancing these particular provisions to become law.

I also appreciate the support of the veterans service organizations for working with me to advance these legislative proposals, especially the Military Order of the Purple Heart, the National Association of Veterans Program Administrators, and the Tragedy Assistance Program for Survivors.

Finally, I would like to thank Congresswoman Susan Brooks for leading the Veterans TEST Accessibility Act and Congressman Scott Peters for leading the Purple Heart GI Bill Act in the House of Representatives.

My question for Mr. Coy, regarding Senate Bill 1330 on the transferability of Post-9/11 GI Bill benefits for surviving dependents, could you expand on the VA's interpretation that—and I guess I will put this on quotations—"If a servicemember or veteran does not transfer the maximum entitlement to a dependent, the amount that was not transferred would be forfeited?" Would you care to comment on that, sir?

Mr. COY. Yes, sir. The way the bill is written is laid out as such. You get 36 months of Post-9/11 GI Bill. The individual is still in the service, and he designates 12 months to his spouse, he designates 12 months to his daughter, and he keeps the rest. He gets out of the service. He is now a veteran, and he tragically passes away. Those benefits that are left over are not eligible, according to the way the law is and the way this bill is written, to be able to use those unused benefits to parcel them out to the spouse and daughter.

Senator ROUNDS. So then, would you agree that a potential fix for this provision could be to add a paragraph that would require the VA to perhaps equally distribute any remaining Post-9/11 GI benefits from the deceased servicemember or veteran to surviving dependents who had benefits previously transferred to them?

Mr. COY. We would most certainly like to work with you and the Committee to come up with that resolution. There are nuances that would be interesting to have conversations about; in other words,

who makes that decision if maybe there is a next-of-kin, perhaps both parents perish, who makes those decisions? So, those kinds of nuances, we would be happy to sit down and talk to you about, but I would suggest that we would be in favor of wanting to be able to leverage those unused benefits.

Senator ROUNDS. That would be reasonable because the way it looks to me, anyone associated with that estate, whether it be an executor or an administrator, most certainly would be willing to work with us, because otherwise they lose them entirely. So, it seems to me that a reasonable identification as to an administrator or an executive or an executor would be the appropriate individual unless otherwise specified within a will.

Mr. COY. Yes, sir.

Senator ROUNDS. Fair? OK.

Second question would be—and let me just give you a little bit of a background. The VA provided the following feedback on S. 1192, which is the VA supports S. 1192 because it would benefit Post-9/11 GI Bill beneficiaries by reducing the negative impact of test reimbursement on the remaining benefit entitlement and increasing the months of training available for the beneficiaries, thus expanding educational opportunities.

Under current Sections 3315 and 3315A, an individual is charged a portion of his entitlement for the reimbursement of fees associated with a licensing or certification exam or a national test in whole months; thus, VA charges an individual 1 month of entitlement for each \$1,832.96 reimbursed for the academic year beginning on August 1, 2016, rounded to the nearest whole month, regardless of the cost of the test. So, you could have a \$250 test, but you get charged \$1,832.

Mr. Coy, on S. 1192, the Veteran TEST Accessibility Act, in your testimony, the VA supports this effort with a few suggested technical changes. I do appreciate your feedback.

My question, I guess, would be when assessing the VA support for this legislation, did you look into any statistics on how often this test and certification reimbursement opportunity is used by veterans? And, do you foresee more veterans using their Post-9/11 GI benefits to be reimbursed for increasing their qualifications to succeed when transitioning to civilian life?

Mr. COY. Great question, sir. I do not have the answer in terms of how many of our veterans have used their benefits for tests. We would be happy to try to get that information back to you.

[The information requested during the hearing follows:]

For Fiscal Year (FY) 2016, VA paid benefits to 303 beneficiaries for the purpose of national tests. The table below provides detailed information by education program for FY 2016.

Education Program	Training Type	Number of Students
Post-9/11 GI Bill (Chapter 33)	National Exam	252
Montgomery GI Bill Active Duty (Chapter 30)	National Exam	18
Montgomery GI Bill Selective Reserve(Chapter 1606)	National Exam	31
Reserve Educational Assistance Program(Chapter 1607)	National Exam	2
Total	—	303

Mr. COY. With respect to some of the tests, we could not agree more. I went back and looked at some of these tests. A GRE test, for example, is \$195, which would use a whole month—

Senator ROUNDS. Right.

Mr. COY [continuing]. For something like that.

The flip side of that is you have a Cisco licensing or certification, and that costs about \$1,600, so you are getting your money's worth.

So, I would suggest, and I would agree, sir, that I think the way it is set up now, it would be prohibitive for a veteran to sign up for a \$195 test to use a whole month of benefits. So, what this bill does is prorates that, and we support that. We think it is a great idea.

Senator ROUNDS. Very good. Thank you.

Mr. Chairman, my time has expired.

Senator BOOZMAN. Thank you, Senator.

I just have one more question, and then we will move to the next panel, unless Senator Rounds has some others.

In your testimony, you noted concerns with implementing S. 1277, the VET TEC Act, due to limited guidance in the bill about how VA should select qualified providers for these high-technology education programs.

Given that this would be a pilot program limited to 5 years, would it help VA to have authority to develop and implement its own guidance for each contract in addition to what would be required by in the bill language?

Mr. COY. I think that would be great. Yes, sir.

Part of what this bill does is it develops a series of contracts, not the way we do business now. The way we do business now is a school is approved by a State approving agency to be able to use their GI Bill benefits. What this does is set up a series of contracts with respect to that.

Our concerns or thoughts when we said we have significant concerns are some of the provisions in the bill. I went through it last night and went through a few of them. One is that a veteran has to be entitled to educational assistance. That is one of the things that you have to get in the gate to do, and my response to that would be maybe we should expand it to everyone. What I mean by that is, if you already have educational assistance, then what is preventing you from using it to go take this course of something like that?

There is no reference in the bill to the character of discharge. Currently, to use the GI Bill, you have to have an honorable discharge. There is no reference there, and I would suggest that we look at that.

The \$15 million that is a year, it is not identified as to whether it is mandatory money or GOE money. In other words, what color money is it? That makes a big difference on how we budget things.

There is also no reference to whether or not we look at this to see if the \$15 million could be part of that used for project management and program management. The implementation date is seriously a challenge. We are in the government, and the acquisition process is long and arduous, so the implementation date is a bit challenging.

Then, when we look at the housing allowance, how we pay out housing allowance and where that money comes from; in other words, it is not clear that the students in this program are supposed to get housing allowance. Does that come out of the \$15 million, or does that come out of mandatory money?

So, there are three or four of them, a number of issues that we would be happy to work with the Committee to try to make this a very successful program and a successful bill.

Senator BOOZMAN. Thank you. I think those are valid. I think those are things we can work through. I do appreciate your input.

Let me ask you one other thing, which if it would be possible might be helpful. Could the VA limit the contracts to discrete length in order to incorporate lessons learned from the pilot program during each of the 5 years?

Mr. COY. I apologize. Limit them to discrete?

Senator BOOZMAN. To discrete lengths, so that you could learn as we go forward over the course of the 5 years.

Mr. COY. I am still not clear on the question. I apologize.

Senator BOOZMAN. Well, instead of it being 5 years in length, lessen the time.

Mr. COY. Oh, discrete length.

Senator BOOZMAN. Yes, sir. Yes, sir. I am from Arkansas. That is my Southern drawl, unless I mumble. [Laughter.]

Mr. COY. I spent too much time in the Navy engineering spaces, so my ears are not so good.

Senator BOOZMAN. I am mumbling.

Mr. COY. I think that would be useful. I mean, the program right now is 5 years. Being able to split it into perhaps 1-year increments and be able in most contracting environments—and I am an old contracting officer. You have a base year and sometimes 3 or 4 or 5 years, which is done because you may not want that contractor after a year. So, having a 5-year contract sort of limits you, while having the ability or freedom to be able to manage through that would be very, very helpful.

Senator BOOZMAN. OK. Well, thank you very much. Thank you for your testimony.

Mr. COY. Yes, sir.

Senator BOOZMAN. It is very helpful.

Let us go to our next panel. [Pause.]

We appreciate you all coming over to testify on these bills. We appreciate your service to your country and to your fellow veterans, which is very, very important.

Let us start with you, Mr. Hubbard, Will Hubbard, Vice President of Government Affairs, Student Veterans of America.

**STATEMENT OF WILL HUBBARD, VICE PRESIDENT OF  
GOVERNMENT AFFAIRS, STUDENT VETERANS OF AMERICA**

Mr. HUBBARD. Thank you, Mr. Chairman and Members of this Committee. It is a pleasure, as always, to speak before you. Thank you for inviting Student Veterans of America to submit our testimony on the modernization of the GI Bill and pending legislation. With over 1,400 chapters representing nearly 1.1 million student veterans across the country, we are pleased to share the perspec-

tive of those directly impacted by the subjects before this Committee today.

Before sharing our positions, I want to take a moment to recognize and wish for the expeditious recovery of Congressman Scalise and all those injured in yesterday's vicious attack. I would also like to commend the Capitol Police for their response and the immediacy of it, which truly saved lives. Our thoughts and prayers are with all those affected.

As we honor the service of these brave Americans, I am reminded of the selfless sacrifice of our men and women in uniform as well as those who have served our country and uphold our Nation's cloth.

Today, we will discuss our unwavering interest in achieving a lifetime GI Bill for veterans along with policy proposals to expand education access for Purple Heart recipients, Guard and Reserve members, school closure students, and survivors.

In the groundbreaking research that we published this spring, the National Veterans Education Success Tracker, or NVEST for short, we demonstrated the high return on investment for the GI Bill for veterans and the country, a program worth ensuring for all generations to come.

As the most recently transitioned veterans, the student veterans are Ambassadors to the all-volunteer force and recognize the value of this investment.

Last month, we convened nearly 40 military, veteran, and higher education organizations for a roundtable discussion at the headquarters of our friends at The American Legion. We determined that the interest and need to address a wide variety of education-related issues could not be ignored.

Over the course of a 3-hour discussion, the broad coalition of organizations identified four priorities, each receiving unanimous support. As referenced earlier, these include, first, school closures. All students affected in Corinthian and ITT Tech closures have a chance for restitution, except for veterans, whose benefits come through the VA through the GI Bill. We support multiple efforts to address this disparity and the interest in making these efforts—these student veterans whole.

Second, Purple Heart recipients. Currently, there are about 600 Purple Heart recipients who were discharged for nonmedical reasons and who got out before earning full GI Bill eligibility, mainly Reservists injured in combat. Anyone who has bled for this country should minimally have the opportunity to go to school.

Third, Reservists. Reservists on a 12304(b) orders, those serving in pre-planned missions of the combatant commands, or 12301(h) orders, those on medical hold, receive no GI Bill, as those mobilization codes were not added to the VA's definition of active duty service when those codes were established. Approximately 6,000 National Guard and Reserve members are ineligible for the GI Bill benefits they earned alongside their regular active-duty counterparts.

And fourth, survivors. All GI Bill users with full eligibility can access the Yellow Ribbon Program except for survivors. Even though they rate the GI Bill of their servicemember who died in the line of duty, this technical oversight excludes them from sup-

port of the Yellow Ribbon Program. This push to secure the GI Bill for future generations, why now? Simply put, if not now, then when? When it is too late to reverse the threat of losing the program, just like all GI Bill benefits that have been cut before?

Based on our research, conversations with thousands of student veterans across the United States and thoughtful discussions with many of the policy experts here in this room today, we developed the idea that the GI Bill should not be considered as a cost of war but instead a component of service. That all those who have done service in the defense of our Nation should have the opportunity to access education.

I think we can all anticipate a certain level of manufactured outrage from those who just do not get it. Nonetheless, please recognize that the veterans and their families from groups like the VFW, American Legion, enlisted and National Guard associations, TAPS, Vietnam Veterans of America, Student Veterans of America, and dozens of others stand willing to do the right thing for our men and women who earn the right to go to school.

In addition to the legislation under review today, including those four priorities that we have just identified, we are urging the consideration of three additional topics, including the termination of the arbitrary 15-year time limit on using the GI Bill; also allowing veterans with any type of discharge to access their earned education, excluding dishonorable discharges; and last, the removal of era-specific naming conventions for the GI Bill programs.

We thank the Chairman and the Ranking Member as well as Members of this Committee for your time today, and we look forward to any feedback or questions that you may have.

[The prepared statement of Mr. Hubbard follows:]

PREPARED STATEMENT OF WILLIAM HUBBARD, STUDENT VETERANS OF AMERICA

CHAIRMAN ISAKSON, RANKING MEMBER TESTER AND MEMBERS OF THE COMMITTEE: Thank you for inviting Student Veterans of America (SVA) to submit our testimony on the modernization of the GI Bill and other pending legislation. With over 1,400 chapters representing the nearly 1.1 million student veterans in schools across the country, we are pleased to share the perspective of those directly impacted by the subjects before this Committee.

Established in 2008, SVA has grown to become a force and voice for the interests of veterans in higher education. With a myriad of programs supporting their success, rigorous research development seeking ways to improve the landscape, and advocacy throughout the Nation, we place the student veteran at the top of our organizational pyramid. As the future leaders of this country, fostering the success of veterans in school is paramount in their preparation for productive and impactful lives.

We will discuss our unwavering interest in achieving a lifetime GI Bill® for veterans, along with other policy proposals to expand education access for Purple Heart recipients, Guard and Reserve members, school closure students, and survivors. Since the passage of the Post-9/11 GI Bill in 2008, SVA has been working with a coalition of higher education and veteran organizations to improve the GI Bill for generations to come, including discussions that began in 2016 with the veteran community about making the GI Bill permanent.

Our National Education Success Tracker (NVEST) research demonstrates that the GI Bill has a high return on investment for veterans and the country—a program worth ensuring for all generations to come.<sup>1</sup> As the most recently transitioned generation of veterans, student veterans are ambassadors to the all-volunteer force, and recognize the value of this investment.

<sup>1</sup>Cate, C. A., Lyon, J. S., Schmeling, J., & Bogue, B. Y. (2017). National Veteran Education Success Tracker: A report on the academic success of student-veterans using the Post-9/11 GI Bill. Washington, D.C.

SVA and the over 1.1 million student veterans in school today look forward to working with Congress and the veteran community in making this proposed expansion a reality.

S. 410, SHAUNA HILL POST-9/11 EDUCATION TRANSFERABILITY ACT

*SVA supports as law.*

This bill would authorize the transfer of unused benefits to dependents upon death of originally designated dependent. At present, in the tragic scenario when a veteran's dependent with transferred GI Bill benefits passes away without using the full extent of those benefits, the unused benefits become unusable. We believe this is an unintended consequence of the way the law is written, and vigorously support this correction, which honors the sacrifice of our military families.

S. 473, EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017

*SVA supports as law.*

**Section 2: Eligibility of reserve component members for Post-9/11 Educational Assistance**

**Section 3: Eligibility of reserve component members for nonreduction in pay while serving in the uniformed services or National Guard**

**Section 4: Modification of time limitation for training and rehabilitation for veterans with service-connected disabilities**

These sections recognize the service of National Guard and Reserve Members and ensures that an order to serve on active duty under sections 12304a and 12304b of title 10, United States Code, is treated the same as other orders to serve on active duty for the purposes of determining benefits eligibility of servicemembers and veterans. Many of these servicemembers perform the exact same duties as their active duty counterparts, yet they realize none of the benefits. Fixing this discrepancy is a top priority for SVA, as well as nearly 40 other military, veteran, and higher education organizations that identified this issue with unanimous consent as being an imperative change.<sup>2</sup>

SVA encourages the Committee to consider applying these provisions to all members of the National Guard and Reserve who have served on active duty under all similar authorization codes including: 12301(h), 12304a, or 12304b of title 10, United States Code, including retroactive and future cases.

**Section 5: Deferral of students loans for certain period in connection with receipt of orders for mobilization for war or national emergency**

This section proposes that student veterans could defer certain types of loans during a mobilization and up to 180 days after returning. Additionally, it would allow loans deferment to begin upon receipt of mobilization notice, enabling them the ability to adequately execute proper financial planning during the period for which they are mobilized. Given the significant strain of a deployment on the financial health of a servicemember, especially those with families, this basic deference can prevent financial hardship which might otherwise be the result of service to a grateful Nation. SVA views this as a simple but impactful provision and fully supports it as law.

**Section 6: Grant program to establish, maintain, and improve veteran student centers**

This section establishes a grant program within the Department of Education (ED) to help institutions of higher education establish, maintain, and improve veteran education centers as a dedicated space on a campus, providing students veterans, servicemembers, or eligible family members a centralized location for services.

We regularly hear from our student veterans that the support of their peers is a crucial factor in the reintegration process and the pursuit of a college education. Multiple studies show that student veterans are more successful when they connect with their peers while facing the day-to-day obstacles on-campus. With access to a veteran's center, student veterans have significantly increased opportunities to obtain resources and peer support that directly contributes to their success.

SVA has been a long-time supporter of building Vet Centers on campuses, and partners with the Home Depot Foundation to create our own VetCenter Initiative which over \$950,000 in grants to build Vet Centers across the country. The proposal outlined by this act is a public display that initiatives like these are truly important, and contribute to the success of veterans at institutes of higher learning (IHL) across the country.

<sup>2</sup>GI Bill Roundtable meeting, The American Legion Headquarters, May 18, 2017.

**Section 7: Modification of basis for annual adjustments in amounts of educational assistance for members of the selected reserve**

This section seeks to ensure parity in benefits that National Guard and Reserve members have earned, entitling them to Montgomery GI Bill education benefits. Many Guard and Reservists utilize Chapter 1606, or “Montgomery GI Bill Selected Reserve” (MGIB-SR) benefits, though these benefits have not kept pace with the rising costs of college. Currently, then MGIB-SR only affords a monthly stipend of \$362, which continues to lose value as college costs rise rapidly.<sup>34</sup> This change would be small, but have a significant impact for those veterans using this benefit in their educational pursuits.

**Section 8: Monthly stipend for certain members of the reserve components of the Armed Forces**

This section would pro-rate the housing allowance to reflect periods when the servicemember is not on active duty and allow them to fully partake in their earned housing allowance under their GI Bill benefits. While many National Guard and Reserve members continue to serve while in IHL, many lose eligibility for GI Bill housing allowances when ordered to duty under title 10, United States Code. Caught between active duty, though receiving an insufficient housing allowance from the active duty service, and coupled with the inability to receive GI Bill housing payments, the veteran is punished for their continued service. This technical change would address this oversight.

S. 798, YELLOW RIBBON IMPROVEMENT ACT

*SVA supports as law.*

This bill would amend title 38, United States Code, to include the Fry Scholarship in the Yellow Ribbon G.I. Education Enhancement Program. SVA stands with many other organizations in strong support of this legislation that would allow the dependents of a servicemember killed in action to access Yellow Ribbon Program benefits.

The Marine Gunnery Sergeant John David Fry Scholarship goes to families that have made the ultimate sacrifice for their country; we believe they’ve more than earned the right to attend a IHL of their choice without comparatively minor tuition costs hampering their success. This is a common-sense proposal; frankly it is ridiculous that that this error has not yet been amended, and we look forward to this being expeditiously put into effect. SVA stand in vigorous support for this legislation.

S. 844, GI BILL FAIRNESS ACT

*SVA supports as law.*

This bill proposes amending title 38, United States Code, to consider certain time spent by members of reserve components of the Armed Forces while receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 Educational Assistance. This issue was a known problem as early as October 2014, documented in an October 1, 2014 Reserve Forces Policy Board memorandum. Consistent with our position on S. 473, sections 2–4, SVA maintains a hard stance on addressing this issue immediately, and looks forward to seeing a solution passed this year.

S. 882, PURPLE HEART GI BILL ACT

*SVA supports as law.*

This bill would recognize the sacrifice of men and women who have served our country with dignity, sustaining battlefield injuries. Currently, only veterans who either served at least 36 months on active duty or are medically retired receive Post-9/11 GI Bill benefits at the 100 percent rate, excluding nearly 3,000 Purple Heart recipients over the next ten years who may not meet these administrative requirements. In practice, this error penalizes men and women who were wounded before they could reach the full term of their contract to receive GI Bill eligibility. SVA believes that those who shed blood in our country’s defense should have the opportunity to go to IHL.

<sup>3</sup>Department of Veterans Affairs, (2017), Montgomery GI Selected Reserve (MGIB-SR), [http://www.benefits.va.gov/gibill/mgib\\_sr.asp](http://www.benefits.va.gov/gibill/mgib_sr.asp)

<sup>4</sup>CollegeBoard, (2017), [https://trends.collegeboard.org/college-pricing/figures-tables/tuition-and-fees-and-room-and-board-over-time-1976-77\\_2016-17-selected-years](https://trends.collegeboard.org/college-pricing/figures-tables/tuition-and-fees-and-room-and-board-over-time-1976-77_2016-17-selected-years)

## S. 1192, TEST ENTITLEMENT CHARGE

*SVA supports as law.*

This bill would allow veterans to apply their GI Bill benefits to afford the cost of certain licensure and certification tests and national tests. Under the current system, veterans who seek to apply their GI Bill benefits to the cost of taking certification or licensing tests are charged an entire month of their entitlement, regardless of how comparatively low the cost of such test is.

It is common sense that veterans would be able to pro-rate the cost of that charge and retain the remaining value of that month's benefit. This measure will prevent veterans from being dissuaded by the current overcharging inconsistency, and instead encourage taking critical tests necessary for career development without paying costs out of pocket. SVA is fully in support of this common-sense solution.

## S. 1218, EMPOWERING FEDERAL EMPLOYMENT FOR DISABLED VETERANS ACT

*SVA supports as law.*

This bill would seek to complement current Federal veteran hiring initiatives, and promote career development and training for veteran employees. Though current Federal hiring initiatives exist, they are often ineffective, or at least unevenly applied, across various departments and agencies. The Federal Government should focus on matching the skills and career aspirations of veterans to specific agency needs while also expanding career development training opportunities.

This expansion would create an environment that improves the long-term wellbeing of veterans as well as the overall efficiency of the Federal Government. This bill also proposes an expansion of the Department of Defense's SkillBridge program to Federal agencies, which would provide opportunities to gain relevant work experience within the government, while also affording the opportunity to attend IHL. A skilled workforce with a demonstrated commitment to service would be highly beneficial for the country.

## S. 1277, VETERAN EMPLOYMENT THROUGH TECHNOLOGY EDUCATION COURSES ACT

*SVA supports as law.*

This bill proposes to direct the Secretary of Veterans Affairs to carry out a high technology education pilot program. The proposal would operate as a five-year pilot program, funded for up to \$15 million annually. SVA views this as complimentary to existing education programs, and addresses the need to develop innovative programs targeted at non-traditional students. The split payment requirement incentivizes providers to deliver high quality programs with high-impact and successful student outcomes.

With an increase in innovation in higher education with companies like Dog Tag Bakery at Georgetown University, the education industry is beginning to recognize the need to adapt to more flexible or hybrid models for new generations of students. It is unclear if the contracts under this proposal reset annually, or how those funds are to be dispersed, however SVA is confident that such logistical details would be minor hurdles when compared to the overall benefit of this concept.

The industry desire for such a program is clear, including support from the Information Technology Industry Council (ITI), the global voice of the tech sector.<sup>5</sup> Over 60 members of ITI include technology giants such as Google, Twitter, Amazon, Facebook, Adobe, Microsoft, IBM, Intel and many others.<sup>6</sup> Like VA's Accelerated Learning Program (ALP), SVA is eager to learn about the outcomes of this proposal.

## S. 1330, POST-9/11 TRANSFERABILITY FOR SURVIVING DEPENDENTS

*SVA supports as law.*

SVA supports this technical correction for transferred GI Bill benefits. Currently, if a servicemember transfers their GI Bill while alive and subsequently passes, the allocation of benefits and amount allotted to surviving family members is locked in place indefinitely. If the servicemember or veteran were still living, they could simply adjust the number of months allotted to each family member at will. SVA recommends allowing those entitled to the transferred benefits to determine the decision and amount of reallocation of benefits as an additional component of this proposal.

<sup>5</sup>ITI letter to the Honorable Kevin McCarthy, "Re: H.R. 1989, the Veteran Employment Through Technology Education Courses Act," April 25, 2017; See appendix for original letter.

<sup>6</sup>Information Technology Industry Council, Member Companies, <http://www.itic.org/about/member-companies>, Accessed June 10, 2017.

*SVA supports as law.*

**Section 2: Consolidation of certain eligibility tiers under Post-9/11 Educational Assistance Program of the Department of Veterans Affairs (VA)**

This section proposes to amend title 38, United States Code, to consolidate certain eligibility tiers under the Post-9/11 Educational Assistance Program. For reservists, the opportunity to serve on active duty and earn GI Bill benefits may be limited for some, while the wider reserve components continue to be an integral component of the overall global Department of Defense posture. This proposal recognizes the importance that National Guard and Reserve Members play in the protection of our Nation in service overseas.

The modified tiers of eligibility would provide 10% increases, specifically for those who serve on active duty up to 12 months. The minimum threshold of benefits would be increased up to 50% eligibility for those who serve between three to six months (see table below for reference). Our research indicates that student veterans are quintessentially non-traditional students, which often includes significant financial obligations and costs associated with raising families.<sup>7</sup> The increase in education benefits at the lower levels makes achieving educational success a significantly more attainable goal.

Member Service	Percentage of Maximum Benefit		
	Current	Proposed	
Service-Connected Disability .....	100%	100%	
36+ months .....	100%	100%	
30–36 months .....	90%	90%	
24–30 months .....	80%	80%	
18–24 months .....	70%	70%	
12–18 months .....	60%	60%	
6–12 months .....	50%	60%	(+10%)
3–6 months .....	40%	50%	(+10%)

**Section 3: Additional Post-9/11 Educational Assistance for certain individuals pursuing programs of education in science, technology, engineering, math, or healthcare**

This section would amend title 38, United States Code, to authorize the Secretary of Veterans Affairs to provide additional educational assistance benefits under the Post-9/11 Educational Assistance Program of VA to certain eligible individuals, specifically those seeking STEM (science, technology, engineering, and math) degrees. With the current resources provided by the GI Bill, the marginal cost of an additional academic year for student veterans pursuing STEM will yield the essential mass of leaders our country needs. Investing in an additional year for STEM-focused student veterans will ultimately result in economic gains and tighter national security, and supporting H.R. 748 is the first step.

Presently, 16–20% of all undergraduate students are in pursuit of a STEM degree. While less than one fifth of current students seek STEM degrees, even fewer achieve them since more than one third of the general population change their major before they graduate. Compare those numbers to what we learned from the research we published this year, the National Veteran Education Success Tracker (NVEST), we found that 14% sought STEM degrees.

The aptitude and interest is clear—the resources to deliver more STEM graduates in the single major barrier to even greater numbers of STEM graduates.<sup>8</sup> According to a report from Georgetown University’s Center of Education and the Workforce, “The Economic Value of College Majors,” top-paying college majors earn a total \$3.4 million more than the lowest-paying majors over a lifetime; the top ten highest paying majors are all in STEM fields, eight of which are in engineering.<sup>9</sup>

In today’s economic environment, the highest paying majors will earn graduates an average mid-career salary of \$136,000. The lowest earning potential includes ma-

<sup>7</sup> Cate, C.A., Davis, T, (2016), Spotlight Brief, [https://studentveterans.org/images/SVA\\_SpotlightBrief-1.pdf](https://studentveterans.org/images/SVA_SpotlightBrief-1.pdf)

<sup>8</sup> Cate, CA, 2017, National Veteran Education Success Tracker, <http://nvest.studentveterans.org/>

<sup>9</sup> Carnevale, Anthony, “The Economic Value of College Majors,” Georgetown University Center for Education and the Workforce, 2015, <https://cew.georgetown.edu/cew-reports/valueofcollegemajors/>

jors such as studio arts or human services. Such majors earn a mid-career salary of nearly \$100,000 less per year. The tax revenue from STEM professionals alone suggests this is a beneficial proposal. The need for STEM-focused professionals with a commitment to service, and the leadership skills to make a difference has never been greater.

Our country faces a key decision point. We are currently affording veterans the opportunity to go to IHL, but we must determine what shapes this new and dynamic workforce. After these veterans graduate, wouldn't we prefer that our country gains scientists, engineers, cybersecurity professionals, physicists, and other high-demand professionals? The marginal cost of an additional academic year is well-worth the added short-term cost, noting the long-term benefit to the economy.

Veterans should not be forced to decide between continued service through a STEM career, and the financial burden that mitigates the value of their earned GI Bill benefits. It has long been our goal to see every veteran maximize the potential of their GI Bill, and this is the answer. It would otherwise take years to find other graduates with level of experience and knowledge that veterans already possess—time we simply do not have. The ability and expertise of these veterans, when coupled with a STEM education, will be an unparalleled force. Our servicemembers are routinely exposed to highly technical equipment, processes, and environments, often with lives depending on their ability to succeed in high-pressure situations. We know they can, and do, succeed when given the opportunity.

When determining our support for this proposal, we consider the long-term economic impact of increased tax revenue from higher-paid STEM professionals; we consider the national security need for leaders in these fields; and we consider how the previous GI Bill prepared our country for the most modern workforce of its time. We know veterans have a demonstrated commitment to service, and the leadership skills necessary to make the country's STEM fields an unmatched force. SVA vigorously supports this section.

**Section 4: Increase in amounts of educational assistance payable under Survivors' and Dependents' Educational Assistance Program of Department of Veterans Affairs**

This section would increase the amounts of educational assistance payable under survivors' and dependents' educational assistance program of VA. We strongly support an increase in Chapter 35 Education Benefits of amounting to approximately \$400 per month. Presently, families receive a monthly stipend of between \$394 to \$788, an amount significantly below benefits of the Post-9/11 and Montgomery GI Bills, as well as VA Education programs.

Unfortunately, many survivors are ineligible for the Fry Scholarship because the servicemember died prior to September 11, 2001, or were separated with a medical discharge and passed away as a retiree. It is our unwavering position that family members of the fallen utilizing these benefits earned with the ultimate sacrifice should be viewed as equal to veterans themselves for the purposes of education benefits. SVA vigorously supports this increase.

**Section 5: Authorization for use of Post-9/11 Educational Assistance to pursue independent study programs at certain educational institutions that are not institutions of higher learning**

This section permits veterans to use Post-9/11 Educational Assistance for an accredited independent study program (including open circuit television) at an educational institution that is an area career and technical education IHL or a postsecondary vocational IHL providing postsecondary level education.

We support the intent of this legislation in expanding the educational options of veterans, but maintain reservations and encourage a stronger definition for the term, "accredited independent study program." The loss of recognition of the Accrediting Council for Independent Colleges and IHLs (ACICS) under the Department of Education (ED) demonstrates that accreditation is a subject that deserves additional scrutiny.<sup>10</sup> We look forward to seeing this legislation refined, and seek its eventual passage on the contingency of a stronger definition for the definition of "accredited" in this instance.

**Section 6: Calculation of monthly housing stipend under Post-9/11 Educational Assistance program based on location of campus where classes are attended**

This section would adjust the calculation of the monthly housing stipend under Post-9/11 Educational Assistance Program based on location of campus where classes are attended. Currently this disparity exists between where a veteran physically attends classes and resides, and the monthly stipend provided under the Post-9/11 GI Bill. For example, a veteran could be enrolled at an online IHL based in San

<sup>10</sup>Department of Education Official Blog, 2016, <https://blog.ed.gov/2016/06/college-accreditation-changes-mean-students/>

Francisco, while living in a rural district of North Dakota; in such a case, the individual would receive substantially higher Basic Allowance for Housing (BAH) than necessary, inflating the programs costs unnecessarily.

We have seen instances of this disparity in BAH calculation encourage abusive behavior on the part of several institutions of higher learning (IHL) who locate the IHL address in a high-BAH district, while offering the physical course delivery in a low-BAH location while using the lucrative BAH stipend as a recruiting incentive. The converse of this situation is also a major point of contention, and results in harm to the veteran while enrolled in IHL. We support this legislation which would adjust the calculation to account for the reality of the living situation.

**Section 7: Repeal of sunset on work-study allowance from Department of Veterans Affairs for certain qualifying work-study activities**

This section would amend title 38, United States Code, to extend the authority to provide work-study allowance for certain activities by individuals receiving educational assistance by the Secretary of Veterans Affairs. The VA Work-Study Program is widely accepted as a highly beneficial system that provides student veterans the opportunity to earn additional income while in IHL, and simultaneously support the broader mission of VA.

The Post-9/11 GI Bill is the most comprehensive and generous education benefit ever offered, though it often does not cover the total costs student veterans experience. As the quintessential non-traditional students, student veterans are often more mature by age and experience, 52% have families, and 18% are single parents. Roughly half of student veterans work full-time while in IHL, and another 25% work part-time. With nearly 780,000 student veterans working while in IHL, it is clear that the demand for this opportunity is high.

**Section 8: Authorization of transfer of entitlement to Post-9/11 Educational Assistance by dependents who receive transfers from individuals who subsequently die**

In the same spirit as our position on S. 1330, we support this common sense technical adjustment.

**Section 9: Department of Veterans Affairs provision of on-campus educational and vocational counseling for veterans**

This section would direct the Secretary of Veterans Affairs to provide educational and vocational counseling for veterans on campuses of institutions of higher learning, and codify the program. SVA has been a long-time supporter of the VetSuccess on Campus (VSOC) program, which entails the campus having a VSOC Counselor, an expert full-time VA detailee, right on campus. We frequently hear student veterans identify the VSOC program as a top benefit that they find to be most valuable for their higher education experience.

In providing feedback to SVA regarding the VSOC program, one student veteran shared, "We have a VSOC Counselor from VA come to the IHL twice a month so Vets can start a new claim or ask questions concerning a claim. This helps immensely as the VA hospital is a 35-minute drive from IHL and keeps our Vets on campus. Vets can ask our counselor any type of question concerning their benefits. They are also a Vocational Rehabilitation (VocRehab) counselor for a few of the Vets on campus. We are incredibly lucky to have this program on campus."

In addition to appreciating the on-site access to a qualified VA counselor, many alluded to a direct personal impact on their academic performance. Another student veteran shared, "The VSOC has been there to help me through the transition from soldier to student. Counseling, advising, financial help, even tutoring has been afforded to me through the VSOC. The VA representative has gone above and beyond to help me succeed, especially when IHL and life became overwhelming for me."

These comments are indicative of the general feedback we received from members over the past several months in our field research on the program. In addition to the general support provided by VSOC counselors, student veterans noted the ability of counselors to quickly correct and process certifications as a major benefit to their campus. They often appreciated the connection counselors make with IHL administration as well. We believe the VSOC program is highly beneficial to student veterans and would like to see it expanded as resources allow. SVA is in strong support of this legislation, and strongly recommends a 25% annual budget increase for VSOC to expand the number of IHLs that offer VSOC Program opportunities to student veterans.

**Section 10: Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by IHL closure**

This section would allow for the restoration of entitlement to GI Bill benefits for veterans affected by closures of educational institutions. SVA strongly supports the intent of this measure, with the condition that the legislation be amended to cover

the closure of the Corinthian Colleges, Inc. (Corinthian) in 2015.<sup>11</sup> When 28 IHLs administered by Corinthian closed, there were 422 individuals that were using Post-9/11 GI Bill benefits to attend one of those IHLs. Many of these affected student veterans now find themselves stranded. The VA Secretary currently does not have the authority to provide meaningful relief to student veterans who find themselves in such a situation.

The proposal will apply to veterans receiving GI Bill benefits while pursuing a program of education at an IHL that closed, or who withdrew from a closed IHL within 120 days of the closure. Veterans who complete their program of education at another IHL pursuant to a teach-out plan would not be eligible for relief. VA would also have the authority to identify other students who were harmed by their IHL and may be eligible for such relief.

SVA humbly recommends the inclusion of a provision granting VA the authority to bring appropriate action against an IHL in an attempt to recover the expenses of providing relief. In order to ensure that student veterans who have already been harmed can receive relief, the bill would retroactively apply to anyone who received Post-9/11 GI Bill benefits. Congress must act to ensure that hard-earned GI Bill benefits are not squandered because of an IHL's failure to serve its students. SVA supports this measure with the conditions of expanding the timeframe to restore entitlement to those affected in the Corinthian closures.

**Section 11: Treatment, for purposes of educational assistance administered by the Secretary of Veterans Affairs, of educational courses that begin seven or fewer days before or after the first day of an academic term**

This section would allow IHL certifying officials (SCO) and regional processing officers (RPO) the ability to define a "calendar week" for the purpose of education benefits as "the seven-day period beginning on the first day of the institution's published academic calendar." At present, VA defines a calendar week as being from Sunday to Sunday, while policy guidance for SCOs necessitates that those officials process terms depending on the first date the class meets for that period of the week. This minor technical discrepancy has led to some confusion in processing benefits, as well as duplicative efforts. SVA supports this change to reflect the reality of processing these benefits consistent with our interpretation of the congressional intent of the benefit.

**Section 12: Improvement of information technology of the Veterans Benefits Administration**

This bill would direct the VA Secretary to make improvements to the information technology system of the Veterans Benefits Administration (VBA) of VA. The directs that to the maximum extent possible, VBA should access information technology (IT) funding to address critical IT infrastructure updates. Presently VA's Office of IT (OIT) functions as a collective funding source for the total VA; simply put, individual departments have no dedicated resources for IT needs.

The result of VA's current IT resourcing model structure is that OIT must constantly determine the highest priority needs of the VA as a whole, leaving some departments with a low level of resources for sustained periods of time. The dedication of these resources will allow the Veterans Benefits Administration (VBA) with the opportunity to receive necessary support in IT upgrade which directly the ability of VA to effectively process payments of benefits to student veterans.

**Section 13: Provision of information regarding entitlement of veterans to educational assistance**

This section proposes allowing IHLs to view the total and remaining amount of educational benefits of a veteran thereby allowing the IHL to properly counsel those veterans on their financial obligation and IHL requirements. This is a simple change with a significant impact, enabling greater communication between the IHL and the veteran.

**Section 14: Extension of authority for Advisory Committee on Education**

This section extends the authority of the VA Advisory Committee on Education (VACOE), an advisory body of subject matter experts that provide the Secretary of VA input on veteran issues in higher education. Previously, SVA provided input at through this forum to highlight necessary reform changes and statute which legally required VA to establish an agreement with the Federal Trade Commission (FTC). Upon recommendation to the Secretary of VA at the 2015 VACOE meeting, the agreement with FTC was reached. This is an example of the significant value and detailed level of policy analysis that the VACOE can provide to the Secretary.

<sup>11</sup> Corinthian closure letter, [http://www.cci.edu/multimedia/closure/CCI-student-letter\\_4.25.15.pdf](http://www.cci.edu/multimedia/closure/CCI-student-letter_4.25.15.pdf)

**Section 15: Limitation on use of reporting fees payable to educational institutions and joint apprenticeship training committees**

This section proposes increasing reporting fees as high as \$16 per number of eligible veterans to execute or offset services required to process benefits. It also requires them to use the money for veterans. SVA believes the reporting fees to be critical components of offsetting the cost of administering GI Bill education benefits at the institution level; we also support requiring this reporting fee be accounted for appropriately as well as being expended on activities related to the execution of veteran benefit processing. Some concern has been expressed that IHLs with very few veterans would be cause undue strain in establishing a separate account for such a low number of students. As such, SVA supports setting a threshold to require IHLs with significant populations to adhere to this requirement, to avoid IHLs with only several student veterans from experiencing undue accounting strain as result of this provision.

**Section 16: Training for IHL certifying officials as condition of approval of courses for veterans educational assistance**

This section codifies the requirements for SCO training. SVA supports this provision, as the training provided through VA is critical for SCO's to maintain a high level of professional aptitude. In some cases, IHLs have not allowed SCOs to attend training, alleging that it was not required. This requirement removes any doubt about the importance of that training.

**Section 17: Modifications relating to reimbursement of expenses of State approving agencies for matters relating to administration of veterans educational assistance**

This section proposes an increase in resources provided to SAAs. SVA believe SAAs are a critical component to ensuring quality education, preventing fraud and abuse, and looking out for student veterans who may be subject to bad practices at various IHLs. SAAs are effectively the gatekeepers of the GI Bill. Yet, the amount of resources provided to them has not kept pace with inflation and rising costs. We continue to urge Congress to increase support for SAAs, and are pleased to see the inclusion of this legislation. The amount of resources spent on oversight should reflect the importance of resources spent in educational benefits; as such SVA supports the recommendations of the National Association of State Approving Agencies to increase funding from \$19 million to \$26 million.

**Section 18: Modification of calculation of amount of educational assistance for individuals partially eligible for Post-9/11 Educational Assistance**

This section proposes a technical modification of affecting student veterans with less than 100% of GI Bill eligibility, primarily National Guard and Reserve members. At present, IHLs often do not consider VA to be the "first payer" in the case of the total financial aid package for student veterans. As such, VA only pays up to half of the remaining financial cost after the other financial components are factored out. This means that student veterans are essentially punished for seeking out scholarship or other financial support beyond their earned benefits. SVA believes that payments from VA should be calculated based on the total tuition cost before other financial aid components are taken into account, not merely based on the remaining tuition costs that exist after other factors are accounted for in the remaining balance.

*Additional Considerations*

Beyond this list of legislation currently under consideration, there are three additional proposals which we believe are critical components for the modernization of the GI Bill, including: the termination of the 15-year benefit usage time limit, allowing veterans with discharges other than dishonorable to access their earned education benefits, and a removal of era-specific naming conventions for GI Bill programs.

We believe that veteran education benefits are not a cost of war, but instead a component of service. We believe that education opportunities should be a lifetime benefit, and thus require the removal of the current 15-year delimiting date within Chapter 33 benefits. Such an arbitrary cap on the opportunity to use this earned benefit serves only as a hindrance to the success of veterans. Additionally, it is imperative that the GI Bill no longer be considered through the strict lens of wartime eras. Indeed, tying education benefits to wartime eras has historically led to previous iterations of the benefit being cut.

Presently, only veterans with an "Honorable Discharge" are eligible for Post-9/11 GI Bill education benefits, neglecting more than 170,000 veterans who have the most to gain from an education. Research indicates that nearly 7% of veterans in Post-9/11 conflicts have earned "bad paper" discharges, with roughly three out of

four of those individuals facing the challenge of post-traumatic stress (PTS).<sup>12</sup> Having fought our Nation's battles, and now often fighting for their own healing and personal growth, these men and women should have the opportunity to improve their own lives through education. Additional considerations such as wrongful discharge and separation for minor infractions should not warrant a lifetime denial of education benefits. SVA strongly encourages the Committee to review this issue with thoughtfulness and foresight.

As a component of service, there should be one bill that serves all current and future veterans, and therefore should be updated in name to reflect this timeless concept, as "The Veterans Education Assistance Act" or referred to simply as the GI Bill. This simplified naming convention may seem insignificant, but its importance is far-reaching as the re-naming of the benefit indicates its importance to all generations of veterans. Veterans don't decide when their country asks them to go to war; student veterans don't believe wartime should dictate the opportunity for future generations of veterans to attend college.

