**STATEMENT OF
RONALD S. BURKE
DEPUTY UNDERSECRETARY FOR POLICY & OVERSIGHT
VETERANS BENEFITS ADMINISTRATION (VBA)
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
COMMITTEE ON VETERANS AFFAIRS
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
U.S. HOUSE OF REPRESENTATIVES**

September 21, 2021

Chairman Levin, Ranking Member Moore and other Members of the Subcommittee: thank you for inviting us here today to present our views on several bills that would affect VA programs and services. Joining me today is Monica Diaz, Executive Director, Homeless Programs, Veterans Health Administration (VHA).

H.R. XXXX Dependents Education Assistance (DEA) Prohibition for High School Training

This unnumbered bill would amend 38 U.S.C. § 3501(a)(6) to redefine the term "educational institution" by replacing the term "secondary school" with "postsecondary school." This change would be applicable to an academic period that begins on or after August 1, 2025. Redefining "educational institution" for purposes of DEA program by replacing this term would prohibit any eligible survivor or dependent from using DEA benefits for secondary school or high school training.

VA supports this bill because it would ensure that certain beneficiaries conserve their DEA entitlement for use in pursuing a postsecondary level education. This need is especially important for those first enrolling in a program of education using DEA entitlement on or after August 1, 2018, because these beneficiaries are limited to 36 months of entitlement rather than 45 months of entitlement. In any event, use of DEA benefits for high school training is rare. For example, of the 151,825 individuals who used DEA benefits in FY 2020, only 67 individuals used their educational assistance for high school training. Further, in the last three fiscal years, only 95 individuals, on average, used their DEA educational assistance for high school training.

Mandatory savings are estimated to be $0 in 2022, $2.5 million over 5 years, and $6.4 million over 10 years. No discretionary costs are associated with this bill.

H.R. XXXX GI Bill Transfer Act of 2021

The "Col. James Floyd Turner IV U.S.M.C. GI Bill Transfer Act of 2021" would amend 38 U.S.C. § 3319(h) to provide for the transfer of entitlement to Post-9/11 GI Bill educational assistance when an individual approved to transfer entitlement dies with remaining entitlement after designating a transferee or transferees but before transferring all of such entitlement. Specifically, this bill would require VA to evenly distribute all remaining entitlement to the designated transferees.

VA supports this bill, assuming Congressional appropriation of the resources to fund these requirements, as it would allow approved designated dependents to receive any remaining entitlement not allocated prior to the Veteran's death. Because this bill would apply to an eligible individual who dies on or after November 1, 2018, we would need to make changes to our processing system, the Post-9/11 GI Bill Long-Term Solution, and establish separate rules and processes to implement this provision.

Mandatory costs are estimated to be $1.0 million in 2022, $2.4 million over 5 years, and $4.8 million over 10 years. VA estimates no discretionary costs with this measure. VA estimates IT costs associated with the enactment of this legislation to be $2.4 million. VA would need to make changes to the rule structure in the Digital GI Bill to identify and track the reallocation to dependents and account for any communication that goes with that reallocation. VA estimates that it would require 18 to 24 months from the date of enactment to make the necessary IT changes.

H.R. XXXX 48-Month Rule Delimiting Date

This unnumbered bill would extend the period for using a certain entitlement to educational assistance (delimiting period) that was restored or increased as a result of an April 1, 2021, VA determination. That determination noted that an individual may use assistance under 38 U.S.C. chapter 31 before using educational assistance under a provision of law referred to in 38 U.S.C. § 3695(a) without being subject to the 48-month limitation under section 3695 if the delimiting period for using such restored or increased entitlement consisted of fewer months than the number of months of the restored or increased entitlement. Specifically, the new extended delimiting period would be equal to the sum of the delimiting period for the restored entitlement as of the day before the date of the enactment, the number of months of restored entitlement, and six months. Only individuals whose delimiting date for using the restored entitlement was, as of the day before the date of the enactment of this bill, on or after April 1, 2021, are eligible for the extension.

VA supports this bill, assuming Congressional appropriation of the resources to fund these requirements, as it would provide beneficiaries who recently received additional months of entitlement as a result of VA's policy change more time to use the benefits to which they are entitled.

Mandatory costs are estimated to be $1.3 million in 2022, $12.5 million over 5 years, $26.8 million over 10 years. No discretionary costs are associated with this bill.

H.R. XXXX Work-Study Half-Time Allowance

This unnumbered bill would amend 38 U.S.C. § 3485(b) to extend eligibility for a work-study allowance to certain individuals who pursue programs of rehabilitation, education, or training on at least a half-time basis instead of requiring pursuit on at least a three-quarters-time basis.

VA supports this bill, assuming Congressional appropriation of the resources to fund these requirements, as it would attract more candidates to participate in the work-study program and provide students the opportunity to balance personal responsibilities and educational pursuits. VA would need to modify the Work-Study Management System to implement this bill.

