STATEMENT OF
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DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
ECONOMIC OPPORTUNITY SUBCOMMITTEE

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Good Morning Chairman Levin, Ranking Member Bilirakis, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss 14 bills—11 on Veterans' educational assistance, 2 on VA's automobile allowance, and 1 on loan guaranty. Accompanying me today is Ms. Laurine Carson, Deputy Executive Director, Policy and Procedures, Compensation Service (VBA).

H.R. 5052 – WAVES Act

H.R. 5052, the Wage Adjustment for Veterans Enrolled in School Act (WAVES), would amend 38 U.S.C. § 3485(a)(6) to change the definition of the term "applicable hourly minimum wages" for purposes of work-study allowance to include consideration of the hourly minimum wage under comparable law of the local government with jurisdiction over the area in which the work-study services are to be performed. Currently, the hourly minimum wage for the work-study allowance is the greater of the hourly minimum wage under section 6(a) of the Fair Labor Standards Act of 1938 (29 U.S.C. § 206(a)) or the hourly minimum wage under comparable state law. Under the bill, a work-study student would receive an hourly minimum wage equal to the Federal, state, or local government minimum wage, whichever is greatest. The amendment would apply to a payment of work-study allowance made on or after January 1, 2021.

Provided that Congress appropriates the necessary funding, VA supports the proposed legislation because it would ensure work-study students receive the highest possible wage available for the location in which they are providing services. VA cannot estimate costs associated with H.R. 5052 because limited data are readily available comparing Federal, state, and local government minimum wages.

Unnumbered Bill – Comparison Tool MOU

This unnumbered bill would add a new paragraph (4) to 38 U.S.C. § 3698(c) to require VA to enter into a memorandum of understanding with the Department of Education and the Internal Revenue Service (IRS) that would require both agencies to provide VA with student outcome information for students who are Veterans, members of the Armed Forces, or dependents of Veterans or members of the Armed Forces at educational institutions. The student outcome information would include the following:

persistence rate; course and program completion rates; transfer-out rate; graduation rate; number of completed degrees and certificates; average number of years to complete a degree or certificate program; unemployment rates of graduates and of individuals who attended but did not complete a degree or certificate program; average salary for graduates; average salary for graduates with each major or certificate available at the institution; median amount of Federal student loans; and student loan default rate.

In addition, this proposed bill would require VA to provide such student outcome information for each institution of higher learning, for the most recent academic year for which information is available, in the GI Bill Comparison Tool.

VA believes this bill is unnecessary, as it merely would codify existing requirements that were set forth in Executive Order 13607, "Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members." Recently, VA has implemented a Joint Higher Education Interagency Agreement with the Department of Defense, Department of Education, and the Consumer Financial Protection Bureau in response to the executive order. This agreement enables VA and the other signatories to leverage decision support tools created by each agency in an effort to ensure educational institutions are transparent about financial costs and performance outcomes and that quality academic and student support services are provided to military and Veteran students in accordance with E.O. 13607. While VA already collects certain student outcome information on veterans, we still are in the beginning stages of coordinating this with other agencies to determine what matching data is possible. Based on previous experience, the Department of Labor is a critical partner in such agreements as it provides valuable information regarding things such as unemployment rates of graduates and of individuals who attended but did not complete a degree or certificate program.

VA would need to establish a data transfer connection with IRS in order to receive the required student outcome data. VA would also need to make modifications to the VA-Online Certification of Enrollment and Web Enabled Approval Management computer systems. VA estimates that it would require 18 to 24 months from the date of enactment to make the information technology (IT) changes necessary to implement the proposed legislation, pending funding availability. No mandatory or VBA General Operating Expenses (GOE) costs are associated with this unnumbered bill. However, VA estimates IT costs to be $8 million. Implementation also may result in costs to other agencies that we are not able to estimate.

Unnumbered Bill – Availability of Electronic Certificates of Eligibility

This unnumbered bill would require that, not later than August 1, 2021, VA ensure that any person who is entitled to educational assistance under chapter 30, 33, or 35 of title 38, U.S.C., or section 1606 of title 10, U.S.C., is able to access an electronic version of the certificate of eligibility showing the person's entitlement to such assistance.