We thank the Chairman, Ranking Member, and the Committee members for your time, attention, and devotion to the cause of veterans in higher education. As always, we welcome your feedback and questions, and we look forward to continuing to work with this Committee, the Senate Veterans' Affairs Committee, and the entire Congress to ensure the success of all generations of veterans through education.

Senator BOOZMAN. Thank you so much. I think you make some excellent points.

I need to adjourn the meeting for just a few minutes. We have another vote going on right now, so I am going to run over. Senator Rounds and some others are on their way back. But, there are not very many things that I have to do here, but I do have to vote, so I am going to run over there. This is a very important bill, so I will be back in just a little bit; and again, we will have somebody here in just a bit. OK?

With that, we are going to recess. We are not going to adjourn. We are going to recess for a few minutes. [Recess.]

Senator ROUNDS [presiding]. OK. We will call this meeting back out of recess and into order again.

I understand that we have already completed the testimony of Mr. Will Hubbard. Next in line would be Mr. John Kamin, the Assistant Director of Veterans Employment and Education, The American Legion. Welcome, sir.

**STATEMENT OF JOHN KAMIN, ASSISTANT DIRECTOR, VETERANS EMPLOYMENT AND EDUCATION, THE AMERICAN LEGION**

Mr. KAMIN. Thank you, Mr. Chairman. On behalf of National Commander Charles E. Schmidt of The American Legion, we thank you for the work you do in support of veterans as well as their families.

I would also like to extend our thoughts and prayers with Whip Scalise and his family during this tragic time.

As the largest organization of wartime leaders, the Legion's voice is representative of more than 2.2 million members. Our positions are guided by nearly 100 years of experience and resolutions that originate at the grassroots level. We appreciate the opportunity to present The American Legion's views regarding these pieces of legislation. These issues cannot be put off any longer.

<sup>12</sup>Adams, Bradford, (2016), Underserved, <https://www.swords-to-plowshares.org/sites/default/files/Underserved.pdf>

Due to the allotted time available, I will only speak to these three pieces of legislation as well as portions of the Discussion Draft.

S. 844, the GI Bill Fairness Act. This bill would amend Title 38 to consider time spent by members of Reserve components receiving military medical care as active duty for the purpose of eligibility for the GI Bill.

To understand the need for this bill, I would refer you to the story of Captain Bryan Lowman of the North Carolina National Guard. On the third month of his deployment to Afghanistan in 2010, he became severely ill with typhoid fever, lapsed into a coma, and underwent multiple emergency surgeries over the course of a year in Afghanistan, Germany, and at Walter Reed under 12301(h) orders. After his long recovery, Captain Lowman aimed to further his education. However, since his activation status was changed to 12301(h), his eligibility was cut down to the time he served before he got sick.

To put a finer point on this, Captain Lowman began to earn his GI Bill fighting for our country, but when he was fighting for his life, our country pulled the benefit.

I wish I could report to you that this was an isolated issue, but over 20,000 servicemembers have been issued these medical orders since 2008.

S. 844 corrects this oversight and rewards retroactive benefits to all servicemembers affected. The American Legion supports this bill and stands ready to assist you when correcting it.

Shifting focus to S. 473, the Educational Development for Troops and Veterans Act of 2017, we applaud Senator Tester for honing in on a critical issue that is escalating in scope: unequal education benefits for Reserve and National Guard servicemembers.

The Post-9/11 GI Bill is as close to a perfect benefit that has ever existed for active duty personnel. For Reservists, on the other hand, eligibility is only gained if you are called to active duty service. This is a roll of the dice, and the odds just got worse for these servicemembers with the advent of 12304(b) orders. S. 844 not only corrects this oversight by granting 12304(b) orders GI Bill eligibility, but also corrects even more technical issues affecting Reservists, such as prorating the monthly housing allowance for student Reservists and affording loan deferments to servicemembers predeployment.

We respectfully request, however, that the bill be amended to apply to those who served before the date of enactment. The American Legion does not believe that servicemembers who have already been activated under 12304(b) orders are any less deserving of GI Bill benefits. Again, The American Legion stands ready to assist in correcting this.

Furthermore, I would like to discuss the draft bill Section 10, restoration of entitlement of Post-9/11 educational assistance, and Section 17, modifications related to reimbursement of expenses of State Approving Agencies.

When a school closes, non-veterans students have Federal protections to support them. Federal loans can be discharged, and Pell Grants can have their eligibility periods reset. The American Legion strongly believes that a veteran's GI Bill benefits should be af-

forded the same protection. This section provides that, but Congress should not forget about the student veterans affected by the Corinthian College closures of 2015. We believe these student veterans also deserve that protection and call for the eligibility date to be amended to the fiscal year 2015.

Additionally, we believe that more effective oversight is needed to proactively abate school closures. While student veteran protection addresses the symptoms, the root cause is financially unstable schools that were not properly identified until it was too late. While compliance and oversight is never simple, the VA has partners that are uniquely suited to address this. They are the State Approving Agencies.

State Approving Agencies are responsible for approving and supervising programs of education for the training of veterans. Positioned at every State, they are our first line of defense for identifying bad actors. However, their funding has not increased since 2005, even as the educational ecosystem has compounded in size and complexity. The American Legion, thus, believes the \$3 million increase is not adequate to cover the SAAs' overall scope and encourages Congress to allocate \$5 million annually, additionally, for the SAAs.

In closing, I briefly draw your attention to S. 1209, a bill to increase special pension for Medal of Honor recipients. Just this week, it was announced that Mr. James C. McCloughan will be receiving the Medal of Honor. These brave servicemembers have been awarded the highest military honor for valor and deserve this increase. After all, it is the least we can do.

Mr. Chairman, I appreciate the time to present on these issues. I would be happy to answer any questions you may have. Thank you.

[The prepared statement of Mr. Kamin follows:]

PREPARED STATEMENT OF JOHN KAMIN, ASSISTANT DIRECTOR, VETERANS  
EMPLOYMENT AND EDUCATION, THE AMERICAN LEGION

S. 75, Arla Harrell Act (McCaskill, Blunt)	Support
S. 111, Filipino Veterans Promise Act (Heller, Hirono)	No Position
S. 410, Shauna Hill Post-9/11 Education Transferability Act (Crapo, Risch)	Support
S. 473, Educational Development for Troops and Veterans Act of 2017 (Tester, Blumenthal, Brown, Murray)	Support with amendments
S. 758, Janey Ensminger Act of 2017 (Burr, Tillis)	Support
S. 798, Yellow Ribbon Improvement Act (Cassidy, Brown, Tillis)	Support
S. 844, GI Bill Fairness Act (Wyden, Boozman)	Support
S. 882, Purple Heart GI Bill Act (Rounds, Boozman)	Support
S. 1192, Veterans TEST Accessibility Act (Rounds, Hirono)	Support
S. 1209, A bill to increase special pension for Medal of Honor recipients (Graham, Blumenthal)	Support
S. 1218, Empowering Federal Employment for Disabled Veterans Act (Heitkamp, Sullivan)	Support

S. 1277, Veteran Employment Through Technology Education Courses Act (Boozman, Heller)	No Position
Discussion Draft on changes to GI Bill	Please reference section

Chairman Isakson, Ranking Member Tester, and distinguished Members of the Committee; On behalf of Charles E. Schmidt, the National Commander of the largest Veteran Service Organization in the United States of America, representing more than 2 million members; we thank you for this opportunity to present The American Legion's positions on pending legislation before this Committee.

S. 75: ARLA HARRELL ACT

*To provide for the reconsideration of claims for disability compensation for veterans who were the subjects of experiments by the Department of Defense during World War II that were conducted to assess the effects of mustard gas or lewisite on people, and for other purposes.*

S. 75 addresses denied disability compensation claims for individuals who were subjects of mustard gas and lewisite tests during World War II. Many of the files needed to submit claims to the Department of Veterans Affairs (VA) were either classified by the military or destroyed in the National Personnel Records Center fire of 1973.

For over a decade, Arla Harrell has sought VA disability compensation for conditions he attributes to his service in the military. While stationed at Camp Crowder, Missouri, during the latter days of World War II, he reports being subjected to mustard gas exposure as part of a secret experimental program. This exposure led to a lifetime of respiratory ailments and adverse medical conditions.

38 CFR §3.316 identifies a host of medical conditions, to include respiratory conditions that are presumptively related to mustard gas exposure; however, without proper Department of Defense records, it is difficult for VA to assume that the exposure of mustard gas or lewisite was considered "full-body exposure."<sup>1</sup> S. 75 would allow VA to presume that any exposure to mustard gas or lewisite, in these cases, were "full-body exposure" incidences.

The American Legion has long supported service connecting veterans presumptively due to environmental exposures. Through the passage of Resolution No. 118, Environmental Exposures, at The American Legion's 98th National Convention, The American Legion supports "the liberalization of the rules relating to the evaluation of studies involving exposure to any environmental hazard and that all necessary action be taken by the Federal Government, both administratively and legislatively as appropriate, to ensure that veterans are properly compensated for diseases and other disabilities scientifically associated with a particular exposure."<sup>2</sup>

The American Legion supports S. 75.

S. 111: FILIPINO VETERANS PROMISE ACT

*To require the Secretary of Defense to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List, and for other purposes.*

The provisions in this bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolution addressing the provisions of S. 111, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

The American Legion has no current position on S. 111.

<sup>1</sup> <https://www.law.cornell.edu/cfr/text/38/3.316>

<sup>2</sup> The American Legion Resolution No. 118 (2016): Environmental Exposures

## S. 410: SHAUNA HILL POST-9/11 EDUCATION TRANSFERABILITY ACT

*A bill to amend title 38, United States Code, to authorize the transfer of unused Post-9/11 Educational Assistance benefits to additional dependents upon the death of the originally designated dependent.*

S. 410 would permit reassignment of veterans' education benefits in cases where the designated beneficiary passes away. Unfortunately, it took a tragic event to realize the necessity for this change.

In 2012, 16-year old Shauna Hill died in a two-car crash. Her father, retired Navy Capt. Edward Hill had granted Shauna his education benefits to his daughter to go to college. After her death, Mr. Hill had hoped to transfer this education benefit to his younger daughter, however, was informed that Federal law prohibits transferring GI Bill benefits from one child to another post-retirement. S. 410 is a common sense bill aimed at making the lives easier for veterans who have chosen to gift their hard-earned education benefit.

*Resolution No. 308:* Amending the Eligibility for the Transfer for the Post-9/11 GI Bill supports legislation that would authorize all servicemembers with ten years or more of active-duty service, who are eligible for the Post-9/11 GI Bill educational benefits, be able to use the transferability entitlement to give to their immediate family members.<sup>3</sup>

The American Legion supports S. 410.

## S. 473: EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017

*To amend title 38, United States Code, to make qualification requirements for entitlement to Post-9/11 Education Assistance more equitable, to improve support of veterans receiving such educational assistance, and for other purposes.*

**Sec. 2. Eligibility of Reserve Component Members for Post-9/11 Educational Assistance****Sec. 3. Eligibility of Reserve Component Members for Nonreduction in Pay While Serving in the Uniformed Services or National Guard****Sec. 4. Modification of Time Limitation for Training and Rehabilitation for Veterans with Service-Connected Disabilities**

In the 2012 National Defense Authorization Act, authorization 12304b was created under Title 10, which allowed reserve-component troops to meet the challenges around the globe by mobilizing without counting against caps on active forces. While this is critical to maintaining our national security, existing statutes do not recognize the service of Reservists and National Guardsmen called to mobilize on these orders.

According to Title 38 of the U.S. Code, these individuals did not serve on "active duty." Even though these troops served side-by-side with Active Duty servicemembers, reservists deployed under these orders are therefore denied benefits earned for deployments including healthcare (pre- and post-mobilization), retirement age reduction, pay differentials, and eligibility for the Post-9/11 GI Bill.

Section 2-4 corrects these oversights via amending U.S.C. Titles 5, 10, and 38 to include §12304b mobilization authority in determining eligibility for all servicemembers who have mobilized under these orders.

The American Legion applauds the Committee's effort in addressing this issue, but Congress must not forget about the servicemembers who have already deployed under 12304b orders and the servicemembers who have and will be placed on 12301(h) healthcare orders. In present form, these section excludes 12301(h) and only applies to servicemembers activated after the date of enactment.

The American Legion does not believe that servicemembers who had their orders changed to medical recovery should be penalized by losing eligibility to the Post-9/11 GI Bill and concurs with the Office of the Secretary of Defense Reserve Forces Policy Board recommendation that 12301(h) be amended for GI Bill eligibility.

Further, The American Legion does not believe that servicemembers who have already been activated under 12304b orders are any less deserving of GI Bill benefits, and requests that they be included in any legislative solution.

*Resolution No. 20:* GI Bill Fairness for Wounded Servicemembers and Activated National Guard and Reservists supports any legislative proposal that provides amendments to U.S. Code Titles 5, 10, 37 and 38 commensurate with U.S. Code

<sup>3</sup>The American Legion Resolution No. 308 (2016): Amending the Eligibility for the Transfer for the Post-9/11 GI Bill Educational Benefits

Title 10 authorized service, such as 12304b and 12301(h), that grant Post-9/11 GI Bill benefits.<sup>4</sup>

The American Legion requests that this section be amended to apply with respect to any member of a reserve component of the Armed Forces who serves or has served on active duty under section 12301(h), 12304a, or 12304b of title 10, United States Code, before, on, or after the date of the enactment of this section.

**Sec. 5. Deferral of Student Loans for Certain Period in Connection with receipt of Orders for Mobilization for War or National Emergency**

Under current law, servicemembers can apply for deferment of their Federal student loan repayments while they are deployed, and for up to 180 days post-deployment. This legislation would allow servicemembers to defer their loan repayments for up to 180 days pre-deployment. If they receive their first notice of deployment less than 180 days pre-deployment, their deferment eligibility would start on the day they received such notice. This legislation seeks to provide some economic relief to servicemembers whose lives are disrupted by being relocated and commencing the training they need for their upcoming deployment. The American Legion applauds Senator Tester's spotlighting of this issue.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage.<sup>5</sup>

The American Legion supports Section 5.

**Sec. 6. Grant Program to Establish, Maintain, and Improve Veteran Student Centers**

This section establishes a grant program within the Department of Education (ED) to help institutions of higher education establish, maintain, and improve veteran education centers—a dedicated space on a college or university campus that provides students who are veterans, members of the Armed Forces, or eligible family members a centralized location for services. According to ED, federally funded veteran student centers and staff have generated improved recruitment, retention, and graduation rates, have helped veteran students feel better connected across campus, and have directly contributed to student veterans' successful academic outcomes.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage.<sup>6</sup>

The American Legion supports Section 6.

**Sec. 7. Modification of Basis for Annual Adjustments in Amounts of Educational Assistance for Members of the Selected Reserve**

Section 7 amends Section 16131 of title 10 to ensure that Montgomery GI Bill benefit rates for Guardsmen and Reservists maintain their current value by being equal to or greater than the yearly increase in the national average cost of tuition.

The Montgomery GI Bill for the Selected Reserve (MGIB-SR) is an important tool for recruiting high quality young men and women into the National Guard and Reserves. Those who initially join for six years are automatically entitled to MGIB-SR and its current monthly rate for full-time study/training of \$362. Unfortunately, MGIB-SR benefit rates have not kept pace with the rising costs of higher education and are effectively losing value each and every year. This trend sends a very poor signal that the service of our Guardsmen and Reservists is being de-valued, and it fails to make an appropriate investment in their education and professional development.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and edu-

<sup>4</sup>The American Legion Resolution No. 20 (2017): GI Bill Fairness for Wounded Servicemembers and Activated National Guard and Reservists

<sup>5</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>6</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

cation benefits so servicemembers, veterans, and their families can maximize its usage.<sup>7</sup>

The American Legion supports Section 7.

**Sec. 8. Monthly Stipend for Certain Members of the Reserve Components of the Armed Forces**

Section 8 prorates the monthly housing allowance for the portion of the month the servicemember is not on active duty by amending Title 38, U.S.C. to clarify the eligibility for monthly stipends paid under the Post-9/11 Educational Assistance Program for certain members of the reserve components of the Armed Forces.

Many reservists are required to routinely perform their jobs in a Title 10 status due to their specific job requirements and functions. These commonly include aircrew, intelligence personnel, and Unmanned Aerial Vehicle and Remote Piloted Aircraft operators. While not in a drill status, or if in a drill status under Title 38, an individual is entitled to their monthly housing allowance (MHA) and book allowance. When the drill status is under Title 10, the individual is entitled to the MHA and book allowance, but only for the first portion of the month up to when they entered active duty under Title 10. Therefore, if an individual goes on active duty on the first day of the month for three days, the individual does not receive any MHA or book allowance for the rest of that month. Just one day of Title 10 service can result in forfeiture of MHA and book allowance for all or most of the month. In order to maintain combat readiness, many reservists have to commit to a minimum of four training days per month in a Title 10 status. Many reservists are also full-time students and rely on their MHA to pay rent, but as a result of the current rules, they are denied their full MHA and book allowance, causing many members to incur thousands of dollars of debt. This is compounded by the fact that members of the reserve are used more frequently due to the increased tempo of operations around the world.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage.<sup>8</sup>

The American Legion supports Section 8.

S. 758: JANEY ENSMINGER ACT OF 2017

*A bill to amend the Public Health Service Act with respect to the Agency for Toxic Substances and Disease Registry's review and publication of illness and conditions relating to veterans stationed at Camp Lejeune, North Carolina, and their family members, and for other purposes.*

S. 758 would allow the Agency for Toxic Substances and Disease to collect information regarding servicemembers, veterans, and family members who suffer from a variety of illnesses due to contaminated drinking water at Camp Lejeune, NC. Additionally, this bill would require the Secretary of Veterans Affairs to allocate two million dollars a year to assist servicemembers, veterans, and their families affected by contaminated water at Camp Lejeune, in applying for health benefits through the VA.

During the early parts of the 1980s, contaminants were found in two wells that provided water at Camp Lejeune. These contaminants included the volatile organic compounds trichloroethylene (TCE), a metal degreaser, perchloroethylene (PCE), dry cleaning agents, and vinyl chloride, as well as benzene, and other compounds. It is estimated that the contaminants were in the water supply from the mid-1950's until February 1985 when the wells were shut down. Additionally, there is evidence of an association between certain diseases and the contaminants found in the water supply at Camp Lejeune during the period of contamination.

United States Marine Corps (USMC) servicemembers and their families living at the base, between the 1950's to 1985, bathed in and ingested tap water contaminated with harmful chemicals at concentrations ranging from 240 to 3400 times higher than appropriate safety levels. An undetermined number of former base residents later developed cancer or other ailments, which may be associated with the contaminated drinking water. Victims claim that USMC leaders concealed knowl-

<sup>7</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>8</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

edge of the problem and did not act appropriately in resolving it or notifying former base residents that their health might be at risk.

The American Legion is appalled that military members serving our Nation, and their families, were exposed to harmful chemical contaminants at Camp Lejeune. We are equally shocked that the USMC was potentially aware of the issue and did nothing to mitigate the risk associated with the water contamination at this military installation. This bill would allow individuals affected by water contamination at Camp Lejeune to receive healthcare provided by the VA and claim any benefits due to them.

*Resolution No. 377:* Support for Veteran Quality of Life supports legislation that would allow access to quality VA health care and timely decisions on claims and receipt of earned benefits.<sup>9</sup> The American Legion strongly supports this piece of legislation.

The American Legion supports S. 758.

S. 798: YELLOW RIBBON IMPROVEMENT ACT

*To amend title 38, United States Code, to expand the Yellow Ribbon G.I. Education Enhancement Program to apply to individuals pursuing programs of education while on active duty, to recipients of the Marine Gunnery Sergeant John David Fry scholarship, and to programs of education pursued on half-time basis or less, and for other purposes.*

This bill would address a current statutory regulation that excludes eligible dependents of a servicemember killed in action from enhanced tuition reimbursement available through the Yellow Ribbon Program. This simple legislative fix will provide Fry Scholarship recipients with the same benefits as other Chapter 33 eligible beneficiaries and allow scholarship awardees access to education at Yellow Ribbon Schools.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>10</sup>

The American Legion supports S. 798.

S. 844: GI BILL FAIRNESS ACT

*A bill to amend title 38, United States Code, to consider certain time spent by members of reserve components of the Armed Forces while receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 Educational Assistance, and for other purposes.*

Members of the National Guard or Reserve who are wounded in combat are often given orders under 10 U.S.C. 12301(h) for their recovery, treatment, and rehabilitation. Unfortunately, Federal law does not recognize such orders as eligible for Post-9/11 GI Bill education assistance, meaning that unlike other members of the military, these members of the National Guard and Reserve lose benefits for being injured in the line of duty. An example is Captain Bryan Lowman of the North Carolina National Guard.

In 2010, Captain Lowman was deployed to Afghanistan in a detachment with the North Carolina National Guard. During the deployment, he became severely ill with typhoid fever, lapsed into a coma and underwent multiple emergency surgeries over the course of a year in Afghanistan, Germany and at Walter Reed Medical Center in Bethesda, MD. After his long recovery, Captain Lowman aimed to pursue a college degree. Based upon his active-duty time on his DD214, Captain Lowman was to be entitled to 90 percent of his Post-9/11 GI Bill benefits. However, since his activation status was changed to 12301(h) medical orders his eligibility was reduced to only the time he served before his illness.

The GI Bill Fairness Act would end that unequal treatment and ensure these servicemembers are eligible for the same GI Bill benefits as Active Duty members of the military.

The American Legion considers it truly unjust to deny wounded and injured servicemembers the ability to accrue educational benefits for the time they spend receiving medical care. No veteran should lose their benefits simply because they were injured while serving this Nation.

<sup>9</sup>The American Legion Resolution No. 377 (2016): Support for Veteran Quality of Life

<sup>10</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>11</sup>

The American Legion supports S. 844.

S. 882: PURPLE HEART GI BILL ACT

*A bill to amend title 38, United States Code, to provide for the entitlement to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs for members of the Armed Forces awarded the Purple Heart, and for other purposes.*

S. 882 would grant full Post-9/11 GI Bill eligibility to all Purple Heart veterans who qualify for a portion of the benefit. Currently, only veterans who either serve at least 36 months on active-duty or are medically retired receive Post-9/11 GI Bill benefits at the 100 percent rate. Unfortunately, this leaves out many Purple Heart recipients, particularly from the Reserve Components, who fought our country's battles, but were activated for less than three years in total. These servicemembers should not be penalized for being wounded before they could reach the full term of their contract to receive GI Bill eligibility.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>12</sup>

The American Legion supports S. 882.

S. 1192: VETERANS TEST ACCESSIBILITY ACT

*A bill to amend title 38, United States Code, to provide for prorated charges to entitlement to educational assistance under Department of Veterans Affairs Post-9/11 Educational Assistance Program for certain licensure and certification tests and national tests, and for other purposes.*

After completing their military service, veterans are eligible for a limited number of months of GI Bill benefits, which reimburses them for educational expenses incurred. Current law requires veterans to use a full month of their GI Bill eligibility to be reimbursed for licensing, certification, and national tests. Such tests open new doors to employment and allow veterans to advance and enhance their education and career. Given the relatively low cost of many tests, it often simply is not worth losing reimbursement for an entire month of tuition payment for other less expensive educational expenses.

S. 1192 allows veterans to be reimbursed for approved licensing, certification, and national tests, while still allowing the veteran to use their remaining GI Bill benefits for additional educational expenses in the same month.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>13</sup>

The American Legion supports S. 1192.

S. 1209: A BILL TO INCREASE SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

*To amend title 38, United States Code, to increase the amount of special pension for Medal of Honor recipients, and for other purposes.*

The American Legion enthusiastically supports an increase in the special pension assigned to Medal of Honor recipients. For the 72 living recipients of this Nation's highest military honor, an increase in the monthly pension based upon heroic acts in the face of nearly insurmountable challenges is a small token of appreciation and gratitude for their sacrifices.<sup>14 15</sup>

The last stipend increase to affect Medal of Honor recipients was in the Veterans Benefits Act of 2002, which increased the stipend from \$600 monthly to \$1000 monthly. The current rate is \$1,303.51 a month.

As the Nation's largest wartime veterans service organization, The American Legion fully appreciates the service of those awarded the Congressional Medal of

<sup>11</sup> Ibid.

<sup>12</sup> The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>13</sup> The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>14</sup> <http://www.cmohs.org/medal-statistics.php>

<sup>15</sup> <http://www.cmohs.org/living-recipients.php?p=3..>

Honor and supports increasing their monthly pension to \$3,000. Recognizing the need to improve the pension for those Americans that received the highest award for valor in action against an enemy force, The American Legion passed Resolution No. 366, Honoring those who have earned the Medal of Honor, during our 98th National Convention in August 2016, thus we support this legislation.<sup>16</sup>

The American Legion supports S. 1209.

S. 1218: EMPOWERING FEDERAL EMPLOYMENT FOR DISABLED VETERANS ACT

*To promote Federal employment for veterans, and for other purposes.*

S. 1218 would require Federal agencies to have full-time advocates for veterans' employment, and would promote career development for veterans within agencies. While many Federal agencies have made significant strides to improve veteran employment, disparities in veteran hiring by agency suggests there is room for improvement. Although veterans made up 31 percent of the Federal workforce in 2015, only 12 percent of workers at the Department of Agriculture and 7 percent of workers at the Department of Health and Human Services were veterans, according to the Office of Personnel Management.

S. 1218 addresses these challenges with three unique solutions: the codification of veterans employment programs in 24 Federal agencies; the establishment of an interagency council on veterans employment; and the expansion of the SkillBridge Initiative, one of the Department of Defense's most innovative approaches to transition assistance, to include participation by Federal agencies. If enacted, The American Legion firmly believes this would benefit veterans by establishing a point of contact within these agency, support for development, and opportunities for mobility if awarded employment. These resources would provide a tremendous step forward for the Federal agency and veteran.

The American Legion reiterates its position that protection of veterans' employment rights should be proactive and continuous oversight must be emplace to protect them from unfair hiring practices. The Federal Government has scores of employment opportunities that educated, well-trained, and motivated veterans can fill given a fair and equitable chance to compete. Working together, all Federal agencies should identify those vocational fields, especially those with high turnover rates, for transitioning veterans who are trying to continue their service within the Federal Government.<sup>17</sup>

The American Legion Supports S. 1218.

S. 1277: VETERAN EMPLOYMENT THROUGH TECHNOLOGY EDUCATION COURSES ACT

*To direct the Secretary of Veterans Affairs to carry out a high technology education pilot program under which the Secretary shall provide eligible veterans with the opportunity to enroll in high technology programs of education.*

S. 1277 would direct the Secretary of Veterans Affairs to carry out a pilot program allowing student veterans to attend approved non-traditional educational programs with a focus on obtaining technology micro-degrees. While the VA has the authority to cover costs of non-traditional educational programs, we have seen in the past that this approval process has been burdensome. It is important for the VA to address new forms of non-traditional learning as the realm of higher education evolves.

Technological micro-degrees are non-traditional degree programs that focus on specialized technology disciplines and typically comprises an accelerated education model. Veterans are prime candidates for the technological degree programs and can see their entire education covered using their earned GI Bill benefits. Currently, there are only a handful of non-traditional organizations offering classes through the current VA GI Bill process; even fewer offer non-traditional technology programs forcing veterans to cover these costs on their own.

The American Legion supports efforts in expanding educational assistance to non-traditional students attempting to find employment by earning a micro-degree in a specific field of study and applauds the Committee on its efforts to expand education to non-traditional student veterans. Although The American Legion supports the intent of this bill, we have concerns with S. 1277.

Oversight is needed before the VA can approve a non-traditional program and the State Approving Agencies (SAAs) are best equipped to certify these educational courses. Additionally, the provisions of this bill fall outside the scope of established

<sup>16</sup>The American Legion Resolution No. 366 (2016): Honoring Those Who Have Earned the Medal of Honor

<sup>17</sup>The American Legion Resolution No. 317: Enforcing Veterans' Preference Hiring Practices in Federal Civil Service

resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action which best serves veterans.

The American Legion has no current position S. 1277.

DISCUSSION DRAFT ON CHANGES TO GI BILL

*To amend title 38, United States Code, to improve Post-9/11 Educational Assistance, and for other purposes.*

**Sec. 2. Consolidation of Certain Eligibility tiers under Post-9/11 Educational Assistance Program of the Department of Veterans Affairs**

Too often, we see that Reservists and National Guard troops incur large sums of educational debt due to partial eligibility of GI Bill benefits. The American Legion feels that any effort to expand benefits to National Guard and Reservists for educational advancement will lead to more productive, work ready, and educated veterans. In 2009, the U.S. Bureau of Labor Statistics showed that there was a direct correlation between education and unemployment. 9% of Americans with only a high school diploma were unemployed, whereas only 4.3% of Americans with a Bachelor's degree or higher were unemployed.<sup>18</sup>

When applied to veterans, we can see an economic argument for increasing veteran educational benefits. Additionally, many veterans are non-traditional students with families. 52% of student veterans are married, and 23% are single parents.<sup>19</sup> Given these added responsibilities, incurring educational debt can be burdensome for a family. This draft bill aims at alleviating some of the education liability of attending college by adjusting the eligibility tiers under the Post-9/11 Educational Assistance program for Reserves and National Guard.

From 1995 to 2015, the average cost of tuition and fees at a private national university increased 179%. The average in-state cost for tuition and fees at a public university grew by 296%.<sup>20</sup> The American Legion feels that it is time to adjust the percentage of maximum benefit payable to individuals serving our Nation to better cover the costs associated with attending higher education. We support the following pay structure alignment:

Old Tier Structure:

New Tier Structure:

Member Serves	Percentage of Maximum Benefit Payable	Member Serves	Percentage of Maximum Benefit Payable
At least 36 months	100%	At least 36 months	100%
At least 30 continuous days on active duty and must be discharged due to service-connected disability	100%	At least 30 continuous days on active duty and must be discharged due to service-connected disability	100%
At least 30 months, but less than 36 months	90%	At least 30 months, but less than 36 months	90%
At least 24 months, but less than 30 months	80%	At least 24 months, but less than 30 months	80%
At least 18 months, but less than 24 months	70%	At least 18 months, but less than 24 months	70%
At least 12 months, but less than 18 months	60%	At least 06 months, but less than 18 months	60%
At least 06 months, but less than 12 months	50%	At least 90 days, but less than 06 months	50%

<sup>18</sup> U.S. Bureau of Labor Statistics: <https://www.bls.gov/spotlight/2010/college/>

<sup>19</sup> <https://studentveterans.org/images/SVASpotlightBrief-1.pdf>

<sup>20</sup> U.S. News & World Report: <https://www.usnews.com/education/best-colleges/paying-for-college/articles/2015/07/29/chart-see-20-years-of-tuition-growth-at-national-universities>

Member Serves	Percentage of Maximum Benefit Payable	Member Serves	Percentage of Maximum Benefit Payable
At least 90 days, but less than 06 months	40%		

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>21</sup>

The American Legion supports Section 2.

**Sec. 3. Additional Post-9/11 Educational Assistance for certain individuals pursuing programs of education in science, technology, engineering, math, or health care**

The American Legion wants all veterans to succeed and would like to see more veterans enter Science, Technology, Engineering and Math (STEM) fields. This draft bill would incentivize veterans to enter fields where there are critical shortages and high yearly job growth. The American Legion supports this section of the draft bill that would allow extension of Title 38 education benefits up to nine months.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>22</sup>

The American Legion supports Section 3.

**Sec. 4. Increase in amounts of educational assistance payable under Survivors' and Dependents' Educational Assistance Program of Department of Veterans Affairs**

Section 4 of this draft bill would increase education benefits for survivors and dependents (Chapter 35), which currently provides the least payable educational assistance of any VA program. Currently, Chapter 35 recipients are paid at the monthly rate of \$788 for full-time, \$592 for three-quarter-time, or \$394 for half-time pursuit of education. This is in stark contrast to Montgomery GI Bill payments, which receive \$1,857 for full-time, \$1,392.75 for three-quarter time, and \$928.50 for half-time enrollment. While survivors and dependents of servicemembers who died in the line of duty are eligible for the Post-9/11 GI Bill through the Gunnery Sergeant John Fry Scholarship, survivors and family members of veterans who are permanently and totally disabled due to a service-related condition or of veterans who died outside the line of duty have a right to demand more equitable benefits.

However, the provision in this section of the draft bill falls outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

The American Legion has no current position on Section 4.

**Sec. 5. Authorization for use of Post-9/11 Educational Assistance to pursue independent study programs at certain educational institutions that are not institutions of higher learning**

Section 5 authorizes veterans to use their GI Bill education benefits to continue their education for independent study programs at career technical education (CTE) centers.<sup>23</sup> In Oklahoma alone, veterans have lost access to over 200 accredited educational programs, simply because there is a distance learning or online component. This section would allow veterans to take independent study programs at CTE centers, while using their GI Bill benefits.

This draft bill would provide student veterans with an expanded scope and usage of the Post-9/11 GI Bill education benefits to other forms of postsecondary institutions. This potential legislation adds needed options to student-veterans in the pursuit of their educational goals.

<sup>21</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>22</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>23</sup>CongressmanMullinPressRelease:<http://mullin.house.gov/news/documentsingle.aspx?DocumentID=447>

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.*<sup>24</sup>

The American Legion supports Section 5.

**Sec. 6. Calculation of monthly housing stipend under Post-9/11 Educational Assistance program based on location of campus where classes are attended**

This provision of the draft bill corrects a discrepancy in the determination of Post-9/11 GI Bill housing payments by calculating the payment based on where students attend their classes, rather than where the institution of higher learning is certified.

Currently, the VA determines the Basic Allowance for Housing (BAH) amount based on the zip code where the school is certified, not necessarily the location of the school. This policy can result in monthly BAH payments that fall below or far exceed the cost of living in certain zip codes. As a consequence, some schools receive an unfair recruiting advantage by paying student veterans more than what was intended for BAH in that area.

The American Legion believes that veterans should not make their educational choices based on housing benefit inconsistencies. Section 6 ensures veterans receive an adequate and fair housing allowance while eliminating fraud and abuse of the program.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.*<sup>25</sup>

The American Legion supports Section 6.

**Sec. 7. Repeal of sunset on work-study allowance from Department of Veterans Affairs for certain qualifying work-study activities**

This section would extend the authority to provide work-study allowance for certain activities by individuals receiving educational assistance by the Secretary of Veterans Affairs.

The VA Work-Study program provides part-time employment to students receiving VA education benefits who attend school three-quarter time or more. The student may work at the school veterans' office, the VA Regional Office, or at approved State employment offices. Work-study students are paid either the State or Federal minimum wage, whichever is greater. Many student veterans use the work-study program as a supplement to pay their bills and other costs not covered by VA educational programs. In addition to supporting veterans education benefits processing, these student veterans are also establishing connections with their peers on campus, thereby fostering greater awareness of other veterans.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.*<sup>26</sup>

The American Legion supports Section 7.

**Sec. 8. Authorization of transfer of entitlement to Post-9/11 Educational Assistance by dependents who receive transfers from individuals who subsequently die**

Section 8 would permit reassignment of veterans' education benefits in cases where the designated beneficiary passes away. This section closely mirrors S. 410, Shawna Hill Post-9/11 Education Benefits Transferability Act. We support that piece of legislation and support this section as well.

*Resolution No. 308: Amending the Eligibility for the Transfer for the Post-9/11 GI Bill supports legislation that would authorize all servicemembers with ten years or more of active-duty service, who are eligible for the Post-9/11 GI Bill educational benefits, be able to use the transferability entitlement to give to their immediate family members.*<sup>27</sup>

The American Legion supports Section 8.

<sup>24</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>25</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>26</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>27</sup>The American Legion Resolution No. 308 (2016): Amending the Eligibility for the Transfer for the Post-9/11 GI Bill Educational Benefits

**Sec. 9. Department of Veterans Affairs provision of on-campus educational and vocational counseling for veterans**

VA created the Veterans Success on Campus (VSOC) program as a pilot in 2009 to bring Vocational Rehabilitation Counselors and VA Vet Center Outreach Coordinators to college campuses with large veteran populations. The program began as a pilot on the University of South Florida campus and has since expanded to over 94 schools across the country.<sup>28</sup>

The VSOC program is a positive resource for student veterans and their dependents as they attend school through either the GI Bill or VA's Vocational Rehabilitation and Employment (VR&E) program, and gives individuals on-campus access to all-encompassing counseling programs.

Authorizing on-campus educational and vocational counseling is a tried and true method of increasing veterans' educational success. However, The American Legion has concerns about its sustainability. Since VSOC is currently implemented by VA policy and not a statutorily required program, its future is dependent on VA funding. This section would require the Secretary to provide these services at institutions of higher learning selected by the Secretary and would codify the VSOC program.

The American Legion would also like to see the same education and vocational counseling before a veteran enters into the education realm. The best time to instruct a transitioning servicemember about their future in education and the workforce is before they transition out of the military. We strongly recommend applying this same language to the Transition Assistance Program.

*Resolution No. 318:* Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>29</sup>

The American Legion supports Section 9.

**Sec. 10. Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by school closure**

When a school closes, non-veteran students have Federal protections to support them. Affected students with Federal student loans have the ability to discharge their student loans. Students who received Pell Grants can have their eligibility periods reset for the time spent at a closed institution. The American Legion believes strongly that veterans are entitled to the same protection as their civilian counterparts. Over 6,000 student veterans were attending ITT Tech when they abruptly shut down their campuses,<sup>30</sup> and more school closures will inevitably occur.

The American Legion applauds the Committee's effort in addressing this issue, but Congress must not forget about the student veterans affected by the Corinthian College closures of 2015. Our best estimate is that roughly 400 student veterans were affected by the Corinthian College closure. In present form, this bill only applies to courses and programs of education discontinued after August 1, 2016. The American Legion believes in equal protection for veterans and calls for the eligibility date be amended to the fiscal year of 2015.

*Resolution No. 21:* Education Benefit Forgiveness and Relief for Displaced Student-Veterans supports legislation that restores lost benefits to student-veterans attending schools that abruptly shut down.<sup>31</sup>

The American Legion supports Section 10.

**Sec. 11. Treatment, for purposes of educational assistance administered by the Secretary of Veterans Affairs, of educational courses that begin seven or fewer days before or after the first day of an academic term**

The VA defines a calendar week as Sunday to Saturday. According to the School Certifying Official Handbook, classes that begin "after the first calendar week" should be reported separately using the actual date each class starts. As an example: if a term starts on a Thursday, any course that meets for the first time on Thursday or Friday can be reported together, but if a course meets for the first time the following Monday, Tuesday or Wednesday it must be reported as a separate and unique term.

This creates excess work for educational institutions and regional processing officers (RPOs). Separate book and tuition fee payments must be issued, which may

<sup>28</sup> U.S. Department of Veterans Affairs: <http://www.benefits.va.gov/vocrehab/vsoc.asp>

<sup>29</sup> The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>30</sup> <http://www.indystar.com/story/money/2016/09/06/why-veterans-have-most-lose-if-itt-tech-closes/89710280/> "Why ITT closing hits veterans hardest"

<sup>31</sup> The American Legion Resolution No 21: Education Benefit Forgiveness and Relief for Displaced Student-Veterans

lead to improper payments. Defining “Calendar Week” for education benefits as “the seven-day period beginning on the first day of the institution’s published academic calendar” will reduce excess work and eliminate opportunities for errors in tuition and fee calculations.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student’s Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.

The American Legion supports Section 11.

**Sec. 12. Improvement of information technology of the Veterans Benefits Administration**

This section would compel the Secretary of Veterans Affairs to make changes and improvements to the information technology system of the Veterans Benefits Administration to ensure that all original and supplemental claims for education assistance are handled electronically. This draft bill authorizes \$30 million to the Secretary of Veterans Affairs to carry this out during fiscal years 2017 and 2018.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student’s Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.<sup>32</sup>

The American Legion supports Section 12.

**Sec. 13. Provision of information regarding entitlement of veterans to educational assistance**

The provisions in this section of the draft bill fall outside the scope of established resolutions of The American Legion. As a large, grassroots organization, The American Legion takes positions on legislation based on resolutions passed by our membership. With no resolutions addressing the provisions of the legislation, The American Legion is researching the material and working with our membership to determine the course of action that best serves veterans.

The American Legion has no current position on Section 13.

**Sec. 14. Extension of authority for Advisory Committee on Education**

The provisions in this section of the draft bill extends the authority for the VA Advisory Committee on Education from December 31, 2017 to December 31, 2022. This Committee provides the VA independent analysis and advice on VA programs, and has proven to be an important part of streamlining the implementation of changes to the GI Bill by taking into account effects on the ground.<sup>33</sup>

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student’s Education at Institutions of Higher Education* supports any legislative proposal that improves the Post-9/11 GI Bill.

The American Legion supports Section 14.

**Sec. 15. Limitation on use of reporting fees payable to educational institutions and joint apprenticeship training committees**

This section increases the school reporting fee to \$16 for each veteran, or dependent enrolled under Chapter 31, 33, 34, or 35. The importance of this in a historical context is important to remember. Reporting fees were designed to streamline efficiency, with the VA paying schools to certify benefits themselves instead of hiring additional employees to process the benefits. Since 2012, this fee has fluctuated between \$10 and \$16. Without speculating on the reasons for these changes, it is fair to say that they are not commensurate with the actual labor of schools administering these programs.

While the reporting, reconciliation and overall cost of administering all programs has increased, and the burden on the educational institution is not business as usual, the added work effort has not been calculated. Also, the use of these fees should be designated to support the Office of Veterans’ Affairs/Services and for professional development of the school VA Certification Officials and other Veterans’ Program Administrators. The American Legion further propose that recipients of this reporting fee must match these funds to support veterans’ services.

However, it has been difficult to track how schools are using these funds. This section addresses this by mandating what shall be utilized solely for the making of certifications required under title 38. It also mandates that institutions certifying over 75 enrollees may not use school reporting fees for general operating funds.

*Resolution No. 333: Support Increase in Reporting Fees for Educational Institutions* supports any legislation that increases the amount of the reporting fees pay-

<sup>32</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student’s Education at Institutions of Higher Education

<sup>33</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student’s Education at Institutions of Higher Education

able to educational institutions for certifying officials who assist/enroll veterans receiving educational benefits from the Department of Veterans Affairs.<sup>34</sup>

The American Legion supports Section 15.

**Sec. 16. Training for school certifying officials as condition of approval of courses for veterans educational assistance**

The Department of Veterans Affairs identified \$416 million in Post-9/11 GI Bill overpayments in fiscal year 2014, affecting approximately one in four veteran beneficiaries and about 6,000 schools. To identify the reasons behind this, the Government Accountability Office (GAO) was asked to review these overpayments and published an extensive report released in October 2015. Chief among GAO's recommendations was granting VA explicit authority to require training for school officials.

Schools cause overpayments when they make processing errors, such as reporting the wrong enrollment dates or billing VA for non-allowable fees. VA estimated that these errors account for 8% of high-dollar overpayment cases in fiscal years 2013 and 2014, while GAO estimated that they account for around \$28 million of the \$280 million in high-dollar overpayments VA made in fiscal year 2014. According to interviews with staff from VA's Regional Processing Office and Debt Management Center, school officials without adequate training were cited as the primary source of the errors.