Mandatory costs are estimated to be $4.4 million in 2022, $24.0 million over 5 years, and $54.4 million over 10 years. Discretionary costs for the first year are estimated to be $170 thousand and include salary, benefits, rent, training, supplies, other services and equipment. Five-year costs are estimated to be $825 thousand and 10-year costs are estimated to be $1.8 million. VA would need to make modifications to the Digital GI Bill system to implement the proposed legislation. VA estimates that it would require 12 to 18 months from the date of enactment to make the necessary IT changes at a cost of $798 thousand. This estimate is based on current priorities and funding for 2023 and 2024 remaining as is. This time period would allow for Work-Study Management System (WSMS) to migrate to the Digital GI Bill and additional priorities to be implemented. Acceleration is possible if additional funding is appropriated with this legislation.

H.R. 4874 Fly Vets Act

Section 2(a)(1) of H.R. 4874 would amend 38 U.S.C. § 3034(d) to add a requirement that VA can only approve flight training under the Montgomery GI Bill-Active Duty (Chapter 30) and the Post-9/11 GI Bill (Chapter 33) if flight training is required for the course of education being pursued (including with respect to a dual major, concentration, or other element of a degree). Section 2(a)(2) would remove the requirement that an individual receiving Chapter 30 or 33 benefits possess a valid private pilot certificate and meet the medical requirements necessary for a commercial pilot certificate to qualify to receive benefits for flight training. Therefore, individuals who do not possess a valid private pilot certificate or meet these medical requirements can qualify for benefits for flight training under Chapter 30 or 33, if other requirements are met.

VA supports section 2(a)(1). VA does not support section 2(a)(2) because removing the requirement that individuals possess a valid private pilot certificate and meet certain medical requirements to qualify for benefits for flight training would allow certain individuals to receive benefits for pursuit of flight training as an avocation versus a vocation.

Section 2(b) of this bill would add a new subsection (m) in 38 U.S.C. § 3313, which would allow an individual receiving Post-9/11 GI Bill benefits to elect to receive accelerated payments for flight training pursued at an institution of higher learning when the flight training is a degree requirement. An individual would qualify to elect accelerated payments only after he or she has received educational counseling. The amount of each accelerated payment would be equal to twice the amount for tuition and fees otherwise payable to an individual, but the total amount could not exceed the total amount of tuition and fees for the program of education. The amount of monthly stipends (i.e., monthly housing allowance, etc.) could not be accelerated. Further, two months of entitlement would be charged for each month in which an accelerated payment is made.

VA does not support section 2(b). Under this provision, individuals who elect to receive accelerated payments for flight training while pursuing a standard degree program could exhaust their entitlement prior to completing their program of education. In addition, this change would require VA to make changes to the current rules for determining payment amounts that are programmed into the Long-Term Solution (LTS). The LTS is not currently programmed to process accelerated payments. VA estimates that it would require one year from the date of enactment to make the necessary information technology system changes.

Section 2(c) of this bill would amend 38 U.S.C. § 3313(c)(1)(A) to limit the benefits payable for pursuit of flight programs. First, it would prohibit the payment of tuition and fees associated with non-required (i.e., elective) flight training. Second, it would limit the amount of tuition and fees payable for a program that requires flight training to earn the degree being pursued to the same amount per academic year that is payable for programs at private or foreign institutions of higher learning.

Section 2(d) of the bill would further amend 38 U.S.C. § 3313(c)(1)(A) to limit the amount of tuition and fees payable for programs at public Institutions of Higher Learning (IHL) that involve a contract or agreement with an entity (other than another public IHL) to provide a program of education or a portion of a program of education to the same amount per academic year that is payable for programs at private or foreign institutions.

VA supports sections 2(c) and 2(d) limiting the amount of tuition and fee payments for enrollment in flight programs and certain programs at IHLs that are provided by contract or agreement with other entities (other than another public IHL).

Since enactment of the Post-9/11 GI Bill, there has been an increase in flight training centers, specifically those that offer helicopter training that have contracted with public IHLs to offer flight-related degrees. Under current law, there is an academic year cap (currently $26,042.81) on payment for programs of education offered at non-public institutions. Stand-alone flight training centers with approved programs of education are subject to the academic cap; however, there is no cap associated with degree programs offered at public IHLs. The proposed changes would serve to close the loophole that allows flight training centers to circumvent the academic year cap and to constrain costs. VA would like to note that IT changes would be necessary to implement sections 2(c) and (d). VA estimates that it would require one year from the date of enactment to develop, test and implement the changes. Manual processing would be needed in the interim, until VA can implement IT changes, which could cause an increase in processing errors and a decrease in productivity.

Mandatory costs are estimated to be $4.8 million in fiscal year (FY) 2022, $66.5 million over 5 years, and $154.3 million over 10 years. No discretionary costs are associated with this bill. VA estimates that it would require $798,000 at a period of 18 to 24 months from the date of enactment to make the necessary IT changes. This time period would allow for funding to be allocated and priorities to be set without impacting current work like Digital GI Bill and Chapter 33 automation.

