STATEMENT OF
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THE AMERICAN LEGION
BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES
ON
PENDING LEGISLATION

MARCH 24, 2015

Chairman Wenstrup, Ranking Member Takano, and distinguished members of the subcommittee, On behalf of our National Commander, Michael Helm, and the 2.3 million members of The American Legion, we thank you for this opportunity to testify regarding The American Legion's positions on pending legislation before this subcommittee.

H.R.456: Reducing Barriers for Veterans Education Act of 2015

To amend title 38, United States Code, to include college application fees as part of the benefits provided under the Post-9/11 Education Assistance Program.

As affirmed in The America Legion's Resolution No. 312: Ensuring the Quality of Servicemembers and Veteran Student's Education at Institutions of Higher Learning, passed at the 2014 National Convention, The American Legion "support[s] any legislative or administrative proposal that improves…the GI Bill…and education benefits so service members, veterans, and their families can maximize its usage."

Currently, the Post 9/11 GI Bill covers tuition and fees while providing a monthly housing stipend, a book and supply stipend, and a onetime relocation allowance. It also includes an option to transfer benefit to family members. However, application fees remain a considerable cost to those seeking to take advantage of these educational benefits.

For a veteran returning from overseas, these unexpected costs have the potential to pose a financial burden to those planning to attend an institution of higher learning. Including application fees as part of Post-9/11 GI Bill benefit would alleviate this burden, and allow veterans easier access to their education benefits.

The American Legion supports H.R. 456

H.R.473: Increasing the Department of Veterans Affairs Accountability to Veterans Act of 2015

To amend title 38, United States Code, to improve the accountability of employees of the Department of Veterans Affairs, and for other purposes.

Reacting to the firing of Phoenix VA Healthcare System Director in November of last year, the National Commander of The American Legion Mike Helm noted:

> *"This is one long-overdue step in a journey that is far from over. Unfortunately, as we all soon discovered after the story broke last April, this problem was not isolated to Phoenix. It was widespread, and we expect to see additional consequences, even criminal charges if they are warranted, for anyone who knowingly misled veterans and denied them access to medical services."*[1]

The American Legion believes it is important to ensure there is accountability at all levels within VA and that the process is completely transparent. Where VA employees are found to have engaged in wrongdoing, The American Legion supports the appointment of a special prosecutor to be assigned to investigate and vigorously prosecute any VA employees engaged in fraudulent practices designed to improperly award bonuses or other financial or meritorious awards to the perpetrator.[2] While those in the Senior Executive Service (SES) can and should receive performance bonuses when their performance is exemplary, The American Legion believes any bonuses need to be tied clearly to quantitative and qualitative measures.[3] There must be an open process for determining these awards that all stakeholders can examine to determine the propriety of the awarded bonuses.

This legislation, while it is helpful towards achieving these ends in some ways, has some sections which still raise concerns about the manner of their implementation. The American Legion supports increased accountability, and those employees found guilty of having committed crimes at the expense of the veterans entrusted to their care should never profit from those crimes. To achieve bonuses based on manipulation and lies undercuts any trust with the veterans' community. Requiring additional transparency about SES performance outcomes is also laudable and supported by The American Legion.

Where this legislation delves into creating a specific new performance appraisal system, The American Legion has concerns. While the goal of reforming the performance system is admirable and needed, there are concerns that this level of specificity may lean towards over-management of this task. While VA can and must reform this area, The American Legion is wary of dictating the shape of that reform in too detailed a manner. The American Legion does support open discussion on this process, and hopes this proposal can at least be a starting point for working with all parties from VA to Congress to the stakeholders to determine a system that enforces accountability and fairness in the bonus system.

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[1] "Legion: VA director's overdue firing applauded" – www.legion.org November 24, 2014
[2] Resolution No. 107 – AUG 2014
[3] Resolution No. 128 – AUG 2014

The American Legion recognizes the importance of reforming the bonus system and indeed the management culture within VA, and applauds the initial efforts conducted by VA Secretary Bob McDonald to begin that process, as well as the diligence of this committee to direct oversight efforts towards that task. This legislation has great intentions, and the portions related to adding transparency to the system and preventing employees from profiting at the cost of veterans are strong. With further work, perhaps more of the legislation could be supported, and The American Legion looks forward to working with this committee to ensure impactful legislation is passed towards this end.