This section will require the Secretary of Veterans Affairs, in consultation with the State Approving Agencies, to set forth requirements to train school certifying officials on proper standards for certifying veterans benefits.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage.<sup>35</sup>

The American Legion supports Section 16.

**Sec. 17. Modifications relating to reimbursement of expenses of State Approving Agencies for matters relating to administration of veterans educational assistance**

State Approving Agencies are responsible for approving and supervising programs of education for the training of veterans, eligible dependents, and eligible members of the National Guard and Reserves. SAAs grew out of the original GI Bill of Rights from 1944. Though SAAs have their foundation in Federal law, SAAs operate as part of state governments. SAAs approve programs leading to vocational, educational or professional objectives. These include vocational certificates, high school diplomas, GEDs, degrees, apprenticeships, on-the-job training, flight training, correspondence training and programs leading to required certification to practice in a profession.

In accordance with the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016, SAAs are now recognized as a valuable addition to the approval process of GI Bill schools. The SAAs ensure that programs meet certain eligibility criteria, in order to see that GI Bill funds are not wasted. Their unique focus on how GI Bill funds are spent makes their mission distinct from all other oversight and approving bodies.

In order to fulfill their additional requirements for compliance reviews, additional funding is required. The SAAs have far more complex responsibilities than the across the board certifications that existed pre Post-9/11 GI Bill, yet the SAAs funding has not increased since 2005. In order to rectify this with their greater responsibilities, this draft bill authorizes \$3 million to be appropriated for each fiscal year.

The American Legion believes the \$3 million increase is not adequate to cover the SAAs overall scope and encourages Congress to allocate \$5 million annually for the SAAs.

*Resolution No. 304: Support Accountability for Institutions of Higher Education* supports any legislative proposal that provides additional resources and increased funding for state approving agencies.<sup>36</sup>

The American Legion requests that this section be amended to authorize \$5 million to be appropriated for each fiscal year.

<sup>34</sup>The American Legion Resolution No. 333: Support Increase in Reporting Fees for Educational Institutions

<sup>35</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

<sup>36</sup>The American Legion Resolution No. 304 (2016): Support Accountability for Institutions of Higher Education

**Sec. 18. Modification of calculation of amount of educational assistance for individuals partially eligible for Post-9/11 Educational Assistance**

For Post-9/11 GI Bill recipients at an eligibility of less than 100%, tuition and fees are recalculated based on other forms of restricted aid, ensuring that the veteran will not be able to fully cover their tuition and fee charges. This is because the VA is not the first payer.

As an illustration: suppose a veteran at the 50% tier attends a school charging \$2,000 for tuition. The veteran is awarded \$1,000 in scholarships, leaving \$1,000 remaining to be paid. Since the VA is not the first payer, they receive \$1,000 as the reportable charge, and pay the school \$500, 50% of the charges. If the VA was the first payer, however, VA would pay the school \$1,000, and the veterans scholarship would cover the rest of the charges. This would be clearly advantageous to the veteran and would allow the GI Bill benefit to cover more of the cost of an education.

*Resolution No. 318: Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education* supports any legislative proposal that improves the GI Bill, Department of Defense Tuition Assistance (TA), Higher Education Title IV funding (i.e., Pell Grants, student loans, etc.) and education benefits so servicemembers, veterans, and their families can maximize its usage.<sup>37</sup>

The American Legion Supports Section 18.

CONCLUSION

The American Legion thanks this Committee for the opportunity to elucidate the position of the over 2.2 million veteran members of this organization. For additional information regarding this testimony, please contact Mr. Derek Fronabarger, Deputy Director of the Legislative Division at The American Legion, at [dfronabarger@legion.org](mailto:dfronabarger@legion.org).

Senator ROUNDS. Thank you, sir, for your testimony.

We will now hear from Mr. Patrick Murray, Associate Director, National Legislative Service, Veterans of Foreign Wars. Welcome, sir.

**STATEMENT OF PATRICK MURRAY, ASSOCIATE DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES**

Mr. MURRAY. Thank you.

Mr. Chairman, on behalf of the men and women of the Veterans of Foreign Wars of the United States and its Auxiliary, we thank you for the opportunity to provide our remarks on today's pending legislation.

The VFW strongly supports the Educational Development for Troops and Veterans Act that would correct the mistake of the Department of Defense by trying to save money by cutting servicemember benefits while on orders. National Guardsmen and Reservists were placed on involuntary activation orders that did not allow them to accrue benefits through time in service like their active duty counterparts. While stationed abroad and away from their homes and families, these troops were denied the ability to gain educational credit for use after demobilization.

12304(b) and additionally the 12301(h) orders need to be amended to keep the activation authority but reinstitute the benefits that were removed. Thousands of National Guardsmen and reservists have been involuntarily activated under these orders and have not received equal benefits as their active duty counterparts. More and more, DOD is using our Nation's Reserve component to fight our decade-and-a-half war on terror, and these men and women to

<sup>37</sup>The American Legion Resolution No. 318 (2016): Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education

come home without equal benefits is something that needs to be changed.

The VFW supports the Yellow Ribbon Improvement Act that would provide additional financial assistance for the children of our fallen heroes. The Fry Scholarship gives 100 percent GI Bill benefits to the children and spouses of fallen servicemembers who gave their lives for our country. While this is a great benefit for the families of the fallen, there are some cases where it is financially not enough.

This legislation would bridge the gap so the children or spouses who are eligible for the Fry Scholarship would not have to pay any out-of-pocket cost to achieve their educational goals. Allowing recipients of the Fry Scholarship eligibility to the Yellow Ribbon Program is just a very small measure that does not even begin to repay the sacrifice their servicemembers made for this country.

The VFW supports the Purple Heart GI Bill Act, which would increase the rate of educational benefits for recipients of the Purple Heart. For the past decade and a half, our country has been sending National Guardsmen and Reservists into harm's way at an unprecedented level, and some of them have been wounded in line of duty. These citizen soldiers have bled for our country but have not accrued enough active duty time to attain full GI Bill benefits.

The VFW thinks servicemen and -women who have bled for this country should be compensated for their injuries by granting them full education benefits. This is the least as a country we can do for those who put their bodies on the line for our freedom.

Finally, I would like to discuss a specific section of the draft bill: the restoration of entitlement after school closing. The VFW strongly supports this legislation to protect student veterans who were negatively affected by school closures.

Recently, ITT Tech and Westech College suddenly shuttered their doors after losing accreditation. This left thousands of student veterans out of school mid-semester, with no plan for what to do for the rest of the term. They had lost weeks or months of GI Bill benefits that were wasted at failed institutions. Even worse, they lost the monthly housing stipend that many relied upon for their living situation.

After the failure of ITT Tech, the VFW reached out to those student veterans affected by the closure and offered them assistance through our Unmet Needs Program. The VFW provided students with emergency grants in order to keep them afloat for a month or so. The impact the school closing had on these students was devastating. We received multiple responses to the students we reached out to, and the reports of their situations was disheartening, to say the least. We have reports of veterans being a mere weeks away from living in their cars. Some of them had to choose which meals to eat that day, which meals to skip, and there was no help from the VA or their schools to rectify the situation.

Thankfully, we were able to reach out and help some of these students during their struggle, but the VFW and organizations like ours cannot be the only entity stepping up to remedy the situation. We provided the student veterans with some financial stability to make it through the next month or so while they got settled after this major life upheaval. This is, however, only a Band-Aid for the

real problem. These student veterans need protection for the future so issues like this do not affect them as badly as it has in these recent months.

This legislation allows our affected student veterans to recoup their lost months of GI Bill eligibility. While we support this initiative, we do not feel it goes far enough. We think student veterans should be able to recoup the months of eligibility wasted at the closed institutions just like traditional students can with Pell Grants.

Student veterans who attended schools like ITT now have lost those months of eligibility, and they have no credits to show for it. The VFW has heard from student veterans at the closed schools, and they are now struggling to complete their degrees without their previous credits.

GI Bill eligibility should be allowed to be recouped like Chapter 4 Pell Grants can be by traditional students. Student veterans deserve the same equity as every other student affected by school closures.

Mr. Chairman, this concludes my testimony. I would be happy to answer any questions you or any other members might have.

[The prepared statement of Mr. Murray follows:]

PREPARED STATEMENT OF PATRICK MURRAY, ASSOCIATE DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES

CHAIRMAN ISAKSON, RANKING MEMBER TESTER AND MEMBERS OF THE COMMITTEE, On behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on today's pending legislation.

S. 75, ARLA HARRELL ACT

During WWII, 60,000 servicemembers were human subjects of the military's chemical defense research program and some 4,000 of those servicemembers were exposed to high levels of mustard agents. Until the early 1990s, these veterans were forbidden to speak of the experiments, even though the program was declassified in 1975.

Because of the classified nature of these exposures and the reliance on incomplete and conflicting data, the ability to accurately determine the level of exposure to mustard gas and Lewisite each veteran endured is difficult at best. Because of these facts, the VFW believes those veterans who have previously applied for benefits related to exposure to mustard gas and Lewisite and were denied because the evidence of "full body" exposure could not be proven, should be given the benefit of the doubt and have their claims adjudicated with the presumption of full body exposure.

The VFW supports requiring the Department of Veterans Affairs (VA) to reconsider previously denied claims for mustard gas and Lewisite exposure with the presumption that the exposure was full body, unless available evidence proves otherwise.

S. 111, FILIPINO VETERANS PROMISE ACT

The VFW has no official position on this legislation.

S. 410, SHAUNA HILL POST-9/11 EDUCATION BENEFITS TRANSFERABILITY ACT

The VFW agrees with the intent of this bill which would allow for the transfer of benefits to a surviving child after the loss of another child. The loss of a child is such an unimaginable tragedy that allowing the transference of benefits to a surviving child is only a small measure of relief that we feel is completely reasonable. If a veteran has already transferred their benefits to one child, it should be in their right to move the benefit to another child in cases of death.

## S. 473, EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017

The VFW strongly supports this legislation that would correct the mistake of the Department of Defense (DOD) trying to save money by cutting servicemembers' benefits while on orders. National Guardsmen and Reservists were placed on involuntary activation orders that did not allow them to accrue benefits through time and service like their active duty counterparts. While stationed abroad and away from their homes and families, these troops were denied the ability to gain educational credit for use after demobilization.

12304(a) and (b) orders need to be amended to keep the activation authority, but reinstitute the benefits that were removed. Thousands of National Guardsmen and Reservists have been involuntarily activated under these orders and have not received equal benefits as their active duty counterparts. More and more, DOD is using our Nation's reserve component to fight our decade and a half war against terror, and for these men and women to come home without equal benefits is something that must change.

*Section 5*

The VFW agrees with the efforts to take care of servicemembers' student loans in exchange for time in service. Debt in this country is an incredible burden on individual Americans. Making sure that servicemembers are financially sound is an important part of force readiness, and to not have crippling loans hanging over their heads is an important step in that direction.

*Section 6*

The VFW supports adding this grant to further grow the presence of student veterans on campuses around the country. Establishing a program that would grant funding to individual veteran centers for students is a great idea that would continue to promote studious camaraderie among our veterans as they lean forward in accomplishing their educational goals.

*Section 7*

The VFW supports increasing the amount of money allocated for educational assistance for members of the Selected Reserve. The rising costs of education need to be adjusted to keep pace with the rest of our country.

*Section 8*

The VFW supports prorating the monthly eligibility for those servicemembers called up on involuntary orders. National Guardsmen and Reservists should not lose an entire month of eligibility if they are not using the entire month due to activation orders. These servicemembers should have that month prorated so they can still retain some of the eligibility.

## S. 758, JANEY ENSMINGER ACT OF 2017

This legislation would require the Agency for Toxic Substances and Disease Registry (ATSDR) to conduct periodic literature reviews of the existing research regarding the relationship between exposure to toxic water at Camp Lejeune and adverse health conditions. The VFW supports the intent of this legislation, but has a serious concern with the threshold it sets for medical research, which we hope the Committee will address before advancing this legislation.

The approximately 650,000 veterans and family members who served on Camp Lejeune between 1953 and 1987 deserve to know if their health care conditions are related to water they drank that was contaminated with trichloroethylene, tetrachloroethylene, vinyl chloride, and other toxins. That is why the VFW fully supports periodic literature reviews of the existing body of research on the relationship between contaminated water at Camp Lejeune and the health conditions prevalent among veterans and family members exposed to such toxic substances.

However, this legislation would require the ATSDR to evaluate whether a health condition is caused by exposure to contaminated Camp Lejeune water, which is an unreasonably high bar for determining a relationship between adverse health conditions and toxic exposure. This legislation would require the ATSDR to categorize related health care conditions into three categories: sufficient with reasonable confidence that the exposure is a cause of the illness or condition; modest supporting causation; or no more than limited supporting causation. This would mean that the majority of the health conditions the ATSDR considers to be associated with exposure to trichloroethylene, tetrachloroethylene and vinyl chloride in drinking water would fail to meet this threshold.

Research regarding toxic exposures has traditionally used the Institute of Medicine's (IOM) six categories of associations: sufficient evidence of a causal relation-

ship; sufficient evidence of an association; limited/suggestive evidence of an association; insufficient evidence to determine whether an association exists; inadequate/insufficient evidence; and limited/suggestive evidence of no association. These six categories are aligned with the nature of epidemiological research and can be used to guide future research. The VFW strongly urges the Committee to reduce the threshold from causation to IOM's six categories of association.

S. 798, YELLOW RIBBON IMPROVEMENT ACT

The VFW supports this legislation that offers additional financial assistance for the children of our fallen heroes. The Fry Scholarship gives 100 percent GI Bill benefits to the children and spouses of fallen servicemembers who gave their lives serving our country. While this is a great benefit for the families of the fallen, there are some cases where financially it is not enough.

This legislation would bridge the gap, so the children or spouses who are eligible for the Fry Scholarship would not have to pay any out of pocket costs to achieve their educational goals. Allowing recipients of the Fry Scholarship eligibility to the Yellow Ribbon Program is just a very small measure that does not even begin to repay the sacrifice their servicemember made for our country.

S. 844, GI BILL FAIRNESS ACT

The VFW supports this legislation which would allow for National Guardsmen and Reservists ordered to active duty for medical treatment to receive the same educational benefits as their active duty counterparts. There are servicemembers who were injured during their military service and who are convalescing at military treatment facilities throughout the country, but are not accruing the same educational benefits as other servicemembers currently on active duty. Their time on active duty should be considered no different than any others and this legislation will make that possible.

This bill will rectify the mistake made by DOD in putting National Guardsmen and Reservists on 12301(h) orders which exempt them from benefits in order to save money. DOD should not have used this cost cutting measure because it is detrimental to our troops' morale and welfare. The VFW endorses any legislation like this that will ensure full benefits for our troops while away from their civilian lives on active duty.

S. 882, PURPLE HEART GI BILL ACT

The VFW supports this legislation increasing the rate of educational benefits for recipients of the Purple Heart. For the past decade and a half, our country has been sending National Guardsmen and Reservists into harm's way at an unprecedented level, and some of them have been wounded in the line of duty. Nearly 3,000 of these Citizen Soldiers have bled for this country, but have not accrued enough active duty time to attain full GI Bill benefits.

The VFW thinks that service men and women who have bled for this country should be compensated for their injuries by granting them full education benefits. This is the least we as a country can do for those who put their bodies on the line for our freedoms.

S. 1192, VETERANS TO ENHANCE STUDIES THROUGH ACCESSIBILITY ACT OF 2017

The VFW supports this bill which would change the structure of charging for the costs of the tests and certifications veterans apply for, instead of a months' worth of eligibility from their GI Bill. The GI Bill pays for books, labs and fees for student veterans attending college. This bill would include test fees in the GI Bill payment structure, and would provide a savings to the government and also allow student veterans to retain GI Bill eligibility instead of having to use it for a test fee.

S. 1209, A BILL TO INCREASE SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

This legislation would increase the amount of special pension granted to Medal of Honor recipients from \$1,000 to \$3,000 per month, adjusted annually for inflation. Medal of Honor recipients are held in the highest esteem by the veterans and military community. These men have turned the tide of battle against overwhelming enemy forces, and saved the lives of their comrades at great risk to themselves. With only 72 Medal of Honor recipients alive today, increasing their pension would not create a significant cost, but would represent a small but meaningful token of our appreciation for their heroic actions. Accordingly, the VFW supports this legislation.

## S. 1218, EMPOWERING FEDERAL EMPLOYMENT FOR DISABLED VETERANS ACT

The VFW supports this bill as it would expand opportunities for veterans who have honorably served our country. This bill would allow agencies to target high demand occupations within the Federal Government and make a concerted effort to hire veterans into those positions. We also support the establishment of an Inter-Agency Council to discuss and promote veteran employment issues within the Federal Government. Important matters like this deserve to be discussed at the highest levels in order for senior leadership to understand the state of veteran employment within their agencies.

## S. 1277, VETERANS EMPLOYMENT THROUGH TECHNOLOGY EDUCATION COURSE ACT OF 2017

The VFW supports this legislation as it would provide new job opportunities in expanding fields for the future. Creating innovative ways that servicemembers and veterans can achieve training and proficiency in new technology-related fields is essential for the future of our country and those who served it. The VFW would like to see this program move forward, but we also think this program needs input from the State Approving Agencies (SAA), which are instrumental in ensuring the value and validity of programs like this. The SAA is tasked with overseeing programs such as VET TEC and we would like their agencies' approval before moving completely forward with this.

## DISCUSSION DRAFT TO IMPROVE POST-9/11 GI BILL EDUCATIONAL ASSISTANCE

*Increased Post-9/11 GI Bill Eligibility for Reservists*

The VFW agrees with the intent of this draft bill which would increase the rates of educational benefits provided to National Guardsmen and Reservists. Educating our veteran population is one of the VFW's highest priorities and we are happy this Committee values education as a priority as well.

*Additional Eligibility for Veterans Pursuing STEM Degrees*

The VFW strongly supports this provision to grant additional months of GI Bill eligibility for student veterans pursuing degrees in Science, Technology, Engineering and Math (STEM). Our nation is making a push to encourage more students to pursue STEM degrees in order to be competitive and outpace other nations around the world. Student veterans should be at the forefront of this initiative. In order to make this a possibility, there needs to be some additional eligibility granted for those pursuing these degrees, because STEM programs often take longer than the traditional four years to complete a bachelor's degree. The VFW wants to see student veterans succeed at the highest levels and extending school eligibility in this case may be necessary to complete these highly important degrees.

*Increase Educational Assistance Payments for Survivors and Dependents*

The VFW supports increasing the payments made to survivors and dependents for educational benefits. As the years have gone on, there has not been a significant increase in the amount of money survivors and dependents receive as their educational benefit. It is beyond time to make an increase in payments so as to keep pace with the rising cost of present day college tuitions.

*Monthly Housing Stipend Based on Location of Campus*

The VFW would ask that more research be done on how many student veterans would be affected by this change and how much money would increase or decrease. Making a change to the housing stipend without doing the due diligence is a hasty decision, and we would like to see additional information before we make a decision to support this legislation.

*Repeal of Sunset on Work Study*

This bill is a simple extension of VA's authority to offer work-study allowances for student veterans. The VFW has long supported the VA work-study program, and we would proudly support this initiative to extend the program to 2027. Work-study is a valuable tool for student veterans to support valuable initiatives in and around their school community and earn extra income while taking classes.

While the VFW supports this legislation, we would like to see the end date for this program extended indefinitely. There should not be any time in the foreseeable future where there are not veterans attending schools after their enlistments, so we do not see any time where work-study would not be an added value to student veterans.

*Restoration of Entitlement after School Closing*

The VFW strongly supports this legislation to protect student veterans who were negatively affected by school closures. Recently ITT and Westech College suddenly shuttered their doors after losing accreditation. This left thousands of student veterans out of school mid-semester, with no plan for what to do the rest of the term. They had lost weeks or months of GI Bill benefits that were wasted at failed institutions. Even worse, they lost the monthly housing stipend many relied upon for their living situation. This legislation allows these affected student veterans to recoup their lost months of GI Bill eligibility.

While we support this initiative, we do not feel it goes far enough. We think student veterans should be able to recoup the months of eligibility wasted at the closed institutions just like traditional students can with Pell Grants. Student veterans who attended schools like ITT have now lost those months of GI Bill eligibility and they have no credits to show for it. The VFW has heard from student veterans from the closed schools, and they are now struggling to complete their degrees without their previous credits. GI Bill eligibility should be allowed to be recouped like Chapter Four Pell Grants can be by traditional students. Student Veterans deserve the same equity as every other student affected by school closures.

Additionally, these student veterans now have no monthly income from their GI Bill benefits. The VFW strongly supports extending the Basic Allowance for Housing payments for a maximum of 4 months or until the end of the term, whichever is earliest. Our team at the VFW immediately reached out to the student veterans affected by each of the school closures and offered them a stop gap measure through our Unmet Needs Program. We provided the student veterans with some financial stability to make it through the next month or so while they got settled after this major life upheaval. This was, however, only a band-aid for the real problem. These student veterans need protection for the future so issues like this do not affect them as badly as these past closures have.

*Improvement of VA IT Systems*

The VFW strongly supports the improvement of VA information technology (IT) systems. Time and time again, VA has failed to accurately account for millions of dollars of wrongful payments due to outdated IT systems. Any efforts to enhance the IT systems and bring them into the 21st century is strongly supported by the VFW. We would like to see this fixed as soon as possible in order to save taxpayer money and alleviate repayment burdens from veterans attending school.

*Extension of Advisory Committee on Education*

The VFW supports extending the authority of the Advisory Committee on Education until 2022. This is a valuable asset the VA Secretary can use to gather information and advice on how student veterans are using their education benefits, and the Committee can advise on any changes or improvements that may need to be made. While the VFW supports this Committee, we would like to see its authority extended indefinitely. Student veterans will always be going to school, so we think this Committee should always be present.

*Limitation on Use of Reporting Fees*

The VFW supports the limitation of reporting fees for general school uses. At the beginning of each term, a School Certifying Official (SCO) reports the enrollment of a GI Bill user to VA. This enrollment signifies the usage of educational benefits for the individual. After this is complete, the school receives a \$12 payment from VA for certifying the enrollment. Currently, there is no limitation on where that money is disbursed within the school's system. This legislation would ensure that schools are not using that reporting fee for its own general use. The VFW supports the plan to limit the usage of those fees for veteran services only. This will add to the amount of money available for veteran programs within those institutions.

*Training for School Certifying Officials*

The VFW supports mandatory training for School Certifying Officials. In 2014 alone, there were \$262 million dollars in erroneous Post-9/11 GI Bill payments to students and most times the students, not the schools, are the ones burdened with repaying the money. Making sure the SCO's are properly trained is one step in avoiding overpayments, and the VFW supports this action. While this legislation does not specifically address the source of funding for this training, the VFW thinks the schools themselves should be responsible for the cost of the training.

*Modification of Funding for State Approving Agencies*

The VFW supports increasing the funding allocated to the State Approving Agencies. These agencies are the first line in ensuring schools are properly accredited

and providing a high standard of education for student veterans. There have been thousands of student veterans left out on their own after their schools closed, sometimes with little or no notice. The SAA's role is to make sure that institutions are accredited and providing the services they claim to. For that reason, the VFW endorses additional funding in the hopes that school closures like ITT do not affect veterans in the future.

Mr. Chairman, this concludes my testimony. I am prepared to answer any questions you or the Committee members may have.

Senator ROUNDS. Thank you, Mr. Murray, for your testimony.

We will now hear from Brigadier General, Retired, Roy Robinson, President, National Guard Association of the United States.

Mr. Robinson, before you begin, let me just explain once again to everyone here that the reason why there is not a lot of folks that are here with us right now is because we are also voting on three significant issues on the floor of the Senate, and so we are moving back and forth. This is actually where we talk about the Iran sanctions bill, and the final passage will be shortly. So, it is an important part, and we want to get it done and send a powerful message to some folks in the world that sometimes do not really pay attention. Hopefully, this will help.

So, General, if you would like to begin.

**STATEMENT OF BRIG. GEN. ROY ROBINSON (RET.), PRESIDENT, NATIONAL GUARD ASSOCIATION OF THE UNITED STATES**

General ROBINSON. Thank you, Mr. Chairman and other Members of the Committee. On behalf of the almost 45,000 members of the National Guard Association of the United States and nearly 500,000 soldiers and airmen of the National Guard, we deeply appreciate this opportunity to share with you our thoughts on today's hearing topics for the record.

We also thank you for the tireless oversight you have provided to ensure accountability and improve our Nation's services to veterans and their families.

In my testimony, I would like to urge this Committee to correct the benefit disparity for members of the National Guard when deployed under 12304 Bravo status under Title 10 of the U.S. Code. I am also happy to answer your questions on the numerous legislative proposals under consideration by this Committee today.

Since our inception in 1878, ensuring benefit eligibility and equity for the men and women of the National Guard has been one of NGAUS's primary functions. I would be remiss if I did not point out that, historically, benefits for servicemembers, most notably through the 1944 GI Bill, were not constructed nor viewed as entitlements. Rather, the GI Bill and related legislative efforts were solely focused on reintegrating the men and women of the Armed Forces following the horrors of World War II and helping them to become successful, contributing members of American society.

It is in this same light that we remain discouraged that there has been no resolution with the numerous benefits currently not attributed to Guard and Reserve servicemembers deploying under 12304 Bravo status.

Since establishing the 12304 Bravo authority in 2012 to give combatant commanders greater authority to utilize the Reserve component, thousands of our members have been deployed on oper-

ations to support the Multinational Force Observers mission in the Sinai, Egypt; NATO's Operation Joint Guardian in Kosovo; and most recently the European Reassurance Initiative countering Russian aggression in Eastern Europe.

The Guard and Reserve forces have provided a cost-effective means of meeting the needs of combatant commanders and have provided important experience and expertise. We are also aware of the Department of Defense's continued utilization of this authority as evidenced by proposed increases in Guard and Reserve deployments under 12304 Bravo. However, when the 12304 Bravo authority was established, it failed to make important changes to Titles 5, 37, 38, and 10 of the U.S. Code. While our constituency wants to serve in any capacity, we believe that they should be afforded benefits equal to active component members, such as tuition assistance, early retirement credit, transitional health care access, and Post-9/11 GI Bill benefits.

While we appreciate the Department's ongoing efforts to consolidate the authorities by which members of the Reserve component may be ordered to perform duty, NGAUS remains deeply concerned that the implementation of duty status reform will take numerous years and prevent thousands of additional Guardsmen and Reservists from receiving the same benefits as their active duty counterparts.

We ask that you support the immediate passage of Ranking Member Tester's bill, S. 473, the Educational Development for Troops and Veterans Act, introduced in February 2017 with Senators Franken, Van Hollen, Hassan, and Klobuchar. This common-sense bill would ensure that all deployed Reserve component members would receive Post-9/11 GI Bill benefits equal to those enjoyed by the active component members. It would also protect them from lost wages while deployed and allow Guardsmen to defer their Federal student loan payments prior to deployments.

Finally, over the last few months, NGAUS has worked closely with our friends at the Reserve Officers Association and the Enlisted Association of the National Guard of the United States to support the Reserve Component Benefits Parity Act to amend Titles 5, 10, 37, and 38 of the U.S. Code to provide full benefits to members of the Guard and Reserve deployed under 12304(b) status as well as 12304(a).

I would like to acknowledge and thank Congressman Palazzo and Congressman Walz for introducing this bill in the House, which currently has over 60 cosponsors.

I would like to also thank Senators Cornyn, Franken, Klobuchar, Capito, and Baldwin for championing the Senate companion legislation. While I realize that some of the provisions of this bill do not fall under this Committee's jurisdiction, I would like to ask all of you here today to cosponsor S. 667. These are not just benefit parity issues; they are questions of fairness.

I appreciate your invitation to appear before this Committee today, and I look forward to answering your questions.

Thank you, Mr. Chair.

[The prepared statement of General Robinson follows:]

PREPARED STATEMENT OF BG (RET) ROY ROBINSON, PRESIDENT,  
NATIONAL GUARD ASSOCIATION OF THE UNITED STATES

DEAR CHAIRMAN ISAKSON, RANKING MEMBER TESTER, AND OTHER DISTINGUISHED MEMBERS OF THE SENATE VETERANS' AFFAIRS COMMITTEE:

INTRODUCTION

On behalf of the almost 45,000 members of the National Guard Association of the United States and the nearly 500,000 soldiers and airmen of the National Guard, we deeply appreciate this opportunity to share with you our thoughts on today's hearing topics for the record. We also thank you for the tireless oversight you have provided to ensure accountability and improve our Nation's services to veterans and their families.

In my testimony, I would like to focus on an issue that continues to plague the soldiers and airmen of the National Guard, which falls under the jurisdiction of this Committee. We urge this Committee to correct the benefit disparity for members of the National Guard when deployed under 10 U.S.C. § 12304b status. My goal today is to highlight this particular issue, as well as provide endorsements for numerous legislative proposals also under consideration by this Committee.

DUTY STATUS REFORM AND BENEFIT PARITY

Since our inception in 1878, ensuring benefit eligibility and equity for the men and women of the National Guard has been one of NGAUS' primary functions. I would be remiss if I did not point out that historically, benefits for servicemembers, most notably through the 1944 G.I. Bill, were not constructed nor viewed as entitlements. Rather, the G.I. Bill and related legislative efforts were solely focused on reintegrating the men and women of the Armed Forces following the horrors of World War II and helping them to become successful, contributing members of American society.

It is in this same light that we remain discouraged that there has been no resolution with the numerous benefits currently not attributed to Guard and Reserve Servicemembers deploying under 10 U.S.C. § 12304b status. Since establishing the 12304b authority in 2012 to give Combatant Commanders greater authority to utilize the Reserve Component, thousands of our members have been deployed on operations to support the Multinational Force Observers mission in the Sinai, Egypt, NATO's Operation Joint Guardian in Kosovo, and most recently the European Reassurance Initiative countering Russian aggression in Eastern Europe. The Guard and Reserve forces have provided a cost-effective means of meeting the needs of Combatant Commanders and have provided important experience and expertise. We are also aware of the Department of Defense's continued utilization of this authority as evidenced by proposed increases in Guard and Reserve deployments under 12304b.

However, when the 12304b authority was established, it failed to make important changes to 5 U.S.C., 37 U.S.C., 38 U.S.C. and 10 U.S.C. As such, health, education, leave, pay, and retirement benefits equal with active component troops serving the same functions have been denied to Guard and Reserve Component soldiers serving under the 12304b authority. While our constituency wants to serve in any capacity, we believe that they should be afforded benefits such as: tuition assistance, early retirement credit, transitional healthcare access, and Post-9/11 G.I. Bill benefits currently not funded under 12304b status.

As you know, the National Defense Authorization Act of 2016 requires the Department of Defense to consolidate the thirty-two statutory authorities by which members of the reserve component may be ordered to perform duty. While we appreciate the Department's ongoing efforts, NGAUS remains deeply concerned that the implementation of duty status reform will take numerous years and prevent thousands of additional Guardsmen and Reservists from receiving the same benefits as their active duty counterparts.

To that end, we ask that you support the immediate passage of Ranking Member Tester's bill, S. 473, the Educational Development for Troops and Veterans Act, introduced in February 2017 with Senators Franken, Van Hollen, Hassan, and Klobuchar. This commonsense bill would ensure that all deployed reserve-component members would receive Post-9/11 G.I. Bill benefits equal to those enjoyed by active component members. It would also protect them from lost wages while deployed and allow Guardsmen to defer their Federal student loan payments prior to deployments. Furthermore, S. 473 would establish a grant program to build, maintain, and improve college veteran education centers to help student veterans maximize their benefits, receive academic aid, and connect with their peers on campus. This is not just a benefit-parity issue. It is a question of fairness. Passing this bill

will not only help ensure the men and women of the National Guard accrue Post-9/11 G.I. Bill benefits in the same manner as their active duty counterparts but will further support the soldiers who protect our Nation.

#### ADDITIONAL SUPPORTED LEGISLATION

NGAUS strongly supports S. 410, the Shawna Hill Post-9/11 Education Transferability Act introduced by Senator Crapo and Senator Risch. Named after Shawna Hill, a teenager from Idaho who was tragically killed in an automobile accident in 2012, S. 410 would amend 38 U.S.C. to allow reassignment of veterans' education benefits in cases where the designated beneficiary passes away.

S. 798, the Yellow Ribbon Improvement Act of 2017, introduced by Senator Cassidy, Senator Tillis and Senator Brown, would expand eligibility for the Department of Veterans Affairs' (VA) Yellow Ribbon Program to recipients of the Marine Gunnery Sergeant John David Fry scholarship. The Yellow Ribbon Program is an extremely vital program for members of the National Guard by helping students avoid out-of-pocket tuition and fees for education programs that cost more than the G.I. Bill's allowance. S. 798 would allow eligibility for the Yellow Ribbon Program for surviving spouses and the children of servicemembers who have died in the line of duty.

NGAUS also supports S. 882, which would add Purple Heart recipients to the list of eligible veterans who can access full Post-9/11 G.I. Bill benefits. The legislation, introduced by Senators Rounds, Manchin, Warren, and Kaine, would also make Purple Heart recipients eligible for participation in the Yellow Ribbon Program. Currently, only veterans who served on active duty for 36 months are eligible for Post-9/11 G.I. Bill benefits, which disqualifies hundreds of Guardsmen who have been awarded the Purple Heart.

Similarly, we appreciate the recent introduction of S. 1209, introduced by Senators Graham, Cotton, Blumenthal and Markey, that would increase the monthly pension given to Medal of Honor recipients. S. 1209 would increase those pensions from \$1,303.51 a month to \$3,000 for the 72 living Medal of Honor recipients.

S. 1218 would benefit members of the National Guard by requiring Federal agencies to have full-time advocates for veterans' employment. The Empowering Federal Employment for Veterans Act, introduced by Senators Sullivan, Heitkamp, and Harris, would connect veterans with Federal jobs that match their skills, as well as promote career development. With an unacceptably high rate of unemployed veterans, NGAUS appreciates the introduction of this legislation to ensure servicemembers are able to build and maintain a sustainable future when transitioning out of military service.

S. 1277, introduced by Senators Boozman, Heller, Risch and Capito, would expand the VA's Accelerated Learning pilot program that covers the costs for non-traditional technology education programs. The Veterans Employment Through Technology Education Courses would allow the soldiers and airmen of the National Guard to learn valuable 21st century workforce skills including computer coding and programming as a VA educational benefit. We applaud the introduction of this legislation to help provide IT training that is typically not covered under the Post-9/11 G.I. Bill.

#### CONCLUSION

I thank you all again for allowing NGAUS to testify before this Committee today. I truly appreciate your consideration of the aforementioned legislation under this Committee's jurisdiction. I look forward to continuing our work together and cannot thank you enough for your steadfast leadership in advocating for the men and women of the National Guard.

Senator ROUNDS. Thank you, General.

I do have a couple of questions that I would like to begin asking. First of all, for Mr. Hubbard, could you address briefly S. 1330? That is the transferability of GI Bill benefits to surviving dependents and the need for it to be enacted. Would you care to comment, sir?

Mr. HUBBARD. Yes. Thank you for the question, Mr. Chairman.

Well, just to clarify, if you look at issues that are related to survivors, in our point of view as an organization, survivor of a servicemember who died in the line of duty for us is seen, for policy purposes, as exactly the same as a servicemember veteran them-

selves. We believe that very strongly, and we see this as a minor technical correction that, frankly, I think was mainly an accident and really just an oversight in the legislative process when this was put together.

Ultimately, to have the ability to access the full suite of benefits that these individuals have earned is of the utmost importance to us.

Senator ROUNDS. Thank you, sir.

Mr. Kamin, you noted your support for a provision that would restore used GI Bill benefits when a school closed permanently. There have been a number of student veterans impacted by such closures in the last several years. Do you have concerns that we could see a significant number of additional school veterans impacted by future school closures?

Mr. KAMIN. Thank you for that question, Senator. I would be remiss to not commend your staff as well as the Committee and HVAC for their work during the American Council on Independent Colleges and Schools crisis of the summer of 2016. We worked closely with Student Veterans of America and VFW under the presumption that there would be no possible solution that could pass both houses of Congress, and so we did our best to rally our service officers and get our emergency funds in order because we knew that veterans' benefits would go off a cliff as soon as this ruling from the Department of Education happened.

Your staff worked around the clock to craft a solution, and I believe the legislation passed to afford Title 38 benefits just maybe a week or two before the ruling was issued, so it was really remarkable work.

That being said, the ruling meant that ACICS-certified schools have 18 additional months to find additional accreditation. We know that there are many schools that will not be able to. So, the crisis was averted, but the problem still remains, and that is why we view this as very important to get done, as well as increasing and boning up our oversight components.

Senator ROUNDS. Thank you, sir.

Mr. Murray, in S. 1277—that is the VET TEC Act of 2017—the VA would have to consult with State Approving Agencies, or SAAs, before contracting with education providers. Since this technology training would only be a part of a pilot program and not necessarily approved for GI Bill benefits, would that address the VFW's desire for SAA involvement?

Mr. MURRAY. Yes. Essentially, whenever the Secretary is approving, the SAAs are on the front line of making sure that these schools are providing value; they are providing validity that schools are meeting the proper standards. If there was a way that we could incorporate the SAAs' approval and recommendations into these new programs, so we are not just facing pop-up schools that offer certifications at the expense of veterans, that is something we greatly appreciate their input before we gave our full support in.

We would also like a little bit of clarification about the employment in the related fields of study and meaningful employment. Meaningful employment can mean a lot of different things to a lot of different people. A little bit of clarification on that would be something we would greatly like to see, so that maybe the SAAs

can help achieve some kind of a standard to set forth. That would reassure us more.

Senator ROUNDS. Thank you, sir.

General Robinson, I have to share with you, after serving as Governor of South Dakota for 8 years during a time in which our Guardsmen were deployed, we used Title 32 and Title 10. When they were deployed, it seems as though I had always assumed that the benefits that would accrue to them would be just like someone who was a member of the armed services, who was not necessarily a member of the Guard and Reserve, but full-time, as they call it. But, when they become Title 10, they are full-time as well, and it surprised me on several different occasions to find that perhaps some of the benefits did not accrue in a similar fashion.

As you know, sir, this Committee acted last Congress to correct the benefit disparity for Guard and Reserve troops that were deployed under 12304(b) and 12301(h) orders when we passed the Veterans First Act out of Committee without opposition. Unfortunately, we have not yet been able to pass it through the full Senate.

Can you tell the Committee what the National Guard members are being told about these orders by their chain of command?

General ROBINSON. Thank you, Mr. Chairman.

I think due to the intricacies of the different statuses that a soldier or airman can be deployed under, some of the leadership is just now coming around to understanding what the soldiers do not get when they are in a 12304 Bravo status.

I think more and more right now, as you read in the press, we have got more Reserve members, both National Guard and other components, that are finding out the hard way, not through their leadership telling them, but when they go through the demobilization process they realize that all of those benefits are not there at the end of the mobilization like they thought it would be. There are various concerns about some of the transition benefits that are associated with some of the eligibility under TRICARE that those soldiers and airmen should be able to access as they reintegrate into their family and their job. And that is going to be a much harder task without the coverage or the benefits they would normally get with any other deployment.

Senator ROUNDS. Thank you.

Mr. Hubbard, based upon your bio, I suspect that you may have experienced some of that. Would you care to share your personal experiences on this or what your association has wanted you to share with us today?

Mr. HUBBARD. Yes. Thank you, Mr. Chairman. I appreciate that point.

Just for some context, I deployed last year with the Marine Corps Reserve, a unit based out of Quantico, VA, with a unit that was pulled together from Reserve units across the United States, approximately 300 marines or so, of which many, many were Reservists. This was kind of a test run of the ability to achieve a mission with a COCOM, a preplanned mission with Reservists.

It was a highly successful mission. Unfortunately, many of these young men and women were told at the beginning of the deployment that they, in fact, would be receiving GI Bill benefits upon

conclusion of the deployment. They were told this falsely, and I believe it was a misunderstanding. Nonetheless, these young men and women spent the entirety of their deployment in harm's way in Central America doing activities and work side by side with active duty counterparts, doing the same job. One group was getting GI Bill; one was not. All the while, however, these young men and women thought they were getting GI Bill. They were planning to come home and go to school. These individuals had registered for classes. When they got back and toward the end of deployment, they were told, "Sorry, guys. You are actually not getting GI Bill."

I cannot tell you the significant harm that that caused to these individuals, and consider this. For many of them, they were looking to do a 4-year degree. It is not going to be until the time this is fixed, in some cases maybe until 2020, 2021, even later, that these individuals are able to achieve their educational goals. So, it is not just a 3-to-6-month impact; we are talking about significant time over even half a decade affecting these individuals.

Senator ROUNDS. Thank you, sir.

Gentlemen, I want to thank you all for your service to our country. It is time for me now to go to the floor and vote. Senator Boozman will handle the gavel, and I believe he has got a few questions for you as well. Thank you, gentlemen.

Senator BOOZMAN [presiding]. Thank you, Senator Rounds, very much.

I do just have a few questions. Mr. Murray, in regard to S. 1277, the VET TEC Act, VET TEC Act of 2017, the VA would have to consult with State Approving Agencies before contracting with education providers. Since this technology training would only be a part of a pilot program and not necessarily approved for GI Bill benefits, would that address the VFW's desire for SAA involvement?

Mr. MURRAY. Yes, sir. We would very much like to see the SAA involved in this approving.

Senator BOOZMAN. Very good.

General Robinson, you support S. 1218 to improve Federal hiring of veterans. Can you tell us what some of the biggest challenges and concerns are for the National Guard members when it comes to employment and navigating the Federal hiring bureaucracy, which is truly a chore.

General ROBINSON. Thank you, Mr. Chairman.

Obviously, we do support S. 1218. It ties to several different things, one of which is the causes that we see for suicides in our ranks. A lot of those causes are linked back to problems with employment and money as they transition back to their civilian lives. So, we do see a direct connection, and that is why we think it is so important to try to help Guardsmen go back and be employed and continue on with their life as contributing Americans.

We would like to see a change to the Federal hiring preference standards regarding Guardsmen and Reservists from 180 consecutive days to 180 cumulative days. This would cause an increase in eligibility for those Guard members and Reservists who may be on—they may be on separate orders over the course of several months. Allowing for cumulative days to help as far as their eligi-

bility would open that gate even wider for some of those people to participate.

Senator BOOZMAN. Very good.

That is really all the questions I have. You know, you all have done a tremendous job. Anytime we hear about real-life stories and how it affects individuals, it is so, so very important as opposed to spreadsheets, a lot of technological stuff, and a lot of abbreviations that the public does not understand and half of us do not understand. So, like I said, that is very, very valuable.

Have you all got any other comments that you would like to add before we adjourn? Yes, sir.

Mr. HUBBARD. Thank you for the opportunity, Mr. Chairman.

One point that we just want to really focus on again is making sure that the GI Bill is something that persists for future generations. We believe it can be improved and expanded with the impressive package that this body has put together and the various proposals that this Committee is looking at. We think, ultimately, however, we want to move toward this idea of education as a component of service.