Provided that Congress appropriates the necessary funding, VA supports the proposed legislation as it would give all VA education beneficiaries access to their eligibility and entitlement information in an electronic format. However, VA would have to make modifications to its existing IT systems to implement this proposed legislation. Due to competing priorities in Fiscal Year (FY) 2021 and a lack of a contract vehicle, VA estimates that it would require 18 months from the date of enactment to make the IT changes necessary to implement the proposed legislation, pending funding availability. No mandatory or VBA GOE costs are associated with this unnumbered bill. However, VA estimates IT costs to be $15 million.

Unnumbered Bill – For-Profit Conversion to Non-Profit

This unnumbered bill would add a new 38 U.S.C. § 3699B that would require VA to treat for-profit educational institutions that convert to non-profit educational institutions as for-profit educational institutions for 10 years after the date the educational institution is converted. This provision would be effective on the date of enactment but would apply to conversions that occurred on or after January 1, 2016.

VA has a number of concerns with this proposal. First, it is unclear on what basis 10 years is considered the appropriate length of time before an institution can be considered a non-profit after converting from a for-profit status. Second, the bill needs clearer language regarding who determines a school's profit status. Currently, both IRS and the Department of Education independently make determinations regarding a school's for-profit status. There have been several recent occasions when IRS and the Department of Education disagree over a school's status. For example, in 2018, Grand Canyon University (GCU) (a for-profit school) completed a sale and restructuring transaction with Gazelle University (a non-profit corporation). Notwithstanding Gazelle's nonprofit 501(c) status with IRS, the Department of Education determined that GCU would continue to be considered a for-profit educational institution for the purposes of its continued participation in the Title IV, Higher Education Act Programs (i.e., Federal financial student aid). The bill is unclear as to which agency's – IRS's or the Department of Education's – adjudication of "profit status" would be determinative for purposes of determining profit status under the bill.

Additionally, the bill pegs the transitional period as beginning on "the date the educational institution is so converted." However, it is unclear to what action or decision this corresponds. The date the educational institution considers itself "converted" (i.e., the date of the business transactions that may accompany a conversion) may be different from the date of any adjudicative decisions by either IRS or the Department of Education. VA is available to provide technical assistance to ensure that the proposed bill is clear and accomplishes the desired result.

Lastly, VA would need to update its IT systems and processes to gather and track information on each school that converts from a for-profit educational institution to a non-profit educational institution. Because the proposed change would be effective

on or after January 1, 2016, VA would have to manually identify and account for these schools until an automated tracking system is available. No mandatory or discretionary costs are associated with this unnumbered bill.

Unnumbered Bill – Reducing Loan Fees for Certain Veterans Affected by Major Disasters

This unnumbered bill would reduce the loan fees paid by certain Veterans who have been affected by a major disaster and are obtaining a new loan guaranteed or made by VA. Specifically, if a Veteran has obtained a loan guaranteed under 38 U.S.C. § 3710 or a loan made under section 3711, and the dwelling securing such loan is substantially destroyed or damaged by a major disaster declared by the President under section 401 of the Robert T. Stafford Disaster Relief and Emergency Assistance Act, VA would be required to treat as an initial loan the next loan VA guarantees or makes to such veteran. VA supports enactment of the bill subject to the recommended technical amendments discussed below and subject to Congress identifying appropriate cost offsets for the increased benefits costs, if significant.

Prior to obtaining a chapter 37 loan, non-exempt[1] Veterans must pay a statutory loan fee under 38 U.S.C. § 3729. Under section 3729(b), the loan fee amount is expressed as a percentage of the total loan amount. The loan fee table set forth by section 3729(b)(2) lists the requisite percentages according to loan type, closing date, amount of down payment, nature of service, and whether a loan is an "initial loan" or a "subsequent loan." Section 3729(b)(4)(D) defines an "initial loan" as a chapter 37 loan "to a Veteran…if the Veteran has never obtained" such a loan. (Emphasis added.) Section 3729(b)(4)(E) defines a "subsequent loan" as a chapter 37 loan "to a Veteran…if the Veteran has previously obtained" such a loan. (Emphasis added.) For example, under the current statute, a non-exempt, active-duty Veteran, who closes on a VA-guaranteed purchase loan, with no down payment, on or after January 1, 2020, would need to pay a 2.30 percent loan fee for an "initial loan" or a 3.60 percent loan fee for a "subsequent loan." If the total amount of the loan was $200,000, such a Veteran would pay a $4,600 loan fee for an "initial loan" or $7,200 for a "subsequent loan," a difference of $2,600.