The American Legion supports some portions of this bill, but believes additional work as noted above may be necessary to support the entire legislation.

H.R. 474: Homeless Veterans' Reintegration Programs Reauthorization Act of 2015

To amend title 38, United States Code, to provide for a five-year extension to the homeless veterans reintegration programs and to provide clarification regarding eligibility for services under such programs.

This legislation extends through FY2020 the Department of Veterans Affairs (VA) homeless veterans reintegration programs. In addition, it makes eligible for participation in those programs: (1) homeless veterans; (2) veterans who are participating in the VA supported housing program for which rental assistance is provided under the United States Housing Act of 1937; and (3) veterans who are transitioning from being incarcerated.

Current estimates put the number of homeless veterans at approximately 50,000 on any given night, a decline of 33 percent (or 24,837 people) since 2010. This includes a nearly 40 percent drop in the number of veterans sleeping on the street. The issues facing homeless veterans fall into three primary categories: health, financial, and access to affordable housing. A critical program in the fight to eliminate veteran homelessness is the Homeless Veterans Reintegration Program (HVRP) within the Department of Labor's Veterans' Employment and Training Services (DOL-VETS). HVRP is the only nationwide program focused on assisting homeless veterans to reintegrate into the workforce. This program is a highly successful grant program that needs to be fully funded at $50 million. Currently, HVRP is funded at $38 million.

Furthermore, there is long-term follow-up in HVRP -- grantees must check in with and offer support to veteran participants for 270 days after completion -- and a commitment to serve veterans transitioning out of incarceration, women veterans, and veterans with families. HVRP gives an opportunity for those who served in the Armed Forces and fallen into homelessness to build the skills necessary to become gainfully employed.

Please note, The American Legion has taken a leadership role within local communities by volunteering, fundraising, and advocating for programs and funding for homeless veterans. Additionally, The American Legion provides housing for homeless veterans and their families (i.e., Departments of Connecticut and Pennsylvania). One of the goals of The American Legion is to help bring federal agencies, non-profit and faith-based organizations, and other stakeholders to the table to discuss best practices, along with funding opportunities, so homeless veterans and

their families can obtain the necessary care and help in order for them to properly transition from the streets and/or shelters into gainful employment and/or independent living.[4]

The American Legion supports H.R. 474

H.R.475: GI Bill Processing Improvement Act of 2015

To amend title 38, United States Code, to make certain improvements in the laws administered by the Secretary of Veterans Affairs relating to educational assistance, and for other purposes.

Section by section analysis:

Sec 2. Improvement of Information Technology of the Veterans Benefits Administration of the Department of the Veterans Affairs

Prior to the passage of the Post-9/11 Veterans Educational Assistance Act of 2008, better known as the Post-9/11 GI Bill, VA delivered education benefits by relying on a combination of manual processes and legacy IT systems. However, the department determined after passage of the Post-9/11 GI Bill that its legacy systems were insufficient to support the demands for processing and adjudicating the new benefit request. VA has developed a new hybrid manual and IT solution for the Post-9/11 GI Bill and this provision would mandate that they complete, to the maximum extent possible, the transition to a fully IT solution.

Under The American Legion's Resolution No. 312: Ensuring the Quality of Servicemembers and Veteran Student's Education at Institutions of Higher Learning, **we support section 2 of H.R. 475.**

Sec 3. Approval of courses of education provided by public institutions of higher learning for purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance conditional on in-State tuition rate for veterans

The American Legion was gratified that the Veterans Access, Choice, and Accountability Act of 2014 (Public Law 113-146) contained among its provisions one which effectively requires public universities and colleges that participate in the Post-9/11 GI bill to provide in-state tuition to veterans and dependents using those GI bill benefits, regardless of how long they have lived in the state.