For those that have served to defend the Nation, it is extremely important that they have the opportunity to then transition through school. We have seen this to be an extremely effective manner, and right out of the gate, about 50 percent are going right to school on the Post-9/11 GI Bill, currently. We believe that bringing this forward to future generations, not just the Post-9/11 GI Bill, but the GI Bill, bringing it across different generations is extremely important.

Imagine today if, for example, we had the Korean War GI Bill. Given the tight budget times, that would be gone in a second. So, we think broadening the name is very important, and ultimately providing that opportunity to those that have served the country is of the utmost critical importance to our organization.

Senator BOOZMAN. I appreciate that. I had the opportunity when I was in the House to chair and then become Ranking Member when the majority switched on the subcommittee that actually was in charge of implementing the GI Bill, which many of you remember. I do think that we forget how far we have come.

Again, that has been the work of Congress, but it has also very, very importantly been you all pushing these things forward. It simply would not have gotten done without the efforts of the organizations that you all represent. So, we really do appreciate that and appreciate your efforts in that area.

Now the same is true as we go forward. It is going to take all of us working together, trying to sort out the kinks, the unintended consequences, the areas that we have not done, but I do think we are moving in the right direction and can be proud, very proud of the work that you all have done and the work that Congress has done to get us where we are.

Does anyone else have any more comments? General Robinson?

General ROBINSON. Mr. Chairman, if I could—and I want to reiterate the 12304 Bravo issue and the linkage that it will have. If the next 15 years in utilization of the Guard and Reserve looks anything like the past 15 years, the likelihood is that these soldiers and airmen and the members of the other services are going to be

very, very busy. Unless people dig into the intricacies of all the benefits that they are not being awarded through 12304 Bravo, they may not understand—

Senator BOOZMAN. Sure.

General ROBINSON [continuing]. That it actually turns into a readiness issue. As these soldiers and airmen come out of one mobilization, as they are going through the reintegration, they are actually preparing and becoming ready for the next mobilization. So, it turns it from not just a National Guard and Reserve issue; it is actually an issue that the country needs to pick up on because the readiness of those forces are tied to the benefits that they are not currently going to receive under 12304 Bravo orders. I just wanted to highlight that to the Chairman and the Committee. Thank you.

Senator BOOZMAN. We appreciate that very much. I think you make a very, very good point.

Yes, sir, Mr. Kamin.

Mr. KAMIN. Yes. Thank you, Mr. Chairman.

I would like to echo your remarks on the personal stories. Personally, I am not smart enough to look at statute and understand the human implications, and seeing the full effect of that really empowers us to do the right thing and learn what we need to sink into.

With that being said, I would like to point you to Section 8, authorization of transfer of entitlement to Post-9/11 educational assistance for the dependents, which TAPS brought up, and introduce you to Coleen Bowman, who is sitting back there, who is the surviving spouse of Sergeant Major Robert Bowman, who has a daughter who very much wants to go to college, and the family has earned it. But, right now, they are not being afforded that benefit.

So, we stand with them to say this is an easy thing we can fix, and we are ready to work with you on that.

Senator BOOZMAN. Thank you very much, and thank you for bringing that up. We appreciate you. We appreciate you being here and putting a face with a story. That is so, so very important. So, thank you very much.

Well, with that, we are going to adjourn. The hearing record will be open for 5 business days for Members to revise remarks and submit additional questions. I do not want to bang on the table or they will get on to me. We are adjourned. Thank you.

[Whereupon, at 12:19 p.m., the Committee was adjourned.]

## A P P E N D I X

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PREPARED STATEMENT OF HON. RICHARD BURR,  
U.S. SENATOR FROM NORTH CAROLINA

CHAIRMAN ISAKSON, RANKING MEMBER TESTER AND MEMBERS OF THE COMMITTEE, Thank you for the opportunity to present my views on pending legislation under consideration by the Committee.

Today, I would like to discuss the Janey Ensminger Act of 2017 , important legislation sponsored by myself and Senators Thom Tillis (R-NC), Bill Nelson (D-FL), and Marco Rubio (R-FL).

The legislation is named in honor of Master Sergeant Jerry Ensminger's daughter, Janey, who was only nine-years-old when she died in 1985 from a rare form of leukemia after being exposed to toxic water at Camp Lejeune her entire life. Master Sergeant Ensminger has been a tireless advocate for the members of the military and families who were harmed by toxic exposure at Camp Lejeune.

Our bill requires the Department of Veterans Affairs to provide medical care for all diseases that can be scientifically linked to exposure to toxic chemicals at Camp Lejeune.

The legislation also requires that the Agency for Toxic Substances and Disease Registry (ATSDR), a Federal agency within the Centers for Disease Control and Prevention, review all relevant scientific literature every three years to determine if sufficient or modest causal links have been found between toxic exposure at Camp Lejeune and additional diseases and conditions. This will ensure that veterans and their families will not have to wait to get medical care as researchers learn more about the long-term health consequences of the toxins found in the water at Camp Lejeune.

By way of background, the Centers for Disease Control and Prevention's Agency for Toxic Substances and Disease Registry (ATSDR) at the Department of Health and Human Services (HHS) conducts public health assessments addressing environmental contamination and analyzing the health risks from this exposure for individuals who lived and worked at Camp Lejeune, NC. Current law extends health care to veterans and their family members who have certain diseases and conditions as a result of exposure to contaminated well-water in North Carolina from 1953 to 1987. ATSDR's scientific analysis has been critical to informing the benefits for veterans and their family members who are sick as a result of this tragic contamination in North Carolina. Despite ATSDR determining that a number of cancers and other health conditions were caused by the Camp Lejeune water contamination, the Veterans Administration (VA) continues to challenge these findings, ultimately delaying and denying care to veterans and their family members. For decades, service-members and their family members who lived and worked at Camp Lejeune, NC were harmed by exposures to toxic substances. In the decades since, these men and women who served our Nation, have had to fight to receive the care to which they are entitled as a result of their service to our country. Veterans and their family members should not be further harmed by the VA's failure to accept ATSDR's findings.

The Janey Ensminger Act of 2017 codifies ATSDR's critical work on behalf of veterans and their family members who have been sickened by the toxic exposures that occurred at Camp Lejeune, in a way that ensures and strengthens accountability to these individuals. This bill provides critical transparency regarding the HHS and VA's Camp Lejeune-related work in a manner that respects and reflects the most current scientific understanding of the health risks associated with these toxic exposures.

This bill would require the ATSDR Administrator to review the scientific literature relevant to the relationship between the employment or residence of individuals at Camp Lejeune, NC for not fewer than 30 days between August 1, 1953, and

December 21, 1987, and the specific illnesses or conditions incurred by those individuals. The ATSDR Administrator would also be required to determine each illness or condition for which there is evidence that exposure to a toxic substance at Camp Lejeune, NC, during this time period may be a cause of the illness or condition, categorize the level of evidence for these conditions, and publish this information on HHS' Internet website. Under this bill, the list of illnesses and conditions, and their corresponding evidentiary categorization from exposure to a toxic substance at Camp Lejeune, NC, would be regularly updated to ensure that this list reflects the most current scientific analysis. This transparency is key for ensuring that there is no denying, delaying, or disputing the health care benefits owed veterans and their family members who are sick because of exposure to a toxic substance at Camp Lejeune, North Carolina.

If future research by ATSDR determines that the casual connection between the contaminated water at Camp Lejeune and a medical condition is not as strong as once believed, those veterans and their families who are being treated for that disease or condition shall continue to receive care in order to ensure continuity of care. However, for veterans and their families who are not already receiving care for such a condition, medical care would no longer be available because the causal connection is no longer scientifically supportable.

I will not stop fighting for justice for the victims of Camp Lejeune. There remain many obstacles for us to overcome. I thank Jerry for his tireless efforts at holding the VA accountable and improving the lives of all who suffer from illnesses incurred at Camp Lejeune. No one has been a better advocate for these individuals, and I cannot commend him highly enough for his steadfast determination.

I thank the Committee for its attention to this critical matter.

## PREPARED STATEMENT OF HON. MIKE CRAPO, U.S. SENATOR FROM IDAHO

**MIKE CRAPO**  
U.S. SENATOR  
IDAHO

Co-CHAIRMAN, SENATE RENEWABLE ENERGY AND  
ENERGY EFFICIENCY CAUCUS

Co-CHAIRMAN, WESTERN WATER CAUCUS

Co-CHAIRMAN, SWEETENER CAUCUS

Co-CHAIRMAN, COPD CAUCUS

JOINT COMMITTEE ON TAXATION

**United States Senate**  
WASHINGTON, DC 20510

Testimony of Senator Mike Crapo  
Shauna Hill (S. 410)  
Senate Veterans Affairs Committee  
June 15, 2017

COMMITTEES:

BANKING, HOUSING, AND  
URBAN AFFAIRS  
CHAIRMAN

FINANCE

JUDICIARY

BUDGET

INDIAN AFFAIRS

Chairman Isakson, Ranking Member Tester, and Distinguished Members of the Committee:

Thank you for allowing me to provide testimony on S. 410, the Shauna Hill Post 9/11 Education Benefits Transferability Act. Senator Jim Risch and I introduced this measure as a companion to legislation introduced in the House of Representatives by Representative Raúl Labrador. Our measure would make a crucial change to Post 9/11 GI Bill education benefits by allowing veterans to transfer their hard-earned education benefits from one dependent to another in the event that one dependent passes.

Representative Labrador and I were compelled to act on this issue after hearing the story of the Hill family. Shauna Hill was an active member of her community of Eagle, Idaho, and an accomplished figure skater and violinist with hopes of pursuing her passion for environmental law at Stanford University. Prior to retiring, her father, Captain Edward Hill, a 28-year Navy veteran, transferred his education benefits to Shauna. Unfortunately, in December 2012, tragedy struck the Hill family when Shauna was killed at 16 years old in a serious car accident. Following her death, Captain Hill contacted the VA in an attempt to reassign his education benefits to his younger daughter, Haley. Unfortunately, Captain Hill could not transfer his education benefits from Shauna to Haley because current statute precludes a veteran from transferring education benefits after retirement.

Few things in life are worse than losing a child. The Hill family's tragedy is only made worse by the fact that Captain Hill's hard-earned education benefits cannot be passed on to his surviving daughter. S. 410 would modify this unnecessarily rigid restriction by allowing veterans to reassign benefits in the event the original recipient dies, even after the servicemember retires. While seemingly slight, this change would have a meaningful impact on families like the Hill family, who plan their lives and aspirations around the availability of military education assistance.

Already, Shauna's life has inspired people across Idaho and her premature death sparked dialogue about ways to make roads safer. S. 410 is another outcome of the Hill family's collective sacrifice and service and has earned the backing of the American Legion, Concerned Veterans for America, and Veterans of Foreign Wars. I thank the Committee for its thoughtful consideration of this legislation and look forward to working together on this and other important measures that make a meaningful impact on the everyday lives of servicemembers and their families.

Thank you, Mr. Chairman.

PREPARED STATEMENT OF HON. HEIDI HEITKAMP,  
U.S. SENATOR FROM NORTH DAKOTA

Thank you, Mr. Chairman, for holding this hearing today. I want to thank you and Senator Tester for your leadership in advocating for our Nation's veterans. Hearings like this one demonstrate this Committee's commitment to improving the lives of those who served our country and making sure we honor our obligation to care for them.

That care extends from the treatment veterans receive in hospitals and clinics to the benefits they earned, from the education they pursue after their service to the employment they seek in the civilian workforce. S. 1218, the bipartisan Empowering Federal Employment for Veterans Act of 2017 that I introduced with Senator Sullivan, would take important steps in caring for our veterans as they try to find work that is the right fit for them. I appreciate you including this bill on the agenda for today's hearing.

Although Federal efforts to promote the recruitment of transitioning service-members and veterans have resulted in significant increases in veteran employment throughout the Federal Government, the programs in place to enhance veteran recruitment, hiring, retention, skills development, and job satisfaction are not always effective in finding the most suitable jobs for a veteran's particular skillset. Ensuring that there are dedicated advocates for veterans' employment at key Federal agencies who are focused on finding jobs that are the right fit for veterans would open up more job opportunities for veterans across the Federal Government beyond the agencies that typically employ veterans in large numbers. Focusing on matching the skills and career aspirations of veterans to specific agency needs while also expanding career development training opportunities would create an environment that improves the long-term wellbeing of veterans as well as the overall efficiency of the Federal Government.

I very much appreciate the Committee's consideration of S. 1218 and look forward to working with the Members of the Committee to pass this commonsense bill and make it easier for veterans to find the rewarding employment they deserve.

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PREPARED STATEMENT OF HON. JAMES INHOFE,  
U.S. SENATOR FROM OKLAHOMA

Today I would like to state my support for Senate bill 1356, the Veterans Education Improvement Act of 2017, which I introduced along with Senator Cornyn on June 14, 2017.

In 2010, Congress passed the Post-9/11 Veterans Educational Assistance Improvements Act. This act authorized veterans to use their hard earned educational benefits to pursue a technical or career certificate program as an option instead of the traditional liberal arts opportunities at a college or university.

Career technology centers, or CTEs, are public, non-profit, non-degree granting institutions that provide skills and certificates important to every community and are found in over ten states. CTEs are renowned for providing job training for technical careers like welding, mechanics, and cosmetology. Here our veterans will be able to obtain necessary skills that our U.S. workforce desperately needs.

The goal of this bill is to give veterans enrolled at postsecondary CTE institutions expanded access to innovative education programs that utilize technology and online learning opportunities.

The city of Enid, Oklahoma, has been home to the Autry Technology Center since 1967 and serves over 10,000 people annually through programs and services that enhance skills and employment opportunities.

Autry currently offers 26 full-time career programs from air conditioning to culinary arts, to radiography, to welding, and several other critical, applied skills used nationwide.

Public, non-profit centers in the Oklahoma Career-Tech system, like Autry Technology Center in Enid, are proven to significantly contribute to the economic development and quality of life in Oklahoma, especially our returning veterans.

Career and technical education centers are vital as a post-secondary education option and workforce training system for our veterans, but, under the Obama administration, the VA took action to block certain tech center benefits from our vets. Since March 2016, the VA has not allowed the Post-9/11 GI Bill to pay for any form of independent study from a non-degree producing institution, including CTEs. In many cases, this hindrance precludes veterans from utilizing these courses or pursuing these certificate programs.

CTEs, much like their college and university counterparts, are utilizing internet based courses as a component of their programs to provide flexibility for working adults and veterans to better accommodate their lifestyles and encourage learning.

Marcie Mack, the State Director of the Oklahoma Career-Tech system, told me last week that, "Oklahoma's Career-Tech system is committed to serving U.S. military veterans; however, with current Federal policy there are obstacles for our veterans to be able to participate in Oklahoma's Career-Tech system and receive their benefits."

To address the current policy issues, I have introduced S. 1356 along with Senator Cornyn, clarifying the law to ensure accredited CTE programs can continue to receive GI Bill benefits even if a portion of the program is done by independent study. This language, from section 5 of the discussion draft, is supported by Student Veterans of America, the American Legion, and the United States Department of Veterans Affairs.

In the time since I have been working on this legislation, I have heard concerns from this Committee about whether this would open the door for bad actors in the education space to take advantage of these benefits.

My staff, along with the staff of this Committee, have explored these concerns and have made modifications to the language to ensure the bill does not have negative, unintended consequences. While many non-degree programs at area CTE centers are already accredited and eligible for other Federal financial aid programs outside of the Post-9/11 GI Bill, this bill has an additional quality control measure of limiting access to only programs that are accredited by a recognized accrediting body—which is the standard across higher education. I am committed to ensuring positive outcomes for veterans who enroll in these programs. It is my hope that the Committee will quickly consider this legislation so that veterans in Oklahoma and across the Nation can achieve career success after leaving the service.

I deeply appreciate the attention the Committee has given to my bill, and I look forward to continuing my work with you to ensure this issue is addressed.

LETTER FROM ERIC LACHICA, EXECUTIVE DIRECTOR FOR ACFV LEADERS,  
AMERICAN COALITION FOR FILIPINO VETERANS

American Coalition for Filipino Veterans, Inc.  
E-mail: [usfilpinoveterans@gmail.com](mailto:usfilpinoveterans@gmail.com) 867 North Madison St., Arlington VA 22205  
<http://usfilvets.tripod.com> Phone: 202-246-1998



June 15, 2017

The Honorable Johnny Isakson, Chairman Senate Veterans Affairs Committee The Honorable Jon Tester, Ranking Member & Members of the Committee Senate Russell Bldg. Room 412 Washington DC 20510 Submitted for the June 15, 2017 Hearing

**RE: The Filipino Veterans Promise Act S. 111**

Dear Chairman Isakson, Ranking Member Tester and Committee Members:

On behalf of the members and leaders of the American Coalition for Filipino Veterans, a national advocacy organization, I proudly endorse this timely bill: the Filipino Veterans Promise Act (S. 111) introduced by Senator Dean Heller and Senator Mazie Hirono.

S. 111 would require the Secretary of the Defense Department "to establish a process to determine whether individuals claiming service in the Philippines during World War II are eligible for certain benefits despite not being on the Missouri List." And thus recognize Filipino soldiers who served in the U.S. Army in WWII but were denied their Filipino Veterans Equity Compensation (FVEC) benefit. This bill would help resolve the estimated 4,525 appeals for FVEC like in the cases of Mr. Celestino Almeda, age 100, and several of our members in their nineties.

In 1946, more than 200,000 of these Filipino soldiers were honorably discharged by the U.S. Army, provided with U.S. official documentation and were paid by the Philippine Commonwealth Army of the United States Army. Unfortunately, thousands of our Filipino heroes were denied official recognition and veteran benefits because they were not included in so called "1948 Missouri List" of the U.S. Army.

If enacted into law, this bill would compel the U.S. Army and the VA Departments under administrative authority of the Secretary of Defense to revise and update their policies and procedures and thereby recognize the meritorious claims of thousands of Filipino veterans and surviving spouses. The FVEC Compensation fund has about \$56 million remaining and sufficient to cover future awards.

Over the past two decades, there have been several congressional hearings and laws passed on the Filipino WWII veterans' recognition and VA benefits program and deal with the US Army stubborn refusal to correct their administrative policy of limiting recognition to the so called "Missouri list." We urge your committee to adopt the April 10, 2013 recommendation of **The White House "Filipino Veterans Equity Compensation Interagency Working Group"** and approve S.111. See copy of IWG memo and a list of vital reference documents to be provided to your committee.

We deeply appreciate your committee's hearing on the Heller-Hirono sponsored bill. We applaud our bipartisan co-sponsors. We urge your Committee to support and mark up S. 111. Congress can pass this legislation to fix a historical wrong and correct an incomplete official list of our heroes.

*Maraming salamat* or many thanks!  
Sincerely yours,

*Eric Lachica*

**ERIC LACHICA**, Executive Director for ACFV leaders:

President Mr. Patrick Ganio Sr., Jacksonville FL, LOS ANGELES: Franco ARCEBAL, Membership Vice-president 213-626-0485 Los Angeles, SAN DIEGO: Bert ANDRADE, SAN FRANCISCO: Regino NACUA SAN JOSE: Sarah GONZALEZ, DELANO: Ernesto ANOLIN, SACRAMENTO: Monina NUEGA, SEATTLE: Conrado RIGOR & Thelma SEVILLA, HAWAII: Art CALEDA & Pastor GARCIA, LAS VEGAS: Ceasar ELPIDIO, MARYLAND: Celestino ALMEDA & Angelyn Tugado-MARZAN & Chaplain Georgette BELTRAN, PHILADELPHIA: Senen FONTANILLA, NEW JERSEY: Jose RED, NEW YORK: Rafael DE PERALTA, FLORIDA: Dick AQUINO, TEXAS: Gus MERCADO, VIRGINIA: Maurese Oteyza-OWENS & Rudy PANAGLIMA and others.

## PREPARED STATEMENT OF THE U.S. DEPARTMENT OF DEFENSE

CHAIRMAN ISAKSON, RANKING MEMBER TESTER, AND MEMBERS OF THE COMMITTEE, The Department of Defense (DOD or the Department) appreciates the opportunity to provide this statement for the record addressing legislation pending before the Committee. Given that the funding and administration of the Post-9/11 GI Bill fall under the purview of the Department of Veterans Affairs, this statement will focus on only legislation that will affect the Department of Defense; we defer to the Department of Veterans Affairs to provide responses on those bills with no significant DOD impacts.

## S. 111. FILIPINO VETERANS PROMISE ACT

This bill would require the Secretary of Defense, in consultation with the Secretary of Veterans Affairs and military historians, to establish a process to determine whether individuals claiming certain service in the Philippines during World War II are eligible for certain VA benefits despite not being on the Missouri List. The Department does not support any further legislation concerning determining service eligibility for the WWII Filipino Guerilla Veterans. The Army has a program in place that makes verifications. This program, due to its thorough processes, is the foundation for the Army's policy for making final service determinations for eligibility. The Department maintains complete confidence that the records and files completed in 1948 provide the best and most accurate determination of service.

## S. 410. SHAWNA HILL POST-9/11 EDUCATION BENEFITS TRANSFERABILITY ACT

This bill would amend title 38, United States Code (U.S.C.), to authorize the transfer of unused Post-9/11 educational assistance benefits to additional dependents upon the death of an originally designated dependent.

The Department fully supports identifying ways to safeguard education benefits for Servicemembers and veterans by ensuring additional dependents can use the benefit in the event of the death of the dependent originally designated. By closing this potential coverage gap, the benefit, which has already been earned, will not go unused.

However, given that both the funding and administration of this benefit fall under the purview of the Department of Veterans Affairs, DOD would defer to that agency to determine the costs and effects of the bill on their Department.

## S. 473. EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017

This bill amends title 38, U.S.C., to make qualification requirements for entitlement to Post-9/11 Education Assistance more equitable, to improve support of veterans receiving such educational assistance, and for other purposes. We will only comment on those provisions that directly affect DOD.

Section 2 amends the definition of qualifying active duty for the Post-9/11 GI Bill in section 3301(1)(B), title 38, U.S.C. to ensure that an order to serve on active duty under sections 12304a and 12304b of title 10 is treated identical to other orders to serve on active duty for determining the eligibility of members of the uniformed services and veterans for certain benefits, and for calculating the deadlines for certain benefits.

This bill would allow National Guard and Reserve Component (RC) members who are involuntarily activated under sections 12304a or 12304b of title 10 U.S.C., to receive the same benefits as those RC members who support comparable operations, but are activated under other authorities, such as section 12302.

Although the Department can support this provision, the Department is currently developing a more comprehensive solution as part of our Reserve Component Duty Status Reform effort. By enacting this legislation this cycle, Congress would resolve some of the most common RC duty status pay and benefit inequities in a more expeditious manner. However, the Department recommends making the change prospective only, due to the expected cost and complexity associated with implementation.

Given both the funding and administration of this benefit fall under the purview of the Department of Veterans Affairs, DOD would defer to that agency to determine the costs and effects of the bill on their Department.

Section 7 of the bill would amend the process for adjusting the monthly benefit for members of the Selected Reserve training under the provision of the Montgomery GI Bill—Selected Reserve (Section 16131(b)(2) 10 U.S.C.). Currently the Montgomery GI Bill—Selected Reserve (MGIB-SR) monthly benefit rate is annually increased by the Consumer Price Index (CPI) for the 12-month period ending on the June 30, preceding the beginning of the fiscal year for which the increase is made, while the Montgomery GI Bill (Chapter 30, 38 U.S.C.), monthly benefit is annually

increased by the average cost of undergraduate tuition in the United States, as determined by the National Center for Education Statistics, for the last academic year preceding the beginning of the fiscal year for which the increase is made. This amendment partially aligns the process to determine the annual increase in the monthly benefit for the Montgomery GI Bill—Selected Reserve (MGIB-SR) with the process in place for annual increases in the Montgomery GI Bill, but rather than establishing the annual increase as a fixed rate, it allows a rate adjustment of “not less than the percentage by which.” This change will require a positive determination by the Secretary of Defense each year on the rate adjustment—whether to leave it at the rate of education increase, or whether a higher increase may be warranted. While the Department generally supports provisions that provide us such flexibility, since the increase in the cost of education generally outpaces the increase in the CPI, we would ask that the effective date be delayed to allow the Services to budget for such an increase.

S. 844. GI BILL FAIRNESS ACT 5 OF 2017

This draft bill would consider active duty performed under the authority of title 10, United States Code, section 12301(h), as qualifying active duty for the purposes of Post-9/11 GI Bill education benefits. Reserve component members wounded in combat often are given orders to active duty under this provision to receive authorized medical care, to be medically evaluated for disability, or to complete a required health care study. However, as currently written, section 3301(1)(B), of title 38, United States Code, does not include active duty performed under 12301(h) as qualifying active duty for purposes of Post-9/11 GI Bill educational assistance.

Currently, when a member of the Reserve Component on active duty sustains an injury due to military operations, the Servicemember is not discharged, but remains in the Selected Reserve on active duty under 12301(h), title 10, U.S.C.. None of the time spent in recovery under this status is qualifying time for purposes of the Post-9/11 GI Bill. In this case, the Servicemember would return to Selected Reserve status with less qualifying time than those who served an entire period of active duty without an intervening injury. This legislation would correct this inequity by simply extending eligibility for the Post-9/11 GI Bill to service under 12301(h).

DOD recognizes the inequity of not including this active duty time for purposes of Post-9/11 GI Bill benefits, and included a provision similar to this bill in our FY 2016 legislative proposal submission. However, the DOD proposal would have included only active duty performed after enactment. In contrast, this legislation would be retroactive, categorizing all duty performed under 12301(h) since September 11, 2001, as qualifying active duty for purposes of the Post-9/11 GI Bill. We estimate that approximately 5,000 RC members performed active duty under 12301(h) each year since September 11, 2001. Accordingly, we believe this draft bill would generate an additional cost to the Department of Veterans Affairs. Given that both the funding and administration of the Post-9/11 GI Bill fall under the purview of the Department of Veterans Affairs, DOD would defer to that agency to determine the costs and effects of the bill on their agency.

S. 882. A Bill to provide for the entitlement to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs for members of the Armed Forces awarded the Purple Heart, and for other purposes

This Bill would amend title 38, U.S.C., to authorize any member of the Armed Forces who is awarded the Purple Heart eligibility for the Post-9/11 GI Bill at the 100 percent rate, regardless of months of qualifying active duty, and make them eligible to participate in the Yellow Ribbon GI Bill Education Enhancement Program (Section 3317(a), 38 U.S.C.). The Department fully supports recognizing the service and sacrifice of our Servicemembers who are wounded and awarded the Purple Heart. However, given that both the funding and administration of this additional benefit fall under the purview of the Department of Veterans Affairs, we would defer to that agency to determine the costs and effects of the bill on their Department.

S. 1218. EMPOWERING FEDERAL 5 EMPLOYMENT FOR VETERANS ACT OF 2017

The Department strongly supports S. 1218, which is in line with current strategic recruitment and employment outreach initiatives performed by the Department for wounded, ill, injured, and transitioning servicemembers and veterans. This bill upholds and will strengthen the Department’s continuing support to provide specialized transition assistance to the civilian workforce and promote the Federal Government as an “Employer of Choice.”

Consistent with the bill’s provisions, the Department has designated an employee with full time responsibility for carrying out a Veterans Employment Program.

DOD's Veterans Employment Program Office (VEPO), within the Office of the Under Secretary of Defense for Personnel and Readiness, established in 2009, is responsible for the development and management of DOD's Veterans Employment and Hiring Heroes Programs, as well as DOD's Veterans Recruitment and Employment Operational Plan, to enhance and promote employment opportunities for veterans, and veteran's recruitment programs. As an example, the Hiring Heroes program provides job search assistance to wounded, ill, and injured servicemembers, transitioning servicemembers, veterans, military spouses, and primary caregivers, providing these warriors and families specialized transition assistance into the civilian workforce. Since April 2005, the Department has conducted 87 highly successful "Hiring Heroes Career Fairs," providing opportunities for job seekers to network, collect information and speak face-to-face with recruiters and employers about civilian career opportunities.

The provisions of S. 1218 will better enable the Department to execute recruitment and outreach activities such as the Hiring Heroes Program, along with career readiness programs, which have been developed to assist transitioning servicemembers and veterans in their search of employment.

The Department also supports Section 4 of this bill, "Expansion of SkillBridge Initiative to Include Participation by Federal Agencies." This expansion of the successful DOD SkillBridge initiative, to also include Federal agencies as participants, would greatly strengthen the initiative and its positive impact on transitioning Servicemembers. After Congress authorized SkillBridge in the FY 2013 NDAA, the program allowed transitioning Servicemembers to participate in employer-driven job skills training, apprenticeships, and internship programs, beginning up to six months prior to transitioning out of the military. Through such participation in private-sector SkillBridge training, transitioning Servicemembers have received jobs in dozens of industries, from corporate finance to advanced manufacturing, information technology, and cyber security. Just as businesses have greatly benefited from the program and the talents our highly trained Servicemembers bring, so too will Federal agencies. The expansion to Federal agencies as eligible employers and trainers under the program will provide a true win-win for both the Federal Government and transitioning Servicemembers.

#### S. 75. ARLA HARRELL ACT

This proposed legislation would require DOD and the Department of Veterans Affairs to jointly establish a policy on the process future claims for mustard gas exposure. In addition, DOD would need to issue a policy on sites where such testing occurred, and investigate and report to Congress on any new sites where veterans claimed testing occurred. The Department opposes this legislation. The legislation is inconsistent as to whether it only applies to full-body exposure claims. While DOD would agree to a presumption of exposure if limited to World War II veterans who participated in testing of full-body exposure, for the individuals to whom section 3(a)(1) of this legislation would apply, the Department has no evidence of such testing that would prove or disprove the exposure. However, use of mustard gas during training in World War II was ubiquitous, so the legislation needs to be clear to delimit possible claims to those who participated in full-body exposure testing and whose claims were previously denied by VA.

Furthermore, the Department would be required to investigate and report on possible addition to the list of sites known to have conducted full-body exposure testing. However, if full-body exposure is presumed based solely upon a veteran's statement, then the number of sites at which testing occurred is immaterial. The Department of Defense has already investigated, and provided to Congress everything we know about testing sites.

The data this legislation would require DOD to report is duplicative of information the Department has already provided to Congress. In November 2015, DOD, specifically the Under Secretary of Defense for Acquisition, Technology and Logistics, provided the known list of sites where testing occurred in response to a request of the Senate Committee on Aging. In addition, the Institute of Medicine published a report on these tests, "Veterans at Risk: The Health Effects of Mustard Gas and Lewisite," National Academy Press (1993). Similarly, the Government Accountability Office published two reports that included information about these tests, "VETERANS DISABILITY: Information from Military May Help VA Assess Claims Related to Secret Tests," February 1993, and "DOD and VA Need to Improve Efforts to Identify and Notify Individuals Potentially Exposed during Chemical and Biological Tests," February 2008.

## CONCLUSION

In conclusion, the Department of Defense fully supports appropriate and effective legislative changes that will help our efforts to attract, recruit, and retain talented individuals. Post-service education benefits have been a cornerstone of our military recruiting and retention efforts since 1985, and a major contributor to the continued success of the All-Volunteer Force. Higher education benefits have been and remain at the forefront of reasons cited by young Americans for joining the military. From its inception, we fully expected the Post-9/11 GI Bill to continue to have this impact and we are seeing that happen in the form of sustained recruiting and retention success. The Department thanks the Committee for their continuing support of our Servicemembers and Veterans.

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PREPARED STATEMENT OF SAM SHELLENBERGER, DEPUTY ASSISTANT SECRETARY,  
VETERANS' EMPLOYMENT AND TRAINING SERVICE, U.S. DEPARTMENT OF LABOR

## INTRODUCTION

Chairman Isakson, Ranking Member Tester, and distinguished Members of the Committee: thank you for the opportunity to provide a statement for the record of today's hearing. I commend the Committee for its tireless efforts to ensure that America fulfills its obligations to our Veterans, their families, and their caregivers. The Department of Labor (DOL or the Department) also works each day to help ensure all Veterans have the opportunity for meaningful long-term employment.

The Department is the Federal Government's leader on training and employment services. DOL has the expertise and the nationwide network to facilitate employment opportunities and skills training for anyone who needs them, including Veterans. The Administration relies on the Department's integrated network and programs to provide positive employment outcomes for the men and women who serve our country.

While this hearing is focused on several bills under consideration by the Committee, I will limit my statement specifically to S. 1218, the "Empowering Federal Employment for Veterans Act."

## S. 1218, THE "EMPOWERING FEDERAL EMPLOYMENT FOR VETERANS ACT OF 2017"

S. 1218 seeks the establishment of Veteran employment programs within Federal agencies. This bill would require each "covered" Federal agency (including DOL) to either establish a Veterans Employment Program Office, to be managed by a Veterans employment official, or to designate an employee of the covered agency to carry out a Veterans Employment Program for the covered agency; the agency also must ensure the public availability of contact information for Veterans' employment officials to ensure engagement with prospective applicants. The bill also would establish an Interagency Council on Veterans Employment to handle matters relating to the employment of Veterans. The Council would be co-chaired by the Secretaries of Labor and Veterans Affairs, with the Director of the Office of Personnel Management (OPM) serving as the Vice Chair. The Council's duties would include advising and assisting the President and the Director of the OPM on matters involving a coordinated Government-wide effort to increase the number of Veterans employed by the Federal Government in positions that match the skills and career aspirations of Veterans; this would involve enhancing recruiting, hiring, retention, training and skills development, and job satisfaction. The Council would establish performance measures to assess the Federal Government's effectiveness in these areas. Additionally, the Council would serve as a national forum for promoting employment opportunities for Veterans in the executive branch. Finally, the Council would report on the effectiveness of these efforts to the President and to Congress within one year of the bill's enactment, and annually thereafter.

DOL, along with other Departments, established a Veterans Employment Program Office pursuant to Executive Order 13518 in November 2009. Since that time, the Department has increased representation of Veterans in its workforce from 17 percent in FY 2009 to 21.3 percent in FY 2015, and disabled Veterans' representation has increased by approximately 5.3 percentage points during the same period for the overall workforce.<sup>1</sup>

In comparing DOL's workforce representation of Veterans and disabled Veterans against Comparable Federal Agencies (CFA), DOL's percentages of representation

<sup>1</sup> See OPM FY 2009 and FY 2015 Reports on *Employment of Veterans in the Federal executive branch*

exceed those of the CFA. Since the inception of the Veterans Hiring Model, approved in FY 2015 by the Council on Veterans Employment (also established pursuant to Executive Order 13518), DOL has maintained an Exemplary Performance Rating for increasing Veteran hiring. These hiring practices are similar to those for private sector employers to receive recognition under the HIRE Vets Medallion Program, as established in the HIRE Vets Act of 2017. The HIRE Vets Act requires the Department to establish a HIRE Vets Medallion Program to recognize employer efforts to: (1) recruit, employ, and retain Veterans; and (2) provide community and charitable services supporting the Veteran community. The Department continues its work to establish this program, and looks forward to updating the Committee on its progress.

We note also that, through the efforts of the existing Interagency Council on Veterans Employment, comprising some 24 Federal agencies, Veterans' share of new hires in the Executive branch has increased from 24 percent to 32.5 percent—an unprecedented increase in Veteran hiring.<sup>2</sup> This has been achieved through the Council's establishment of a strategic plan and Veterans' hiring model in the Executive branch, as well as through establishment of performance measures to gauge the success of those efforts. The Council has afforded each of those agencies a role in oversight of programs affecting Veteran hiring and employment and a forum to discuss topical issues, address and resolve problems, and make better informed policy recommendations.

Additionally, the Department provides training and employment services for Veterans and transitioning servicemembers who may be interested in a career with the Federal Government through its Veterans' Employment and Training Service (VETS). VETS' mission is focused on four key program areas: (1) preparing Transitioning Servicemembers for meaningful careers through the Transition Assistance Program (TAP) Employment Workshop and Career Technical Training Track; (2) providing Veterans with employment resources and expertise at the nearly 2,400 American Job Centers across the country; (3) protecting Veterans' employment rights with administration of the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Veterans Preference in Federal Hiring; and (4) promoting the employment of Veterans and related training opportunities to employers across the country through our national employer outreach effort. VETS is able to accomplish its mission by working closely with other parts of the Department, including, for example, the Employment and Training Administration (ETA), which administers programs under the Workforce Innovation and Opportunity Act that provide employment and training services, and give Veterans (and qualified military spouses) priority of service status. DOL's Office of Federal Contract Compliance Programs also supports the hiring of Veterans through the Vietnam Era Veterans' Readjustment Assistance Act (or "VEVRAA"). VEVRAA prohibits companies that are doing business with the Federal Government from discriminating in employment against protected Veterans, and requires that these employers take affirmative action to recruit, hire, promote, and retain these Veterans. The progress of covered contractors is measured against an annual hiring benchmark. Together, these DOL programs provide a unified approach to serving the employment needs of Veterans, transitioning servicemembers, and their families.

The bill also would require the Secretary of Defense, in consultation with the Director of OPM, to make needed modifications to the SkillBridge initiative to enable Federal agencies to participate in the initiative as employers and trainers—including the provision of training by Federal agencies under the initiative to transitioning members of the Armed Forces. The Department of Defense's (DOD) SkillBridge initiative promotes the civilian job training authority available for transitioning servicemembers; servicemembers who qualify can participate in civilian job and employment training, including apprenticeships and internships. Under the bill, the Director of OPM, in consultation with the Secretary of Defense, would be required to take necessary actions to ensure that each Federal agency participates in the SkillBridge initiative.

DOL fully supports expanding the SkillBridge initiative to include Federal agency participation, as this would further broaden employment and training opportunities for transitioning servicemembers, and serve as a pipeline to enhance the Federal civilian workforce. Since the inception of SkillBridge, the Department has been working with DOD to help communicate the program to both transitioning servicemembers and employers. The Department supports using the SkillBridge authority to provide transitioning servicemembers access to and experience in Federal employment opportunities before they transition out of the military, which would enhance their ability to successfully reintegrate into civilian life.

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<sup>2</sup>Id.

## CONCLUSION

DOL's focus on employment is part of our core mission and competency. Creating opportunities for our Veterans to thrive in the civilian economy through meaningful employment is a priority for DOL, and we work closely with our partners at the Departments of Veterans Affairs and Defense to do so. The Department looks forward to working with the Committee to help ensure that our transitioning servicemembers and Veterans, and their families, have the resources and training they need to successfully transition to the civilian workforce. Chairman Isakson, Ranking Member Tester, distinguished Members of the Committee, this concludes my statement for the record. Thank you for the opportunity to be a part of this hearing.

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PREPARED STATEMENT OF THE ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES

S. 473, EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017  
(SEN. TESTER, SEN. BLUMENTHAL, SEN. BROWN, SEN. MURRAY)

The Enlisted Association of the National Guard of the United States (EANGUS) supports S. 473, "Educational Development for Troops and Veterans Act of 2017." S. 473 addresses numerous initiatives effecting Reserve Component (RC) Servicemembers in a positive manner. First and foremost, if passed S. 473 would extend Post-9/11 GI Bill benefits to Servicemembers ordered to active duty status under 10 U.S.C. § 12304b status. In Fiscal Year (FY) 2016, DOD requested 10,107 Man-years. In FY 2017, DOD requested 11,124 Man-Years, and in its FY 2017 request for additional appropriations, DOD requested 18,738 Man-Years for 10 U.S.C. § 12304b duty status. Many EANGUS members deployed under this duty status, did not receive education benefits, and did not know they were not getting the benefit until after they returned home. The National Guard and Reserves recruit and retain Servicemembers by offering Post-9/11 GI Bill benefits, and it is unfair break in faith not to provide those very benefits based on a type of duty status.

EANGUS is supportive of other provisions in S. 473. We applaud Section 5 to defer student loans in connection with receiving orders for mobilization for war or national emergency. We support section 6 regarding veteran student centers and grants for veteran student centers. Sections 7 and 8 address adjustments and stipends for RC Servicemembers aiming to combat recent increases to undergraduate tuition costs. EANGUS fully supports these sections. We ask the Committee vote in favor of S. 473 and move the legislation forward for consideration before the Senate.

S. 844, GI BILL FAIRNESS ACT OF 2017 (SEN. WYDEN, SEN. BOOZMAN)

EANGUS fully supports S. 844 to extend the time spent receiving authorized medical care or medical evaluation for disability as active duty for purposes of eligibility for Post-9/11 GI Bill Educational Assistance. Reserve Component Servicemembers receiving medical care or evaluation are placed on 10 U.S.C. § 12301(h), which is an active duty status, and should continue to accrue the same benefits as the other active duty statuses. The Servicemember, recovering from service-connected wounds, should earn Post-9/11 GI Bill education benefits just as they would if they were forward deployed, and had not been wounded in the first place. We only support this effort if the member is placed on 10 U.S.C. § 12301(h) status for thirty days or longer. We ask the Committee vote in favor of S. 844 and move the legislation forward for consideration before the Senate.

S. 882, PURPLE HEART GI BILL ACT (SEN. ROUNDS, SEN. BOOZMAN)

Our organization fully supports S. 822 to extend one-hundred percent Post-9/11 GI Bill eligibility to all Purple Heart recipients. Currently, only those Servicemembers that serve 36 months or more on active duty, or are medically retired, receive one-hundred percent of the Post-9/11 GI Bill benefit. EANGUS is particularly concerned that current law omits many Purple Heart recipients that deployed with a Reserve unit because they were activated for less than three years. Any Servicemember that is not medically retired and served fewer than 36 months receives only a prorated portion of the education benefit, and we feel that this is unfair. We ask the Committee vote in favor of S. 822 and move the legislation forward for consideration before the Senate.

## DISCUSSION DRAFT ON CHANGES TO GI BILL

**Sec. 10. Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by school closure.**

EANGUS supports the Senate Veteran's Affairs Committee's consideration to restore Post-9/11 education benefits to Servicemembers suffering a discontinuation of education due to a school closure. Furthermore, in the event of a school closure, we are supportive of any effort to provide housing stipends to Servicemembers until the end of the semester or term. Our association's membership has been negatively impacted by a school closure and we would be supportive of any effort by the Committee to protect Servicemembers from school closures. We ask the Committee to support Section 10 of the GI Bill discussion draft before you and move the legislative language forward for consideration before the Senate.

## DISCUSSION ON THE GUARD RECRUITING ASSISTANCE PROGRAM (G-RAP)

We would be remiss if we didn't mention the thousands of veterans in the National Guard who have been targeted by Army CID agents who, without proper authority, have rounded up and interrogated Guard members as if they were on the Ten Most Wanted List, all because of their involvement in the Guard Recruiting Assistance Program (from 2005 to 2012).

Regrettably there was misconduct within G-RAP; that misconduct was widespread across a number of military recruiting programs (not just the National Guard) and those individuals were caught and righteously punished years ago. Yet, here we are, five years after G-RAP ended, and Guard Soldiers are still being interrogated by CID in cases where they helped recruit only one person into the Guard under a program with confusing and often conflicting rules! Many say this massive investigation is simply an effort to justify the wildly inaccurate sworn testimony to Congress by Army General Officers. Others have said the entire debacle is a massive violation of the Posse Comitatus Act.