Under the current statutory definitions of "initial loan" and "subsequent loan," VA must collect the higher "subsequent loan" fee from all non-exempt Veterans obtaining, for example, their "next" VA-guaranteed loan, i.e., the next loan such a Veteran obtains where the prior VA-guaranteed loan was secured by a home that was substantially damaged or destroyed by a major disaster. This loan fee framework does not align with VA's effort to ease financial burdens for Veterans who have been affected by major disasters. For example, under 38 U.S.C. § 3702(b), VA can disregard a Veteran's prior use of loan guaranty entitlement for purposes of determining the aggregate amount of entitlement available if the Veteran's property is destroyed by fire or other natural hazard, and VA is given broad discretion to restore a Veteran's entitlement one time, if

[1] Under section 3729(c), certain Veterans are exempt from the loan fee, e.g., a Veteran who is receiving compensation for a service-connected disability.

the VA determines circumstances warrant (e.g., a disaster). This can help increase the likelihood that such Veterans can obtain additional VA-guaranteed loans, in larger amounts, perhaps without having to make a down payment. Also, VA has discretion under 38 U.S.C. § 3703(d)(3)(A) to allow for a guaranteed loan to be subordinated to a superior lien created by a covenant in favor of a public entity that has or will provide assistance in response to a Presidentially declared major disaster. Additionally, under 38 U.S.C. § 3720(f), whenever such a disaster causes loss, destruction, or damage to a property securing a chapter 37 loan, VA provides counseling and other services to Veterans, e.g., helping such Veterans obtain disaster assistance from Federal, state, and local agencies. Under section 3720(f), VA can also extend other forms of disaster assistance on a case-by-case basis, e.g., forbearance relating to a direct loan. VA does not, however, have authority to treat a "subsequent loan" as an "initial loan" for determining loan fees in disaster cases.

The bill, if enacted, would ensure that Veterans are not required to pay a higher loan fee in replacing a home that was substantially damaged or destroyed by a major disaster. Whether an affected Veteran rebuilds an affected home or chooses to relocate due to the trauma of a major disaster, this bill, if enacted, could help Veterans "reset" their home loan guaranty benefit at a difficult time in their lives. The current version of 38 U.S.C. § 3729(b)(4)(D) defines an "initial loan" as a chapter 37 loan "to a Veteran…if the Veteran has never obtained" such a loan. The bill would, in part, create two new clauses in subparagraph (D). Proposed subparagraph (D)(i) would retain the current definition of "initial loan." Proposed subparagraph (D)(ii) would require VA, in cases where a Veteran's home secured a prior chapter 37 loan and such home was "substantially damaged or destroyed" by a Presidentially declared major disaster, to "treat as an initial loan [as described in proposed subparagraph (D)(i)], the next [chapter 37] loan the Secretary guarantees or makes to such Veteran." The bill would also amend the current definition of "subsequent loan" set forth by section 3729(b)(4)(E). Current subparagraph (E) defines a "subsequent loan" as a chapter 37 loan "to a Veteran…if the Veteran has previously obtained" such a loan. The bill would amend subparagraph (E) to define a "subsequent loan" as a chapter 37 loan "to a Veteran…that is not an initial loan."

While supportive of Congress's intent, VA notes that the bill, as drafted, may inadvertently provide windfalls to Veterans who may not need disaster relief. For example, proposed section 3729(b)(4)(D)(ii) would allow for a reduced loan fee in the case of a Veteran (i) whose home was destroyed in a major disaster; (ii) who rebuilt the home using insurance proceeds; (iii) who continued to repay an existing VA-guaranteed loan; and (iv) who, many years after the disaster, sold the home, and purchased a new home with a VA-guaranteed loan. In this example, under the current bill text, the Veteran would pay the "initial loan" fee for the next loan even though the Veteran received an insurance payment shortly after the disaster and moved out of the home long after the disaster.