H.R. XXXX Protections Under Servicemembers Civil Relief Act (SCRA) for Leaving Education Program

This unnumbered bill would add a new section 708 to title VII of SCRA (50 U.S.C. § 4021 et seq.) to allow a Service member or member of a Reserve component enrolled in a course of education at an institution of higher education while using VA education benefits to withdraw or take a leave of absence without penalty if the Service member or member of a Reserve component receives orders to enter a period of covered service. The institution would be prohibited from assigning a failing grade, reducing the student's grade point average, characterizing any absence as unexcused or assessing any financial penalty. If a Service member or Reserve member withdraws, the institution must refund all tuition and fees, and if they take a leave of absence, the institution must assign an "incomplete" grade and permit them to complete the academic term upon completion of service.

VA notes a number of concerns. First, as the SCRA applies to both Service members using VA educational assistance and Service members not using educational assistance. If the intent of the bill is to provide protections for only Service members using VA educational assistance benefits, then we recommend that Congress consider placing these provisions in chapter 36 of title 38, where most other provisions for schools participating in VA educational assistance programs are located.

Second, this bill does not give the Secretary of Veterans Affairs authority to enforce the provisions, such as the authority to disapprove a school from participation in VA educational assistance benefits programs for failing to comply. VA defers to the Department of Justice, which has enforcement authority over the SCRA.

Finally, it is possible that another, or more than one, grade designation would be more appropriate based on individual school grading policies than just the “incomplete” grade designation.

There are no mandatory or discretionary costs associated with this bill.

H.R. XXXX Reporting on Warrior Training Advancement Course (WARTAC)

This unnumbered bill would require VA to submit an annual report on the Veterans Benefits Administration’s WARTAC to Congress to include information on best practices, cost savings, and hiring.

VA notes that VA currently captures many required reporting elements in this bill and provides them on a quarterly basis to service organization partners under established agreements. In lieu of an annual report, VA will provide briefings on the WARTAC program upon request at any time. VA takes pride in the WARTAC program and its continued evolution from the initial pilot with the graduation of four Servicemembers in 2014 to graduation of 100 Service members, on average, each subsequent fiscal year. The continued success of the program has garnered interest from the Veterans Health Administration and the Department of Labor (DOL), which are both seeking advice and collaboration as they start similar programs.

VA welcomes the opportunity to showcase this program and provide a foundation for the creation of similar programs that will serve to benefit Service members. More job opportunities for transitioning Service members will help ease the uncertainty and anxiety of transitioning to a new career. The transparency afforded by providing the requested reporting data will help justify similar programs and initiatives benefiting Service members and their families.

In addition, VA recommends that Congress consider expanding WARTAC awareness beyond the Transition Assistance Program (TAP) course so that WARTAC information is shared with Service members prior to the TAP course. This change would align with the Military to Civilian Readiness Pathway transition period, 365 days prior to separation (2 years for retirees) and 365 days after separation.

There are no mandatory or discretionary costs associated with this bill.

H.R. XXXX Repayment of GI Bill Contributions

This unnumbered bill would amend 38 U.S.C. § 3327(f)(3) to remove the requirement for VA to refund the Montgomery GI Bill-Active Duty (MGIB-AD) $1200 contribution with the last monthly housing payment under the Post-9/11 GI Bill. This current requirement means that an individual must be receiving a housing allowance at the time his or her Post-9/11 GI Bill entitlement exhausts in order to receive a refund of the MGIB-AD contribution as VA provides the refund with the last housing payment. Under this bill, VA would be allowed to refund the $1200 contribution any time prior to an individual exhausting his or her Post-9/11 GI Bill benefits.

VA supports this bill, assuming Congressional appropriation of the resources to fund these requirements, as it would allow certain individuals to receive a refund of their MGIB-AD $1200 contribution prior to exhausting their Post-9/11 GI Bill benefits and eliminate confusion regarding the refund of their MGIB-AD contributions. VA intends to implement the statute by refunding the MGIB-AD contribution as quickly as possible after an individual elects to forfeit future entitlement to MGIB-AD in order to receive Post-9/11 GI Bill benefits. This approach would provide funds to Veterans as quickly as possible and facilitate VA providing an accurate costing estimate. VA notes, however, that the bill does not remove the language in 38 U.S.C. § 3327(f)(1) that the refund be provided as an increase to the monthly housing allowance, meaning the earliest VA can refund the MGIB-AD $1200 contribution is the first monthly housing payment after election. If Congress intends to allow VA to refund the $1200 MGIB-AD contribution to Veterans who do not receive a monthly housing payment as part of their Post-9/11 GI Bill benefits, which is possible, or prior to the next monthly housing payment, it should remove this requirement from section 3327(f)(1).

