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**STATEMENT OF
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DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
U.S. HOUSE OF REPRESENTATIVES**

March 30, 2023

Chairman Van Orden, Ranking Member Levin, 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 are Dr. Keith Harris, Senior Executive Homelessness Agent, Greater Los Angeles, Office of the Secretary Veterans Health Administration (VHA), and Nick Pamperin, Executive Director, Veteran Readiness and Employment Service (VBA).

H.R. 291 “Vaccine Discharge Parity Act”

Sections 2(a) and (b) of this bill would amend 38 U.S.C. §§ 3011(a)(3)(B) and 3311(c) to include a general discharge under honorable conditions on the sole basis that the individual failed to obey a lawful order to receive a vaccine for COVID-19, as a qualifying discharge for entitlement to educational assistance under the Montgomery GI Bill-Active Duty (MGIB-AD) program and the Post-9/11 GI Bill. Section 2(c) of the bill would adjust home loan fees to help offset the costs of the bill. Specifically, this section would amend 38 U.S.C. § 3729(b) to replace “January 14, 2031” with “March 1, 2031” in each place it appears in the loan fee table in section 3729(b)(2).

VA opposes this bill. Currently, an individual who serves in the Armed Forces must receive an honorable discharge to establish eligibility for educational assistance under the MGIB-AD and Post-9/11 GI Bill. VA is concerned that enactment of this bill would create an inequity for Service members discharged for various reasons and not meeting the “honorable discharge” requirement for eligibility for educational assistance. Only Service members with the COVID-19 character of discharge “reason” would be eligible to receive educational assistance, while Service members with the same character of discharge but different reason would not be eligible for educational assistance.

VA also has concerns regarding the availability of Department of Defense (DoD) data elements corresponding with information technology systems and claims processing rules to facilitate the data exchange needed for automated claims processing. Additional funding would be required for Veterans Benefits Administration and DoD interfaces and Digital GI Bill (DGIB) automation planning and delivery. For

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example, the VA and DoD Identity Repository (VADIR) would require additional indicators to reflect that the reason for a particular discharge was due to refusal to take a vaccine, given the current Interface Control Document (DGIB-VADIR) includes no specifications for a particular discharge being due to refusal to take a vaccine. Without additional development resources to make these and other required changes, fewer claims could be accomplished using automation. The new rules would also need to be programmed into the Benefits Delivery Network and the Post-9/11 GI Bill Long Term Solution to calculate eligibility for this small population of individuals.

VA opposes section 2(c) of the bill. This section would adjust home loan fees with the purpose of helping to offset the costs of the bill. Loan fees are collected to reduce the taxpayer cost of VA's loan guaranty program. As such, VA does not support using the fees as an offset for the costs of another benefit program. Additionally, VA notes that home loan fees that are required under 38 U.S.C. § 3729(b)(2) are scheduled to expire on November 14, 2031, not January 14, 2031. See the Consolidated Appropriations Act, 2023, P. L. 117-328, Division U, § 204. Therefore, this section of the bill as drafted would fail to accomplish the purpose of extending the period in which home loan fees are collected by VA.

H.R. 645 "Healthy Foundations for Homeless Veterans Act"

H.R. 645 would add a new section 2068 to title 38, U.S. Code, to allow VA to use amounts appropriated or otherwise made available to carry out sections 2011, 2012, 2031, or 2061 to provide certain assistance to homeless Veterans and Veterans participating in the Department of Housing and Urban Development-VA Supportive Housing (HUD-VASH) program. The assistance authorized under proposed section 2068(a) would include assistance needed for the safety and survival of the Veteran (such as food, shelter, clothing, blankets, and hygiene items), transportation needed to support the stability and health of the Veteran (such as transportation for appointments with service providers, the conduct of housing searches and the obtainment of food and supplies), communications equipment and services (such as tablets, smartphones, disposable phones, and related service plans) needed to support the stability and health of the Veteran (such as through the maintenance of contact with service providers, prospective landlords, and family members), and such other assistance as VA determines necessary.

Proposed section 2068(b) would authorize VA to collaborate, to the extent practicable, with one or more organizations to manage the use of VA land for homeless Veterans for living and sleeping. This collaboration could include the provision, by either VA or the head of the organization concerned, of food services and security of property, buildings, and other facilities owned or controlled by VA.