To address this concern, VA recommends an edit to proposed section 3729(b)(4)(D)(ii) that would limit the loan fee disaster relief to cases where a Veteran obtains a next chapter 37 loan not later than 3 years from the date that the Veteran's

dwelling was substantially damaged or destroyed. In recommending a 3-year timeframe, VA recognizes that a Veteran will need time to assess an affected property and consider all recovery options. Insurance data reveal that the average recovery period for eleven major hurricanes that occurred between 2000 and 2018 was 10.7 months. However, this period varied widely depending on the storm.[2] Furthermore, experts have estimated longer recovery periods for more recent storms.[3] As such, VA recommends providing Veterans with a 3-year recovery period to ensure that Veterans have ample time to consider all options and, perhaps, to take advantage of a reduced funding fee.

In addition to setting a timeframe in which a Veteran could receive disaster relief relating to the loan fee, VA also recommends prohibiting such relief in connection with certain refinance loans. VA understands that the purpose of this bill is to enable Veterans to repair a damaged home or to construct a new home, without having to pay an increased loan fee. The bill, as currently drafted, could be construed to allow for certain Veterans to obtain, for example, a VA-guaranteed cash-out refinance loan, at the lower loan fee rate, without any requirement that the Veteran use the cash proceeds to repair or construct a home.

VA welcomes the opportunity work with the Committee to provide technical assistance relating to this bill. Due to several constraints relating to disaster forecast data, VA is unable to provide costs at this time.

Unnumbered Bill – STEM Clarification and Expansion

This unnumbered bill would amend 38 U.S.C. § 3320, governing the Edith Nourse Rogers STEM Scholarship (STEM Scholarship) Program, to clarify that individuals enrolled in a dual post-secondary degree program as well as individuals enrolled in a standard post-secondary degree program are eligible for STEM Scholarship benefits. The bill would also extend eligibility for STEM Scholarship benefits to individuals who have earned a post-secondary degree in a STEM field and are enrolled in a nursing residence program. The bill would eliminate VA's current authority to extend eligibility for STEM Scholarship benefits to individuals enrolled in undergraduate medical residency programs and clarify that an individual enrolled in a medical residency program must have already completed a graduate degree program in a STEM field to be eligible.

VA supports the proposed legislation to clarify certain eligibility requirements and expand eligibility for the STEM Scholarship. No mandatory or discretionary costs are associated.

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[2] *BuildFax U.S. Hurricane Recovery Report Reveals a Nearly 25 Percent Increase in Preventative Upgrades to Properties in 2018*, BusinessWire (Mar. 27, 2019), available at https://www.businesswire.com/news/home/20190327005152/en/BuildFax-U.S.-Hurricane-Recovery-Report-Reveals-25.

[3] *The Recovery Timelines for Hurricanes Harvey and Irma*, Inman (Oct. 9, 2017), available at https://www.inman.com/2017/10/09/the-recovery-timelines-for-hurricanes-harvey-and-irma/.

Unnumbered Bill – STEM Improvement

This unnumbered bill would amend 38 U.S.C. § 3320(b)(4)(B) to expand eligibility under the Edith Nourse Rogers STEM Scholarship program to individuals who have earned a post-secondary degree in a STEM field and are enrolled in either a program of education or a medical residency program leading to a teacher certification. Currently, the Rogers STEM Scholarship is available for individuals who are enrolled in a STEM degree program and have completed 60 semester (or 90 quarter) credit hours or have earned a STEM degree and are enrolled in a program of education leading to a teaching certification.

The bill would also amend 38 U.S.C. § 3320(c) to change how VA prioritizes and selects individuals who can receive additional funds. Currently, priority is given to individuals who are entitled to 100 percent of Post-9/11 GI Bill benefits and those who need the most credit hours. The bill would allow VA to determine the priority for eligible individuals if VA determines there are insufficient funds available in a fiscal year to provide additional benefits to all eligible individuals.

