

STATEMENT OF
MR. ROBERT WORLEY, DIRECTOR, EDUCATION SERVICE
VETERANS BENEFITS ADMINISTRATION
DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
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Good morning, Mr. Chairman, Ranking Member O'Rourke, and other Members of the Subcommittee. I am pleased to be here today to provide the views of the Department of Veterans Affairs (VA) on pending legislation, including H.R. 3940, H.R. 4451, H.R. 4830, H.R. 4835, H.R. 5044, and a draft Home Loan bill. Because of the timing of receipt of two of the bills, we are not able to provide formal views in this statement on H.R. 1206, Reducing Barriers for Veterans Education Act of 2017 and H.R. 3023, to eliminate the authority of the Secretary of Veterans Affairs to pay reporting fees to educational institutions, but will follow up with the Committee soon, on these two bills. With me today are Mr. Jeffrey London, Director, Loan Guaranty Service, and Mr. Tom Leney, Executive Director, Small and Veteran Business Programs, Office of Small and Disadvantaged Business Utilization.

H.R. 3940

H.R. 3940, the “Veterans Education Disaster Assistance Act,” would amend section 3313 of title 38, United States Code (U.S.C.), to add a new subsection (k) requiring the VA Secretary to pay a monthly stipend to an individual pursuing a course of education at an institution of higher learning (IHL) using educational assistance under 38 U.S.C. chapter 33, if that individual is forced to discontinue pursuing such course because of the closure of an IHL by reason of a natural disaster and the individual opts to pursue that course or an alternative course of education solely by distance learning. The monthly stipend that the VA Secretary would pay would be the amount to which the individual would be entitled were the individual pursuing the course of education at the IHL. New subsection (k) would also require the Secretary to pay an additional lump sum amount for any books, supplies, equipment, and other educational costs necessary by reason of pursuing the course or an alternative course of education solely by distance learning. The Secretary would pay the monthly stipend only for the period of time necessary to complete the quarter, semester, term or academic period during which the school closure occurs or 4 months, whichever is shorter. Moreover, the Secretary would only pay the monthly stipend to an individual when an IHL closes by reason of a natural disaster for a period of time that the institution confirms will last for 4 weeks or longer or that the institution describes as indefinite and that endures for a period of 4 weeks or longer. No additional charge would be made to entitlement by reason of a payment under subsection (k).

VA supports the intent of this bill to provide additional support to Post-9/11 GI Bill beneficiaries during school closures caused by natural disasters; however, VA has serious concerns with certain aspects of the bill.

By amending chapter 33, the bill would apply only to Post-9/11 GI Bill beneficiaries, creating disparity between these beneficiaries and beneficiaries using other benefits, such as the Survivors' and Dependents' Educational Assistance program benefits under chapter 35.

Section 3680(a) of title 38, U.S.C., authorizes VA to continue paying allowances for a student's "enrollment in, and pursuit of" a program of education during a temporary school closure caused by an emergency situation. The bill is not clear as to whether VA would be required to pay students who are between terms at the time of the closure. Also, specific language should be included to indicate whether VA would be required to pay the monthly stipend to the same students it pays under section 3680(a).

Under 38 U.S.C. § 3313(c)(1)(B)(iv), VA pays a "lump sum amount for books, supplies, equipment, and other educational costs" subject to a \$1,000 cap. VA does not currently take into account the actual costs of books, supplies, and equipment, but determines the appropriate amount by pro-rating the maximum annual amount of \$1,000 per academic year based on the student's rate of pursuit per semester or term (VA pays the student \$41.67 per credit hour, which is \$1,000 divided by 24 credit hours, which is the annual credit load for a full-time, semester-based student). In contrast, proposed section 3313(k)(1)(B) would require VA to pay for "necessary" books, supplies, equipment and other educational costs and does not include a cap. VA interprets the bill to require a direct-cost reimbursement for actual expenses without any

capped maximum amount, which would be challenging for several reasons. VA does not currently pay GI Bill beneficiaries directly for the reimbursement of the actual cost of books, supplies, and equipment. Changes would be required to the Long Term Solution system to process payment of this benefit. In addition, because the bill would not impose a maximum benefit amount or otherwise limit what equipment and educational costs can be included, VA cannot estimate the potential cost. Therefore, we recommend including a maximum annual amount pro-rated based on a student's academic rate of pursuit or an authority to exceed the current cap amount by some statutory formula rather than a direct-cost reimbursement.

School closure is described in proposed section 3313(k)(4) as one that is either confirmed by the institution to last 4 weeks or longer or is described by the institution as indefinite and actually does last for 4 weeks or longer. However, the bill provides no guidance as to what happens if a closure that is described as indefinite does not last for 4 weeks and the school reopens prior to the 4 weeks. We also note that a school closure could detrimentally affect eligible individuals through non-natural causes as well, and a major disaster can also be declared as a result of a fire, flood, or explosion regardless of cause. (See Stafford Act § 102(2) (41 U.S.C. 5122(2))). We would be happy to work with the Committee on drafting language to address these issues, including whether they'd like to expand assistance for non-natural disasters.