State leaders have been missing in action while Soldiers, who never intended to violate any rule, much less a law, keep getting crushed. Among other examples of how this defective investigation went wildly off the rails:

- Pre-dawn tactical team raids on the homes of 20+ Guardsmen and former Guardsmen in Puerto Rico.
- CID 24-hour surveillance of Guardsmen suspected of G-RAP misconduct (years before) in New Mexico.
- Investigations remaining open and lingering for over 5 years in Tennessee.
- Highly trained, Special Forces Soldiers being barred from re-enlistment in Colorado after findings of innocence in civilian court.
- At least one confirmed G-RAP investigation related suicide in California.
- Federal lawsuits in Texas demanding three times the G-RAP payments.
- Federal Criminal Histories created on thousands of Guardsmen nationwide, without criminal charges ever being filed.

It's true that some Adjutants General and their staffs have quietly rejected CID's faulty investigations and sent agents packing. But that's done little to stop CID's never ending ADOS funded campaign. Long after the Army Reserve CID agents are finally sent home, the ramifications and collateral legal consequences to Soldiers will continue for years to come; those who were titled have a permanent FBI file enumerating the "crimes" that they were investigated for—regardless of whether or not charges were even filed.

In the military, we talk about duty. A lot. We like to say that above everything else—above politics, above political leaders and parties, our sworn duty is to the Constitution. We purportedly stand for the bedrock principles found in the Bill of Rights. But the harsh truth is that the G-RAP investigations are an misapplication of Due Process, and a wholesale trampling of the Presumption of Innocence. And yet, the Army CID machine continues to chew up Guardsmen most often without leadership even asking a single question. Worse, some Guard leaders reflexively accept flawed CID conclusions and partial reports as gospel. Collectively, we've become a silent participant by standing by, watching and doing nothing.

G-RAP investigations have shown an abdication of leadership, a willingness to leave a fallen soldier behind, an inclination to accept false testimony from CID, and a failure to honor the Bill of Rights for those who swore on their lives to defend it. Think about this: If you're one of the thousands of Guardsmen subjected to a G-RAP investigation and the lingering scars, would you encourage young people to join the Guard? Betrayal is the wound that cuts the deepest. Our association demands that the Army CID investigations immediately cease and that restitution be made to those who did no wrong, to include expungement of any criminal record.

PREPARED STATEMENT OF SCOTT CRAWFORD, HIGH GROUND VETERANS FELLOW,  
HIGH GROUND VETERANS ADVOCACY

**Chairman Isakson, Ranking Member Tester, and distinguished Members of the Committee:**

Thank you for allowing me the opportunity to offer testimony regarding a policy that will save tax dollars, help veterans reach their educational goals, and prevent a substantial amount of waste administering Department of Veterans' Affairs (VA) educational benefits.

My policy proposal focuses on the Joint Services Transcript (JST). The JST is a record administered by the Department of Defense that lists training a service member received while in the military. The American Council on Education (ACE) evaluates this training and converts it into meaningful college credit hours that a veteran can apply towards a degree. Over recent years, various initiatives have improved both access to, and the value of, the JST. Despite this, however, data suggest that around half of all veterans do not take advantage of the JST by applying it toward the degree program for which they use their GI Bill.

Currently, the Department of Defense maintains an online database that provides easy access to a veteran's JST.<sup>1</sup> The VA administers educational benefits by requiring that eligible veterans complete an authorization form for the allocation of benefits at the beginning of each semester. I suggest that the VA use this authorization process to also gain authorization to request the JST on a veteran's behalf, and then subsequently send the JST to the same institution at which the veteran requested their benefits be applied.

After carefully evaluating the wasted benefits and tax dollars this inefficiency causes, it seems apparent that the following law is nothing short of good common sense.

**LEGISLATIVE DRAFT SUGGESTION**

**S. \_\_\_\_\_ – Joint Services Transcript Efficiency Act**

This bill will direct the Department of Veterans' Affairs to automatically and without undue delay send the Joint Services Transcript to an eligible veteran's academic institution upon receiving the appropriate authorization to disperse that veteran's education benefit to said institution.

For the purposes of this bill:

- The Joint Services Transcript is the transcript authorized and described under 32 C.F.R. § 68.3 (2014).
- Veteran education benefit is any education benefit authorized under Title 38 U.S.C.

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<sup>1</sup> See JST System Online at <https://jst.doded.mil/>

### Discussion – Analyzing Financial Impact

The majority of studies on which I relied during my research were not designed to evaluate the impact of the JST. As such, the available data was often incomplete or required some degree of speculation with respect to the likely effects of this policy. Further, other variables and projected benefits of this policy depend upon data that is either non-existent or cannot not be known until the policy is implemented. Acknowledging these limitations, I will do my best in the following paragraphs to accurately analyze the potential impact of this policy and identify unknown data that could affect it.

First, it is important to understand the distinction between waste prevented and costs saved by this policy. Prevented waste strictly refers to using GI Bill benefits on education that would have been otherwise satisfied by the JST. Cost savings refers to actual dollars that would not have been paid out had the veteran applied the JST. To illustrate, see the following hypotheticals:

- *“Veteran A” successfully transfers one semester of credit hours to the college she attends using the JST. As a result, three and a half years later she graduates a semester earlier than she would have otherwise and still has remaining GI Bill benefits. She never uses the remaining benefit. Result – One semester of cost savings and prevented waste.*
- *“Veteran B” uses the JST to successfully transfer one semester of credit hours to his college, but decides not to pursue a degree after his first semester. Result – Zero cost savings, but one semester of wasted benefits still prevented.*
- *“Veteran C” is just like “Veteran A,” except this veteran exhaust the remaining GI Bill benefit for the first semester of an advanced degree program. Result – Zero cost saving, but one semester of wasted benefit still prevented.*

### Evaluation of Waste

Every year around 200,000 student veterans use the GI Bill for the first time.<sup>2</sup> Half of these veterans will never request that their JST be applied to the academic institution they attend.<sup>3</sup> This policy will therefore primarily apply to the 100,000 who never request the benefit.

Veterans who do request the JST successfully transfer an average of 18 credit hours. We can therefore reasonably assume that the JST will supplement at least one semester of college for most veterans. The cost of one semester of college varies significantly, but the following are national averages: Two-Year Public College—\$1,750 (in-state), Four-Year Public University—\$5,000 (in-state), Private Non-Profit University—\$17,000, and Private For-Profit University—\$8,000.<sup>4</sup>

By projecting data from previous studies, we can roughly estimate how many veterans will attend each type of institution. Of the 100,000 veterans who never request a JST: 10,000 will attend a two-year public institution, 54,000 will attend a four-year public university, 13,000 will attend a private non-profit university, and 21,000 will attend a private for-profit university. Using this data, we can project a total cost of \$676,500,000 in tuition and fees spent on 100,000 veterans for one semester of college.

<sup>2</sup> <http://benefits.va.gov/REPORTS/abr/ABR-Education-FY15-02032016.pdf>

<sup>3</sup> *Military Veterans' Experiences Using the Post-9/11 GI Bill and Pursuing Postsecondary Education. A Study by the Rand Corporation – Pg. 32 PDF available at [http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND\\_MG1083.pdf](http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1083.pdf)*

<sup>4</sup> National Tuition Averages available at <https://trends.collegeboard.org/college-pricing/figures-tables/average-published-undergraduate-charges-sector-2016-17>

(This does not account for the Basic Housing Allowance (BAH) or the book stipend that the GI Bill also provides. These costs will be discussed in one of the following sections.)

**In sum:**

- 200,000 student veterans begin using GI Bill benefits every year.
- 100,000 of these veterans never request their JST
- On average, each veteran would have satisfied one semester of school had it been requested.
- Result – \$676,500,000 of wasted benefits are spent annually on tuition and fees alone.

Before evaluating the cost of BAH and the book stipend, it is necessary to distinguish between those veterans who finish a degree program and those who do not. When evaluating the cost of BAH and the book stipend, this policy will have no cost savings for veterans who do not complete their degree program (however, it would still prevent wasteful spending). The money spent on BAH and the book stipend would have been spent regardless with no lasting, material benefit. For this reason, we will only account for veterans who complete their degree programs when evaluating cost savings in relation to BAH and the book stipend. 50% of veterans complete or graduate the education programs they enter<sup>5</sup>. Accordingly, we can estimate that 50,000 of the 100,000 veterans annually who do not request their JST will complete their degree or program.

The national BAH average in the 2015-2016 fiscal year was just over \$1500 per month. This number will be used to evaluate cost. It should be noted that the actual average paid out to GI Bill beneficiaries is likely much higher, because veterans naturally attend schools in urbanized areas with a much higher BAH rate. To arrive at a more conservative estimate however we will assume this lower rate. For the purposes of this evaluation, one semester of school will equal four months (the average is closer to five months, but again, in the interest of reaching a conservative estimate). In sum, over \$6,000 per semester is spent on BAH for every veteran. When applied to the 50,000 veterans who complete their degree each year, this results in a sum in excess of \$300,000,000.

In addition, the book stipend is \$500 per semester. When applied to 50,000 veterans, this equates to another \$25,000,000. Totaling \$325,000,000 paid out annually only to those veterans who complete their degree program and never request the JST.

**In sum:** \$325,000,000 of benefits are needlessly spent of BAH and book stipend payments.

**Potential Cost Savings**

Considering only the 50% of veterans who finish their degree program, \$338,250,000 of benefits are spent on tuition and fees that could have otherwise been satisfied had the JST been applied. Another \$325,000,000 is needlessly spent on BAH and book stipends. If every veteran were like “Veteran A” from the hypothetical mentioned earlier, then this would result in a total cost saving of \$663,250,000 while still achieving the same educational goal. Of course, not every veteran will leave their remaining benefit unused. This unknown is the biggest variable with respect to the total cost savings potential of

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<sup>5</sup> *Military Veterans' Experiences Using the Post-9/11 GI Bill and Pursuing Postsecondary Education.* A Study by the Rand Corporation – Pg. 32-33, PDF available at [http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND\\_MG1083.pdf](http://www.rand.org/content/dam/rand/pubs/monographs/2011/RAND_MG1083.pdf)

this policy. Next, I will address several other variables that could both positively and negatively impact savings.

**In Sum: Potential Cost Savings of \$663,250,000 Annually**

**Other variables and assumptions that will affect policy financial benefits.**

- As previously mentioned, the single most important variable that will dictate the cost savings potential of this policy will be the number of veterans who leave their remaining benefits unused. Despite this variable negatively affecting cost savings, it remains a net positive. Allowing veterans the opportunity to preserve some of their benefit to be applied toward an advanced degree is exactly the kind of change we need to truly “modernize” the GI Bill.
- We cannot know that every veteran will receive 18 credit hours from the JST transcript. This is only an average based on the relevant studies and data available. Some veterans may receive far fewer hours. Others may have already taken basic college courses prior to joining the military, thus rendering some credits from the JST useless. On the other hand, the study from which I pulled this data was conducted in 2011, and since then initiatives have been implemented to improve the JST. Changes to the JST are ongoing to allow more academic credit for different types of military training. It is possible that, in the time intervening this study’s completion, the average number of credit hours transferred from the JST may have increased. If this were the case, the financial benefits of this policy would prove even greater. It is my hope that as future evaluations are done to more accurately accredit military training, the benefits of this policy will correspondingly increase.
- Not all veterans attend education programs that would be affected by the type of credits on the JST. For example, many technical schools do not require any type of electives or basic educational courses (these were the types of courses in my personal experience that the JST fulfilled). These types of programs only account for a small percentage of veterans utilizing their education benefits. But, this would have a negative impact upon this policy’s financial benefit. I do not suspect any such impact would be significant, however, considering the small number of veterans engaged in these types of programs.
- Of those who do request the JST, many do not do so until later in their academic career. Those veterans would benefit from this policy as well, because had the JST been transferred at the onset of their education, their academic advisors could have prevented them from taking classes that had already been satisfied by military training. This variable will likely increase the financial benefits of this policy.
- Research suggests that students who successfully transfer prior learning credit to a two-year degree program are four times more likely to graduate, and students in a four-year degree program are twice as likely to graduate.<sup>6</sup> It is unclear how these increased graduation rates would apply to student veterans; however, this variable seems to indicate that more veterans would finish their

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<sup>6</sup> See PDF, Pg. 35

[http://cdn2.hubspot.net/hubfs/617695/premium\\_content\\_resources/pla/PDF/PLA\\_Fueling-the-Race.pdf](http://cdn2.hubspot.net/hubfs/617695/premium_content_resources/pla/PDF/PLA_Fueling-the-Race.pdf)

degree programs. If we speculate that this is true, then it is plausible more veterans will stay in school longer, use more of their benefits than they would have otherwise, thus costing the VA to pay out more money in education benefits. While this would negatively impact the financial benefit of this policy, more veterans completing their degrees is a positive thing. Moreover, it is almost certain that any additional cost arising from this variable would be offset many times over by the other financial benefits of this policy.<sup>7</sup>

- My evaluation of this policy's benefits only considered the Post 9-11 GI Bill. While this benefit by far accounts for the overwhelming majority of benefits paid out, the VA spends a significant amount of money on others as well. This policy would also benefit those programs. Accordingly, this policy would have more savings and waste prevention if applied to other VA educational benefits.

There are a few other variables I did not expand on, but I anticipate those to have a minimal affect. Further, there are undoubtedly issues I have failed to identify, and I encourage anyone involved to help identify any unknown variables.

#### **In Conclusion**

It is impossible to know the exact measure of positive benefits this policy has in store. What is apparent, is that it is a good, common sense measure to prevent waste, save money, and help veterans use their education benefits more efficiently.

I would like to thank Chairman Isakson, Ranking Member Tester and other distinguished Members of the Committee on Veterans' Affairs.

Signed,



PREPARED STATEMENT OF TOM PORTER, LEGISLATIVE DIRECTOR, IRAQ AND  
AFGHANISTAN VETERANS OF AMERICA



Statement of Tom Porter  
before the Senate Veterans Affairs Committee  
June 15, 2017

**Statement of Tom Porter**  
**Legislative Director**  
*of*  
**Iraq and Afghanistan Veterans of America**  
*before the*  
**Senate Veterans Affairs Committee**

**June 15, 2017**

Chairman Isakson, Ranking Member Tester, and Members of the Committee:

On behalf of Iraq and Afghanistan Veterans of America (IAVA) and our more than 425,000 members, thank you for the opportunity to share our views on the legislation under consideration today. For thirteen years, IAVA has been the preferred empowerment organization for Post-9/11 veterans. IAVA's "Big 4" Policy Priorities for the 115th Congress are to Fully Recognize and Improve Services for Women Veterans, Defend Veterans Education Benefits—particularly the Post-9/11 GI Bill, VA Reform, and Battling Military/Veteran Suicide.

This year, we have tackled women veterans issues head on by launching our #SheWhoBorneTheBattle campaign, a critical component of which is the *Deborah Sampson Act* (S. 681), by Sens. Tester and Boozman, to improve recognition and services for women veterans.

In addition to being on the forefront of women veterans issues, IAVA also played a lead role in passage of the Post-9/11 GI Bill. It is for that reason that, while we appreciate the invitation to submit written testimony for the record, we are deeply concerned that IAVA has been denied the opportunity to provide oral testimony today.

IAVA not only fought for the Post-9/11 GI Bill in 2008, but championed upgrades in 2010 and 2014. Our members remain deeply engaged in the future of this landmark benefit and share their opinions often with us. In our most recent member survey, 66% of respondents have used or are using the Post-9/11 GI Bill, while another 24% intend to. Seventy-four percent also expressed great satisfaction with the Post-9/11 GI Bill, rating the benefit either as "Excellent" or "Good." While our members want to continue to



Statement of Tom Porter  
before the Senate Veterans Affairs Committee  
June 15, 2017

improve the GI Bill, they also want to protect it. In fact, 87% of our survey respondents oppose cuts to the Post-9/11 GI Bill.

In 2016, IAVA's year-long campaign to "Defend the GI Bill" killed over \$4 billion in proposed cuts, and last month stopped a proposed GI Bill tax on troops in its tracks. That relentless advocacy on behalf of veterans' *earned* benefits, however, should be rewarded not punished. IAVA's members should not be denied their seat at the table for defending what is arguably our generation's most important veterans' benefit.

We appreciate the work of both Committees to continue to identify additional ways to improve the Post-9/11 GI Bill. IAVA has supported some of these provisions. However, paying for them on the backs of veterans is *never* the right thing to do.

A key change IAVA continues to support that protects the GI Bill from abuse is closing the "90/10" loophole, which rewards poor-performing schools that intentionally target veterans for their education benefits. Currently, no more than 90% of a for-profit school's revenue can be generated by federal funds, thus requiring them to prove their value for the final 10% through the free market. However, because the law was written to exclude federal GI Bill benefits from the 90% the legislative intent has not been realized and problems continue to persist, hence creating a loophole. This loophole could be closed by simply including VA and DoD education benefits in the category of "government funds." We strongly encourage Congress to take up this issue.

Lack of action from Congress on this important issue has had devastating consequences. The closings of ITT Tech, Corinthian colleges, and other for-profit schools have left many student veterans in hardship as they struggle to complete degree programs with the GI Bill benefits they have left, while also being straddled with student debt that they incurred from these for-profit schools. As such, the 90/10 loophole has created a reality that unjustly wastes the money of American taxpayers and deprives veterans of the education benefits they have earned. While closing the loophole is not the only solution, it is a significant step Congress should take to improve education outcomes for veterans.

IAVA appreciates the work that Senators have invested in the interest of improving and streamlining programs for veterans in the GI Bill "Discussion Draft." IAVA does not have significant concerns with many of its provisions. However, as we have previously stated, any improvements to veterans programs should not reduce other veterans benefits now being provided.



Statement of Tom Porter  
before the Senate Veterans Affairs Committee  
June 15, 2017

Below we have highlighted specific sections for further comment:

IAVA supports Sect. 4 in general. The monthly education benefits under the Dependents Educational Assistance program should receive annual cost of living increases to keep pace with annual rate changes.

IAVA agrees with the intent behind Sect. 8. However, we recognize that survivor benefits and transferability is complex and we encourage the Committee to continue engaging with the VA and the VSO community to ensure an effective solution.

IAVA strongly supports Sect. 10, which would provide the VA Secretary with the authorities to restore benefits for Post-9/11 GI Bill students who attended schools that have closed permanently and continue housing payments for a limited time. Veterans and their families should not be punished for the failure of their schools.

Sect. 12 is consistent with IAVA's *Policy Agenda*, which calls for VA modernization and replacement of its Information Technology systems to more effectively administer VA programs, including education benefits.

In general, IAVA supports Sect. 13, as we generally support increased transparency, including data and outcomes that demonstrate the administration and use of VA benefits, including education benefits.

IAVA supports Sect. 18. We feel strongly that veterans achieving merit-based scholarships and other educational support should not be short-changed when they use the benefit that they earned through their service.

Among the bills under consideration today, IAVA strongly supports the *Purple Heart GI Bill Act (S. 882)*. This commonsense bill provides Post-9/11 GI Bill eligibility to Purple Heart recipients, regardless of time served. We ask that Congress pass this legislation so that our nation's veterans who have made such significant sacrifices are provided full GI Bill benefits. It is simply the right thing to do.

IAVA supports the general intent of the *Educational Development for Troops and Veterans Act (S. 473)* which would provide protections to ensure that Guard and Reserve members who deploy on active duty have parity with their active duty counterparts with regard to benefits earned during the active time period.



Statement of Tom Porter  
before the Senate Veterans Affairs Committee  
June 15, 2017

The *Yellow Ribbon Improvement Act (S. 798)* is IAVA-supported legislation that would expand eligibility for the Yellow Ribbon Program to recipients of the Marine Gunnery Sergeant John David Fry scholarship. IAVA strongly believes that students who qualify for the Fry scholarship should also be allotted the benefits of the Yellow Ribbon Programs as their parents or spouses have made the ultimate sacrifice on our nation's behalf.

IAVA believes that the *Veterans TEST Accessibility Act (S. 1192)* is a sound piece of legislation as it pro-rates an appropriate amount for an individual to use towards tests, licensing, certification. Current law requires an individual to use a full month of their GI Bill eligibility to pay for these provisions, which defeats the purpose of an individual having this GI Bill flexibility and removes their incentive to utilize it. This change in law is fair and reasonable.

*S. 1209*, a bill to increase the special pension for medal of honor recipients from \$1,000 to \$3,000 per month is legislation that IAVA has wholeheartedly supported since the last Congress.

Finally, IAVA supports the *Veteran Employment Through Technology Education Courses Act (S. 1277)* as it would allow veterans to use the Post-9/11 GI Bill to learn valuable IT skills such as computer coding and programming. These sorts of programs are not typically covered by the Post 9/11 GI Bill, and they should be as learning these skills would benefit many veterans. In overseeing the implementation of this bill once it becomes law, IAVA strongly recommends Congress work to ensure the law is free from the GI bill abuses some for-profit school programs have practiced in recent years.

The Arla Harrell Act (*S. 75*), Filipino Veterans Promise Act (*S. 111*), and the Janey Ensminger Act (*S. 758*) are consistent with IAVA's Policy Agenda in our call to honor those veterans who have come before us. *S. 75* and *S. 758* are also critical in addressing the impact of toxic exposures.

Mr. Chairman, I would like to leave you with this thought: American servicemembers willfully answered their nation's call to duty after the devastating events of 9/11. In fulfilling that duty the military and U.S. taxpayers spared no expense, with the goal of providing us with an overwhelming advantage in war.

Veterans are proud to have served our country and we need Congress to know that the educational benefits we receive as a result of our service is a cost of war, and just as important as properly equipping those deploying downrange as we speak. We have got



Statement of Tom Porter  
*before the Senate Veterans Affairs Committee*  
June 15, 2017

to spare no expense in empowering our veterans to succeed. Veterans are not a special interest - they answered the call when more than ninety-nine percent of Americans did not. If Congress genuinely cares about our nation's veterans, then they too must commit to "Defend the GI Bill" for Post-9/11 veterans.

Thank you again for the opportunity to share IAVA's priorities with you here today. We look forward to working with each of you in the 115th Congress.

## PREPARED STATEMENT OF MILITARY OFFICERS ASSOCIATION OF AMERICA

**CHAIRMAN ISAKSON, RANKING MEMBER TESTER** and Members of the Committee, the Military Officers Association of America (MOAA) is pleased to present its views on pending legislation under consideration by the Committee.

MOAA does not receive any grants or contracts from the federal government.

## EXECUTIVE SUMMARY

On behalf of the Military Officers Association of America, the largest military service organization representing the seven uniformed services, including active duty, Guard and Reserve members, retirees, veterans, survivors, and their families, MOAA thanks the Committee for holding this very important hearing and for your continued support of our nation's servicemembers, veterans and their families.

MOAA is very appreciative that these important bills have been included in the hearing, and that many of them address the unique needs of guard and reserve members – an increasingly important operational asset of the nation's military. Our Association looks forward to working with the Members and staff to strengthen and improve the legislation enacted this year.

MOAA offers our position on the following select bills. MOAA takes no position on the remaining bills before the Committee.

- **S. 75**, Arla Harrell Act
- **S. 111**, Filipino Veterans Promise Act
- **S. 410**, Shauna Hill Post 9/11 Education Transferability Act
- **S. 473**, Educational Development for Troops and Veterans Act of 2017
- **S. 758**, Janey Ensminger Act of 2017
- **S. 798**, Yellow Ribbon Improvement Act
- **S. 844**, GI Bill Fairness Act
- **S. 882**, Purple Heart GI Bill Act
- **S. 1330**, Post 9/11 Transferability for Surviving Dependents
- **Discussion Draft on changes to GI Bill**

**S. 75, The Arla Harrell Act.** MOAA supports the passage of this bill that would require VA to reconsider previously denied claims for veterans exposed to mustard gas or lewisite testing on human subjects by the Department of Defense.

A presumption of exposure is warranted in these veterans' circumstances because, through no fault of their own, records were destroyed in the National Personnel Records Center fire and the remaining relevant records were classified for decades. VA also admitted in 2015 that records of those exposed are incomplete because of the length of time and the fact that record keeping was less than adequate at the time these tests occurred, making a presumption of exposure even more necessary. Further, this bill would not require VA to ignore evidence already in a veteran's claims

file because the bill contains a provision that would still allow VA to find a veteran was not exposed if evidence contradicting the alleged exposure exists.

It is a matter of fairness that the government take moral and financial responsibility for testing upon human subjects.

**S. 111, Filipino Veterans Promise Act.** MOAA supports the passage of this bill. VA's budget already includes funding to provide Filipino veterans with a relatively modest compensation in exchange for their service on behalf of U.S. forces during World War II. It has become apparent through Filipino servicemembers coming forward with documentary evidence of their service that some individuals who served alongside the U.S. military may not have been included on the Missouri List, which is the official U.S. Army list of Guerilla fighters.

Because the Department of Veterans Affairs relies solely on this list to determine service, some Filipinos may be unfairly excluded from benefits they earned if they are not on the list even though they have ample evidence of their service. A reasonable solution to this problem would be for Congress to direct a process to add names to the list which will allow them to pursue their earned benefits.

**S. 410, Shauna Hill Post 9/11 Education Transferability Act.** MOAA supports the passage of this bill. Allowing servicemembers and veterans to transfer Post 9/11 GI Bill eligibility to a dependent following the death of the original transferee is reasonable when the new transferee was not yet a dependent when the servicemember made his transferability election. This would coincide with Congress' original intent in creating a transferability option.

**S. 473, Educational Development for Troops and Veterans Act of 2017.** MOAA supports the passage of this bill because it addresses several benefits issues unique to the guard and reserve community. MOAA agrees the following benefits loopholes should be closed by Congress, which this bill will do:

- Eligibility towards Post 9/11 GI Bill while performing duties on 38 U.S.C. 12304b orders
- Extending pay protections in 5 U.S.C. 5538(a) to those performing duties on 38 U.S.C. 12301(d) and 12304b orders
- Extending training and rehabilitation benefits for veterans with service connected disability while they are performing orders under sections 12034a or 1203b.
- Updating the amount of educational assistance provided to members of the selected reserve to more accurately reflect the current costs of higher education

**S. 758, Janey Ensminger Act of 2017.** MOAA supports the passage of this bill which would require the VA to provide medical care for all diseases scientifically associated with exposure to toxic chemicals found at Camp Lejeune. The bill also requires the Agency for Toxic Substances and Disease Registry (ATSDR), an agency within the Centers for Disease Control and Prevention, review all significant scientific literature every three years to determine if links have been found between toxic exposures found at Camp Lejeune and added diseases and conditions.

Establishing a national center for the research on the diagnosis and treatment of health conditions of the descendants of individuals exposed to toxic substances during service is a reasonable manner

in which to collect information related to the long term health effects of these exposures. An advisory board taking responsibility for advising the national center, determining health conditions that result from toxic exposure, and to study and evaluate cases of exposure is also a reasonable mechanism to ensure VA weighs the relevant evidence and information in its implementation and continued engagement.

**S. 798, Yellow Ribbon Improvement Act.** MOAA supports the passage of this bill which would extend the Yellow Ribbon program to:

- individuals pursuing educational programs while on active duty. MOAA agrees that if the Yellow Ribbon program is available to a veteran, then it should also apply to those still on active duty.
- recipients of the Marine Gunnery Sergeant John David Fry scholarship. This would correct an inherent inequity in the current construct which prevents Fry scholarship recipients from being eligible for the Yellow Ribbon program.
- half-time educational programs. Those pursuing education part-time because they are also working should not be punished with higher tuition rates compared to if they were pursuing a full-time credit load.

**S. 844, GI Bill Fairness Act.** MOAA supports the passage of this bill which would afford members of the guard and reserve components placed in a medical hold status to continue to accrue credit for Post-9/11 GI Bill benefits.

If a member of the guard or reserve is injured on active duty and transferred to a medical hold status, he or she does not accrue time served towards earning Post-9/11 GI Bill benefits. An active duty counterpart with the same injury and in the same status would accrue these benefits. These guard and reserve members did not choose to become injured or ill and, in some cases, are transferred to medical hold status only a short time into their active duty tours cutting short the eligibility towards educational benefits they would have accrued but for the illness or injury. These veterans have made significant sacrifices for their nation and must be provided the best possible chance for a productive future, including educational benefits.

**S. 882, Purple Heart GI Bill Act.** MOAA supports the passage of this bill which would extend 100% Post 9/11 GI Bill eligibility to Purple Heart recipients. When a servicemember is injured such that he or she is eligible for the Purple Heart, many factors can prevent him or her from completing 36 months of active duty in order to become eligible for the full Post 9/11 GI Bill benefit, not the least of these may be that the sacrifice endured has already been so great.

MOAA is also concerned about impacts on the guard and reserve community. Members of the guard and reserve are often activated only to deploy and deactivated once the deployment ends making it much more difficult to accumulate the 36 months of service to reach full eligibility. Yet, their sacrifices are no less than their active duty counterparts who also receive the Purple Heart who have a much easier time completing 36 months of service given their continuous duty.

**S. 1330, Post 9/11 Transferability for Surviving Dependents.** MOAA supports this bill. This bill would allow the transfer of Post 9/11 GI Bill benefits after a servicemember has died. This would make the transferability option consistent with changes implemented in the Shauna Hill Post 9/11 Education Transferability Act. If benefits may be transferred to a dependent while the servicemember is alive, then the same transferability options should exist if the servicemember has already passed. Otherwise, dependents unfairly incur a constraint based on the death of the servicemember.

**Discussion Draft on changes to GI Bill.** This draft contains several sections MOAA supports.

- Sec. 4. Increase in amounts of educational assistance payable under survivors' and dependents' educational assistance program of Department of Veterans Affairs.
- Sec. 8. Authorization of transfer of entitlement to Post 9/11 Educational Assistance by dependents who receive transfers from individuals who subsequently die.
- Sec. 10. Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by school closure.

The Post 9/11 GI bill has been and will continue to be a vital recruiting and retention tool for the Department of Defense. On June 8, 2017, the Department of Defense explained that the Post 9/11 GI Bill "will have major impacts on military recruiting and retention, and few areas are more important." While MOAA believes these changes are necessary in order to align the Post 9/11 GI Bill and VA education benefits with their original intents, MOAA is also cognizant that any changes beyond those that satisfy the original purpose of the bill should be carefully considered for their impact on DoD's recruiting and retention.

MOAA is grateful for this opportunity to share our views on pending legislation before the committee and is especially grateful for the committee's continued commitment to the nation's veterans and their families.

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PREPARED STATEMENT OF ALEKS MOROSKY, NATIONAL LEGISLATIVE DIRECTOR,  
MILITARY ORDER OF THE PURPLE HEART

CHAIRMAN ISAKSON, RANKING MEMBER TESTER, AND MEMBERS OF THE COMMITTEE, On behalf of the Military Order of the Purple Heart (MOPH), whose membership is comprised entirely of combat wounded veterans, I thank you for allowing us to testify today on legislation related to veterans' education. While MOPH supports many of the bills being considered today, and would particularly like to voice our strong support for S. 798, the Yellow Ribbon Improvement Act, and section 10 of the discussion draft, which would provide for the restoration of entitlement to education assistance for veterans affected by school closures, we would like to take this opportunity to primarily discuss the bill that most specifically affects MOPH members, S. 882. This important legislation, introduced by Senator Rounds, would provide full entitlement to the Post-9/11 GI Bill to Purple Heart recipients.

There is no doubt that the Post-9/11 GI Bill is among the most significant benefits available to current era veterans. Its popularity is also without question. According to research recently published by Student Veterans of America, 347,564 student veterans have completed a total of 453,508 post-secondary certificates or degrees using the Post-9/11 GI Bill since its inception. While it is impossible to know at this point what the long-term return on investment will be for the program, MOPH is confident that it will eventually prove to have contributed significantly to the American economy, similar to previous iterations of the GI Bill. Simply put, when a veteran's military experience is combined with quality higher education opportunities, they are bound for success.

Still, there is room for improvement in the Post-9/11 GI Bill. Since it first went into effect in 2009, there have been multiple changes made to the program to address oversights in the original legislation. MOPH strongly believes that Congress should act to improve the Post-9/11 GI Bill once again to extend 100 percent eligibility to all Post-9/11 Purple Heart recipients.

Currently, only veterans who either serve at least 36 months on active duty or are discharged due to a disability receive Post-9/11 GI Bill benefits at the 100 per-

cent rate. Those who were not medically discharged and serve less than 36 months receive only a portion of the benefit on a prorated basis.

MOPH strongly believes that any veteran who sheds their blood for our country on a Post-9/11 battlefield should be automatically granted the full benefit of the GI Bill that bears the name of the era in which they served. While we fully understand that there must be left and right limits on eligibility for any benefit as generous as the Post-9/11 GI Bill, we firmly believe that every single current era Purple Heart recipient is equally as deserving as any other servicemember, regardless of total time served on active duty. Put another way, MOPH strongly believes that any veteran who was wounded on the battlefield has indeed already met the service requirement for full GI Bill eligibility by virtue of their personal sacrifice in our Nation's efforts in fighting the Global War on Terror.

According to the report issued by the Congressional Budget Office (CBO) on H.R. 1379, the House companion bill to S. 882, it is estimated that 660 Purple Heart recipients would see increased GI Bill benefits each year under this bill. While this is a relatively low number as compared to overall GI Bill usage, we believe it is certainly significant enough to warrant action by Congress. CBO also estimates that the cost of the bill would be \$65 million over 10 years, or approximately \$6.5 million per year. While we understand that any spending increase in the current fiscal environment presents challenges, we strongly urge Congress to do whatever it can to find an offset for this relatively modest amount of money.

MOPH suspects that the majority of Purple Heart recipients who are eligible for less than the full benefit are veterans of the Guard and Reserve. Often activated only to deploy and then deactivated once they return home, it is not unusual for combat veterans of the reserve component to amass less than 36 months of active service before they are discharged.

It is also not uncommon for Purple Heart recipients not to receive medical discharges, even if their wounds are relatively severe. All too often, veterans who are wounded close to the end of their enlistments, or while on stop-loss, are simply discharged on schedule rather than initiating the lengthy medical board process necessary for a medical discharge. Anecdotally, we hear that this is also more common in the reserve component.

To better illustrate our point, please consider the following examples:

Servicemember A enlists in the Air Force for three years. She is stationed at Dover Air Force Base where she works as a pay distribution specialist. She serves honorably and is discharged at the end of her three year term having never left the United States. Servicemember A is eligible for the Post-9/11 GI Bill at the 100 percent benefit level.

Servicemember B enlists in the Navy, also for three years. He is stationed at Naval Station Norfolk. One year into his assignment, he steps in a pothole during a unit run, fracturing his ankle. His unit initiates a medical board and it is determined that he can no longer perform his duties as an electronics technician. Having never left the United States, Servicemember B is granted a medical discharge and becomes eligible for the Post-9/11 GI Bill at the 100 percent benefit level.

Servicemember C is an infantryman in the National Guard. After spending five years drilling with his unit, he is activated for the first time to deploy to Iraq at the height of the conflict. Ten months into his one year deployment, his night patrol is stuck by a command-detonated improvised explosive device, signaling the beginning of an ambush by insurgents. Shrapnel from the blast rips into his lips, exiting through his cheek and causing him to lose three teeth. After he and his squad suppress the enemy, he is evacuated to Baghdad where he receives two dozen stitches in his face, a partial denture, and a Purple Heart. After being allowed to convalesce for two weeks, a medical officer determines that he can still perform his duties as an infantryman. He rejoins his unit, and returns home two months later. Having completed his six year enlistment, he is discharged honorably. Since only 12 months of his service was spent on active duty, Servicemember C becomes eligible for the Post-9/11 GI Bill at only the 60 percent benefit level.

In using these examples, we are in no way implying that Servicemembers A and B are somehow undeserving of the benefits for which they qualify. All honorable service to our country is commendable and should be rewarded. We are only trying to illustrate how a Purple Heart recipient who serves less than 36 months on active duty and is not medically discharged is at least equally as deserving.

However, examples of how this legislation would help Purple Heart recipients are not only hypothetical. Consider the case of Sergeant Jonanthan Glodman of Boston, Massachusetts, a veteran of the U.S. Marine Corps Reserve and Operation Iraqi

Freedom. On September 4, 2006 while serving in Iraq with the 1st Battalion, 25 Marine Regiment, Jonathan's vehicle was struck by an improvised explosive device, injuring him and two other Marines. For his wounds, included a concussion, burns to his face and arm, an ankle injury, and shrapnel to his left knee, he was awarded the Purple Heart. Fortunately, he was able to remain with his unit, which redeployed with in November 2006, at which time he was separated from active duty. Although he spent a total of six years in the Marine Corps Reserve, less than one year of that time was active. As a result, Jonathan qualified for only 60 percent of the Post-9/11 GI Bill.

Another example is that of Sergeant Adrian Aranda of El Paso, Texas. Adrian served a total of four years on active duty in the United States Marine Corps, separating in June 2002, and was among the first U.S. servicemembers to deploy to Afghanistan following 9/11. On December 16, 2001, while serving with the 15th Marine Expeditionary Unit, his foot patrol was struck by a land mine, wounding him and two other Marines. For his injuries, which included shrapnel wounds to his left arm, back, and both legs, a fractured left hand, minor burns, hearing impairment, and a Traumatic Brain Injury, he was awarded the Purple Heart. Following his recovery, Adrian was separated honorably from the Marine Corps the following year. However, since most of his time on active duty was served prior to September 11, 2001, he was awarded only 50 percent of the Post-9/11 GI Bill.

In our view, our Nation must do better by wounded warriors like Jonathan and Adrian. Although they were both eventually able to complete degrees using the diminished GI Bill eligibility, they both suffered unnecessary financial hardships in doing so. It is also worthy to note that being wounded on the battlefield tends to present additional physical and emotional readjustment challenges for transitioning veterans, and we believe that Congress and the American people must do all they can to ensure Purple Heart recipients have access to the best educational opportunities possible when they return home. In light of this, MOPH strongly supports S. 882, and we deeply thank Senator Rounds for its introduction. We urge the Committee to advance this important legislation without delay.

Chairman Isakson, Ranking Member Tester, this concludes my statement. On behalf of the Order, I thank you for the opportunity to testify today, and I look forward to any questions you or other Members of the Committee may have.

PREPARED STATEMENT OF THE NATIONAL ASSOCIATION OF COLLEGE AND  
UNIVERSITY BUSINESS OFFICERS



National Association of College and University Business Officers  
1110 Vermont Avenue, NW, Suite 800, Washington DC 20005-3544  
T 202.861.2500 F 202.861.2583  
[www.nacubo.org](http://www.nacubo.org)

June 16, 2017

June 16, 2017  
STATEMENT FOR THE  
UNITED STATES SENATE  
COMMITTEE ON VETERANS' AFFAIRS

**ON BEHALF OF:**

**The National Association of College and University Business Officers**

The National Association of College and University Business Officers (NACUBO) respectfully submits this statement to the Senate Committee on Veterans' Affairs for the hearing on "Pending Legislation" held on June 15, 2017.

NACUBO represents the chief business and financial officers at more than 2,100 public and private nonprofit colleges and universities and higher education providers with the goal of advancing the economic viability and business practices of higher education institutions to support the fulfillment of their academic missions.

As Congress moves to pass legislation aimed at improving the lives of the veterans who have served our country, NACUBO appreciates this opportunity to express thanks for several of the higher education-related provisions in the Committee's GI Bill Discussion Draft as well as to share questions and concerns on several sections of the draft.

**Sec. 11 "Treatment For Purposes of Educational Assistance Administered by the Secretary of Veterans Affairs, of Educational Courses that Begin Seven or Fewer Days Before or After the First Day of an Academic Term."**

NACUBO applauds the Committee for taking up this important issue. This change will allow student financial aid administrators the flexibility needed to match aid to the accurate amount of courses a student is registered for in a given term and will allow student veterans to receive aid in a timely manner that most accurately reflects their course loads.

As more is learned about what it takes to help the student veteran population succeed in higher education with the goal of degree completion, NACUBO urges the Committee to also consider the definition of a term as a whole under Department of Veterans Affairs (VA) Rule 38 CFR 21.4131. This rule, which is not in line with the Department of Education rules defining academic terms, does not allow student veterans engaged in modular coursework—courses designed to take place at rapid pace over three to four weeks—to receive aid for full-time course loads for an academic term, despite the fact that modular courses allow the same amount of credit completion during an academic term as a traditional academic schedule. A student veteran might take four back-to-back modular classes of three weeks each, earning three credits each class, for a total of twelve total credits over a twelve-week academic term, the same amount of credits most traditional students would earn in the same time period. However, because three of the four classes would begin more than seven days after the traditional start of the academic term, the VA would not consider the student full-time for aid purposes.

Modular classes offer a more concentrated approach to learning that many student veterans prefer and offer flexibility to students managing familial and other obligations outside of their academic careers. In order to better support student veterans in their goal of degree completion, NACUBO urges the Committee to take this issue into account when addressing the issue of terms in this legislation.

**Sec. 12 “Improvement of Information Technology of the Veterans Benefits Administration.”**

College and university administrators and student veterans alike often express frustration with the information technology (IT) infrastructure that exists for the VA, in that the technology is often outdated, not user friendly, and does little to allow higher education officials and students to manage, disburse, and receive VA educational assistance in an efficient and well-organized way. NACUBO commends the Committee for recognizing this flaw within the Agency and is appreciative of the Committee’s attempts to fix it.

NACUBO encourages Congress to add language to the legislation that would require the VA to devote some of the \$30,000,000 allocation for IT updates for the period of fiscal years 2018 through 2019 to develop a system within the VA that would allow colleges and universities to upload flat data files to the VA on multiple veterans at a time for certification purposes. The system as currently exists allows only for the upload of data concerning a single student veteran at a time, which imposes significant time and resource burdens on School Certifying Officials (SCOs) and increases the likelihood for error in claims processing. A system designed to allow for batch uploads of data files would enable financial aid offices to serve student veterans more efficiently and reduce gap time for student veterans waiting to receive their educational assistance.

NACUBO also urges Congress to add language to this legislation that would encourage the VA to earmark a portion of these IT update funds for building a better electronic system for communicating with student veterans, colleges, and universities more efficiently. The quality of communication between the VA and institutions serving student veterans is often hampered by slow and incomplete access to information that should be readily available online. For instance, the VA has a system of mailing hard copies of reports on payments made for student veterans to institutions. This system is slow, has much room for error in mail delivery, and often causes difficulty for students and financial aid offices alike. A shift to online delivery would greatly improve this issue.

Additionally, Congress should ask the VA to take this opportunity of IT revamp to improve its means of transmitting policy directives, reminders, instructions, and other important information for colleges and universities by updating its website pages more frequently, making them more user friendly, and potentially creating a specialized RSS feed for financial aid personnel so student aid administrators across the country would receive uniform guidance in a timely manner.

