

LEGISLATIVE HEARING ON
H.R. 491; H.R. 3874; H.R. 3848; H.R. 3933;
H.R. 3898; H.R. 3981; H.R. 3943; AND H.R. 3900

HEARING
BEFORE THE
SUBCOMMITTEE ON ECONOMIC
OPPORTUNITY
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
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Accompanied by:

Mr. Paul Marone, USERRA Policy Chief for Veterans' Employment and Training Service, Department of Labor

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WEDNESDAY, JUNE 14, 2023

U.S. HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, D.C.

The subcommittee met, pursuant to notice, at 4:28 p.m., in room 360, Cannon House Office Building, Hon. Derrick Van Orden (chairman of the subcommittee) presiding.

Present: Representatives Van Orden, Crane, and Levin.

Also present: Representatives Takano, and Rosendale.

OPENING STATEMENT OF DERRICK VAN ORDEN, CHAIRMAN

Mr. VAN ORDEN. The subcommittee will come to order. Our Nation made a promise—what? Oh, I am sorry. Please be seated. The worst chairman ever. Our Nation made a promise to our veterans long ago that if they were to protect and defend our freedoms, we would do our best to honor their efforts and their sacrifice recognizing that this is a debt that we can truly never repay.

The Committee on Veterans Affairs was established to ensure that the government is held accountable to that promise. As I have said before, and I am going to say this every time I chair one of these meetings, this is not a bipartisan committee. This is a non-partisan committee. I do truly appreciate all the members, my colleagues from both sides of the aisle for honoring that. It is remarkable, and I appreciate it greatly.

Congress must be diligent in our efforts to continuously explore ways to improve the lives of veterans. Through our oversight of the Federal agencies that were established to benefit veterans and their families and developing legislation that improves these benefits, we seek to honor the commitment we have made to those who have served our country.

Today, we are meeting to listen to the perspective of the Department of Veterans Affairs and the Department of Labor. We will also hear the views of numerous organizations that exist to assist veterans, service members, and military families. We are interested in their perspective on legislative proposals that have been introduced to improve their experiences with the Federal Government programs that were designed to benefit them.

I have introduced a bill that will help service members connect with veteran service organizations as they move through the Tran-

sition Assistance Program (TAP) at the Department of Defense. The TAP program is a well intended program that is supposed to ensure that service members have resources as they transition out of military life. However, as the hearing we had just a month ago revealed, there are many missing links in the TAP process, and it often misses the mark.

TAP needs to be much more focused on ensuring that a service member leaves the military with a plan in place for work, housing, and for social engagement. We continue to explore ways to improve this TAP program in Congress, but my bill will take a step in the right direction by connecting service members with a community that is there to assist them after transition.

As we work to improve the transition program, we also recognize that many veterans do not have a sufficient safety net after their transition to civilian life and may fall into homelessness. While the number of homeless veterans has decreased over the last few years, it is still essential that we provide services to support these veterans in a fiscally responsible way. Today, we will hear testimony on legislation that seeks to improve the housing and support services offered to veterans. We will also hear testimony on bills that are intended to provide employment protections for reservists and members of the National Guard that are called upon to deploy and their families. One bill seeks to make service members whole if they need to take their cases to court. We will also hear comments on a few bills that were introduced to improve the education benefits that are available to veterans.

While all of these bills are well intended, as always, the devil is in the detail, and I look forward to hearing the thoughtful perspectives of the witnesses on these proposals here today. I now yield to the ranking member for his opening comments.

OPENING STATEMENT OF MIKE LEVIN, RANKING MEMBER

Mr. LEVIN. Thank you so much, Chairman Van Orden, for holding this legislative hearing, and thank you for your leadership of this subcommittee. Thank you to everybody for being here, and I appreciate your working with us. As we have the congressional baseball game this evening, I hope many of you will be out there. I was asked in the elevator, am I on team red or team blue? I said I am on team red, white, and blue. This is a great event tonight.

The best way we can show veterans that we take our work seriously in Congress is by advancing policy that provides them with the benefits and the services they have earned. I would like to highlight a few of the bills on the agenda that deliver on that promise. First, I would like to thank Representative McGarvey for introducing the Veterans Education Oversight Expansion Act. I proudly sponsor the Isakson-Roe Healthcare and Benefits Improvement Act. While it has been a great boon for veteran education oversight and quality, there is always more work to do. Representative McGarvey's legislation, which I serve as a co-lead on, makes some commonsense improvements to the law, including benefit restoration, school oversight, and implementation of the law.

Next, Representative Deluzio, another baseball player. These are all by baseball players. Has offered the Job Security for Military Families Act. The very first hearing this subcommittee held this

year was on Uniformed Services Employment and Reemployment Rights Act (USERRA) protections. We heard repeatedly about the need to strengthen employment protections for service members and their families. Our military is in a recruitment crisis, and we need to remove barriers for individuals who choose military service.

Military spouse unemployment is three times the civilian rate. That is a stunning statistic. The number one reason individuals leave the military is because of how it impacts their family. Representative Deluzio's bill provides new job protections for military spouses, making it easier for service members to stay part of the world's greatest military.

Finally, as we have discussed on multiple occasions in this subcommittee, I remain deeply concerned about the effects of last month's expiration of pandemic era flexibilities and funding on our ability to end and prevent veteran homelessness. On May 11, the maximum rate at which a grant and per diem, or GPD provider, can be reimbursed for providing transitional housing and services to veterans experiencing homelessness decreased from 300 percent of the state home domiciliary rate to 115 percent overnight. That is huge.

These percentages can get confusing, so I am going to talk about these numbers in dollars and cents for just a second. The maximum per diem rate went from over \$150 to just \$64 a day. That happened literally overnight. I am pleased that we are considering H.R. 491 today, which I am proud to cosponsor, which would raise the maximum per diem rate to 200 percent of the State home rate, which is \$112. We are also considering a Republican proposal that would raise the maximum per diem rate to 133 percent of the state home rate, or \$74, with potential waivers for 10 percent of providers, up to that \$112 a day level.

There is clearly a significant difference between these two proposals that needs to be addressed. I hope the chairman shares my commitment to continuing to work together to find a per diem rate that we can all agree meets the needs of providers and the veterans in their care. Thank you again to my friend, Chairman Van Orden, for considering these bills, and I hope we can find a way to advance them all to the full committee as quickly as possible. And I yield back.

Mr. VAN ORDEN. Thank you very much Ranking Member Levin. I now recognize the Ranking Member of the Full Committee, Mr. Takano.

**OPENING STATEMENT OF MARK TAKANO, RANKING MEMBER,
FULL COMMITTEE**

Mr. TAKANO. Thank you, Chairman Van Orden. Today, this subcommittee is considering two bills, Congresswoman Nikema Williams' H.R. 491, the Return Home to Housing Act, and Congresswoman Chavez-DeRemer's, H.R. 3848, the HOME Act of 2023.

I am bothered by the delay in getting here today, as it is now been over a month since the emergency authorities for homeless veterans expired. We have lost time and ground in our fight to end homelessness, for me, the key consideration of any bill is going to be this, does the bill do the maximum amount to help homeless veterans get off the street and into permanent housing?

On May 11, the maximum rate at which VA GPD providers can be reimbursed for the cost of caring for homeless veterans dropped from over \$150 a day to a mere \$64 a day. We are already hearing about the stress this is putting on providers. Many are faced with choosing between paying for security or staff and reducing the number of beds they can keep open for homeless veterans. Now, some providers are leaving the grant and per diem program entirely due to this financial strain. Congresswoman Nikema Williams' bill would raise the maximum per diem rate to \$112 a day. Congresswoman Chavez-DeRemer's bill raises the maximum per diem rate to \$74 a day. There is a large delta between these two numbers, \$38 a day per veteran served. That \$38 matters to providers and veterans.

With that additional funding, providers can afford to keep clinical staff that can provide the treatment and services these veterans need. They can continue to operate training programs so that unhoused veterans can gain skills and opportunities to get back on their feet.

We received a number of statements for the record from grant and per diem providers. One indicated that failure to raise the per diem rate will result in over \$1 million budget shortfall for their facility this year. Another reported that they will have a \$60,000 a month shortfall. That is a month shortfall at the current per diem rate. I believe this is unacceptable, considering the tremendous responsibility we place on these providers to care for our most vulnerable. The chairman, ranking member, and our staffs should work together with our Senate counterparts to quickly find a solution that adequately supports transitional housing providers and gives them more predictability with their funding.

Now, I want to turn to another provision in H.R. 3848. I am deeply concerned about the language that amends the West Los Angeles Leasing Act of 2016. It is unclear to me why this is being considered alongside provisions related to ending veteran homelessness. The language proposed here is counter to what we intended in passing the law in 2016. I was there. I know. Everything done at the West LA must be focused on benefiting veterans. Veterans need more housing, they need more services, and we must not impede the oversight necessary to continue the process of getting West LA away from its long and difficult history and continue it on the right path in service to veterans. Thank you, Mr. Chairman, and I yield back. Thank you for the courtesy.

Mr. VAN ORDEN. Absolutely. I will now introduce our witness panel. Our first witness, Mr. Joseph Garcia, the Executive Director of Education Services at the Department of Veterans Affairs. Mr. Garcia is accompanied by Ms. Melissa Cohen, Deputy Executive Director of Outreach, Transition, and Economic Development, and Ms. Monica Diaz, the Executive Director, Office of Homeless Programs at the Department of Veterans Affairs.

Our second witness is the former Marine, Mr. James Rodriguez, the Assistant Secretary for Veterans Employment and Training Services at the Department of Labor. Mr. Rodriguez is accompanied by Mr. Paul Marone, the USERRA Policy Chief for Veterans Employment and Training Services at the Department of Labor.

I ask the witnesses to please stand and raise your right hand.

[Witnesses sworn]

Thank you very much. Let the record reflect that the witnesses have answered in the affirmative. Please sit down.

Hey, before we get rolling here, this is really painful for me to say this, but I would like to wish the Army happy birthday today. Happy birthday, guys. I am going to say this one time, okay? One time only. Hooah. There you go.

Mr. TAKANO. Preface that?

Mr. VAN ORDEN. Yes, we could. Hey, in the interest of time, and because I know that there are several members that have some previous commitments, I ask unanimous consent to waive the taking of oral testimony and proceed directly to questioning the witnesses. All witnesses' written statements will, of course, be included in the record. Without objection, so ordered. We are now going to proceed with questioning. I am not going to ask members to please respect the 5-minute rule, I am going to tell you that is how much time you got to talk, me included. The clock is running. I now recognize myself for 5 minutes.

I want you to know that I read your testimony in detail. I read every single line of every word when it comes to these panels. I do not want you to think that I have not taken this incredibly seriously. I take detailed, ask my staff, it is detailed notes then I get with this staff, which is excellent. This is an incredibly important thing what we are dealing with here, I want you to understand that.

Ms. Diaz, the VA expects to increase the grant and per diem rate. They estimate it would cost \$1.56 billion over 5 years and \$3.31 billion over 10 years. This would be an increase of 38 million for Fiscal Year 2024, and approximately 272 million over 5 years, and approximately 737 million over 10 years.

The VA also indicates that it is awarding fewer beds based on needs expressed by the community. Can you please explain to me why the VA needs more money for the program if the number of beds needed has decreased?

Ms. DIAZ. Thank you for the question. When we did the estimations for budget when it comes to the numbers that you mentioned, we actually averaged those not on bed capacity, but on the average occupancy rate, which is 77 percent of what we are seeing. For any increase in per diem rate, we would need an increase based on our budget because there is an increase. The tabulation of the numbers that you got was based on the 200 percent number, based on that 77 average occupancy rate. We are not using capacity, right, in terms of all the beds that we have, and the total amount for that it ended up being those totals.

Mr. VAN ORDEN. Okay. Let us maybe figure out a better way to express that, because it seems like we are given more money and getting less bang for the buck. Obviously, this is my ranking member's number one priority is veterans' homelessness. The end state is every veteran that would like to be housed should be housed.

Mr. Rodriguez, thank you very much for bringing your staff by my office. I appreciated that meeting. It was fantastic. In your previous testimony before the committee, you have indicated that you expect 1 million spouses to be eligible for USERRA if the law were expanded to include military spouses. A couple of things. How do

you collect the data on military spouse employment? We are going to keep this staccato answers, please. How do you, first of all, collect the data, and how did you arrive on that estimate of 1 million persons?

Mr. RODRIGUEZ. Mr. Chairman, thank you. Thank you again for meeting with us. I thought we had a great conversation about the protection for military spouses. We have various sources of data. One of the things is we know that the data, though, I would admit, is not 100 percent accurate. One of the reasons being is because a lot of military spouses do not self identify. Through a few of the surveys that—

Mr. VAN ORDEN. Again, for brevity's sake, because I want—

Mr. RODRIGUEZ. Sure.

Mr. VAN ORDEN.—two answers, not one. You use a bunch of different variables. What is your figure of merit, meaning how accurate do you think that 1 million is?

Mr. RODRIGUEZ. I think it is pretty accurate.

Mr. VAN ORDEN. Okay. All right. Now, do you because we talked about this, do you see the potential of abuse of this program? Let us remember, I have been married to a Navy wife for 30 years, so my respect for our Navy spouses is more than I can express in this period of time. I want to make sure we do them right. I just want you to be able to articulate whether or not you believe that there is potential for waste, fraud, and abuse in this program if we extend USERRA protections to spouses?

Mr. RODRIGUEZ. If I could say one more thing. Out of those 1 million right now, we anticipate only 568,000 who are actually in the labor force would even be eligible for USERRA protections.

Mr. VAN ORDEN. Okay.

Mr. RODRIGUEZ. Based off of the 1 million veterans who are—1 million service members who are Guard Reserve active duty, we only get about 1,000 cases a year.

Mr. VAN ORDEN. Okay.

Mr. RODRIGUEZ. If you take that number.

Mr. Van Orden. I got you.

Mr. RODRIGUEZ. Right.

Mr. VAN ORDEN. What about the potential for waste, fraud, and abuse in this program?

Mr. RODRIGUEZ. I do not believe military spouses would take advantage of a system that is there to support them.

Mr. VAN ORDEN. Okay.

Mr. RODRIGUEZ. Wholeheartedly, I believe that they actually want to work. I think they are looking for opportunities to work. I think they are looking for opportunities to keep their job so they can support their families. I think that is a misrepresentation of the military spouse honestly.

Mr. VAN ORDEN. I am asking you. Do you think that the U.S. Government should be reaching into private industry when it comes to a spouse and not a direct service member who has signed a contract with the United States Government?

Mr. RODRIGUEZ. I would be the first one to say I think military spouses serve alongside their—

Mr. VAN ORDEN. Hey, dude—

Mr. RODRIGUEZ [continuing]. their boots, right, so.

Mr. VAN ORDEN.—listen, 30 years, pal.

Mr. RODRIGUEZ. I got that.

Mr. VAN ORDEN. You do not have to tell me anything. I am asking you a real specific question.

Mr. RODRIGUEZ. I think it is important for us at the Federal Government to help work with our private industries to get them to understand why spouse's retention and employment is so valuable to the service of the individual.

Mr. VAN ORDEN. All right. With that, my time has expired. In accordance with the Committee Rule 5(e), I ask unanimous consent that Representative Rosendale be permitted to participate in today's subcommittee hearing. Without objection, so ordered. I now yield to my Ranking Member, Mr. Levin, for 5 minutes.

Mr. LEVIN. Thank you my friend, the chairman, and I thank all of you for all the work you are doing for our veterans. Ms. Diaz, when we think about the GPD program, we often equate it solely with transitional housing. In reality, GPD providers do much more than just give veterans a safe place to sleep. Can you please speak to the treatment and services that GPD providers deliver to veterans in transitional housing?

Ms. DIAZ. Thank you for that question. Definitely GPD providers provide that transitional housing as you mention, but besides that, we provide the comprehensive supportive services which cost and funding, right, to provide that includes case management. The frequency of that case management sometimes is geared to substance use disorders, treatment, to mental health treatment. We also provide housing navigation services to help the veteran find housing placement. That includes as well, services such as job training, financial management, and training, and much more. There is very intentional, supportive services to make sure that a program is successful and the services that the veteran is receiving as well provide the sustainability of the housing.

Mr. LEVIN. As I said in my opening, I am very interested in coming to an agreement on a per diem rate that adequately reimburses providers for the cost of shelter and care for those veterans who are most vulnerable. How long has VA been hearing from providers that the per diem rate is too low?

Ms. DIAZ. We have been hearing this for a while, years, I would say, but more recently, within the last decade. I have been on the program myself for 5 years, and I have been hearing this myself directly for 5 years.

Mr. LEVIN. Did any providers drop out of the GPD program in anticipation of the public health emergency ending and the rate reverting to \$64 a day?

Ms. DIAZ. We have heard of some providers letting us know that they decided to not reapply because of the GPD rate being low to meet the operational costs and services. Granted, I would like to add that they are not required to tell us so there might be other stories that we have not heard about it.

Mr. LEVIN. How does the lower per diem rate affect a provider's ability to adequately staff and secure their facility?

Ms. DIAZ. It impacts them significantly because based on having reliable funding, then you can plan, right? You can plan all the staffing that you need, the services that you can provide, and pro-

vide the needs that that community and that veteran needs. Without having that, then you have to compromise those services. When you compromise the services, then you compromise the care and the outcomes.

Mr. LEVIN. Very good. Mr. Rodriguez, I will turn to you. Good to see you again. This is not related to a bill before us, but I want to take just a quick opportunity to ask you while you are here, the budget agreement recently passed into law, which was a result of brinkmanship, I think you could say, regarding our Nation's ability to pay its bills and protected VA from many cuts. However, other agencies that provide services for veterans, like, for example, Department of Labor-Veterans Employment and Training Services (DOL-VETS), were not spared from these cuts. Can you briefly describe some of the cuts to veteran services you are expecting because of the debt limit agreement?

Mr. RODRIGUEZ. Congressman, it is always great to see you and thank you for that question. One of the most important challenges we are going to have is cuts to our personnel. The reduction of our personnel is one of the most important things to me because of the fact I need personnel to execute programs, to have oversight of programs, to ensure we are eliminating risk in the execution of our programs. That is the first and foremost the most important thing that is going to be affected by cuts.

Also, the ability to not fund specific grants like the Homeless Veteran Reintegration Program. Not having the ability to fund grantees who can actually be providing those services to our veterans who are experiencing homelessness. The ability to not have oversight of our USERRA programs, for example, we look to expand that program. We need additional investigators to go out and be able to support someone who is submitting a claim. Being able to not have up-to-date administrative systems to capture all the data to capture all the information we need to make a well-founded decision in the claims process. I could go on and on, but those are some of the highlights.

Mr. LEVIN. I think it is important that as we talk about the ongoing appropriations and getting to an agreement, as we have said, you know, through the whole debt limit situation, that we were not going to have any cuts to veterans. I was really pleased to see that we did not have any cuts to VA. However, the other whether it is DOL-VETS, whether it is Department of Housing and Urban Development-Veterans Affairs Supportive Housing (HUD-VASH), the other programs that veterans rely on, veterans who are at risk rely on, are very much at risk of being cut if we do not stand up as the House Veterans Affairs Committee, across the aisle as well, and say no cuts to veterans really means no cuts to veterans, whether that is directly VA programs, or whether it is HUD programs, or whether it is DOL programs. I hope we all can get with our respective sides and make sure that happens in the coming months. With that, I will yield back, Mr. Chairman.

Mr. VAN ORDEN. Thank you, Ranking Member Levin. I now recognize Mr. Crane from Arizona, my friend, for 5 minutes.

Mr. CRANE. Thank you all for coming. At this time, I have no questions.

Mr. VAN ORDEN. Thank you, Mr. Crane. I now recognize Ranking Member of the Full Committee, Mr. Takano, for 5 minutes after he sits down. Just wait a minute. All right. You got it?

Mr. TAKANO. Thank you. Thank you, Mr. Chairman. I just have a few questions for Ms. Diaz. Ms. Diaz, the VA's testimony states that Representative Williams' bill H.R. 491 is more cost effective—is a more cost-effective approach to grant and per diem. Why is that?

Ms. DIAZ. When we were looking—thank you for the question. When we were looking at the 200 percent and looking at cost effectiveness, the reason why we stated that was that a lot of our veteran—a lot of our providers did not request it. We saw this through the last 3 years, did not request at the higher per diem rate during that time. What we foresee is that if we go to a lower per diem rate, a lot of the providers would go to the cap of that lower per diem rate because they need more of that resource.

When we are looking at the 200 percent in itself, and we look at the utilization of those and how many grantees utilize that, it was an average, you know, depending on the time of the data obtained. It was an average of 70 grantees programs requesting that. We foresee that looking into a rate that really meets the needs of those grantees will actually be more cost effective because not all of them will go into the cap of that per diem rate.

The other piece that we found that to be cost effective is the fact that it meets the needs of our veterans. It allows us the flexibility to be able to utilize the per diem rate to meet all veterans' need, not some, by having the flexibility to utilize, you know, onto that cap in itself.

Mr. TAKANO. Does the provision in H.R. 3848, amending the West LA Leasing Act do anything to end veteran homelessness in the West LA region?

Ms. DIAZ. In that particular section of the bill, we did recognize a position in favor for that, but we also recognize that it does not have a big impact when it comes to homeless programs and operations. Our position as well is that regardless that there is a favorable position to move forward, we do not see a big impact when it comes to the homeless programs at this immediate moment for operations.

Mr. TAKANO. Do veterans in the Los Angeles area support this proposal?

Ms. DIAZ. Thank you for that question. There have been veterans in the area that had voiced that they are not in favor necessarily with that position. We also acknowledge that we have not heard all veterans' voices, and we honor all veterans' voices, right? There might be veterans that are in support or others that maybe are in a neutral state of that approach.

That said, I do want to affirm again that even though our position is to support it and we are grateful for that, we also recognize that this does not have a bigger impact when it comes to homeless programs and services. We are happy to look at this separate from the bill if that is necessary.

Mr. TAKANO. All right, well, thank you.

Ms. DIAZ. You are welcome.

Mr. TAKANO. Appreciate it. I yield back.

Mr. VAN ORDEN. Thank you, Ranking Member Takano. I now recognize Mr. Rosendale for 5 minutes.

Mr. ROSENDALE. Thank you, Chairman Van Orden, for holding this hearing and allowing me to participate in it today. I do appreciate that. My bill, the Veterans Education Assistance Improvement Act, H.R. 3877, cuts red tape for student veterans when receiving their benefits. My bill will make the VA's decisions that could be harmful to student veterans less likely to occur going forward. My bill would also allow Congress to be proactive instead of reactive by being able to solve potential problems before veterans are negatively impacted.

Under the current law, veterans are required to take a full course load to receive their military housing allowance, regardless of how many classes are actually needed to graduate. This places an unnecessary burden on the veterans by requiring them to take on additional classes that are not necessary for their degree. It also costs the taxpayers more money. My legislation would remove this provision and provide veterans the choice of how many classes they wish to take in their last semesters. Veterans should be able to make the best decisions for themselves and for their families.

Moreover, my legislation would require the VA to notify Congress, educational institutions, and students of any rule changes not subject to the Congressional Review Act that would impact the student veterans 180 days in advance. For example, in 2021, VA officials updated a series of definitions surrounding the 85/15 rule. Many schools expressed alarm how the new guidance would make it more difficult to accept student veterans and their beneficiaries. I heard from schools across the Nation about this 85/15 rule and had to make many, many personal calls to the Veterans Administration and to the educational institutions to help try and sort these things out. Without a fix, there was a fear that these educational institutions would shut down and student veterans would be left without any good options to continue their education, or they were just being told that they were not going to be able to resume those classes again.

I worked in a bipartisan fashion to fix this problem. My legislation would stop future problems before they become full blown crisis for the student veterans by requiring sufficient notice to allow stakeholders adequate time to weigh in. Section 1015 of the Veterans Health Care and Benefits Improvement Act of 2020 requires an institution receiving VA funding to either be approved and participate in at least one program under Title IX or receive a waiver from this requirement each year. This disproportionately impacted religious institutions by making them apply for a waiver each year without a guarantee for more than 1 year, reducing administrative burdens for religious institutions. It should not be more difficult for religious educational institutions than secular ones to serve veterans and their families.

First established in 1944, the GI bill has resulted in millions qualifying veterans and their families receiving money to cover some or all cost of school training. We owe it to our veterans to have an education system that is easy to use and understand and works for them. My legislation cuts red tape and moves our country closer toward showing veterans the compassion and respect

that they deserve. I hope that the administration and all of my colleagues can support this legislation. Thank you, Mr. Chairman, and I yield back.

Mr. VAN ORDEN. Thank you, Mr. Rosendale. Before I dismiss the panel, I would like to remind all persons present that Congress sets a top line budget and then the departments dictate policy. If DOL-VETS, meaning you, Mr. Rodriguez, decide to put bureaucrats and fund them over homeless veterans, that would be your choice. I will be pulling you up here to this committee and you will explain to the American public, why you made the intentional choice to fund bureaucrats as opposed to homeless veterans. Is that crystal clear, Mr. Rodriguez?

Mr. RODRIGUEZ. Mr. Chairman, I will tell you, they are not bureaucrats, they are actually government employees who are working to support—

Mr. VAN ORDEN. Is that crystal clear, Mr. Rodriguez? I asked you—

Mr. RODRIGUEZ [continuing]. the veterans, so.

Mr. VAN ORDEN. I asked you yesterday.

Mr. RODRIGUEZ. That is clear.

Mr. VAN ORDEN. Very well. Thank you very much. The witnesses are now excused. I hope you will stick around for the second panel.

On our second panel we will hear from the following witnesses: Mr. Patrick Murray, Director of National Legislative Service for Veterans of Foreign Wars (VFW). Sorry. Okay. Mr. Ricardo Gomez, Employment and Education Policy Advocate for the American Legion. Sorry about that. Mr. Matthew Schwartzman, the Director of Legislation and Military Policy at the Reserve Organization of America (ROA), and Ms. Meredith M. Smith, the Government Relations Deputy Director for the National Military Family Association, and Mr. Kevin Hollinger, Legislative Director for the Enlisted Association of the National Guard of the United States. Happy birthday by the way.

I would like to welcome you guys here at the witness table. Please stand and raise your right hand.

[Witnesses sworn]

Thank you very much. Let the record reflect that the witnesses have answered in the affirmative. We will now proceed directly to questions, and I will recognize myself for 5 minutes.

Ms. Smith, you stated in your testimony that expanding USERRA to military spouses would have unexpected consequences to the workforce. What do you think these unexpected consequences would be?

Ms. SMITH. Thank you for the question. One of the questions that we have about the version of the legislation that we have seen is what is defined as military necessity or a reason to take time away from work. Without understanding kind of the details of that particular provision, we have questions about what the impact to the workforce would be.

Mr. VAN ORDEN. Okay. Honestly, I do have deep reservations about this because I really do not think it is the United States Government's place to exercise these mandates on companies when the person that is involved did not sign the contract. I mean, we all sign contracts with the government, and the USERRA protections

have got to be ironclad. We can never muck about with that. I know we have been, and Mr. Takano's been working really hard to make sure that these USERRA protections, and I agree with him completely need to be ironclad. I do have reservations about this.

Do you think that there is a chance that this proposed legislation could backfire and remove years of progress that we have made in Congress that we have talked about in reducing military spouse unemployment?

Ms. SMITH. I do not know if backfire is exactly what I would—

Mr. VAN ORDEN. Unintended consequences.

Ms. SMITH. We are concerned about unintended consequences. I mean, we think that the spirit of the legislation is good—

Mr. VAN ORDEN. Yes.

Ms. SMITH [continuing]. to ensure that military spouses are able to find and maintain employment. We have questions about whether or not USERRA is the appropriate tool to ensure that that is a reality for military families.

Mr. VAN ORDEN. Okay. I used to be on the board of directors for a thing called the Rosie Network. It was started by Stephanie Brown. She is the widow of a retired Navy Seal named Tom Brown. Admiral Brown he was a friend of mine. Unfortunately, he is dead now but. Now, what she does, is she helps military spouses, both men and women, start their own companies that they can travel with, essentially. That is a really good solution, but it is not for everybody. Let us see if we can get this right to make sure that we have—they are the most highly educated and highly unemployed demographic in the country. If we can do something, I am more than happy to do that. I just want to make sure that we get it correct. Thank you, ma'am.

Mr. Murray from the VFW, under TAP Promotion Act, what would VFW talk about during their 1-hour TAP curriculum? How would the VFW ensure that there would be no recruiting of transitioning service members from those teaching the class?

Mr. MURRAY. What we really see the role of accredited representatives, veteran service officers as a key tool in the whole TAP toolbox. What we want to be is a complementary asset for the VA benefits briefings. Accredited representatives can sign you up for your benefits right there on the spot. VA briefers are just not allowed to. That is what we can bring to the table and actually get the care and benefits process started right there in TAP. The last time they drive out the gate, they have got their healthcare, they have got their mental healthcare, they have got their prescriptions, and potential economic opportunity benefits ready to go that very first day.

Mr. VAN ORDEN. Okay. That is why I want this to happen. I also want to make sure that there is the appropriate oversight from your organizations because there has been a history of this not going well.

Mr. MURRAY. I can tell you that the VFW in our Memorandum of Understandings (MoUs) with every single base that we are operating on, it is close to maybe two dozen, that is part of our agreement. We do not recruit on Federal property while doing benefits assistance. We have no problem ensuring that that is even further reinforced. We know that our services are done correctly. They are

valuable. If membership comes from that, we will be happy. We are not there to recruit. We are there to help people set up claims and benefits.

Mr. VAN ORDEN. I get it. I want a friendly face in front of our veterans before they are out of the military. I want an active-duty serviceman or woman who has still got shiny shoes on to look at you guys because you are hometown folks. I do eventually want them to join your organizations and other various organizations because when we sit together as brothers and sisters, we look each other in the eye, and we know when someone is having a problem and that is critical to prevent veteran suicide.

I support you guys. You know, I mean, I did not borrow these hats, dude. They are mine. My time is expiring here. Thank you very much for coming out here. I appreciate it greatly. With that, I yield back. The chair now recognizes Mr. Takano for 5 minutes. Ranking member of the Full Committee, Mr. Takano, for 5 minutes. That is a long title.

Mr. TAKANO. Well, thank you, Mr. Chairman. It is a short title. Ms. Smith, your testimony pointed to the need for additional data on military spouse employment, and I could not agree more with you. While the Department of Defense conducts a survey every 2 years, it is only a snapshot, and it is not really useful for comparing unemployment over time. Understanding the scope of military spousal employment is important for us to effectively tackle it, which is why I have worked with the Appropriations Committee to push the Department of Defense and Bureau of Labor Statistics to collaborate on better capturing this data. Can you discuss the limitations of the existing data on military spouse employment?

Ms. SMITH. Thank you for the question. Right now, as you stated, the Department of Defense does survey military spouses every 2 years on unemployment rates. That is point in time data. That is not data that reflects changes in regions or changes in, you know, the time of year, monthly fluctuations, things like that. That would be incredibly helpful information to target solutions for military spouse unemployment.

As an example, we do not know if military spouse unemployment is worse in some regions of the country compared to others. We do not know where we may be able to find solutions that are working from one region or one installation of the country that could be scaled out to another installation or region. Without that kind of data, it makes it really hard to target solutions in an effective, efficient manner.

Mr. TAKANO. Well, great. How do these limitations hinder the development of targeted solutions, would you say?

