

STATEMENT OF
CURTIS L. COY
DEPUTY UNDER SECRETARY FOR ECONOMIC OPPORTUNITY
VETERANS BENEFITS ADMINISTRATION
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
HOUSE COMMITTEE ON VETERANS' AFFAIRS
JUNE 2, 2015

Good afternoon, Mr. Chairman, Ranking Member Takano, and other Members of the Subcommittee. Thank you for the opportunity to be here today to discuss legislation pertaining to the Department of Veterans Affairs' (VA) programs, including the following: H.R. 356, H.R. 1994, H.R. 2133, H.R. 2275, H.R. 2344, H.R. 2360, and H.R. 2361, as well as a draft bill to make certain modifications and improvements in the transfer of unused educational assistance benefits under VA's Post 9/11 Educational Assistance Program. Another bill under discussion today would affect programs or laws administered by the Department of Labor (DOL). Respectfully, we defer to that Department's views on H.R. 832, the "Veterans Employment and Training Service Longitudinal Study Act of 2015," a bill to direct the Secretary of Labor to enter into a contract for the conduct of a longitudinal study of the job counseling, training, and placement services for Veterans provided by the Secretary of Labor.

Accompanying me this afternoon are Cathy Mitrano, Deputy Assistant Secretary for Office of Resource Management, Human Resources and Administration and John Brizzi, Deputy Assistant General Counsel, Office of General Counsel

H.R. 356

H.R. 356, the “Wounded Warrior Employment Improvement Act,” would require the Secretary of Veterans Affairs to develop and publish an action plan for improving the vocational rehabilitation services and assistance VA provides to Veterans. Section 2 of the bill states that the unemployment rate for Veterans with service-connected disabilities who served in the military after September 11, 2001, (Wounded Warriors) is nearly 17.8 percent. The section also asserts that only 20 percent of Wounded Warriors pursuing an education in 2013 chose to pursue vocational rehabilitation, while 54 percent chose to pursue educational assistance under chapter 33 of title 38, United States Code, and forego counseling and other supports because of the educational assistance program’s easier application process and greater freedom. Other findings contained in the bill are that VA faces challenges with the Vocational Rehabilitation & Employment (VR&E) program’s workload management, which affects the delivery and quality of services to Veterans, and that the VR&E program should be the premier program assisting Wounded Warriors to realize their economic goals.

Section 3 of H.R. 356 would require the action plan to include a comprehensive analysis of, and recommendations and a proposed implementation plan for, remedying workload management challenges at VA regional offices, including steps to reduce counselor caseloads, as well as an implementation plan for encouraging more Wounded Warriors to participate in a rehabilitation program under chapter 31 of title 38,

United States Code. Section 3 would also require the plan to include an analysis of the reasons for the low percentage of Wounded Warriors who choose chapter 31 services and assistance compared to the higher percentage who choose chapter 33 educational benefits, and an analysis of the barriers to enrollment in a chapter 31 program. In addition, section 3 would require the plan to include a national staff training program for VR&E counselors, with an emphasis on training on post-traumatic stress disorder (PTSD) and traumatic brain injury (TBI).

While VA supports the effort to continue to improve and expand methods to provide timely and comprehensive vocational rehabilitation services and assistance to transitioning Servicemembers and Veterans, VA does not support this bill because VA does not believe there is a need for a new action plan to improve the services and assistance provided under chapter 31. VR&E Service's business process re-engineering initiative examined workload issues, training, roles, responsibilities, and outreach from FY 2011 to FY 2014, and consequently streamlined workload management strategies and developed a new staffing model, which informed the FY 2015 Resource Allocation Model. In addition, VA has a national training curriculum for VR&E staff that covers a variety of topics related to job duties, and includes information on working with individuals with PTSD and TBI, and other mental health issues. VR&E Service partners with the Veterans Health Administration (VHA) on many specialized trainings. VA also has an outreach campaign to increase awareness of and access to chapter 31 services. VR&E is an integral part of the Transitional Assistance Program (TAP) and vocational rehabilitation counselors (VRCs) are involved in supporting transitioning Servicemembers participating in the Integrated Disability Evaluation System (IDES). VRCs have been placed on military installations for early outreach and

the delivery of vocational rehabilitation services to transitioning Servicemembers. Because of these initiatives, training, and outreach programs, Servicemembers and Veterans have the information necessary to make an informed choice on available VA programs. In addition, there are fewer barriers to accessing rehabilitation services; VR&E staff better understand the specialized needs of Wounded Warriors and are therefore prepared to provide appropriate and timely rehabilitation services to meet those needs.