Finally, this bill would add a new paragraph (4) to 38 U.S.C. § 3320(d) to ensure that individuals who receive benefits under the Edith Nourse Rogers STEM Scholarship are not subject to the months of entitlement limitations under 38 U.S.C. § 3695.

VA supports legislation that would expand eligibility under the Edith Nourse Rogers STEM Scholarship to certain individuals enrolled in a medical residency program; however, there appears to be an error in the proposed draft language that would amend 38 U.S.C. § 3320(b)(4)(B). As written, the bill would grant eligibility to an individual who has earned a post-secondary degree in a STEM field and is enrolled in a "program of education or a medical residency program leading to a teaching certification." However, since medical residencies do not lead to teaching certification, we interpret the intent to be to grant eligibility to individuals either enrolled in a program of education leading to a teaching certification *or* a medical residency program. VA requests the bill language be amended to provide clarification if this is, indeed, the desired intent.

VA has no issues with the proposed changes to how individuals would be prioritized. However, legislation is not needed for prioritization. We awarded the first Rogers STEM Scholarships in November 2019. Currently, VA is using a Prioritized Matrix (Job Aid) that has all the rules for prioritizing individuals based on the current law. VA reviews this matrix quarterly since VA has not reached the funding limitation threshold. VA will continue to accept applications and award scholarships in January, March, July, and October of 2020.

Unnumbered Bill – Class Evaluation Act

This unnumbered bill would amend 38 U.S.C. § 3313(d)(1) to limit when VA can issue payment of educational assistance for pursuing an approved program of

education, other than an amount payable for pursuing a program of education exclusively by correspondence. Specifically, it would prohibit VA from making a lump sum payment prior to 7 days after the first day of the quarter, semester, or term, unless VA provides for a waiver. Additionally, it would prohibit VA from making a payment if an individual withdraws during the first 10 days of the quarter, semester, or term.

The bill would also add a new subsection (f) to 38 U.S.C. § 3679 that would require the Secretary or the State Approving Agency to disapprove a course of education unless the educational institution providing the course of education agrees not to charge any individual entitled to educational assistance under chapter 31 or 33 a late payment fee due to the timing of the payments under 38 U.S.C. § 3313(d)(1). The amendments made by the bill would apply to a quarter, semester, or term that begins on or after the date that is 1 year after the date of enactment.

VA cannot support this bill, as currently drafted, due to the potential negative impact on GI Bill beneficiaries. While the proposed changes could possibly decrease some overpayments and debts owed to VA, we believe such changes would merely shift the tuition and fee debt to the student, as certain schools would still require payment for the period of a student's enrollment and the student would owe the school.

VA also notes other significant concerns with the bill as drafted. First, the proposed change to section 3313(d)(1) would require VA to issue all payments (tuition and fees, monthly housing stipend, books, and supplies, etc.) under section 3313 for approved programs, other than correspondence programs, for the entire quarter, semester, or term, as applicable. Currently, VA issues certain payments, such as housing payments under section 3313(d)(2), on a monthly basis. This bill would conflict with VA's practice in this regard.

Second, the bill would require that VA not make payment for tuition and fees if an individual withdraws from a program of education during the first 10 days of the quarter, semester, or term. As drafted, it is clear that VA should not pay retroactive benefits for individuals if they withdraw during the first 10 days of the term and benefits have not yet been paid. However, VA notes that it is unclear how the statutory provisions in 38 U.S.C. § 3680(a), which are generally applicable to benefit payments under the Post-9/11 GI Bill, and this bill would interact. Specifically, the bill is arguably inconsistent with section 3680(a)(1)(C), which creates an exception to the general prohibition on payment for withdrawals (regardless of timing) if mitigating circumstances exist. Section 3680(a)(1)(C)(ii) dictates that mitigating circumstances shall be considered to exist for initial withdrawals from courses totaling not more than 6 semester hours.