Ms. SMITH. We know, for example, that, you know, there are supportive community members in every defense community around the country. When they come to support military spouse employment needs, one of the things we see is an inability to communicate exactly what those needs are in certain localized areas. If we were able to more specifically talk about the talent that existed in the community, with community support that wanted to help leverage or support it, we would be able to have, I think, a much more productive conversation about solving our unemployment problem.

Mr. TAKANO. I see. Can you tell us what kind of authorities the Department of Labor would need to reliably measure military spouse unemployment?

Ms. SMITH. Some of the things that we have studied or kind of gathered information around really more as an appropriate way of phrasing it, is that we do think that there would have to be data sharing agreements between and among different departments in the Federal Government in order to ensure that, for example, Department of Labor could measure military spouse unemployment. It could not be measured the same way that other subpopulations are measured simply because Department of Defense is the one that holds that data.

There could be other Federal agencies that would need to be engaged to ensure that kind of the number is accurate and able to be reported out in a way that is sensitive to Personal Identifiable Information (PII) information. We do think that there would probably have to be some sort of information sharing or data sharing authorization to make that happen.

Mr. TAKANO. Well, thank you. That concludes my questioning, and I yield back the balance of my time.

Mr. VAN ORDEN. Okay. With the consent of my ranking member, we will do a second round of questionings because we did not get to get everybody. The chair now recognizes myself for 5 minutes. Mr. Gomez. I have got this other hat here. Okay. I am getting old. I just want to ask all of you individually, I know that you looked at this legislation. There is a whole bunch of it out there. I want to know if there is any part of any one of these bills that you are concerned about, that goes too far, or it does not go far enough. I am just going to start with you, Mr. Gomez.

Mr. GOMEZ. Yes, and thank you for the question. The only thing that I would add is for grant and per diem, one bill suggested 200 percent increase. Another bill, 140, and I believe 133 is the difference. I think something needs to be done fast, because veterans are in need of services. Whatever that percentage is, I would just urge Congress to make a decision.

Mr. VAN ORDEN. Well, we are working on it, Mr. Gomez. Unfortunately, one word I would not associate with Congress is nimble. I will just throw that out there. Mr. Schwartzman?

Mr. SCHWARTZMAN. Thank you very much, Mr. Chairman. ROA is a strong supporter of H.R. 3943. This is the USERRA legislation on the docket today that does not have to do directly with military spouses. ROA supports the legislation as currently written, but also would support some minor amendments to ensure its enforceability. Specifically, with Section 2, Subsection (B), which has to do with the awarding of prejudgment interest rates and then also liquidated damages, as well.

As a general rule of thumb, although it is subject to a case-by-case basis, ROA would prefer that legislation has strong language, such as shall, as opposed to may, to ensure its enforceability and to ensure that those enforceability standards are pretty close to universal across the board. Again, it is subject to a case-by-case basis.

Regarding the awarding of prejudgment interest rates, under the current construct of our Federalist system of government, states ac-

tually have the capacity to set a mandated prejudgment interest rate. The way that the legislation is currently written is that it would provide courts with the ability to award a prejudgment interest rate that is lower than what is currently afforded at the state level.

Mr. VAN ORDEN. Okay, Mr. Schwartzman, I saw that. I want to parse that. I want you to parse that out and give it to our staff.

Mr. SCHWARTZMAN. Okay, absolutely.

Mr. VAN ORDEN. I tell you here is how I work. If it makes sense, we will do it. I do not care what. I do not attach any political calculation to any of the decisions made on this subcommittee. None. If it makes sense, we will do it.

Mr. SCHWARTZMAN. Absolutely.

Mr. VAN ORDEN. Very well. Ma'am, I am going to skip right over to Mr. Hollinger because he has been sitting here very patiently.

Mr. HOLLINGER. Thank you, sir. The Enlisted Association is here predominantly to support USERRA for spouses. We believe that there was a contract that was signed with the U.S. Government. It was called IDO. Our spouses, we know that as Reserve service members, especially on the enlisted side, that there is three avenues that have to be in place for us to be successful. We have to have strong employment, we have to have strong service members, and we have to have strong spouses. Without the combination of those three things and all three of them being protected equally, we will not be successful.

The National Guard is coming off unprecedented use. Over 380,000 service members have been activated since March 2020, for everything underneath the sun. We have absolutely become the Nation's 911, and we are very proud of that. To have that ability for us to be the push button answer, we have to be able to support our spouses at home. They support me. My spouse has always supported me. Unfortunately, could not be here today. She is supported me 100 percent and I am only as good as she allowed me to be.

Mr. VAN ORDEN. Mr. Hollinger, I want you to know I appreciate your comments and your sentiment. I do. As I said, I have had a Navy wife for 30 years now. We just got to find the right way to do it. We have to balance fiscal responsibility with also making sure the civil liberties of individual companies are not violated because they are entities and they are people too. We got to make sure that we do not upset the apple cart with the workforce by creating unintended consequences, by trying to do something that is good.

My intent, obviously, is to have a robust military. I had 50 Pennsylvania National Guard guys work for me in Iraq. I would take those mugs right now. They were awesome. I have a tremendous amount of respect for what you guys are doing. I just want to figure out how to do it the right way. That is all. With that, my time has expired. I now yield to Ranking Member Takano for 5 minutes.

Mr. TAKANO. Thank you. My question is for Mr. Hollinger. Mr. Hollinger, do you know of any of your members or know of Guard or Reserve who wanted to exercise their USERRA rights when they return back from their deployments to return to their employment? My understanding under USERRA, a Guardsman or Guardswoman

or Reservist, when they are called up for duty, they have a right to return back to employment. Their employer is supposed to keep their job open. Do you know what I am talking about?

Mr. HOLLINGER. Yes, sir. I believe you are asking me have we seen problems with Guardsmen returning home and having problems with their job or getting their jobs back?

Mr. TAKANO. Yes.

Mr. HOLLINGER. Absolutely. I think Mr. Diaz spoke about that earlier where he, you know, resolved over 1,000 cases and I think there is even more through State and Federal Governments. I think we hear about USERRA problems more than I hear about any other problem on my legislative portfolio.

Mr. TAKANO. USERRA with respect to gaining access, getting employment back when they return?

Mr. HOLLINGER. Right. Right.

Mr. TAKANO. It is their right under the law, right, under USERRA.

Mr. HOLLINGER. Yes, sir.

Mr. TAKANO. Can you tell me what we need to do in order to make sure that our service members come back and they get the jobs that they should have the right to under law?

Mr. HOLLINGER. I think education. I think, you know, all of us that are sitting here on the panel are just as responsible for that as anybody else. We need to educate our employers, educate our employees, and our service members so that they do not make small mistakes that cause big issues. I think almost every single time that I have been involved in a USERRA case, it is somebody that had a misinterpretation of the law and believed that they were doing the right thing. I think employers tend to violate due to just fatigue, I think.

Mr. TAKANO. Have you ever run into situations where a forced arbitration clause in an employment contract hindered an ability of a service member to be able to exercise their USERRA rights? Is that an issue?

Mr. HOLLINGER. Well, yes, sir, that happens constantly. You know, we have, I can share many, many cases. I prefer not to put names out in public.

Mr. TAKANO. You do not need to put names out, but I think it is important for this committee and for members to know and the public to know that this is a real problem.

Mr. HOLLINGER. Sir, I agree that it is absolutely a real problem. We recognized that problem when it came to sexual assault and sexual harassment cases, and we got rid of the forced arbitration in there. Forced arbitration, you are asking somebody that gets paid by a company to rule against who is feeding them dinner. I know I am smart enough not to do that very often.

Mr. TAKANO. It does not seem right to me that somebody who has been deployed maybe many times, and I have seen what our Guard and our Reserve do, and the chairman has, you know, has his own testimony here about what they have done on deployment. They come back and they try to get their job back, but they cannot go to court because in order to enforce their right, they should be able to go to court and get a judge to say, well, you know, USERRA

says you have a right to your job back. Your company should have held that job open for you.

I actually did that as the chairman, when I was chairman of this committee, when my staff director went off to Syria for several months, we all knew, we should have known, and we did know that we had to keep that position open. We had two people go off, right?

Mr. HOLLINGER. I think I know their names.

Mr. TAKANO. Right. There are companies that, there are companies instead of like welcoming that service member back, they use their legal right in an employment contract, because that employment contract has a forced arbitration clause and it goes to arbitration instead of the court, and as you said, the arbitrator is often slanted toward the employer. I think it is high time that Congress address this issue because I think it is a travesty that we treat our service members this way.

Mr. HOLLINGER. I have one more thing to point out on that. I think that forced arbitration is one of the very few spots in law that allows you to waive your rights. That and the 517 Waiver, that is a totally different topic. There are very few instances as an employee that you are allowed to waive your employment rights, and this just happens to be one of them, and I think we are always going to see negative impact from it.

Mr. VAN ORDEN. The gentleman's time has expired.

Mr. TAKANO. I yield back.

Mr. VAN ORDEN. Thank you. Thank you all for attending this meeting, this hearing rather. I appreciate the discussion today and your written testimony again, I have read it in its totality about how to improve several of the bills. We have got to continue to work together to solve these issues for the veterans and service members, the issues that they face today.

However, we have to do this in a fiscally responsible way. As my colleagues on both sides of the aisle understand, we have very limited offsets because we are under the PAYGO system, and we have got to find ways to reduce the cost of bills while delivering the original intent of the bill. I want that to be exceptionally clear with everyone. We are here to serve you. I look forward to working with Ranking Members both Levin and Takano and the rest of the folks on this committee to get that done serving you. With that, I yield to the Ranking Member Takano for any concluding remarks you may have, sir.

Mr. TAKANO. Thank you, Chairman Van Orden. I do not have any further comments, and I yield back.

Mr. VAN ORDEN. Thank you, Ranking Member Takano. Again, thank you very much for your participation in today's hearing. I have received a number of statements for the record which will be submitted into the record as long as they meet submission requirements.

I ask for unanimous consent that all members may have 5 legislative days to revise and extend the remarks and include extraneous materials. Without objection, so ordered. This hearing is adjourned.

[Whereupon, at 5:27 p.m., the subcommittee was adjourned.]

A P P E N D I X

PREPARED STATEMENT OF WITNESSES

Prepared Statement of Joseph Garcia

Good afternoon, Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee. I appreciate the opportunity to appear before you today to discuss several bills that would affect the Department of Veterans Affairs (VA) programs and services. Accompanying me today is Melissa Cohen, Deputy Executive Director, Outreach, Transition, and Economic Development and Monica Diaz, Executive Director, Homeless Program Office.

H.R. 491 Return Home to Housing Act

H.R. 491 would amend 38 U.S.C. § 2012(a)(2)(B) to clarify that VA can adjust per diem rates under the Homeless Grant and Per Diem (GPD) program as the Secretary considers appropriate, including in response to an emergency. It would also increase the maximum cap on per diem rates to 200 percent of the rate authorized for State homes for domiciliary care (an increase from the current limit of 115 percent for Veterans experiencing homelessness and 150 percent for a Veterans experiencing homelessness who are placed in housing that will become permanent).

VA supports this bill, if amended. Specifically, VA recommends amending 38 U.S.C. § 2016 to increase the authorization of appropriations for the GPD program from \$257.7 million to \$ 400million for FY 2024 and such sums as may be necessary in each subsequent fiscal year. This amendment would provide VA the clear authority to provide necessary resources to assist Veterans experiencing homelessness through the GPD program and would align with VA's FY 2024 legislative proposal.

VA estimates the bill, as amended, would cost a total of approximately \$296.0 million in FY 2024, \$304.0 million in FY 2025, \$1.56 billion over 5 years, and \$3.31 billion over 10 years. Compared to the authorized level of \$257.7 million, this would be an increase of \$38 million for FY 2024, approximately \$272 million for the 5-year period from FY 2024 through FY 2028 and approximately \$737 million for the 10-year period from FY 2024 through FY 2033.

The projected costs estimated here are lower than the projected costs estimated in VA's FY 2024 legislative proposal because adjustments are made to align with the new transitional housing grants scheduled to start on October 1, 2023, when VA will be awarding fewer beds compared to previous projections. The decrease reflects actual needs in communities as expressed by applicants. This information was not available before now. Additionally, VA anticipates a modest decrease in authorized beds over time consistent with recent utilization trends. The costs projected here also have been updated to include the most recent State Home rate for domiciliary care, effective April 2023.

VA appreciates the goals of the legislation and is grateful for the attention that is being given to ensure that Veterans have access to the highest standard of transitional supportive housing and services. As written, VA expects to be able to fully implement this bill, as amended, immediately upon enactment.

H.R. XXX HOME Act of 2023

Section 2 of the draft HOME Act of 2023 would amend 38 U.S.C. § 2012 to clarify that VA can adjust per diem rates under the Homeless GPD program in certain situations; it would establish the maximum per diem rate for all Veterans experiencing homelessness at 140 percent; this would represent an increase from 115 percent for some Veterans experiencing homelessness, but a decrease from 150 percent for others. The HOME Act of 2023 also would allow VA to waive the maximum per diem rates and provide such payments at a rate that does not exceed 200 percent of the rate authorized for State homes for domiciliary care under 38 U.S.C. § 1741(a)(1)(A) if VA notified Congress and determined the grant recipient or eligible entity furnished services to Veterans experiencing homelessness in a rural or highly rural area, an area with a high rate of suicide among Veterans, or an area with a high rate of homelessness among Veterans. VA could not waive the maximum rate for more than 10 percent of all grant recipients and eligible entities in a fiscal year,

and VA could not provide more than 10,500 payments under this section in a fiscal year.

Section 2 would also add a new subsection (f) to 38 U.S.C. § 2012 requiring VA to submit to Congress a report within 90 days of enactment and not less frequently than twice each year thereafter on the rate for per diem payments under this section for each Veterans Integrated Service Network (VISN). VA would have to report the average rate for such a payment, a list of locations where the rate for such a payment is within 10 percent of the maximum rate for such a payment, and the average length of stay by a participating Veteran.

VA does not support section 2 of the bill. The provisions of this bill are not aligned with current implementation structures and VA projects, and as such, they risk disrupting progress toward our shared goal of removing barriers to housing stability for the Nation's vulnerable Veterans. Moreover, placing this level of prescriptive detail in statute imposes unnecessary restrictions on VA's resources and limits VA's ability to adapt to changes in circumstances quickly and effectively.

To implement the level of detail included in section 2, VA would likely need to promulgate regulations, which could significantly delay VA's ability to implement this rate increase efficiently and fully if enacted by Congress. Community providers of transitional supportive housing and services, as well as the Veterans they serve, urgently need the increased support as quickly as possible. Additionally, reducing the maximum rate of payments from what VA requested recently (200 percent) to what is proposed in the bill (140 percent) is insufficient to meet the needs of many grantees in communities that experience a high cost of care, grantees who provide decongregated housing, and grantees who have limited ability to secure alternate sources of funding to support their operations.

Because VA increasingly expects grantees to provide more and better staffing and services, the President's FY 2024 Budget request included a VA proposal to raise the maximum rate of per diem for the GPD program to 200 percent. Reducing the maximum rate of payments from 150 percent to 140 percent under clause (ii) for approximately 600 authorized transitional housing beds that become the Veteran's permanent housing could result in grantees withdrawing from the program due to insufficient funding. This housing model provides the most individualized accommodations (private apartments) for Veterans of any of the housing models offered by VA. Private facilities like these protect Veterans' safety, health and dignity better than congregate facilities. They are well-suited to serve distinct populations, such as women, families and those with minor dependents. Private accommodations are precisely what VA, Congress and communities have been requesting and supporting. In section 711 of the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (Public Law 114–315), Congress incentivized this housing model by establishing a higher reimbursement rate than for other transitional housing. By cutting this established rate, the bill would risk a further decrease in supportive housing resources needed for Veterans and communities.

VA does not support the limited waiver authority for rates this bill would establish. Specifically, the stated criteria (rurality, suicide rates and homelessness rates) do not necessarily relate directly to a particular community's need for transitional supportive housing or the cost of that housing. To the extent that they cause or are correlated with higher costs, the existing requirements for calculating a per diem rate already allow adjustments for the actual cost of care and for locality. VA recommends allowing for such criteria to influence its per diem rate decisions but not requiring that they be the only and necessary factors for waiver requests. Criteria such as performance results, cost-effectiveness and local demand continue to be foundational criteria when making decisions about limited resources. We note that grantees are not automatically eligible to request the maximum per diem rate—they are only eligible to request the actual cost of care up to the maximum rate.

Moreover, the criteria in the bill are not defined by readily available tools, are continuously fluctuating targets, and would not necessarily parallel with the geographic boundaries of a VISN, VA medical center catchment area or grantee service area. The natural occupancy and vacancy levels in transitional supportive housing projects ebb and flow from day to day and month to month during any given year as Veterans enter and discharge from the program. Some localities experience seasonal variations in bed demand. Establishing a limit in statute would not allow VA to be agile in responding to fluctuating community needs over time. Implementing these criteria would be unduly burdensome and detract from resources needed for veteran care.

Limiting per diem to 140 percent instead of 200 percent is not expected to result in proportional cost savings because a higher percentage of grantees are expected to request at or near the maximum per diem rate (to meet their costs needs). Com-

paratively, if the rate limit were set at 200 percent a lesser percentage of grantees are expected to be at the maximum rate. Historically, GPD grantees have not requested the maximum available per diem rate; they request the rate needed to support their actual costs of care. For example, at the beginning of this fiscal year when the maximum per diem rate was approximately \$157, the average GPD rate was closer to \$84, with rates ranging from \$34.11 to \$156.71. During this time more than 150 grantees had rates above \$78.54, which is what the maximum per diem rate would be if per diem was limited to 140 percent. Experience shows that grantee funding needs are variable depending on a variety of factors. For some grantees, providing insufficient funding can negatively impact the scope of services, quality of care, or even their ability to continue operations. Therefore, a higher rate of 200 percent is cost-effective and necessary to ensuring that Veterans have options available nationwide when they find themselves in a housing crisis.

Other provisions of concern are only authorizing rate waivers to 10 percent of grant recipients per year and limiting VA to providing not more than 10,500 payments per fiscal year, as these limits could negatively impact resources for Veterans; the latter limit (not more than 10,500 payments) also is unclear, as we think this is intended to refer to 10,500 beds. Including a bed limit in statute is not necessary as the numbers of Veterans experiencing homelessness naturally limits the appropriate number of beds. VA adjusts bed capacity in an intentional and strategic way to support the demand. The flexibility to respond to an increased demand for bed capacity within the limits of funding availability is an essential authority to avoid the risk of Veterans being unhoused.

VA has announced funding opportunities for Per Diem Only (PDO) and Transition in Place (TIP) grants that will begin in FY 2024 and expects to award approximately 10,500 PDO beds and 600 TIP beds. These anticipated awards are expected to exceed the bed limits proposed in section 2. Regarding the limits on rate waivers, we are concerned these could create implementation barriers that would make operation of the program more difficult without achieving any clear or apparent goal. As written, grantees may require a waiver for a portion of a year, but if they do not require a waiver until later in the year, the 10 percent cap may have already been reached, leaving VA no flexibility and Veterans experiencing homelessness at risk. VA is also concerned about the requirement to notify Congress of the need for a waiver, as this would create undue delay in operating the programs and serving Veterans. It is unclear from the bill language if congressional approval is required prior to approving the waiver. Codifying this level of specificity regarding bed limits would hinder VA's ability to respond to community needs.

VA identified several technical issues with section 2 and appreciates the opportunity to further discuss how to best support this initiative with the Committee.

Section 3 of the draft HOME Act of 2023 would amend section 2 of the West Los Angeles Leasing Act of 2016, as amended, as it relates to VA's ability to enter into or renew any lease or land-sharing agreement at the West Los Angeles Campus. Specifically, if VA's Office of Inspector General (OIG) determined, as part of an audit report or evaluation, that VA was not in compliance with Federal laws relating to leases and land use at the Campus, or that significant mismanagement has occurred with respect to leases or land use at the Campus, VA could not enter into any new lease or land-sharing agreement, or renew any such lease or land sharing agreement, until VA submits to Congress notice in writing of whether VA concurred or not with each recommendation included in the audit report or evaluation and, in the case of a non-concurrence, the reason for such non-concurrence. Further, section 3 of the draft HOME Act would add a new subsection (n) to section 2 of the West Los Angeles Leasing Act of 2016 that would provide that notwithstanding 40 U.S.C. 1302, 38 U.S.C. 8122, or any other provision of law, consideration for a lease made pursuant to the West Los Angeles Leasing Act of 2016 may include consideration other than money.

VA supports this section 3 of this bill. Since enactment of the West Los Angeles Leasing Act of 2016 (West LA Leasing Act; Public Law 114-226), VA has made significant strides in the multi-year plan to redevelop the West LA Campus into a thriving community for homeless and at-risk Veterans and their families, consistent with VA's West Los Angeles Campus Master Plan. VA continues to work to restore the trust of Veterans and local stakeholders and ensure that all activities on the West LA Campus benefit Veterans. As a natural extension of that progress, VA believes the ability to make final determinations to renew or enter into new land use agreements and leases on the West LA Campus should be within the Secretary's authority.

VA and VA OIG have differed in their interpretation of several provisions of the West LA Leasing Act. As a result, there are currently five land use agreements that are at an impasse due to outstanding VA OIG recommendations with which VA can-

not concur because we do not agree with the underlying legal analysis. Without a statutory amendment, these recommendations will remain open until the agreements expire. This section would grant VA the autonomy to interpret and implement its authorities and make land use decisions consistent with those authorities. While VA will continue to make those determinations in consultation with VA OIG and remain accountable to Congress, this section would allow VA a greater degree of control in the future development of the West LA Campus.

VA also supports the addition of the proposed subsection (n) that would explicitly permit in-kind consideration for land use agreements on the West LA Campus. While VA has not interpreted the West LA Leasing Act or other authorities as prohibiting the use of in-kind consideration for land use agreements on the West LA Campus, the VA OIG has. This amendment would clarify that in-kind contributions are permissible and help VA derive the greatest benefit for Veterans from all land use agreements on the West LA Campus.

This section does not directly impact VA homeless program operations, and is not urgently needed to support VA homeless services. This stands in stark contrast to some other sections in this package, which share broad support, and which are urgently needed if VA is to continue its progress in reducing Veteran homelessness. While VA supports this section, VA would support de-coupling this section from the other sections in this package to expedite progress on this bill.

Section 4(a) of the draft HOME Act of 2023 would authorize VA to use amounts appropriated or otherwise made available to VA to carry out 38 U.S.C. 2011, 2012, 2031, or 2061 to provide to covered Veterans: (1) assistance required for the safety and survival of the Veteran (such as food, shelter, clothing, blankets, and hygiene items); (2) transportation required 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); (3) communications equipment and services (such as tablets, smartphones, disposable phones, and related service plans) required 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 (4) such other assistance as VA determines necessary. Covered Veterans would be defined in section 4(e) to mean Veterans experiencing homelessness and Veterans participating in the Department of Housing and Urban Development-VA Supportive Housing (HUD-VASH) Program under section 8(o)(19) of the United States Housing Act of 1937 (42 U.S.C. 1437f(o)(19)).

VA supports section 4(a), if amended. This subsection is very similar to a VA FY 2024 legislative proposal #75 (Flexibility in the provision of assistance to Homeless Veterans). VA recommends, consistent with its legislative proposal, this authority be codified in title 38, for example in a new section 2069, to ensure that it is easily referenced and clearly identifiable for the public in the future. This proposal would continue the authority VA was able to use during the COVID-19 public health emergency to provide additional assistance and support to homeless Veterans experiencing homelessness and Veterans participating in HUD-VASH to great effect.

Section 4(b) of the draft HOME Act of 2023 would authorize VA to collaborate, to the extent practicable, with one or more organizations to manage the use of VA land for Veterans experiencing homelessness for living and sleeping. Collaboration that would be authorized by this provision could include the provision of food services and security, by either VA or the head of the organization concerned, for VA property, buildings, and other facilities.

VA supports section 4(b) of this bill. VA recommends codifying this authority in title 38. VA's FY 2024 legislative proposal proposed by sections 4(a) and (b) of the draft HOME Act of 2023 would be codified at 38 U.S.C. § 2069(a) and (b), respectively.

Section 4(c) of the draft HOME Act of 2023 would require VA, not later than one year from the date of enactment of this Act, to submit to Congress a report that includes a statement, disaggregated by each VA medical center (VAMC), of the amount of funds under this section each VAMC requested and the amount provided to each VAMC, data (disaggregated by VAMC) relating to how each such VAMC used amounts provided by VA, the total amount of assistance VA provided to covered Veterans for ridesharing, the number of covered Veterans who received such assistance, and a description, for each rideshare used by a covered Veteran with such assistance, of the reasons such covered Veteran used such rideshare.

VA supports section 4(c) of this bill, with amendments. VA recommends changing the reporting requirements of this provision to include aggregated data only to avoid unnecessary administrative burdens.

Section 4(d) of the draft HOME Act of 2023 would provide that the authority under this section would terminate on September 30, 2024.

VA does not support section 4(d) of this bill. We do not believe a statutory time limit would provide stability and assurance to Veterans experiencing homelessness and Veterans participating in HUD-VASH. VA suggests a permanent authority instead, since this would provide assurances for Veterans and likely would result in lower per capita costs to the Department, as VA could negotiate contracts that could cover multiple years (provided appropriations are available for such purposes). Operating with a shorter statutory authority would prevent VA from such long-term arrangements and would likely result in higher costs. VA already has several years of experience exercising the authority that would be granted by section 4(a) and (b) and does not believe another short-term extension is necessary.

HR XXX Authorizing representatives of VSOs to promote membership in such organizations during TAP counseling.

The proposed legislation would amend title 10, United States Code, to authorize representatives of Veterans Service Organizations to promote membership in such organizations during pre-separation counseling under the Transition Assistance Program (TAP) of the Department of Defense (DoD), and for other purposes.

Section 2(a) would add an additional paragraph under 10 U.S.C. § 1142(b) for a presentation during TAP on promoting the benefits of joining a Veterans Service Organization (VSO). This presentation would be offered by a national representative of a VSO recognized under 38 U.S.C. § 5902 and will include information on assistance in filing claims for benefits under laws administered by the Secretaries of Defense and Veterans Affairs. Section 2(a) would prohibit the VSOs from encouraging a transitioning Service member to join a particular VSO and limits the presentation to no more than one hour in length. Section 2(b) would require the Secretary of Veterans Affairs, not less than once each year after enactment, to submit a report that identifies each VSO that presented under section 2(a); contains the number of transitioning Service members that attended the presentation; and presents any recommendations regarding changes to the presentation.

VA does not object to this bill but offers several amendments for consideration. The inclusion of VSOs in TAP recognizes the importance of providing access to information on community resources for a successful transition to civilian life. VSO partnership is critical in assisting transitioning Service members and Veterans in navigating VA benefits and services. Utilizing a trained VSO to advocate on a Veteran or Service member's behalf is vital to our success as a department.

VA strives to provide valuable information to transitioning Service members during the "one day of instruction regarding benefits under laws administered by the Secretary of Veterans Affairs" per P.L. 115-232, Section 552. Specifically, the one-day VA Benefits and Services course provides Service members and their families the skills, resources and tools needed to support emotional and physical health, career readiness, and economic stability in civilian life. In order to continue providing a standardized, measurable, and high-quality experience for all transitioning Service members participating in the VA Benefits and Services course, VA recommends the following amendments to this bill and welcomes the opportunity to provide further assistance to the Committee, if requested.

Recommended amendments:

- Sec. 2(a) "(20)" Line 8: Strike "joining" insert "utilizing/using"
- Sec. 2(a) "(20)(B)" Lines 11-12: Strike "shall be previously reviewed and approved by the Secretary of Affairs;" and insert "shall be reviewed by an appropriate program office for accuracy and approved through the Transition Assistance Interagency Working Group;"
- Sec. 2(a) "(20)(G)": Strike "length." and insert "length;"
- Sec. 2(a) "(20)" INSERT: "(H) Such presentations will be provided at no monetary cost to the Government;"
- Sec. 2(a) "(20)" INSERT: "(I) is subject to Veteran Service Organization staffing, availability, and access to DOD installations; and"
- Sec. 2(a) "(20)" INSERT: "(J) will be scheduled for times and dates as determined by the Department of Affairs."

VA recommends Department of Defense (DoD) review and respond on proposed legislation, as this changed Title 10 legislation and TAP is owned by DoD, and DoD is responsible for granting access to installations and bases.

General Operating Expenses (GOE) for this bill are estimated at \$1.2 million for FY 2024 (estimate includes salary, benefits, rent, travel, supplies, other services, and equipment), \$3.5 million over 5-years and \$3.5 million over 10-years.

H.R. XXX Making digital transcripts available to eligible persons at educational institutions

The proposed legislation would amend section 3675(b) of title 38, United States Code, by adding a new paragraph that would require educational institutions to make available to each eligible person or Veteran a copy of their official transcript in a digital format.

VA supports this bill, if amended. While the proposed legislation would make it easier for certain and eligible persons to obtain their transcripts, VA notes that the placement of this requirement, solely in 38 U.S.C. § 3675, means it will not be applicable to accredited public institutions of higher learning (IHLs), accredited private (not-for-profit) IHLs, or non-accredited programs because the approval requirements for these institutions and programs are located in 38 U.S.C. §§ 3672 and 3675. Therefore, many eligible beneficiaries would not benefit from this change. All GI Bill students enrolled in standard college degree programs should benefit from this change. “Transcripts” are only applicable to standard college degree programs. While having records of training, non-college degree programs (including certificate programs) do not produce documents considered “transcripts,” therefore, this provision is inapplicable to courses other than standard college degree programs. VA recommends the following amendments for consideration:

- Amend section 3672(b)(2)(A) by striking “3675(b)(1) and (b)(2),” and replace it with “3675(b)(1), (b)(2), and (b)(5),” and;
- Amend section 3676(c) by adding, at the end, a new paragraph (17) to read as follows: “In the case of a course that leads to a standard college degree, the course satisfies the requirements of section 3675(b)(5) of this title.”

VA also notes that the proposed legislation would be effective the date of enactment. VA recommends Congress consider a transition period for schools to comply with the new requirement. VA welcomes the opportunity to work with the Committee to provide technical assistance to ensure the legislation meets its intended goal.

H.R. XXX Making certain improvements in the administration of the educational assistance programs

The proposed bill would amend title 38 of the United States Code, to make certain improvements in the administration of VA educational assistance programs, and for other purposes.

Section 2 of this bill would amend 38 U.S.C. § 3680(a)(3) by striking language that referenced the monthly housing stipend in 38 USC § 3313(c) and VA educational assistance under Chapters 30, 31, 32, 33, 34, or 35 of title 38 or under Chapter 1606 of title 10. This section would also add a new subparagraph (B) to 38 U.S.C. § 3680(a)(3) that would require VA to treat an eligible Veteran or eligible person as enrolled on more than a half-time basis for purposes of providing the monthly housing stipend during a period that is the last semester, term, or academic period.

VA does not support section 2 of this bill. The monthly housing allowance (MHA) provided by the Post-9/11 GI Bill is a critical advancement in our Nation’s commitment to providing Veterans with the necessary support to succeed in obtaining their educational goals after completing their honored service to our Nation. Congress recognized that full-time students need an MHA as a means of subsistence to alleviate a full-time student’s stress – a student can concentrate on studying without having to worry about how they can afford to keep a roof over their head. VA has always been and remains committed to the importance of the MHA and is supportive of any initiatives from Congress to improve the MHA benefit.