**Sec. 13 “Provision of Information Regarding Entitlement of Veterans to Educational Assistance.”**

In order to best counsel a student veteran on the most efficient and cost-effective way to structure their higher education, it is imperative that colleges and universities know exactly how much educational assistance the VA has determined that student is entitled to at any given time. This provision, particularly with the requirement of delivery of information through an IT system, will greatly increase the ability of colleges and universities to assist student veterans in making the best choices for their academic careers. NACUBO commends the Committee for including it in the discussion draft and urges it to be retained in final legislation.

June 16, 2017

**Sec. 15 "Limitation on Use of Reporting Fees Payable to Educational Institutions and Joint Apprenticeship Training Committees."**

The current two-tiered structure for reporting fees payable to institutions serving student veterans is unnecessarily complex and does not accurately reflect the level of administrative time and burden required by student financial aid offices in reporting on their veteran students. The shift in this provision to a single reporting fee is clear and at a level that acknowledges the effort expended by colleges and universities as they go through the required steps to serve these students. NACUBO applauds the Committee for the changes proposed in this provision of the discussion draft and would like to see it remain in the final legislation.

NACUBO appreciates the opportunity to weigh in on this discussion draft and welcomes further conversation with the Committee and its staff on these issues.

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PREPARED STATEMENT OF DR. JOSEPH WESCOTT, LEGISLATIVE DIRECTOR, NATIONAL ASSOCIATION OF STATE APPROVING AGENCIES

CHAIRMAN ISAKSON, RANKING MEMBER TESTER, AND MEMBERS OF THE COMMITTEE, The National Association of State Approving Agencies (NASAA) thanks you for your invitation to provide written testimony and we are pleased to provide our views on certain education benefits legislation under consideration by the Committee today, June 15, 2017.

NASAA does not receive any grants or contracts directly from the Federal Government, though its member organizations are state agencies operating in whole or in part under Federal contracts funded by Congress and administered by the Department of Veterans Affairs (VA).

On behalf of fifty-two State approving agencies (SAAs), including the territory of Puerto Rico and the District of Columbia, NASAA thanks the Senate Committee on Veterans Affairs for its strong commitment to a better future for all servicemembers, veterans and their families through its continued support of the GI Bill® educational programs.

State Approving Agencies (SAAs) were created shortly after the inception of the Servicemen's Readjustment Act of 1944, more commonly known as the GI Bill of Rights, to insure the creditability of the learning experiences in which veterans engage; to assist the Federal Government in preventing waste, fraud and abuse; and to assist Veterans in making a successful transition from the military to the civilian world. The assignment of this responsibility is constitutionally based upon the legal principle that the states, and not the Federal Government, have the primary responsibility for the education of their citizenry. Thus, State Approving Agencies work in concert with the Department of Veterans Affairs on behalf of the Congress and the President to achieve these objectives.

SAAs are the guardians and representatives of the GI Bill at the state level and they make major contributions to the success of the various GI Bills in many ways. Every day across our Nation, the SAAs function as the "gatekeepers of quality" by determining what programs will be approved for Veterans to enroll and use their GI Bill educational benefits. As such, SAAs make determinations regarding the quality and integrity of just about any kind of learning experience imaginable (institutional, job training, flight, correspondence, etc.); SAAs work with employers to develop and enroll veterans in job training programs; SAAs assess and approve tests for professional and occupational licensing and certification; SAAs train VA Certifying Officials at educational institutions and job training establishments; SAAs perform outreach activities to increase the utilization of the GI Bills, including briefings during industry conferences and retirement seminars, presentations at job fairs and mailings to recently discharged Veterans and Selected Reserve personnel; and SAAs provide advice and guidance directly to Veterans and other GI Bill eligible persons and indirectly through educators, trainers and others who counsel Veterans. In addition, SAAs are tireless advocates for Veterans at the state and local levels.

As such, SAAs, through their national organization, the National Association of State Approving Agencies, are uniquely situated to provide insights to Congress on changes necessary to make the GI Bills more relevant and responsive. As such, we

appreciate the opportunity to provide our views on the following legislation before the committee.

S. 410, SHAWNA HILL POST-9/11 EDUCATION TRANSFERABILITY ACT (CRAPO, RISCH)

This bill provides for the reassignment of a Veteran's or Armed Forces member's Post-9/11 education benefits to another eligible dependent in cases where the original designated beneficiary dies without having used all of such benefits. State Approving Agencies believe that education promises one of the best paths to a better future for a Veteran and their dependents. Furthermore, we believe that money spent to provide that education is a sound investment in our Nation's future. Tragedy should not negate that promise or curtail that investment. NASAA supports this bill.

S. 473, EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017  
(TESTER, BLUMENTHAL, BROWN, MURRAY)

Today, as never before, members of the National Guard and Reserve Component play a critical role in our Nation's defense throughout the world. Sections 2, 3 and 4 of this bill recognizes the sacrifices and service of these members of our military by making sure that an order to serve on active duty under sections 12304a and 12304b of Title 10, United States Code, is treated equitably with other orders to serve on active duty for determining a Veteran's and Servicemember's benefits eligibility. This bill will do away with the glaring inequality of certain Guard and Reserve servicemembers performing the same services, often side by side with other Servicemembers, and yet they do not receive any benefits. NASAA strongly supports, along with nearly 40 other military, veteran and higher education organizations which met at the American Legion Headquarters in Washington recently, fixing this discrepancy.

NASAA is also pleased that this bill provides for a grant program to establish, maintain, and improve veteran student centers. Throughout the past several years, SAAs across the Nation have encouraged institutions of higher learning to adequately resource Veterans services on their campuses. Working with the Student Veterans of America and our other VSO partners, and with the encouragement of the VA, SAAs have shared during visits to institutions and during the approval or reapproval of programs, data showing that the establishment of veteran student centers with knowledgeable staff, most of whom are Veterans and/or VA work study students, results in increased recruitment, retention and graduation rates. In many of our states, the numbers of veteran student centers have grown in the past few years and we see this bill encouraging the growth of this important innovation in rural and urban areas with significant veteran populations. NASAA respectfully requests that only institutions or consortiums that possess SAA-approved programs be considered as recipients of these grants.

NASAA strongly supports this bill.

S. 798, YELLOW RIBBON IMPROVEMENT ACT (CASSIDY, BROWN, TILLIS)

The Marine Gunnery Sergeant John David Fry Scholarship is awarded to dependents whose families have made the ultimate sacrifice. They represent both our Nation's greatest treasure and our greatest obligation. These families face much in their daily lives and we cannot fill the void in their lives created by the loss of their loved one. We can honor that sacrifice by making sure that their dependents can attend the school of their choice without the angst and anxiety of unforeseen charges and tuition costs adding to the challenges they already face. We believe, along with the Tragedy Assistance Program for Survivors (TAPS), the SVA and many other veteran and education organizations, that it is important that we address this need.

NASAA strongly supports this bill.

S. 844, GI BILL FAIRNESS ACT OF 2017 (WYDEN, BOOZMAN)

This bill would amend title 38 of the United States Code such that certain time spent by members of the reserve components of the Armed Forces, while receiving medical care from the Department of Defense on active duty, could get credit for this time for purposes of eligibility for GI Bill benefits. Certainly injury sustained while serving our Nation which results in hospitalization or rehabilitation in a medical facility should count toward the Servicemember's eligibility for GI Bill educational benefits. That is only fair.

NASAA supports this bill.

S. 882, A BILL TO PROVIDE ENTITLEMENT TO POST-9/11 EDUCATIONAL ASSISTANCE FOR MEMBERS OF THE ARMED FORCES AWARDED THE PURPLE HEART (ROUNDS, BOOZMAN)

This bill would amend title 38 so that the sacrifice of brave men and women who sustain battlefield injuries in the service of our country would be entitled to the same GI Bill benefits as those who have served at least 36 months on active duty or are medically retired.

Congress passed the Post-9/11 GI Bill to expand education benefits so they would match the 21st century challenges that our Veterans face when they come home. Approximately 3,000 Purple Heart recipients will not qualify for this important benefit over the next ten years unless Congress passes this bill. NASAA considers that it is extremely important that any Purple Heart Veteran who suffered a life-changing injury in the line of duty should be entitled to full benefits. Our nation cannot completely restore life and limb, but we can provide this important lifeline to a better future.

NASAA supports this bill.

S. 1192, VETERANS TEST ACCESSIBILITY ACT (ROUNDS, HIRONO)

SAAs approve licensure and certification testing costs for reimbursement as a part of the benefits of the GI Bill. Certainly, the acquisition of certain certifications and licenses can lead to meaningful employment and advancement in certain fields for our Veterans. Under present law, veterans who seek reimbursement for approved testing are charged an entire month of their entitlement, regardless of the cost of this test. This bill would allow that reimbursement to be pro-rated such that the entitlement charges are based on the actual cost and the Veterans are able to conserve their benefits. This change would encourage Veterans to take needed tests without fear of loss of benefits due to today's reimbursement formula, increase the months of training left and provide better stewardship of taxpayer dollars.

NASAA supports this bill.

S. 1277, VETERAN EMPLOYMENT THROUGH TECHNOLOGY EDUCATION COURSES ACT OF 2017 (BOOZMAN, HELLER)

This bill would direct the Secretary of Veterans Affairs to establish a high technology education pilot program, which would operate for five years and be funded for up to \$15 million dollars annually. This program could be complementary to existing programs and could be an innovative way to address the needs of non-traditional students in this sector. The program would be administered by contracting with providers, so SAA involvement would be minimal or non-existent. However, the split payment requirement built into the contract will hopefully serve as an incentive for companies to deliver high quality impactful programs which will result in rewarding and meaningful employment. NASAA respectfully requests that the language of this bill be changed so that safeguards are retained or written into the bill requiring contracted providers to show previous proficiency providing training in the high technology education field and successful employment by the graduates in that same field after their graduation from the program.

NASAA supports this bill

DISCUSSION DRAFT TO IMPROVE POST-9/11 EDUCATIONAL ASSISTANCE

State approving agencies take seriously our role as “the gatekeepers of quality” and the “boots on the ground” defending the integrity of the GI Bill and making sure that only quality programs are approved by applying Federal and state law and regulation. An additional and equally important role is the continued oversight of these programs after their initial approval. We do so in conjunction with other stakeholders in veteran organizations and higher education, including state licensing agencies, state higher education departments, the Department of Veterans Affairs, the Department of Education and national and regional accrediting agencies. This proposed bill makes important changes in existing law to provide for the modernization and enhancement of the GI Bill educational program, and NASAA supports these changes, but we do want to address certain concerns raised by certain provisions, and respectfully ask for needed amendments in others.

We support the extension of the GI Bill to provide certain additional benefits for veterans and their dependents seeking STEM (science, technology, engineering, and math) degrees (Section3). Our nation needs more students to consider careers in these fields, and certainly Veterans, with their demonstrated preference for service and enhanced leadership skills, could provide the manpower to fuel American innovation and progress in the years to come. They should not be deterred from their decision to enroll in these programs by either curriculum length or greater cost. The

return for this small additional investment could be large in terms of increased revenue and continued leadership in these critical fields.

NASAA also supports the other sections of the draft which would consolidate certain eligibility tiers under the Post-9/11 Educational Assistance Program, increase the amounts payable under the survivors and dependents' education assistance programs (Chapter 35) by approximately \$400 per month, and expand and codify the highly successful Vet Success on Campus program. We certainly support the permanent authorization of work study allowances for individuals who are performing outreach services to Servicemembers and Veterans furnished under the supervision of a State approving agency employee, as well as certain medical treatment and domiciliary care in State Homes and administrative activities at a state or national Veterans cemetery. Likewise, we support the increase of school certifying official fees, but with additional safeguards built in to ensure that schools are only using these funds in such a fashion as to directly benefit GI Bill recipients. And we strongly support education requirements for certifying officials, but equally believe that SAAs should be involved in the development of that requirement and the provision of that training.

NASAA also supports the restoration of entitlement to Post-9/11 GI Bill Educational Assistance and other relief for veterans affected by school closures. We saw firsthand the impact of school closures on the veterans in our states and we believe that entitlement, which Veterans lost through no fault of their own, should be partially or completely restored. However, we also believe that SAAs should be given enhanced measures for approval and oversight, such as allowing SAAs to suspend programs for longer than 60 days, and to require evidence of financial stability even from accredited institutions when circumstances dictate.

We appreciate and support the provision of additional financial resources to allow SAAs to take on an enhanced role in the protection of the GI Bill and the future of our veterans. Over the past several years, NASAA has supported and even applauded the expansion of benefits for Veterans along with increased safeguards which Congress has provided. And we have taken on a greater role in assuring compliance with Congressional mandates as well as VA and state regulations. However, SAAs have been flat-funded for the past decade, and in order to continue effectively to provide the important services to approved institutions and Veterans, we would respectfully request an increase of \$7 million dollars to our allocation. It should be noted that this increase would only cover the cost of increase in personnel salary and benefits, inflation and our increased workload over the past ten years. The result would be a total allocation of \$26 million dollars provided to support the important work of state agencies throughout the Nation. We estimate that at least \$7 million dollars of the total amount is required to do the compliance surveys for the VA, of which we have historically performed 50 percent.

Finally, section 5 of the draft seeks to expand the Post-9/11 GI Bill to provide for the approval of independent study programs at certain educational institutions that are not institutions of higher learning, namely stand-alone non-degree granting institutions. Though this bill does include language to restrict the extent of this expansion somewhat, some of that language could be problematical. As this is a radical departure from the inherent safeguard provided in the code of disallowing the approval of "any independent study program except an accredited independent study program (including open circuit television) leading (A) to a standard college degree, or (B) to a certificate that reflects educational attainment offered by an institution of higher learning," NASAA cannot support this legislation. However, we would not oppose it as long as the following concerns are addressed.

First, as regards proposed subsection (C)(ii): The definition of a "postsecondary vocational institution" as defined in the Higher Education Act, does seem to contain adequate parameters to protect the integrity of the GI Bill. The institution must be limited to high school graduates or equivalent, and to students in an eligible career pathway program who have been determined to have an ability to benefit; it must be authorized by the State to offer the program; is public or nonprofit; and is accredited by a nationally recognized accrediting agency or granted preaccreditation status by an agency authorized to grant such status. This definition would seem to bar predatory institutions providing training of questionable quality which might or might not lead to a job or career from seeking approval.

However, NASAA is concerned that proposed subsection (C)(i) is problematical. If you solely look at the definition that is cited, the Perkins Act does not require that the institutions be accredited, and only requires that the institution be authorized by the State if it is an institution of higher learning. So, upon reviewing the definition that the proposed language cites, the non-IHL schools might not be required to have a license to operate. Also, although the lead-in provision in 3680A(4) requires the independent study program to be accredited, there is nothing that re-

quires the accrediting agency for career and technical education schools to be nationally or regionally recognized, as, unlike the definition of a “postsecondary vocational institution,” the definition of an “area career and technical education school” does not mention accreditation. Therefore, as the proposed language currently stands, an area career and technical education school could be accredited by an unrecognized accrediting entity, and still be able to qualify for the GI Bill. Finally, the Perkins Act definition of “career and technical education” includes entrepreneurship, which is currently restricted under the GI Bill when the program is a non-degree program. For the reasons cited here, NASAA respectfully requests that the language of this bill be changed to limit the eligibility of non-degree institutions to those that are either public or not-for-profit institutions AND are accredited by a national or regionally recognized accrediting agency.

NASAA supports this bill, in particular with the proposed revisions.

Today, SAAs throughout our Nation, composed of approximately 175 professional and support personnel, are supervising over 10,000 active facilities and over 100,000 programs. We pledge to you that we will not fail in our critical mission and in our commitment to safeguard the public trust, to protect the GI Bill, and to defend the future of those who have so nobly defended us. Mr. Chairman, NASAA thanks the Committee for the opportunity to share our concerns and suggestions, and we commit to working together with you and your staff to enhance the pending legislation.

PREPARED STATEMENT OF PHIL GORE, LEGISLATIVE DIRECTOR, NATIONAL  
ASSOCIATION OF VETERANS' PROGRAM ADMINISTRATORS



NATIONAL ASSOCIATION OF VETERANS PROGRAM ADMINISTRATORS

2020 Pennsylvania Avenue N.W. • Suite 1975 • Washington, D.C. 20006-1846

Chairman Isakson, Ranking Member Tester, and Members of the Committee, on behalf of the National Association of Veterans' Program Administrators (NAVPA), we would like to thank you for the opportunity to submit our views on pending legislation before the Committee.

S. 410, Shawna Hill Post 9/11 Education Transferability Act (Crapo, Risch)

NAVPA supports S. 410 "*Shawna Hill Post 9/11 Education Transferability Act*," which would allow veterans to reallocate their Post-9/11 GI Bill education benefits in situations where the dependent whom they assigned their education benefits to passes away before they can be used. We urge the members of the Committee to support this legislation to prevent veterans from facing the possibility of losing the Post-9/11 GI Bill after experiencing the loss of a loved one.

S. 473, Educational Development for Troops and Veterans Act of 2017 (Tester, Blumenthal,  
Brown, Murray)

NAVPA strongly supports "*SEC. 873. GRANTS FOR VETERAN STUDENT CENTERS of S. 473, Educational Development for Troops and Veterans Act of 2017*," to provide funds for grants that would allow institutions of higher education to establish, maintain, improve, and operate Veteran Student Centers. Our membership has found overwhelming evidence that institutions with Veteran Student Success Centers on campus have consistently seen an increase in student veteran retention and graduation rates.

S. 798, Yellow Ribbon Improvement Act (Cassidy, Brown, Tillis)

NAVPA supports S. 798 "*Yellow Ribbon Improvement Act*" to allow the Yellow Ribbon Program to apply to individuals pursuing programs of education while on active duty and to recipients of the Marine Gunnery Sergeant John David Fry scholarship. NAVPA offers its support of S. 798 as long as the legislation will continue to allow institutions that voluntarily



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participate in the Yellow Ribbon Program to decide the level of assistance offered to beneficiaries.

S. 882, a bill to provide entitlement to Post-9/11 Educational Assistance for members of the Armed Forces awarded the Purple Heart (Rounds, Boozman)

NAVPA fully supports S. 882, *“to provide entitlement to Post-9/11 Educational Assistance for members of the Armed Forces awarded the Purple Heart.”* Our membership believes that our Nation’s heroes deserve every opportunity to receive a post-secondary education and urge the Committee to support the legislation that will provide Post-9/11 Educational Assistance to Purple Heart Recipients.

S. 1192, Veterans TEST Accessibility Act (Rounds, Hirono)

NAVPA has been, and continues to be, a staunch supporter of legislation that will allow current and prior service members to use Post-9/11 GI Bill education benefits to participate in national tests that assess prior learning and knowledge. The results of these tests provide opportunities to beneficiaries to receive college credit at institutions of higher learning, which will help them achieve their academic goals in a timelier manner. NAVPA asks that the Committee fully support S. 1192 and encourage colleagues to act swiftly on this legislation.

S. 1277, Veteran Employment Through Technology Education Courses Act of 2017 (Boozman, Heller)

NAVPA is opposed to S. 1277 *“Veteran Employment Through Technology Education Courses Act of 2017,”* which would create a pilot program to allow veterans to participate in technology programs not offered by institutions of higher learning, and will not lead to a degree. Many of NAVPA’s member institutions provide instruction in computer programming, computer



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software, media application, data processing, and information sciences that ensure veterans receive a degree or certification in their program of study. NAVPA does not support S. 1277, as the legislation would allow veterans to participate in education and training programs that are not accredited. Receiving training and education from an organization without accreditation could have a negative impact on the veteran's ability to secure employment within their desired field, as well as limit their success in the workforce.

Discussion Draft to improve Post-9/11 Educational Assistance

NAVPA greatly appreciates the opportunity to participate in the discussion to improve Post-9/11 Educational Assistance, and offers the following positions on the current draft.

NAVPA supports legislation that provides additional assistance to beneficiaries pursuing degrees in Science, Technology, Engineering, Math, or Health. However, the language in "*SEC. 3. ADDITIONAL POST-9/11 EDUCATIONAL ASSISTANCE FOR CERTAIN INDIVIDUALS PURSUING PROGRAMS OF EDUCATION IN SCIENCE, TECHNOLOGY, ENGINEERING, MATH, OR HEALTH CARE*," "*§ 3320. Additional assistance*" does not address a timeline that qualifies a student as being enrolled in a program approved for additional assistance. NAVPA recommends including a requirement that the student be enrolled in a qualifying degree program once they have exhausted 18 months of educational assistance. NAVPA also recommends the legislation clearly define what entity will be responsible for submitting documentation of eligibility, use of funds, and outcomes.

NAVPA supports "*SEC. 6. CALCULATION OF MONTHLY HOUSING STIPEND UNDER POST-9/11 EDUCATIONAL ASSISTANCE PROGRAM BASED ON LOCATION OF CAMPUS WHERE CLASSES ARE ATTENDED*"



NATIONAL ASSOCIATION OF VETERANS PROGRAM ADMINISTRATORS

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NAVPA supports “*SEC. 7. REPEAL OF SUNSET ON WORK-STUDY ALLOWANCE FROM DEPARTMENT OF VETERANS AFFAIRS FOR CERTAIN QUALIFYING WORK-STUDY ACTIVITIES*”

NAVPA supports “*SEC. 8. AUTHORIZATION OF TRANSFER OF ENTITLEMENT TO POST-9/11 EDUCATIONAL ASSISTANCE BY DEPENDENTS WHO RECEIVE TRANSFERS FROM INDIVIDUALS WHO SUBSEQUENTLY DIE*”

NAVPA supports “*SEC. 9. DEPARTMENT OF VETERANS AFFAIRS PROVISION OF ON-CAMPUS EDUCATIONAL AND VOCATIONAL COUNSELING FOR VETERANS*”

NAVPA supports “*SEC. 10. RESTORATION OF ENTITLEMENT TO POST-9/11 EDUCATIONAL ASSISTANCE AND OTHER RE-LIEF FOR VETERANS AFFECTED BY SCHOOL CLOSURE*”

NAVPA supports “*SEC. 12. IMPROVEMENT OF INFORMATION TECHNOLOGY OF THE VETERANS BENEFITS ADMINISTRATION*”

NAVPA strongly supports “*SEC. 15. LIMITATION ON USE OF REPORTING FEES PAYABLE TO EDUCATIONAL INSTITUTIONS AND JOINT APPRENTICESHIP TRAINING COMMITTEES,*” which clearly defines the requirement for the tracking and proper use of reporting fees paid to an institution. NAVPA recommends amending “(2) *Such reporting fee shall be computed for each calendar year by multiplying \$16 by the number of eligible veterans or eligible persons enrolled under this chapter or chapter 31, 34, or 35 of this title*” to reflect a change in the reporting fee “***by multiplying \$18 by the number of eligible veterans or eligible persons enrolled.***” These fees are the only funding provided that is required to use for the certification of benefits. School Certifying Officials rely on reporting fees to attend training, where they learn how to navigate the complex certifying process, as well as participate in



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workshops and seminars to learn about ongoing changes to policies and procedures. NAVPA strongly urges the Committee to make this revision to ensure the timely and accurate processing of educational benefits, which will increase enrollment and retention while reducing the Department of Veterans Affairs increasing debt accumulated, in part, by inaccurate processing at institutions and the VA.

NAVPA supports "*SEC. 16. TRAINING FOR SCHOOL CERTIFYING OFFICIALS AS CONDITION OF APPROVAL OF COURSES FOR VETERANS EDUCATIONAL ASSISTANCE*" and offers to assist both the Secretary and State Approving Agencies develop the curriculum for the required training programs.

Chairman Isakson, Ranking Member Tester, and Committee Members, I want to thank you again for this opportunity to express the views of NAVPA's members on these important issues as you consider legislation affecting the education of our nation's veterans. On behalf of our entire membership, I want to extend our heartfelt thanks to each of the Members of the Committee for all the work you do to support veterans.

Respectfully,

A handwritten signature in black ink, appearing to read 'Phil Gore', is written over a horizontal line.

Phil Gore  
Legislative Director  
National Association of Veterans' Program Administrators

## PREPARED STATEMENT OF THE NATIONAL MILITARY FAMILY ASSOCIATION

Since its enactment in 2009, the Post-9/11 GI Bill has been an exceptionally valuable benefit for service members and their families, allowing thousands of veterans and family members to pursue postsecondary education and prepare for careers outside the military. The educational benefits available through the GI Bill have drawn many individuals to the military, while the opportunity to transfer those benefits to a spouse or children has encouraged others to remain in the service. From almost every standpoint, the Post-9/11 GI Bill has been an unqualified success. Preserving and enhancing the benefit for future generations of service members must be a priority.

While the Post-9/11 GI Bill is already an exceptionally valuable benefit for service members and their families, it is also true that gaps exist, reducing the value of the benefit for some members of our community. Our Association appreciates that Congress is considering provisions to further improve the Post-9/11 GI Bill and increase its value for service members and their families. While each of the provisions under consideration has merit, there are two that directly address family members using transferred GI Bill Benefits. We urge Congress to give special consideration to these proposals that would increase the value of the benefit for military families.

**S. 410, Shauna Hill Post-9/11 Education Transferability Act**

Under current law, Post-9/11 GI Bill benefits may only be transferred to a spouse or child while the service member is still in the military. No new designation can be made after the service member separates or retires. While this restriction is reasonable in most cases, it makes no provision for the tragic circumstance in which a family member passes away before using the transferred benefit. The *Shauna Hill Post-9/11 Education Transferability Act* addresses this issue by allowing veterans to transfer unused GI Bill benefits to a family member following the death of the original designee. Families in this situation have already undergone the unspeakable pain of losing a spouse or child. They should not also have to suffer the loss of earned education benefits.

**S. 798, Yellow Ribbon Improvement Act**

One disparity that has always puzzled us is the provision barring spouses of currently serving service members using transferred benefits from participating in the Yellow Ribbon GI Education Enhancement Program (Yellow Ribbon program). Ending that inequity would greatly increase the value of the benefit for many military families and make it possible for more military spouses to pursue the education they need to help support their families.

Like their civilian counterparts, many military families rely on two incomes to help make ends meet. However, the challenges of military life – specifically, frequent relocations due to military-ordered moves – make it difficult for military spouses to pursue careers. Many end up returning to school to pursue education in portable career fields more compatible with the military lifestyle. For a family in this situation, transferring Post-9/11 GI Bill benefits to a spouse is a logical and practical choice, allowing a spouse to obtain needed education and training without adding to the family's financial burden. One Air Force spouse told us this about her decision to use transferred GI Bill benefits to complete her own education:

*Getting this degree will raise my earning potential, and impact my family's budget. By the time my kids are ready to go to college, I could be earning much more money, and have an easier time helping pay their tuition...The Post-9/11 GI Bill has the potential to make a real difference for my family NOW. He is a "lifer," and won't be out of the military for another 10-15 years (knock on wood). By then, he won't need the benefit. But I need it now, and our family*

*needs my employment income now...Getting this degree will help me become more employable. It will make me more competitive. I may still struggle to find a job, and military life may still present its own challenges, but it's always better to make sure there are multiple doors (and windows!) open to me. This degree will unlock them all.*

This military family – and many others – benefited from the opportunity to transfer Post-9/11 GI Bill benefits to a spouse. However, the benefit for this family was significantly reduced in value because military spouses – like currently serving service members and Fry Scholarship recipients -- are not eligible for the Yellow Ribbon program.

The Yellow Ribbon program greatly enhances the value of the Post-9/11 GI Bill by offsetting some of the difference between tuition cost and the base GI Bill benefit. It allows veterans and children using transferred benefits to attend private institutions without incurring a heavy financial burden. The same benefit should be available all individuals using transferred GI Bill benefits, to include Fry Scholarship recipients, currently serving service members, and military spouses. The *Yellow Ribbon Improvement Act* addresses this inequity by extending Yellow Ribbon eligibility to anyone using Post-9/11 GI Bill benefits.

We are grateful to Congress for recognizing the value of the GI Bill for service members and their families, and for considering steps to improve the benefit and preserve it over the long term. Thank you for the opportunity to express our views for the record.

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PREPARED STATEMENT OF PARALYZED VETERANS OF AMERICA

Chairman Isakson, Ranking Member Tester, and Members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to submit our views for the record on the important legislation pending before the Committee. The bills considered today can have a significant positive impact on veterans who rely on various benefits services provided by the Department of Veterans Affairs (VA). Our comments will be limited to those bills which PVA has a specific interest in or position.

S. 75, "THE ARLA HARRELL ACT"

PVA supports S. 75, the "Arla Harrell Act." Veterans who have for so long quietly suffered the effects of Mustard Gas or Lewisite exposure as a result of Department of Defense testing deserve to receive critically need care from the VA. Senator McCaskill's report indicates that the number of servicemembers exposed numbers around 4,000, and yet only 610 have been identified. Currently, only 40 veterans have successfully filed claims and are receiving related benefits. The fact that only 1 percent of the veterans exposed are receiving benefits is attributed to the 90 percent rejection rate of claims. Shifting the burden of proof relating to events that occurred so long ago from the veteran to VA is an appropriate and deserved step toward rectifying the failure to fully identify this population and ensure they are receiving their earned benefits. We would also note that with a new presumption comes increased stress on VA resources. It is imperative that Congress ensure resources are appropriately adjusted to prevent VA from having to rob Peter to pay Paul.

S. 111, THE "FILIPINO VETERANS PROMISE ACT"

Following World War II, the U.S. Army created what became known as the "Missouri List" to identify Filipino soldiers who fought alongside U.S. troops. These individuals are entitled to VA benefits, but their eligibility has been primarily determined by whether their name appears on this list. Many Filipino veterans who served did not end up on this list, for a variety of reasons, but one of them being fear of enemy retaliation. This legislation would require VA to develop a process for vetting individuals who claim eligibility but do not appear on the list. Just because the task of determining eligibility is difficult should no longer be an excuse to deny deserving veterans' benefits. PVA understands and supports the intent of this legislation.

S. 410, THE "SHAWNA HILL POST-9/11 EDUCATION TRANSFERABILITY ACT"

PVA supports this legislation which would help veterans or servicemembers who assigned education benefits to a dependent who became deceased prior to utilizing

the full amount of benefits. In such a circumstance, the servicemember or veteran would be able to reassign the remaining benefits to another dependent. Current law is inequitable and forces veterans who suffer such a loss to also forfeit a significant benefit. We are pleased to support this fix.

S. 758, THE "JANEY ENSMINGER ACT OF 2017"

PVA understands and supports the intent of S. 758, the "Janey Ensminger Act of 2016." This legislation would amend the Public Health Service Act with respect to the Agency for Toxic Substances and Disease Registry's (ATSDR) review and publication of illness and conditions relating to veterans stationed at Camp Lejeune, North Carolina, and their families. The bill would require the ATSDR Administrator to review the scientific data pertaining to the relationship between individuals at Camp Lejeune and the suspected resulting illness or condition. The ATSDR Administrator would be required to determine each condition that may be caused by toxic exposure, categorize the level of evidence or these conditions into three categories; sufficient with reasonable confidence that the exposure is a cause of the illness or condition, modest supporting causation, or no more than limited supporting causation. This information would then be published and continually updated on HHS' website. If these evidentiary categorizations are different from previous categorizations those veterans and their families currently receiving care under them would continue to receive that care. Newly registered veterans and family members would receive care based on the list provided by the ATSDR Administrator. Research regarding toxic exposures and the subsequent credibility of presumptive conditions has traditionally been the charge of the Institute of Medicine (IOM). The bill does not discuss the processes should the ATSDR conflict with the findings of the IOM.

S. 798, THE "YELLOW RIBBON IMPROVEMENT ACT"

PVA fully supports this legislation. Recipients of the Marine Gunnery Sergeant John David Fry Scholarship were inadvertently left out of eligibility for the Yellow Ribbon Program. This bill would fix this disparity and allow scholarship recipients the full benefits of the program. Children and surviving spouses of servicemembers who died in the line of duty should not have to wait any longer to be included in this program.

S. 882, POST-9/11 EDUCATIONAL ASSISTANCE FOR PURPLE HEART RECIPIENTS

PVA supports this legislation. Members of the Armed Forces must currently serve for a requisite period of time on active duty before becoming eligible for Post-9/11 G.I. Bill benefits. It is a great travesty that servicemembers who are wounded in action and receive the Purple Heart lose the chance to earn this benefit if their injury forces them to leave the service before meeting eligibility requirements. Surely those who have suffered harm on behalf of their country are at least as deserving as a servicemember who merely stayed on active duty for six months or more. We support this measure which would make all Purple Heart recipients eligible for education benefits regardless of time served.

S. 1209, A BILL TO INCREASE THE SPECIAL PENSION FOR MEDAL OF HONOR RECIPIENTS

It has been close to fifteen years since the pension amount for Medal of Honor recipients was increased. With the great honor of this award comes a responsibility to share their stories and inspire their fellow citizens. Often times this requires traveling and participating in events around the country. This responsibility should never become a financial burden on those who have already sacrificed so much. We support this bill which more than doubles the current pension amount to \$3,000.00 per month.

Again, PVA thanks you for the opportunity to present our views on these bills. We would be happy to take any questions you have for the record.

PREPARED STATEMENT OF THE RESERVE OFFICERS ASSOCIATION OF  
THE UNITED STATES

ROA has a membership of 50,000 and is the only national military association that exclusively supports all 1,085,155 Ready Reserve members of the Army National Guard, Army Reserve, Navy Reserve, Marine Corps Reserve, Air National Guard, Air Force Reserve and Coast Guard Reserve. We appreciate the opportunity to provide written testimony on the proposed bills related to the Post-9/11 G.I. Bill. The bills or sections that affect the Reserve Components are addressed by ROA. The

additional bills, not included in this statement, have merit and will be or have been addressed by other Veteran or Military Service Organizations.

PROPOSED LEGISLATION

S. 410, SHAUNA HILL POST-9/11 EDUCATION BENEFITS TRANSFERABILITY ACT, to authorize the transfer of unused Post-9/11 Educational Assistance benefits to additional dependents upon the death of the originally designated dependent. ROA views this as a technical change that is required.

S. 473, EDUCATIONAL DEVELOPMENT FOR TROOPS AND VETERANS ACT OF 2017, to make qualification requirements for entitlement to Post-9/11 Education Assistance more equitable, to improve support of veterans receiving such educational assistance.

ROA appreciates the proposed sections that bring 12304a and 12304b in line with other deployment authorities. Additionally, we believe support of Veteran Student Centers is necessary since veteran students are non-traditional students. Veterans have different needs than those who went straight from high school to college and are 18–23 years old. According to VA:

- Only 15% of Student Veterans are traditionally aged college students (18–23). Most are between the ages of 24 and 40
- 47% of Student Veterans have children
- 47.3% of Student Veterans are married

S. 758, JANEY ENSMINGER ACT OF 2017, to amend the Public Health Service Act with respect to the Agency for Toxic Substances and Disease Registry's review and publication of illness and conditions relating to veterans stationed at Camp Lejeune, North Carolina, and their family members.

ROA supports this effort to more closely monitor the toxic exposure. Additionally, we believe a national toxic register must be established for individuals to self-identify toxic exposure. This way data can be compiled earlier in the cycle of service-connected medical conditions to determine health problems resulting from exposure. This will ultimately be more cost effective than relying on “presumptive conditions” decades after exposure.

S. 844, GI BILL FAIRNESS ACT OF 2017, to consider certain time spent by members of reserve components of the Armed Forces while receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 Educational Assistance, and for other purposes.

This bill would include service provided under 10 United States Code, Section 12301(h), for individuals receiving medical care. It would enable them to receive education benefits just as their Active Component counterparts do today. ROA agrees with the Reserve Forces Policy Board which stated, “If the member is not discharged because of the injury and instead returns to service—either deployed or as a Selected Reservist—none of the time spent in recovery is considered qualifying time. The servicemember would earn less qualifying time than those who served the entire time without an injury, and would not receive an equal benefit. In effect, this servicemember is penalized for being wounded or injured in theater. Ironically, if that same member was discharged from service because of the injury, the member would earn 100% of the benefit (assuming 30 days of continuous active duty service)...”

S. 882, provides for the entitlement to educational assistance under the Post-9/11 Educational Assistance Program of the Department of Veterans Affairs for members of the Armed Forces awarded the Purple Heart.

ROA supports this change and believe these individuals have provided a service to our country that deserves this benefit.

S. 1192, VETERANS TEST ACCESSIBILITY ACT, to provide for pro-rated charges to entitlement to educational assistance under Department of Veterans Affairs Post-9/11 Educational Assistance Program for certain licensure and certification tests and national tests, and for other purposes.

We support legislation that would be based on actual costs, especially when it would save the servicemember a portion of their education entitlement.

S. 1209, to increase the amount of special pension for Medal of Honor recipients.

ROA supports this change and believes these individuals have provided a service to our country that deserves this benefit and is more reflective of past cost of living increases.

S. 1218, EMPOWERING FED VETS ACT, to promote Federal employment for veterans.

ROA urges Congress to change the Federal Hiring Preference standards for National Guard and Reserve members from “180 consecutive days” to “180 cumulative days.” This would fulfil the intent of the bill to “enhance employment opportunities” by extending it to the Reserve Component. It has been found that unemployment contributes to the high suicide rate in the RC. By the end of 2016 123 National Guard and 80 Reserve servicemembers were lost to suicide—one person every two days.

S. 1277, VETERAN EMPLOYMENT THROUGH TECHNOLOGY EDUCATION COURSES ACT OF 2017 (VET TEC ACT OF 2017), to require the Secretary of Veterans Affairs to carry out a high technology education pilot program.

This bill would apply to certificate programs that provide instruction in computer programming, computer software, media application, data processing, or information sciences. It would help National Guard and Reserve members, as veterans, who are not always eligible for tuition assistance programs because they are not on active duty in a full-time status. Additionally, the services would get the benefit of Reserve Component members maintaining certificates while still performing military duty.

*Additional Proposals by Section Number*

**Sec. 2. Consolidation of certain eligibility tiers under the Post-9/11 Educational Assistance Program of Department of Veterans Affairs. This would increase the lower tiers from 40 percent to 50 percent and 50 percent to 60 percent.**

We support this change because it reduces out-of-pocket tuition for the National Guard and Reserve. This takes into consideration that they provide operational support on an “as needed” basis to the services and often never earn the entire 36 months of entitlement.

**Sec. 3. Additional Post-9/11 Educational Assistance for certain individuals pursuing programs of education in science, technology, engineering, math, or health care.**

This proposal could be setting a precedent for other degree programs to seek additional education benefits. With that as a possibility, Congress should amend the bill so that individuals who qualify for these benefits thereby incur a service commitment to the National Guard or Reserve. This approach is in keeping with the intent of the G.I. Bill being an earned entitlement. Additionally, there is a direct benefit to the Federal Government to help fill critical vacancies.

CONCLUSION

The Reserve Components bring essential capabilities to the total force. Adequately resourced, as they have since the Guard’s advent in the 17th century, Citizen-Soldiers provide our Nation a unique and affordable augmentation of its military capability. We appreciate the Committee considering legislation that positively affects the National Guard and Reserve, as well as, family members who support their efforts.

PREPARED STATEMENT OF TRAGEDY ASSISTANCE PROGRAM FOR SURVIVORS (TAPS)

CHAIRMAN ISAKSON, RANKING MEMBER TESTER AND DISTINGUISHED MEMBERS OF THE SENATE COMMITTEE ON VETERANS AFFAIRS, The Tragedy Assistance Program for Survivors (TAPS) thanks you for the opportunity to make you aware of issues and concerns of importance to the families we serve, the families of the fallen.

While the mission of TAPS is to offer comfort and support for surviving families, we are also committed to improving support provided by the Federal Government through the Department of Defense (DOD) and the Department of Veterans Affairs (VA), state governments and local communities for the families of the fallen—those who fall in combat, those who fall from invisible wounds and those who die from illness or disease.

We thank you for the provisions included in the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 including the expansion of eligibility for the Marine Gunnery Sergeant John David Fry Scholarship for spouses and clarification of eligibility for in-state tuition benefits for those using the Fry Scholarship. We are grateful for the Committee’s focus on improving survivor benefits.

TAPS would like to recognize the outstanding support we receive from the Department of Veteran Affairs (VA) on behalf of the survivors we serve. We were honored to have a Memorandum of Agreement (MoA) with the education specialists in the office of Economic Opportunity in the Veterans Benefits Administration enabling TAPS and the VA to work most efficiently in solving problems that surviving spouses and children encountered while accessing their VA education benefits. This

relationship also allowed the VA to discover areas where policy or procedural processes could be improved so they could serve survivors more effectively.

TAPS was recently honored to enter into a new and expanded Memorandum of Agreement with the Department of Veterans Affairs. VA Secretary Shulkin and TAPS President Bonnie Carroll signed the MOA on April 12, 2017, at a ceremony attended by many of the same survivors who will benefit from it. This agreement formalizes what has been a long-standing, informal working relationship between TAPS and the VA. The services provided by TAPS and VA are complimentary, and in this public-private partnership each will continue to provide extraordinary services through closer collaboration.

The VA Office of Survivor Assistance, including director Moira Flanders and her staff, works closely with TAPS to answer questions and concerns that are raised by surviving family members. We also appreciate the opportunities provided by the DOD/VA Survivors Forum, held quarterly, which works as a clearinghouse for information on government and private sector programs and policies affecting surviving families. This is ably facilitated by Craig Zaroff of the VA Benefits Assistance Service.

Under this agreement, TAPS continues to work with surviving families to identify resources available to them both within the VA and through private sources. TAPS will also collaborate with the VA in the areas of education, burial, benefits and entitlements, grief counseling and other areas of interest.

#### EDUCATION BENEFITS

TAPS appreciates the attention that the Committee has paid to making sure that veterans and surviving family members have access to quality education. Surviving family members using their education benefits often fall prey to many of the same challenges facing veterans using their benefits, whether it be unscrupulous recruiting practices or questionable and confusing financial aid packages. TAPS is proud to work with other organizations, including the American Legion, Veterans of Foreign Wars, Veterans Education Success, Student Veterans of America and the Department of Education to ensure that safeguards are in place to protect all recipients of education benefits from the VA.

Indicative of the specialized support that TAPS provides is the education portal and individualized support on the education benefits available for the children of America's fallen heroes. TAPS staff members work with each individual to maximize the financial support they can receive to complete their education from both government and private agencies.

#### *Working to Improve the GI Bill and the Fry Scholarship*

Most beneficial in the early months of the 115th Congress have been a series of meetings between committee staff from both the House and Senate and interested parties from the Veterans Service Organizations (VSOs), Military Service Organizations (MSOs), and Military Family Organizations (MFOs). These meetings prompted in depth discussions on how the GI Bill and Fry scholarship could be improved, in a forum where all opinions were welcome. We appreciate that improvements discussed for education benefits for survivors included:

- expansion of the Yellow Ribbon Program to surviving spouse and children,
- increases to the amount of the tuition assistance provided by the VA's Dependents Educational Assistance program, and
- technical corrections to allow a realignment of transferred GI Bill benefits after the veteran has passed away or the primary designee has passed away.

Expanded discussions in informal forums bring all organizations in on solving the problems and raise alternatives and possible solutions that could not be discovered alone. We hope these dialogs continue.