Third, the bill would require VA or the State Approving Agency to disapprove a course unless the educational institution agrees to not charge a chapter 31 or 33 beneficiary a late payment fee by reason of the timing of payments under section 3313(d)(1). This provision appears to overlap with section 3679(e)(1)(B), which prevents an educational institution from imposing any penalty, including the assessment of late fees, the denial of access to classes, libraries, or other institutional facilities, or

the requirement that the covered individual borrow additional funds due to the inability to meet his or her financial obligations to the institution, as a result of delayed payments for educational assistance from VA under chapter 31 or 33. Section 3679(e)(1)(A) allows a State Approving Agency or VA (when acting in the role of the State Approving Agency) to disapprove certain courses of education unless the educational institution puts a policy in place that allows an individual to attend or participate in a course of education if the individual provides a certificate of eligibility for entitlement to educational assistance under chapter 31 or 33. The policy must permit any covered individual to attend the course of education beginning on the date the individual provides a certificate of eligibility until the earlier of the date VA provides payment to the educational institution or 90 days after the date the educational institution certifies for tuition and fees following receipt of the certificate of eligibility from the individual.

Finally, VA's Post-9/11 GI Bill claims processing system, the Long-Term Solution, is currently programmed to release awards for tuition and fees no earlier than 14 days prior to the beginning of an enrollment period. As such, VA would need to modify the Long-Term Solution business rules and apply a blended set of rules to prevent the release of a tuition and fee payment prior to 7 days after the beginning of the term and ensure that tuition and fee payments are not released in the event an individual withdraws from a program of education during the first 10 days of the term. The bill would give VA one year to implement these major changes that would apply to most Post-9/11 GI Bill claims. VA would need 18 months from the date of enactment of the proposed legislation to complete these modifications.

Unnumbered Bill – Sole Liability in Transfer of Entitlement Cases

The unnumbered bill would amend 38 U.S.C. § 3319(i)(1), regarding liability for overpayments in cases of transferred entitlement, to remove joint liability for overpayments. Currently, a Servicemember or Veteran (transferor) and his or her designated dependent (transferee) are held jointly liable for overpayments of Post-9/11 GI Bill educational assistance when a transferor transfers unused education benefits to a dependent. The amendments would impose on the transferor sole liability for any overpayment of educational assistance under the Post-9/11 GI Bill.

VA does not support the bill as drafted because it would make transferors solely liable for <u>all</u> overpayments created by their dependents under the Post-9/11 GI Bill. Under the bill as drafted, VA would be required to establish debts for tuition and fees, monthly housing allowances, and books and supplies payments against the transferor for changes in enrollment made by their dependents. VA does not believe that it is reasonable to hold the transferor solely liable for debts resulting from somebody else's actions, which may be outside of the transferor's control. Additionally, schools are required to refund tuition and fee payments to the student in accordance with their established refund policies. VA has no authority to require schools to refund payments to the transferor, and schools may well be prohibited from making refunds to parents or spouses of students. We believe that it would be easier for a dependent to resolve overpayments caused by a change in enrollment.

VA also has concerns that the proposed legislation does not address section 3319(l), which allows an eligible dependent to transfer entitlement to another eligible dependent if the transferor dies before the transferred entitlement has been used. The draft legislation does not include language regarding whether or how VA should apply section 3319(l) and assign debts when the transferor (Servicemember or Veteran) has passed away. No mandatory or discretionary costs are associated with this unnumbered bill.

Unnumbered Bill – VET-TEC Apprenticeships and Reserve Members

The unnumbered bill would amend section 116 of the Harry W. Colmery Veterans Educational Assistance Act of 2017, P.L. 115-48 (Colmery Act), requiring the establishment of a high technology pilot program (VET-TEC). When offering contracts to providers of high technology programs while establishing the VET-TEC program, VA is required to give preference to providers that offer tuition reimbursement for students who complete a program and do not find meaningful employment in the field of study of the program within 180 days of completion of the program. This bill would also require VA to give preference to providers that offer tuition reimbursement for students who complete an apprenticeship program and do not find meaningful employment in the field of study of the program within 180 days of completing the apprenticeship and to providers that offer tuition reimbursement for reserve component members who serve on active duty during the 180-day period following completion of a program and do not find meaningful employment in the field of study of the program within 180 days of completing a program plus the number of days the reserve member served on active duty during the 180 day period.