Unfortunately, this bill may decrease the MHA for many Veterans during their final semester, quarter, or term. The monthly housing allowance under the Post-9/11 GI Bill is based on a student’s actual rate of pursuit – the number of credit hours a student takes during the term divided by the number of credit hours needed to be considered full-time. Therefore, a student taking 9 credit hours as an undergraduate will have a rate of pursuit of 80 percent ($9/12 = 0.75$; VA rounds up to the nearest 10 percent). VA will pay the student 80 percent of the full-time MHA. This bill, however, would have VA replace 80 percent with “more than half-time.” There is no payment rate for “more than half-time” and the bill’s intent is unclear where the language directs VA to “treat the veteran or person as pursuing a program of education on more than a half-time basis.” VA suggests clarifying language on how this instruction would translate into a percentage of the MHA and therefore a dollar amount. As written, it is unclear if the intent of proposed 38 U.S.C. § 3680(a)(3)(B) is to authorize students the minimum housing rate in their final term.

If this is the intent, this section would be detrimental to all students with a rate of pursuit greater than 54 percent as this section would reduce their MHA payments down to 50 percent of the full-time MHA (VA rounds rate of pursuit to the nearest 10 percent; a student with a rate of pursuit “more than half-time” may be presumed to have a rate of pursuit of 51 percent which would then be rounded to 50 percent). The above example student would only be paid 60 percent of the MHA instead of the 80 percent they are currently entitled to receive.

Additionally, the provisions of this bill could create inequity between participants in the Chapter 31 program and participants in other VA education programs. The proposed bill allows for participants in Chapter 31 to be treated as attending the last term or semester as full-time students; however, it does not provide Chapter 31 the authority to pay a monthly subsistence allowance under 38 U.S.C. § 3108. VA would propose to remove Chapter 31 from the statutory authority as VA already has the authority to provide what is necessary for a Veteran to achieve a successful rehabilitation program.

Mandatory costs would be associated with section 2 of this bill, but VA is unable to estimate costs due to the ambiguity of the legislative text. This section states that VA, “shall treat the Veteran or person as pursuing a program of education on more than a half-time basis.” VA does not have a payment rate for “more than half-time.” It is therefore unclear what rate of pursuit these individuals should be categorized as.

Section 3 would add a new 38 U.S.C. § 3699C, which would prohibit VA from implementing a rule that relates to any VA educational assistance program that is not subject to notice requirements under section 553(b)(A) of title 5, prior to the date that is 180 days from that date of notifying and providing justification to students, educational institutions, and the Committees on Veterans’ Affairs of the Senate and House of Representatives on the rulemaking.

VA does not support section 3 of this bill. Our stakeholders, including students, educational institutions, and Members of Congress, are critical partners in the development of sound, practical policies that achieve our goals in the most efficient ways possible. VA is committed to transparency and active engagement and communication with our partners. We will continue to communicate when it comes to changes, including the development and implementation of new policies. This bill would decrease VA’s ability to make changes efficiently to improve the administration of VA educational assistance programs as it would add unnecessary delays in VA’s implementation of necessary rule changes and improvements that provide more immediate support to students in their educational pursuits.

No mandatory costs are associated with section 3. This would not change entitlement to benefits, and VA cannot predict what regulatory changes would be delayed by this change.

Section 4 would amend 38 U.S.C. § 3673A(d) to require the Secretary of Veterans Affairs, or a State-approving agency to provide not more than two business days of notice to an educational institution before conducting a targeted, risk-based survey of the institution.

VA supports section 4 of this bill.

There are no mandatory costs associated with section 4 of this bill. This would not change entitlement to benefits.

Section 5 would amend 38 U.S.C. § 3679(f)(1) to remove subparagraph (A), which requires the State-approving agency or the Secretary of Veterans Affairs, when acting in the role of State-approving agency to take certain adverse actions if an educational institution did not provide information about the costs to attend the institution, financial aid available and student debt upon graduation, rates of graduation and job placement, ability to transfer credits, and other relevant information that students may consider when selecting a course of education at an institution.

Section 5 would also make two technical corrections in subsection (e) of 38 U.S.C. § 3679 by removing “chapter 31 33” both places it appears and inserting “chapter 31, 33” and in 38 U.S.C. § 3679(f)(4)(A)(iii) by adding a period at the end.

VA does not support section 5 of this bill. This provision would remove valuable consumer protections for Veterans and their dependents. Per § 3676(f)(1)(A), schools are required to provide information (essentially data points) to students which allow them to be well-informed consumers on how to make the best choice on how to build their future. Importantly, the data points contained in subparagraph (A) are ones that can only be provided by the school (e.g., cost of the program, graduation rates, job placement rates for graduates, transfer policies). If the school does not provide this information, the Veteran student is unaware of potential drawbacks in selecting their choice of school until after it is too late. Though portions of this information may be available from other sources, VA does not support placing any burden and cost associated with gathering this information on the Veteran.

It is far more efficient and less costly to require schools to gather and package that information and provide it directly to the Veteran as is currently required by subparagraph (A). Therefore, VA values retaining subparagraph (A) and does not support its removal as proposed in section 5 of this bill.

There are no mandatory costs are associated with section 5 of this bill. This would not change entitlement to benefits.

Section 6 would amend 38 U.S.C. § 3675(b) to authorize the State-approving agency, or the Secretary of Veterans Affairs when acting in the role of a State-approving agency the right to waive the requirement that an educational institution be approved and participate in a program under title IV of the Higher Education Act of 1965 for multiple years.

VA supports section 6 of this bill. However, VA does not anticipate any substantive change due to this amendment; the Secretary's current waiver authority is not limited to 1 year, and thus VA currently has the statutory authority to issue waivers for multiple years.

There are no mandatory costs associated with section 6 of this bill. VA already has statutory authority to issue multi-year waivers.

H.R. XXX The Native American Direct Loan Improvement Act of 2023

This proposed bill would amend title 38 of the United States Code to improve the program for direct housing loans made to Native American veterans and to authorize the Secretary to make loans to Native community development institutions to relend those funds to qualified Native American Veterans, and for other purposes.

Section 2(a) would amend 38 U.S.C. § 3762(a) and (b) by giving VA more flexibility when working with Tribal organizations that want to participate in the Native American Direct Loan (NADL) program. Where current law requires VA to enter into a Memorandum of Understanding (MOU) with the Tribal organization having jurisdiction over a Veteran before VA can make a NADL program loan, discretion the bill would authorize the Secretary to make a NADL program loan under a variety of agreements, including an MOU, which would essentially make the MOU discretionary.

VA supports section 2(a) of this bill, subject to cost offsets and appropriations. The change would help VA overcome current statutory barriers to NADL program loans in Alaska, where a Regional Corporation or Village Corporation does not have legal jurisdiction over the Veteran. It would also decrease the amount of time and frustration Tribal organizations, Veterans, and VA personnel encounter during the MOU process, which can take months or sometimes even years due to the administrative burdens associated with MOUs.

Section 2(b) would amend section 3762(h) by giving Native American Veterans on trust land more opportunity to refinance their home loans. Current law restricts refinances under the NADL program, such that Native American Veterans on trust land are only allowed to refinance other NADL program loans.

VA supports section 2(b) of this bill, subject to cost offsets and appropriations. Section 2(b) would allow VA to offer a range of refinance options to Native American Veterans living on trust land, including certain cash-out and construction refinances of loans that were not originated by VA. The change would provide more parity with Veterans who benefit from a variety of refinances in the guaranteed loan program and would help Native Americans on trust land move from less advantageous loan products into NADL program loans that better fit their financial needs, often with a lower-than-market interest rate. (For example, the current interest rate for a NADL program loan is 2.5 percent, including refinances, compared to non-NADL interest rates, which are currently around 7 percent.)

Section 2(c) would amend section 3762(i) by improving VA's ability to help Native American Veterans on trust land qualify for NADL program loans.

VA supports section 2(c) of this bill. This provision would allow VA to draw from the expertise of Tribal organizations, Tribally designated housing entities, Native community development financial institutions, nonprofit organizations, and other local service providers to help Native American Veterans with financial counseling, homebuyer education, and post-purchase education. VA could also rely on the organizations for technical assistance and attend conferences sponsored by Native community development financial institutions and other Native American homeownership organizations to provide information and training.

Section 2(d) would add new section 3762(k) to ensure that VA assigns adequate personnel to the NADL program. The new subsection would specifically address the need for assigning construction and valuation specialists to assist with issues unique to new construction and renovations on trust land.

VA supports section 2(d) of this bill, subject to cost offsets and appropriations. VA estimates that the provision would require VA to assign at least six new

personnel to fulfill anticipated increases in workload and outreach associated with section 2 of this bill. Six of the new personnel would be to fulfill anticipated increases in workload and outreach associated with section 2 of this bill. The cost estimate for section 2 of this bill also incorporates three additional NADL personnel requested in the FY 2024 President's Budget needed to ensure adequate personnel are assigned to the NADL program.

Section 2(e) would amend section 3765 by adding new definitions and revising current definitions, for the purpose of carrying out the various provisions of the bill.

VA supports section 2(e) of this bill. The new definition of trust land would help eliminate some of the statutory restrictions that have prevented Native American Veterans in places like Alaska from obtaining NADL program loans.

Section 2(f) would make a conforming amendment to section 3729, the section that directs the Secretary to charge a statutory loan fee for VA home loans.

VA supports section 2(f) of this bill. This provision would be necessary to ensure the proper statutory loan fee is charged, based on the type of refinance the Native American Veteran would obtain under subsection (b) of this bill.

Section 2(g) would require VA to prescribe regulations to carry out the NADL program authority under subchapter 37, title 38 of the United States Code.

VA supports section 2(g) of this bill.

VA estimates section 2 would result in \$0.2 million in benefits savings in the first year, \$1.2 million over 5 years, and \$2.3 over 10 years. VA also estimates \$1.6 million in new administrative costs in the first year, \$8.0 million over 5 years, and \$17.2 million over 10 years.

Section 3(a) would create a new 38 U.S.C. § 3762A to authorize a new relending program and outline the program's purpose, standards, relending requirements, repayment terms, and oversight requirements.

Section 3762A(b) would require VA to establish standards to evaluate whether to make a loan to a Native community development financial institution. The standards would, at a minimum, include VA's determination that the Native community development financial institution (NCDFI) is able to originate loans that align with the purpose of the NADL program and will operate the relending program in a manner consistent with VA's mission. The provision would also limit the NCDFI's use of VA's loan funds to relending to Native American Veterans.

Section 3762A(c) and (e) would establish minimum requirements on the relending activities of the NCDFI and provide an oversight component. The requirements would ensure the NCDFI's relending is consistent with the NADL program.

The requirements would also mandate that VA carry out VA's oversight responsibilities in a manner similar to its oversight of lenders in the guaranteed loan program. VA agrees that participant oversight is a necessary function of any Government agency entrusted with the administering government funds and that the responsibility is even more heightened when carrying out the mission of serving Veterans, their families, and their caregivers. Nevertheless, VA views NCDFIs as valued potential lending partners and looks forward to solidifying strong relationships with NCDFIs if the relending program is enacted.

Section 3762A(d) would require that the NCDFI repay the loan upon such terms and conditions as the Secretary prescribes in regulations. The provision would also set the interest rate on VA loans to NCDFIs at 1 percent.

VA supports section 3(a) of this bill, subject to cost offsets and appropriations. VA appreciates the proposed language of new section 3762A(b), which aims to balance expanded access to NADL program funds with appropriate protections. VA also welcomes the minimum requirements and oversight components in proposed sections 3762A(c) and (e). These requirements would ensure the NCDFI's relending is consistent with the NADL program. The requirements would also mandate that VA carry out VA's oversight responsibilities in a manner similar to its oversight of lenders in the guaranteed loan program. VA agrees that participant oversight is a necessary function of any Government agency entrusted with the administering government funds and that the responsibility is even more heightened when carrying out the mission of serving Veterans, their families, and their caregivers. Nevertheless, VA views NCDFIs as valued potential lending partners and looks forward to solidifying strong relationships with NCDFIs if the relending program is enacted. As for proposed section 3762A(d), As for proposed section 3762(d), VA believes that a dynamic interest rate could help mitigate costs of the new relending program, especially if the cost to the Government of borrowing funds increases, VA does not object to the 1 percent cap.

Section 3(b) of the bill would direct that a clerical amendment be made to the table at the beginning of chapter 37, title 38 of the United States Code.

VA supports section 3(b) of this bill. The change would be necessary to insert the reference to the new section 3762A.

Section 3(b) would amend 38 U.S.C. § 3763 to authorize the use of the Native American Veteran Housing Loan Program Account to carry out the relending program. In FY 2024, VA would be authorized to use not more than \$5,000,000 for relending to NCDFIs, and in any year after FY 2024, an amount determined necessary by the Secretary to meet loan demand.

VA supports section 3(c) of this bill subject to cost offsets and appropriations. Section 3(c) would authorize the funding to help carry out the program. VA estimates that section 3 of the bill would result in \$4.2 million in benefits costs in the first year, \$20.2 million over 5 years, and \$41.9 million over 10 years. VA also estimates \$.9 million in new administrative costs in the first year, \$4.6 million over 5 years, and \$9.8 million over 10 years.

H.R. XXX Establishing Certain Employment and Reemployment Rights for Spouses of Members of the Uniformed Services

This proposed bill would amend certain sections of title 38 of the United States Code to establish certain employment and reemployment rights for spouses of members of the uniformed services. *VA defers to the Department of Defense and the Department of Labor regarding this bill.*

H.R. XXX Improvements to Reemployment Rights of Members of the Armed Forces

This proposed bill would amend certain sections of title 38 of the United States Code to improve the reemployment rights of members of the Armed Forces, and for other purposes. *VA defers to the Department of Defense and the Department of Labor regarding this bill.*

Conclusion

This concludes my statement. We appreciate the committee's continued support of programs that serve the Nation's Veterans and look forward to working together to further enhance delivery of benefits and services.

Prepared Statement of James Rodriguez

Introduction

Chairman Van Orden, Ranking Member Levin, and distinguished Members of the Subcommittee, thank you for the invitation to testify today. Accompanying me today is Paul Marone, Senior Compliance Policy Advisor for the Uniformed Services Employment and Reemployment Rights Act (USERRA) program. I again commend the Subcommittee for its continued efforts to promote economic opportunities for America's veterans and for exploring enhancements to workforce protections for service members and their spouses. As I previously testified in March, USERRA has protected the employment and reemployment rights of our Nation's uniformed service members for over 25 years and has played an important role in the recruitment, retention, and readiness of the All-Volunteer Force. I also appreciate meeting with you and your staff, Chairman Van Orden, to further discuss how USERRA could affect military spouses in the workplace. I look forward to future conversations with you and continuing the amicable relationship between the Chair and Ranking Member of this Subcommittee and the Department of Labor's (DOL) Veterans' Employment and Training Service (VETS). VETS proudly administers USERRA, with the support of our interagency partners at the Department of Defense (DoD), Employer Support of the Guard and Reserve (ESGR), the Department of Justice (DOJ), and the Office of Special Counsel (OSC). I welcome the opportunity to offer technical assistance on two draft bills seeking to amend USERRA to enhance and expand its protections: the first, to provide additional enforcement and remediation tools not currently available under the existing statute, and the second, to expand USERRA's employment and reemployment protections to military spouses. These draft bills contain a workable framework to increase USERRA's ability to protect those who serve our Nation.

It has been an honor to lead DOL VETS for the last two years. My wife Vanessa and I both served on active duty in the Marine Corps, and we have two wonderful daughters who in many ways grew up having to serve with us. So, this isn't just a job for me, it's my life's mission. Enhancing USERRA's employment and reemployment protections for service members and military spouses is a top priority at DOL VETS, and one that is informed by my own military family's lived experience and stories that I have heard from military spouses while traveling in my current role.

I have been truly impressed by the talent, dedication, and commitment of our DOL VETS team, as well as by the high level of cooperation and collaboration with our interagency partners. The vision of VETS is to enable all veterans, service members, and military spouses to reach their full potential in the workplace. Living up to full potential does not just mean getting a job; it means maximizing the value of one's unique capabilities. By improving access to the employment and reemployment rights under USERRA and harnessing America's collective support for our military and their families, we help our veterans, transitioning service members, and military spouses reach their full potential. Achieving this vision not only helps veterans, service members, their families, and the organizations they serve, but it is also good for America's prosperity and security. Veterans, service members, and military spouses comprise some of the most capable, committed, and resilient talent pools in the Nation, and they have much to contribute to the national labor force and economy as we continue to emerge from the pandemic.

The Importance of USERRA to National Security and Maintaining the All-Volunteer Force

When Congress enacted USERRA in 1994, it did so with three purposes in mind. First, to encourage service in the all-volunteer uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service. Second, to minimize the disruption to the lives of persons performing such service, as well as to their employers, their fellow employees, and their communities, by providing for prompt reemployment of such persons upon completion of such service. Third, to prohibit discrimination against persons because of their service in the uniformed service. Congress has also stated its sense that the Federal Government should be a model employer in carrying out the provisions of USERRA.

USERRA prohibits discrimination in employment based on an individual's prior service in the uniformed services; current service in the uniformed services; or intent to join the uniformed services. An employer is also prohibited from retaliating against a person because of such person's attempt to enforce their rights, or the rights of others, under the Act. In addition, an employer may not retaliate against an individual for filing a USERRA claim, testifying, or otherwise aiding in any proceeding under the Act. USERRA also provides reemployment rights with the pre-service employer following qualifying service in the uniformed services. In general, the protected person is entitled to be re-employed with the seniority, status, and rate of pay as if they had been continuously employed during the period of service. USERRA applies to private employers, the Federal Government, and State and local governments. It also applies to United States employers operating overseas and foreign employers operating within the United States.

There were more than 1 million service members eligible for USERRA protections at the end of March 2023.¹ This sum included 264,237 members of the Reserve Components (RC) that are comprised of Reserve and National Guard troops and 862,921 members of the Active Components of the U.S. Armed Forces.

USERRA provides fundamental support to our All-Volunteer Force. USERRA's reemployment protections ensure that our service members will not be penalized for temporarily leaving their civilian careers and employment when activated to defend our Nation. USERRA's anti-discrimination provisions protect our veterans and service members from adverse employment actions motivated, at least in part, by their protected status as a past, present, or future member of the uniformed services. USERRA's anti-retaliation provisions ensure that anyone, regardless of their status in the uniformed services, can assert their own rights or defend the rights of others under USERRA, and be protected against retaliatory employment actions. The existence of these important rights, as well as Federal authority to investigate, resolve, and enforce violations of those rights, removes barriers to, relieves stress from, and recognizes service in, the uniformed services. By doing so, USERRA's employment and reemployment protections encourage and facilitate the recruitment, retention, and readiness of the All-Volunteer Force.

¹ Total number of U.S. Armed Forces and Selected Reserves for March 31, 2023, reported by Department of Defense, Defense Manpower Data Center, in Armed Forces Strength Figures for March 31, 2023, and Selected Reserves by Rank/Grade for March 31, 2023, accessible at <https://dwp.dmdc.osd.mil/dwp/app/dod-data-reports/workforce-reports>. Note that the Army did not submit Personnel data as of March 2023, so these statistics are not all of DoD.

H.R. XXXX, to amend Title 38, United States Code, to Establish Certain Employment and Reemployment Rights for Spouses of Members of the Uniformed Services

This bill would amend multiple sections of USERRA to expand employment and reemployment protections under the statute to eligible military spouses. The President also proposed this policy in his Fiscal Year (FY) 2024 Budget², and DOL VETS whole-heartedly supports the expansion of USERRA employment protections to eligible military spouses, and welcomes the opportunity to provide detailed technical assistance on the many nuanced and complex aspects of the bill where employment and reemployment protections for military spouses are derived from their service members qualifying service in the uniformed services.

Barriers to military spouse employment negatively impact national security. Support for military spouse employment is important to the retention and readiness of the All-Volunteer Force. Maintaining traditional employment and advancing in careers while relocating every few years has historically been a hardship that military spouses have found extremely difficult, if not impossible, to overcome. Extending USERRA's anti-discrimination and reemployment protections to eligible military spouses would limit barriers to military spouse employment.

When a military spouse can build a successful career, it can also bolster a family's financial stability during the time when a service member transitions out of the military into civilian employment. Similarly, spouses' inability to find employment or their own job dissatisfaction can also increase family and relationship stress, lower overall satisfaction with the military, and affect retention decisions for service members. Military spouses also face economic challenges in qualifying for job-related benefits like career development opportunities and vesting of employer contributions to retirement funds. This can lead to lower lifetime earnings and inhibit the long-term financial stability of the family.

Service members' spouses' ability to obtain and retain appropriate employment is often integral to service members' decisions to reenlist in the uniformed services, and the Federal Government should be seeking additional ways to minimize disruptions to that ability and ensure readiness of the All-Volunteer Force. The impact of military spouses on retention and readiness of the all-volunteer force should not be minimized.

Removing barriers to military spouse employment by extending anti-discrimination and reemployment protections under USERRA to eligible military spouses would alleviate a significant stressor on military families and recognize the vital role of military spouses in the retention and readiness of the All-Volunteer Force. USERRA protections would also help military spouses build successful careers without frequent interruption and re-starts; bolster the financial stability of their families, especially during their service member's transition from military service to civilian life; and promote long-term financial stability for military families. Service members' spouses are critical to ensure military members' readiness, and this should not be forgotten.

H.R. XXXX, to Amend Title 38, United States Code, to Improve the Reemployment Rights of Members of the Armed Forces, and for Other Purposes

This bill would amend multiple sections of USERRA to enhance and expand employment and reemployment protections under the statute, as well as various enforcement and remediation provisions directed toward States (as employers), private employers, and Federal executive agencies. As of the time that we reviewed the draft bill prior to the hearing, it would:

- Section 1(a) of this bill would amend 38 U.S.C. § 4323(e) to enhance USERRA's provision authorizing injunctive relief available under the statute;
- Section 1(b) of this bill would amend 38 U.S.C. § 4323(d) to expand USERRA's provisions authorizing liquidated damages against States (as employers) and private employers by adding a new minimum amount for such damages;
- Section 1(b) of this bill would also add a new 38 U.S.C. § 4323(f) and amend 38 U.S.C. § 4324(c) to establish that the failure of States (as employers) and private employers, and Federal executive agencies, respectively, to provide notice of USERRA's rights and benefits to their employees as prima facie evidence of willfulness;

² <https://www.dol.gov/sites/dolgov/files/general/budget/2024/CBJ-2024-V1-10.pdf>

- Section 1(c) of this bill would amend 38 U.S.C. §§ 4324(c) and 4323(h) to make the award of reasonable attorney fees, expert witness fees, and other litigation expenses mandatory to the person prevailing on their USERRA complaint before the Merit Systems Protection Board or the court, respectively;
- Section 1(d) of this bill would repeal 38 U.S.C. §§ 4315 and 4325 to provide the same substantive and procedural rights and benefits to reemployment under USERRA, and enforcement of those rights and benefits, to employees employed by certain Federal agencies of the intelligence community referred to in 5 U.S.C. § 2302(a)(2)(C)(ii) as other eligible employees under the statute;
- Section 1(e) of this bill would amend 5 U.S.C. § 2302(b)(11)(A) to identify violations of USERRA as prohibited personnel practices by Federal employees who are authorized to take, direct others to take, recommend, or approve any personnel action;
- Section 1(f) of this bill would add a new 38 U.S.C. § 4312(g) to provide employment protections in performance reviews for employees absent from civilian employment for the performance of service in the uniformed services;
- Section 1(g) of this bill would amend 38 U.S.C. § 4303(13) to expand the definition of “service in the uniformed service” to include periods of absence from civilian employment for medical or dental treatment for a condition, illness, or injury incurred or aggravated during the performance of uniformed service; and
- Section 1(h) of this bill would amend 38 U.S.C. § 4301(a)(1) to clarify that a purpose of USERRA is “to encourage service in the uniformed services,” without the limitation that the service be “noncareer.”

DOL VETS supports many of the goals of the draft bill, especially those provisions that expand USERRA protections by removing limitations on types of employees protected under the statute and eligible for assistance from DOL VETS. Additionally, the bill seeks to expand the types of remedies available through litigation under USERRA before the courts or the Merit Systems Protection Board when DOL VETS is no longer involved in the matter, including injunctive relief, liquidated damages, reasonable attorney fees, expert witness fees, and other litigation costs. We welcome the opportunity to provide detailed technical assistance on the many aspects of this bill and would like the opportunity to consult and collaborate with our interagency partners at DOJ and OSC, specifically relating to the bill’s enforcement and remediation provisions relating to States (as employers) and private employers, and Federal executive agencies, respectively.

Additionally, in its FY 2021 DOL USERRA Annual Report to Congress, DOL VETS identified the following further areas of potential improvement to USERRA to empower service members to exercise their USERRA rights which the Committee may wish to consider:

- Currently, the statute governing USERRA does not explicitly supersede mandatory arbitration agreements in employment in the same way that it supersedes any other agreement that reduces, limits, or eliminates any right or benefit under USERRA. Also, USERRA does not State specifically that it protects both substantive and procedural rights and benefits in employment, such as the procedural right of adjudication of USERRA rights. The absence of statutory language in USERRA that agreements to arbitrate are unenforceable unless all parties consent to arbitration after a complaint on the specific claim has been filed in court or with the Merit Systems Protection Board, and all parties knowingly and voluntarily consent to have that claim subjected to arbitration, has resulted in contrary court decisions and confusion for employees and employers.
- Because USERRA does not authorize the Attorney General independently to investigate and file suit to challenge employment policies or practices that establish a pattern or practice of violating USERRA, it also does not preserve the right of the aggrieved service member to intervene in pattern or practice suits, or to bring their own suit where the Attorney General has declined to file suit.
- USERRA does not yet codify the U.S. Supreme Court’s decision in *Torres v. Texas Department of Public Safety*, 597 U.S. (June 29, 2022), which held that States may not invoke sovereign immunity to avoid liability under USERRA. The *Torres* decision stands to improve the enforcement of reemployment rights under USERRA with respect to a state employer by allowing aggrieved service members and veterans to file suits against State employers in state and federal courts.

Finally, in its FY 2021 DOL USERRA Annual Report to Congress, DOL VETS also identified the following areas of potential improvement to USERRA to strengthen-

en the United States' ability to enforce USERRA and ensure that the statute is consistent with other civil rights laws:

- Although USERRA is applicable to Federal, State, and private employers, the Attorney General, acting on behalf of the United States, is not currently authorized to serve as a plaintiff in all USERRA suits, only in those suits filed against State employers.
- Currently, USERRA does not authorize the Attorney General independently to investigate and file suit to challenge employment policies or practices that establish a pattern or practice of violating USERRA. Such independent authority would significantly strengthen DOJ's ability to enforce USERRA to address a systemic violation (such as a policy prohibiting extended absences, including absences for uniformed service) that could adversely affect the employment rights of multiple service members.
- Similarly, USERRA does not empower the Attorney General with civil investigative demand authority to compel the production of existing documents and unsworn answers to written questions from the custodian of such documents. While DOL VETS has subpoena power in its investigations under USERRA, the Attorney General currently has no pre-suit investigatory authority.

H.R. XXXX—TAP Promotion Act

This bill would allow Veteran Service Organizations (VSOs) to promote participation in VSOs during time reserved for the Transition Assistance Program (TAP) curriculum. VETS recognizes the utility of the military community affiliating with VSOs. It helps rebuild the community that is lost during transition from military service, it allows the Federal Government to disseminate information to the overall veteran community with greater ease, and VSOs support veterans to connect with federal, state, and local resources that they have earned through their service. However, VETS defers to the Department of Defense on how the TAP program would be impacted by this bill.

Other Bills Considered by the Subcommittee

It is our understanding that this Subcommittee may consider a number of other bills during this hearing, including:

- H.R. 491—Return Home to Housing Act.
- H.R. XXXX—Isakson-Roe Education Oversight Expansion Act.
- H.R. XXXX—Native American Direct Loan Improvement Act of 2023.
- H.R. XXXX—Housing our Military Veterans Effectively (HOME) Act of 2023.
- H.R. XXXX—To amend title 38, United States Code, to require, as a condition of approval under the educational assistance programs of the Department of Veterans Affairs, that educational institutions make available to eligible persons and veterans digital copies of official transcripts.
- H.R. XXXX—To amend title 38, United States Code, to make certain improvements in the administration of the educational assistance programs of the Department of Veterans Affairs, and for other purposes.

As of the time that we reviewed these bills prior to the hearing, DOL defers to the Department of Veterans Affairs, and other respective Departments where their equities are impacted. If they are amended in a way that impacts DOL, we would be happy to further review them and provide technical assistance upon request.

Delivering Positive USERRA Outcomes for Both Employees and Employers

Under USERRA, Congress authorized the Secretary of Labor, through DOL VETS, to assist any person or entity with the employment and reemployment rights and benefits provided under the statute. Congress also authorized DOL VETS to take such outreach actions as deemed appropriate to inform both persons entitled to rights and benefits under USERRA and employers of the rights, benefits, and obligations of such persons and such employers under USERRA. DOL VETS conducts a robust public outreach campaign to educate service members, employers, and others on their rights and responsibilities under USERRA. Since the terrorist attacks of September 11, 2001, which resulted in the single greatest mobilization of the Reserve and National Guard, DOL VETS has briefed more than one million individuals on USERRA.

When DOL VETS is unable to resolve a USERRA issue through compliance assistance, a servicemember or veteran can submit a claim to DOL VETS for investigation. When this occurs, DOL VETS assigns the case to a trained USERRA investigator. On average over the past three years, DOL VETS has closed 943 cases for investigation per year. When DOL VETS investigators find a violation of USERRA, the investigator works diligently with both the claimant and the employer to resolve the case to the satisfaction of both parties. Of cases in which DOL VETS found a violation of USERRA in FY 2021, DOL VETS resolved 87 percent of those, which is the highest resolution rate in the history of the program.

Upon completion of the investigation, if DOL VETS does not resolve the case to the claimant's satisfaction, DOL VETS advises the claimant in a closing letter of their right to have the case referred to either DOJ or to OSC, as appropriate, for consideration of legal representation at no cost to the claimant. If a claimant requests that their case be referred, DOL VETS must refer the claim regardless of whether VETS has determined that the submitted complaint was substantiated by the facts and evidence obtained during the investigation. Each DOL VETS' case referral contains a memorandum analyzing the USERRA claim and providing an assessment of whether the complaint was substantiated.