Many states either currently assist all or certain veterans by recognizing them as in-state students for purposes of attending a public educational institution or are in the process of making the rule changes necessary to comply with the in-state tuition provision. In addition, VA has the authority to waiver for a year those states which can't meet the current July 1, 2015, implementation date to allow them additional time to become compliant. Therefore, we don't see the necessity of delaying by a year to July 1, 2016, the implementation of this important change. **The American Legion opposes this section of H.R. 475.**

[4] Resolution No. 306: Support Funding for Homeless Veterans – AUG 2014

Sec 4. Recodification and improvement of election process for Post-9/11 Educational Assistance Program

Section 4 represents another administrative improvement to the processing of the Post 9/11 GI Bill. The American Legion is pleased to participate in and recognize ongoing efforts like this to improve the Department of Veterans Affairs' products, services and processes.

The American Legion supports Chairman Wenstrup and his efforts to streamline how VA approves initial claims for Post-9/11 GI Bill beneficiaries. Currently, claims processors must go through a time-intensive back-and-forth with potential student-veterans who accidentally revoke the wrong GI Bill benefit before they can properly enroll them in Chapter 33. This bill would allow VA to make a reasonable effort to contact the veteran to enroll them in the best education benefit that suits their needs.

This section goes further in also adjusting how VA reimburses veterans eligible for the Montgomery GI Bill (Chapter 30) and who have paid into the benefit, but elect to use Chapter 33 instead. Currently, Chapter 30-eligible veterans who elect to use Chapter 33 must wait until they have finished using their benefits before the VA can repay them for their Chapter 30 contribution. Under this law, the Chapter 30 contribution would be prorated and added into living stipend payments while the veteran is enrolled in Chapter 33. **The American Legion supports this section of H.R. 475**

Sec 5. Centralized reporting of veteran enrollment by certain groups, districts, and consortiums of educational institutions

This section amends veterans' educational assistance program reporting requirements under which enrolled veterans (or eligible persons) and educational institutions must report enrollment information to the Secretary of Veterans Affairs (VA). It requires individuals and educational institutions participating in the post-Vietnam era and post-9/11 veterans' educational assistance programs to report to the Secretary such enrollment and any updates on interruption or termination of the education (thereby making the enrollment reporting requirements for the post-Vietnam and post-9/11 programs consistent with other veterans' educational programs). Finally, it defines "educational institution" to permit the inclusion of groups, districts, or consortiums of separately accredited educational institutions located in the same state that are organized in a manner facilitating the centralized reporting of enrollments.

Increasing program consistency and streamlining reporting requirements are often desirable administrative improvements. In this case, for example, community college districts in a state that have multiple schools would be allowed to centralize their veterans' educational assistance program reporting information and submit only one report for the district as a whole rather than having to submit multiple reports for each school. The American Legion is pleased to participate in and recognize ongoing efforts like this to improve the Department of Veterans Affairs' products, services and processes. **The American Legion supports this section of H.R. 475**

Sec 6. Provision of information regarding veteran entitlement to educational assistance

Allowing higher education institutions to access their respective student-veteran body education benefits in real time will allow for school certifying officials and institution to better provide academic and financial advising to those beneficiaries about other financial aid opportunities and programs available to them prior to the semester beginning. This section also falls in line with President Obama's 2012 Executive Order, *Establishing Principles of Excellence for Education Institutions Serving Service Members, Veterans, Spouses, and Other Family members,* section 2(g), which states:

"Provide educational plans for all individuals using Federal military and veterans educational benefits that detail how they will fulfill all the requirements necessary to graduate and the expected timeline of completion."

However, without this provision of H.R 475, it is too difficult for higher education institutions and their staff to properly advise their respective GI Bill beneficiaries in this way, as well as ensure their success in higher education.

The American Legion supports H.R. 475, except for section 3, as noted above

H.R.476: GI Bill Education Quality Enhancement Act of 2015

To amend title 38, United States Code, to clarify the process of approving courses of education pursued using educational benefits administered by the Secretary of Veterans Affairs, and for other purposes.