VA supports the proposed legislation, which would expand the preference for qualified providers that offer tuition reimbursement and certain VET-TEC students, thereby providing expanded safeguards to program participants. No mandatory or discretionary costs are associated with this unnumbered bill.

Draft VET-TEC Terminal Leave from the Armed Forces Bill

The bill would amend section 116 of the Colmery Act, requiring the establishment of the VET-TEC program, to expand eligibility for the VET-TEC program to members of the Armed Forces on terminal leave who are entitled to educational assistance under 38 U.S.C. chapter 30, 32, 33, 34, or 35 or 10 U.S.C. chapter 1606 or 1607. Under the draft legislation, members of the Armed Forces who are eligible for the VET-TEC program would not qualify for a housing stipend while in receipt of the basic allowance for housing from the Department of Defense. In offering contracts to providers of high technology programs, VA is required to give preference to providers that offer tuition reimbursement for students who complete a program and do not find meaningful employment in the field of study of the program within 180 days of completion of the program. In the case of VET-TEC participants who were members of the Armed Forces on terminal leave who are serving on active duty when they complete a program, this

bill would require VA to give preference to providers who offer tuition reimbursement for these VET-TEC participants if they do not find meaningful employment in the field of study of the program within 180 days of discharge or separation from active duty.

VA supports the proposed legislation. However, VA would need to work with the Department of Defense to establish a data feed to provide the additional information that would allow VA to identify individuals on terminal leave or individuals who are in receipt of a basic allowance for housing from the Department of Defense. Currently, VA receives military service data and eligibility information from the Department of Defense for determining a Servicemember's and Veteran's eligibility for VA educational assistance; however, these data do not include the information necessary to implement the changes proposed by the draft legislation. No mandatory or discretionary costs are associated with this draft bill.

Unnumbered Bill – VET-TEC Improvement Act

This unnumbered bill would amend section 116 of the Colmery Act to expand eligibility for the VET-TEC program to an individual who VA determines will become an eligible Veteran within 180 days of VA making that determination. The individual, however, would not qualify for a housing stipend under the VET-TEC program prior to becoming an eligible Veteran.

The proposed legislation would also eliminate the requirement for a qualified provider to be operational for at least 2 years; expand the definition of a high technology program of education to include a part-time program shorter than 6 months in duration; and exclude enrollment in the VET-TEC program for purposes of the limitation on period of assistance under 38 U.S.C. § 3695.

VA supports the intent of the draft legislation to provide eligibility to transitioning Servicemembers and accelerate the transition process, but we have significant concerns. First, the bill would expand eligibility to the VET-TEC program by requiring VA to treat an individual as an eligible Veteran if VA determines that the individual shall become an eligible Veteran fewer than 180 days after the date of such determination. The draft language does not specify what should happen if the individual fails to become an eligible Veteran within 180 days for any number reasons, including separation with a less than fully honorable character of service, extension of active duty orders, or reenlistment.

It is unclear if VA would lose the authority to make any future payments to the beneficiary or the school, or whether past tuition payments would become debts against the beneficiary, the school, or neither. Also, if VA were to lose the authority to make future payments, it would prevent the training provider from receiving full reimbursement for tuition and fee charges through no fault of its own; especially in the case of an individual continuing to serve on active duty who may not be available for full-time employment in the field of study in the foreseeable future. VA would be happy to work

with committee staff in order to ensure that the proposed legislation is clear and accomplishes the desired intent.

Second, VA is not aware of any issues regarding the requirement for qualified providers to be operational for at least 2 years. By removing this requirement, providers without a proven track record could apply and be accepted as approved providers which may result in a heightened risk to Veterans' learning and employment opportunities because of financial instability resulting in school closure or a bad reputation due to subpar or inconsistent performance.

Precluding VA from considering enrollment in the VET-TEC program as assistance under 38 U.S.C. § 3695 is unnecessary because the VET-TEC program is not one of the programs listed in that section and, accordingly, VA does not charge a Veteran's entitlement for participation in the VET-TEC program. No mandatory or discretionary costs are associated with this unnumbered bill.