Since my testimony in March, DOL VETS has undertaken the following steps to answer questions and address concerns raised by the Subcommittee regarding USERRA:

- On March 21, 2023, DOL VETS established a recurring USERRA Outreach Event to bring USERRA stakeholders together on a regular basis. The first meeting was held on May 4, 2023, with the following Federal partners and Veteran Service Organizations in attendance: DOL VETS, DOL Office of the Solicitor, DOJ, OSC, DoD ESGR, Reserve Organization of America (ROA), National Guard Association of the United States (NGAUS), and Enlisted Association of the National Guard of the United States (EANGUS). The next meeting will be scheduled in September 2023.
- On March 24, 2023, DOL VETS provided a copy of the USERRA VEOA VP Investigations Manual (the Manual), with limited redactions, to the Subcommittee. Limited redactions were made to the Manual provided to the Subcommittee on the advice of counsel to avoid inadvertent disclosures of DOL VETS' investigative techniques and procedures. Pursuant to a follow-up request from Subcommittee majority staff, on April 5, 2023, the Department's Office of Congressional and Intergovernmental Affairs also provided an *in camera review* of the unredacted Manual to Subcommittee staff. On May 23, 2023, I provided a copy of the Manual, with limited redactions, and provided an *in camera review* of the unredacted Manual to the Chairman.
- On April 13, 2023, DOL VETS convened an intra-agency meeting with representatives from DOL partners to develop the mechanisms necessary to collect the data points required by 38 U.S.C. § 4212(a)(2)(B). This development requires a joint effort with the Employment and Training Administration (ETA) and the various State Workforce Agencies throughout the country, as well as a change in how employment data required to be reported is collected and shared among the responsible agencies. My staff is required to provide me with monthly reports on our progress in implementing this requirement.
- On May 10, 2023, DOL VETS provided responses to Questions for the Record from the Subcommittee that arose from the hearing held on March 9, 2023. They included substantive answers to questions from the Subcommittee on USERRA, USERRA case statistics, employer trend data with charts, and projected caseload and costs if USERRA was expanded to protect military spouses.
- On May 11, 2023, in honor of Military Spouse Appreciation Day, DOL VETS hosted an in-person and live-streamed event with a panel of four military spouses called Military Spouses in the Workplace to discuss their experiences and how DOL VETS is striving to increase employment protections for military spouses, including to update USERRA to expand employment protections to military spouses.

USERRA Funding via the DOL VETS' Federal Administration Appropriation

As I have previously testified, the USERRA program is funded through the DOL VETS' Federal Administration/USERRA appropriations account. In addition to funding all of our enforcement activities, it also provides funding for our performance accountability systems, outreach, employer engagement, research, and all DOL

VETS staff. In FY 2022, the President's Budget request for the DOL VETS' Federal Administration/USERRA appropriations account was just over \$52 million, but Congress only appropriated \$46 million. In FY 2023, the President's Budget request for Federal Administration/USERRA appropriations account was nearly \$54 million, but Congress only appropriated \$47 million. Appropriated funding below the Budget requests have negatively impacted DOL VETS' ability to hire and train enough investigators to conduct USERRA investigations and other agency staff which support veterans and provide or connect them to the services they need.

Notably, appropriated funding below the Budget request levels have also negatively impacted DOL VETS' efforts to digitally modernize our paperless VETS' Case Management system, otherwise known as the VCMS, that will enhance the customer service experience of our veterans, service members, their families, and their employers. The VCMS allows DOL VETS to collect, organize, and analyze investigative material for USERRA investigations. VETS investigators rely on VCMS to: timely collect, organize, and follow up on documentary evidence and witness interviews; correctly analyze investigative material; and to make accurate, consistent, and equitable determinations.

USERRA investigations involve both domestic and sometimes international employers and claimants and are investigated using DOL VETS staff that are located in each state and territory in the United States, making the electronic case management system like the VCMS important.

Lack of funding also endangers DOL VETS' ability to provide ongoing support for the VCMS, such as meeting the Section 508 requirements of the Rehabilitation Act, which requires the equitable filing and processing of claims from claimants who have protected status, including claimants with service-connected disabilities. Specifically, claimants who have a service-connected disability make up a significant portion of the cases filed with DOL VETS. In FY 2021, of the 1,117 investigations conducted under USERRA, 33 percent of claims filed came from persons who self-identified as a veteran or service member with a service-connected disability.

Conclusion

DOL VETS welcomes the opportunity to provide detailed technical assistance on the two bills seeking to enhance and expand employment and reemployment protections under USERRA, as well as the enforcement and remediation provisions of the statute. DOL VETS looks forward to working with the Subcommittee to ensure that USERRA continues to support our service members when they are called to serve our Nation, which remains of fundamental importance to the recruitment, retention, and readiness of the All-Volunteer Force. DOL VETS is committed to continued collaboration with our interagency partners to provide positive USERRA outcomes to employees and employers to minimize the disruption to the lives of veterans, service members, their families, their employers, their fellow employees, and their communities. DOL VETS requests your support for the President's FY 2024 Budget request for Federal Administration and USERRA, so that DOL VETS may continue to provide the high level of customer service that our veterans, service members, their families, and their employers deserve.

Chairman Van Orden, Ranking Member Levin, distinguished members of the subcommittee, thank you for the opportunity to highlight the important work DOL VETS is doing in support of our veterans, service members, and military spouses who have served our country. I am happy to answer any questions you may have.

Prepared Statement of Patrick Murray

Chairman Van Orden, Ranking Member Levin, and members of the subcommittee, on behalf of the men and women of the Veterans of Foreign Wars of the United States (VFW) and its Auxiliary, thank you for the opportunity to provide our remarks on legislation pending before this subcommittee.

H.R. 491, Return Home to Housing Act

The VFW supports this proposal to increase the rate of per diem payments for furnishing services to homeless veterans. The purpose of the transitional housing component of this program is to promote the development and provision of supportive housing and services with the goal of helping homeless veterans achieve residential stability, increase their skill levels and/or income, and obtain greater self-determination. We also believe amending the code to allow for usage in response to an emergency is a strong addition to this program. This change would allow programs to assist veterans whose needs may be exacerbated by emergencies or natural disasters.

H.R. 3848, Housing our Military Veterans Effectively Act

The VFW understands the goal of this proposal, but does not fully support it at this time and has suggestions for improvements. We appreciate the rate increase for domiciliary care provided to State Homes but are concerned the rate for placement into permanent housing is reduced in this proposal. We recommend both portions be increased due to the rising costs associated with housing homeless veterans. We understand this proposal also provides a waiver of the maximum grant rate, but VA has not effectively utilized waivers in the past so we do not have confidence they would be applied correctly where needed. We believe a simplified change in the rates instead of providing waiver authority would be better for the program recipients who need additional resources.

The VFW has questions about Section 3 of this proposal to modify the authority of Public Law 114–226 by removing the requirement for the Department of Veterans Affairs (VA) to comply with all federal laws relating to leases and land use on the West Los Angeles Campus. At this time, we are unaware of a particular burden that prohibits VA or its lessees from following the law, and we do not have any reason to support overturning this requirement.

The VFW supports Section 4 of this proposal to authorize the use of certain funds for improved flexibility in assisting homeless veterans. However, we believe this authority should be permanent rather than just temporarily extended into next year. At a hearing before this subcommittee on March 30, 2023, representatives from VA described how instrumental these authorities were for housing veterans in need. We recommend amending this language to mirror that of H.R. 645, *Healthy Foundations for Homeless Veterans Act*, which would provide the flexibility VA needs to effectively provide services for homeless veterans.

H.R. 3874, Veterans Education Assistance Improvement Act

The VFW supports this draft legislation that would provide improvements to VA educational assistance programs. Section 2 of the proposal would permit a student veteran to enroll in courses during the final semester of a degree program for a less than half-time course load—referred to as rounding out—and continue to receive full VA housing benefits. Many student veterans register for nontraditional or irregular course loads during a semester to balance their various responsibilities. Others may begin a new course of study after military service with some academic credit obtained during prior attendance. Accordingly, some student veterans end up taking a less than half-time course load during their final semester. This legislation would allow student veterans to focus on the completion of their studies without the burden of additional unnecessary requirements to continue receiving full VA education benefits. Additionally, it could potentially save the government money by not requiring student veterans to receive additional credits in order to reach the threshold for full housing stipends.

Section 3 of this proposal would provide schools with a six-month period to implement any new VA educational assistance program rulemaking. The VFW strongly supports this provision as it would allow schools to implement program changes outside of peak times such as enrollment and registration. Providing this flexibility may help ensure continued participation in the programs by eliminating the perception that implementing changes is too cumbersome and, therefore, not worth the time and effort.

Additionally, the VFW suggests that VA adopts a “Master Calendar” similar to the calendar used by the Department of Education (20 U.S. Code § 1089) for standard regulation changes. This would set dates for when certain changes would be implemented for education regulations, for example by June 1, or the changes would fall to the next year. We believe the relevant parts of the Master Calendar should be adopted for VA education-related benefits in order to ease the burden of regulation changes put upon schools.

Section 4 of this proposal would extend the time from one business day to two business days that schools have to complete risk-based surveys. Such surveys provide VA and State Approving Agencies (SAAs) a way to review and mitigate potential fraud, waste, and abuse. A short turnaround is meant to avoid giving time for schools to fabricate data. School officials indicated that a timeframe of only one day is not feasible, but extending the period of notice to two business days would enable them to provide all the necessary information to VA.

The VFW supports Section 5 of this proposal that would repeal the requirement for schools to provide students receiving VA education benefits with a personalized “shopping sheet.” Within the language of the Forever GI Bill, Section 1018 codified in the statute that schools must provide students with a timely personalized Financial Aid Shopping Sheet covering the total cost of an education program. The goal

was to inform students who are eligible to receive VA education benefits of the potential eligibility for federal financial aid before turning to private student loans or alternative financing. While this was a well-intended initiative, unfortunately, school officials have told the VFW that this requirement is too burdensome and often unrealistic. Schools may not be able to provide accurate estimates in the time-frame needed for veterans to make cost comparisons or to be in compliance with the law.

In addition, financial estimates for students who receive Chapter 35 benefits, as in VA education benefits for dependents and survivors, may not be accurate. Under Section 702 of the Veterans Choice Act (P.L. 113–146), public schools must offer these students in-State tuition, which is a requirement to receive GI Bill payments. For students applying out of State, their in-State status would not begin until they have moved to the school dormitory or other in-state housing. This is another example of a financial estimate that can be inaccurate and cause schools to be out of compliance, which is another reason to remove this requirement.

Last, the VFW supports Section 6 of this legislation to provide educational institutions with multi-year waivers to have accredited courses and programs approved by VA. Yearly approvals are cumbersome for schools and a multi-year waiver would provide them the necessary flexibility to seek course approval periodically as courses change or evolve.

Discussion Draft, Transcript Assurance for Heroes Act

The VFW supports the goal of this proposal to provide digital official transcripts, but we would like clarification language added to address what is considered a “digital format.” Student veterans could definitely benefit from digital copies of official transcripts, but depending on what is required, certain schools may not be able to accommodate that requirement with their existing resources. Ensuring students have access to records via a portable storage device such as a thumb drive is a reasonable requirement. However, requiring schools to enroll in online records management platforms such as the Parchment education verification system could be expensive and burdensome for smaller schools with a small number of VA beneficiaries in attendance. Most large schools that have numerous VA beneficiaries may already have certain digital records systems. However, smaller schools with fewer resources may not be able to take on the burden of expensive electronic platforms and may choose to withdraw from VA education programs instead of spending more money to meet additional requirements. For this reason, we would like clarification of congressional intent before fully supporting this proposal.

Discussion Draft, TAP Promotion Act

The VFW supports this legislation to authorize accredited representatives to promote the enrollment in VA benefit programs as part of the military Transition Assistance Program (TAP). The VFW believes this proposal to direct VA to develop a tailored pre-separation benefits course in which accredited representatives actively participate, and to incorporate representatives into its current TAP presentation would be substantive improvements to the current curriculum. We believe that VA must utilize accredited representatives as tools in their TAP toolkit to the maximum practical extent, ensuring veterans have access to competent, accountable, and free representation in the VA benefits process.

One of the best resources at service members’ disposal during transition is the VA Benefits Delivery at Discharge (BDD) program through which individuals can file expedited VA disability claims before leaving active duty. Service members can use the BDD pre-discharge claims program to submit their compensation claims and complete associated medical evaluations before leaving service, thereby enabling VA to provide disability ratings upon or shortly after discharge. Individuals who participate in the BDD program are subsequently better positioned to engage VA benefits and services after leaving the military. This means transitioning service members can minimize gaps in essential care like mental health counseling and medication management upon discharge.

The VFW believes there is incalculable value in incorporating VA-accredited representatives into the TAP curriculum. Specifically, we would like to see these representatives utilized as complementary course instruments that cover VA benefits and services where practical, with a particular emphasis on those that can be applied for prior to separation or retirement. This approach would mitigate instances of service members missing critical benefits-related details while enabling more to act on information without needing to find a representative in their free time outside of TAP.

Currently, there is a lack of equitable access for service members to utilize BDD services depending on which base they are stationed. Unequal access leads to fewer

service members being connected to their benefits upon separation, thereby endangering connections to VA services like mental health care and economic opportunity benefits. The VFW proudly supports this proposal to enhance access to quality benefits information as well as competent accredited representatives across TAP, and we look forward to working with this subcommittee to advance this legislation.

Discussion Draft, Servicemember Employment Protection Act of 2023

The VFW supports this draft legislation that offers several solutions to improve reemployment rights, including under the Uniformed Services Employment and Reemployment Rights Act (USERRA), for service members who temporarily leave their employment when called to active duty military service. USERRA shields National Guard and Reserve members from job loss and missed promotions when they are called to active duty or mobilized on federal orders for more than thirty consecutive days. While USERRA was drafted to be comprehensive in nature, that has not stopped bad actors from evading the protections it offers service members.

The VFW appreciates that this draft bill includes removing the immunity clause for certain federal agencies, so they would also be required to comply with USERRA in the reemployment of any of their staff who serve in the National Guard or Reserve. This bill would also require a review of the Department of Labor's *Veterans' Employment and Training Service Investigations Manual: USERRA, VEOA, and VP*, and to report revisions to Congress. This would provide much-needed transparency and a better understanding of the changes made to these processes.

One related issue that the bill does not address but that concerns the VFW is the continuing issue of forced arbitration clauses leveraged against service members in employment contracts. Forced arbitration clauses often require military personnel to preliminarily waive the protections afforded to them under USERRA. Frequently included in the fine print of contracts and electronic click-through agreements, these clauses force service members to agree to binding arbitration before any wrongdoing has occurred. As arbiters are generally hired and paid for by the entities with which service members enter contracts, members effectively submit blindly to proceedings that are biased in favor of the other party. Non-disclosure agreements are also employed, prohibiting those affected from seeking damages in civil court.

The widespread use of forced arbitration clauses in service members' financial and employment contracts is alarming to the VFW as these devious practices endanger the financial well-being of our force. Financial security impacts service members' ability to satisfy their basic needs and those of their families, and is imperative for those working in sensitive positions that require security clearances. No military member should have to blindly accept arbitration as a condition of any contract. We urge Congress to pass legislation to make the use of binding arbitration optional for military personnel.

Discussion Draft, To amend title 38, to establish certain employment and reemployment rights for spouses of members of the uniformed services

This legislation aims to provide a military spouse with certain reemployment protections in the event of absence due to a change in the permanent duty station of the service member. As a resolutions-based organization, the VFW does not currently have a position on this issue. However, we are concerned that this proposal may not be feasible and could have the unintended effect of deterring employers from hiring military spouses.

Discussion Draft, Isakson-Roe Education Oversight Expansion Act

The VFW understands the goal of this proposal is to require schools to submit notifications of actions taken against them, but we feel this is unnecessary. Schools that are placed in heightened cash monitoring status by SAAs are already reported to VA by the SAAs themselves. Schools that have punitive actions taken against them by State Attorneys General are already reported by those entities. This proposal is redundant and duplicative. This is an example of requiring schools to agree to new requirements in order to receive GI Bill funds.

In recent years many schools have voluntarily withdrawn from VA benefits programs because of the requirement to adhere to many cumbersome regulations. It is time we closely examine these burdens we have collectively placed schools that are already compliant. This proposal is the latest example of unnecessary requirements without consideration of the workload required to accomplish these tasks.

Chairman Van Orden, this concludes my testimony. Again, the VFW thanks you and Ranking Member Levin for the opportunity to testify on these important issues before this subcommittee. I am prepared to take any questions you or the subcommittee members may have.

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2023, nor has it received any Federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

Prepared Statement of Ricardo Gomez



TESTIMONY

OF

**RICARDO GOMEZ
EMPLOYMENT & EDUCATION POLICY ASSOCIATE
VETERANS EMPLOYMENT AND EDUCATION DIVISION
THE AMERICAN LEGION**

BEFORE THE

**SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES**

ON

"PENDING AND DRAFT LEGISLATION"

JUNE 14, 2023

EXECUTIVE SUMMARY

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TESTIMONY OF
RICARDO GOMEZ, EMPLOYMENT & EDUCATION POLICY ASSOCIATE
NATIONAL VETERANS EMPLOYMENT AND EDUCATION DIVISION
THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
"PENDING AND DRAFT LEGISLATION"

June 14, 2023

Chairman Van Orden, Ranking Member Levin, and distinguished subcommittee members, on behalf of National Commander Vincent J. "Jim" Troiola and more than 1.6 million dues-paying members of The American Legion, we thank you for the opportunity to testify on pending legislation considered before this Subcommittee.

The American Legion is directed by active Legionnaires who dedicate their time and resources to serve veterans and their families. As a resolution-based organization, our positions are guided by more than 104 years of advocacy and resolutions that originate at the grassroots level of our organization. Every time The American Legion testifies, we offer a direct voice from the veteran community to Congress.

H.R. 491 – Return Home to Housing Act

To amend title 38, United States Code, to adjust the rate of per diem payments provided by the Secretary of Veterans Affairs to grantees that provide services to homeless veterans.

The Department of Veterans Affairs' (VA) Grant and Per Diem (GPD) Program funds community organizations that provide services to homeless veterans or those who are at risk of becoming homeless. The program promotes the development of supportive housing and services necessary for homeless veterans to achieve residential stability and increase their income potential.

Operational costs, including GDP recipient employee salaries, are funded by the program. The maximum hourly per diem rate for a service center not connected with supportive housing is one-eighth of the daily cost of care and may not exceed \$8.06 per hour, eight hours per day.¹ Under current law, GPD payments are limited to 115 percent of the rate authorized for state homes of domiciliary care, allowing for a maximum reimbursement rate of \$64.52 per day per veteran housed.

¹ U.S. Department of Veterans Affairs, "VA Homeless Programs", VA.gov, May 11, 2023, <https://www.va.gov/homeless/gpd.asp>.

During the Covid-19 pandemic, the maximum GPD rate was elevated to 300 percent of the rate authorized for state homes for domiciliary care, allowing for a maximum reimbursement rate of \$152.73. This increase in the GPD rate directly resulted in an increase in the quantity of service providers able to participate in the program. In addition, it provided GPD participants with the economic ability to provide veterans with heightened services, including overnight housing, meals, and support for homeless veterans.

The GPD Program is instrumental in providing veterans with the necessary resources and tools to achieve residential stability and increase their skill levels and income while also providing a greater sense of security. This program provides the type of urgent care homeless veterans desperately need.

Through, Resolution No. 24: *Support Funding and Changes to the Department of Veterans Affairs Grand and Per Diem Program*, The American Legion urges Congress to adjust the rate of per diem payments provided by the VA to grantees that provide services to homeless veterans.²

The American Legion supports H.R. 491 as currently written.

H.R. 3848 – Housing our Military Veterans Effectively Act of 2023

To make certain improvements in the laws administered by the Secretary of Veterans Affairs relating to homelessness, and for other purposes.

Re: Section 2. Grant Per Diem Program Adjustment

Under current law, GPD payments are limited to 115 percent of the rate authorized for state homes for domiciliary care, allowing for a maximum reimbursement rate of \$64.52 per day per veteran housed.³ During the public health emergency, the maximum rate GPD providers received was elevated to 300 percent of the rate authorized for state homes for domiciliary care, allowing for a maximum reimbursement rate of \$152.73. Since the public health emergency ended, the maximum rates for GPD providers dropped back to 115 percent.

Section 2 of the *Housing our Military Veterans Effectively Act* would increase the maximum GPD rate to 140 percent of the rate authorized for state homes for domiciliary care. This will directly lead to an increase in service providers able to participate in the program and improve services offered to veterans.

The American Legion Resolution No. 24: *Support Funding and Changes to the Department of Veterans Affairs Grant and Per Diem Program* urges Congress to adjust the rate of per diem payments provided by the VA to grantees that provide services to homeless veterans.⁴

² The American Legion Resolution No. 24 (2018): *Support Funding and Changes to the Department of Veterans Affairs Grant and Per Diem Program*, <https://archive.legion.org/node/3436>.

³ U.S. Department of Veterans Affairs, “VA Homeless Programs,” VA.gov, May 11, 2023, <https://www.va.gov/homeless/gpd.asp>.

⁴ The American Legion Resolution No. 24 (2018): *Support Funding and Changes to the Department of Veterans Affairs Grant and Per Diem Program*, <https://archive.legion.org/node/3436>.

The American Legion supports this section as *currently written*.

Re: Section 3. Proposed Amendments to West Los Angeles Leasing Act of 2016

This section will give the Secretary of the VA discretion to decline an Office of Inspectors General's (OIG's) recommendation that he considers factually or legally unfounded or inappropriate to implement. It would eliminate the requirement of certifying to Congress that the VA has implemented all the OIG's recommendations before the VA can enter into a new lease under the Act.

The American Legion opposes this section. While this language may accelerate the VA's ability to expand the West Los Angeles (WLA) Campus for veterans, the VA has a history of breaching its duty of using the campus to primarily help veterans. On multiple occasions, the VA entered into leases and land use agreements with entities that used the land for purposes other than for the primary purpose of providing veteran and their families with healthcare benefits, services, or direct resources. This is evidenced by the various inspections and reports conducted by the VA's OIG.

In 2016, Congress passed the WLA Leasing Act. Under the Act, the VA is required to ensure all real property leases and land sharing agreements on the WLA Campus principally benefit veterans and their families.⁵ Section 2(h)(1) of the WLA Leasing Act mandates an added barrier for the VA's ability to enter leases or land use agreements on the WLA Campus, should a finding by the OIG determine the agreement is unlawful per the terms of the legislation. Specifically, in such scenario, the VA must first certify that all recommendations included in the IG's audit report or evaluation have been implemented.

To carry out this mandate, the OIG reviewed land use agreements in September 2018. The OIG reviewed 40 land use agreements on the WLA campus and determined that 25 did not comply with the WLA Leasing Act many were simply not veteran focused.⁶ For example, the OIG found that land use agreements were being used towards shopping center parking, K-12 athletic facilities, and a parrot sanctuary.⁷ In 2021, the OIG published its most recent report on the VA's management of land use under the WLA Leasing Act. The OIG reviewed 41 land-use agreements; of which seven did not comply with the Act.

The VA claims that this process is delaying their ability to fully revitalize the WLA Campus, and that complying with the OIG's recommendations may trigger lengthy litigative challenges. The American Legion is sympathetic to the VA's concerns; however, as evidenced by the various OIG reports, the VA has an inadequate record of signing leases and land share agreements with organizations that use the land for purposes that are not veterans focused do not suggest that removing OIG safeguards is not in the best interests of primarily help veterans or their families. The WLA Leasing Act, as currently written, creates a mechanism that prevents the VA from

⁵ West Los Angeles Leasing Act of 2016, Pub. L. No. 114-226.

⁶ U.S. Department of Veterans Affairs, Office of Inspector General, "VA's Management of Land Use Under the West Los Angeles Leasing Act of 2016," Report # 18-00474-300, September 28, 2018, ii.

⁷ U.S. Department of Veterans Affairs, Office of Inspector General, "VA's Management of Land Use Under the West Los Angeles Leasing Act of 2016," Report # 18-00474-300, September 28, 2018, iv-v.

entering into agreements that are not in the best interest of veterans. This mechanism is still necessary to hold the VA accountable for its decisions involving the WLA Campus on behalf of veterans.

The American Legion Resolution No. 25: Additional Affordable Housing Funding for Homeless and At-Risk Veterans, urges Congress to ensure the West Los Angeles Campus is utilized to provide vulnerable veterans with housing and resources.⁸

The American Legion opposes this section as *currently written*.

Re: Section 4. Temporary Authorization for VA to Use Funds for Flexibilities

The *Isakson and Roe Act* granted VA the flexibility to redirect funds to provide homeless veterans shelter, food, clothing, blankets, hygiene items, transportation, and communication devices. In addition, it allowed the VA to collaborate with organizations to use its property to shelter veterans.

Unfortunately, the VA lost its ability to redirect funds to provide these vital resources when the public health emergency ended on May 11, 2023.⁹

This section addresses this issue by authorizing the VA to redirect funds to improve flexibility in the provision of assistance to homeless veterans for over one year. Making emergency flexibilities available to the VA will ensure veterans are equipped with the necessities needed to transition into permanent housing and a stable livelihood.

Through, Resolution No. 15: *Supportive Services Funding for Homeless and At-Risk Veterans*, The American Legion supports the efforts of public and private sector agencies and organizations to provide resources to aid homeless veterans and their families.¹⁰

The American Legion supports this section as *currently written*.

H.R. 3874 – Veterans Education Assistance Improvement Act

To amend title 38, United States Code, to make certain improvements in the administration of the educational assistance programs of the Department of Veterans Affairs, and for other purposes.

GI Bill students not enrolled full-time are not afforded the full monthly housing stipend; this includes those in their final semester who are not required to attend full-time to complete their program of study. In such cases, the monthly housing stipend is pro-rated, and the number of credits taken determines the amount received. This means that veterans who received the full

⁸ The American Legion Resolution No. 25 (2022): *Additional Affordable Housing Funding for Homeless and At-Risk Veterans*, <https://archive.legion.org/node/14063>.

⁹ Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, Pub. L. No. 116–315, Title IV, §4201, 134 Stat. 5008 (2021).

¹⁰ The American Legion Resolution No. 24 (2018): *Support Funding and Changes to the Department of Veterans Affairs Grant and Per Diem Program*, <https://archive.legion.org/node/3436>.

monthly housing stipend, up until their last semester, can find it financially burdensome to continue paying for housing while completing their respective program. This legislation would ensure that veterans in their final semester receive the full monthly housing stipend, despite less than full-time attendance.

Through Resolution No. 318: Ensuring the Quality of Servicemembers and Veteran Students' Education at Institutions of Higher Education, The American Legion supports any legislative or administrative proposal that improves the GI Bill.¹¹

Additionally, this draft legislation seeks to grant educational institutions an additional day to provide all information necessary for conducting a risk-based survey.

Title 38 requires the Secretary of Veterans Affairs, in conjunction with the State Approving Agencies (SAAs), to "establish a searchable database or use an existing system, as the Secretary considers appropriate, to serve as a central repository for information required for or collected during site visits for the risk-based survey." This database would allow for increased oversight of educational institutions, to include factors such as the rapid increase of veteran enrollment, the rapid increase in tuition and fees, student complaints, financial stability, and veteran completion rates. These indicators are critical in determining not only the honesty and stability of an institution but veterans' success rates; thus, the database is necessary to ensure that veterans are both protected from predatory institutions and able to maximize their GI Bill benefits. Barring a central database, the implementation of risk-based surveys has been an ongoing, unnecessarily painful process for schools, and has greatly limited the efficacy of the risk-based survey.

In many cases, one day is not sufficient for an institution to assemble the information required for the RBS. In other cases, the institution may not have the administrative capacity to comply with the surveyor's requests. Two business days allows the institution more time to provide the information necessary for conducting risk-based surveys, which provides for a more accurate assessment of the institution's overall health. Having more accurate assessments of educational institutions increases the likelihood of veterans' success within these institutions.

Through Resolution No. 327: Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education Choices, The American Legion supports oversight and legislation evaluating post-secondary education institutions on quality factors, such as but not limited to, accreditation, transferability, cost, graduation rates, and acceptance in the job market.¹²

The American Legion supports this draft legislation as *currently written*.

H.R. 3898 – Transcript Assurance for Heroes Act

¹¹ The American Legion Resolution No. 318 (2016): *Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education*, <https://archive.legion.org/node/470>.

¹² The American Legion Resolution No. 327 (2016): *Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education Choices*, <https://archive.legion.org/node/475>

To amend title 38, United States Code, to require, as a condition of approval under the educational assistance programs of the Department of Veterans Affairs, that educational institutions make available to eligible persons and veterans digital copies of official transcripts.

The American Legion recently became troubled upon hearing of a student's predicament regarding her inability to access her academic transcripts due to the sudden closure of her educational institution. Unfortunately, with the abrupt shutting down of the school, not only were her future studies thrown into uncertainty, but also her past academic achievements were put into jeopardy, as she found herself unable to obtain her transcripts. This left her facing the possibility of her completed semesters not being acknowledged or credited by other institutions.

This situation brought to light the critical need for safeguards and systems to protect students from the far-reaching impacts of school closures.

Veterans who are unable to access their official transcripts find themselves unable to transfer schools; thus, they cannot continue to receive GI Bill benefits. In the event of a school closure, the student-veteran must reenroll in a program of study to be eligible for continued benefits. Without access to transcripts, veterans find themselves in precarious situations in terms of both continuing their education and receiving the monthly housing stipend – which many receive prior to the schools' closure. Mandating that educational institutions provide veterans with digital copies of official transcripts will ensure that veterans can both continue their education and receive their hard-earned benefits.

Through Resolution No. 318: *Ensuring the Quality of Servicemembers and Veteran Students' Education at Institutions of Higher Education*, The American Legion supports any legislative or administrative proposal that improves the GI Bill.¹³

The American Legion supports this draft legislation as *currently written*.

H.R. 3933 – TAP Promotion Act

To amend title 10, United States Code, to authorize representatives of veterans' service organizations to promote membership in such organizations in the course of preseparation counseling under the Transition Assistance program of the Department of Defense, and for other purposes.

The Transition Assistance Program (TAP) is a program that aims to provide service members with the resources, benefits, services, and tools necessary for a successful transition from active-duty service to veteran status.

However, while the American Legion believes TAP represents an essential step towards providing transitioning servicemembers and their families with the information necessary to transition back to civilian life successfully; transitioning from a military career and lifestyle to a civilian one can be overwhelming; and more can be done to optimize the program.

¹³ The American Legion Resolution No. 318 (2016): *Ensuring the Quality of Servicemember and Veteran Student's Education at Institutions of Higher Education*, <https://archive.legion.org/node/470>.

This draft bill permits Veterans Service Organizations (VSOs) to assist transitioning servicemembers in understanding their earned benefits and their new life as veterans. Having VSOs present during pre-separation counseling allows transitioning servicemembers to learn about the various assistance programs available to them, including benefits, peer support groups, and other support services available after the completion of their military service.

Veterans who served this country should be given access to every available resource as they transition from military to civilian life. Exiting the military is not an easy task, and the American Legion believes that access to VSO support and services is critical to ensuring servicemembers' successful transition out of the military.

Through Resolution No. 70: *Improve Transition Assistance Program*, The American Legion supports efforts to expand and standardize the DoD's existing pre-separation counseling policies to ensure separating servicemembers receive information regarding employment and education opportunities through increased cooperation and inclusion of nationally accredited service organizations.¹⁴

The American Legion supports this draft legislation as *currently written*.

H.R. 3943

To amend title 38, United States Code, to improve the reemployment rights of members of the Armed Forces, and for other purposes.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership or in meetings of the National Executive Committee. With no resolutions addressing the provisions of the legislation, The American Legion is researching the subject and working with our membership to determine the course of action which best serves veterans.

H.R. 3981 – Isakson-Roe Education Oversight Expansion Act

To amend title 38, United States Code, to improve the methods by which the Secretary of Veterans Affairs conducts oversight of certain educational institutions, and for other purposes.

Historically, GI Bill eligible schools have been regulated by State Approving Agencies (SAAs), which focus on financial compliance rather than the quality of education and/or veterans' success. By increasing and improving oversight, veterans are less likely to be victims of deception, and more likely to receive a quality education, providing them with the best chance of post-graduation success.

¹⁴ The American Legion Resolution No. 201 (2014): *Service Officers Participation in the Transition Goals, Plans and Success Program*, <https://archive.legion.org/node/269>.