Background

State Approving Agencies (SAAs) are responsible for approving and supervising programs of education for the training of veterans, eligible dependents, and eligible members of the National Guard and the Reserves. SAAs grew out of the original GI Bill of Rights that became law in 1944. Though SAAs have their foundation in Federal law, SAAs operate as part of state governments. SAAs approve programs leading to vocational, educational or professional objectives. These include vocational certificates, high school diplomas, GEDs, degrees, apprenticeships, on-the-job training, flight training, correspondence training and programs leading to required certification to practice in a profession.

In December 2010, Congress passed the Post 9/11 Veterans Educational Assistance Improvements Act of 2010 (PL 111-377), which was signed into law in January 2011. That bill contained language that impacted the role of the State Approving Agencies in terms of program approval authority. Due to the expansion of GI Bill-eligible programs to include many for-profit vocational training programs, non-registered apprenticeships, and on the job training establishments, the law "deemed approved" many programs that were otherwise accredited or approved by other institutions such as Department of Education-recognized accrediting bodies. This was done in order to relieve some of the work load of the SAAs, and to avoid redundancy between the work done by SAAs and other accrediting bodies. This had the effect of shifting the

role of the SAAs from being the primary entity responsible for approving all GI Bill eligible programs to examining only those that were not deemed approved for the purposes of the legislation (viz. programs at for-profit institutions, non-registered apprenticeships, on the jobs training establishments, non-accredited institutions, non-public licensure/certification examinations, and new institutions).

Our Position

While The American Legion applauds the expansion of the GI Bill applicability, we find it problematic that SAAs have been removed from a large portion of the approval process. SAAs focus explicitly on the GI Bill and serve to protect it, and, by extension, the veterans using it. They ensure that programs meet certain eligibility criteria, in order to see that the funds are not wasted, but are put to the best use possible. Their unique focus on how GI Bill funds are spent makes their mission distinct from all other oversight and approving bodies. Furthermore, as federally authorized arms of their respective state governments, SAAs are in a unique position to evaluate programs that are offered in their state, given their proximity. This arrangement also maintains the federalism required by the Constitution.

Therefore, The American Legion supports the SAAs, and believes that they should have a role in reviewing, evaluating, and approving all educational and training programs for GI Bill use.

While some may argue that the work that the SAAs do is redundant to the work of accrediting bodies, The American Legion believes that SAAs approval is, in fact, unique. This is because the charge of the SAAs is to specifically focus on protecting GI Bill funds. While traditional accreditation provided by Department of Education-recognized accrediting bodies does a significant portion of work toward ensuring quality programs, SAA approval should work in tandem with that accreditation, rather than the stark division that is represented in the current statute.

However, under PL 111-377, SAAs lack the statutory authority to inspect many questionable programs that have sprung up since the passage of the Post 9/11 GI Bill at not-for-profit institutions. Given that the original mandate of the SAAs was to protect GI Bill funds from being squandered in unscrupulous programs, it seems reasonable that SAAs should be allowed to inspect all suspicious programs, even if they are housed in not-for-profit institutions.

As such, The American Legion supports the portion of the legislative proposal submitted by NASAA that would statutorily make SAAs the primary approving body for all programs approved for GI Bill use. Programs may still be deemed approved, but at the discretion of the SAAs, not the VA secretary.

Flight Programs

The American Legion supports measures to improve cost control for flight programs offered by colleges and universities. These programs frequently involve a contracted flight school. Some institutions of higher learning (IHL) have instituted extreme costs for flight fees as there are presently no caps in place for IHL. In some cases, benefits have been paid for aviation degree

programs at IHLs provided by a third-party flight contractor with no approval issued by the governing SAA.[5] This was exacerbated by the implementation of 3672.[6] And some students are taking flight classes as electives with no cost cap for flight fees. In those cases, students could foreseeably take flight classes as an "undeclared" student for up to two years. The American Legion suggests limiting Chapter 33 payments flight programs at IHL to establish a cap, producing immediate cost-savings. . This would also eliminate the need to further investigate and micro-manage flight programs areas including the number of flight hours in addition to those minimally required or the types of aircraft used.