VA strongly supports this bill, as it is consistent with an Administration proposal included in the FY 2024 Budget ("Flexibility in the Provision of Assistance to Homeless Veterans"). The bill would effectively replicate the authority granted under section 4201

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of P.L. 116-315 but would remove the limitation related to the period of the covered public health emergency.

Before the authority in section 4201 of P.L. 116-315 was established, VA could not use funds to provide these services or support and had to rely on donations or community organizations, which were not always readily available, to fill the service gaps. VA providers need the continued flexibility and access to critical resources provided by this authority to carry out the mission of making Veteran homelessness rare, brief, and non-reoccurring. In recent years, VA providers have excelled at reducing Veteran homelessness; however, the Veterans who remain unsheltered often present with complex needs and face unprecedented barriers, such as high cost of food, increased housing costs, and lack of public transportation or access to information. To complete the mission of ending Veteran homelessness, VA needs to be able to provide all available resources.

Furthermore, use of Department land allows for the flexibility to use designated areas on VA medical center campuses to offer temporary housing, food, access to health care, case management, peer support, and a clean environment to vulnerable unsheltered Veterans experiencing homelessness. This is needed to address the continuing high number of unsheltered homeless Veterans nationally, and the need for low-barrier safe-haven settings that can provide immediate access to shelter and services for Veterans 24 hours per day, 7 days per week.

Most importantly, the barriers that this bill would address existed before the COVID-19 public health emergency and will persist after the emergency declaration has ended, increasing risks to Veterans' safety, survival and well-being, and negatively impacting living conditions. We do note, as a technical matter, that the bill should establish a new section 2069 in title 38, as there currently is a section 2068 (regarding mental health consultations), which was added by section 404(b) of the STRONG Veterans Act (Div. V of P.L. 117-328).

The total estimated cost is \$32.54 20.52 million for FY 2024, \$21.36 35.87 million for FY 2025, approximately \$195.37 111.47 million over a 5-year period, and the cost over a 10-year period is approximately \$435.45 243.42 million over a 10-year period is. This estimated cost is based on actual expenditures to date. FY 2022 expenditures.

H.R. 728 Pilot Program on Short-Term Fellowship Programs

This bill would authorize the Assistant Secretary of Labor for Veterans' Employment and Training to carry out a pilot program under which a State may use a grant or contract under 38 U.S.C. § 4102A(b)(5) (the Jobs for Veterans State Grants Program) to carry out a pilot program on short-term fellowship programs. Each program would consist of Veterans participating as fellows with an employer for a period not exceeding 20 weeks, pay such Veterans a monthly stipend, and provide such Veterans an opportunity to be employed on a long-term basis with the employer following such period.

VA defers to the Department of Labor regarding this bill.

H.R. XXX Education Fraud

Section 1(a) of this bill would amend 38 U.S.C. § 3699(b)(1) by adding a new subparagraph that would allow VA to restore educational assistance entitlement under 38 U.S.C. chapter 30, 31, 32, 33, or 35 or 10 U.S.C. chapter 1606 or 1607, if an individual was unable to complete a course or program as a result of the suspension or termination of a course or program of education by reason of a determination of fraud by the Commissioner of the Federal Trade Commission or the Secretary of Education.

Section 1(b) of the bill would further amend 38 U.S.C. § 3699 by adding a new subsection (f) that would require the educational institution to repay the Secretary of Veterans Affairs all amounts of educational assistance received pursuant to the educational assistance programs administered by VA during the period when the fraud was determined to have occurred, if the educational institution closes or suspends or terminates a course or program of education by reason of a determination of fraud by the Commissioner of the Federal Trade Commission or the Secretary of Education.

VA would support this bill, if amended. Since students may be accomplices to the fraud in certain instances, VA recommends that section 1(a) of the bill include language to specify that students who participate in the fraud are not eligible for restored entitlement under this section. VA also recommends that this bill be amended to include findings of substantial misrepresentation made by VA or a State Approving Agency.

No discretionary costs are associated with this bill. Additional time is needed to determine if the bill has significant mandatory costs.

H.R. XXX Sole Liability for Transferred Educational Assistance

This bill would amend 38 U.S.C. § 3319(i), regarding liability for overpayments in cases of transferred entitlement, to remove joint liability for certain overpayments. Specifically, this bill would require VA to hold the individual who transfers unused education benefits to a dependent solely liable for any overpayment of educational assistance under the Post-9/11 GI Bill when the individual fails to complete his or her service agreement.