This draft legislation would place greater accountability on institutions to report wrongdoings in a timely manner, so that Risk-Based Surveys (RBSs) can be conducted by the respective SAA or the VA. The 30-day deadline to report an adverse action or event allows for timelier identification of potentially nefarious activities by academic institutions. Improving the methods by which the VA conducts oversight only serves to further protect veterans from predatory practices.

Through Resolution No. 327: *Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education Choices*, The American Legion supports oversight and legislation that combats the targeting of veterans by academic institutions.¹⁵

The American Legion supports this draft legislation as currently written.

Draft Legislation – Native American Direct Loan Improvement Act of 2023

To amend title 38, United States Code, to improve the program for direct housing loans made to Native American veterans, and for other purposes.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership or in meetings of the National Executive Committee. With no resolutions addressing the provisions of the legislation, The American Legion is researching the subject and working with our membership to determine the course of action which best serves veterans.

The American Legion has no position on this draft legislation.

Draft Legislation

To amend title 38, to establish certain employment and reemployment rights for spouses of members of the uniformed services.

The provisions of this bill fall outside the scope of established resolutions of The American Legion. As a large grassroots organization, The American Legion takes positions on legislation based on resolutions passed by the membership or in meetings of the National Executive Committee. With no resolutions addressing the provisions of the legislation, The American Legion is researching the subject and working with our membership to determine the course of action which best serves veterans.

The American Legion has no position on this draft legislation.

Conclusion

¹⁵ The American Legion Resolution No. 327 (2016): *Support Further Assessment and Evaluation of Institutions of Higher Learning to Enable Veterans to Make Informed Education Choices*, <https://archive.legion.org/node/475>

Chairman Van Orden, Ranking Member Levin, and distinguished members of the Subcommittee, The American Legion thanks you for your leadership and for allowing us the opportunity to explain the positions of our members on the importance of these pieces of proposed legislation. Questions concerning this testimony can be directed to Mr. Matt Brennan, Legislative Associate at (202) 221-8105 or mbrennan@legion.org.

Prepared Statement of Matthew Schwartzman

The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America, is a military service organization incorporated under Internal Revenue Service Code section 501(c)(19), and comprising all ranks of servicemembers, veterans, and family members of our nation's eight uniformed services separated under honorable conditions. ROA is the only national military service organization that solely and exclusively supports the reserve components.

ROA was founded in 1922 by General of the Armies John "Black Jack" Pershing, during the drastic reductions of the Army after World War I. It was formed to support a strong national defense and focused on the establishment of a corps of reserve officers who would be the heart of a military expansion in the event of war. Under ROA's 1950 congressional charter, our purpose is unchanged: To promote the development and execution of policies that will provide adequate national defense. We do so by developing and offering expertise on the use and resourcing of America's reserve components.

Executive Director:

Maj. Gen. Jeffrey E. Phillips, U.S. Army (Ret.)

202-646-7701

Director, Legislation and Military Policy:

Matthew L. Schwartzman

202-646-7713

DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers Association of the United States, now doing business as the Reserve Organization of America, has not received any grants, contracts, or sub-contracts from the federal government in the past three years.

CURRICULUM VITAE

Matthew Schwartzman serves as the legislation and military policy director for the Reserve Organization of America.

Responsible for the development, management, and execution of ROA's government relations program and public policy portfolio, Matthew has more than five years of experience in government and legislative affairs, policy analysis, and membership services.

Matthew is also a co-chair for The Military Coalition's Guard and Reserve Committee and Taxes and Social Security Committee, representing, on select issues, a consortium of more than 30 military and service organizations with approximately 5.5 million members collectively.

STATEMENT

Chairman Van Orden, Ranking Member Levin, and distinguished members of the House Committee on Veterans' Affairs Economic Opportunity Subcommittee, on behalf of the congressionally chartered Reserve Organization of America (ROA), thank you for the opportunity to testify on legislation pending before the Subcommittee.

ROA also thanks the champions of these proposals for their genuine desire to strengthen the education and training benefits provided by the Department of Veterans Affairs (VA), reduce veteran homelessness, and enhance workforce protections for servicemembers, veterans, and military spouses.

ROA's focus today aligns with our resolutions, which are authored and approved by our members, and congressional charter, "... to support and promote the development and execution of a strong military policy for the United States that will provide adequate national security."

While I do not address each proposal provided for consideration in this statement, ROA stands ready to engage on these measures following this hearing.

H.R. 3943, the Servicemember Employment Protection Act of 2023.

ROA strongly supports Public Law No. 103-53, the *Uniformed Services Unemployment and Reemployment Rights Act (USERRA) of 1994*.

Since its enactment, USERRA has made a significant impact on national security by protecting dual-career paths for members of the Reserve and National Guard. Yet, USERRA can be improved.

ROA also recognizes the potential burden that USERRA places on America's employers. ROA seeks to identify and support law and policy that encourages companies to hire and retain members of the reserve components.

Two examples are the *RECRUIT Act*¹ and H.R. 3253, the *Reservist Pay Equity Act*.²

With the reserve components constituting some 40 percent of the total force, the integrity of USERRA is essential to our Nation's military readiness.

Properly resourcing the U.S. Department of Labor Veterans' Employment and Training Service (DOL-VETS) to effectively execute USERRA is also of critical importance.³

Over time, certain USERRA provisions have been circumvented and inadequately enforced, leaving legal voids that weaken its protections and must be corrected.

H.R. 3943, the *Servicemember Employment Protection Act*, fills many of these voids.

ROA thanks Representative Scott Franklin for sponsoring H.R. 3943 and supports this legislation as currently written *and* with a few proposed amendments.

SEC. 2. IMPROVEMENTS TO REEMPLOYMENT RIGHTS OF MEMBERS OF THE ARMED FORCES.

(a) EXPANSION OF INJUNCTIVE RELIEF

An injunction is a court order requiring the termination or compulsion of a specific action. One of the most significant protections afforded under USERRA is the right to be reemployed after performing military service. Unfortunately, injunctions to prevent firings or require reemployment are not normally available under current law.

The conditions required for preliminary injunctive relief are a likelihood of success on the merits when the case goes to trial and existence of an irreparable injury if relief is denied.

However, the act of terminating one's employment is not currently considered an irreparable injury. This is because providing reemployment with back pay, which sometimes happens months after the firing, is considered a repair. As a result, employees experience a greater likelihood of being placed in difficult positions professionally, legally, and financially.

USERRA currently reads: "The court shall use, in any case in which the court determines it is appropriate, its full equity powers, including temporary or permanent injunctions, temporary restraining orders, and contempt orders, to vindicate fully the rights or benefits of persons under this chapter."

Courts thus have broad latitude in determining whether to grant injunctive relief. However, as stated previously, courts have not widely recognized willful employment terminations under USERRA as an irreparable injury.

H.R. 3943 SEC. 2. corrects this by amending USERRA to prohibit courts from denying a motion for injunctive relief on the basis that an employee may be awarded "wages unearned" following an unlawful termination of employment.

This provides employees covered under USERRA with an additional layer of legal protection by ensuring the act of providing back pay does not diminish the likelihood of being granted injunctive relief.

This will also influence employees to provide their employers with advanced notice of their military service, which is a requirement for relief under USERRA.

H.R. 3943 SEC.2. (a) is a win for citizen-warriors and their employers. ROA supports.

(b) EXPANSION OF LIQUIDATED DAMAGES

Under current law, if an employer (State, local, or private sector) is established to have willfully violated USERRA, the court can award liquidated damages equal to the actual damages, effectively "doubling the damages."

In some USERRA cases, the actual damages may be small if the fired or former employee denied reemployment has quickly found another job, with another employer, earning just as much or more.

¹ Introduced in the 117th Congress, this legislation allows employers with less than 500 employees to claim a tax credit equal to the sum of \$1,000 plus an additional amount up to \$10,000 depending on the number of military duty days performed during the year.

² H.R. 3253, the *Reservist Pay Equity Act*, increases the differential wage payment tax credit from 20 to 50 percent.

³ President Biden's Fiscal Year (FY) 2024 budget requests \$348 million in funding, an increase of \$12 million above the FY 2023 enacted level, for the Veterans' Employment and Training Service's (VETS) core programs, \$347,627,000 and 265 full time equivalents (FTE), an increase of \$12,286,000 and 28 FTE over the FY 2023 revised enacted level, and \$1,500,000 and 3 FTE to support the enforcement of the USERRA.

The incentive for employers to act within the tenets of USERRA may therefore prove inadequate, resulting in willful violations.

Consider the following hypothetical case summary from ROA Law Review 15089⁴:

Joe Smith works for Grapevine County as a deputy sheriff. After giving proper notice to the Sheriff, Smith leaves his job for voluntary or involuntary service in the uniformed services.

Smith serves on active duty and is released, without having exceeded the five-year limit and without having received a disqualifying bad discharge from the military. After release from service, Smith makes a timely application for reemployment with the Sheriff.

The Sheriff says, "I don't care what federal law says. I am the Sheriff of this county, and federal law does not apply to me. You can't work here and play soldier at the same time. No, I will not reemploy you."

After just one week of unemployment, Smith finds another job as a deputy sheriff in the neighboring country, which pays a little more than his previous one.

Smith's damages, for 1 week of unemployment, are \$600.

Under current law, Smith can collect \$600 in actual damages and \$600 in liquidated damages.

H.R. 3493 strengthens this protection by enabling courts to award employees with the greater of \$50,000 or the amount of the actual damages.

Smith could thus collect \$600 in actual damages and \$50,000 in liquidated damages.

By providing courts with the flexibility to increase the liquidated damages awarded, H.R. 3493 strengthens deterrence against willful USERRA violations and enhances legal protections for wrongfully terminated employees.

However, ROA respectfully requests amending the language of H.R. 3493 SEC. 2. (1)(C), which currently reads: "The court may require the employer to pay the person the amount referred to in subparagraph (B) and interest on such amount, calculated at a rate of 3 percent per year."

USERRA currently authorizes awards for prejudgment interest under Title 38 U.S.C. SEC. 4323 (D)(3). Prejudgment interest is an additional form of compensation for the plaintiff and requires the defendant to "relinquish any benefit that it has received by retaining the plaintiff's money in the interim."⁵

There is currently no federal prejudgment interest rate. Instead, different rules apply in different states, with 92 percent having laws mandating prejudgment interest awards.⁶

By providing courts with the ability to award a prejudgment rate of 3 percent per year for USERRA cases, H.R. 3493 enables courts to award a lower prejudgment interest rate than potentially afforded at the state level.

To better recognize state law and provide courts with clearer guidance for awarding prejudgment interest rates in USERRA cases, ROA recommends amending H.R. 3493 SEC. 2. (b)(1)(c) to charge courts with awarding plaintiffs with a prejudgment interest rate that is the greater of the state's mandated rate or 3 percent.

SEC. 2 (A)

Title 38 U.S.C. SEC. 4334 requires employers to provide a "notice" of the rights, benefits, and obligations outlined in USERRA for all parties involved. This notice is commonly displayed publicly on a bulletin board at the employer's office location.

However, plaintiffs are not as likely to receive relief and liquidated damages under Section 4334 (when compared to other USERRA protections) given the difficulties in collecting and presenting verifiable evidence of a wrongful and willful USERRA based offense.

If a federal executive agency or the Office of Personnel Management has violated this USERRA protection, H.R. 3493 SEC. 2 (A) requires the violation be constituted as *prima facie* evidence⁷, subject to the awarding of liquidated damages.

ROA supports.

(2)(c) MANDATORY ATTORNEY FEES AWARD IN SUCCESSFUL ACTIONS FOR REEMPLOYMENT

⁴ <https://cdn.ymaws.com/www.roa.org/resource/resmgr/LawReviews/2015/15089-LR.pdf>

⁵ *Brandywine Smyrna, Inc. v. Millennium Builders, LLC*, 34 A.3d 482, 486 (Del. 2011).

⁶ https://www.iadclaw.org/assets/1/7/50_State_Prejudgment_Interest_Reference_Guide.pdf

⁷ *Prima facie* is Latin for "at first sight." *Prima facie* evidence establishes a legally required rebuttable presumption and may be used as an adjective meaning "sufficient to establish a fact or raise a presumption unless disproved or rebutted."

USERRA cases involving federal executive agencies as employers are adjudicated by the U.S. Merit Systems Protection Board (MSPB), rather than federal district court. If desired, the plaintiff can appeal an unfavorable MSPB decision to the United States Court of Appeals for the Federal Circuit.

USERRA currently authorizes MSPB to award attorney's fees to a successful USERRA plaintiff in the MSPB, if the person proceeded with private counsel and prevailed. However, under current law, this is not mandatory, with discretion left to the Board.

As Abraham Lincoln said, "A man who represents himself has a fool for a client." Having legitimate legal representation provides USERRA claimants with a greater likelihood of securing their rights. Title 38 U.S.C. SEC. 4323(d)(1)(B) was included to give attorneys an incentive to undertake USERRA cases.

However, the value of the incentive is considerably lessened if there is no assurance in law or precedent that the MSPB will award attorney fees, even if the claimant prevails with the attorney's assistance.

H.R. 3493 SEC. (2)(c)(1) amends USERRA to make awarding a plaintiff with "reasonable attorney fees, expert witness fees, and other litigation expenses" mandatory.

This issue also arises if a USERRA case involving federal executive agencies as employers rises to the Federal Circuit.

In *Erickson v. United States Postal Service*⁸, the Federal Circuit held that attorney fees cannot be awarded, by the MSPB or the Federal Court itself, for the portion of representation that occurred in the Federal Circuit, rather than the MSPB.

In response, ROA filed an *amicus curiae* brief urging the court to grant a rehearing *en banc*⁹ and overturn the MSPB decision to not award attorney fees for the cases heard before the Federal Circuit.

An excerpt from the brief is as follows:

In the Panel's decision in *Erickson v. U.S. Postal Service*, the Panel opined that on such appeal neither the Federal Circuit nor the MSPB has the authority to award attorney fees for the legal work done on two successful appeals before this Court... Such a narrow construction of 38 U.S.C. 4324(c)(4) would make it impossible for the service member to obtain counsel when exercising his or her statutory right to appeal an MSPB decision to the Federal Circuit (unless he or she is independently wealthy or has a large claim, which is rarely the case), effectively denying the right to appeal. This outcome goes against the deeply entrenched precedent that "this legislation is to be liberally construed for the benefit of those who left private life to serve their country in its hour of need." *Fishgold v. Sullivan Drydock & Repair Corp.*, 328 U.S. 275, 285 (1946). Depriving the service member of the right to appeal, when bringing a claim against the Federal Government, also goes against Congress' intent that "the Federal Government should be a model employer in carrying out the provisions of this chapter." 38 U.S.C. 4301

Ensuring claimants can pursue all legal recourses necessary to ensure their rights and be provided relief is an important condition of USERRA's integrity.

Not permitting plaintiffs to be awarded attorney fees for USERRA cases heard by the Federal Circuit could deter further legal action that may have otherwise resulted in a positive outcome for the plaintiff.

H.R. 3493 SEC. 2(c)(2) protects USERRA plaintiffs by ensuring they are awarded with "reasonable attorney fees, expert witness fees, and other litigation expenses" if their case prevails and is not represented by the Special Counsel in the proceeding. ROA supports this provision.

SEC. 2(d) REPEAL OF IMMUNITY FOR CERTAIN FEDERAL INTELLIGENCE AGENCIES

Intelligence agencies are treated differently from all other federal employment entities under USERRA.

The following excerpt from ROA LAW REVIEW 15089 describes the situation in more detail:

In a July 1991 meeting at the New Executive Office Building, the intelligence agencies asked for and were granted an exemption from the USERRA enforcement mechanism, through the MSPB, but not from USERRA itself. The agencies promised to establish their own internal mechanisms for enforcement for USERRA rights within

⁸ <https://casetext.com/case/erickson-v-us-postal-serv-4>

⁹ If a rehearing *en banc* had been granted, there would have been new briefs and a new oral argument, and the case would have been decided by all the active (not senior status) judges of the Federal Circuit.

such agencies, and sections 4315 and 4325 require the agencies to establish these mechanisms. The agencies have failed to establish these mechanisms and have flouted USERRA. It is necessary to repeal sections 4315 and 4325 in order to give intelligence agency employees, former employees, and prospective employees effective USERRA rights.

USERRA Sec. 4315 prescribes that if an intelligence agency determines that the act of reemployment is “impossible or unreasonable,” the determination is not subject to judicial review and OPM shall “ensure the offer of employment to a person in a position in a Federal executive agency . . .”¹⁰

By eliminating the immunity shield currently provided to select agencies in the intelligence community, H.R. 3493 SEC. 2(d) ensures the full spectrum of federal employees are covered by USERRA.¹¹

ROA supports.

SEC. 2(E) MAINTENANCE OF PERFORMANCE REVIEW RATINGS

Section 4313 of USERRA provides that an employee who returns from uniformed service (whether for 5 hours or 5 years) and meets USERRA’s eligibility criteria must be reemployed in the position that would have been attained if the employee had been continuously employed or alternatively put in another position that provides like seniority, status, and pay.

However, neither Section 4313 nor any other part of USERRA contains an explicit provision ensuring employees are only evaluated for their performance while at their civilian job.

This could potentially result in a willful termination of employment in specific industries and occupations (such as sales) where performance evaluations are weighed against an employee’s sustained ability to meet certain criteria. Employees who are away from work for uniformed service should not suffer in their career progression because of this.

Ensuring employees are only evaluated for their performance while at their civilian position is not currently protected under USERRA.

From ROA’s perspective, if an employee is away from work for uniformed service, or for travel to and from uniformed service, for part of the evaluation period, the employer must adjust the expectation(s) upon which the performance evaluation is based.

H.R. 3493 SEC. 2(E) provides employees with additional legal protection by ensuring the time spent away from work for military duty is credited with the average of the efficiency or performance evaluations which the employee received for the three-years before the absence.

SEC. 2(F) EXPANSION OF ELIGIBLE TIME AWAY FROM CIVILIAN EMPLOYMENT

Under USERRA, a person who leaves a civilian job to perform “service in the uniformed services” and who meets USERRA’s eligibility criteria is entitled to reemployment in the preservice civilian job, after release from the period of service.¹²

However, this does not currently enable the provision of employer sponsored leave to employees that may require a medical appointment necessitated by a wound, injury, or illness sustained in the line of duty.

¹⁰ <https://uscode.house.gov/view.xhtml?path=/prelim@title38/part3/chapter43&edition=prelim>

¹¹ The Executive branch of the federal government is the nation’s leading employer of veterans. As of 2019, nearly 6,000 veterans worked at the Federal Bureau of Investigation (FBI). According to the 2021 Interagency Veterans Advisory Council annual State of Veterans in the Federal Workforce report, there are over 500,000 federal civilian employees who are veterans. The percentage of veterans in the federal workforce hired with veterans’ preference has increased from 84 percent in FY 2014 to 86 percent in FY 2018. Because DoD limits many mobilizations to 179 days or fewer, many reserve component members complete their career without serving the 180 consecutive days needed for veteran status under Title 5 U.S.C. 2108, even when potentially aggregating several years of active service. ROA urges Congress to bolster employment opportunities in the federal government for veterans of reserve component service by conferring veteran status (to achieve federal hiring preference) on reserve component members after 180 “cumulative” days on active-duty, as opposed to 180 “consecutive days.”

¹² USERRA defines “service in the uniformed services” as follows: “The term ‘service in the uniformed services’ means the performance of duty on a voluntary or involuntary basis in a uniformed service under competent authority and includes active duty, active duty for training, initial active duty for training, inactive duty training, full-time National Guard duty, a period for which a person is absent from a position of employment for the purpose of an examination to determine the fitness of the person for any such duty, and a period for which a person is absent from employment for the purpose of performing funeral honors duty as authorized by section 12503 of title 10 or section 115 of title 32.” 38 U.S.C. 4303(13).

Here is the scenario as described by ROA LAW REVIEW 15089¹³:

Joe Smith left his job at XYZ Corporation when mobilized. He deployed to Afghanistan and was wounded. He has largely but not fully recovered from his wounds. He has been released from active duty and has returned to work at XYZ.

Twice per month, he needs to travel to a military or Department of Veterans Affairs treatment facility for follow-up care. Appointments are available only on regular workdays, not on weekends. Smith has exhausted his sick leave entitlement at XYZ.

He does not have rights under the Family Medical Leave Act (FMLA), because XYZ is too small or because Smith has not worked for the company long enough. Does Smith have the right to time off without pay from his XYZ job for these medical appointments?

Under current law, the answer is no.

H.R. 3493 SEC. 2(F) protects employees by covering any period for which a person is “absent from a position of employment for the purpose of medical or dental treatment for a condition, illness, or injury sustained or aggravated during any such duty.”

SEC. 3. REVIEW OF INVESTIGATIONS MANUAL OF VETERANS’ EMPLOYMENT AND TRAINING SERVICE.

DOL VETS’ own internal USERRA Investigation Manual establishes procedures for the conduct of closed-case reviews.

DOL’s regulations (outlined under 20 CFR §§ 1002.1 – 1002.314) for implementing USERRA are the primary basis for training and providing references to DOL investigators, rather than the law itself.

In testimony before this Subcommittee on March 9, 2023, ROA expressed that “DOL should be compelled to update its regulations on a more regular basis to ensure investigators and staff are consistently trained on up-to-date USERRA provisions to completely fulfill their statutory responsibilities under USERRA.”¹⁴

H.R. 3493 SEC. 3 requires the Secretary of Labor to review DOL-VETS’ USERRA enforcement manual on a biennial basis and make such revisions as deemed appropriate. ROA supports.

SEC. 2. (h). REVIEW AND REPORT.

At the aforementioned hearing on March 9, ROA also testified on the need to “amend Section 4332 of USERRA to require the Secretary of Labor to additionally report the number of closed-case reviews conducted in each reporting period, the number of disposed cases found to have been originally closed by DOL VETS with substantive errors that affected a veteran’s right and relief under USERRA, and summaries of every case that DOL VETS disposed of by deeming it without merit, and for which a court or other federal agency subsequently affirmed the merit of the veteran’s complaint.”

H.R. 3493 SEC. 2. (h) requires the Comptroller General of the United States to “review the methods through which the Secretary of Labor . . . processes actions for [USERRA] relief” and submit a report that includes the findings of the review, an identification of the actions for relief under USERRA initiated during the covered period, the number of actions for relief erroneously dismissed, the number of actions for relief referred to the Department of Justice, and an assessment of trends in such actions for relief.

Without objection to H.R. 3493 SEC. 2. (h), ROA respectfully requests further consideration of and support for the reporting requirements outlined in our March 9 testimony (stated above).

H.R. 3900, to amend title 38, United States Code, to establish certain rights for spouses of members of the uniformed services.

Both the benefits and consequences of military service are intensely felt by the servicemember and their family. ROA believes that “you recruit a service member, but you retain a service family.”

Military spouses find themselves shouldering the burden that accompanies service. This is especially the case if a military family relies on two incomes.

¹³ <https://cdn.ymaws.com/www.roa.org/resource/resmgr/LawReviews/2015/15089-LR.pdf>

¹⁴ <https://docs.house.gov/meetings/VR/VR10/20230309/115444/HHRG-118-VR10-Bio-PattonG-20230309.pdf>

For a spouse, maintaining employment and advancing professionally while relocating every few years and caring for children – often done solo while the “other half” is deployed – is a serious challenge for these integral components of our military readiness.

There is no acceptable reason for military spouses to lose opportunities for employment and career advancement because they are serving alongside a member of our uniformed services.

Consistently, over the past decade, the military spouse unemployment rate has remained over 20 percent. Spouse employment is important to secure financial readiness for military families. Unfortunately, military spouses face additional barriers to employment and career advancement.

MILITARY SPOUSE UNEMPLOYMENT AND FINANCIAL READINESS: FAST FACTS

According to the *Blue Star Families 2023 Military Family Lifestyle Survey*, military families’ financial well-being “lags behind” civilian peers, financial pressures are “top-of-mind” for military families, and military spouse unemployment remains the “top concern” for spouse respondents for the sixth consecutive year.

Specific to families of the National Guard and Reserve, 19 and 26 percent of survey respondents said spouse employment was their “top” military family issue.

According to the 2021 *Active-Duty Spouse Survey*:

- The military spouse unemployment rate is 21 percent.
- A Permanent Change of Station (PCS) move increased the odds of unemployment “significantly.”
- 31 percent of spouses had to acquire a new professional credential to work at or near the new duty location. Further, acquiring new career credentials after moving increased the odds of low financial well-being.
- 41 percent of spouses reported not seeking employment after their last PCS move.
- Being unemployed and contributing less than 50 percent to household income increased the odds of low food security.
- According to the *Military Spouse Employment Partnership*, military spouses earn 25 percent less than their civilian counterparts and move 14 percent more frequently than civilian families.

ROA thanks Representative Christopher Deluzio for introducing H.R. 3900.

Specifically, H.R. 3900 offers military spouses with rights and legal relief under USERRA by:

- Enabling entitlement to reemployment rights and benefits up to a period that does not exceed 5 cumulative years and/or 2 consecutive years under Sections 4312, 4313, 4314, and 4315 of USERRA.
- Affording entitlement to rights and benefits determined by seniority (as are generally provided to employees having similar seniority status) plus the additional rights and benefits that would have been attained if continuously employed (as are generally provided to employees having similar seniority status).
- Extending access to employer sponsored healthcare for the lesser of the two-year period beginning on the date the spouse’s military duty begins or the day after the date the employee fails to apply for or return to their position of employment.
- Providing continued and uninterrupted access to any plan, other than the Thrift Savings Plan, that provides retirement income to employees or defers payment of income to employees until after employment has ended.

ROA believes this legislation is a commendable effort to reduce military spouse unemployment and enhance workforce protections through USERRA.

ROA is encouraged by the level of attention and support the Biden Administration and DOL have given this proposal and looks forward to working with mission partners across all levels of government and industry to improve employment opportunities and outcomes for military spouses.

However, ROA requires more information to determine whether USERRA like protections can be effectively adapted to the environment associated with military spouse education, employment, healthcare enrollment, and PCS patterns. Such information includes but is not limited to:

- How often active and reserve component families move back to a previous PCS location within 5 cumulative or 2 consecutive years.
- How often active and reserve component families move across state lines or to a different location within their current state of residence for a PCS or temporary duty assignment.
- The percentage of employed military spouses enrolled in their employer's healthcare plan.
- The percentage of military families that do not move across state lines for a PCS or temporary duty assignment with the servicemember.¹⁵
- The percentage of employed military spouses that have access to remote working.

ROA looks forward to collaborating with the members and staff of this Subcommittee to obtain this information in a timely manner.

From ROA's perspective, this data can also be used to accurately project the resource requirements for effective implementation of H.R. 3900.

In the meantime, ROA encourages the members of this Subcommittee to prioritize support for hiring incentives that reduce barriers to employment for military spouses (and reserve component servicemembers). One example is H.R. 1277, the *Military Spouse Hiring Act*.¹⁶

ROA believes more information is required to determine whether DOL-VETS is best equipped to manage its current requirements under USERRA and able to absorb any increase(s) in demand for its investigative services.

To better gauge DOL VETS' ability to effectively execute USERRA, ROA requested Subcommittee support for a study performed by the Government Accountability Office (GAO) to evaluate performance, identify deficiencies, and propose recommendations for improvement.

The desired end State of this study is better measurement of the capability and preparedness of DOL VETS to uphold its statutory obligations to servicemembers under USERRA. ROA respectfully requests further consideration of and Subcommittee support for this study prior to moving forward with H.R. 3900.

On March 9, ROA also testified that "you get what you inspect; you get what you measure."

Currently, the unemployment and labor market participation rates for military spouses and reserve component servicemembers are not included in the U.S. Bureau of Labor Statistics (BLS) monthly Employment Situation report.

ROA urges Congress to require BLS to track and publicly report on the unemployment and labor market participation rates for military spouses and members of the National Guard and Reserve¹⁷ as part of the monthly Employment Situation report.

H.R. 3898, the Transcript Assurance for Heroes Act

Both accredited and non-accredited institutions of education must meet certain requirements to validate the quality of education they provide. These requirements are generally focused on the institution's ability to meet their obligations to students and the VA under the law.

¹⁵ PCS moves are associated with a diverse set of disruptions that impact all members of a military family and the decision-making process for how to effectively manage a PCS. This may include a military family not moving to the new permanent or temporary duty location with their service member spouse. ROA's director of operations, U.S. Navy CDR (Ret.) Trey Criner, in 2008, received orders to move from Camp Pendleton, California to Newport, Rhode Island for follow on duty (for five months) and Jacksonville, Florida thereafter. Because of the 2008 housing crisis, strain from two moves in the previous six years, and his son beginning high school, CDR (Ret.) Criner's family did not move with him to Newport or Jacksonville. CDR (Ret.) Criner was stationed away from his family for 2 years.

¹⁶ Authorized until December 31, 2025 (under Public Law No: 116-120, the Consolidated Appropriations Act of 2021), the Work Opportunity Tax Credit (WOTC) is available to employers who hire job seekers that have consistently faced systemic barriers to employment. Currently, there are ten protected classes of job seekers under WOTC, including veterans. But despite fitting the criteria to receive federal protection under WOTC, military spouses are not currently included. WOTC has proven highly effective in incentivizing employers to make hiring decisions they may not otherwise seriously consider. Since FY 2018, more than 10 million job seekers in any one of the 10 WOTC protected classes have secured employment. ROA strongly supports the *Military Spouse Hiring Act*, which is also supported by The Military Coalition, representing more than 5.5 million service members, veterans, families, and survivors.

¹⁷ Our nation's citizen-warriors are also experiencing obstacles in obtaining and maintaining civilian employment. This burden on service places an undue strain on reserve component members and their families. According to the *Commanders Strength Management Module* (<https://reservenationalguard.com/civilian-employers/civilian-employment-army-reserve-partnership/>), the unemployment rate is around 23.8 percent in the Army Reserve.

H.R. 3898, the *Transcript Assurance for Heroes Act*, requires, as a condition of approval for participation in the VA's education and training programs, that educational institutions provide digital copies of official transcripts to students.

Official transcripts are important to students and third parties seeking to validate the accuracy and authenticity of academic records. However, not all schools provide students with the ability to obtain a digital copy.

Under certain circumstances, such as the abrupt closure of a school, this can be problematic for students, who are likely to obtain a copy of their official transcript through an alternatively arduous process.

Since March 2020, at least 37 public or nonprofit colleges have closed, merged, or announced closures or mergers.¹⁸

According to a study from the State Higher Education Executive Office (SHEEO) and National Student Clearinghouse Research Center (NSCRC), from a sample of 467 schools (that closed between July 2004 and June 2020) and 143,215 students, seven in 10 students were impacted by an "abrupt campus closure."¹⁹ The study also showed that students who experienced an abrupt campus closure had lower re-enrollment and completion rates than students who did not.

The integrity of VA's education and training program is a shared responsibility between the institutions of education, accreditation and oversight authorities, and students.

ROA believes that providing students with a digital copy of an official transcript should be an industry best practice to ensure access to the resources required for verifying course enrollment status and/or VA benefit(s) restoration if a school or program has abruptly closed or lost its accreditation.

ROA also believes that in the instances of an abrupt closure or loss of accreditation, schools or programs providing access to a digital copy of an official transcript put students in a better position to secure positive education and employment outcomes.

ROA thanks Representatives Eli Crane, Nancy Mace, and Mary Miller for sponsoring this well-intentioned measure.