Lastly, The American Legion supports the proposed shift in the statutory requirement for SAA compliance surveys. As NASAA has indicated, the current mandate (annual surveys for every institution offering anything other than non-standard degrees, and any institution that enrolls more than three hundred GI Bill beneficiaries) is needlessly burdensome, and is, frankly impossible given the limited resources available.

In light of this, The American Legion believes that their funding should be increased to ensure that they are able to adequately perform their crucial role. Even if SAAs compliance survey requirement is reduced, an increased role as primary approving body seems likely to require more resources.

Conclusion

The American Legion supports SAAs, and recognizes the critical role they play in ensuring quality programs for veterans using their GI Bill benefit. This hearing should serve as a starting point for an ongoing conversation regarding the role that SAAs currently play in quality assurance.

How SAA approvals interact with accreditation remains somewhat unclear. This legislation would make strides toward clarifying and codifying the terms of that interaction. That said, The American Legion believes that more insight into how the process works is needed in order to ensure that veterans receive the highest quality education and training, while preventing redundancy and wasting resources, and therefore.

The American Legion strongly supports H.R. 476

H.R.643: Veterans Education Survey Act of 2015

To direct the Secretary of Veterans Affairs to enter into a contract with a non-government entity to conduct a survey of individuals who have used or are using their entitlement to educational assistance under the educational assistance programs administered by the Secretary of Veterans Affairs, and for other purposes.

[5] U.S. taxpayers stuck with the tab as helicopter flight schools exploit GI Bill loophole – March 15, 2015 http://www.latimes.com/nation/la-me-adv-gibill-20150315-story.html#page=1

[6] 38 U.S. Code § 3672 - Approval of courses: https://www.law.cornell.edu/uscode/text/38/3672.

Improving the effectiveness and efficiency of VA programs across the board is a national imperative. This bill would allow for a study of the effectiveness of educational assistance programs for veterans administered by the VA. It is crucial that legislators and stakeholders know which aspects of veterans' educational benefits are working, and which are not, as part of ongoing effort to improve their educational opportunities.

Using good data to inform decision-making will enable proper changes in how these VA functions. This information will allow us to accurately measure usage of the GI Bill program, employment status prior to usage of the GI Bill program and post usage, as well as experience with VA's education benefits processing system. In addition, this information will also allow us to change the thinking of management at the leadership level, improve technology systems to meet the needs of these individuals, as well as build a capacity at every level of the VA education section to use this data well.

The American Legion supports H.R. 643

H.R.1038: Ensuring VA Employee Accountability Act

To amend title 38, United States Code, to require the Secretary of Veterans Affairs to retain a copy of any reprimand or admonishment received by an employee of the Department in the permanent record of the employee.

The American Legion has no position on this bill.

H.R.1141: GI Bill Fairness Act of 2015

To amend title 38, United States Code, to consider certain time spent by members of reserve components of the Armed Forces while receiving medical care from the Secretary of Defense as active duty for purposes of eligibility for Post-9/11 educational Assistance, and for other purposes.

Members of the Guard or Reserve who are wounded in combat are often given orders under 10 USC 12301(h) for their recovery, treatment and rehabilitation. Unfortunately, federal law does not recognize such orders as eligible for Post-9/11 GI Bill education assistance, meaning that unlike other members of the military, these members of the Guard and Reserve actually lose benefits for being injured in the line of duty.

The GI Bill Fairness Act would end that unequal treatment and ensure these service members are eligible for the same GI Bill benefits as active duty members of the military.

We are in absolute agreement with the bill sponsor, Rep. Takano, that it is truly unjust to deny wounded and injured service members the ability to accrue educational benefits for the time they spend receiving medical care. No veteran should lose their benefits simply because they were in the National Guard or Reserves.

The American Legion supports H.R. 1141

H.R.1187

To amend title 38, United States Code, to adjust certain limits on the guaranteed amount of a home loan under the home loan program of the Department of Veterans Affairs.