Unnumbered Bill – Second Automobile Allowance

This unnumbered bill would amend 38 U.S.C. § 3903 to authorize VA to provide an eligible person with a second automobile or other conveyance if 10 years have elapsed since the date on which the eligible person received his or her first such automobile or conveyance or assistance under chapter 39, and such date was after January 1, 2014.

VA does not object to the proposal to provide eligible service-disabled Veterans with a second automobile or other conveyance assuming Congress appropriates the necessary funding for this provision. Currently, the law only allows Veterans to receive a second automobile or conveyance if the vehicle is destroyed as a result of a natural disaster or other disaster, as determined by the Secretary, and the Veteran does not otherwise receive compensation for the loss from a property insurer. Under the bill, all eligible Veterans who received their first allowance after January 1, 2014, would be allowed to receive a second automobile allowance if 10 years have elapsed since receipt of their first allowance.

According to IHS Markit Company, the average age of light vehicles in the United States in 2019 was 11.8 years.[4] When considering the average age of vehicles in the United States and the significant level of disability experienced by Veterans who qualify for this allowance, VA considers this proposal as fair and equitable. Mandatory costs associated with this unnumbered bill are estimated to be $0 in 2021, $98.7 million over 5 years, and $387.4 million over 10 years.

[4] 2018-19: IHS Markit Co., Average Age of Cars and Light Trucks in U.S. Rises Again in 2019 to 11.8 Years, IHS Markit Says, available at https://news.ihsmarkit.com/press-release/automotive/average-age-cars-and-light-trucks-us-rises-again-2019-118-years-ihs-markit- as of Sep. 17, 2019.

Unnumbered Bill – Automobile Allowance Increased Frequency

This unnumbered bill would amend 38 U.S.C. § 3903 to increase the frequency of the automobile allowance for eligible service-disabled Veterans. VA appreciates the apparent intent of Congress to increase the frequency by which eligible service-disabled Veterans may receive the automobile allowance under section 3903. However, it is unclear whether section 3903(a)(1) as proposed to be amended and proposed new paragraph (a)(3) are intended to prohibit a beneficiary who received an allowance before January 1, 2031, from receiving any further allowances during any later period or whether such persons would be eligible for additional allowances after January 1, 2031, if at least 10 years had passed since the prior award. If the former is intended, VA would strongly oppose the bill, as the result of such provisions would be inequitable and would not reflect VA's core values. While we suspect the latter, more Veteran-friendly reading is intended, we recommend clarifying the statutory text if that is the case and would be happy to provide technical assistance.

VA opposes the provision of the bill that affects Veterans' eligibility to receive a second allowance under 38 U.S.C. § 3903(a)(2) if their first vehicle was destroyed as a result of a natural disaster. While the newly proposed subsection (a)(3) would allow such Veterans to receive a second allowance before January 1, 2031, during "any period," i.e., at any time, if the conditions under subsection (a)(2) are satisfied, it appears to only allow a second allowance for eligible Veterans on or after January 1, 2031, during "any 10-year period." Thus, it appears that a Veteran who is eligible to receive a second automobile allowance under section 3903(a)(2) on or after January 1, 2031, must not have received the first allowance within 10 years prior. VA does not view the results from this provision as fair or equitable.

VA also notes that this bill would allow an eligible Veteran to receive more than two automobile allowances under proposed section 3903(a)(1) after January 1, 2031, as long as the Veteran does not receive more than one allowance for any 10-year period. However, section 3903(a)(2) would allow an eligible Veteran to receive a second allowance if an automobile or other conveyance previously purchased with assistance under chapter 39 was destroyed due to a natural disaster but, by its current language, would not seem to allow an eligible Veteran to receive a third allowance if an automobile purchased from a second allowance under proposed section 3903(a)(1) was destroyed due to a natural disaster. In other words, a Veteran may be limited to only two allowances under section 3903(a)(2), even though a Veteran may receive multiple allowances under section 3903(a)(1). It is not clear if this was the intent of Congress. No mandatory or discretionary costs are associated with this unnumbered bill because the effective date is beyond the 10-year timeframe for costing.

Conclusion

Mr. Chairman, this concludes my testimony. My colleagues and I are prepared to respond to any questions you or other Members of the Subcommittee may have.