

**“VBA Fiduciary Program: H.R. 4633 – Veteran Fraud Reimbursement Act”**  
**HVAC Disability Assistance and Memorial Affairs Subcommittee**  
**10:00 AM, Wednesday, October 20, 2021**  
**Zoom**  
**Rep. Gerald E. Connolly (D-VA)**

Thank you to Chairwoman Luria and Ranking Member Nehls for bringing my bill, the Veteran Fraud Reimbursement Act (H.R. 4633) before the subcommittee for a legislative hearing. This bill makes small but important changes to how the Veterans Benefits Administration (VBA) reimburses veterans who are victims of fraud. The bill will expedite reimbursement and ensure that we accomplish the intent of legislation passed earlier this year, H.R. 7105, the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020.

Veterans whose VA benefits are managed under the VBA fiduciary program have been determined unable to manage their finances due to injury, disability, age, or other causes. VBA approved fiduciaries receive and disperse benefits on behalf of VA beneficiaries. When fiduciaries misuse VA funds, defrauding the veteran, the VBA is responsible for the subsequent investigation and any potential reimbursements of misused funds. Historically, the VBA has only been authorized to automatically reimburse victims of fiduciary misuse when the fiduciary was not an individual and the fiduciary managed benefits for ten or more beneficiaries. In cases that did not meet those parameters, the VBA was required to complete a negligence determination, characterizing the nature and rate of its own negligence in an incident of misuse before making the veteran whole.

Congress sought to rectify this inequity with a provision included in H.R. 7105. Section 7005 of that legislation, which was enacted on January 5<sup>th</sup> of this year, ostensibly allowed the VBA to automatically reimburse funds managed by individual fiduciaries or fiduciaries managing less than ten beneficiaries. However, that provision erroneously created a universal negligence determination requirement, across all cases of fiduciary misuse. My bill was drafted with input from the VBA, to accomplish the original intent of H.R. 7105 and remove this unnecessary universal requirement for negligence determinations prior to reimbursement. Collaboration with the VBA revealed that a backlog of cases is mounting and millions of dollars in misused benefits await an unnecessary negligence determination prior to being returned to veteran homes. According to the July 2021 VAOIG Fiduciary program audit, negligence determinations took 468 days to complete on average. Veteran beneficiaries stuck in the growing backlog are at high risk of missing bill payments and incurring late fees on utilities or mortgages.

The importance of this issue cannot be overstated. Veterans in the fiduciary program are largely pensioners living on tight budgets, who cannot wait out bureaucratic inefficiencies. Of the \$2.8 million dollars in VA benefits that have been misused since January 5, 2021, only \$411,000 have been reimbursed to date. Most of the remaining VA funding is currently awaiting the completion of unnecessary negligence determinations. Should any of the beneficiaries pass away before their defrauded funding is reimbursed, the VBA is currently unable to give those funds to their surviving dependents. For those reasons the technical fix included in my bill is necessary to better safeguard our veterans. The Veteran Fraud Reimbursement Act strikes the existing universal negligence determination requirement, allowing the VBA to automatically reimburse victims of fiduciary misuse – the original intent of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020. Additionally, my legislation requires the VBA to create mechanisms to quantify the departments own negligence that do not delay benefit reimbursements to veterans.

I would like to thank the HVAC Subcommittee for Disability Assistance and Memorial Affairs for having me here today to discuss my legislation. I look forward to hearing today’s witness’s perspective on this issue overall and the legislation I have brought before you today.

This bill has been endorsed by the Military Officers Association of America, Disabled American Veterans, Wounded Warrior Project, Paralyzed Veterans of America, Veterans of Foreign Wars and Minority Veterans of America.