VA would support this bill, if amended. However, if it is the intent of Congress to eliminate liability for dependents who share no fault in the overpayment, VA recommends that the bill be amended to also address tuition and fee overpayments that are collected against schools, as these will likely be passed on to students. Debts resulting from reductions and termination of benefits are currently split between the student and the school. The student is liable for the monthly housing allowance, books and supplies, and kicker benefits, while the school is responsible for tuition and fees.

Section 1019 of the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* (Public Law 116-315), which revised 38

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U.S.C. § 3685(b), requires schools to be financially responsible for all tuition and fee debts paid under the Post-9/11 GI Bill. However, schools may seek reimbursement of tuition and fee debts from students independent of the protection covered in this bill. Therefore, VA recommends that the bill be amended to explicitly state that payment of tuition and fees that result in an overpayment under 38 U.S.C. § 3319(i)(2)(A) would not constitute a liability against the school or dependent in accordance with 38 U.S.C. § 3685. This amendment would ensure that these debts are not passed on to the student by the school.

We note that the proposed amendment to section 3319(i)(2)(A) is unclear because it would refer to the amount of any transferred entitlement that is used by a dependent “as an overpayment of educational assistance *under paragraph (1)*” (which provides for joint and several liability) “for which the individual [transferring entitlement] shall be solely liable” (emphasis added). Congress may want to consider removing the “under paragraph (1)” language in section 3319(i)(2)(A) to clarify its intent.

No mandatory or discretionary costs or savings are associated with this proposed legislation.

H.R. XXX Electronic Certificates of Eligibility

This bill would amend 38 U.S.C. chapter 36 by adding new section 3698A, which would require VA to provide certificates of eligibility and award letters using electronic means to an individual entitled to educational assistance under 38 U.S.C. chapter 30, 33, or 35; the Veteran Employment through Technology Education Courses (VET TEC) pilot program; or any other provision of law administered by VA that is determined appropriate. The individual may elect to receive the documents by mail rather than through electronic means or revoke an election at any time, by means prescribed by VA.

VA supports this bill, as it is consistent with current practices. This bill would give all VA education beneficiaries access to their eligibility and entitlement information in an electronic format. We note that 38 U.S.C. § 5104(c), as amended by the Honoring Our PACT ACT of 2022, Public Law 117-168, § 807, currently permits VA to provide notice of its decisions electronically if a claimant (or the claimant’s representative) elects to receive such notice electronically.

No mandatory or discretionary costs are associated with this bill, as VA currently provides certificates of eligibility and award letters by electronic means.

H.R. XXX Increase in Educational Assistance for Programs of Education in the Philippines

This bill would amend 38 U.S.C. § 3532 to remove the requirement for VA to compute the educational assistance allowance for an eligible person at an institution located in the Republic of the Philippines at the rate of \$0.50 for each dollar.

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VA supports this bill. This bill would provide increased funding for certain individuals pursuing a program of education in the Republic of the Philippines.

Mandatory costs associated with this bill are \$598,000 in FY 2023, \$11.7 million over five years, and \$25.5 million over 10 years. No discretionary costs to VBA's General Operating Expenses account are associated with this bill. IT costs are estimated to be \$3.2 million in FY 2026.

H.R. XXX "Get Rewarding Outdoor Work for Our Veterans Act" (or the "GROW Act")

This bill would direct the Secretary of Veterans Affairs to submit to Congress a report on the Warrior Training Advancement Course (WARTAC) and direct the Secretary of the Interior to administer a pilot program to employ Veterans in positions that relate to conservation and resource management activities of the Department of the Interior (DOI).

Section 2 of the bill would direct the Secretary of Veterans Affairs to submit to Congress an initial report on WARTAC no later than six months after the date of enactment and submit a report one year after submission of the initial report, and annually thereafter, that includes information on best TAP practices of WARTAC, cost savings of WARTAC and hiring covered members who complete WARTAC.

VA cites concerns with Section 2 of this bill. While VA can provide some of the information requested in the reporting requirement in section 2, development of such a report would be time-consuming and costly for VA and would divert resources from other important work. Annually, the total number of WARTAC participants is generally fewer than 400 Veterans. Congressionally Mandated Reports (CMR) go through a rigorous concurrence process and consume valuable VA resources. VA strives to be a good steward of taxpayer dollars, and the amount of time, money, and staff involvement that would go into drafting and reviewing these reports could be better spent on other important projects helping Veterans. VA submitted 24 CMRs in fiscal year 2022 and VA's cost estimates for all CMRs submitted in fiscal year 2022 totaled approximately \$661,228.