VA notes that the United States Court of Appeals for Veterans Claims (CAVC) recently issued a decision in which it held that 38 U.S.C. § "3327 does not apply" when a Veteran has multiple periods of service. *BO v. Wilkie*, 31 Vet. App. 321, 332 (2019). Under that decision, it would appear that VA cannot take any action based on the election in section 3327(a) for any Veteran with multiple periods of service, including the provisions of sections 3327(f) and (g) that authorize VA to pay more benefits. The United States Court of Appeals for the Federal Circuit affirmed the CAVC's decision on July 8, 2021. *Rudisill v. McDonough*, No. 2020-1637, 2021 U.S. App. LEXIS 20213 (Fed. Cir. July 8, 2021). At this time, VA has not found an alternative statutory basis allowing it to refund the $1200 contribution required for participation in the Montgomery GI Bill for Veterans with multiple periods of service although it continues to research the issue and is coordinating with the Department of Justice regarding additional action in response to the Federal Circuit decision.

We note that the bill submitted to VA references the session of Congress in which the bill was originally introduced and should be changed to reference the current session. We further note that the purpose section of the bill should be changed as contributions are made to MGIB-AD, not the Post-9/11 GI Bill.

Mandatory costs are estimated to be $39.4 million in 2022, $199.1 million over 5 years, and $399.6 million over 10 years. No discretionary costs are associated with this bill. IT costs are estimated to be $798 thousand and would require 18 to 24 months from the date of enactment to make the necessary IT changes.

H.R. XXXX Fry Scholarship Enhancement Act of 2021

The “Fry Scholarship Enhancement Act of 2021” would amend 38 U.S.C. § 3311(b)(8) to expand eligibility for the Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) to a child or spouse of an individual who, on or after September 11, 2001, dies from a service-connected disability during the 120-day period immediately following their discharge or release from active duty as a member of the Armed Forces. Additionally, the individual must have an honorable discharge or service characterized by the Secretary concerned as honorable. Further, this bill states that it would apply to deaths that occur on or after the date of enactment and would apply to a quarter, semester or term beginning on or after August 1, 2023.

VA supports expanding eligibility for the Fry Scholarship, assuming Congressional appropriation of the resources to fund these requirements. However, VA has concerns with the bill’s language.

Currently, under 38 U.S.C. § 3311(b)(8), the Fry Scholarship is available to children or spouses of individuals who die on or after September 11, 2001, while serving on active duty. While the bill would expand eligibility to children or spouses of individuals who die on or after September 11, 2001, from a service-connected disability during the 120-day period from date of discharge, the bill amendments apply with respect to deaths occurring on or after the date of enactment. For clarity and consistency, VA recommends revising section 2(b)(1) of this bill by replacing “deaths that occur on or after the date of the enactment of this Act” with “deaths that occur on or after September 11, 2001.”

Additionally, the bill contains language in section (a)(2) that would require an individual who died from a service-connected disability to have had an honorable discharge or service in the Armed Forces that was characterized as honorable. However, section 3311(c) contains similar language with the same requirements. For clarity and consistency, VA recommends replacing the language “but only if—” and clauses (i) and (ii) that follows with “as described in subsection (c)” in proposed section 3311(b)(8)(B). This change would make the provision consistent with other provisions in section 3311(b), *see* 38 U.S.C. §§ 3311(b)(3), (4), (5), (6), (7), (11), and make clear that the discharge or release described in subsection (b)(8)(B) must meet the requirements described in subsection (c). Otherwise, it would be unclear whether the covered discharges and releases described in subsection (c) would apply to subsection (b), because the plain language of subsection (c) provides that “[a] discharge or release from active duty of an individual described in <u>this subsection</u> [i.e., subsection (c), not subsection (b)] is a discharge or release as follows . . . .”

Mandatory costs are estimated to be insignificant at $0 in 2022, $484 thousand over 5 years, and $1.4 million over 10 years. There are no discretionary costs with this bill. VA estimates IT costs associated with the enactment of this legislation to be roughly $700 thousand. VA would need to make changes to the functionality in the Digital GI Bill to expand Fry eligibility. VA estimates that it would require six to 12 months from the date of enactment to make the necessary IT changes.

H.R. XXXX Eliminating the Freddie Mac Conforming Loan Limitation for Certain Loans

The draft bill would amend 38 U.S.C. § 3703(a)(1) to change the model under which VA tracks an eligible Veteran’s use of the VA-guaranteed loan benefit. Under current law, a Veteran’s “entitlement use” is calculated against statutory benchmarks. In general, the bill would materially alter and, depending on the case, remove these benchmarks from the entitlement calculation.

The bill would replace the current entitlement structure with an approach to limit certain Veterans to not more than two concurrent uses of covered guaranty entitlement. The bill would also amend 38 U.S.C. § 3729(c) to change the criteria for a waiver of the statutory loan fee.