H.R. 4451

H.R. 4451, the "Homeless Veterans' Reintegration Programs Reauthorization Act of 2017," would extend the authorization of appropriations for the Department of Labor's

Homeless Veteran Reintegration Programs (HVRP) and the Homeless Women Veterans and Homeless Veterans with Children Reintegration Grant Program from 2017 to 2022. The bill would further expand the population eligible to receive services under HVRP to include not only homeless Veterans, but also Veterans who are participating in the Department of Housing and Urban Development-VA Supportive Housing program, receiving assistance under the Native American Housing Assistance and Self-Determination Act of 1996, transitioning from incarceration, or participating in the VA rapid rehousing and prevention program authorized in 38 U.S.C. § 2044.

VA defers to the Department of Labor for views and costs on H.R. 4451; however, we offer that this bill would provide additional services for homeless and at-risk Veterans in the critical area of employment, which is a key factor in achieving and maintaining stability in permanent housing. Veterans transitioning from incarceration often face multiple barriers to successful reentry, and expanding HVRP eligibility to this population would help address the employment-related needs of a population of Veterans who are often at high risk of becoming homeless. It would also be especially helpful for Veterans transitioning from incarceration who may not be eligible for VA services. We also note, as a technical matter, that 38 U.S.C. §§ 2021(e)(1)(F) and 2021A(f)(1), were already extended through 2018 by sections 301 and 302 of Public Law 115-62, the Department of Veterans Affairs Expiring Authorities Act of 2017.

H.R. 4830

H.R. 4830, the “Servicemembers Improved Transition through Reforms for Ensuring Progress Act” or the “SIT-REP Act,” would amend 38 U.S.C. § 3679 by adding

a new subsection (e) that would require a State Approving Agency (SAA), or the Secretary when acting as an SAA, to disapprove certain courses of education unless an educational institution has adopted certain policies. Beginning on August 1, 2018, in order to avoid disapproval of a course of education, an educational institution would have to have a policy in place that allows a covered 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 30, 31, 33 or 35. The policy would have to permit any covered individual to attend or participate in the course of education beginning on the date the individual provides the certificate of eligibility until the earlier of the date VA provides payment to the educational institution or 90 days after the date the individual provides the certificate of eligibility.

In addition, the educational institution would also have to adopt a policy not to impose any penalty, including the assessment of late fees, deny access to classes, libraries, or other institutional facilities, or require a covered individual to borrow additional funds, if the individual cannot meet his or her financial obligations to the institution because of delayed payments for educational assistance from VA. In addition, the bill would allow the Secretary to waive any of these requirements. A covered individual is defined as any individual who is entitled to educational assistance under chapter 30, 31, 33, or 35 of title 38, U.S.C.

VA supports the bill, but has concerns. The proposed legislation would allow a covered individual to attend school beginning on the date the individual provides a certificate of eligibility until the earlier of the date VA provides payment for the course of education to the educational institution or 90 days after the individual provides a

certificate of eligibility. Under chapters 31 and 33, VA issues payments for tuition and fees directly to the school on behalf of the student. However, VA issues a monthly benefit payment directly to the student for individuals eligible for educational assistance under chapters 30 and 35. As such, VA is not responsible for the tuition and fees paid to the educational institution for the individual's attendance in any specific course under these programs. Consequently, as currently written, individuals entitled to assistance under chapters 30 and 35 would always be permitted to attend for 90 days, regardless of when VA begins issuing benefit payments, in order for the institution to avoid program disapproval.

Benefit costs or savings that would be associated with this bill have not yet been determined.

H.R. 4835

H.R. 4835, the "Job Training through Off-Base Opportunities and Local Support for Veterans Act" or the "Job TOOLS for Veterans Act," would extend the pilot program for off-base transition training for Veterans and spouses, as established under the Dignified Burial and Other Veterans' Benefits Improvement Act of 2012, Pub. L. No. 112-260, § 301 (10 U.S.C. § 1144 note). VA defers to the Department of Labor on this bill.

H.R. 5044

H.R. 5044, the "Service-Disabled Veterans Small Business Continuation Act," would add a new sentence to 38 U.S.C. § 8127(k)(3) stating that a surviving spouse of a

Veteran whose disability rating was less than 100 percent shall be treated as a covered surviving spouse for purposes of VA contracting goals and preferences for a period of up to 3 years. While VA supports the intent of this bill, changes must be made before VA can support the bill. The National Defense Authorization Act for Fiscal Year (FY) 2017 (the “2017 NDAA”), once effective, will amend the relevant provisions in 38 U.S.C. § 8127 to mirror those set forth in section 3(q) of the Small Business Act (15 U.S.C. § 632(q)). Accordingly, VA recommends that the proposed amendment be incorporated into section 3(q) of the Small Business Act (15 U.S.C. § 632(q)). Given the language of the 2017 NDAA, any change to the Small Business Act would automatically apply to 38 U.S.C. § 8127 and maintain a uniform definition of the relevant terms.