VA is currently developing a number of new initiatives. First, VR&E is developing new performance measures that will ensure the daily activities of employees who provide direct services to Veterans are linked to program measures that define successful outcomes. Second, VR&E is developing a new case management system, which will streamline responsibilities, produce a paperless environment, and improve data integrity. The funding included in the two-year IT budget cycle for the VR&E case management system project for FY 2015 and FY 2016 is \$9.72 million. Third, VR&E has implemented TeleCounseling as an optional method of coordinating case management and supportive services for Veterans participating in a chapter 31 program.

VA does not believe that comparing the services and assistance offered under chapters 31 and 33 demonstrates that there are problems with the delivery and quality of chapter 31 services and assistance. Because eligibility for chapter 31 services and assistance is more restrictive than eligibility for chapter 33 assistance, fewer Veterans are eligible for chapter 31 services, and therefore fewer Veterans necessarily have the choice to pursue a chapter 31 program.

VA cannot confirm that the unemployment rate for Wounded Warriors is nearly 17.8 percent. The most recent data from DOL on this specific population, "Employment Situation of Veterans - 2014", published on March 18, 2015, indicates the unemployment rate for Veterans with a service-connected disability who have served since September 11, 2001 is 9.1percent.

VA estimates that it would cost \$2 million to procure a contract to conduct a new analysis and develop an action plan as outlined in this bill. There would be no mandatory costs associated with enactment of this bill.

H.R. 1994

Section 2 of H.R. 1994 would give the Secretary of Veterans Affairs the same authority for VA non-Senior Executive employees granted to him for VA Senior Executives under 38 U.S.C. § 713. Under section 2, the Secretary could remove a VA non-Senior Executive employee from the civil service or demote the employee, either through a reduction in grade or annual rate of pay. If the individual being removed or demoted is seeking corrective action from the Office of Special Counsel (OSC) the Secretary could not take an action under this section without approval from OSC. Individuals removed or demoted under section 2 could appeal that action to a Merit Systems Protection Board administrative judge (AJ), who would be required to issue a decision on the appeal within 45 days. Decisions issued by an AJ would be final and not subject to further appeal.

Section 3 of this bill would require all new VA employees who are competitively appointed or appointed to the Senior Executive Service at VA to serve a probationary

period of at least 18 months. The probationary period could be extended past 18 months by the Secretary.

H.R. 1994 is the latest in a series of legislative proposals targeting VA employees by providing extraordinary authority to sanction them, not available in other Federal agencies. Last summer, section 707 of the Veterans Access, Choice, and Accountability Act of 2014, added 38 U.S.C. § 713, establishing an expedited removal authority that strictly limits VA Senior Executives' post-termination appeal rights. While that provision gave the Secretary additional flexibility in terms of holding VA Senior Executives accountable for misconduct or poor performance, it constrained the Secretary's ability to retain gifted senior leaders by singling out VA Senior Executives for disparate treatment from their peers at other agencies.

It is likely that H.R. 1994 would also result in unintended consequences for VA, such as a loss of qualified and capable staff to other government agencies or the private sector. Section 2 of this bill, which is based on 38 U.S.C. § 713, would apply to all VA employees regardless of their grade or position. VA's workforce consists of a diverse array of employees, including employees with advanced degrees in business, law, and medicine. Many of these employees accept lower pay to serve at VA, and a large number of these employees are Veterans. While VA's employees are motivated first and foremost by a desire to serve Veterans, another motivation to accept lower pay shared by many federal employees is the job security afforded by protections such as appeal rights that attach at the end of a probationary period. Diminishing those appeal rights or expanding the probationary period will reduce the motivation to pursue public service at VA.