While VA supports legislation that would simplify and streamline the entitlement calculation, the bill as drafted would create an unworkable entitlement framework and present additional ambiguity and complexity in the collection of the statutory loan fee. VA notes that existing law allows for Veterans to have two VA-guaranteed loans active at the same time. Often, Veterans with two active loans obtain such loans without having to make a down payment on either loan.

As mentioned above, section 2(a) of the bill would amend 38 U.S.C. § 3703(a)(1) to alter the existing entitlement scheme. The substantive changes would affect loans made on or after the date of enactment and before January 1, 2027. Such loans are grouped into two broad categories: (A) loans with balances less than or equal to $144,000; and (B) loans with balances greater than $144,000. For loans less than or equal to $144,000, current law sets the Veteran's initial entitlement figure at $36,000. When the Veteran obtains a loan, VA deducts from the $36,000 an amount corresponding to VA's guaranty. If the Veteran satisfies the loan, VA restores the entitlement figure back to $36,000. If the Veteran defaults and VA suffers a loss, the entitlement remains encumbered unless the Veteran repays VA for the loss. Section 2(a) would instead establish an entitlement structure based on "two concurrent uses of covered guaranty entitlement." The bill would also provide for $36,000 of "guaranty entitlement" for each use.

Section 2(a) of the bill would also alter the entitlement calculation for loans made during the period mentioned above with total balances greater than $144,000. Under current law, entitlement for such a loan is set at 25% of the loan balance, unless the Veteran's entitlement has been reduced due to a prior use. For Veterans who do have encumbered entitlement, the entitlement is determined by subtracting the prior usage from 25% of the Freddie Mac conforming loan limit. As with loans equal to or less than $144,000 mentioned above, current law requires VA to reduce a Veteran's available entitlement in amounts corresponding to active loans and certain government losses, but the bill would instead establish an entitlement structure based on "two concurrent uses of covered guaranty entitlement." The bill would further provide for "guaranty entitlement" for each use equating to 25% of the loan amount.

As drafted, section 2(a) omits direction that is necessary for implementation. The new entitlement structure would hinge on "two concurrent uses of covered guaranty entitlement," but neither term is defined. The bill also uses other terms, such as "previously used entitlement" and "guaranty entitlement," which would create a statutory inconsistency. Section 2(a) is silent on how VA should calculate entitlement under various circumstances, such as when a Veteran obtains an interest rate reduction refinance loan or when two or more Veterans obtain a single VA-guaranteed loan by drawing from each individual's available entitlement. Section 2(a) also does not specify how VA should treat entitlement uses that occur before January 1, 2027, when calculating available entitlement for a loan made after such date. Additionally, section 2(a) does not address how to treat a Veteran's entitlement in cases where the Veteran signs a purchase and sale agreement before the date of enactment but closes the loan after the date of enactment, or how VA would, on January 1, 2027, transition back from the bill's use-based entitlement structure to one based on the Freddie-Mac conforming loan limit.

Section 2(b) of the bill would amend 38 U.S.C. § 3729(c) to change the criteria for whether certain disabled Veterans, Service members, and surviving spouses can obtain a waiver of the statutory loan fee. Ambiguity in the bill text could lead to numerous interpretations; however, it

would seem to require VA to start collecting loan fees from individuals who are in receipt of VA compensation and are exempt from the fee under current law. VA is concerned that the elimination of the waiver could prevent these individuals from using their home loan benefits.

VA would be pleased to work with the Subcommittee to suggest technical edits to resolve the issues mentioned above. VA cannot estimate the costs of the bill, as drafted, due to the technical issues explained above.

H.R. XXXX Weekly Stipend for Child Care

This unnumbered bill would add a new section 3316A to title 38, U.S.C., to require VA to pay a weekly $100 stipend for childcare services to a Veteran receiving Post-9/11 GI Bill educational assistance who is a parent of a dependent child.

VA supports intent, as it provides Veterans the opportunity to achieve higher education while assisting in the financial cost of childcare services, but we cannot support without Congressional appropriation of the resources to fund these requirements. To pay for childcare on a weekly basis, VA would have to adjust the current payment structure. VA currently pays tuition and fees directly to the school on behalf of the student when the school's enrollment certification is processed and provides a monthly housing allowance. The proposed change would require an information technology (IT) upgrade or system enhancements and development of new procedures.

We note that the bill does not provide for a reduction of the $100 payment for students enrolled less than full-time and does not define "dependent child." Currently, there is no definition of "dependent child" in title 38. We recommend that Congress consider including a definition for "dependent child" in this bill and a pro rata payment reduction for students enrolled less than full-time.