VA welcomes the opportunity to collaborate with its Congressional partners through quarterly briefings in lieu of a mandated report. Transparency is important to VA, and VA could provide updates on the current state and future state of the WARTAC program at any time or on a recurring basis as requested. As WARTAC is an authorized DoD Skillbridge program that falls under the authority of DoD Instruction 1322.29, Job Training, Employment Skills Training, Apprenticeships, and Internships for Eligible Service Members, VA would defer reporting on the majority of the elements required under section 2(b) to DoD.

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Section 3 would direct the Secretary of the Interior to administer a pilot program to employ Veterans in positions that relate to conservation and resource management activities at DOI.

VA defers to DOI regarding section 3. VA can serve as an active partner to DOI and help Veterans connect to the pilot through already-established VA programs such as Veteran Readiness and Employment (VR&E) services, the Personalized Career Planning and Guidance Program, and Skillbridge.

H.R. XXX “Streamlining Aviation for Eligible Veterans Act” (or the “SAFE Veterans Act”)

This bill would amend 38 U.S.C. § 3101 by adding a statement that a rehabilitation program may include flight training that does not lead to a degree.

VA opposes this bill. In accordance with 38 U.S.C. § 3100, the purpose of the VR&E program is to provide all services and assistance necessary to enable Veterans with service-connected disabilities to achieve maximum independence in daily living and, to the maximum extent feasible, to become employable and to obtain and maintain suitable employment. Currently, under chapter 31, a VR&E participant may enroll in flight training as part of a degree program within the individual’s rehabilitation plan, allowing for the Veteran to be trained in the field of aviation or a related field. The flight training should lead to a degree, certification, or license that enables the Veteran to seek and obtain suitable employment. Should the Veteran’s disabilities change or worsen, possessing a degree allows the Veteran other opportunities to obtain and maintain employment. A rehabilitation program that includes flight training but does not lead to a degree would be inconsistent with VR&E’s requirements for its training programs.

H.R. XXX TAP Outreach

This bill would amend 38 U.S.C. §§ 4101 and 4103A (the Jobs for Veterans State Grants Program) to add members of the Armed Forces eligible for the Transition Assistance Program (under sections 1142 and 1144 of title 10) as persons eligible to receive priority in the Department of Labor’s intensive services and placement service program conducted by Disabled Veterans’ Outreach Program specialists.

VA defers to the Department of Labor regarding this bill.

H.R. XXX “VET-TEC Authorization Act of 2023”

Section 2(a) of this bill would add new 38 U.S.C. § 3699C to permanently authorize VA to carry out a program under which the Secretary provides covered individuals with the opportunity to enroll in high-technology programs of education that the Secretary determines provide training or skills sought by employers in a relevant field or industry. A “covered individual” is a Veteran whom the Secretary determines served an aggregate of at least 36 months on active duty and was discharged or

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released under conditions other than dishonorable and who has not attained the age of 62 before beginning a high-technology program of education, and a member of the Armed Forces whom the Secretary determines will become a Veteran fewer than 180 days after the date of such determination.

This bill would allow not more than 8,000 covered individuals to participate in the program in any fiscal year. Covered individuals who pursue a high-technology program of education under section 3699C would receive educational assistance in amounts equal to the 100% benefit level under the Post-9/11 GI Bill (chapter 33), including the housing stipend and in accordance with the treatment of programs that are distance learning and programs that are less than half-time. VA would be authorized to pay educational assistance to covered individuals for a high-technology program of education and a second such program if the second program begins at least 18 months after the covered individual graduates from the first such program, and if chapter 33 is used for pursuit of the second such program. Covered individuals with remaining entitlement to educational assistance under chapter 30, 32, 33, 34, or 35 would be charged at the rate of one month of such remaining entitlement for each such month of educational assistance under this program. Individuals receiving benefits under this program would not be subject to the 48-month entitlement limitation applicable to other VA educational programs.

If a covered individual withdraws from a high-technology program of education, paid for with educational assistance under section 3699C, after receiving orders to enter a period of covered service, the Secretary would have to provide educational assistance to the covered individual for another such program.