Section 2 of the bill poses due process concerns, due to its failure to provide the employee with a chance to be heard prior to losing the benefits of employment.

Section 3 of this bill would also adversely impact recruitment at VA, by extending the probationary period for employees from what is usually 12 months to 18 months and authorizing the Secretary of Veterans Affairs to extend the probationary period beyond that time at his discretion. In general, the probationary period serves as a way of examining whether an employee is suitable for his or her position. The 12-month cap of probationary periods serves a dual role: it gives management a finite amount of time within which to gauge an employee's performance, and it gives the employee a reasonable period of time within which he or she would be made a permanent federal employee. By expanding that time to 18 months and allowing the Secretary to extend the probationary period past 18 months, section 3 of this bill may impact VA's ability to recruit employees. Like the diminishment of due process and appeal rights, the longer probationary period simply makes VA less competitive for the candidates seeking job security. In effect, H.R. 1994 would create a new class of employees in the government, a "VA class." These "VA class" employees could be removed or demoted at the discretion of the Secretary, would receive fewer due process rights and abbreviated MSPB appeal rights in actions taken under section 2 of the bill and would serve longer probationary periods than their peers at other government agencies. This will hinder VA efforts to make the "VA class" of employee the very finest employees to serve our Veterans and ensure that they timely receive the benefits and care to which they are entitled.

By singling out VA employees, the legislation would dishearten a workforce dedicated to serving Veterans and hurt VA's efforts to recruit and retain high performing employees.

VA will continue to work with the Committee and VSO's on how the Secretary can best hold employees accountable while preserving the ability to recruit and retain the highly skilled workforce VA needs to best serve Veterans.

H.R. 2133

H.R. 2133, the "Servicemembers' Choice in Transition Act," would amend section 1144 of title 10, United States Code, concerning TAP, which provides employment and job training assistance and related services for members of the Armed Forces being separated from active duty, and for their spouses, to add a new subsection to require the Secretaries of Defense and Homeland Security to permit a member of the Armed Forces who is eligible for assistance to elect to receive additional training.

VA defers to the Department of Defense (DoD) and the Department of Homeland Security (DHS) for views on the bill. There would be no mandatory or administrative costs associated with enactment of this bill.

H.R. 2275

H.R. 2275, the "Jobs for Veterans Act of 2015," would amend title 38, United States Code, to establish in VA a new "Veterans Economic Opportunity and Transition Administration."

Section 2 of the bill would establish the "Veterans Economic Opportunity Administration" to administer programs that provide assistance to Veterans and their dependents and survivors related to economic opportunity, such as VA's VR&E, Education, Loan Guaranty, Transition Assistance, and Homeless Veterans Reintegration programs, and certain programs related to Veteran-owned small

businesses. The new Administration would be led by an Under Secretary for Veterans Economic Opportunity, who would be directly responsible to the Secretary of Veterans Affairs. Section 3 of the bill would make the new Under Secretary position subject to appointment by the President with the advice and consent of the Senate.

While VA appreciates the Committee's focus on improving employment services for Veterans by consolidating various programs, we do not support this bill. The current Veterans Benefits Administration (VBA) structure reflects the Under Secretary for Benefits' overall responsibility for Veterans benefit programs, including compensation, pension, survivors' benefits, VR&E, educational assistance, home loan guaranty, and insurance. A separate Administration for economic opportunity programs would negatively impact Veterans and would result in a redundancy of management support services. VA understands that the Committee may have used both VA and DOL FY 2016 budget requests to develop the 22,118 FTE ceiling. If this is the case, then the legislation does not provide for the additional staff required to support the administrative and management functions for the new administration. This increase in staffing would be at the expense of direct FTE associated with the delivery of benefits, which would reduce support to Veterans. In 2011, the Office of Economic Opportunity (OEO) was established in VBA under the authority of the Under Secretary of Benefits to directly oversee Education Service, VR&E Service, Loan Guaranty Service, and the Office of Transition, Employment, and Economic Impact. We believe there is currently an appropriate management structure in which there is internal collaboration among these program offices to oversee Veteran programs related to economic opportunities. We are concerned that dividing the benefit programs between two Administrations will result in a redundancy of management support services and add an administrative burden.