In addition, only students using Post-9/11 GI Bill benefits would be eligible to receive a childcare stipend under this bill. We recommend either including the authority to pay a childcare stipend in chapter 36 of title 38 to make it generally applicable to all VA education and training benefits beneficiaries, or also including it in chapter 30 (Montgomery GI Bill – Active Duty), chapter 31 (Veteran Readiness and Employment), chapter 35 (Dependents and Survivors Educational Assistance Program), chapter 1606, title 10 (Montgomery GI Bill – Selected Reserve), and section 116 of Public Law 115-48 (VET TEC pilot program) so Veterans using benefits under these chapters could also benefit from financial assistance with childcare. Furthermore, we recommend that the weekly stipend not be considered income or resources in determining eligibility for, or the amount of, benefits under any Federal or federally-assisted program. VA recommends a monthly childcare stipend payment as opposed to a weekly payment. This will reduce administrative and IT costing burdens.

Mandatory costs to the Readjustment Benefits account are estimated to be $417.4 million in 2022, $2.2 billion over 5 years, and $4.3 billion over 10 years. No discretionary costs are associated with this bill. VA estimates IT costs associated with the enactment of this legislation to be $2.4 million. VA estimates that it would require 12 months from the date of enactment to make necessary IT changes.

H.R. XXXX Adjustments of Grants for Comprehensive Services for Homeless Veterans

Section 2(a) of the bill would eliminate the matching fund requirement for applicants seeking a Grant and Per Diem (GPD) capital grant. Section 2(a)(3) would permit the Secretary to determine the maximum amount of a grant under section 2011, on or after the date that is five years after the date of the enactment of this Act, which would be not less than 70% of the estimated cost of the project concerned.

VA supports section 2(a) of the draft bill. Currently, section 2011(c) permits VA to pay up to 65% of the estimated cost of the project concerned. Eliminating this cap would authorize VA to pay up to 100% of the estimated cost of a GPD capital grant project. This change would make it easier for organizations to receive capital awards as the matching requirement can be problematic for some grantees. If enacted, section 2(a) of this bill would have no additional costs, as VA would adjust the GPD award funding per grantee accordingly. Section 4201(b)(2) of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116-315) eliminated the 65% cap for capital grants for the duration of the Coronavirus Disease 2019 (COVID-19) public health emergency.

VA announced on August 24, 2021, awards totaling $64.2 million in GPD capital grant funding for which there was no matching fund requirement, under the authority provided in P.L. 116-315. By removing the matching fund requirement, more organizations that would not have applied were able to do so, which enables VA to potentially serve more Veterans in high need areas.

Section 2(b) of the bill would exempt GPD capital grant recipients from the Office of Management and Budget (OMB) real property disposition requirements in 2 C.F.R. § 200.311(c).

We also support section 2(b) of the bill, although we would recommend adding "applicable" before "successor regulations." Currently, the OMB disposition requirements have no end date and are a disincentive for eligible entities to apply for a GPD capital grant. VA's full and partial recovery provisions for capital grant funds under section 38 C.F.R. § 61.67(a) and (b) would remain applicable and require a minimum performance period for a GPD capital grant recipient, which currently range from 7 years to 20 years, depending on the size of the grant.

No additional VA funding would be required to implement section 2(b) of the draft bill. VA would still receive benefit from, or could seek full or partial repayment for, the capital grant investment under section 61.67(a) and (b) during the period of Federal interest established in 38 C.F.R. § 61.67. In addition, VA already has experience with this authority, as section 4201(b)(6) of P.L. 116-315 exempted GPD capital grant recipients from the OMB real property disposition requirements for the duration of the COVID-19 public health emergency and implementing this change did not require additional VA funding.

As a technical matter, we note the proposed sunset provisions would need to be modified to reflect the title of this draft bill; the draft currently refers to the "Building Solutions for Veterans Experiencing Homelessness Act of 2021," which is a separate bill, S. 2172.

H.R. XXXX Pilot Program on Grants for Care for Elderly Homeless Veterans

The draft bill would require the Secretary, not later than 1 year after the date of enactment of this Act, to commence carrying out a pilot program to assess the feasibility and advisability of

awarding grants to eligible entities to meet the health care needs of Veterans who are homeless, were previously homeless and are transitioning to permanent housing, or who are at risk of becoming homeless. Section 1(c)(3) would require VA to give preference to entities that are successfully providing transitional housing services using amounts provided by VA under section 2012 and 2061 of title 38. Section 1(c)(5) would require the Secretary to ensure that, to the extent practicable, grants awarded under this section are equitably distributed among eligible entities across geographic regions, including rural and Tribal communities. Section 1(d)(1) would provide that grant amounts be used to hire nursing staff to care for Veterans described in subsection (a) who require assistance with activities of daily living or need consistent medical attention and monitoring. The pilot program would run during the 5-year period commencing on the date on which the pilot program commences.