#### *Expansion of the Yellow Ribbon Program*

TAPS supports extending eligibility for the Yellow Ribbon program, which allows approved institutions of higher learning and the VA to partially or fully fund tuition and fee expenses that exceed the established thresholds under the Post-9/11 GI Bill to those survivors eligible for the Marine Gunnery Sergeant John Fry Scholarship. TAPS supports S. 798 and H.R. 2103.

We hear from surviving family members about the importance of the Yellow Ribbon program:

#### *From Emily McClimans, surviving child*

As a child of a fallen soldier that attends a school that accepts the Yellow Ribbon Program, I was ecstatic. I was so excited that there was a program to cover the hefty expenses that were not covered with the Fry Scholarship.

Unfortunately, I was denied the Yellow Ribbon program because my father was killed in action and he's not currently serving. I, as a student of TCU, attend college alongside children of active duty children that have no worries as to how they're going to pay for their college education. If the Yellow Ribbon Program was extended to support children of fallen soldiers, I wouldn't have to worry about my education or whether or not I'll have enough funds for the next semester. Children of fallen soldiers deserve to not be overlooked, as our fathers and mothers are just as significant as those who are currently fighting. Having the opportunity to be sponsored by this program would alleviate stress and allow me to know that my family is just as important as the families with parents still fighting in the war.

*From Stephanie Orasing, surviving spouse*

I have been a military widow since 2005. When my husband passed away I had a 7-month-old, 3-year-old, and a 6-year-old son. I have had to put many things on hold so that I could be there for my kids and raise them. Now that they are 12, 15, & 18, I feel it is time for me to go to school to get my degree so that I can show my kids that education is important. I have spent the past 1 year & 9 months attending a community college in the area and I will graduate with my Associates of Applied Science degree next month. But the closest University or College is 30 minutes away and it is private. I have applied to this university but the tuition is \$30,000. I have been accepted but I am filling the paper work for financial aid because I don't know if I can do it financially. I am grateful for the Fry Scholarship that will pay \$21,000 but there is a remaining balance of \$9,000 that I must take a loan out for and I have spent my life raising my kids and don't even have a job to pay back this loan. I would appreciate the Yellow Ribbon program if they would consider helping military widows out so that we may have the chance to attend school and not have to have a financial burden held over our head.

*From LaNita Herlem, surviving spouse*

Concerning the Yellow Ribbon, one of the issues I ran into was when I received the Fry Scholarship (which is VERY much appreciated!), I immediately wanted to get my masters in political science but none of the NC state schools near me offered it. I even looked at several around the state, which would have meant moving, but the closest I could get was Public Administration which is not what I am interested in. Private schools within driving distance did offer what I wanted but being nearly 50, I am not interested in having a mortgage-sized school loan, nor can I afford to pay it anyway. So I decided to take business classes at the local community college. Instead of a master's degree in political science, I will graduate next month with an associate degree in business which in reality means very little. . . . If I had access to the Yellow Ribbon program, I would have had the option of considering a private school and getting the degree I wanted.

*Improve Chapter 35 Survivors' and Dependents' Educational Assistance (DEA) and other Educational Benefits*

Not all survivors are eligible for the Fry scholarship. Survivors of those veterans who die of a service-connected disability or dependents of those who are 100 percent disabled are eligible for support through the Dependents' Educational Assistance (DEA) program. Current payments for the DEA benefits have not been increased when there have been significant increases to the Montgomery GI Bill or Post-9/11 GI Bill benefits. While increases to the DEA payment are increased each year a percentage point or two when there is an increase in other Federal benefits (i.e. Social Security, VA Dependency and Indemnity Compensation, VA Disability payments), the current payment of \$1,024 a month does not go far in covering ever spiraling tuition costs. We appreciate the proposed increase to the DEA payment as a great start toward parity. TAPS supports H.R. 1956.

*From Carla Stumpf Patton, surviving spouse*

As a surviving family of an active duty Marine who died prior to 9/11, an increase in Chapter 35 benefits would make a dramatic difference in alleviating the financial strain associated with the increasing rates of college expenses for families of the fallen. Families like ours are often excluded from other funding programs that offer tremendous assistance to families post-9/11; on top of the loss we have experienced, this financial burden can be overwhelming. Because I was pregnant at the time of my husband's

death and our child was born posthumously, it would be eighteen years before our child needed educational assistance and while there was some funding, it was not nearly enough to cover tuition rates associated with his school. We were excluded from other sources of funding either due to the date of death or due to the manner of death, leaving very few options for financial assistance other than private scholarships and having to take out large personal loans. Increasing the current benefit will address the cost of living and sky-rocketing college expenses our families are facing in the 21st century.

*Waiver for Distribution of the Transferred Post-9/11 GI Bill Benefits*

TAPS requests a technical correction for transferred GI Bill Benefits. If a servicemember transfers their GI Bill while alive and subsequently passes, no change in the number of months of the benefit amount allotted each family member can be made. If the servicemember or veteran were still living, they could adjust the number of months allotted to each family member at will. TAPS supports S. 1330.

*From Coleen Bowman, surviving spouse*

I am the widow of SGM Robert Bowman. Realizing the importance of education, when the opportunity for transferring the Post-9/11 GI Bill arose, my husband took advantage of the opportunity and designated myself and our 4 daughters to be recipients of the benefit, being told her could reapportion the benefit when the time for their education came about. Unfortunately, after exposure to environmental toxins, my husband succumbed to cancer in January 2013. Before he died, our then 13 year old daughter told him "Dad, I promise you I am going to go to college and do great things and make you proud." This daughter is now almost 18 years old, in her junior year of high school and doing very well. She is in the top 20 percent of her class and talks almost daily about how excited she is to go to college and the things she needs to do in order to get there.

I called the VA about 8 to 10 months ago and spoke to someone about changing the allotted months from one child to another, or myself to my daughters. We had 19 months of benefits that neither I nor her sister would use. I was told "The only person that can move the months of benefits around is the servicemember/veteran." I said "You do understand he passed away in 2013?" She said to me again "Yes, ma'am, I understand but again the only person who can move the months is Robert Bowman."

I was able to deal with all of my late husband's estate, I am entrusted with all financial benefits for our two youngest daughters, I certainly should be able to manage their education benefits as well. My hope is that this issue can be resolved and survivors like me will be able to have some relief of stress in this area.

*From Tammy McCracken, surviving spouse*

Colonel David McCracken served honorably in the Army and Army Reserves for over 20 years. During his military career, he was deployed multiple times; during his last tour he was activated as a reservist to deploy to the Middle East. Upon return from his deployment, he was diagnosed with brain cancer which was found to be service-connected by the VA because of the link to burn pit exposure in the Middle East. He was not on active-duty orders nor training at the time of his death due to illness, and his children are not eligible for the Fry Scholarship. As he already had a Masters degree, Col. McCracken knew he was never going to use his own GI Bill benefits so when transferability became an option he immediately transferred it to his 2 young children. He transferred 35 months to his son and 1 month to his daughter thinking he could go back and split it as they needed it later, but because he died of wounds from his service it is stuck split that way. Col. McCracken's son, Connor has received an ROTC scholarship to Embry-Riddle Aeronautical University and would like to give all 35 of his months to his sister to use but because only the servicemember can make adjustments to the amount of months each dependent receives, Connor will have to let the 35 months he has go to waste.

The technical fix would be to allow survivors of those who had transferred the GI Bill and passed to adjust the months amongst those designated. In discussion with committee staff, the quandary of who should decide on the division was raised. We suggest it could be up to the current possessor of the benefit to determine if and how many months would be transferred. This will also only impact those already listed as transferees; no new transferees could be added.

TAPS also supports S. 410 and H.R. 1112, which would authorize the transfer of unused Post-9/11 Educational Assistance benefits to additional dependents upon the death of the originally designated dependent.

It is the responsibility of the Nation to provide for the support of the loved ones of those who have paid the highest price for freedom. Thank you for allowing us to speak on their behalf.

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PREPARED STATEMENT OF VETERANS EDUCATIONS SUCCESS

CHAIRMAN ISAKSON, RANKING MEMBER TESTER AND MEMBERS OF THE COMMITTEE ON VETERANS AFFAIRS, Veterans Education Success (VES) appreciates the opportunity to share its views on legislation under consideration at today's hearing.

A Summary of VES' positions on the bills and Discussion Draft legislation before the Committee follows. "No Position" means the measure is outside our expertise or legislative area of interest.

	AGENDA ITEM	Subject/ Key Word	Veterans Education Suc- cess Position
S. 75	<b>Arla Harrell Act</b>	Mustard Gas Claims WWII	No position
S. 111	<b>Filipino Veterans Promise Act</b>	WWII Claims	No position
S. 410	<b>Shauna Hill Post-9/11 Education Transferability Act</b>	Transfer GI Bill at Dependent's Death	Support
S. 473	<b>Educational Development for Troops and Veterans Act of 2017</b>	Guard-Reserve Call-ups Entitlement	Strongly support
S. 758	<b>Janey Ensminger Act of 2017</b>	Toxic Substances Exposure-Related Care	No Position
S. 798	<b>Yellow Ribbon Improvement Act</b>	Fry Scholarship Fix	Strongly support
S. 882	<b>Purple Heart GI Bill Act</b>	—	Strongly support
S. 844	<b>GI Bill Fairness Act</b>	Reserves' Medical Hold—GI Bill	Strongly support
S. 1192	<b>Veterans TEST Accessibility Act</b>	Licensure & Test GI Bill Consumption	Support
S. 1209	<b>A bill to increase special pension for medal of honor recipients</b>	MOH Stipend	No Position
S. 1218	<b>Empowering Federal Employment for Veterans Act of 2017</b>	—	No Position
S. 1277	<b>Veterans Employment TEC Act of 2017</b>	Coding Boot Camps	Provisional support
<b>Section</b>	<b>GI Bill Discussion Draft BAG17503</b>		
2	Consolidation of certain eligibility tiers under Post-9/11 Educational Assistance Program of the Department of Veterans Affairs	Raise Certain GI Bill Rates for Guard-Reserve	Support with comment

	AGENDA ITEM	Subject/ Key Word	Veterans Education Suc- cess Position
3	Additional Post-9/11 Educational Assistance for certain individuals pursuing programs of education in science, technology, engineering, math, or health care.	GI Bill Hike for STEM Degrees	Oppose
4	Increase in amounts of educational assistance payable under Survivors' and Dependents' Educational Assistance Program of Department of Veterans Affairs	Raise DEA Rates Comparable to MGIB	Support
5	Authorization for use of Post-9/11 Educational Assistance to pursue independent study programs at certain educational institutions that are not institutions of higher learning	Modify Independent Study	Provisional support
6	Calculation of monthly housing stipend under Post-9/11 Educational Assistance program based on location of campus where classes are attended	BAH Rate on Facilities' zipcode	Support with Comment
7	Repeal of sunset on work-study allowance from Department of Veterans Affairs for certain qualifying work-study activities		No position
8	Authorization of transfer of entitlement to Post-9/11 Educational Assistance by dependents who receive transfers from individuals who subsequently die		Support
9	Department of Veterans Affairs provision of on-campus educational and vocational counseling for veterans		Support
10	Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by school closure		Support
11	Treatment, for purposes of educational assistance administered by the Secretary of Veterans Affairs, of educational courses that begin seven or fewer days before or after the first day of an academic term		Support
12	Improvement of information technology of the Veterans Benefits Administration		Support
13	Provision of information regarding entitlement of veterans to educational assistance		Support
14	Extension of authority for Advisory Committee on Education		Support
15	Limitation on use of reporting fees payable to educational institutions and joint apprenticeship training committees		Support
16	Training for school certifying officials as condition of approval of courses for veterans educational assistance		Support
17	Modifications relating to reimbursement of expenses of State approving agencies for matters relating to administration of veterans educational assistance		Support
18	Modification of calculation of amount of educational assistance for individuals partially eligible for Post-9/11 Educational Assistance		Support

## COMMENT ON SELECTED BILLS AND GI BILL DISCUSSION DRAFT PROVISIONS

S. 473 THE EDUCATIONAL DEVELOPMENT ACT FOR TROOPS AND VETERANS ACT (SENATORS TESTER, BLUMENTHAL, BROWN, MURRAY). The bill would provide education benefits to National Guard and Reserve members called to active Federal service under orders that don't qualify them for Post-9/11 GI Bill benefits, and for other purposes.

VES strongly supports the educational benefits provisions in the bill.

*Sections 2–4* of this legislation would ensure that any time spent activated on mobilization authorization orders 12304a, 12304b, and 12301d of Title 10, U.S.C. counts toward eligibility for Post-9/11 GI Bill benefits for Guardsmen and reservists.

In 2012 Congress authorized the Secretary of Defense and Service Secretaries to more easily access the Reserve forces. In addition to call-ups in law for “national emergencies” and “contingency operations,” the Pentagon may call Guard and Reserve formations to active duty for missions that are “pre-planned and budgeted,” i.e., such missions do not require formal action by Congress or the Commander in Chief.

VES assumes the exclusion of veterans benefits for the G-R mobilized under Section 12304b and perhaps the other sections of law cited above were an oversight in the fog of enacting new deployment authorities and not an intentional slight against these servicemembers.

Since enactment of the law-change, the Services have steadily increased their reliance on pre-planned and budgeted call-ups of the Guard and Reserve.

As a matter of principle and fairness to our Nation’s “operational Guard and Reserve” men and women, there is no reason to exclude them from GI Bill entitlement simply because they serve under “wrong” orders. VES strongly endorses Sections 2–4 of S. 473.

*Section 6* would create a grant program with the Department of Education to help institutions of higher education establish, maintain, and improve veteran education centers—a dedicated space on a college or university campus that provides students who are veterans, members of the Armed Forces, or eligible family members a centralized location for services.

VES supports the provision. We note that the VA operates 94 VetSuccess on Campus programs at designated colleges and universities across the Nation that provide VA counselors and support to veterans eligible for Vocational Rehabilitation and Employment benefits. VES recommends coordination between the VA and Dept. of Education on the new program envisioned in Sec. 6.

*Section 8* of S. 473 would prorate the monthly housing allowance for the portion of the month the servicemember is not on active duty by amending Title 38, U.S.C. to clarify the eligibility for monthly stipends paid under the Post-9/11 Educational Assistance Program for certain members of the reserve components of the Armed Forces. VES supports Section 8.

S. 798 YELLOW RIBBON IMPROVEMENT ACT OF 2017 (SENATORS CASSIDY, BROWN, TILLIS). S. 798 would correct an inequity that denies Survivors entitled to the Fry Scholarship the opportunity to participate in the Yellow Ribbon matching program. Under the Yellow Ribbon participating colleges and universities may match up to half any remaining cost after GI Bill benefits are paid. The VA matches the difference. VES strongly supports S. 798.

S. 844 GI BILL FAIRNESS ACT OF 2017 (SENATORS WYDEN, BOOZMAN). S. 844 would authorize Guard and Reserve members receiving medical care or treatment on active duty to earn GI Bill entitlement during that period of service. Under current law, reservists who are wounded, ill or injured in the line-of-duty and eligible to earn GI Bill benefits are transferred to “medical hold” status resulting in the loss of that service for the purpose of GI Bill entitlement. By contrast active duty servicemembers continue to earn GI Bill benefits during a medical hold period of service. VES strongly supports S. 844.

S. 882 PURPLE HEART GI BILL ACT (SENATORS ROUNDS, BOOZMAN). S. 882 would grant full Post-9/11 GI Bill benefits to all Post-9/11 Purple Heart recipients.

Currently, only veterans who either serve at least 36 months on active duty or are medically retired receive Post-9/11 GI Bill benefits at the 100 percent rate. Those who were not medically retired and serve less than 36 months receive only a portion of those benefits on a prorated basis. Unfortunately, this leaves out many Purple Heart recipients, particularly from the Reserve Component, who were wounded on Post-9/11 battlefields, but were activated for less than three years in total. VES strongly supports S. 882.

S. 1192, VETERANS TEST ACCESSIBILITY ACT OF 2017 (SENATOR ROUNDS, HIRONO). S. 1192 would change the rate for reimbursing the cost of licensure and certification tests under the GI Bill to a pro-rated amount based on the actual cost of the fee charged for the test. VES supports S. 1192.

S. 1277. VETERANS EMPLOYMENT TEC ACT OF 2017 (SENATOR BOOZMAN, HELLER). S. 1277 would require the Secretary of Veterans Affairs to conduct a pilot program under which eligible veterans could enroll in high technology programs of education. (The pilot authority would not amend GI Bill statutes nor affect GI Bill benefits for veterans).

VES will not oppose S. 1277 provided the following concerns are addressed:

First, we urge the Committee to add language to ensure that a legitimate, high quality boot camp receives the VA contract. Currently, the only requirement is that the boot camp has been in existence for two years, but many low-quality rip-offs have existed for two years. There is no mention of outcomes, price, scale, or population served in the definition of qualified providers. We recommend the provision require VA to survey America’s best high tech companies and select a boot camp from one of the top five ranked by high tech companies.

Second, the provision includes no cap on tuition. Some proprietary boot camps charge outrageous tuition for a very short number of weeks. The tuition should be capped, such as by limiting the VA reimbursement to no more than 10% higher than the average nonprofit boot camp tuition price for the same time period. Another method would be to limit the boot camp tuition coverage to no more than a weekly prorated share of the annual GI Bill.

Third, we urge the Committee to consult executives from the top tech companies in Silicon Valley. Executives tell us many coding boot camps are a rip off, and that the public excitement about such boot camps may be misplaced.

Fourth, there is real concern that giving Federal funding to boot camps, some of which are owned by proprietary colleges, will lead to the next big scandal. Significant quality assurance measures are needed to prevent that. At a minimum, the Committee could require that coding boot camp programs meet the current Education Department requirements for short-term programs—70% completion and 70% job placement rates. Coding boot camps are not currently eligible for Education Department funding because they are not accredited and are too short to qualify for Pell Grants. Reports show the same problems with boot camp job placement rate claims that occurred among bad actors in the proprietary college industry, so much so that the private lenders that lend to students in these program just announced a more vigorous job placement rate definition and verification system for the coding camps.

Finally, the provision includes some clear loopholes, including failing to define the type, quality, or duration of “employment” and “meaningful employment.”

GI BILL DISCUSSION DRAFT BAG17503

**Section 2. Consolidation of certain eligibility tiers under Post-9/11 Educational Assistance Program of the Department of Veterans Affairs.**

This provision would raise the percentage of Post-9/11 GI Bill entitlement for the lowest two tiers for National Guard and Reserve servicemembers with qualifying active duty service. Tier 1—an aggregate of 90 days active duty—would increase from 40% to 50% GI Bill entitlement. Tier 2—aggregates of more than 180 days, but less than 360 days—would increase from 50% to 60% entitlement.

Below is a recent VA report summarizing new GI Bill entitlement by tiers:

Number of Veterans, Servicemembers, and Dependents Using the Post-9/11 Benefit by Eligibility Level

Eligibility level	40%	50%	60%	70%	80%	90%	100%	Total
Number of Users .....	17,209	65,530	109,788	63,396	68,504	71,527	1,090,195	1,486,149
Percent of total .....	1.2%	4.4%	7.4%	4.3%	4.6%	4.8%	73.4%	100%

Source: VA (August 1, 2009 through Sept. 30, 2015).

The data indicate that over time Tier 1 and Tier 2 participants appear to migrate to higher levels of entitlement due to additional qualifying active duty service. In other words, over a 6 year period from the start of the new GI Bill only 1.2% of all users were in Tier 1. The 100% entitlement top tier no doubt includes a substantial number of National Guard and Reserve members who have served multiple qualifying tours of active duty. Unofficially, more than one million Guard and Reserve members have been called up since Sept. 11, 2001 and over 300,000 have had multiple activations.

VES recognizes and greatly appreciates the service and sacrifice of our Nation’s Guard and Reserve warriors. VES is supportive of Section 2 of the Draft Bill but we wonder whether there is a demonstrated need to increase the first two tiers of eligibility at this time.

We believe strongly that the first order of business must be to resolve the inequity of denied entitlement for service under certain activation orders such as 12304b, 10 U.S.C. discussed above.

**Section 3. Additional Post-9/11 Educational Assistance for certain individuals pursuing programs of education in science, technology, engineering, math, or health care.**

This provision would authorize an additional lump sum payment under the P911 GI Bill for veterans who pursue degrees in science, technology, engineering, math or health care.

VES appreciates the intent of this provision. It would further the career goals of certain veterans who pursue STEM degrees and potentially benefit the economy over time. These are certainly laudable goals.

We must caution, however, that the provision would overturn a fundamental principle of all GI Bill programs extending back more than 70 years, namely, that all veterans are entitled to the same basic benefits under the GI Bill for the same service rendered to the Nation.

With those benefits, veterans are free to pursue any course of study or training approved for the GI Bill that meets their personal and career needs. No veteran should get additional basic benefits on the basis of their field of study or training.

Section 3 would establish a policy that would alter this longstanding principle of benefit equity. In effect, it would say that some fields of study are inherently more valuable, thereby relegating non-STEM pursuit to a lesser level of importance to the Nation. A second order consequence of the provision is that lawmakers may be tempted in the future to lower (or raise) entitlement to the GI Bill based on the attributed worth of a program of study. What happens, for example, if STEM degrees fall out of favor or are not seen as important to the economy as business degrees, for example?

Similarly, we would encourage you to consider the unintended, second order consequence of this provision in incentivizing some STEM programs to change their tuition and/or number of credits needed, in order to charge more to take advantage of this provision.

Finally, we would ask if the Committee has thoroughly consulted experts to determine if this provision is needed. We would note that the Nation's finest STEM programs such as at the Massachusetts Institute of Technology and Carnegie Mellon, do not require additional time to graduate, raising the question of the necessity of this provision.

There is a current mechanism for the proposed objective—additional entitlement—at least in part. Veterans with eligibility for multiple GI Bill programs may use up to 48 months of benefits. For example, Montgomery GI Bill (Chap. 30, 38 U.S.C.) participants can use up to 12 months of entitlement and make an irrevocable election for the P911 GI Bill benefit and have 36 months of remaining entitlement for a total of 48 months of benefits.

For these reasons, VES is unable to support Section 3.

**Section 4. Increase in amounts of educational assistance payable under survivors' and dependents' educational assistance program**

This provision would restore the education and buying power of Survivors and Dependents Educational Assistance (DEA) benefits under Chap. 35, 38 U.S.C..

When Congress enacted the P911 GI Bill in 2008, it also increased by 20% MGIB benefits. Unfortunately, Survivors and their dependents were left behind. Over time, the value of their benefits has fallen further behind since the annual COLA adjustments, if any, are applied to a smaller base amount.

Congress needs to do more to help Survivors prepare for their futures by restoring the value of their benefits earned by their spouses who made the ultimate sacrifice. VES strongly supports Section 4.

**Section 5. Authorization for use of Post-9/11 educational assistance to pursue independent study programs at certain educational institutions that are not institutions of higher learning.**

VES shares the views of the National Association of State Approving Agencies on this provision. Adequate controls should be put in place to limit the potential for abuse by "non-accredited" independent study programs. VES is very concerned that some veterans may be duped into so-called Independent Study programs that don't lead to a license, certification or other meaningful credential needed to pursue a career in a chosen field of study. State Approving Agencies and/or the Departments of Veterans Affairs, Education and Labor must be given authority to oversee programs envisioned under Section 5.

**Section 6. Calculation of monthly housing stipend under post-9/11 educational assistance program based on location of campus where classes are attended.**

The provision would change the method for determining the housing stipend for veterans to the location of the facility where the veteran is enrolled.

VES is supportive of the provision, provided the VA assesses the impact of the proposal on veterans. The sponsor of the House version of the bill, Rep. Paul Cook,

wrote to the VA earlier this year requesting data on the how his bill would affect the housing stipend calculation system-wide. It's our understanding the VA has not yet responded to the request. We believe the housing stipend data will be helpful in determining whether to proceed with some version of this provision. The VA must assure Congress that any second or third order impact on veterans is fair and balanced.

**Section 8. Authorization of transfer of entitlement to post-9/11 educational assistance by dependents who receive transfers from individuals who subsequently die.**

VES supports Section 8.

**Section 9. Department of Veterans Affairs provision of on-campus educational and vocational counseling for veterans.**

VES notes the existence of the VetSuccess on Campus (VSOC) program at 94 campuses across the country according to the VA website. VES is supportive of Section 9 and recommends Congress and the VA assure coordination and/or integration of the new authority with VetSuccess on Campus.

**Section 10. Restoration of entitlement to Post-9/11 Educational Assistance and other relief for veterans affected by school closure.**

Thousands of student veterans who were enrolled in ITT and Corinthian colleges, now closed, have lost vital GI Bill benefits through no fault of their own.

VES has been in contact with nearly 1,000 of these veterans and is advising them on actions they may be able to take regarding their benefits.

Veterans regularly describe to VES various false statements that their school made in order to persuade them to enroll. For example, many veterans describe how their school inflated its job placement rates or the efforts it puts into finding students jobs. Many also report that their school misled them about the accreditation status of its programs or whether its credits transfer to other schools. Many veterans describe how their school promised them that the GI Bill would cover their entire education, only to be told later that they would need to take out loans in order to complete their education. Some even describe learning that officials at their school falsified Federal aid applications by forging their names on loan applications.

One veteran told us that his school said it had a 93% job placement rating, and promised that he would have access to a nationwide network of employers. That veteran told us, "It wasn't until near the end of my schooling that I began to realize that a lot of the training I was getting was outdated, in some instances by a few years, and that I had a long way to go until I was up to par with the industry standards. I also found out that . . . my program had a success rate of only 38%. I have student loans that I am going to be paying off for years and really I have nothing to show for it."

Another veteran, Travis, attended ITT Tech. Travis asks, "Why was I getting outdated material? Why were instructors not even competent in what they teach? How could I know more about the subject than my own instructor? This was MADNESS!" He goes on, "What more can we do about this because at the end of the day the veterans are the ones taking the biggest hit! Lost GI Bill that we can't recoup, lost time away from family and friends and nothing to show for it! What about my time going to this school, sleepless nights studying for exams and finals, driving to school, driving home from school? As Veterans, the Education system has to do more for us! They should give us our time back toward our GI Bill that was used. Maybe in the future they will look more into these schools so this type of thing never happens again!"

Those veterans are just a few examples of thousands who served their country, chose to use the educational benefits they earned in the military in order to transition into civilian life, yet later discovered that their school defrauded them, provided a subpar education, and in some cases could not even keep its doors open. Along with wasting their GI Bill benefits, many of these veterans are now saddled with overwhelming student loan debt. As Travis told us, "It's affecting me as well as other veterans. Sometimes just dwelling on it brings me to tears because, in reality, at the end of the day, you honestly feel like a failure. You try so hard to get your education in order and then this happens."

Section 10 would restore up to four weeks GI Bill entitlement and a housing stipend under specific criteria in cases where a school closed permanently and the veteran did not receive credit or lost training time toward a program of study. The effective date would be the beginning of fiscal year 2015.

VES supports Section 10. VES recommends the Committee provide a more generous reinstatement of benefits than four weeks of GI Bill, such as by providing the entire GI Bill reinstated as in the House bill by Congressman Messer. Additionally,

we recommend the Committee amend the provision to include student veterans who were defrauded by the now-closed Corinthian Colleges.

**Section 11. Treatment, for purposes of educational assistance administered by the secretary of veterans affairs, of educational courses that begin seven or fewer days before or after the first day of an academic term.**

VES supports Section 11.

**Sections 12-15.**

VES supports.

**Section 16. Training for school certifying officials as condition of approval of courses for veterans educational assistance.**

This provision has the potential for reducing errors in calculating benefit entitlement and overpayments under the GI Bill programs for veterans by requiring school certifying officials to be trained by the VA as a condition for the school to be approved for such benefits. VES supports Section 16.

**Section 17. Modifications relating to reimbursement of expenses of state approving agencies for matters relating to administration of veterans educational assistance.**

This provision would increase funding for the State Approving Agencies (SAAs). SAAs are essential to the management and integrity of GI Bill programs, which is in our veterans' best interest. Funding for the SAAs has been flat-lined for over 10 years except for modest increases under annual COLAs. The provision would raise annual funding by discretionary appropriation of \$3 million per year. VES supports Section 17.

**Section 18. Modification of calculation of amount of educational assistance for individuals partially eligible for Post-9/11 educational assistance.**

This provision would change the method of calculating GI Bill benefits for veterans who have less than a 100% entitlement.

The following example illustrates the inequity. A veteran has 50% eligibility for the P911 GI Bill. She can receive 50% of the net tuition and fee costs paid, up to a maximum of half the private school cap.

The annual tuition and fee charges for this veteran are \$20,000, which is less than the annual cap if it's a private school.

The veteran applies for grants and scholarships from outside sources, the school, and from their employer. The veteran receives \$10,000 in tuition scholarships for the school year.

When certifying the veteran's enrollment to VA, the school reports net tuition and fee charges of \$10,000 (actual charges minus scholarships). VA pays 50% of the reported charges, or \$5,000.

The veteran now has to come up with another \$5,000 to pay the balance. But if any of those additional funds are tuition scholarships or employer assistance, it will further reduce the calculated net tuition and fees and further reduce the amount the VA pays.

Section 18 would make the inclusion of any scholarship, or other Federal, State, institutional, or employer-based aid or assistance (other than loans and any funds provided under section 401(b) of the Higher Education Act of 1965 (20 U.S.C. 1070a(b))) that is provided directly to the institution and specifically designated for the sole purpose of defraying tuition and fees, no longer applicable to the net tuition and fee calculation for those with less than 100% eligibility.

VES supports Section 18.

Veterans Education Success appreciates the opportunity to express our views before the Committee. We thank the Members for their enduring interest in and support of our Nation's veterans, survivors and their family members.

PREPARED STATEMENT OF KRISTOFER GOLDSMITH, ASSISTANT DIRECTOR FOR POLICY  
AND GOVERNMENT AFFAIRS, VIETNAM VETERANS OF AMERICA

Chairman Isakson, Ranking Member Tester, and other distinguished members of the Committee on Veterans Affairs, on behalf of our National President John Rowan, our Board of Directors, and our membership, Vietnam Veterans of America (VVA) thanks you for the opportunity to present our views for the record concerning the legislation to be discussed at today's hearing.

Today the committee will discuss bills meant to modernize and improve the GI Bill, and hopefully come to agreement on the universal idea that our country should not leave behind any veteran deserving the support of our nation. It is the founding principle of VVA that "Never Again Will One Generation of Veterans Abandon Another," which is why our members are so passionate about improving and protecting earned veterans benefits that they will never use themselves. This founding principle has guided us to our three top priorities regarding the GI Bill, which we urge the committee to consider as you work to improve this important benefit:

1. Protect eligibility for the GI Bill for all veterans with other than dishonorable discharges, as this benefit has been stolen from thousands of veterans who were denied eligibility without the due process rights of Courts Martial;
2. Eliminate the arbitrary 15-year limitation on usage of the GI Bill benefit which punishes veterans who both struggle in their transition from service, and those who transition well then face unemployment or underemployment later in life;
3. Remove era-specific naming of educational programs so that the GI Bill is not destined to create disparities between current and future generations of veterans.

**Protecting GI Bill Eligibility** — VVA urges congress to return the GI Bill to the spirit of the 1944 Servicemen's Readjustment Act of 1944, more popularly known as the "GI Bill of Rights," which protected the rights and benefits of *all* returning veterans. Sadly, in recent decades, more and more veterans have been allowed to fall through the cracks.

According to 38 U.S. Code § 101 (2):

The term "veteran" means a person who served in the active military, naval, or air service, and who was discharged or released therefrom under conditions other than dishonorable.

Why then does this our country deny veterans with administrative discharges, who were never afforded the due process rights of Courts Martial to be denied access to veterans benefits?

A GAO study titled *Actions Needed to Ensure Post-Traumatic Stress Disorder and Traumatic Brain Injury Are Considered in Misconduct Separations* (GAO-17-260: Published: May 16,

2017) recently revealed that 62% or 57,141 of veterans separated for misconduct between 2011 and 2015 had before separation been diagnosed with a mental health condition such as PTSD or TBI. According to the GAO report, nearly 15% of all of the soldiers who left the Army in 2011 did so without GI Bill eligibility. Each of these veterans not only carries the stigma of “bad-paper” discharges, but nearly all are prevented from utilizing the most important transition benefit, the GI Bill. Worse yet, 13,283 of those veterans received Other-than-Honorable discharges, and won’t have access to nearly any basic VA services until they reach the point of suicidality. This is a national tragedy that must immediately be addressed by this congress.

**Elimination of the arbitrary 15 year limit on eligibility** — Denying the GI Bill to a veteran because the veteran was unable to or chose not to utilize the GI Bill does no good for veterans, nor for their families or taxpayers. While there are many reasons that a veteran may delay pursuing an education via the GI Bill, VVA would like to pose three scenarios of veterans who are essentially punished because they experience a transition that does not result in their quickly going to school after exiting the service.

In one scenario, if a veteran struggles to adapt to life outside the military due to PTSD, they may find themselves simply unable to enter a scholastic environment. While a service-connected disability may qualify a veteran for Vocational Rehabilitation, which may afford them access to some benefits to gain an education, this veteran would have lost eligibility for the GI Bill’s BAH stipend which is a large part of what makes going to school affordable for most veterans.

In another scenario, a veteran may exit the service unable to enter school for years because they have children to care for, or because they are a caregiver to a loved one. This veteran, under current law, is punished for fulfilling the responsibilities of caregiver, because they lose their eligibility for the GI Bill because of an arbitrary time limit.

On our final scenario, we have veterans who transition seamlessly out of the military and into another career. Yet, as we face an ever changing economy, some of these veterans are bound to lose their work due to technological and industrial changes. Whereas the average American experiences career changes five to seven times throughout their life, why should a veteran be denied the opportunity to retrain through use of the GI Bill at any of these points of career change?

**“The GI Bill”** — VVA strongly supports adjusting the GI Bill so that it is not, in the minds of Americans, “a wartime benefit.” After all, the United States has not officially declared war since 1941, when it declared war against Japan as a response to the attack on Pearl Harbor. Technically speaking, the conflicts in Korea, Vietnam, Iraq, Afghanistan, and now Syria, are “extended conflicts.” In these times there are no front lines, terrorists can strike at any time and anywhere,

and as a result, today and tomorrow's Active Duty, Reservist and National Guard troops and veterans are done a disservice when the name of the GI Bill implies it is for specific engagements. This erroneous perception is part of the reason why there are already loopholes in the GI Bill that makes "S. 798 — GI Bill Fairness Act of 2017" even necessary for introduction. VVA urges the committee to take preventative measures against the opening of future loopholes by correcting the GI Bill in name and function, so that it is a benefit for service for all veterans who have chosen a life at service, knowing full well the unpredictable nature of world events, emergencies and conflict.

**S. 75 — Arla Harrell Act:** *To provide for the reconsideration of claims for disability compensation for veterans who were the subjects of experiments by the Department of Defense during World War II that were conducted to assess the effects of mustard gas or lewisite on people, and for other purposes.*

VVA strongly supports this bill introduced by Senator McCaskill, which would provide for the reconsideration of claims for disability compensation for veterans who were the subjects of experiments by the Department of Defense during the Second World War that were conducted to assess the effects of mustard gas or Lewisite on humans. There are not many of the 60,000 or so veterans left who participated in these experiments. Still, because they are deserving of a measure of justice long denied them, VVA strongly supports passage of this bill, and thanks Senator McCaskill for taking the lead on ameliorating this historic wrong.

**S. 410 — Shauna Hill Post 9/11 Education Benefits Transferability Act:** *would authorize the transfer of unused Post-9/11 Educational Assistance benefits to additional dependents upon the death of the originally designated dependent.*

VVA strongly supports this bill, which would ensure that GI Bill eligibility does not end when a military family suffers the loss of a transferee. Under current law, a veteran can transfer their GI Bill eligibility to a spouse or child. If the transferee dies, the GI Bill eligibility dies with them.

This legislation honors Shauna Hill, the 16-year-old the daughter of retired Navy Captain Edward Hill, who was killed in a car crash in December 2012. Because of the rigidity of the program, due to the fact that Captain Hill had already separated from the Navy when Shauna died, he was unable to transfer the benefit to his other daughter, Haley.

VVA is pleased to see the committee working to fix this unintended shortfall in the transferability program of the GI Bill.

**S. 473 — Educational Development for Troops and Veterans Act of 2017:** *to make qualification requirements for entitlement to Post-9/11 Education Assistance more equitable, to improve support of veterans receiving such educational assistance, and for other purposes.*

VVA also strongly supports this legislation, which seeks to close several GI Bill loopholes which were shamefully created by the Armed Services Committees and the Department of Defense in order to avoid costs associated with activating and deploying Reservists and National Guard Troops.

VVA would like for the committee to consider amending this legislation in a manner that would prevent DoD from creating new orders that put troops downrange without allowing them to earn the eligibility for the benefits they deserve.

**S. 844 — GI Bill Fairness Act of 2017:** *This bill would consider certain time spent by members of reserve components while receiving medical care as active duty for the purposes of eligibility for Post-9/11 Educational Assistance.*

Over the last decade, we have met scores of reservists who have been held on active orders while they heal and wait for the med-board process to proceed apace, often separated from their families for months if not years at a time. For these soldiers, held on active duty orders, it is eminently unfair that they are not earning eligibility for GI Bill benefits while those on active duty living in the same barracks, and assigned to the same unit, are able to.

VVA also strongly supports this bill and looks forward to seeing these reservists get the benefits they deserve.

**S. 1192 — “Veterans to Enhance Studies Through Accessibility Act” or the “Veterans TEST Accessibility Act”:** *provides for pro-rated charges to entitlement to educational assistance under the Post-9/11 Educational Assistance Program for certain licensure and certification tests and national tests.*

VVA strongly supports this bill, which would prevent student veterans from losing an entire month of eligibility if they are using the GI Bill to pay for certain licensure, certification and national tests. This bill would encourage and assist veterans in achieving their potential by ensuring that benefits are not wasted because of an unintended bureaucratic shortcoming in the GI Bill.

**S. 1209 — a bill to increase special pension for Medal of Honor recipients:**

VVA strongly supports this bipartisan legislation, which would increase the support Medal of Honor recipients by increasing their monthly compensation from \$1000 to \$3000.

**S. 1277 — Veteran Employment Through Technology Education Courses Act” or the “VET TEC Act”:** *would direct the Secretary of Veterans Affairs to carry out a high technology education pilot program.*

VVA appreciates the intent of this legislation, which is to increase veterans’ options in receiving training in emerging technological fields, but we must oppose this bill as currently drafted as it would make the GI Bill vulnerable to abuses. We recognize the need for flexibility in the GI Bill as a response to an evolving economy, and would like to see this bill amended.

VVA supports accountability in GI Bill programs, and appreciates efforts in this legislation meant to ensure that benefits aren’t wasted. However, we have concerns about possible loopholes in this bill that could be exploited by unethical organizations that would qualify for this program.

First, VVA believes that Sec(2)(c)(4), as written, which allows entities that have only been operational for a period of two years to qualify for the program, should be amended to require programs to have been in operation for at least five years prior to enactment of this bill.

Second, VVA would like to see clarification of the term “meaningful employment” as it is used in Sec(2)(b)(4). We support the spirit of the proposal, which aims to ensure that GI Bill users are being trained with valuable skills. However, it is unclear if a veteran who obtains training through this program, yet is unable to find work in a field related to that program, and then accepts employment in an unrelated field, would that qualify as “meaningful employment.” Furthermore, if the GI Bill user accepts a job offer in a related field with a salary that is below what the training entity advertised, would that qualify as “meaningful employment”?

Third, VVA would like to see this pilot program restricted to those training organizations affiliated with institutions that are accredited by reputable State or Regional Accreditation Agencies.

**DISCUSSION DRAFT, Section 3** — *This legislation would authorize the Secretary of Veterans Affairs to provide additional educational assistance benefits under the Post-9/11 Educational*

*Assistance Program to certain eligible individuals.*

VVA also strongly supports the intent of enhancing the GI Bill by expanding the benefit beyond 36 months for veterans choosing to achieve valuable degrees that require additional time and effort. We believe it was the intent of congress for the GI Bill to empower veterans to achieve at minimum, bachelor's degrees. We urge this committee to expand the GI Bill so that it at minimum, covers the full cost of bachelor's degrees, including prerequisite courses that many veterans require upon returning to the classroom.

**DISCUSSION DRAFT, Section 4** — : *This bill would increase the amounts of educational assistance payable under the VA's Survivors' and Dependents' Educational Assistance Program.*

VVA strongly endorses this legislation, which would increase the rates payable to survivors of servicemembers.

**DISCUSSION DRAFT Section 6 — Veterans' Education Equity Act:** *This bill would provide for the calculation of the amount of the monthly housing stipend payable under the VA's Post-9/11 Educational Assistance Program based on the location of the campus where classes are attended.*

VVA supports the intent of this bill, which is to ensure that GI Bill users receive a fair stipend to support living expenses while they attend school. Under current law, the VA determines Basic Assistance for Housing (BAH) payments to student veterans based on the zip code where the school is certified. This can create some disparity for veterans attending schools with multiple campuses, as BAH rates can vary greatly. The VA should pay BAH rates that align with the cost of living where the student veteran is attending school, not necessarily where the school is certified.

While VVA does believe that this bill addresses an unintended imbalance in the way that BAH rates are paid, we do have concerns about possible complexities arising from implementation of the bill as written. For example: How would this apply to a veteran attending classes in multiple locations at an institution that spans across multiple zip codes?

**DISCUSSION DRAFT, Section 7** — *would extend the authority to provide work-study allowance for certain activities by individuals receiving educational assistance by the Secretary of Veterans Affairs.*

VVA supports this bipartisan bill, and is glad to see a removal of the sunset date of the work-study program. Work-study can provide GI Bill participants with much-needed stability and income. An estimated  $\frac{3}{4}$  of GI Bill users are currently working full or part time, and work-study allows them to choose to stay on campus.

**DISCUSSION DRAFT, Section 8** — *authorizes transfer of entitlements to Post-9/11 Educational Assistance by dependents who receive transfers from individuals who subsequently die.*

VVA strongly supports this proposal, which would fulfil the same worthy goals as S. 1330 to close an unfortunate and unintended shortfall in the GI Bill.

**DISCUSSION DRAFT Section 9** — *would direct the Secretary of Veterans Affairs to provide educational and vocational counseling for veterans on campuses of institutions of higher learning.*

This bill will make permanent the VetSuccess on Campus Program, also known as VSOC. VVA strongly supports expansion of VSOC, which places experienced Vocational Rehabilitation Counselors (VRCs) on campuses with high populations of GI Bill users, but urges the committee to ensure that the VA is authorized to make new hires to reduce the workload of VRCs. VRCs are an invaluable resource for student veterans, particularly those with service-related illnesses and injuries, and those still struggling with their transition out of the military. Placing VRCs on campus as part of the VSOC program increases support for veterans in ways that schools don't otherwise provide. VRCs address questions regarding VA educational benefits, health services, and general VA benefits, as well as enroll student veterans in the VA healthcare system right there on campus.

The VSOC program, which began as a pilot in 2009, is currently on 94 campuses. This program has proven to be extremely beneficial to veterans, and should be made permanent and expanded to everywhere that it is practical to do so.