The Office of Small and Disadvantaged Business Utilization (OSDBU) reports directly to the Secretary or Deputy Secretary. OSDBU's mission is to advocate for the maximum practicable participation of small, small-disadvantaged, Veteran-owned, women-owned, and empowerment-zone businesses in contracts awarded by VA and in subcontracts awarded by VA's prime contractors. This bill would move only OSDBU's Center for Verification and Evaluation (CVE) program to the new Administration. CVE administers the verification program required for Service-Disabled Veteran-Owned Small Business and Veteran-Owned Small Business and maintains the vendor information page database. VA is concerned that moving this major program from OSDBU to a new Administration will result in a redundancy of efforts when dealing with small and disadvantaged business activities.

VA is also concerned that there will be extensive issues related to human resources and logistics with transitioning two principal staff positions that would be transferred under section 2: Disabled Veterans' Outreach Program Specialists and Local Veterans Employment Representatives. DOL's Veterans' Employment and Training Service programs provide employment and training services to eligible Veterans through State grant programs. Funds are allocated to State Workforce Agencies that support the two principal staff positions. Maintaining the presence of these positions in state-owned job centers while transferring DOL's grant authority/appropriation to VA would be problematic.

Section 4 of the bill would transfer all functions currently performed under chapters 20, 41, 42, 43 by DOL to VA to be administered by the newly established Veterans Economic Opportunity Administration. It would also require DOL and VA to

enter into a memorandum of understanding to accomplish the transfer and to ensure effective coordination and avoid duplication of activities.

Like DOL, VA does not support the transfer of these Veterans employment programs and services from DOL to VA. VA has significant concerns regarding a transfer, considering the current integration of these services throughout DOL's nationwide network of employment services and VA's lack of existing infrastructure and subject matter expertise to support the delivery of some of the functions that would be transferred to VA.

Without more specific information on the number of employees authorized for the new administration and an in-depth understanding of the DOL functions and operations that would be transferred if this bill were enacted, VA is unable to provide a cost estimate for the proposed new administration.

H.R. 2344

Section 2 of H.R. 2344 would amend section 3104(b) of title 38, United States Code, to add a requirement that a course of education or training may be pursued as part of a vocational rehabilitation program under chapter 31, United States Code, only if it is approved for purposes of chapter 30 or 33 of title 38. The Secretary would have discretion to waive this requirement, if determined appropriate. This requirement would apply to Veterans who first begin a chapter 31 program of rehabilitation on or after the date that is one year after the date of enactment.

VA does not oppose this section because it is essentially in line with current practice. There would be no costs associated with enactment of this section.

Section 3 of this bill would amend chapters 21 and 31 of title 38, United States Code, so that housing modifications required under a rehabilitation program may be provided under the Specially Adapted Housing program. VA supports the purpose of section 3, as VA believes that it would help Veterans continue to achieve maximum independence in daily living, increase Veterans' freedom of choice, and create additional administrative efficiencies.

VA cannot support the section as drafted, however, because it is not clear whether it would accomplish its purpose, and VA believes it would have unintended consequences. For example, it is not clear how VA would coordinate the benefits. Despite the section 3 bar against duplication of benefits, the provision could be interpreted to allow housing modifications under either chapter 21 or chapter 31, or both, depending on the Veteran's situation and preferences. Due to the structure of chapter 21, section 3 would result in expanded eligibility for Veterans' Mortgage Life Insurance. It would also make the provision of housing modifications under rehabilitation programs available outside the United States. VA would be pleased to work with the Committee to address these and other technical concerns.

Without technical amendments to clarify the impacts of this section, VA cannot estimate benefits costs.

Section 4 of this bill would amend section 3104 of title 38, United States Code, to allow the Secretary to prioritize chapter 31 services based on need. The Secretary would be required to consider disability ratings, the severity of employment handicaps, qualification for a program of independent living, income, and other factors the Secretary determines to be appropriate when evaluating need. The Secretary would

also be required to submit a plan describing any changes in priority of chapter 31 services to Congress within 90 days of making any changes.