Without objection to H.R. 3898, the *Transcript Assurance for Heroes Act*, prior to further action, ROA respectfully requests Subcommittee support for requiring the Secretary of Veterans Affairs to report on the institutions of education that currently do and do not provide this capability.

Further, in the continued absence of the proposed requirement under H.R. 3898, ROA requests the report be conducted annually and posted publicly (or its findings be included as part of the VA's GI Bill Comparison Tool) to educate prospective enrollees prior to enrollment.

CONCLUSION

ROA appreciates the opportunity to offer our expertise and insight on the proposals pending before this Subcommittee.

All too often military and veterans' law and policy are developed without an understanding of or appreciation for the impact distinctions between reserve and active duty service. The members of the Reserve and National Guard invariably lose out. And so, too, their families. That means America's military readiness loses out. We cannot afford that loss.

ROA also extends its sincerest gratitude for this hearing and stands ready to provide added support on the issues covered in this statement and on other areas of mutual interest.

¹⁸ <https://www.bestcolleges.com/research/closed-colleges-list-statistics-major-closures/#:-:text=At%20least%2037%20public%20or,2020%20were%20for%2Dprofit%20schools.>

¹⁹ https://sheeo.org/wp-content/uploads/2022/11/SHEEO_NSCRC_CollegeClosures_Report1.pdf

Prepared Statement of Meredith Smith



Statement

by the

NATIONAL MILITARY FAMILY ASSOCIATION

for


**Subcommittee on
Economic Opportunity**

of the

**UNITED STATES HOUSE
Committee on Veterans' Affairs**

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The Committee



The National Military Family Association is the leading nonprofit dedicated to serving the families who stand beside the uniform. Since 1969, NMFA has worked to strengthen and protect millions of families through its advocacy and programs. We provide spouse scholarships, camps for military kids, and retreats for families reconnecting after deployment and for the families of the wounded, ill, or injured. NMFA serves the families of the currently serving, retired, wounded, or fallen members of the Army, Navy, Marine Corps, Air Force, Space Force, Coast Guard, and Commissioned Corps of the USPHS and NOAA.

The Association does not have or receive federal grants or contracts.

Our website is: www.MilitaryFamily.org.

Meredith M. Smith, Government Relations Deputy Director

Meredith joined the Government Relations Department in 2023 as a Deputy Director. In this role, she monitors and advocates on issues related to the financial readiness and stability of military families.

Prior to joining NMFA, Meredith worked in several nonprofits across the country as well as in executive and legislative branches of state government. While stationed in California, she was appointed by Governor Jerry Brown to work at the Health Professions Education Foundation, a nonprofit that encourages persons from underrepresented communities to become health professionals and increase access to health providers in medically underserved areas. Meredith worked as the Director of Policy for Nevada Succeeds, a nonprofit education policy organization dedicated to aligning the state of Nevada's education policies with the highest global standards. In that role, she was appointed by the State Superintendent of Public Instruction to serve as a member of the Teachers and Leaders Council, which is statutorily required to make recommendations to the State Board of Education on the role of professional standards for educators.

Meredith joined the staff of Hiring Our Heroes in 2019 to support and manage the Military Spouse Professional Network (MSPN), a professional community of military spouses, comprised of more than 60 locations in 6 countries around the world.

As an active duty Air Force spouse of more than 12 years, Meredith has volunteered in many roles to support military families and the civilian communities in which she has lived, serving as a Key Spouse and a guardian ad litem. She was named the 2022 Air Force Joan Orr Military Spouse of the Year. Meredith holds a Bachelor of Arts in Legal Studies and Political Science from University of Tennessee and a Master of Public Policy from the University of Massachusetts Dartmouth. She lives in Arlington, VA with her husband.

Chairman Van Orden, Ranking Member Levin, and Distinguished Members of the Subcommittee, the National Military Family Association would like to thank you for the opportunity to present testimony today about legislation that would add military spouses to the provisions of the Uniformed Services Employment and Reemployment Rights Act (USERRA).

This is an important discussion that has significant nuance. We sincerely appreciate the subcommittee's interest and willingness to help tackle the challenge of military spouse unemployment. This issue impacts military family financial stability and overall wellbeing, making it a retention issue for our nation's military as well as an issue that impacts the overall culture and climate of a military into which we must continue to be able to recruit.

PROPOSED LEGISLATION TO ADDRESS MILITARY SPOUSE UNEMPLOYMENT

NMFA is committed to advancing policy solutions that increase and support military family financial stability and overall military family wellbeing. However, we fear that, while well-intentioned, extending USERRA protections to military spouses would not address military spouse unemployment. Indeed, we are concerned that including military spouses in USERRA will make businesses hesitant to hire them, due to potential litigation, costs, and administrative burdens and how the legislation possibly conflicts with state laws relating to pension systems. Taken together, we are concerned that this legislation, as well-intended as it is, could ultimately create more frustration among military spouses and families, given USERRA's unknown ability to solve unemployment population problems on a large scale.

SCOPE OF THE PROBLEM

Active duty military spouses have faced an unemployment rate of more than 20 percent for more than a decade¹. What does a 20 percent unemployment rate mean? It means that many military families who need two incomes must get by with one. This impacts nearly every aspect of life.

The data on active duty military spouse unemployment comes from a biennial survey done by the Department of Defense (DoD). The unemployment rate of reserve component military spouses is not as consistently surveyed by DoD, and veteran military spouse unemployment is not known. The most recent data from 2019 on military spouses married to service members in the reserve component shows unemployment at 7 percent. This number was statistically the same from 2017 and 2014 and comes from the Department of Defense's Reserve Component Spouses Survey.²

The Department of Labor does not currently measure military spouse unemployment for any military spouses, and, while the DoD data is considered reliable, it does not allow for the type of real-time data that would help us better understand the nuances of the problem. For example, we are unable to see monthly, quarterly, or biannual fluctuations. We are also unable to see

¹United States. Department of Defense. (2014). *2012 Survey of Active Duty Spouses*. Defense Manpower Data Center. <https://download.militaryonesource.mil/12038/MOS/Surveys/ADSS1201-Briefing-Support-Deployment-Reintegration-PCS-WellBeing-Education-Employment.pdf>

² United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>

changes in regions, states, or installations. This type of information would be incredibly helpful in finding targeted solutions to a problem that has existed for decades. Tracking military spouse employment and unemployment would also improve the ability to work with state and local partners and businesses, allowing the collective military family support space to better communicate both the military spouse employment needs as well as the local economic impact military spouses bring to defense communities around the country.

There are approximately 594,110 active duty military spouses and 357,200 reserve component military spouses, bringing the total number of active duty, guard, and reserve military spouses to approximately one million people.³ This number does not include military spouses who are married to veterans. There are approximately 18.8 million veterans in the United States, and 59.8 percent of them are married, meaning there are approximately 9.8 million spouses of veterans.⁴ The legislation, as written, would apply to each of these populations in different ways.

Type of Military Spouse	Number	Unemployment Rate	Labor Force Participation
Active Duty	594,110 ⁵	Over 20% for more than 10 years ⁶	64% ⁷
Reserve Component	357,200 ⁸	7% ⁹	79% ¹⁰
Veteran	9.8 million ¹¹	Unknown	Unknown

USERRA AS A POLICY TOOL

USERRA is an important policy lever to ensure that service members who serve in the reserve components of the military are able to return to their civilian employment. Their military service

³ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

⁴ National Conference of State Legislatures. (2017, Nov. 20). *Veterans By the Numbers*. <https://www.ncsl.org/state-legislatures-news/details/veterans-by-the-numbers#:~:text=Veterans%20are%20also%20more%20likely,47.8%20percent>.

⁵ United States. Department of Defense. *2021 Demographics: Profile of the Military Community*. <https://download.militaryonesource.mil/12038/MOS/Factsheets/SECO/MSEP-Factsheet-Corporate.pdf>.

⁶ United States. Department of Defense. (2014). *2012 Survey of Active Duty Spouses*. Defense Manpower Data Center. <https://download.militaryonesource.mil/12038/MOS/Surveys/ADSS1201-Briefing-Support-Deployment-Reintegration-PCS-WellBeing-Education-Employment.pdf>.

⁷ United States. Department of Defense. (2023). *2021 Active Duty Spouse Survey*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Presentations/2021-active-duty-spouse-overview-briefing.pdf>.

⁸ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

⁹ United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>.

¹⁰ United States. Department of Defense. *2019 Survey of Reserve Component Spouses*. Office of People Analytics. <https://download.militaryonesource.mil/12038/MOS/Surveys/Survey-Reserve-Component-Spouses-2019.pdf>.

¹¹ National Conference of State Legislatures. (2017, Nov. 20). *Veterans By the Numbers*. <https://www.ncsl.org/state-legislatures-news/details/veterans-by-the-numbers#:~:text=Veterans%20are%20also%20more%20likely,47.8%20percent>.

is not assumed to be continuously or indefinitely ongoing. It is also a tool to help ensure that those who are serving, have served, or are considering serving, are not discriminated against because of their service to the county.¹² This is truly a national security consideration.

It is important to understand that the provisions of USERRA were designed to meet the needs of a population that, when not engaged in full-time military service, does have a reasonable expectation that they will return to their community upon completion of their service. Section 4301 of Title 38 specifically says that one of the purposes of the law is to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service.”¹³

Active duty military spouses, reserve component military spouses, and veteran military spouses are each populations with needs that are often different from one another as well as different from those who serve or have served in the uniform services. Most active duty military spouses, in particular, do not have a reasonable expectation that they will return to a duty station if they have to leave their job due to military orders.

The Survey of Active Duty Spouses that is conducted every two years by DoD does give us a national benchmark of the problem we are facing with regard to active duty military spouse unemployment, and we know from this survey that the high unemployment rate is linked to frequent, military-mandated moves, a high operations tempo, and challenges with securing child care that can make finding and maintaining employment exceptionally challenging for military spouses. Adding military spouses to USERRA does not address these specific challenges.

The DoD has invested considerable time, money, and resources into the problems associated with and caused by military spouse unemployment. Other federal, state, and local departments and agencies have also invested in efforts to tackle this problem. Yet, the problem of military spouse unemployment persists. Regularly tracking military spouse unemployment in a way that gives us more actionable data would allow us to better target solutions and share the value that military spouses can bring to local business communities.

FOUNDATIONAL DATA CONCERNS

We are concerned that the foundation of this legislation rests on an underlying assumption that USERRA is a tool to combat unemployment. The USERRA statute does not mention unemployment. It addresses employment, re-employment, and discrimination.

¹² Uniformed Services Employment and Reemployment Rights Act. 38 U.S.C. (1996). <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title38%2Fpart3%2Fchapter43&req=granuleid%3AUSC-prelim-title38-chapter43-subchapter2&num=0&saved=L3ByZWxpbUB0aXRzZTM4L3BhcnQzL2NoYXB0ZXIOMw%3D%3D%7CZ3JhbnVsZWlkoIVTQy1wcmVsaW0tdGI0bGUzOC1jaGFwdGVyNDM%3D%7C%7C%7Cfalse%7Cprelim>

¹³ Uniformed Services Employment and Reemployment Rights Act. 38 U.S.C. § 4301 (1994). <https://uscode.house.gov/view.xhtml?hl=false&edition=prelim&path=%2Fprelim%40title38%2Fpart3%2Fchapter43&req=granuleid%3AUSC-prelim-title38-section4301&num=0&saved=L3ByZWxpbUB0aXRzZTM4L3BhcnQzL2NoYXB0ZXIOMw%3D%3D%7CZ3JhbnVsZWlkoIVTQy1wcmVsaW0tdGI0bGUzOC1jaGFwdGVyNDM%3D%7C%7C%7Cfalse%7Cprelim>

Additionally, the reserve component service member civilian unemployment rate is not well documented, so it is difficult to know if USERRA has had an impact on the unemployment rate among these service members in a way that would justify considering using USERRA as a tool to combat military spouse unemployment.

Type of Service Member	Total Number in U.S.	Unemployment Rate	Civilian Labor Force Participation
Reserve Component (Total Ready Reserve)	1 million ¹⁴	Total Unknown; Army Reserve Rate: 23.8% ¹⁵	Unknown
Veteran	18.4 million ¹⁶	2.5% ¹⁷	48.2% ¹⁸

*The Army Reserve unemployment rate likely is counting service members who are students and may not be looking for work/actively in the labor force.

When USERRA became law in 1994, the veteran unemployment rate was between 6-7 percent. Since 1980, overall veteran unemployment has fluctuated between where it is today at 2.5 percent to 11 percent.¹⁹ Since the implementation of USERRA in 1994, veterans were also added to the Work Opportunity Tax Credit (WOTC). The veteran unemployment rate was approximately 10 percent in 2009 when veterans were added to WOTC.²⁰ Veteran unemployment has steadily declined since 2009, reaching the current all-time low of less than 3 percent.

We question whether data supports adding military spouses to Section 4211 of Title 38, which addresses discrimination. Assistant Secretary Rodriguez of Department of Labor Veteran Education and Training Services (DOL VETS) cited “research on the perceptions of military spouses found that more than half believe that their spouse’s military service has hurt their

¹⁴ United States. Department of Defense. *2020 Demographics: Profile of the Military Community*. Department of Defense (DoD), Office of the Deputy Assistant Secretary of Defense for Military Community and Family Policy. <https://download.militaryonesource.mil/12038/MOS/Reports/2020-demographics-report.pdf>.

¹⁵ Reserve National Guard Magazine (2022, Nov. 21). *New Army Reserve partnership program helps soldiers find civilian employment*. <https://reservenationalguard.com/civilian-employers/civilian-employment-army-reserve-partnership/#:~:text=%E2%80%9CTraditional%20reserve%20soldiers%20are%20one,Strength%20Management%20Module%20Stubbs%20said>

¹⁶ United States. Department of Labor. Bureau of Labor Statistics. (2023). *Employment Situation of Veterans — 2022* <https://www.bls.gov/news.release/pdf/vet.pdf>.

¹⁷ United States. Department of Labor. Bureau of Labor Statistics. (2023, June 2). *Economic News Release*. <https://www.bls.gov/news.release/empsit.t05.htm>

¹⁸ United States. Department of Labor. Bureau of Labor Statistics. (2023, June 2). *Economic News Release*. <https://www.bls.gov/news.release/empsit.t05.htm>

¹⁹ Loughran, David S. *Why Is Veteran Unemployment So High?* Santa Monica, CA: RAND Corporation, 2014. https://www.rand.org/pubs/research_reports/RR284.html.

²⁰ United States. Department of Agriculture. (2018). *Unemployment rate for rural veterans at its lowest since before the Great Recession*. <https://www.ers.usda.gov/data-products/chart-gallery/gallery/chart-detail/?chartid=90548>

career opportunities.”²¹ We believe more data from both military spouses and employers is needed before we can know if this is a correct assessment of the problem and if USERRA would be the appropriate tool to address such a problem.

SPECIFIC CONCERNS & CONSIDERATIONS

All concerns listed below reference sections found in Title 38 of the U.S. Code.

- **§ 4311 – Discrimination against persons who serve in uniformed service and acts of reprisal prohibited**
 - The current bill language would add all military spouses to this section. This includes military spouses of veterans. This would bring the total number of people added to this specific provision to around 10 million people. We have concerns about the cost of the workload to manage the discrimination claims that would result from this. Additionally, we have questions about whether this specific provision addresses the problem at hand, given the lack of data.
- **§ 4312 – Reemployment rights of persons who serve in uniform service**
 - The bill proposes giving military spouses the right to return to a job within 5 years after leaving the job “necessitated by reason of service.” How would necessity be determined or defined? We are concerned that the requirement to hold a position open for a military spouse following a military-ordered move would be seen as burdensome by employers, potentially making them less likely to hire spouses. We also note that military spouses already have the right to take time off of work for deployment and reintegration specific needs under the Family and Medical Leave Act (FMLA).
- **§ 4313 – Reemployment positions and § 4314 – Reemployment by the federal government**
 - We question how it would be determined that a military spouse would have had continuous employment if it had not been interrupted by their spouse’s service. What aspects of military service would be considered interruptions under this clause? Many spouses cite the stresses of deployment and a lack of child care as a reason to leave their jobs; would those issues make them eligible for reemployment under this provision? Additionally, how would this apply to federal agencies that have locations in various locations around the country or globe?
- **§ 4315 – Reemployment by certain federal agencies**
 - This provision would be very helpful to military spouses who work or would like to work for the federal government. We are happy to see that under this provision the agency head is charged with ensuring “to the maximum extent possible” that military spouses would be able to be reemployed. Adopting this provision would be an important step to helping the federal government reach its goal of becoming an employer of choice for military spouses. That said, we would like further clarification on what would be considered a reason to leave a position requiring reemployment. Would this apply to permanent change of station only?

²¹ U.S. Congress. House Committee on Veterans Affairs Subcommittee on Economic Opportunity. *Hearing: Examining the Future of Workforce Protections for Servicemembers*. (2023, March 9). <https://docs.house.gov/Committee/Calendar/ByEvent.aspx?EventID=115444>

- **§ 4316 – Rights, benefits, and obligations of persons absent from employment for service in the uniformed service**
 - We have concerns about how the necessity of absence from employment for military service would be determined.
- **4317 – Health plans**
 - We have concerns about this provision. What is the estimated cost to employers? Would that cost make them less likely to want to hire military spouses?
- **4318 – Employee pension benefits plans**
 - We have concerns about how this provision may conflict with state laws relating to pension systems.
- **§ 4319 - Employment and reemployment rights in foreign countries**
 - This provision would hold employers, with entities in foreign countries to the same USERRA provisions as employers who are stateside. While the intent is admirable, there are longstanding Status of Forces Agreements (SOFA) and bilateral work agreement challenges that have prevented employers from being able to hire military spouses who live in a foreign country on military orders. This provision could put employers in a position of legal ambiguity, and it could cause frustration among military spouses who would be caught between two conflicting types of laws governing their employment.

POLICY PROPOSALS

We believe the policy proposals listed below would be prudent steps to take to not only address military spouse unemployment but would also address some of the underlying concerns about the proposal to add military spouses to the provisions of USERRA.


Tracking Military Spouse Unemployment

We need to better understand military spouse unemployment. To track military spouse unemployment, legislation to authorize appropriate data sharing agreements between the Bureau of Labor Statistics, the Department of Health and Human Services' National Directory of New Hires, and the Department of Defense is needed. Additionally, a requirement would be needed to ensure that military spouse unemployment is tracked and reported on a regular basis. Military spouse unemployment will undoubtedly have to be approached differently than veteran unemployment tracking. This will require that departments and agencies work together to find a way to facilitate such tracking.

Additionally, the unemployment rate of military spouses living outside of the continental United States needs to be better understood and better tracked. There may need to be specific provisions to ensure that this demographic of military spouses is represented in the overall military spouse unemployment reporting.

Add Military Spouses as a Target group under the Work Opportunity Tax Credit

The *Military Spouse Hiring Act* has been reintroduced this congress and is building bipartisan support in both the House and the Senate. This bill would add military spouses as a Target Group under the Work Opportunity Tax Credit (WOTC). This policy tool gives employers a tax credit for hiring people from groups experiencing significant employment challenges. It is also an incentivizing tool for employers rather than one that could be viewed as causing potential staffing burdens. The WOTC is a policy tool that has been used for ten other target groups.



Adding military spouses to WOTC also does not cost anything unless the policy is actually working, meaning military spouses are being hired. And if military spouses are being hired and able to maintain employment, the return-on-investment of the tax credit will pay dividends not just for military families, but for the military community as a whole.

CONCLUSION

Thank you for the opportunity to share our thoughts on this legislative proposal to add military spouses to the provisions of USERRA. We sincerely appreciate the subcommittee holding a hearing to discuss this legislation, and we especially appreciate your interest in working to find ways to alleviate the problem of military spouse unemployment. We offer our support and collaboration on any further policy efforts to address this issue.

Prepared Statement of Kevin Hollinger

The Enlisted Association of the National Guard of the United States (EANGUS) was formally organized in 1972 to increase the voice of enlisted persons in the National Guard. As such, EANGUS is a non-profit organization dedicated to the principles of providing an adequate national defense and promoting the status, welfare, and professionalism of the men and women of the Army and Air National Guard by supporting legislation that provides adequate staffing, pay, benefits, entitlements, equipment, and installations for the National Guard. Beginning with twenty-three states, EANGUS now represents all 50 states, Guam, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia, and has an association comprised of those who serve the National Guard on a national tour, with a constituency base of over 450,000 Soldiers and Airmen, their families, and tens of thousands of retired members.

EANGUS is a non-profit organization dedicated to promoting the status, welfare, and professionalism of Enlisted members of the National Guard by supporting legislation that provides adequate staffing, pay, benefits, entitlements, equipment, and installations for the National Guard. The Legislative Goals of EANGUS are published annually. The goals and objectives were established through the resolution process, with resolutions passed by association delegates at the annual conference. These resolutions include the issues that EANGUS will pursue in Congress and the Department of Defense. Resolutions stay in force for two years.

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DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Enlisted Association of the National Guard of the United States (EANGUS) is a member-supported organization. EANGUS has not received grants, contracts, or subcontracts from the federal government in the past three years. All other activities and services of the associations are accomplished free of any direct federal funding.

BIO of Kevin Hollinger


Kevin Hollinger EANGUS Legislative Director

Kevin Hollinger focuses on legislation that advocates for national security and readiness of the Enlisted National Guard. Mr. Hollinger served for over 22 years in the Army and National Guard and completed multiple deployments in Iraq, Afghanistan, Kosovo, and South America. Kevin has specialized in RC legislation for over eight years. He completed his Juris Doctorate from The John Marshall Law School and is currently an LLM student. Mr. Hollinger can be reached at Kevin@eangus.org or 202-670-1826

Statement

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Beginning with twenty-three states, EANGUS now represents all 50 states, Guam, Puerto Rico, the U.S. Virgin Islands, and the District of Columbia, and has an association comprised of those who serve the National Guard on a national tour, with a constituency base of over 450,000 Soldiers and Airmen, their families, and tens of thousands of retired members.

EANGUS appreciates the opportunity to discuss the Uniformed Services Employment and Reemployment Rights Act (USERRA), VA Education, Veteran Homelessness, and Minority benefits. While we will not address every proposed act, this does not indicate EANGUS's support for or opposition to these other bills. EANGUS's focus today aligns with our By-laws, Articles of incorporation, and the resolutions brought by our members.

USERRA Protection For Spouses

It is easy to see the sacrifice of the servicemember. Unless you have lived under a rock for the last 20 + years, everyone knows the gift of the Reservist and National Guard personnel. They know how they are pulled from their everyday lives and thrust into service of our country. The Reserves and National Guard have proven to be a critical part of our Nation's defense. But imagine if you were removed from your spouse at a moment's notice and if you still have or have small children. How hard would it be for your spouse to make up for your absents? Well, that's how being a National Guard spouse works. Civil unrest, natural disasters, filling in for teachers in your local area, or combatting these issues are only sometimes convenient for families.

When a National Guardsman deploys, family hardships increase dramatically. Their lives are turned upside down, and the spouse must take time away from their employment to figure out new daily routines and schedules. At a moment's notice, they become the sole head of the house. Handling time off is often the only way for the spouse to get acclimated. Their dedication to our national defense is often overlooked but is more critical and complex than their National Guard Spouse.

Spouses often must take time away from their employment to figure out new schedules. At a moment's notice, they become the sole head of the house. Handling time off is often the only way for spouses to get acclimated. Their dedication to our national defense is more critical and complex than their National Guard spouse.

Army Gen. Raymond Odierno often said, "Our country is great because of our military, our military is great because of our servicemembers, and our servicemembers are great because of our families." Putting these things together is the correct answer.

EANGUS would urge the 118th Congress to legislate USERRA protection to spouses of activated Reserve and National Guard servicemembers.

Amend title 38, United States Code, to improve the reemployment rights of Armed Forces members.

This legislation would expand the powers of the USERRA law. Expanding this law should allow for better and more predictable outcomes for servicemembers. It also empowers the court to approach USERRA cases aggressively by adding additional jurisdiction and monetary powers. This would force private, state, and federal employers to educate their management and ensure Service members are given their proper protections without court intervention.

In *Torres v. Texas Department of Public Safety*, the Supreme Court considered whether the states, by ratifying the Constitution, gave Congress the power to authorize suits against states using its constitutional war powers. In the opinion authored by Justice Stephen Breyer, he stated, "Congress's ability to build and maintain the Armed Forces fits the test outlined in *PennEast's* test. Thus, in joining together to form a Union, the States agreed to sacrifice their sovereign immunity for the good of the common defense." With that opinion, we now know it is something to be considered by the US Congress.

This proposed legislation would be the first step to codifying the Supreme Court's decision in *Torres v. Texas Department of Public Safety* and allowing for Outcomes that are more advantageous to servicemembers instead of relying on the opinion of judges at the state and federal level along with board members. By assigning a monetary penalty, it forces employers to become educated or pay the price for uniformed adverse employment decisions. Assessing mandatory attorney fees takes some of the burdens of servicemembers. They will now have the resources necessary to find and hire proper legal counsel to help them navigate the complex court systems. EANGUS would urge the 118th Congress to introduce and pass this legislation furthering the authorities of USERRA.

TAP Promotion Act

Allowing MSO/VSO organizations to assist in the transition program will help our Servicemembers better understand not only their qualified benefits at the time of exiting their service but would also help them know that there are resources that will help them maneuver the sometimes hard-to-understand bureaucracies of the VA system.

The government can implement this program effectively by ensuring the proper certification. It would also help the VA use the funding to further strengthen this program without developing it using all government funding.

VSOs are predominantly run by veterans and understand what the needs of veterans are. Most often, they have board members who are veterans and actively serving the armed forces. This gives them the direction to assess the TAP program's decision properly. Furthermore, understanding the dynamic demographic of the military will help them develop a program better suited for multiple demographics.

EANGUS supports using VSOs to help administrate the TAP program after proper certification.

Veterans Education Assistance Improvement Act

Enlisted personnel do not attend college or secondary education before service to their State and country. This forces them to participate in secondary education once they are already serving and improving their ability to gain an education which is crucial to improving their well-being.

Servicemembers often use education to improve their employment status. Employment status is often directly tied to continued service; ensuring their benefits can be used at their maximum intent is critical to positive outcomes.

EANGUS urges the 118th Congress to legislate and pass the Veterans Education Assistance Improvement Act.

Amend title 38, United States Code, to require, as a condition of approval under the educational assistance programs of the Department of Veterans Affairs, that educational institutions make available to eligible persons and veterans digital copies of official transcripts.

Access to electronic transcripts will aid veterans in navigating the educational process. Servicemembers are often forced to use multiple educational institutions while in service. This usually has to do with deployments and activations. This legislation will give the servicemember more access to their transcript, therein giving them more access to education.

Unfortunately, enlisted Guard and Reserve servicemembers are tasked with balancing their service in uniform, civilian employment, family obligations, and education. Often education has to take a back seat, which leads to our enlisted servicemembers attending multiple schools, and electronic transcripts speed up the process and help the servicemembers make the best educational decision for them and their families.

EANGUS urges the 118th Congress to Legislate and pass mandatory VA electronic digital Transcripts to eligible veterans.

Isakson-Roe Education Oversight Expansion Act

On January 5, 2021, the Johnny Isakson and David P. Roe Veterans Health Care and Benefits Improvement Act of 2020 was enacted. The law will have a transformative effect on the mission of the Education Service to provide ready access to and timely and accurate delivery of education benefits to Veterans, Service members, and their families, as well as further enable the VA to empower GI Bill beneficiaries to achieve their vocational and career goals.

This new law features 32 provisions that impact the administration and oversight of GI Bill benefits, including new requirements for enrollment verification, expanded restoration of entitlement opportunities, the sunset of the Montgomery GI Bill, substantial changes to our oversight of GI Bill-approved schools, and other education-related issues.

In the past, we have seen educational institutions with bad intentions that have harmed veterans pursuing their education. It is often problematic for the VA to identify and investigate all involved institutions and organizations claiming to benefit the servicemember.

EANGUS believes allowing the VA to overwatch the programs and institutions is a good step. We have often seen policy and rule changes set to weed out the lousy actor, but what ends up happening is that good institutions are complex. Therefore servicemembers' educational goals are hindered. VA oversight allows the VA to identify issues, make well-thought-out policy changes, and adequately guide veterans using VA funds.

EANGUS supports legislation giving the VA Secretary oversight for certain educational institutions as posed to creating new policy and urges the 118th Congress to introduce and pass this legislation.

H.R. 491, Return Home to Housing Act; and Housing our Military Veterans Effectively Act

Combating veteran homelessness has always been and will continue to be a significant challenge due to the vast and changing reasons for the veterans' circumstances. EANGUS understands there is not and cannot be one answer to this problem, and we know there must be quite a few programs to address this issue.

Ensuring all parties participating in the ongoing efforts are appropriately compensated is critical to maintaining a healthy working environment. Unfortunately, financial security is always a factor we decide on employment; we all wish to do what we love for free, but that is not reality. Giving all parties involved proper compensation and reimbursement is critical in developing new and existing programs and the key to continued success.

EANGUS supports and urges the 118th Congress to introduce and pass these pieces of legislation, which we hope will further strengthen the VA programs to eradicate veterans' homelessness.

CONCLUSION

EANGUS appreciates the opportunity to offer thoughts regarding these critical legislative issues. Military and veterans' laws and policies are often developed without an understanding of or appreciation for the essential distinctions between the reserve and active-duty service. The members of the National Guard invariably lose out. And so do their families.

These past three years have shown America how important the National Guard is to everyday life. The National Guard has activated over 380,000 servicemembers since 2020 for missions including but not limited to, Pandemic assistance, Civil unrest, overseas direct combat assistance, and capitol security. These activations were often at a moment's notice, and the National Guard did not hesitate; they accomplished the mission.

Ensuring that our National Guard veterans are adequately cared for after service is critical to the National Guard recruiting and retention problem. As stated above, "the National Guard does not hesitate; they accomplish the mission." We are now asking the same from Congress; please do not hesitate. Ensure our Nation's heroes are adequately cared for during and after the service. Thank you for your time.

STATEMENTS FOR THE RECORD

Prepared Statement of New England Center and Home for Veterans



31 May 2023

New England Center and Home for Veterans Cost Information for the United States Department of Veterans Affairs Grant and Per Diem Program

From: The New England Center and Home for Veterans, 17 Court Street Boston, MA
To: U.S. House of Representatives, Committee on Veterans' Affairs, Economic Opportunity Subcommittee
Via: The Honorable Stephen F. Lynch, Eighth District, Massachusetts

Subject: Actual Cost Information for the NECHV's VA GPD Veteran Service Programs for Fiscal Year(s) 2022 and 2023

Background

With the expiration of the Federal COVID-19 Public Health Emergency on 12 May 2023, the augmented reimbursement rate that the United States Department of Veterans Affairs is able to provide to Grant and Per Diem Program participants reverted to a statutory maximum rate of \$64.52 per day. This rate, linked to the State Veteran Homes' Domiciliary Rate, was never scaled to cover the full costs that Program providers actually incur to offer GPD Program services to Veterans in-need. Community-based, non-profit GPD providers, such as the New England Center and Home for Veterans (NECHV), found it necessary to seek additional funding sources, both public and private, to cover actual Program and service costs. As a result, many organizations provided GPD service to Veterans at a loss. During the COVID-19 Pandemic, to help ensure the health and safety of vulnerable Veterans in congregate transitional living situations and help defray additional COVID-related expenses, the VA was given the authority to increase reimbursement rates to cover actual, audited operating costs incurred by the providers, up to an overall limit of \$156.59. While the return to the statutory rate of \$64.52 per day may be sustainable for providers with strong alternate funding augments or those located in relatively low-cost areas of the country, it creates a daunting challenge and potential significant barrier for others to continue as GPD providers, especially those in higher cost urban areas.