Under this bill, VA would be authorized to enter into contracts with qualified providers of high-technology programs and would be required to provide the conditions under which VA may terminate the contract with the provider and the procedures for providing for the graduation of students who were enrolled in a program provided by such provider in the case of such a termination. Such a contract would authorize VA to pay as follows.

- 25% of the cost of tuition and other fees upon enrollment of a covered individual;
- 25% upon graduation of the individual from the program; and
- 50% of such cost upon-
 - The completion of 180 days of full-time employment by the covered individual-
 - In the field of study of the program; and
 - If the employment was secured not later than 180 days following graduation of the covered individual from the program.
 - The employment of the individual by the provider for a period of one year; or
 - The enrollment of the individual in a different program of education to continue education in the field of study of such high-technology program of education provided by a different provider.

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This bill would maintain the current rule that a provider of a high-technology program of education is qualified if the provider employs instructors whom VA determines are experts in their respective fields, the provider has successfully provided the high-technology program for at least one year, and the provider meets the approval criteria developed by VA. However, this bill would add two additional qualifications, requiring that a provider identify professions in need of new employees to hire, tailor the program to meet market needs, and identify employers likely to hire graduates; and that a provider not charge tuition and fees to a covered individual who receives assistance under section 3699C to pursue such program that are higher than the tuition and fees charged by such provider to another individual. VA would also be required to give preference to a provider of a high-technology program from which at least 70% of graduates each year find full-time employment in the field of study of the program within 180 days after graduating from the program or that refunds tuition and fees for a student who graduates from such a program and does not find employment.

Finally, this bill would require VA to submit a report to Congress no later than one year after the date of enactment of this bill and annually thereafter on the operation of the program under section 3699C.

This bill would take effect 180 days after the date of enactment and would amend section 116(h) of the Harry W. Colmery Veterans Educational Assistance Act of 2017, Public Law 115-48, to provide that the authority to carry out a pilot program under that section will terminate on the date that is one year after the date of the enactment of section 3699C.

VA would support this bill with amendments and with an identified funding offset. First, the bill would authorize only 8,000 covered individuals to participate in the program during a fiscal year. These individuals could carry over into the next fiscal year and thus limit the number of individuals who could participate in the program. VA does not understand the purpose for limiting the number of individuals who could pursue this program given the fact that this program would be permanent and there are no participant limits for other permanent VA education programs. This would require VA to create very complex rules for its Information Technology systems, which could be costly and require more time to implement.

Second, this bill would mandate that VA charge one month of entitlement for covered individuals who have remaining entitlement under chapter 30, 32, 33, 34, or 35 for every month of entitlement used under this high-technology program. This provision would be inequitable as it would allow some beneficiaries who have already used all their VA educational benefits to receive more entitlement, while others would lose out on their remaining entitlement under other VA educational programs. Additionally, this bill would state that the 48-month entitlement limitation would not apply to this high-technology program. However, since other VA educational programs are subject to the 48-month entitlement limitation, and this bill would require remaining entitlement to be deducted from those programs, in actuality some people would be limited to the 48

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months, while others would not. Furthermore, this provision would be very problematic for VA to carry out because some individuals may have remaining entitlement under multiple benefits; therefore, VA would have to determine a process for beneficiaries to choose from which benefit to deduct entitlement, which could delay claims processing.

This bill would be effective 180 days after the date of enactment, while the pilot program would end one year after the enactment of this bill. This would cause overlap of the pilot and permanent students and providers. This could cause complications with the transition of this program and be very confusing for beneficiaries. Also, the effective date of only 180 days from the date of enactment would not provide enough time to implement all the new provisions.

Finally, as stated above, in lieu of CMRs, VA recommends and welcomes the opportunity to collaborate with its Congressional partners through quarterly briefings (or briefings as requested). CMRs go through a rigorous concurrence process and consume valuable VA resources. VA strives to be a good steward of taxpayer dollars and the amount of time, money, and staff involvement that go into drafting and reviewing mandated reports could be better spent on other important projects helping Veterans. VA's cost estimates for all CMRs submitted in fiscal year 2022 total approximately \$661,228. Transparency is important to VA, and VA would provide updates on the current and future state of the VET TEC program at any time or on a recurring basis as requested.

Significant mandatory and discretionary costs are associated with this bill. VA needs additional time to prepare its cost estimate.

Conclusion

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