Because VRCs currently have caseloads that far exceed recommended levels, VVA hopes that Congress will work with the VA to ensure that more VRCs are hired.

**DISCUSSION DRAFT, Section 10** — *Restoration of entitlement to Post-9/11 Educational*

*Assistance and other relief for veterans affected by IHL closure.*

VVA strongly supports this section, and urges this committee to empower the VA to recoup damages by these institutions and their investors.

The purpose of this section is to restore eligibility for tuition, but not BAH, for student veterans who attended an institutions that has unexpectedly closed. VVA supports the intent of this legislation, but urges the committee to amend it to restore BAH as well. Veterans who have had their educational paths approved and paid for by the VA, and who then experience a school closing, should not have the rug pulled out from under them.

VVA urges the committee to take a proactive approach to protecting student veterans by keeping the VA from approving GI Bill use at institutions that have questionable practices or are at risk of closure. As we have expressed many times before, VVA is concerned about abuses of the GI Bill and questionable recruiting practices by predatory schools that view student veterans as little more than federally guaranteed dollar signs. (For further information, please see the attached memorandum from the Veterans Legal Services Clinic at Yale Law School: *VA'S Failure to Protect Veterans from Deceptive Recruiting Practices* which is dated February 26, 2016.)

***According to Student Veterans of America's National Veteran Education Success Tracker (NVEST) Report, proprietary schools enroll 27% of GI Bill students, while taking in 40% of total GI Bill funding -- and only produce 19% of the total degree completions. By comparison, public schools enroll 56% of GI Bill students, take 34% of total GI Bill funding, and produce 64% of total degree completions.***

In recent years, proprietary schools have seen overall enrollment spiral down, with the proportion of GI Bill users among their student populations growing. In many cases, these schools are over-reliant on federal funding, and if GI Bill funding was considered as federal funding under the 90/10 rule, these entities would be far out of compliance.

VVA encourages this committee to work to make sure that GI Bill funding is counted as federal funds as it pertains to the 90/10 rule. This will help ensure that student veterans are not looked at as dollar signs that help pad questionable programs so that they can be in compliance with the rather liberal 90/10 rule.

**DISCUSSION DRAFT, Section 12** — *would direct the Secretary of Veterans Affairs to make improvements to the information technology system of the VA's Veterans Benefits Administration.*

VVA favors this section. However, we believe that rather than enact yet more legislation, Congress ought to focus on employing its oversight obligations to ensure that the VA is in fact making improvements to its IT system.

**DISCUSSION DRAFT Section 15** — *Limitation on use of reporting fees payable to educational institutions and joint apprenticeship training committees.*

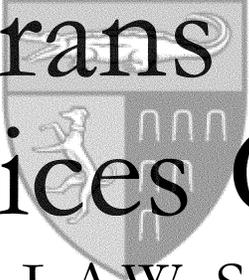
We strongly support increasing funding fees to schools, so long as there are sufficient protections in place to ensure that these funds are earmarked specifically to services for GI Bill users only. Schools should not be able to blend VA funding fees with general funds, or use VA funding for general programming.

These funding fees provide schools which have large contingents of GI Bill users with ways to improve services and facilities dedicated to service members, veterans and their families. Many schools have used these funds to build and support dedicated on-campus Student Veteran Centers. These spaces are critical for many student veterans' successful transitions, as they serve as a rallying point where veterans can find others with similar experiences and backgrounds. Veterans who experience such camaraderie on campus are more likely to succeed in school, and as such, institutions collecting large sums of reporting fees should be encouraged to use these funds to support on-campus Student Veteran Centers.

*Attachment*

MEMORANDUM FROM VETERANS LEGAL SERVICES CLINIC, YALE LAW SCHOOL, PRESENTED BY ERIN BALDWIN, COREY MEYER, AND RACHEL TUCHMAN, LAW STUDENT INTERNS

Veterans Legal  
Services Clinic  
YALE LAW SCHOOL

The image is the official crest of Yale University, featuring a shield with a sailing ship, a figure holding a bow, and three arches, with a scroll above the shield.

MEMORANDUM

RE: VA'S FAILURE TO PROTECT VETERANS  
FROM DECEPTIVE RECRUITING PRACTICES

FEBRUARY 26, 2016

Prepared By: Erin Baldwin, Corey Meyer,  
and Rachel Tuchman, Yale Law School  
For Further Inquiries: [Erin.Baldwin@clinics.yale.edu](mailto:Erin.Baldwin@clinics.yale.edu),  
[Corey.Meyer@clinics.yale.edu](mailto:Corey.Meyer@clinics.yale.edu), or  
[Rachel.Tuchman@clinics.yale.edu](mailto:Rachel.Tuchman@clinics.yale.edu)

## The Jerome N. Frank Legal Services Organization

YALE LAW SCHOOL

## MEMORANDUM

To: Interested Parties

From: Erin Baldwin, Corey Meyer, Rachel Tuchman  
Law Student Interns, Veterans Legal Services Clinic

Date: February 26, 2016

Re: U.S. Department of Veterans Affairs and State Approving Agencies' authority to deny G.I. Bill funds to schools using deceptive marketing to recruit veterans

**QUESTIONS PRESENTED**

Does the U.S. Department of Veterans Affairs ("VA") have the authority to protect veterans by denying G.I. Bill funds to educational institutions that use deceptive recruiting practices, including misleading marketing and false advertising, to target veterans? What actions can the VA and State Approving Agencies ("SAAs") take to prevent these institutions from receiving G.I. Bill funds?

**SHORT ANSWER**

Both the VA and SAAs have the authority to approve, disapprove, and suspend G.I. Bill funds for educational institutions engaged in deceptive recruiting practices.<sup>1</sup> Indeed, the VA has an obligation to act: the VA must not approve veterans' enrollment in courses offered by institutions that use "erroneous, deceptive or misleading" advertising, sales, or enrollment practices.<sup>2</sup> Additionally, the VA and SAAs may disapprove and suspend the use of G.I. Bill funds at educational institutions that utilize such practices.<sup>3</sup>

**BACKGROUND**

Educational institutions have strong incentives to engage in deceptive recruitment tactics to secure veterans' enrollment and collect G.I. Bill funds. For-profit institutions in particular rely on G.I. Bill funds to offset the statutory cap on other federal student aid programs.<sup>4</sup> As one official explained, this structure

<sup>1</sup> See 38 U.S.C. §§ 3672, 3679, 3690.

<sup>2</sup> See *id.* § 3696.

<sup>3</sup> See *id.* § 3679, 3690; 38 C.F.R. § 21.4259.

<sup>4</sup> Under the Higher Education Act, for-profit institutions are barred from receiving federal funds if they draw more than 90 percent of their revenue from federal student aid programs. 20 U.S.C. § 1094(a)(24). However, the statute does not list G.I. Bill funds, thereby creating a loophole that allows for-profit institutions to count G.I. Bill funds as non-public dollars that do not count against the 90 percent cap. See Daniel J. Riegel, Note, *Closing the 90/10 Loophole in the Higher Education Act: How to Stop Exploitation of Veterans, Protect American Taxpayers, and Restore Market*; Letter from 22

incentivizes many for-profit educational institutions to view veterans “as nothing more than dollar signs in a uniform.”<sup>5</sup>

Predatory for-profit schools routinely employ deceptive advertising practices to entice veterans to enroll in their programs.<sup>6</sup> The aggressive recruitment tactics garnered public attention in 2012 when a two-year investigation by the Senate Committee on Health, Education, Labor, and Pensions documented evidence of schools recruiting veterans at hospitals and wounded warrior centers.<sup>7</sup> The report cited internal corporate documents and training materials depicting a boiler-room sales environment in which for-profit colleges instructed recruiters to “pok[e] the pain”<sup>8</sup> in prospective students’ psyches and mislead them about tuition, accreditation, transferability of credits, academic quality, graduation rates, job and salary prospects, career assistance, and the inability of G.I. Bill funds to cover the full tuition.<sup>9</sup> Other tactics included creating fake military websites that purported to offer unbiased advice on G.I. Bill educational opportunities, but in reality sold veterans’ contact information to for-profit schools, which subjected the veterans to a barrage of recruiting calls and emails.<sup>10</sup> Another example involved recruiters attending job fairs under the guise of hiring veterans when they actually sought to enroll students in their programs.<sup>11</sup>

In addition, many schools accepting G.I. Bill funds lack the accreditation needed to deliver on their

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State Attorneys General to the Senate and House Committee on Veterans’ Affairs (May 29, 2012), [https://www.iowaattorneygeneral.gov/media/cms/Schools\\_4\\_profit\\_924BF51B5599F.pdf](https://www.iowaattorneygeneral.gov/media/cms/Schools_4_profit_924BF51B5599F.pdf) (stating that this accounting gimmick runs contrary to the intent of the Higher Education Act statute, if not its letter).

<sup>5</sup> Hollister K. Petraeus, Op-Ed, *For Profit Colleges, Vulnerable G.I.’s*, N.Y. TIMES, Sept. 21, 2011, <http://www.nytimes.com/2011/09/22/opinion/for-profit-colleges-vulnerable-gis.html?r=1> [hereinafter Petraeus, *For Profit Colleges*].

<sup>6</sup> See, e.g., *PBS News Hour: Are For-Profit Universities Taking Advantage of Veterans?* (PBS July 24, 2015), available at <http://www.pbs.org/newshour/bb/profit-universities-taking-advantage-veterans/>; *PBS News Hour: Is G.I. Bill Benefitting For-Profit Colleges Instead of Helping Veterans?* (PBS July 7, 2014), available at <http://www.pbs.org/newshour/bb/gi-bill-benefitting-profit-colleges-instead-helping-veterans/>; Susannah Snider, *3 Steps to Take Before Using G.I. Bill Benefits at For-Profit Colleges*, U.S. NEWS & WORLD REPORT, Nov. 11, 2015, available at <http://www.usnews.com/education/best-colleges/paying-for-college/articles/2015/11/11/what-veterans-need-to-know-about-gi-bill-benefits-at-for-profit-colleges>.

<sup>7</sup> S. Health, Educ., Labor & Pensions Comm., 112th Cong., *For Profit Higher Education: The Failure to Safeguard the Federal Investment and Ensure Student Success* (2012), available at [http://www.help.senate.gov/imo/media/for\\_profit\\_report/PartI-PartIII-SelectedAppendix.pdf](http://www.help.senate.gov/imo/media/for_profit_report/PartI-PartIII-SelectedAppendix.pdf).

<sup>8</sup> *Id.* at 60.

<sup>9</sup> *Id.* at 4 (citing U.S. GOV. ACCOUNTABILITY OFFICE, GAO-10-948T, FOR-PROFIT COLLEGES: UNDERCOVER TESTING FINDS COLLEGES ENCOURAGED FRAUD AND ENGAGED IN DECEPTIVE AND QUESTIONABLE MARKETING PRACTICES (2010)), available at <http://www.gao.gov/products/GAO-10-948T> (reporting that each one of 15 large for-profit schools made deceptive statements to federal undercover officers in recruiting, and four encouraged fraudulent practices by encouraging students to falsify FAFSA forms).

<sup>10</sup> Larry Abramson, *For-Profit Schools Under Fire for Targeting Veterans*, NATIONAL PUBLIC RADIO, April 9, 2012, <http://www.npr.org/2012/04/09/150148966/for-profit-schools-under-fire-for-targeting-veterans> (reporting that when an employee of Veterans of Foreign Wars tested the aggressiveness of recruiting by entering his information at “gibill.com,” for profit colleges telephoned him more than 70 times and emailed more than 300 times over the course of a few days); see also Petraeus, *For Profit Colleges*, *supra* note 5; Patricia Cohen, *For-Profit Colleges Accused of Fraud Still Receive U.S. Funds*, N.Y. TIMES, Oct. 12, 2015, <http://www.nytimes.com/2015/10/13/business/for-profit-colleges-accused-of-fraud-still-receive-us-funds.html> (noting how Alta Colleges marketed a criminal justice program promising prime careers where only 3.8% of graduates were actually employed as law enforcement or correctional officers).

<sup>11</sup> Chris Kirkham & Alan Zaremba, *For-Profit Colleges are Using the G.I. Bill to Make Money Off of Veterans*, L.A. TIMES, Aug. 18, 2015, <http://www.latimes.com/business/la-fi-for-profit-colleges-gi-bill-20150809-story.html>.

educational promises to veterans. A 2015 study found that as much as 20 percent of the current educational programs approved for G.I. Bill funds lacked the accreditation that is needed for students to work in the relevant field (such as medical and law careers).<sup>12</sup> In addition, a 2015 news report found that 2,000 unaccredited schools approved for G.I. Bill funds, including sex schools and bible schools, have taken more than \$260 million in G.I. Bill dollars since 2009.<sup>13</sup>

Veterans seeking higher education can use their G.I. Bill benefits only at educational institutions meeting specific approval criteria.<sup>14</sup> These criteria include a prohibition on using deceptive or misleading recruitment practices.<sup>15</sup> The authority for enforcing the prohibition rests with the VA and SAAs, state agencies created by Congress to ensure that veterans' education and training programs comply with federal standards.

In response to the deceptive tactics of some educational institutions, in 2012, the White House issued Executive Order 13607, to require educational institutions receiving G.I. Bill funding to, *inter alia*, "end fraudulent and unduly aggressive recruiting techniques."<sup>16</sup> Pursuant to the Executive Order, the VA and other federal agencies, must—among other measures—engage in targeted risk-based program reviews of schools that may be engaged in deceptive recruiting tactics; create a centralized system to receive, respond to, and refer complaints to law enforcement; and ensure websites and programs are not engaged in deceptive marketing, including trademarking military and veterans related terms.<sup>17</sup>

Meanwhile, a growing number of federal agencies and state officials have directly investigated, sued, or taken other actions against educational institutions. The Department of Education (DoE) threatened to cut off federal funds to Corinthian Colleges in 2014, resulting in the school's eventual closure, following its failure to correct falsified job placement numbers.<sup>18</sup> Shortly after, California SAA ("CalVet") withdrew G.I. Bill approval for California veterans from Corinthian Colleges.<sup>19</sup> Also in 2014, the Consumer Financial Protection Bureau sued the ITT chain for predatory, deceptive loan schemes targeting students, while the Securities Exchange Commission sued ITT in 2015 for deceiving shareholders.<sup>20</sup> In 2015, the Department of

<sup>12</sup> See Walter Ochinko, Veterans Education Success, "The GI Bill Pays for Degrees That Do Not Lead to a Job,"

available at

<http://static1.squarespace.com/static/556718b2e4b02e470eb1b186/t/5619840ae4b0e8c3b994957/1444512778604/Final+Research+paper+for+Senate+Testimony.pdf>.

<sup>13</sup> See Aaron Glantz, *GI Bill Pays for Unaccredited Sex, Bible and Massage Schools*, REVEAL NEWS, Jul. 15, 2015, <https://www.revealnews.org/article/gi-bill-pays-for-unaccredited-sex-bible-and-massage-schools>.

<sup>14</sup> See 38 U.S.C. § 3672.

<sup>15</sup> See *id.* §§ 3696, 3676(e)(10).

<sup>16</sup> Exec. Order No. 13607, Fed. Reg. 285, 861 (April 17, 2012), available at <http://www.gpo.gov/fdsys/pkg/FR-2012-05-02/pdf/2012-10715.pdf>; see also Tamar Lewin, *Obama Signs Order to Limit Aggressive College Recruiting of Veterans*, N.Y. TIMES, Apr. 27, 2012, <http://www.nytimes.com/2012/04/28/education/obama-signs-order-to-protectveteransfrom-college-recruiters.html>.

<sup>17</sup> *Id.*; see also Pub. L. No. 112-249, 126 Stat. 2398 (Jan. 10, 2013) (codifying certain aspects of the executive order, including improving access to information for veterans choosing a school, requiring the VA to create a system to obtain student veteran's feedback about schools, and banning incentive compensation at schools to limit deceptive recruiting).

<sup>18</sup> Richard Perez-Peña, *College Group Run for Profit Looks to Close or Sell Schools*, N.Y. TIMES, July 14, 2014, [http://www.nytimes.com/2014/07/05/education/corinthian-colleges-to-largely-shut-down.html?\\_r=0](http://www.nytimes.com/2014/07/05/education/corinthian-colleges-to-largely-shut-down.html?_r=0).

<sup>19</sup> Press Release, California Department of Veteran Affairs, *CalVet Withdraws Approval for Corinthian Colleges*, Aug. 25, 2014, <https://www.calvet.ca.gov/Pages/CalVet-WithdrawsApproval-for-Corinthian-Colleges.aspx>.

<sup>20</sup> Press Release, Consumer Financial Protection Bureau, *CFPB Sues For-Profit College Chain ITT For Predatory Lending*, Feb. 26, 2014, <http://www.consumerfinance.gov/newsroom/cfpb-sues-for-profit-college-chain-itt-for-predatory>

Defense temporarily banned the University of Phoenix from recruiting on military bases after finding that the institution deceptively and surreptitiously targeted veterans and service members.<sup>21</sup> The Department of Justice, in 2015, announced a \$95.5 million settlement with another large for-profit college chain, Education Management Corporation, following a multi-year suit for violating federal rules that prevent deceptive recruiting.<sup>22</sup> In 2015, the Federal Trade Commission (FTC) settled with Ashworth College for deceiving students about career training and transferability of credits.<sup>23</sup> Most recently, in January 2016, the FTC filed suit against the operators of DeVry University, alleging that its advertisements deceived consumers about the prospect of finding employment after graduation.<sup>24</sup> Finally, more than 30 state Attorneys General have investigated and sued dozens of for-profit colleges for deceptive recruiting. These institutions include unaccredited programs deceiving students about their ability to work in licensed fields and schools' unlawfully using military seals and claiming Pentagon approval to lure veterans.<sup>25</sup>

Although the VA is responsible for overseeing education benefits for veterans, it has been slow to join other agencies in addressing deceptive practices, drawing criticism from Congressional and veterans' leaders.<sup>26</sup> Veterans advocates note the VA has not completed its obligations under the 2012 Executive Order and that the VA's own "Choosing a School" guide directs veterans to a profit-making college search website that collects and sells veterans' contact information, rather than directing veterans to the DoE's reputable college search tools.<sup>27</sup>

According to the VA, it has limited authority to take action against educational institutions that use deceptive marketing practices. In response to a July 2015 letter from eight U.S. Senators concerned about

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-lending/; Press Release, U.S. Securities and Exchange Commission, *SEC Announces Fraud Charges Against ITT Educational Services*, May 12, 2015, <https://www.sec.gov/news/pressrelease/2015-86.html>.

<sup>21</sup> Douglas Belkin & Ben Kesling, *Justice, Education Departments Coordinate University of Phoenix Probes*, WALL ST. J., Oct. 9, 2015, [http://www.wsj.com/article\\_email/university-of-phoenix-barred-from-military-bases-1444369975-lMyQjAxMTI1NDE5MDQxODAxWj; see also Letter from Dawn Bilodeau, Chief Department of Defense Voluntary Education, Military Community and Family Policy, to University of Phoenix \(Oct. 7, 2015\), available at http://chronicle.com/blogs/ticker/files/2015/10/Suspension-Letter-to-University-of-Phoenix\\_7Oct20151.pdf](http://www.wsj.com/article_email/university-of-phoenix-barred-from-military-bases-1444369975-lMyQjAxMTI1NDE5MDQxODAxWj; see also Letter from Dawn Bilodeau, Chief Department of Defense Voluntary Education, Military Community and Family Policy, to University of Phoenix (Oct. 7, 2015), available at http://chronicle.com/blogs/ticker/files/2015/10/Suspension-Letter-to-University-of-Phoenix_7Oct20151.pdf). Department of Defense lifted the ban in January 2016. See Associated Press, *Arizona: Sanction Lifted for University of Phoenix*, N.Y. TIMES, Jan. 15, 2016, [http://www.nytimes.com/2016/01/16/us/arizona-sanction-lifted-for-university-of-phoenix.html?\\_r=0](http://www.nytimes.com/2016/01/16/us/arizona-sanction-lifted-for-university-of-phoenix.html?_r=0).

<sup>22</sup> Press Release, Department of Justice, *For-Profit College Company to pay \$95.5 Million to Settle Claims of Illegal Recruiting, Consumer Fraud and Other Violations*, Nov. 16, 2015, available at <http://www.justice.gov/opa/pr/profit-college-company-pay-955-million-settle-claims-illegal-recruiting-consumer-fraud-and>.

<sup>23</sup> Press Release, Federal Trade Commission, *Ashworth College Settles FTC Charges it Mised Students About Career Training, Credit Transfers*, May 26, 2015, <https://www.ftc.gov/news-events/press-releases/2015/05/ashworth-college-settles-ftc-charges-it-mised-students-about> [hereinafter FTC Press Release].

<sup>24</sup> Press Release, Federal Trade Commission, *FTC Brings Enforcement Action Against DeVry University*, Jan. 27, 2016, <https://www.ftc.gov/news-events/press-releases/2016/01/ftc-brings-enforcement-action-against-devry-university>.

<sup>25</sup> David Halperin, *Law Enforcement Investigations and Actions Regarding For-Profit Colleges*, REPUBLIC REPORT, Oct. 9, 2015, <http://www.republicreport.org/2014/law-enforcement-for-profit-colleges> [hereinafter Halperin, *Actions Regarding For-Profit Colleges*].

<sup>26</sup> Telephone Interview with Rick Weidman, Executive Director of Veterans Affairs, Vietnam Veterans of America (Feb. 10, 2016); see also Bobby Caina Calvan, *University of Phoenix Probation Brings Calls for VA to Pull the Plug*, REVEAL NEWS, Oct. 9, 2015, <https://www.revealnews.org/article/university-of-phoenix-probation-brings-calls-for-va-to-pull-the-plug/>.

<sup>27</sup> Telephone Interview with Carrie Wofford, Director, Veterans Education Success (Feb. 9, 2016) [hereinafter Wofford Interview].

unaccredited schools receiving G.I. Bill funds,<sup>28</sup> then VA Under Secretary of Benefits, Allison Hickey, stated that SAAs, not the VA, are responsible for disapproving funds to the schools in question and that the VA has limited authority over the process. The letter noted:

The authority for the approval of educational programs is specifically granted to the State Approving Agencies (SAAs) under Title 38 of the United States Code (38 U.S.C.) . . . Any course approved for benefits that fails to meet any of the approval requirements should be immediately disapproved by the appropriate SAA. VA is prohibited, by law, from exercising any supervision or control over the activities of the SAAs, except during the annual SAA performance evaluations.<sup>29</sup>

Moreover, veterans groups report that VA officials suggest they cannot take intermediate steps, such as a suspension of funds.<sup>30</sup> Both the VA and SAAs, however, have explicit authority to suspend courses, in addition to their authority to approve and disapprove courses.<sup>31</sup>

When SAAs have taken action, the VA has declined to support—or has even undercut—SAAs’ efforts to prevent non-compliant institutions from enrolling veterans. In one instance, although not related to deceptive recruitment practices, the California SAA (CalVet) blocked the enrollment of additional veterans at the University of Phoenix’s San Diego campus after an audit revealed the university exceeded an enrollment cap on veterans,<sup>32</sup> but the VA reversed the enrollment ban within days.<sup>33</sup> When CalVet suspended G.I. Bill funds to ITT and withdrew approval from Corinthian Colleges, the VA declined to assist CalVet.<sup>34</sup> Most

<sup>28</sup> See Letter from Richard Durbin, Senator from Illinois, to Under Secretary of Benefits Allison Hickey (July 17, 2015), available at <http://www.durbin.senate.gov/newsroom/press-releases/senators-terrible-failure-of-our-veterans-senators-terrible-failure-of-our-promise-to-veterans-and-taxpayers-when-gi-bill-benefits-wasted-on-questionable-institutions-> [hereinafter Durbin Letter].

<sup>29</sup> Letter from Allison A. Hickey, Former Under Secretary of Benefits in the Department of Veteran Affairs, to Senator Richard J. Durbin (Sept. 4, 2015), available at <http://assets.documentcloud.org/documents/2428666/va-educational-benefit-program-letter-to-sen.pdf>.

<sup>30</sup> Wofford Interview, *supra* note 27.

<sup>31</sup> 38 U.S.C. §§ 3675, 3679 (granting both “[t]he Secretary or a State approving agency” authority to approve and disapprove educational institutions); see also 38 U.S.C. § 3690(b)(3)(A) (granting suspension authority to the VA); 38 C.F.R. § 21.4210 (detailing the process that must accompany a mass suspension of funds, and of enrollments or reenrollments at educational institutions); 38 C.F.R. § 21.4259 (granting suspension authority to the SAA); S. REP. NO. 111-346, at 21 (2010) (noting that the 2010 amendments to the G.I. Bill were intended “to expand VA’s authority regarding approval of courses for the enrollment of veterans (and other eligible persons) who are in receipt of VA-administered educational assistance programs”) (emphasis added).

<sup>32</sup> Adithya Sambamurthy, *VA Overturns Veteran Enrollment Ban on University of Phoenix Programs*, REVEAL NEWS, Aug. 5, 2014, <https://www.revealnews.org/article-legacy/va-overturns-veteran-enrollment-ban-on-university-of-phoenix-programs>.

<sup>33</sup> *Id.* (“VA spokeswoman Victoria Dillon said the agency reversed the state’s enrollment ban without returning to the campus to conduct its own audit. Instead, she said the decision was made after the for-profit school sent new figures by email.”).

<sup>34</sup> For information about CalVet’s suspension of G.I. Bill funds for ITT, see, for example, Press release, California Department of Veterans Affairs, *CalVet Suspends GI Bill Approval for ITT Technical Institute*, May 15, 2015, <https://www.calvet.ca.gov/Pages/CalVet-Suspends-GI-Bill-Approval-for-ITT-Technical-Institute.aspx>; Letter from Congresswoman Speir to Secretary Robert McDonald, Congresswoman Speir Urges the Department of Veteran Affairs to Suspend GI Bill Benefits for ITT Educational Services (May 21, 2015), available at [http://speir.house.gov/index.php?option=com\\_content&view=article&id=1686:congresswoman-speir-urges-the-department-of-veterans-affairs-to-suspend-gi-bill-benefits-for-itt-educational-services&catid=20:press](http://speir.house.gov/index.php?option=com_content&view=article&id=1686:congresswoman-speir-urges-the-department-of-veterans-affairs-to-suspend-gi-bill-benefits-for-itt-educational-services&catid=20:press)

recently, in late 2015, after Virginia's SAA withdrew approval from ECPI's Medical Career Institute based on findings of deceptive recruiting, the VA failed to release the corresponding compliance review that would support the SAA's decision, despite requests from veterans' organizations.<sup>35</sup>

### **ANALYSIS**

This analysis proceeds in two parts. First, it explains the VA's statutory obligation to deny G.I. Bill funds for schools engaging in deceptive recruitment practices. Second, it discusses SAAs' authority to approve, disapprove, or suspend funding for educational institutions that engage in such practices.

#### **I. The VA must deny G.I. Bill funds to educational institutions engaging in deceptive recruitment practices**

The VA's statutory authority is clear: the VA is responsible for approving, disapproving, and suspending G.I. Bill funds for educational institutions according to various criteria.<sup>36</sup> Although SAAs also have authority to act, the VA retains authority to disapprove schools or courses and approve schools "notwithstanding lack of State approval."<sup>37</sup>

More specifically, federal statutes and regulations explicitly prohibit the VA from approving veterans' enrollment in courses offered by institutions that utilize deceptive practices.<sup>38</sup> Under 38 U.S.C. § 3696(a), "[t]he Secretary shall not approve the enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimation."<sup>39</sup> In addition to its approval authority, the VA can disapprove or suspend G.I. Bill funds based on a finding of deceptive practices, as 38 U.S.C. § 3696 is incorporated into the grounds for disapproval and suspension.<sup>39</sup>

The legislative history of 38 U.S.C. § 3696 underscores Congress' intent that the VA take action against educational institutions that use deceptive recruitment practices. Congress added § 3696 in 1974 as part of the Vietnam Era Veterans' Readjustment Assistance Act to require the VA to prevent colleges with predatory advertising practices from receiving G.I. Bill funds. The Senate Committee on Veterans' Affairs Report concerning the legislation states that the language of the bill includes "safeguards to prevent abuses of the veterans' educational assistance program" in response to the "deep concern . . . about abuses of the G.I. Bill

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-releases&Itemid=14.

For information about CalVet's withdrawal of approval for Corinthian Colleges, see, for example, Press Release, California Department of Veteran Affairs, *CalVet Withdraws Approval for Corinthian Colleges*, Aug. 25, 2014, <https://www.calvet.ca.gov/Pages/CalVet-WithdrawsApproval-for-Corinthian-Colleges.aspx>.

<sup>35</sup> Wofford Interview, *supra* note 27; see also *Virginia Department of Veterans Services, Medical Careers Institute- School of Health and Science of ECPI University, Virginia Beach Campus Withdrawn from Offering Education and Training to Veterans and their Dependents*, VIRGINIA DEPT. OF VET. SERV., Dec. 7, 2015, <http://www.dvs.virginia.gov/news-room/education-employment-news/medical-careers-institute-va-beach-approval-withdrawn>.

<sup>36</sup> See 38 U.S.C. § 3672(a) (stating that educational courses are approved "by the State approving agency for the State, . . . or by the Secretary"); *id.* § 3675(a)(1) (stating that "the Secretary or a State approving agency may approve accredited programs").

<sup>37</sup> 38 C.F.R. § 21.4152(b)(5).

<sup>38</sup> 38 U.S.C. § 3696(a); 38 C.F.R. § 21.4252(h)(1).

<sup>39</sup> 38 U.S.C. § 3679 ("Any course approved for the purposes of this chapter which fails to meet any of the requirements of this chapter shall be immediately disapproved by the Secretary or the appropriate State approving agency."); *id.* § 3690(b).

program in general.”<sup>40</sup> According to the Report, the bill “clarifies and strengthens the law with respect to the [Secretary’s] authority to disapprove enrollment of veterans in institutions which utilize advertising, sales, or enrollment practices which are erroneous, deceptive, or misleading.”<sup>41</sup>

Congress created two mechanisms to ensure that educational institutions using deceptive recruitment practices do not receive G.I. Bill funds. First, educational institutions are subject to mandatory recordkeeping and disclosure obligations.<sup>42</sup> Specifically, schools must maintain a record of all advertising, sales, and enrollment materials used during the preceding 12 months.<sup>43</sup> This record must be made available for inspection by the VA or SAAs.<sup>44</sup> Second, the VA is required to enter into an agreement with the FTC to utilize FTC resources to investigate and make determinations as to “enrollment of an eligible veteran or eligible person in any course offered by an institution which utilizes advertising, sales, or enrollment practices of any type which are erroneous, deceptive, or misleading either by actual statement, omission, or intimidation.”<sup>45</sup> Although the mandate to cooperate with the FTC was passed by Congress in 1974,<sup>46</sup> it appears that only in early November 2015, after pressure from veterans groups and the White House,<sup>47</sup> did the VA and the FTC enter into a Memorandum of Agreement to “provide mutual assistance in the oversight and enforcement of laws pertaining to the advertising, sales, and enrollment practices” of educational institutions that receive G.I. Bill benefits.<sup>48</sup>

Once the VA determines that an educational institution has used deceptive practices, the VA may take three actions affecting different groupings of G.I. Bill beneficiaries: suspend payments for veterans already enrolled in a course,<sup>49</sup> disapprove new enrollments in a course,<sup>50</sup> or disapprove new enrollments for the institution as a whole.<sup>51</sup> The VA must follow certain procedures regardless of which action it decides to take.<sup>52</sup> First, the Secretary must provide both the SAA and the educational institution with written notice of any

<sup>40</sup> S. REP. NO. 93-907, at 36 (1974). The Report cited numerous findings including Federal Trade Commission investigations of the Vocational and Home Study School Industry; a series of news articles on the practices of the private profit-making vocational education industry; and a Brookings Institution report prepared for the Office of Education entitled “Private Accreditation and Public Eligibility.” See *id.* at 22-23.

<sup>41</sup> *Id.* at 38.

<sup>42</sup> See 38 U.S.C. § 3696(b); 38 C.F.R. § 21.4252(h)(3) (“The materials in this record shall include but are not limited to: (i) Any direct mail pieces, (ii) Brochures, (iii) Printed literature used by sales people, (iv) Films, video cassettes and audio tapes disseminated through broadcast media, (v) Material disseminated through print media, (vi) Tear sheets, (vii) Leaflets, (viii) Handbills, (ix) Fliers, and (x) Any sales or recruitment manuals used to instruct sales personnel, agents or representatives of the educational institution.”).

<sup>43</sup> 38 U.S.C. § 3696(b) (“Such materials shall include but are not limited to any direct mail pieces, brochures, printed literature used by sales persons, films, video tapes, and audio tapes disseminated through broadcast media, material disseminated through print media, tear sheets, leaflets, handbills, fliers, and any sales or recruitment manuals used to instruct sales personnel, agents, or representatives of such institution.”).

<sup>44</sup> *Id.* (“Such record shall be available for inspection by the State approving agency or the Secretary.”).

<sup>45</sup> 38 U.S.C. § 3696(c); 38 C.F.R. § 21.4001(f).

<sup>46</sup> Pub. L. No. 93-508, 88 Stat. 1578 (Dec. 3, 1974).

<sup>47</sup> Telephone Interview with Walter Ochinko, Policy Director, Veterans Education Success (Feb. 9, 2016).

<sup>48</sup> DEPARTMENT OF VETERANS AFFAIRS and FEDERAL TRADE COMMISSION, MEMORANDUM OF AGREEMENT BETWEEN THE FEDERAL TRADE COMMISSION AND THE DEPARTMENT OF VETERANS AFFAIRS (2015), available at [https://www.ftc.gov/system/files/documents/cooperation\\_agreements/151110ftc\\_va\\_mou.pdf](https://www.ftc.gov/system/files/documents/cooperation_agreements/151110ftc_va_mou.pdf).

<sup>49</sup> 38 C.F.R. § 21.4210(d)(1)(i).

<sup>50</sup> *Id.* § 21.4210(d)(1)(ii).

<sup>51</sup> *Id.* § 21.4210(d)(4).

<sup>52</sup> 38 U.S.C. § 3690(b)(3)(B); see also 38 C.F.R. § 21.4210 (detailing the process that must accompany a mass suspension of funds, and of enrollments or reenrollments at educational institutions).

failure to meet the approval requirements.<sup>53</sup> Second, the VA must provide the institution 60 days to take corrective action.<sup>54</sup> Finally, within 30 days of notice to the institution, the Secretary must provide each eligible veteran and person already enrolled written notice of the VA's intent to take action against the educational institution.<sup>55</sup> For any actions affecting groups of veterans, including suspensions and disapprovals, the VA Director of the Regional Processing Office must refer the matter to that regional office's Committee on Educational Allowances.<sup>56</sup> The Committee then makes findings of fact and recommendations on the matter to the Director of the Regional Processing Office.<sup>57</sup> The Director of Regional Processing then considers the recommendation of the Committee and makes a decision, though it does not have to be the same decision as the Committee.<sup>58</sup> The educational institution affected by a decision can request review by the VA Director of Education Services.<sup>59</sup>

The statutes and regulations establishing the VA's authority over the administration of the G.I. Bill program enable the VA to actively participate in the disapproval or suspension of educational institutions that engage in deceptive marketing or recruitment practices, contrary to the VA's claims. Yet the VA has been slow to take action against educational institutions that engage in such practices.<sup>60</sup>

## II. SAAs must deny G.I. Bill funds to educational institutions engaging in deceptive recruitment practices

SAAs, like the VA, are responsible for approving educational institutions and courses that receive G.I. Bill funding.<sup>61</sup> Accordingly, Congress characterized cooperation between the VA and SAAs as "essential," particularly with respect to the "enforcement of approval standards."<sup>62</sup>

SAAs have authority to approve accredited courses<sup>63</sup> and non-accredited courses offered by public or private, for-profit or non-profit schools.<sup>64</sup> In regards to advertising practices, SAAs may only approve a non-accredited institution after confirming that "the institution does not utilize advertising of any type which is erroneous or misleading, either by actual statement, omission, or intimation."<sup>65</sup> To evaluate an institution under this requirement, SAAs must determine whether the FTC has issued an order instructing the institution to discontinue "erroneous or misleading" advertising acts or practices and must take any order into

<sup>53</sup> 38 U.S.C. § 3690(b)(3)(B)(i).

<sup>54</sup> *Id.* § 3690(b)(3)(B)(ii).

<sup>55</sup> *Id.* § 3690(b)(3)(B)(iii).

<sup>56</sup> 38 C.F.R. § 21.4210(g); *see also id.* § 21.4212 (explaining the referral process to the Committee on Educational Allowances); *id.* § 21.4211 (discussing the composition of the Committee on Educational Allowances); *id.* § 21.4213 (providing details on notice of hearings by the Committee on Educational Allowances); *id.* § 21.4214 (describing the rules and procedures for the Committee on Educational Allowances); *id.* § 21.4215 (discussing decision guidelines for the Committee on Educational Allowances).

<sup>57</sup> 38 C.F.R. § 21.4211(a)(ii)(5).

<sup>58</sup> *Id.* § 21.4215.

<sup>59</sup> *Id.* § 21.4216.

<sup>60</sup> Aaron Glantz, *VA Lags in Addressing Complaints Against Colleges Using GI Bill Funds*, REVEAL NEWS, Nov. 19, 2014, <https://www.revealnews.org/article-legacy/va-lags-in-addressing-complaints-against-colleges-using-gi-bill-funds>.

<sup>61</sup> 38 U.S.C. § 3672(a)(1).

<sup>62</sup> *Id.* § 3673(a); *see also* 38 C.F.R. § 21.4151(a) (stating that "the cooperation of the Department of Veterans Affairs and the State approving agencies is essential").

<sup>63</sup> 38 U.S.C. § 3675.

<sup>64</sup> *Id.* § 3676.

<sup>65</sup> *Id.* § 3676(c)(10); *see also* 38 C.F.R. § 21.4254(c)(10).

consideration.<sup>66</sup> In addition, SAAs and the VA may inspect the advertising materials used by schools, a record of which must be kept by educational institutions for the preceding 12-month period.<sup>67</sup>

SAAs also share authority with the VA to disapprove educational institutions found to be out of compliance with the approval requirements, including those related to deceptive recruitment practices.<sup>68</sup> Like the VA, SAAs must “immediately disapprove” noncompliant courses.<sup>69</sup> The SAAs’ responsibilities also include evaluating compliance of schools and “inspecting and supervising schools within the borders of their respective states.”<sup>70</sup> To ensure ongoing compliance, SAAs conduct compliance surveys (routine and regulated compliance checks) at educational institutions.<sup>71</sup>

SAAs must follow certain procedures to take action against educational institutions that engage in deceptive recruiting practices. The SAAs have authority to suspend enrollment in a new course for a period of up to 60 days.<sup>72</sup> If the educational institution does not meet requirements for approval or correct deficiencies within the 60 day period, the SAA has the authority to disapprove the course.<sup>73</sup> In the event the course is in a state without an SAA, the VA has authority to handle the suspension and disapproval function of the SAA.<sup>74</sup>

Despite this authority, few SAAs are thoroughly reviewing programs as part of the approval and disapproval process.<sup>75</sup> A former SAA official has suggested that the Post-9/11 G.I. Bill amendments to the approval and disapproval process effectively stopped SAAs from conducting thorough approval reviews.<sup>76</sup> The official observed that the VA and SAAs have begun to summarily approve accredited institutions, thus limiting SAAs to auditing already approved institutions through compliance surveys.<sup>77</sup> Although SAAs have the authority to review institutions and suspend or disapprove funding for those found out of compliance

<sup>66</sup> 38 U.S.C. § 3676(c)(10).

<sup>67</sup> *Id.* § 3696(b); 38 C.F.R. § 21.4252(h)(3).

<sup>68</sup> *See* 38 U.S.C. § 3670 *et seq.*

<sup>69</sup> *Id.* § 3679.

<sup>70</sup> 38 C.F.R. § 21.4151(b); *see also id.* § 21.4253(b) (recognizing the SAAs’ authority to approve accredited courses); *id.* § 21.4253(d) (recognizing the SAAs’ authority to approve school applications).

<sup>71</sup> *See* 38 U.S.C. § 3673(d) (noting the Secretary’s authority to utilize services of SAAs for compliance and oversight);

*see also* U.S. Department of Veterans Affairs, *Compliance Survey Report* (March 2014), *available at*

<https://assets.documentcloud.org/documents/1236731/university-of-phoenix-audit-report.pdf> (showing that VA form includes two requirements SAAs must check related to deceptive recruiting).

<sup>72</sup> 38 C.F.R. § 21.4259(a)(1).

<sup>73</sup> *Id.* § 21.4259(a)(2).

<sup>74</sup> *Id.* § 21.4259(c).

<sup>75</sup> *But see* Virginia Department of Veterans Services, *Medical Careers Institute- School of Health and Science of ECPI University, Virginia Beach Campus Withdrawn from Offering Education and Training to Veterans and their Dependents*, VIRGINIA DEPT. OF VET. SERV., Dec. 7, 2015, <http://www.dvs.virginia.gov/news-room/education-employment-news/medical-careers-institute-va-beach-approval-withdrawn> (documenting Virginia SAA’s recent suspension action against Medical Careers Institute for 60 days followed by a disapproval action for the Virginia Beach Campus of the University under 38 C.F.R. § 21.4252(h)(1)(i) for findings of misleading materials).

<sup>76</sup> Interview with Jim Bombard, National Association of State Approving Agencies, Retired Legislative Director and Retired Chief, New York Bureau of Veterans Education (Nov. 11, 2015) (on file with author) [hereinafter “Bombard Interview”].

<sup>77</sup> *Id.*

with statutory requirements, resource constraints undermine SAAs' capacity to disapprove G.I. Bill funding.<sup>78</sup> In addition, veterans advocates note that SAAs report feeling relegated by the VA to simple financial audits of schools.<sup>79</sup> Whatever the cause, a former SAA director has suggested that SAAs rarely, if ever, review advertising materials during compliance reviews.<sup>80</sup>

#### **CONCLUSION**

Both the VA and SAAs have the authority and an obligation to protect veterans from deceptive recruiting by denying G.I. Bill funds to educational institutions that deceive and defraud veterans. Both the VA and SAAs are mandated by law to approve funding only for courses that comply with statutory requirements and to suspend or disapprove funds for educational programs that utilize deceptive advertising to entice veterans to enroll in their programs. Thus far, both the VA and SAAs have failed to fulfill their duty to prevent schools from recruiting veterans through misleading recruitment tactics. The VA and SAAs must take action against institutions that are using deceptive practices to recruit veterans.

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<sup>78</sup> Statements of Dr. Joseph W. Wescott, President, National Association of State Approving Agencies before the Subcommittee on Economic Opportunity Committee on Veteran's Affairs, United States House of Representatives, Nov. 19, 2014.

<sup>79</sup> Telephone Interview with Col. Robert F. Norton (Ret.), Deputy Director of Government Relations, Military Officers Association of America (Feb. 10, 2016).

<sup>80</sup> Bombard Interview, *supra* note 76.