Discussion

The NECHV is a long-time VA GPD Provider, having operated under the contract for more than two decades. The Center is located in Downtown Boston Massachusetts and provides services to Veterans from across the country. The Center is currently contracted with the VA to provide 60 GPD beds to Veterans. This includes 40 beds under the Clinical Treatment service model and an additional 20 beds under the Low Demand service model. The Center's is programmed to add an additional five Clinical Treatment beds in federal fiscal year 2024. This will result in a total of 65 beds to better meet the demand in the Center's Veteran service catchment area. The NECHV's occupancy rate for the existing GPD Program beds throughout Fiscal Years 2021 and 2022 has been 81%, with Clinical Treatment Bed occupancy averaging 88%.

VA contracted GPD beds make up a significant percentage of NECHV's transitional Veteran housing revenue and the GPD Program complements the broad array of service programs offered by the Center. For context and scale, the following snapshot of the array of transitional housing

services (in addition to GPD) for Veterans offered by the Center at its 17 Court Street facility encompasses:

- VA Save Haven Program – 14 Beds – Expanding to 25 commencing in FY 2024
- VA Female Dormitory Program – 24 Beds
- VA Working on Recovery from Triage to Housing (WORTH) Program – 8 Beds
- Commonwealth of Massachusetts funded Transitional housing – 78 Beds

Overall, the NECHV's 17 Court St. facility possesses the physical capacity of 200 Transitional Veteran Beds, in an array of configurations and service program designs, to ensure it is able to provide the optimal support to every Veteran it serves. Additionally, the facility encompasses 97 units of Permanent Supportive Veteran Housing, under various complementary programs, including HUD VASH, HUD Mod-Rehab, and Mobile Section 8 Vouchers. subsidies. Permanent Veteran residents have the benefit of both VA case management services (HUD VASH), NECHV support services, a community of support and access to the full array of human service and support programs offered by the Center. In the most recent 12-month period, the NECHV has served 898 unique Veterans consumers across 22 programs, with an increasing number of those Veterans reflecting an aging and first-time homeless population. Sixty percent of all recent Veterans consumers were age 55 or older and almost forty percent were age 62 or older. During those same months, the Center's transitional housing programs provided Transitional/Low Threshold housing to 403 unique Veterans (of whom 89 percent reported a disabling condition), with a median nightly census of 138.

A major, if not the primary driver of increasing costs in transitional housing, and all Veteran human services, throughout COVID, and continuing, has been the escalating staffing expenses. The Pandemic increased the need and demand for all human services, and specifically, the demand for qualified mental health professionals in organizations that support higher risk populations such as vulnerable and at-risk Veterans experiencing homelessness. These societal and market trends have caused significant and permanent increases in labor and staffing costs at the NECHV over pre-pandemic levels.

What is becoming increasingly apparent is that the traditional configuration of standard, bunk-bed dormitory transitional housing setups, common for VA GPD and other programs, are not suitable or optimum for the current and future needs of Veterans experiencing homelessness. A variety and more tailored mix of housing configurations are needed, including more private and high support configurations, with private baths for older and more medically frail Veterans, while they are living in transitional housing settings. Toward that end, the NECHV has initiated, and is currently under construction on an approximately \$4.5M public/private Transitional Housing Reconfiguration Project (THRP), to more safely and appropriately support an aging Veteran population. The reality of those more tailored, private and diverse living configurations is that the costs for cleaning, care, staffing associated operations increase and can vary significantly from model to model and even within programs. The return to a significantly lower and inadequate VA GPD reimbursement rates, as requirements and costs continue to increase makes all transitional housing and overall Veteran service provision more challenging and at greater risk.

In addition to VA and other federal, state and municipal funding, the NECHV has the benefit of a well-established and respected private fundraising component, that helps generate more than 20 percent of the Center's total annual revenue, (more than \$3M in philanthropic support each year). Without this augment to public funding, providing VA GPD services to Veterans at the current rate of reimbursement would not be feasible, and is becoming less tenable. In response to a request from the U.S. House of Representatives, Committee on Veterans' Affairs, Economic Opportunity Subcommittee to provide specific and representative cost and service data on the NECHV's VA GPD Program, the following is provided.

Impact

In response to a request from the U.S. House of Representatives, Committee on Veterans' Affairs, Economic Opportunity Subcommittee to provide specific and representative cost and service data on the NECHV's VA GPD Program, the following is provided.

NECHV reviewed the daily costs of operating its Clinical Treatment and Low Demand transitional housing programs and compared them to the statutory rate of \$64.52. At the current rates, NECHV can only operate its 20-bed Low Demand and 40-bed Clinical Treatment Programs at full capacity by incurring an annual operating loss of up to \$1.3 Million.

The tables below show the disparity between allowable rates and actual costs for NECHV. Note that the daily operating cost of the Clinical Treatment Beds, while greater than the allowable rate, is still well below the maximum rate permitted during the Public Health Emergency.

Additionally, the difference in operating costs between the Clinical Treatment and Low Demand programs is clear when compared side by side. Yet, as noted, both have the same daily rate. As a result, the Low Demand Program, despite being smaller, has a slightly larger funding shortfall.

	20 Bed Low Demand Program	40 Bed Clinical Treatment Program
Staffing Costs	\$747,277	\$714,260
Food Services / Meals	\$88,421	\$172,189
Facilities & Utilities	\$155,000	\$415,000
Supplies & Other	\$5,000	\$14,000
Total Direct Costs	\$1,002,698	\$1,315,448
Admin	\$200,540	\$263,090
Total Costs	\$1,203,238	\$1,578,538
Daily Cost per Bed	\$164.83	\$108.12
Allowable Per Diem Rate	\$64.52	\$64.52
Daily Shortfall (Per bed)	\$100.31	\$43.60

Actual Costs versus Per Diem Rate for NECHV Low Demand and Clinical Treatment Programs

	20 Bed Low Demand Program	40 Bed Clinical Treatment Program
Daily Funding Shortfall	\$2,006	\$1,744
Annual Shortfall	\$732,242	\$636,546

Annual Impact of Current Per Diem Rates

While the Center enjoys strong (but always uncertain) charitable community support that has helped offset some of the public funding shortfalls, such support is not guaranteed in the future, and is being allocated to the overall increasing costs of operations and service. The recent decrement in VA GPD reimbursement rates puts at risk the NECHV's ability to continue providing the same depth and scope of services to Veterans in need. Other organizations that do not have the ability to make up for the funding shortfall may find themselves unable to continue as a GPD service provider.

Recommendation

An effective and realistic funding model, which takes into account the differences in costs between GPD bed programs, and adequately covers the costs to operate them, is clearly needed. We respectfully urge that these measures be considered and adopted at the earliest possible date to ensure there is no loss of vital service to Veterans.

Prepared Statement of Operation Dignity



318 Harrison Street Suite 302, Oakland, CA 94607
Tel: 510-287-8465

June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of Operation Dignity, which has provided Grant and Per Diem services in Alameda County, California since 1992. ***Operation Dignity is the largest GPD provider in the Bay Area, currently is operating 91 beds in Oakland, Alameda and Berkeley, California.*** We work with each veteran in our program on developing self-sufficiency and outlining their goals to ensure in maintaining permanent housing and employment upon exit. In fiscal year 2022, 75% of Veterans exiting our program successfully transitioned to permanent housing, and approximately 45% were employed upon exit.

We thank you for the bipartisan work that your Committee spearheaded to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$150.17 per night from our pre-pandemic rate of \$54.89. This allowed us to continue to serve Veterans in a safe environment – we followed strict health protocols, following all the public health guidelines while also ensuring veterans were able to access health care services and providers, pick up medications, and participate in virtual community support meetings and customized exercise classes. We experienced our first and only outbreak at one of our facilities in November 2022 and enacted our isolation protocol quickly that ensured the health and wellbeing of all Veterans and staff.


In addition to being the largest Bay Area GPD provider, we are singular in offering single rooms as well as a fully staffed kitchen and dining room at one of our facilities. Two GPD providers for the San Francisco VA will be closing as of September 30, 2023. This downsizing of GPD beds has been a trend (one program originally had 36 beds before reducing to 20 beds; and is now completely shutting down its) – ***this fact makes it more critical that our bed capacity is sustained as the largest sole provider.***

The recent decrease at the end of the PHE dropped our rate to \$64.52. If this rate is not increased to the reimbursement level proposed in H.R. 491, we will have to reduce our beds significantly and potentially close some of our sites. Although our occupancy rates are recovering from pre-pandemic rates, we are not able to recruit and hire additional case management staff at competitive salaries, and our program is operating at a loss. With the reduction to the current rate that occurred on May 12, our program stands to suffer a monthly loss in revenue of \$140,359, for an annual loss of \$2,225,299.

While we appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to \$133%, This ceiling on funding will be devastating given the already high cost of living in the S.F. Bay Area, the increasing shortage of GPD programs, and lack of affordable housing in general.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services required to successfully operate this grant.

Should you have any questions, please feel free to contact me at mbachand@operationdignity.org.

Marguerite Bachand

 Executive Director

Prepared Statement of U.S. Vets Inglewood



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June 13, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of Inglewood which has provided Grant and Per Diem services in Inglewood since 1993. Our organization currently is operating 220 number of beds.

We thank you for the bipartisan work your committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$164.67 per night from our pre-pandemic rate of \$54.89. This allowed us to provide medical staff to test residents and house those in need of isolation in hotels for veterans staying in our program.

The recent decrease at the end of the PHE dropped our rate to \$64.52. This has required us to reduce our supportive medical services and reduce supportive staff that are vital to our intake and assessment process such as intake specialists and case managers.

We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to \$133%. However, having this ceiling on funding would still require us to decrease vital services such as medical support and supportive services like our food assistance. Many of our veterans are deficient in funds for food at the end of the month, having additional funding helped us feed those veterans who would have normally experienced severe food insecurities.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services that are required to successfully operate this grant.

Should you have any questions, please feel free to contact us at 310.743.9123.

Sincerely,

Jessica Gholson, MA LMFT
Executive Director
U.S VETS – Inglewood
jgholson@usvets.org

Prepared Statement of U.S. Vets Inland Empire



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www.usvets.org/inland-empire

June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of U.S.VETS - Inland Empire which our organization has provided Grant and Per Diem services. We currently run Emergency, Transitional and Permanent Housing along with rap around services to veterans in San Bernardino and Riverside County since 2003. Our organization currently is providing over 11,40 residential and service sites 142 programs across the nation 13 housing development in progress and collectively 29 years of service 000 veterans services nationwide.

Nationwide through our housing programs we have 340,872 beds filled, 6500 have retained and moved into permanent housing and 416,495 meals were served as a supplemental service. Under our Mental Health initiative 56,000 mental health assessments have been performed to support veterans in their journey of wholeness. Under our Workforce initiative we have served 2,200 veterans and placed in jobs 1,418. We have 250 employer partners and 140 veterans trained as peer specialists to support our therapeutic communities where veterans are sources to veterans.

We thank you for the bipartisan work your Committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$164.67 per night from our pre-pandemic rate of \$54.89. This allowed us to keep our doors open, provide needed emergency housing and supplemental housing such as hotel stays to ensure veterans were safe. We were able to purchase cleaning and sanitation supplies and contract a nurse to administer COVID testing, follow up and do prevention health screenings. This was made available to veterans staying in our program. The recent decrease at the end of the PHE dropped our rate to \$84.52. This has required us to adjust needed resources to veterans, decrease the number of veterans to be served and reroute staffing.

We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to \$133%. However, having this ceiling on funding would still require us to decrease services, meals, go broke, look for pennies along the side of the road in hopes to provide needed services to veterans.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services that are required to successfully operate this grant.

Should you have any questions, please feel free to contact us at (951) 999-9120.

Sincerely,

Nicole Starks-Murray

Executive Director

U.S.VETS - Inland Empire

Prepared Statement of U.S. Vets Long Beach



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June 13, 2023

Dear Chairman Van Orden and Ranking Member Levin,

I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of **U.S.VETS – Long Beach**, which has provided **Grant and Per Diem services** in Long Beach, California for over 20 years. Our site currently is operating **181 beds** and prides itself on getting our homeless Veterans off the streets, gaining permanent housing, jobs, and reconnecting to a meaningful purpose.

We thank you for the bipartisan work your Committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to **\$152.73** per night from our pre-pandemic rate of **\$48.50**. This allowed us to quarantine COVID-positive veterans off-site in hotels and provide them meals and needed supplies while they were in isolation, hire private security to assist with the safety of veterans and staff, hire an LVN to conduct COVID testing, complete wellness checks, provide necessary PPE gear for all staff, and prepare individual boxed meals for veterans staying in our program.

The recent decrease at the end of the PHE dropped our rate to \$64.52. The decreased GPD rate paired with the inflated costs of goods and services has required us to cut security, increase the cost of meals, transfer staff out of the GPD program, and cut on-site nursing staff. The new post-pandemic GPD rate is not sustainable in our current market.

We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to **\$133%**. However, having this ceiling on funding would still require us to decrease services, raise meal costs, and potentially layoff staff.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services that are required to successfully operate this grant.

If you have any questions, please feel free to contact us at 562-200-7303.

Very Respectfully Submitted,

Jennifer N. Winter Joiner, EdD, LMFT
Program Director, U.S.VETS – Long Beach
Cell: 562.658.9602
jwinterjoiner@usvets.org

Prepared Statement of U.S. Vets Prescott



"SERVING THOSE WHO SERVED"

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Frank Shankwitz
AZ Highway Patrol (ret.)
Founder, Make A Wish
Foundation

June 14, 2023

Dear Chairman Van Orden and Ranking Member Levin,

I am submitting this statement on behalf of U.S.VETS - Prescott for the record of the Subcommittee on Economic Opportunity's Legislative Hearing. Since 2003, U.S.VETS - Prescott has been providing Grant and Per Diem services in Prescott, AZ. Currently, our organization operates 72 Grant and Per Diem beds, 10 special needs beds for frail elderly veterans, and 20 transition in place units. Last year, we provided housing services to 394 veterans, offering them 7313 hours of case management, 24,890 bed nights, and 49,923 meals. We successfully helped 136 veterans transition to permanent housing.

I express our gratitude for the bipartisan efforts of your committee to enhance the per diem rate during the public health emergency. With the increased nightly per diem rate of \$164.67, up from our pre-pandemic rate of \$54.89, we were able to implement necessary staffing and strategies to safely address the challenges posed by COVID-19. This included providing testing and quarantine space, sanitation and cleaning supplies, personal protective equipment (PPE), and additional staffing including medical professionals, for our veterans in the program.

However, with the recent decrease at the end of the public health emergency, our rate has dropped to \$64.52. As a result, we have had to scale back certain services, such as intake testing in our congregate setting, utilization of full-time medical professionals onsite, offsite quarantine space, and the use of disposal and individual use items in the dining hall, to name a few.

While I appreciate the intent of H.R. 3848 to restore section 4201 assistance and increase the per diem rate to 133%, I would like to express my concerns. Having a funding ceiling at this level would still restrict our ability to provide the necessary staffing and services to fully meet the needs of the veterans we serve.

In support of our veterans and the operation of this grant, I endorse access to reimbursement as outlined in H.R. 491. This would enable us to restore the levels of services and support that our deserving veterans have earned.

Thank you for your attention to these matters. Should you have any questions, please feel free to contact me at (602) 721-0705 or cbenedict@usvets.org.

Sincerely,

Carole Benedict
Executive Director

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Tax ID# 95-4382752

Prepared Statement of Veterans Education Success

**STATEMENT FOR THE RECORD
SUBMITTED TO THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
118TH CONGRESS, FIRST SESSION**

June 14, 2023

Chairman Van Orden, Ranking Member Levin, and Members of the Subcommittee:

We thank you for the opportunity to share this statement for consideration during this hearing, which includes several notable bills addressing topics in higher education and veterans education benefits. Veterans Education Success is a nonprofit organization with the mission of advancing higher education success for veterans, service members, and military families, and protecting the integrity and promise of the GI Bill and other federal education programs.

In this statement, we address the following topics: Isakson-Roe implementation hurdles, the "Ed Regs" discussion draft provisions, and potential opportunities for the Digital Transcript bill. We applaud the Subcommittee's dedication to our Nation's veterans, and look forward to working closely with the staff members on the advancement of many of these important topics for broader consideration.

H.R. ____, Veterans Education Oversight Expansion Act

In 2020, the House Veterans Affairs Committee led the unanimous enactment of the Isakson-Roe law, which included important new provisions requiring the U.S. Department of Veterans Affairs (VA) to conduct more careful oversight of colleges receiving the GI Bill.

Since the enactment of this law, State approving agencies (SAA) working to implement the law have encountered some obstacles, which this legislation would resolve with common-sense technical corrections. We thank the Subcommittee staff for working on these technical fixes, and we thank Representative McGarvey for introducing this important bill. We fully endorse this legislation.

We also acknowledge and thank our colleagues at the National Association of State Approving Agencies (NASAA) and The American Legion for their collaboration in identifying these technical changes. This legislation would facilitate the implementation of Isakson-Roe, and below we provide our specific feedback on the importance of each provision of this proposal:

- *Subsections (a), (b), (c)*

The Isakson-Roe law established risk-based surveys of colleges facing actions from accreditors, law enforcement, and government. The law requires an SAA to complete a risk-based survey within 60 days of becoming aware of certain events, such as punitive action by a state or a federal agency, and loss or risk of loss of accreditation.¹

The problem which has arisen is that SAAs and VA have no practical method to become aware of state actions and accreditor actions, many of which are not publicly available. On the other hand, colleges are well aware of their own situations, and should voluntarily disclose any actions they face to promote transparency with SAAs and VA.

The U.S. Department of Defense (DOD) Voluntary Education Institutional Compliance Program serves as a useful model, requiring institutions to self-report any adverse issues, under the terms of a memorandum of agreement. We believe that this reporting requirement would not be a burden on the vast majority of schools, which are already required to report this information to other Federal entities. The language is narrowly tailored to only affect a fraction of schools – those that are facing adverse action: HCM2 status, risk of loss of accreditation, and punitive actions by government agencies.

Multiple instances highlight the significance of this issue, in which VA and the SAAs may have not been informed about actions that specific colleges faced, including the following: Full Sail placed on Warning Status with its accreditor in March 2022;² Bay State College placed on Probation by its accreditor in June 2022;³ ASA College placed on Probation or more severe status with its accreditor for over a year, and also on HCM2 status with the U.S. Department of Education (ED) since March 2022;⁴ and Florida Career College placed on HCM2 status from ED in July 2022.⁵

As late as December 9, 2022, no risk-based survey had been conducted for any of these schools. It is worth noting that three out of the four mentioned schools have lost ED approval to receive Title IV funds and/or are currently closing, or already closed.^{6, 7, 8} This shows that the concerns at these schools are serious, warranting a risk-based survey under the Isakson-Roe law.

¹ 38 U.S.C. 3673(e)(1)(C) and (e)(3).

² Veterans Education Success. "Letter to VA Regarding Full Sail University." Veterans Education Success, 21 Nov. 2022, <https://vetsedsuccess.org/letter-to-va-regarding-full-sail-university/>. Full Sail was not removed from Warning Status with its accreditor until January 11, 2023.

³ Veterans Education Success. "Letter to VA Regarding Bay State College." Veterans Education Success, 21 Nov. 2022, <https://vetsedsuccess.org/letter-to-va-regarding-bay-state-college/>.

⁴ Veterans Education Success. "Letter to VA Regarding ASA College." Veterans Education Success, 21 Nov. 2022, <https://vetsedsuccess.org/letter-to-va-regarding-asa-college/>.

⁵ Veterans Education Success. "Letter to VA Regarding Florida Career College." Veterans Education Success, 21 Nov. 2022, <https://vetsedsuccess.org/letter-to-va-regarding-florida-career-college/>.

⁶ Bay State College. "Bay State College Closure." Massachusetts Department of Higher Education, www.mass.edu/baystate/.

⁷ U.S. Department of Education. "Important Information for Students Attending Florida Career College." Federal Student Aid, www.studentaid.gov/announcements-events/florida-career-college.

⁸ New York State Education Department. "ASA College (Potential Closure - No Current Educational Activity)." New York State Education Department, www.nysed.gov/asacollege.

We have confidence that VA and the SAAs would readily carry out Isakson-Roe's risk-based survey if they were aware of these events; however, they have no additional capacity to investigate whether a particular accreditor or state agency has taken action against one of the more than 4,000 colleges in America.

Unfortunately, the Congressional Veterans Affairs Committees lack jurisdiction to compel accreditors and state government agencies to report their actions to VA and SAAs. Therefore, the best solution is to require colleges that are receiving GI Bill funds to notify SAAs and the Secretary of any relevant adverse actions or events within 30 days. This legislation would provide this needed technical change, and promote proper implementation of Isakson-Roe.

- *Subsection (d)*

Section 3699(b)(1)(B) of Title 38 restricts disapproval of programs solely to changes in law or VA policy.⁹ However, these criteria are impractical as they rarely consider instances of institutional misconduct that results in the disapproval of programs benefiting student veterans. A technical fix is needed, as both the Majority and Minority Subcommittee staff agreed to in prior years. The proposed legislation incorporates a broad catchall, which would grant the Secretary discretionary authority in determining actions that impact approval or disapproval. Implementing this additional standard would provide the Secretary with greater flexibility to address the growing problem of program disapprovals that disrupt the educational journeys of student veterans.

- *Subsection (e)*

Isakson-Roe mandated the creation of a database by VA to monitor adverse events and actions concerning colleges.¹⁰ However, VA has yet to complete this task, causing frustration among SAAs. The delay in establishing the database presents a significant challenge for schools and SAAs in overseeing compliance and enforcement. To address this issue, the proposed legislation sets a deadline of 180 days from the bill's enactment for VA to complete the database.

⁹ The current statutory standards under [38 U.S.C. 3699](#)(b)(1)(B) state the Secretary has authority to restore education benefits if program/course disapproval is due to, "(i) a provision of law enacted after the date on which the individual enrolls at such institution affecting the approval or disapproval of courses under this chapter; or (ii) after the date on which the individual enrolls at such institution, the Secretary prescribing or modifying regulations or policies of the Department affecting such approval or disapproval;"

¹⁰ Section 1013 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020, codified as [38 U.S.C. 3673A](#)(c) requires, "The Secretary, in partnership with the State approving agencies under this chapter, shall establish a searchable database or use an existing system, as the Secretary considers appropriate, to serve as a central repository for information required for or collected during site visits for the risk-based survey developed under subsection (a), so as to improve future oversight of educational institutions with programs of education approved under this chapter."

H.R. _____, To amend title 38, United States Code, to make certain improvements in the administration of the educational assistance programs of the Department of Veterans Affairs, and for other purposes.

We are grateful to the Subcommittee staff for their thoughtfulness in drafting this legislation, and support their intent in crafting the various provisions of this proposal. Many of these sections represent long-standing procedural or logistical challenges that negatively impact the ecosystem of VA education benefits. Below we offer technical feedback, which we believe might strengthen the language and contribute to achieving the goals of each section as intended.

- *Section 2: Payment of Full Monthly Housing Stipend for Veterans Enrolled in Final Semester Using Educational Assistance under Post-9/11 Educational Assistance Program*

We support the proposal to grant veterans in their final semester, who are carrying “incomplete course loads,” with the full monthly housing stipend. This change would provide important financial support to student veterans as they near the completion of their educational programs.

To avoid potential mistakes or inadvertent choices that could lead to the loss of benefits, we recommend clarifying the language surrounding this provision. Specifically, we suggest adding a requirement that student veterans who enroll part-time in their final semester are either currently enrolled in or have successfully completed every course required for graduation from their program of education during that specific term.

By incorporating this clarification, we can establish unambiguous guidelines that protect student veterans from unintentionally jeopardizing their benefits. This modification will promote transparency, certainty, and fairness in the implementation of the proposed policy.

- *Section 3: Notice of Department of Veterans Affairs Rule Makings Affecting the Educational Assistance Programs of the Department*

We endorse the legislative objective of providing regulated entities with timely notice before the implementation of regulations.¹¹ However, we express our opposition to a rigid one-size-fits-all approach that would uniformly delay all final rules issued by VA by six months.

¹¹ Veterans Benefits Administration staff provided insight into the delay on anticipated regulations and the related Notice of Proposed Rulemaking announcement associated with a wide variety of legislation that has been passed into law over the preceding decade. This information was shared with relevant parties during the monthly GI Bill Monthly Stakeholder call held on May 18, 2023.

As the language is currently drafted, a uniform six-month delay for all VA final rules could inadvertently result in unintended adverse consequences. It could hinder the implementation of necessary regulations and delay the benefits and protections they are intended to provide. A more flexible approach would strike a balance between providing proper notice and allowing for timely implementation of important regulatory changes. While we recognize the importance of allowing entities adequate time to adjust to regulatory changes, we believe a more nuanced approach would be more effective and practical.

- *Section 4: Notice to Educational Institutions of Risk-Based Surveys*

We acknowledge and value the attention given to resolving the difficulties associated with statutory timelines for risk-based surveys. To effectively address this issue, we instead propose a two-tiered approach to recognize unique scenarios and the appropriate application of risk-based surveys.

First, we recommend granting the authority for unannounced visits without prior notice when an SAA determines that such visits are necessary to uncover instances of fraud or other severe issues. SAAs need the tool of unannounced visits for those situations where notice of an upcoming visit could lead to a college's hiding or covering up critical problems that the SAA seeks to uncover. Unannounced visits are a necessary oversight tool to address critical problems promptly.

Second, we suggest allowing up to 30 days' notice before a visit for any non-urgent matters. This approach provides sufficient time for an institution to prepare for the visit, enabling a smooth process without compromising the integrity of the assessment.

By adopting this two-tiered approach, we believe Congress would manage the competing challenges between the need for surprise visits to uncover serious issues and the practicality of providing reasonable notice for non-urgent matters. This solution would empower SAAs to effectively carry out their responsibilities while maintaining transparency and effectiveness in the review process.

- *Section 5: Multi-Year Waivers for Educational Institutions*

We endorse the objective of relieving the administrative burden associated with annual renewals for both VA and institutions in instances where VA has determined that a waiver would be appropriate.¹² However, we are concerned about the potential for misinterpretation by VA of this provision.

¹² [38 U.S.C. 3675\(b\)\(4\)](#), which this bill proposes relabeling as 3675(2)(D), presently states, "The educational institution is approved and participates in a program under title IV of the Higher Education Act of 1965 (20 U.S.C. 1070 et seq.) or the Secretary has waived the requirement under this paragraph with respect to an educational institution and submits to the Committee on Veterans' Affairs of the Senate and the Committee on Veterans' Affairs of the House of Representatives notice of such waiver."

To address this concern and provide appropriate oversight, we recommend the inclusion of a provision specifying a cap of “up to three years” for multi-year waivers. This cap would provide a reasonable timeframe for institutions to operate without the need for annual renewals while maintaining accountability.

Additionally, we propose the requirement of annual reporting to Congress, a mechanism which would serve as a transparency measure, so that the waiver program is being implemented as intended. This would also afford for congressional review and evaluation of the effectiveness and impact of the waiver process. By incorporating these safeguards, we believe it would maintain a balance between streamlining the renewal process and upholding accountability.

H.R. ____, To amend title 38, United States Code, to require, as a condition of approval under the educational assistance programs of the Department of Veterans Affairs, that educational institutions make available to eligible persons and veterans digital copies of official transcripts.

We support the intent of this bill, particularly in light of the alarming trend of continued precipitous school closures. However, we have concerns regarding the current language and its ability to achieve the intended goal. To effectively address the pervasive problem of limited access to academic records and transcripts from closed schools, we propose that Congress establishes a more targeted precondition for GI Bill eligibility.

In the current draft of the bill, we are concerned that the current terminology would fail to achieve the stated objective of this legislation:

- The term “official transcript” implies a document that is verified and unaltered, making it challenging to prove if it is provided directly to the student. Additionally, the “transcript” is merely a partial extract of the comprehensive student academic record. Instead, the Subcommittee should guarantee the permanent preservation of the complete academic record to not only facilitate the production of transcripts but also support continued employment and background check verification services that student veterans may require for several decades after attending.
- We suggest broadening the scope of the document beyond a narrow “transcript” to encompass the entire “academic record.” It is worth noting that, by statute, a transcript cannot list sensitive information such as social security numbers or other tax identifying data.¹³

¹³ 20 U.S. Code § 1232g(b)(1) states, “No funds shall be made available under any applicable program to any educational agency or institution which has a policy or practice of permitting the release of education records (or personally identifiable information contained therein other than directory information, as defined in paragraph (5) of subsection (a)) of students,” which is codified in the Code of Federal Regulations Section 99.31.

- The term “digital format” lacks a clear definition and is ambiguous due to the various available options such as PDF, screenshots, or CSV files. Providing such files to students would be no more meaningful than offering a paper copy; other institutions would consider it an unofficial transcript due to the lack of direct transmission or assurances of file integrity.
- More broadly, institutions should be required to demonstrate that they have adequate resources to guarantee proper retention of critical academic records in case of future closure. They should be required to establish arrangements with qualified third parties, typically their respective states' departments of education or other qualified archival custodians. This would ensure that students' academic records are preserved in case of school closure, and that transcription and verification services remain available to former students, even if the institution ceases to exist.
- Schools should also have the opportunity to propose alternative technology-neutral solutions that align with the intended goal, subject to the approval of the Secretary.

We believe these recommendations would offer a more robust solution to address the challenges associated with access to academic records and transcripts, while also maintaining the integrity and reliability of these documents for students, institutions, and employers.

Additional Issues Necessitating New Legislation

In addition to our comments on the legislation above, there are two issues we would like to raise for awareness of the Subcommittee. First, the present language in 38 U.S.C. 3699(c)(2) providing restoration of GI Bill benefits when a student is unable to complete a program due to the school closing or the program being disapproved if the student transfers fewer than 12 credits is statutorily set to effectively terminate on October 1, 2023. We believe this important protection for veterans should be extended to provide coverage for veterans whose schools close or programs lose approval after September 30, 2023.¹⁴

Second, we encourage the Subcommittee to consider amending 38 U.S.C. § 3680A, which addresses study abroad programs. The language presently mandates a qualifier that, “the educational institution that offers the covered study-abroad course agrees to seek the approval of the course under this chapter by not later than five years after the date of the agreement.” In practice, this requirement has proven to be overly burdensome to schools, while providing little benefit as intended. We believe removing this requirement would be beneficial to student veterans interested in studying abroad, which is an educational experience which provides a high degree of benefit to students.¹⁵

¹⁴ [38 U.S.C. 3699\(c\)\(2\)\(C\)](#), states, “This paragraph shall apply with respect to a course or program of education closed or discontinued before September 30, 2023.”

¹⁵ Current restrictions are statutorily derived from [Section 9 of H.R. 7939](#) from the 117th Congress.