VA supports the intent behind this section; however, VA would need to develop a study to determine how to prioritize the provision of chapter 31 services based on need, because of the complexity of the matter. It would take VA approximately one year to submit a plan to the Congress. VA currently has authority to provide vocational rehabilitation services based on the rehabilitation needs of individuals and believes services should continue to be provided in that manner. Additionally, under section 3120 of title 38, United States Code, VA is required to provide independent living programs first to Veterans for whom the reasonable feasibility of achieving a vocational goal is precluded solely as a result of a service-connected disability. Income is not a factor currently used to determine vocational rehabilitation services to be provided to Veterans that qualify based on service-connected disability and the existence of an employment handicap. VA would need to identify policy and procedures to implement this additional criterion.

There would be no costs associated with enactment of this section.

Section 5 of this bill would require VA to reduce redundancy and inefficiencies in the use of information technology to process claims for chapter 31 rehabilitation programs by ensuring that all payments for and on behalf of Veterans participating in a chapter 31 rehabilitation program are only processed and paid out of one corporate information technology system, and by enhancing the information technology system supporting Veterans participating in a chapter 31 rehabilitation program to support more accurate accounting of services and outcomes. This section would authorize appropriations of \$10 million for FY 2016 to carry out the section. It would also require

the Secretary to submit a report to Congress not later than 180 days after the date of enactment on the changes made.

VA supports the intent behind this section. VA's Office of Information and Technology is currently working to begin development of a new case management system for VR&E Service. The funding included in the two-year IT budget cycle for the VR&E case management system project for FY 2015 and FY 2016 is \$9.72 million. VA plans to move all subsistence allowance award payments for chapter 31 off of the Benefits Delivery Network and into the Subsistence Allowance Module, with payment through the Finance and Accounting System, by August 2015. This move will allow VR&E Service to monitor the improvement in payment timeliness, the level of administrative burden on staff, and the fiscal accuracy and integrity of completed claims. The scope of the current VR&E Case Management System (CMS) contract does not include full integration to existing financial payment systems – including contracts, vendor, and school payments. Subject to the availability of appropriations to support this authorization of funds, this section would allow VA to build upon the VR&E CMS by developing a single user interface for all chapter 31 payments.

H.R. 2360

H.R. 2360, the "Career-Ready Student Veterans Act," would amend title 38, United States Code, to improve the approval of certain VA programs of education for purposes of educational assistance.

This bill would amend 38 U.S.C. § 3676(c), pertaining to the approval of non-accredited courses, by adding new requirements to the criteria that must be met for State approving agencies to approve institutions' written applications for approval of

non-accredited courses. First, in the case of a program designed to prepare an individual for licensure or certification in a State, the program would need to meet any instructional curriculum licensure or certification requirements of that State. Second, in the case of a program designed to prepare an individual for employment pursuant to standards developed by a board or agency of a State in an occupation that would require approval or licensure, the program would need to be approved or licensed by such board or agency of the State.

H.R. 2360 also would add subsection (f) to section 3676 to permit VA to waive the aforementioned requirements in the case of a program of education offered by an educational institution if VA determined:

- The educational institution was accredited by an agency or association recognized by the Department of Education;
- The program did not meet the requirements at any time during the two-year period preceding the date of the waiver;
- The waiver furthers the purposes of the educational assistance programs administered by VA or would further the education interests of individuals eligible for assistance under such programs;
- The educational institution does not provide any commission, bonus, or other incentive payment based directly or indirectly on success in securing enrollments or financial aid to any persons or entities engaged in any student recruiting or admission activities or in making decisions regarding the award of student financial assistance, except for the recruitment of foreign students residing in foreign countries who are not eligible to receive Federal student assistance.

H.R. 2360 would also amend 38 U.S.C. § 3675, pertaining to the approval of accredited courses at for-profit educational institutions, to include the new requirements in section 3676(c), above, as part of the approval conditions for accredited courses offered by private for-profit institutions.

VA supports the intent behind H.R. 2360. However, we do not support the bill as currently drafted for a number of reasons.