VA supports the draft bill, if amended, and subject to Congressional appropriation of the resources to fund these requirements. This pilot program is intended to meet the health care needs of Veterans who are homeless, were previously homeless and are transitioning to permanent housing, or who are at risk of becoming homeless. The timeframe for implementation would not be sufficient as this new grant program would require the development of regulations, program design, Notice of Funding Opportunity (NOFO) publication and project activation. In addition, sufficient appropriations would need to be available to implement this program. The 1-year timeframe to provide the initial report to Congress on the effectiveness of the grant is insufficient to provide anything other than baseline entry data into the program. No performance or exit data would be available as grantees would be in the early stages of implementation.

If enacted, VA estimates that the total cost of awarded grants, the final amounts of which would be determined by the Secretary, would be approximately $26 million over a 5-year period.

As a technical matter, we recommend revising the official title to remove the reference to "elderly" homeless Veterans, as nothing in the substantive text imposes this limitation. We also note the ambiguity in section 1(c)(5), which directs the Secretary, to the extent practicable, to ensure that grants are "equitably distributed among eligible entities across geographic regions, including rural and Tribal communities." This language appears to require, to the extent practicable, that grants must be equitably distributed in consideration of both entities and regions. These conditions may be incompatible in some circumstances; if VA were only required to consider equitable distribution among entities, or across regions, this requirement would be clearer. We have other technical edits to offer on this bill as well.

H.R. XXXX Pilot Program on Substance Use and Alcohol Use Disorder Recovery for Homeless Veterans

The draft bill would require the Secretary, not later than 180 days following the enactment of this Act, to commence carrying out a pilot program under which the Secretary would award grants to eligible entities for the provision of coordination of services for recovery from substance use disorder for Veterans who are homeless, were previously homeless and are transitioning to permanent housing, or are at risk of becoming homeless. The pilot program would be carried out for the 5-year period beginning on the date of the commencement of the pilot program. Section 1(c) would require the Secretary to carry out the pilot program at not fewer than five locations. Section (1)(f) would state that participation by a Veteran in the pilot program would not affect any eligibility status or requirements for such Veteran with respect to other benefits or

services provided by VA. Section (1)(i)(4) would provide that VA would submit an annual report to Congress beginning within one year after the date on which the first grant is awarded.

VA supports the development of the pilot program, subject to the Congressional appropriation of the resources to fund these requirements, as substance use disorders directly impact housing stability and increase the likelihood of a Veteran returning to homelessness. While VA offers substance use disorder treatment, it requires the Veteran to travel to a medical center, which presents additional barriers to treatment for a Veteran experiencing homelessness. This proposed pilot program and related services would reduce that barrier and allow more homeless Veterans access to this specialized service.

Additionally, in section 1(i)(3) regarding criteria for assessing the effectiveness of the pilot program, subparagraph (G) lists the following: "The number of veterans who still have a substance use disorder within 180 days of discharge from receipt of services provided under this section." VA recommends revising this to say the following: "The number of veterans who still have a substance use disorder that negatively affects their daily living and their ability to maintain independent housing within 180 days of discharge from receipt of services provided under this section."

We do not believe the 180-day timeline for implementation is possible. VA would need to publish regulations to implement this grant program, making the 180 days specified in section 1(a) unrealistic. The timeframe for implementation would not be sufficient as this new grant program would require the development of regulations, program design, NOFO publication and project activation. In addition, sufficient appropriations would need to be available to implement this program.

VA estimates the provision of grants and program oversight and administration would cost approximately $8.7 million in FY 2022. The 5-year cost from FY 2022 through FY 2026 is estimated to be $47 million, while the 10-year cost from FY 2022 through FY 2026 is estimated to be approximately $95 million.

H.R. XXXX Providing Technical Assistance to Grant Recipients for Supportive Services for Very Low-Income Families

Section 1(a) of the draft bill would amend 38 U.S.C. § 2044(e) to remove the current limit of $750,000 for technical assistance and the authorization of appropriations for fiscal years 2009 through 2012. Section 1(b)(1) would redesignate current section 2014 as a new section 2015 and add a new section 2014 of title 38 to require the Secretary to provide training and technical assistance to recipients of a grant or per diem awarded under sections 2011, 2012, or 2013 regarding the planning, development, and provision of services for which the grant or payment is made. The Secretary would be authorized to provide the training and technical assistance either directly or through grants or contracts. New section 2014 would require the Secretary to provide this training and technical assistance using amounts appropriated or otherwise made available to VA on or after the date of the enactment of this Act. The bill would also make conforming and clerical amendments.

VA supports this bill in principle as it would provide additional discretionary flexibility. We further recommend similar flexibility for other homeless program authorities.

If enacted, there would be no additional costs associated with this section.

H.R. XXXX Adjustments of Rates of Per Diem Payments for Grantees Providing Services to Homeless Veterans

The draft bill would amend 38 U.S.C. § 2012(a)(2)(B)(i)(I) to allow the Secretary to adjust the rate for per diem payments as the Secretary considers appropriate, including in response to an emergency. The draft bill also would increase the maximum rates of per diem payments provided by the Secretary for services furnished to homeless Veterans.