Finally, we urge the Subcommittee to prioritize the modernization of program approval criteria for Title 38 programs. The current system has almost no standards, and veterans are understandably angry when they discover VA put its "stamp of approval" on scam operations. This is especially true in cases where some of these schools had their CEOs later face criminal charges, all while the U.S. Department of Justice recoups millions of dollars from the fraudsters, such as the cases of including Retail Ready Career Center and House of Prayer Bible College.^{16, 17, 18} Fraudulent programs should never be approved for GI Bill, but the statutes currently allow "anything goes." We look forward to working with the Subcommittees to establish common sense minimum standards for schools that seek GI Bill funding.¹⁹

Conclusion

Veterans Education Success sincerely appreciates the opportunity to express our views before this Committee. As the higher education industry continues to evolve in these very dynamic times, we emphasize the importance of maintaining high standards of quality. Student veterans, taxpayers, and Congress must expect the best outcomes from the use of hard-earned GI Bill benefits. We look forward to the discussion and review of these proposals, and we are grateful for the continued opportunities to collaborate on these topics.

¹⁶ United States Attorney's Office, "Northern District of Texas Press Release, For-Profit Trade School Sentenced to Nearly 20 Years for Defrauding VA, Student Veterans," (Sept. 22, 2021), <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-sentenced-nearly-20-years-defrauding-va-student-veterans>.

¹⁷ Veterans Education Success, "Our Letter to VA and Georgia SAA Regarding House of Prayer Christian Church," (Aug. 2020), <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

¹⁸ Beynon, Steve. "House of Prayer, a Church Accused of Squeezing Veterans for Benefits, Stripped of GI Bill Eligibility," Military.com, (October 4, 2022), <https://www.military.com/daily-news/2022/10/04/house-of-prayer-church-accused-of-squeezing-veterans-benefits-stripped-of-gi-bill-eligibility.html>.

¹⁹ Veterans Education Success. "Statement for the Record: Legislative Priorities Submitted to the Senate and House Committees on Veterans Affairs." (7 Mar. 2023), <https://vetsedsuccess.org/statement-for-the-record-legislative-priorities-submitted-to-the-senate-and-house-committees-on-veterans-affairs/>. (See pages 2 - 4).

Information Required by Rule XI2(g)(4) of the House of Representatives

Pursuant to Rule XI2(g)(4) of the House of Representatives, Veterans Education Success has not received any federal grants in Fiscal Year 2023, nor has it received any federal grants in the two previous Fiscal Years.

Prepared Statement of Veterans Integration Centers



*Supporting Veteran Families
"Beyond the Battlefield"*
Since 2005

June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of The Veterans Integration Centers in Albuquerque New Mexico. We have provided Grant and Per Diem services in New Mexico since 2005. Our organization currently is operating 42 beds and has the highest successful discharge rate in the Southwest Region. We have worked hand in hand with the Veterans Administration, Department of Veteran Services and other statewide agencies to help address the homeless crisis in our community. New Mexico has one of the highest populations of Veterans in the country and our services are seen as vital.

We thank you for the bipartisan work your Committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$121.47 (reflecting actual costs of providing services) per night from our pre-pandemic rate of \$64.52. This additional funding allowed us to expand supportive services to the Veterans we serve, including enhanced case management, substance abuse, mental health and life skill services.

The recent decrease at the end of the PHE dropped our rate to \$64.52. We estimate that this will cost our agency about \$35,000 a month to provide the same level of care we currently provide. For a small agency like ours, this is unsustainable. We have already been forced to make steep cuts in staff and programming in order to attempt to navigate this drastic cut. Despite our efforts, it is clear that we will continue to lose significant dollars if the program is to be maintained, even in a greatly diminished capacity.

We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to 133%. However; having this ceiling on funding would still require us to keep in place the cuts we already had to make and look at other major cuts in order to sustain the basic tenants of the program. This will, without a doubt, negatively impact our success rates with the Veterans we serve.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services that are required to successfully operate this grant.

Should you have any questions, please feel free to contact me at 505-296-0800 or email me at Brock.wolff@nmvic.org

Sincerely,

Brock Wolff, CEO

Headquarters

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Alamogordo Office

1900 23rd Street
Alamogordo, NM 88310
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Prepared Statement of Volunteers of America Los Angeles



June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of Volunteers of America of Los Angeles which has provided Grant and Per Diem services in Los Angeles County, California since 2005. Our organization currently is operating 133 number of beds and was selected to be a part of the national VA pilot project of the Low Demand model in 2015.

The performance outcomes in our program in the last two years demonstrate that we have found an approach that works with this service-resistant population: Of the 105 homeless Veterans served with an average length of stay of 15 months, the percentage of negative exits was 18.98% (compared to the GPD program goal of no more than 20%), and the percentage of Veterans discharged to permanent housing was 62.92% (compared to the GPD minimum program goal of 60%).

We thank you for the bipartisan work your Committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$149.73 per night from our pre-pandemic rate of \$54.89. This allowed us to keep veterans safe by housing them in hotels during COVID outbreaks at our sites. We also used the funds to increase our sanitation efforts. We were able to have a steady stock of PPE, cleaning supplies, and periodically have deep cleanings of the facilities by outside vendors. The funds allowed for increased security on site and clinical services to support veterans toward moving into permanent housing.

The recent decrease at the end of the PHE dropped our rate to \$64.52. This has required us to reduce our transportation options for veterans. This was a much-needed service due to some veteran not having a reliable means of transportation. Meal quality has also changed due to having less funds. Being able to order special meals for veterans with more restrictive diets was easy to accommodate with the additional funds and now that will be a challenge.

We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to \$133%. However, having this ceiling on funding would still require us to decrease services, meals, and go broke trying to provide the best quality services to veterans experiencing homelessness.

We support the access to reimbursement in **H.R. 491** to allow us to restore levels of services and supports earned by the veterans we serve. This is the level of services required to successfully operate this grant.

Should you have any questions, please feel free to contact us at (213) 500-7689 or taunyataylor@voala.org.

A handwritten signature in black ink, appearing to read "Taunya Taylor".

Taunya Taylor, LCSW
Clinical Operations Director
Veteran Services

3600 Wilshire Blvd., Suite 1500, Los Angeles, CA 90010 phone (213) 389-1500 fax (213) 385-7599 www.voala.org

Prepared Statement of Alston Wilkes Society



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 3519 Medical Drive • Columbia, S.C. 29203
 Phone: (803) 799-2490 • Fax: (803) 540-7223
 Toll Free: 1-844-AWS-1962
www.alstonwilkesociety.org

June 14, 2023

Dear Chairman Van Orden, Ranking Member Levin, and Representative Nancy Mace,

On behalf of the Alston Wilkes Society, a statewide 61-year-old agency in South Carolina, I am submitting this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing.

We have specifically provided grant and per diem services since 1996 in Columbia, SC and Greenville, SC. We currently serve a total of 55 GPD veterans. We have been extremely successful in serving our veterans.

The bipartisan work your committee did to increase the per diem rate during COVID was sincerely appreciated. Increasing the nightly rate from \$54.89 to \$164.67 gave us the opportunity to provide enhanced clinical services, additional sanitation, and security that was needed for our veterans. The recent decrease to \$64.52 has now negatively impacted our ability to serve our veterans.

As the daughter of a Citadel graduate who fought in World War II, and as the niece of a Star of the West recipient at the Citadel, I understand and highly value the sacrifices made by our veterans for our country.

I am respectfully asking your committee to support the proposed reimbursement in H.R. 491 to allow providers like us to restore the level of services needed for our veterans.

Thank you for your consideration. Please contact me at 803-606-4943 should you have additional questions.

Sincerely,

S. Anne Walker, M.Ed.
 Certified Corrections Executive
 President & CEO

SAW/lmb

Prepared Statement of The American Legion



The American Legion Department of California

June 14, 2023

The Honorable Derrick Van Orden,, Chairman
Subcommittee on Economic Opportunity

The Honorable Mark Levin, Ranking Member
Subcommittee on Economic Opportunity

Subject: Concerns with "H.R. 3848, Housing our Military Veterans Effectively Act."

Chairman Van Orden, Ranking Member Levin:

The American Legion (TAL), Department of California and our representative, Lawrence Van Kuran, have been closely involved with both the Master Plan and Veterans housing on the West Los Angeles VA campus since 2014. Beginning in 2015, when an agreement was reached in the "West LA, CA Matter – Principles for a Partnership and Framework for Settlement By and Between the U.S. Department of Veterans Affairs and Representatives of the Plaintiffs – *Valentini v. McDonald*." Our representative is a founding member and co-chair of the coalition of Congressionally Chartered Veteran Service Organizations (VSOs), formed based on discussion of the need for Veteran involvement with then Secretary McDonald, and working closely with the Secretary's personal representative for development of the West Los Angeles VA Master Plan.

The members of the VSO Coalition combined represent well over half of the State of California's 1.7 million veterans and of the over three hundred thousand veterans residing in the West Los Angeles VA catchment area. Thus, we are fully aware of the toll taken on the over three thousand homeless and in jeopardy of becoming homeless Veterans and their families.

After reviewing changes to Title 38 USC and Public Law 114-226 proposed within H.R. 3848, our TAL Department of California feels that this bill does not offer a reasonable level of confidence that such changes would be of benefit in developing a sound source of quality housing in communities' homeless veterans are left unsheltered. This is significantly an issue in Los Angeles County and its surrounding sister Counties within West Los Angeles VA's catchment area. Also, we are concerned that changes proposed in H.R. 3848 will present very real obstacles to progress in development of needed Veterans' housing on the WLA VA campus.

In our review of H. R. 3848, we have determined that this bill does not reach a reliable level of surety that would be of benefit in creating a reliable source of quality housing in communities' homeless veterans are left unsheltered. This is especially true in high-cost housing and rental markets like that of Los Angeles and the surrounding Counties within the West LA VA catchment area. This bill will also stymie further progress in the development of much needed

housing on the VA campus. There is a temptation here to be avoided: it mistakes an outcome for a process. Examples of our concerns include the following changes proposed in H.R.3848:

OIG Authority: The WLA VA campus has had a history of fraud, controversy and misuse of it's land. The OIG's authority regarding the WLA VA campus was established in H.R. 5936 (Mr. Marin, FL), becoming Public Law 114-226., the Los Angeles Homeless Veterans Leasing Act of 2016. H.R. 5936 gave the OIG oversight and accountability authority to ensure that leases on the WLA property principally benefit veterans.

After our review, it is TAL Department of California's opinion that changes proposed in H.R. 3848 will eliminate that OIG authority to the benefit of private interests.

In-Kind Consideration: A change proposed in H.R. 3848 would allow third-party holders of Enhanced Use Lease and Land Sharing Agreements to substitute "in-kind consideration" in lieu of cash money, the current form of lease payment. This change raises significant concern for TAL Department of California, since there would be a substantial likelihood that lease holders would profit financially under such an in-kind consideration and, in our mind, would establish the distinct possibility of lease holders offering nothing equivalent in equal value in return that meets the requirement established law to "principally benefit Veterans." Also of note is the fact that WLA VA campus is authorized to retain lease cash payments to directly fund significant Veteran programs and other resources; allowing "in-kind" considerations would significantly impact WLA VA's ability in this area.

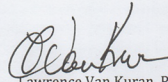
Per Diem: A provision within H.R.3848 dealing with the VA Grant and Per Diem programs proposes rates that are, in the opinion of TAL Department of California, significantly, significantly low. Also, it is our concern that rates discussed in H.R.3848 will inadequately reimburse Transitional Housing providers for their actual costs of care and services to homeless Veterans in traditionally higher-cost Los Angeles and surrounding Counties within the West LA VA catchment area. We are concerned that we cannot continue to afford to have a continuing loss of available providers in our communities should per diem rates be reduced as proposed in H.R.3848.

Mr. Chairman, TAL Department of California takes the position that we must deliver on promises put forth in the very successful Los Angeles Homeless Veterans Leasing Act of 2016. This for the benefit of homeless Veterans and their families, many of whom are in dire need of housing and life-changing benefits from the VA.

Respectfully and sincerely,

Jere L. Romano

Jere Lee Romano, Commander
The American Legion
Department of California



Lawrence Van Kuran, Past Commander
The American Legion
Department of California

1601 7th Street, Sanger, CA 93657 (559) 875-8387 Fax (559) 272-5157

**Prepared Statement of Disabled American Veterans, Department of
California**



**STATEMENT OF
RICHARD A. VALDEZ
PAST STATE COMMANDER (2013-2014)
FOR THE RECORD OF THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
JUNE 14, 2023**

Chairman Van Orden, Ranking Member Levin and Members of the Subcommittee:

Thank you for this opportunity in my capacity as Past State Commander, DAV (Disabled American Veterans), Department of California to submit testimony for the record of your hearing titled, Legislative Hearing and specifically to address, "H.R. 3848, Housing our Military Veterans Effectively Act."

Mr. Chairman, before delving into H.R. 3848 I would like to first provide you and the Members of the Subcommittee some background that will put in context my testimony. My involvement with the West Los Angeles VA's development of the Draft Master Plan began with a conversation I had in late February 2015 with then DVA Secretary Robert McDonald while attending DAV's National Mid Winter Conference in Washington D.C. representing the DAV Department of California as its Legislative Director.

The discussion with the Secretary was based on concerns brought to my attention by representatives of other Congressionally Chartered Veteran Service Organizations (VSO) that dealt with the, "West LA, CA Matter – Principles for a Partnership and Framework for Settlement By and Between the U.S. Department of Veterans Affairs and Representatives of the Plaintiffs – Valentini v. McDonald." This agreement had no VSOs invited to have a seat at the table to represent the vested interests of their members and the veteran community within the West Los Angeles, VA catchment area, to include the following Counties: Los Angeles, Ventura and portions of Orange, Kern and Santa Barbara Counties.

Secretary McDonald recognizing this as an oversight recommended I organize a team of VSO Leaders representing their respective organization and in turn he would direct his Special Assistant to work with me and the VSO Coalition on all matters leading to the development of the Draft Master Plan, to include Public Comments to the Federal Register and subsequently marshalling VSO Coalition "Statements for the Record of the Subcommittee on Health," supporting the passage of H.R. 5936, the "Los Angeles Homeless Veterans Leasing Act of 2016," Public Law 114-226.

KEEPING OUR PROMISE TO AMERICA'S VETERANS



POSITIVE IMPACT OF PUBLIC LAW 114-226

The VSO members of the VSO Coalition combined represent well over half of the State of California's 1.7 million veterans and of the over three hundred thousand veterans residing in the West Los Angeles, VA catchment area; therefore, we are unmistakably aware of the toll taken on the over three thousand homeless and in jeopardy of becoming homeless veterans and their families. The positive impact the Los Angeles Homeless Veterans Leasing Act of 2016 has had in-light of the delays due in-part to the required Environmental Impact Studies and their completion, the review of leaseholder agreements and subsequent removal of those not in compliance with Public Law 114-226, amendments to said Public Law necessary to better facilitate the process to improve the West LA VA campus and the unexpected slowdown of infrastructure installation, construction and remodeling of buildings due to the COVID-19 Pandemic, has been thus far. And the incalculable effort by the VA, Community Partners, VSOs, Local Government entities, and the State to stay the course and not lose sight of the goal to leave no one behind and secure for our homeless veterans and their families the housing and wrap-around services they need and deserve as best possible during this time and under those strenuous circumstances. In furtherance of this....

DAV PUBLIC COMMENT (excerpts dated Dec. 17, 2021) FEDERAL REGISTER ANNOUNCEMENT ON THE DRAFT FINAL WEST LOS ANGELES VA MASTER PLAN

The Disabled American Veterans (DAV), Department of California acknowledges veterans are proud of their service and the vast majority say they would do it all over again. Yet many paid a price, either in terms of an adverse impact on their health, or relationships, and/or a myriad of other issues incurred while in the service. Anyone of which or in tandem contribute to their struggles, struggles inherent in transitioning to civilian life, which was a notable characteristic the U.S. Sanitary Commission wrote in a report dated May 15, 1865, "*.....these returning soldiers, by their military service, have become more or less detached from their previous relations, associations, and pursuits, which are now to be re-established. Many of those men will not only physically, but morally disabled, and all will exhibit the injurious effects of camp life in a weakened power of self-guidance and self-restraint, inducing a certain kind of indolence, and, for the time indisposition to take hold of hard work....*"

We recognize that far too many veterans today believe the government has failed them and to a lesser degree the American public are likewise perceived as unconcerned with their, the veterans' plight, well-being, or whether they're receiving the benefits they were promised and earned through their service to the Nation, many during times of peril. One clear conclusion taken from this is: Our Representatives and citizens need to do more to ensure the Nation keeps its promises to our veterans.

KEEPING OUR PROMISE TO AMERICA'S VETERANS



In retrospect the DAV's Public Comments as presented in its October 15, 2015 submission to the Federal Register announcement do in fact favor to a great extent the actions being proposed in the Draft Final West Los Angeles VA Master Plan and to that end DAV has a long history in supporting legislation to ensure the WLA VA campus remains a viable edifice of the VA's Integrated Health Care Network, suitable to meet the unique needs of its veteran cohort from all eras. To amplify that very point, here are a few significant enacted Public Laws 100-322 and 110-161 that preceded Public Law 114-226 and Public Laws 117-18 and 117-263 that enhanced the viability of the Los Angeles Homeless Veterans Leasing Act of 2016 without changing the very core and purpose of the Enhanced Use Lease edict's that leaseholders are required to faithfully and without reservation uphold, to Benefit Principally Veterans, their spouse, and dependents

....we began with a recap of where we started in 2015 regarding the VSOs inclusion in the process, laying the ground work in support of the Secretary's Special Assistant, support in the nature of arranging outreach efforts in the form of Town Halls in the outlying regions of the WLA VA's service area, collaborating with other organizations having a vested interest in the process and most importantly developing the West LA Draft Master Plan, and where we again find ourselves, standing at a crossroad, a crossroad that we must map out with all urgency and due diligence available to allay the veteran homelessness crisis in our midst, the same crisis that has beset our fellow veterans for far to long, but in doing so we must remain true to the principles now set forth in the Draft Final West Los Angeles Master Plan, approved by DVA Secretary Denis McDonough on April 22, 2022, detailing the updated vision for a stable and supportive community for homeless and other at-risk Veterans and their families at the VA Greater Los Angeles Healthcare System.

DAV DEPARTMENT OF CALIFORNIA CONCERNS

"To fulfill President Lincoln's promise to care for those who have served in our nation's military and for their families, caregivers and survivors."

This is not just some aspirational motto engendered by the VA we resorted to, a catch phrase as we began our work on the Draft Master Plan in 2015, but the very essence, a foundational aspect ensuring the task we were about to embark on to re-establish what was begun in 1888 comes to fruition once again, but as the 21st Century model to be emulated throughout the VA. A place homeless veterans can call home, where they will be afforded all the attributes in Benefits and Services available to them through the U.S. Department of Veterans Affairs, applied in deference to social economic status, but as prescribed in accordance with the law, Title 38 U.S.C., which was established to protect the rights of veterans and to ensure appropriate care is provided to sustain their health and well-being.

KEEPING OUR PROMISE TO AMERICA'S VETERANS



In our review of H. R. 3848 we have determined that this bill does not reach a reliable level of surety that would be of benefit in creating a reliable source of quality housing in communities' homeless veterans are left unsheltered. This is especially true in high-cost housing and rental markets like that of Los Angeles and the surrounding Counties within the West LA VA catchment area. This bill will also stymie further progress in the development of much needed housing on the VA campus. There is a temptation here to be avoided: it mistakes an outcome for a process:

- **Per Diem** – This provision deals only with the VA Grant and Per Diem program, the rates proposed simply put are low balled. In addition, the rates discussed in the bill will not adequately reimburse Transitional Housing providers for the actual cost of care and services to homeless veterans. We cannot afford to continue losing providers in our communities due to inadequate Per Diem rates.
- **OIG Authority** – Amendment in the Nature of a Substitute to H.R. 3484 Offered by Mr. Miller of Florida, enshrined the OIG Authority in the final bill, H.R. 5936, becoming Public Law 114-226, the Los Angeles Homeless Veterans Leasing Act of 2016. During our review of the Substitute bill to H.R. 3484 we took into consideration the long history of controversy, misuse, and fraud related to the WLA campus land use. It was the purpose of H.R. 5936 to give the Inspector General oversight and accountability authority to ensure that leases on the WLA property principally benefit veterans. And H.R. 3848 will dismantle that authority for private interests. This authority is critical to give the Federal government a mechanism through which to exit leases on the WLA campus that do not principally benefit veterans, as required by current law.
- **In-kind Consideration** – H.R. 3848 proposes allowing third-party Enhanced Use Lease and Land Sharing Agreement holders substitute with "in-kind consideration" in lieu of cash money as is the current form of lease payment, as such it is more likely than not the lease holders would profit by this arrangement and offer nothing in return of equal value and meets the requirement established by law of, "principally benefits veterans." It should be noted, the VA utilizes the money received from these leases to fund much needed veteran programs and resources.

KEEPING OUR PROMISE TO AMERICA'S VETERANS



Mr. Chairman, DAV Department of California believes we must deliver on the promises made by the Los Angeles Homeless Veterans Leasing Act of 2016 for the sake of the homeless veterans and their families, as many are in desperate need of housing and VA's life changing benefits. This concludes my testimony, and we thank you for the opportunity to provide our comments.

Nancy Casey, State Commander
Disabled American Veterans
Department of California

Richard Valdez, Past State Commander
Disabled American Veterans
Department of California

Prepared Statement of Family & Community Services, Inc.



705 Oakwood St. Suite 221
Ravenna, OH 44266
P: 330.297.7027 | F: 330.296.2684
fcsserves.org

Go forth, do good.



June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of Family & Community Services Inc., which has provided the following Grant and Per Diem services in Northeastern Ohio since 2008. Our organization currently operates 120 beds for homeless veterans and, since 2008, has placed over 75% of veterans exiting our program into permanent housing. In Summit County, we have achieved functional zero homeless veterans.

We thank you for your Committee's bipartisan work to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$164.67 per night from our pre-pandemic rate of \$54.89. This increase allowed us to continue to keep our doors open for veterans who would otherwise be on the street. Food, utilities, and staffing costs grew by over 100% during the pandemic. These are the bare minimum costs needed to care for homeless veterans.

The recent decrease at the end of the PHE dropped our rate to \$64.52. This reduction has required us to look into cutting staffing and programming for the veterans and could lead to programs like ours having to close our doors. While the pandemic has been declared over, the cost of providing these same essential services to our veterans remains at the same level as during the pandemic. Our costs have increased, and our revenue has been cut. This formula will lead to programs shutting their doors and veterans becoming homeless. There is a high moral cost for failing to provide the basics of food and shelter to our veterans and a high fiscal cost. People on the street will end up in the most costly public systems, hospitals, and judicial systems. All the gains we have made in reducing the number of veterans experiencing homelessness will be lost.

We appreciate the intent of H.R. 3848 to restore section 4201 assistance, which has been critical, and to increase the per diem rate to 133%. However, having this ceiling on funding would still require us and programs like ours to close our doors.

We support access to reimbursement in H.R. 491 to allow us to keep the doors open of programs serving homeless veterans. This reimbursement rate will also help our program and others like ours restore services and supports that veterans we serve have earned and the level of services required to operate this grant successfully.

Should you have any questions, don't hesitate to contact me at mslater@fcsOhio.org or 330-687-8136.

Sincerely,

Matthew K. Slater

Matthew Slater
Director of Development
Family & Community Services, Inc.



Prepared Statement of Helping Veterans and Families of Indiana, Inc.



964 North Pennsylvania Street
Indianapolis, IN 46204
317-951-0688 | hvaf.org



Providing hope, housing, and self-sufficiency for all veterans and their families since 1993.

HVAF of Indiana Statement for the Record
June 14, 2023

HVAF of Indiana, Inc. is the largest non-profit in the State of Indiana dedicated to serving veterans and families facing homelessness. Located in Indianapolis, HVAF has been offering housing, hope and self-sufficiency to veterans and their families since 1993. Last year, 1,265 veterans received life changing, lifesaving assistance at HVAF.

As a Grant and Per Diem and Supportive Services for Veteran Families provider, HVAF has been on the front lines serving the most vulnerable veterans throughout the pandemic. We are deeply concerned about the funding reductions aligned with the end of the public health emergency. I appreciate the opportunity to share my concerns with you today.

The reduction of the GPD rate on May 12 has impacted HVAF's daily operations significantly. The new maximum rate, \$64.52, is not enough to provide high quality, safe and supportive transitional housing for veterans in our community. Since 2019, we have experienced increased personnel costs, utility costs, and maintenance costs. Prior to May 12, HVAF was billing at \$90.12 per day. The reduction resulted in a loss of approximately \$60,000 a month in funding and the following actions have been taken:

1. Reduced onsite evening and weekend security. During the pandemic, HVAF contracted with a veteran owned security company to provide overnight and weekend security at our largest transitional housing facilities, a 45-bed facility, and a 51-bed facility. During the pandemic, we experienced an increase in severe mental illness and substance use and have seen a rise in critical incidents, which include physical aggression, theft, fires, suicidal ideation, etc. The security presence helped ensure the safety of veterans and our staff. On May 12, we ended overnight security and now are only able to offer 12 hours of security on the weekend. We have already had a critical incident since the reduction, where a veteran threatened to blow up the facility after an altercation with another veteran. We called the police, but they refused to remove him citing Indiana tenants' rights laws. Onsite security could have escorted him immediately from the property without putting HVAF staff and other veterans at risk.
2. Several key program staff costs have been shifted to other, temporary grants. These staff are vital to the success of HVAF's transitional housing program. Relying on temporary funding puts the integrity of the program at risk. Staff funded through other sources include:
 - a. GPD Housing Specialist: Responsible for completing Coordinated Entry Assessments, receives all GPD referrals and coordinates move-ins for veterans.
 - b. Therapist/Clinical Coordinator: Responsible for providing supervision of Clinical Housing Team and intensive mental health services for veterans.
 - c. Employment Specialist: Responsible for providing employment assistance to GPD clients.
 - d. 24 Hour On-calls support: This cost is defrayed across all HVAF's grants to meet the GPD requirement of 24-hour staff availability.

3. Effective October 1, HVAF will reduce GPD beds from 121 to 103 to reduce maintenance, utility and personnel costs.

I appreciate the Committee's thorough review of the GPD program and the appropriate level of funding needed to serve the most vulnerable veterans in our nation. I would also encourage the committee to join with providers around the country who are working diligently to end veteran homelessness. Please provide the resources necessary to ensure that no veteran is homeless on our streets.

Emmy Hildebrand
Chief Executive Officer

Prepared Statement of The Honorable Morgan McGarvey (KY-3)

MORGAN MCGARVEY
3RD DISTRICT, KENTUCKY

HOUSE COMMITTEE ON
SMALL BUSINESS

HOUSE COMMITTEE ON
VETERANS' AFFAIRS

Congress of the United States
House of Representatives
Washington, DC 20515-1703

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LOUISVILLE, KY 40202
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June 13, 2023

Statement for the Record
June 14, 2023, Legislative Hearing
Economic Opportunity Subcommittee
House Veterans Affairs Committee

Chairman Van Orden and Ranking Member Levin:

Thank you both for your championship of veterans – we all succeed when our veterans can access the education benefits they have earned.

I'm proud to sponsor H.R. 3981, the Veterans Education Oversight Expansion Act, which builds on Ranking Member Levin's successful bill, the comprehensive Isakson and Roe Veterans Health Care and Benefits Improvement Act of 2020.

As you know, many of our nation's veterans have earned federal support to help pay for college, graduate school, and training programs through their GI Bill education benefits. They can even transfer unused benefits to family members in certain cases. Unfortunately, some predatory programs have exploited veterans by aggressively attracting them and their GI Bill benefits to fraudulent, falsified, or substandard programs. The Isakson-Roe Act seeks to rein in these abuses by increasing the Department of Veterans Affairs' (VA) oversight capacity and restoring benefits to defrauded veterans. The Veterans Education Oversight Expansion Act builds on the successes of Isakson-Roe to improve oversight, foster accountability, and most of all, help our veterans access the quality education they deserve.

To do so, this legislation strengthens the reporting requirements of educational entities that are recipients of GI Bill education benefits. This bill would require educational entities to preemptively report any non-compliance within 30 days; schools that have not reported noncompliance and are found in violation of compliance may face additional penalties. The legislation also allows a veteran's GI Bill education benefits to be restored if an educational entity is found to have acted maliciously (e.g., scams by for-profit predatory colleges) or is otherwise found to be inadequate or ineligible under the discretion of the Secretary of Veterans Affairs. Finally, the bill requires the VA to create a previously mandated database of risk-based surveys within half a year (180 days). Risk-based surveys of educational entities receiving federal funds ensure that these programs are legitimate, accurately advertised, and properly serving their veteran populations.

I'm proud to state that H.R. 3981 has the endorsements of the American Legion, Black Veterans Project, Blinded Veterans Association, Blue Star Families, Common Defense, Disabled American Veterans, Military Family Advisory Network, Military-Veterans Advocacy, Modern

Military Association of America, National Military Family Association, Paralyzed Veterans of America, Veterans Education Success, Veterans for Common Sense, Veterans for Peace, Vietnam Veterans of America, Service to School, Student Veterans of America, and Combined Arms.

I hope that my colleagues from all parts of the political spectrum will support this commonsense legislation to ensure our veterans and their benefits are protected and supported. I thank the Chairman and Ranking Member for including H.R. 3981 in this legislative hearing, and I look forward to working together.

Sincerely,

A handwritten signature in blue ink that reads "Morgan McGarvey". The signature is written in a cursive, flowing style.

Morgan McGarvey
Member of Congress

Prepared Statement of Nation's Finest



June 14, 2023

Chairman Van Orden, Ranking Member Levin, I submit this statement for the record to the Subcommittee on Economic Opportunity's Legislative Hearing on behalf of Nation's Finest which has provided Grant and Per Diem services in the Northern California VAMC catchment area in Sacramento and also within the San Francisco VAMC in Santa Rosa and Eureka since its inception. Our organization currently is operating 126 beds, 6 of which are special needs for women veterans, and have been able to offer increased clinical support to our GPD veterans with 83% participating in groups and 59% attending individual Mental Health sessions. Additionally, 83% were able to maintain their sobriety while in our GPD programs as a direct result of this increase in clinical engagement.

We thank you for the bipartisan work your Committee partook in to enhance the per diem rate during the public health emergency. During the health emergency, our nightly per diem rate increased to \$132.27 in the Northern California VAMC and \$144.42 in the San Francisco VAMC per night from our pre-pandemic rate of \$48.50. This allowed us to modify rooms for enhanced safety procedures, provided safer meal options (single serve), allow clients to stay in hotels as they waited for test results or were too high risk for a community environment. We were able to hire more staff (clinical and case management) to try and keep people working as time off for staff and their family increased dramatically and ultimately continue to provide the much-needed support to our veterans. We were able to do some maintenance on our facilities that were in desperate need of repair to improve the residential experience for veterans staying in our programs.

The recent decrease dropped our rate to \$64.52. This has required us to decrease our staff that added stability, cut clinical hours that were a needed addition and unfortunately go over budget on items such as food and activities. We have to cut back on any repairs that are needed to our facilities and often triage what problem is addressed first (if at all). We appreciate the intent of H.R. 3848, to restore section 4201 assistance, which has been critical, and to increase the per diem rate to \$133%. However, having this ceiling on funding would still require us to cut back on the services that enable a veteran the opportunity to change their lives and become successful. Services such as mental health support require highly paid professional staff, serving high quality, nutritious meals, and maintaining a facility to provide a safe and comfortable environment are all aspects that will once again become unaffordable.

We support access to reimbursement in H.R. 491 to allow us to restore levels of services and supports the veterans we serve have earned, and the level of services that are required to successfully operate this grant.

Should you have any questions, please feel free to contact us at 833-468-9676.

Best Regards,


Chris Johnson
CEO
Nation's Finest