S. HRG. 117–544

HEARING TO CONSIDER PENDING LEGISLATION

HEARING

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

ONE HUNDRED SEVENTEENTH CONGRESS

FIRST SESSION

NOVEMBER 17, 2021

Printed for the use of the Committee on Veterans' Affairs

Available via the World Wide Web: http://www.govinfo.gov

U.S. GOVERNMENT PUBLISHING OFFICE

50–288 PDF WASHINGTON : 2023

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NOVEMBER 17, 2021

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HEARING TO CONSIDER PENDING LEGISLATION

WEDNESDAY, NOVEMBER 17, 2021

U.S. SENATE,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The Committee met, pursuant to notice, at 3:04 p.m., via Webex and in Room SR–418, Russell Senate Office Building, Hon. Jon Tester, Chairman of the Committee, presiding.

Present: Senators Tester, Murray, Brown, Blumenthal, Hirono, Manchin, Sinema, Hassan, Moran, Boozman, Cassidy, Rounds, Blackburn, Cramer, and Tuberville.

OPENING STATEMENT OF CHAIRMAN TESTER

Chairman TESTER. I am going to call this meeting of the Senate Veterans' Affairs Committee to order.

Good afternoon. Today we will share the views from the Department of Veterans Affairs and veterans service organizations on 21, that is right, 21 bills pending before the Committee.

Before we get into my complete statement, I would hope that the VA can actually comment on the 21 bills and not just say we can do this without you. Okay. Good. Thank you very much.

As Chairman, one of my concerns is the backlog of disability compensation claims and appeals not being processed quickly enough. My Veterans Benefits Improvement Act of 2021 will help fix that. For example, without this bill, VA will continue to play phone tag with veterans to schedule simple disability exams, which is one of the first steps to process a claim.

The bill will help the Board of Veterans' Appeals recruit and retain talent. Veterans do not always get the right decision first, and an appeal can add months of waiting. We need the best and brightest to work our veterans' appeals.

Today we will also discuss the RURAL Exams Act of 2021, which I have also introduced with my good Ranking Member, Senator Moran. This bill will offer rural and housebound veterans better access to medical disability examinations, and it will improve transparency in the disability examination process by requiring VA to push exam quality and timeliness metrics in a format all veterans can understand.

Also on our agenda today is the Strengthening Oversight for Veterans Act of 2021, which I have introduced with Senators Boozman and Manchin. This bill will provide the VA Inspector General authority to require former VA employees, contractors, and others to answer questions and provide information to the IG as part of its

investigations. The IG plays a critical role in Congress's oversight of the VA, and they have requested this tool to help them do their important work.

And finally, the GRAD VA Educational Assistance Parity Act of 2021, which I have introduced with Senator Moran again, will allow federally activated members of the National Guard and Reserve to receive the education benefits that they have earned. The brave men and women in our National Guard and Reserve continue to answer the call of duty, but their benefits are not keeping pace. This bill rights that wrong.

I look forward to hearing from the VA and the VSOs about these bills and other important legislation on our agenda today.

Now I will turn it over to Ranking Member Moran for his opening statement.

[The pending bills referred to by Chairman Tester appear on page 41 of the Appendix.]

OPENING STATEMENT OF SENATOR MORAN

Senator MORAN [presiding]. Chairman, good afternoon. Good afternoon to you and to our witnesses from the VA and the VA OIG and the VSOs. We are pleased that you are with us today, and I look forward to hearing what you all have to say regarding the legislation that is pending before this Committee.

We are considering 21 bills, most of which deal with benefits and services provided by the Veterans Benefits Administration. Considering 21 bills on one agenda is a challenging task. So thank you to our witnesses for your written statements and input, which will also be of great value as our Committee tries to move forward on this legislative process following today's hearing.

As this hearing is happening a week after Veterans Day, I think it is important to highlight how this Committee continues to be an awfully good example of how politics can be set aside so that we can put the needs of those who served our Nation first. Our veterans and those who are still serving and their families who serve have been a tremendous set of heroes for our Nation, and we paid tribute to them on Veterans Day, and we should do so each and every day thereafter. We can do that by doing our work well.

There are many important bills on today's agenda, including legislation that I introduced with the Chairman to provide a GI Bill parity for our National Guard and Reservists. He mentioned this in his opening statement. I was pleased to see that. I think that is one of the pieces of legislation that I am anxious to see be enacted into law.

I also want to thank my colleague, Senator Manchin, for joining me in introducing our bill to make certain homeless and at-risk-for-homelessness veterans living in every State—in every State and territory have access to specialized employment and training services.

And I look forward, as I said earlier, to today's testimony. I look forward to working with all of you in a continuing partnership, with all my colleagues on this Committee, as we work today and every day hereafter to improve the lives of our Nation's veterans.