VA does not object to this draft bill, but subject to the Congressional appropriation of the resources to fund these requirements, as there would be significant costs. This draft bill would result in significant increases to the maximum per diem rate and to the overall costs associated with the GPD program. These increases are not accounted for in the current appropriation authorization or in the FY 2022 President's Budget request.

If VA did not receive sufficient increases to its appropriation, the number of beds that the program supports would have to be cut to accommodate the higher rate of per diem payments, and this could result in the displacement of homeless Veterans. GPD per diem rates are statutorily tied to the state home domiciliary rate, which increases annually. Therefore, program funding would also need to keep pace with these increases.

In addition, this change has other implications for the per diem rates associated with serving minor dependents. As a result of this change, the per diem payment for a homeless Veteran who is caring for of a minor dependent would double.

VA estimates that the total program cost with the increased maximum rates of per diem payments in FY 2022 would be $389.7 million, an increase of $167.6 million above the FY 2022 current estimate for the program. The 5-year total program cost from FY 2022 through FY 2026 is estimated at $2.05 billion, while the 10-year total program cost from FY 2022 through FY 2031 is estimated at $4.35 billion.

H.R. XXXX Report to Congress on the Shallow Subsidy Program

The draft bill would require VA, not later than 120 days after the end of the fiscal year in which this Act is enacted, to submit to Congress a report on the program for providing rental subsidies under 38 C.F.R. § 62.34(a)(8) (Shallow Subsidy program), or any successor regulation. The report would need to include the following: (1) if such information is available, the number of Veterans and families served under the program during the fiscal year in which the Act is enacted, disaggregated by race and ethnicity, gender, geographic location, and age; (2) a description of support provided to special populations under the program, including elderly Veterans, women Veterans, children of Veterans, disabled Veterans, Veterans transitioning from certain institutions, and minority Veterans; (3) a description of the decision-making process VA uses for determining which locations would be eligible for coverage under the program; (4) an assessment of whether increasing the payment rate under the program is necessary; (5) an assessment of whether it is feasible and beneficial to expand the program nationally; and (6) an assessment of the efficacy of the increased payments provided under the program based on increases in the number of Veterans served and the number of Veterans transitioned into permanent housing.

VA does not support the draft bill because it is not necessary. The Shallow Subsidy program will create more affordable housing units by reducing the overall cost to the Veteran family. As all Veterans served by Supportive Services for Veteran Families (SSVF) are very or extremely low income to qualify for services, affordability is a critical consideration to ending or preventing homelessness for at-risk Veteran families. VA has already determined that increasing the payment rate under the program is necessary, and that it is feasible and beneficial to expand the program nationally. The Secretary has begun the process to issue regulations, and VA will support the national expansion with funding from the American Rescue Plan (P.L. 117-2).

We also have technical concerns with the bill as written. The bill would require VA, within 120 days after the end of the fiscal year in which the Act is enacted, to submit to Congress a report on the Shallow Subsidy program containing information on workload from the fiscal year in which the Act was enacted. Depending upon the timing of the enactment, VA may have as little as 121 days to submit the report.

VA estimates that the cost of producing this report would be $50,000 in FY 2022. This estimate is based on previous experience on contract for the Annual Report on SSVF. As this is a new initiative, the report would include grantee interviews for qualitative analysis, in addition to data analysis and validation, to note and assess variations in how the initiative was applied.

H.R. XXXX Pilot Program to Improve Public Transportation Services for Veterans

The draft bill would require the Secretary, not later than one year after the enactment of this Act, to commence carrying out a pilot program to assess the feasibility and advisability of awarding grants to eligible entities to improve public transportation services to Veterans. The pilot program would be required to be carried out through the award of grants for a 5-year period beginning on the date on which the pilot program commences. VA would be required to carry out the pilot program at not fewer than five locations. VA would be required to ensure that, to the extent practicable, grants awarded under this legislation are equitably distributed among eligible entities across geographic regions, including rural and Tribal communities.

VA requests further time to determine whether there are other programs within VA or other parts of Federal, State, or local government that may already meet or be able to meet the intent of this bill before providing a definitive assessment.

We also note the same technical concern we previously expressed regarding another bill concerning the equitable distribution of grants among eligible entities and across geographic regions.

H.R. XXXX Extension of Homeless Veterans Reintegration Program

The draft bill would amend 38 U.S.C. § 2021 to extend the period for the authorization of funds from FY 2022 until 2025 and would also increase the amount of funds authorized to be appropriated from $50 million to $75 million for each year during this period.

VA defers to DOL on this bill, as DOL oversees the program authorized under section 2021. However, DOL has advised that it supports an extension; DOL also supports an increase in the authorization of appropriations for the Homeless Veterans Reintegration Program to a level that would allow for full realization of the President’s Fiscal Year 2022 Budget which included a $57.5 million request for this Program.

Conclusion

This concludes my statement. We would be happy to answer any questions you or other Members of the Subcommittee may have.