This bill would eliminate the cap on VA home loans completely, so service members and veterans in high-cost areas (i.e., California, Hawaii, New Jersey, New York and several counties in Maryland and Virginia) can obtain a VA home loan. Currently, the limits on the loans are anywhere from $417,000 - $625,000, based upon state/county of residency. Since 1944, the VA Home Loan Guaranty has been popular among service members, veterans and their families, and the program has our strong support.[7] According to the VA, more than 20 million VA loans have been guaranteed since the program's inception -- nearly 300,000 per year. Service members and veterans would greatly benefit from being able to use the VA home loan in high cost areas; consequently, settling into the American dream, to which they served honorably to defend and enjoy.

New statistics released by the Mortgage Bankers Association's National Delinquency Survey show that veterans using VA loans have the lowest foreclosure rate in the United States. The National Delinquency Survey bases its sample on about 41 million mortgage loans which represents roughly 88 percent of the market. Each loan is separated into a specific category (prime, subprime, VA, and FHA), so the evidence is clear-cut. VA-guaranteed loans have a foreclosure rate of only 1.98 percent and have enjoyed the lowest foreclosure rate for five years.

The American Legion supports H.R. 1187

Draft bill

To amend title 38, United States Code, to authorize the Secretary of VA, in awarding a contract for the procurement of goods or services, to give a preference to offerors that employ veterans

The American Legion supports giving the VA Secretary the authority to place procurement preference on contractors that employ veterans.

The American Legion believes this bill will accomplish what VETS 100 and OFCCP's previous attempts at imposing additional data collection and reporting requirements on government contractors (in implementing Section 503 of the Rehabilitation Act) has tried to do. Notably, the latter resulted in the Associated Builders and Contractors (ABC) filing a request for an injunction in the U.S. District Court for the District of Columbia to prevent OFCCP from making the final rule.[8] ABC deemed OFCCP's additional reporting requirements "especially burdensome for construction contractors that will be required them to maintain written documentation and track whether the percentage of protected employees meets affirmative action requirements for federal projects."

[7] Resolution No. 307: Support Home Loan Guaranty Program – AUG 2014
[8] http://http/www.abc.org/Portals/1/Documents/Newsline/2013/OFCCPFinalComplaint.pdf

This bill would again ask private industry to shoulder this "burdensome" task. But this time, instead of forcing contracting firms to report on veteran hires, the bill incentivizes them to undertake additional veteran employee counting requirements on a voluntary basis. More importantly, this bill will spur the hiring of veterans into coveted positions within these large government contractors.

We are pleased that the bill only extends the count to veterans on staff at the time of the proposal and does not include contingent hires. Because government still lacks the capability of tracking whether a bid-winner makes all their prospective contingent hires. Resolution 334 states that The American Legion will support legislation ensuring that veterans receive employment preference from employers who receive grants and contracts from the federal government.

The American Legion supports this draft bill

Draft bill: Service Disabled Veteran Owned Small Business Relief Act

To amend title 38, United States Code, to enhance the treatment of certain small business concerns for purposes of Department of Veterans Affairs contracting goals and preferences.

The American Legion passed Resolution 320 in support of amending Public Law 109-461 to read that if any disabled veteran who owns a certified service-disabled veteran-owned business dies, (regardless of his/her disability at the time), their business inherited by their spouse/dependent will retain the service-disabled veteran-owned business status in conjunction with Public Law 109-461. The American Legion also supports legislative efforts that will improve and increase the benefits bequeathed to the veteran's spouses or dependents upon a veteran business owner's death.

The American Legion would like to point out that this legislation only covers 38 USC as it pertains to the Department of Veterans Affairs. There is a discrepancy between 38 USC and 15 USC, where 15 USC does not permit the transfer of SDVOSB status for any amount of time regardless the percentage of service-connected disability or cause of death of the deceased veteran.

We support the legislation but we hope that this Committee will work with the Small Business Committee to align the relevant statutes so that these same benefits could be granted to SDVOSBs competing for federal set-asides in the rest of the federal agencies.

The American Legion supports this draft bill

Conclusion

As always, The American Legion thanks this subcommittee for the opportunity to explain the position of the 2.4 million veteran members of this organization.

For additional information regarding this testimony, please contact Mr. Larry Provost at The American Legion's Legislative Division, (202) 263-5755 or lprovost@legion.org.