If enacted, H.R. 2360 would ensure that non-accredited courses pursued by GI Bill beneficiaries meet all of the State requirements for licensure or certification in a given occupation or career field and would be approved by the State board or agency that developed the standards. VA does not oppose the concept of additional criteria for the approval of non-accredited courses. However, we note that, as written, the bill would not allow the Secretary to waive the requirement for non-accredited courses, as the institution must be accredited in order to meet the criteria for a waiver. VA is unclear as to the reason why an accreditation requirement is being inserted in the approval criteria for non-accredited programs. In general, an institution's accreditation applies to all of the courses offered by the institution, and accredited courses have different approval requirements.

Additionally, H.R. 2360 would ensure that accredited courses at private, for-profit institutions meet all State requirements for certification and licensure. VA supports efforts to ensure that Veterans and other GI Bill beneficiaries are well-trained and adequately equipped to obtain employment and achieve economic success. However, we note that the proposed licensure and certification requirements would not be applied to similar programs at public and private, not-for-profit institutions. Consequently, the

bill does not ensure that all Veterans and beneficiaries would receive all of the training required for licensure or certification in their chosen occupational fields.

VA estimates that there would be no additional discretionary cost requirements associated with the enactment of H.R. 2360. Mandatory costs associated with this bill are still under consideration.

H.R. 2361

H.R. 2361, the “Work-Study for Student Veterans Act,” would amend section 3485(a)(4) of title 38, United States Code, extending for five years (through June 30, 2020) VA’s authority to provide work-study allowances for certain already-specified activities. Under current law, the authority expired on June 30, 2013.

Public Law 107-103, the “Veterans Education and Benefits Expansion Act of 2001,” established a five-year pilot program under section 3485(a)(4) of title 38 that expanded qualifying work-study activities to include outreach programs with State Approving Agencies, an activity relating to the administration of a National Cemetery or a State Veterans’ Cemetery, and assisting with the provision of care to Veterans in State homes. Subsequent public laws extended the period of the pilot program and, most recently, section 101 of Public Law 111-275, the “Veterans’ Benefits Act of 2010,” extended the sunset date from June 30, 2010 to June 30, 2013. Prior to the expiration of this legislation, there were approximately 300 individuals who participated in the work-study program under these activities.

VA does not oppose legislation that would extend the current expiration date of the work-study provisions to June 30, 2020, subject to the identification of appropriate offsets. VA does not have the benefit costs associated with this proposal at this time.

Draft Legislation Concerning Transfer of Chapter 33 Benefits

This draft legislation would make certain modifications and improvements in the transfer of unused educational assistance benefits under the Post- 9/11 Educational Assistance Program (chapter 33 of title 38, United States Code). Specifically, section 1(a) of the legislation would amend 38 U.S.C. § 3319(b)(1) to allow members of the uniformed services to transfer unused education benefits to a family member after the Servicemember has completed 10 years of service and agrees to serve for 2 more years. The current provision requires 6 years of service and an agreement to serve for 4 more years. Although dependent children are not eligible to receive transferred benefits until the Servicemember has completed a minimum of 10 years in the Armed Forces, spouses can currently begin using transferred benefits once the Servicemember has completed 6 years of service.

In addition, section 1(b) of the proposed legislation would amend 38 U.S.C. § 3319(h)(3) to change the rate of payment for dependents who receive transferred entitlement under chapter 33. The monthly amount of the basic allowance for housing stipend payable to a spouse or a child who receives the transferred education benefit would be payable in an amount equal to 50 percent of the amount of such stipend that would otherwise be payable to the transferor under chapter 33, and that is currently payable to the transferee.

Finally, section 1(c) of the draft legislation would change the term “armed forces” to “Armed Forces” each place it appears in 38 U.S.C. § 3319.

Since transferability is a Department of Defense (DOD) benefit that aids in retention, VA defers to DOD regarding these provisions.

VA estimates that there would be no additional discretionary costs associated with the enactment of this legislation. Mandatory costs, administrative costs, and IT costs are still under consideration.

Mr. Chairman, this concludes my statement. Thank you for the opportunity to appear before you today. I would be pleased to respond to questions you or the other Members of the Subcommittee may have.