VA is strongly in favor of creating unified ownership and control provisions for Veteran-owned businesses; and the movement of these criteria from 38 U.S.C. § 8127 to the Small Business Act helps to bring that to fruition. Making changes only to 38 U.S.C. § 8127 would create disparate criteria for the VA and Small Business Administration (SBA) set-aside programs. To preclude such disparate criteria and ensure a single, Government-wide rule, the 2017 NDAA will additionally prohibit VA from promulgating its own new regulations related to the status of a concern as a small business concern by requiring VA to follow SBA regulations. Accordingly, though the bill would amend 38 U.S.C. § 8127, other provisions of that statute, as amended by the 2017 NDAA, would preclude VA from issuing regulations to implement this statutory change.

There would be minimal or no costs associated with this bill.

Draft Home Loan Bill

This draft bill, the “VA Home Loan Improvement Act of 2018,” would make various changes to VA’s Home Loan program.

Section 2(a) of the bill would amend 38 U.S.C. § 3703(a)(1) to adjust the maximum guaranty amount under VA’s Home Loan program. Under current law, the maximum guaranty amount is calculated as a percentage of the Freddie Mac conforming loan limit. Since lenders require VA’s guaranty to cover at least 25 percent of the loan amount before they will make a loan, VA-guaranteed loans are effectively capped at the Freddie Mac conforming loan limit, which varies by location. This legislation would eliminate the effective cap and make the maximum guaranty amount 25 percent of the loan amount, subject to previously used entitlement.

The current effective loan limit prevents otherwise qualified Veterans from taking full advantage of VA-guaranteed home loans on high-cost properties and requires complicated calculations to determine the maximum guaranty amount. This draft bill would make the full VA home loan benefit available to more Veterans and simplify the maximum guaranty calculation for both Veterans and lenders. The no-down payment requirement has been a cornerstone of VA’s Home Loan program and provides an incentive for Veterans to choose VA’s home loan product. However, under current law, a Veteran who elects to purchase a home for an amount that exceeds the Freddie Mac conforming loan limit is required to make a down payment for the loan amount borrowed in excess of such limit. This is because lenders generally expect VA’s guaranty to be an amount that is at least 25 percent of the loan. If it is not, lenders require Veterans to make a down payment to cover the difference. By removing the effective cap, the law

would allow more Veterans to utilize the home loan benefit they have earned without a down payment, while still requiring that they have satisfactory credit and income to qualify for the loan.

However, due to the limitations of VA's loan data and the various interactions with other Federal programs, VA estimates the costs of section 2(a) could be tens of millions of dollars (or more) and vary by orders of magnitude due to factors such as take-up rates and funding fee collections. Given the uncertainty of the budgetary impacts, VA cannot support section 2(a) at this time.

Section 2(b) of the bill would amend 38 U.S.C. § 3729(c) to change the exemptions permitted with regard to VA's statutory loan fee. VA is required generally, pursuant to section 3729, to charge borrowers a statutory loan fee for obtaining a VA-guaranteed loan. Under section 3729(c), certain borrowers with service-connected disabilities, and certain surviving spouses of such borrowers, are exempt from having to pay the fee. The bill would amend section 3729(c) to state that the loan-fee exemption currently available under section 3729(c)(1) "shall not apply to any Veteran with a service-connected disability rated as total, or any surviving spouse of such a Veteran, who, after October 1, 2018, receives a loan that is guaranteed under section 3710 of this title in an amount that is more than 25 percent of the Freddie Mac conforming loan limit limitation." Due to the way this provision is drafted, it is unclear to VA which Veterans Congress intends to exempt from paying the loan fee. VA welcomes the opportunity to work with the Committee to ensure that section 2(b) of the bill would achieve the Committee's intended outcome.

VA notes that lenders will need a transitional period to incorporate any changes into their systems, processes and procedures. VA may also need to establish policy guidance and conduct rulemaking, to ensure proper loan processing and calculation of available entitlement, in line with the bill's proposed amendments. VA cannot estimate the benefit costs or savings that would be associated with enactment of section 2(b) of this bill.

Section 3 of the bill would amend section 38 U.S.C. § 3731(b) by adding a new paragraph (3) to authorize VA-designated appraisers to rely solely on information provided by third parties when valuing properties for VA's Home Loan program. VA supports enactment of section 3, as it would enable VA-designated appraisers to expand their coverage areas and would increase the number of appraisals they could perform in a timely manner.

The bill would not change the qualifications for VA-designated appraisers, nor would it make any substantial change to VA oversight requirements. It would, however, better align VA appraisal policy and procedures with industry standards, address recent industry concerns regarding timely delivery of the VA appraisal product, and likely encourage more use of the VA Home Loan program by making VA financing a more attractive option within the mortgage industry.

VA estimates that there would be no benefit costs or savings associated with enactment of section 3 of this bill.

This concludes my testimony. We appreciate the opportunity to present our views on these bills and look forward to answering any questions the Committee may have.