And, Mr. Chairman, I yield back.

I would like to welcome our first panel of witnesses. Brianne Ogilvie, Assistant Deputy Under Secretary for Policy and Oversight of VBA, will provide the statement on behalf of the VA. She is accompanied by Jill DeBord, Executive Director, Care Management and Social Work at VHA, and Dr. Marjorie Bowman, Chief Academic Affiliations Officer, Office of Academic Affiliations for the VHA.

And Chris Wilber, Counselor to the Inspector General, will testify on behalf of the VA's Office of Inspector General.

Ms. Ogilvie, you may begin.

PANEL I

STATEMENT OF BRIANNE OGILVIE ACCOMPANIED BY JILL DEBORD AND MARJORIE BOWMAN

Ms. OGILVIE. Good afternoon, Mr. Chairman, Ranking Member Moran, and members of the Committee. We appreciate the opportunity to appear before you today to discuss pending legislation. Accompanying me from the Veterans Health Administration are Jill DeBord, Executive Director of Care Management and Social Work, and Dr. Marjorie Bowman, Chief Academic Affiliations Officer.

Before we discuss this important legislation, I want to touch on an evolving crisis. The COVID–19 pandemic exposed global and U.S. supply chain weaknesses, and we expect the manufacturing and distribution disruptions to continue for some time. As the virus spread, overall consumer demand decreased, and industrial activity, in turn, decreased due to the lower consumer demand and effects of COVID–19. With the increasing level of vaccination globally and the end of lockdowns in many nations, consumer demand increased dramatically while supply chains continue to face big challenges, including worker shortages and limitations and access to raw materials and key components.

VA is actively addressing these challenges, implementing near-term methods to ensure internal VA supply chain resiliency, including increased demand signal monitoring, identification of alternatives for preferred products, and treating medical products as enterprise assets.

Effective national response requires a resilient public health supply chain anchored in domestic manufacturing capabilities so that care and preventative measures can reach patients. Sustaining the resilience of the supply chain is critical for ensuring the health and wellness of the Nation as well as for national security, and VA is working with the White House and executive branch agencies to develop and implement the actions identified in the National Strategy for a Resilient Public Health Supply Chain.

VA offers support for much of the proposed legislation before us today. VA is focused on providing exemplary benefits and services for veterans, servicemembers, and their families, and is committed to modernization. While VA's views on all bills are detailed in my written testimony, to include areas of concern and support, I would like to highlight a few areas related to our proposed legislation

which would have profound effects on modernizing our delivery of service.

First, I would like to address certain sections of the Veterans Benefits Improvement Act of 2021 that support our common goal to modernize benefits delivery. VA supports Section 302 of this bill, which would provide the general authority for electronic notification as this would enhance the efficiency and timeliness of the claims adjudication process. We recognize that the way veterans and beneficiaries prefer to engage with VA is changing, and VA has already initiated an effort that will enable us to provide electronic notifications along with this necessary legislative support.

VA also supports Section 303 and understands the intent of Section 303(a) is to allow VA contractors and vendors access to Federal tax information for the purpose of administering certain types of benefits. This would improve the efficiency of VA claims adjudication. However, VA is concerned that the bill, as written, could be interpreted to limit its contractors' or vendors' ability to perform some key functions such as processing mail and maintaining information technology systems. We would appreciate the opportunity to work with the Committee on technical changes to ensure we are not impacting service delivery to our veterans.

I would like to address another bill related to modernization of benefits delivery, S. 2794, Supporting Families of the Fallen Act. VA supports this bill that will increase servicemembers' group life insurance and veterans' group life insurance, which aligns with modern cost of living increases that have occurred.

Lastly, I would like to address S. 1296, Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act. This bill is focused on the vulnerable time of transition between military and veteran status, ensures servicemembers are educated about the impact of transition on psychological health and have early connections to VA clinicians who provide a safeguard against loss of direct access to care coordination which is personalized to the servicemember's unique needs. Suicide prevention is VA's top clinical priority, and we welcome the opportunity to work through technical amendments to this legislation together.

VA is committed to working together toward our common goal of improvement and modernization. We are grateful for the resources provided to us and thank you for the opportunity to appear before you today to discuss this important legislation.

Mr. Chairman, this concludes my testimony. My colleagues and I are prepared to respond to any questions that you or other members of the Committee may have.

[The prepared statement of Ms. Ogilvie appears on page 45 of the Appendix.]

Senator MORAN. Thank you very much. First of all, I want to thank the Department for their technical assistance while we crafted—oh, I am so sorry. Chairman Tester would not have made this error.

Inspector General.

STATEMENT OF CHRIS WILBER

Mr. WILBER. Ranking Member Moran and members of the Committee, thank you for giving the Department of Veterans' Affairs Office of Inspector General the opportunity to discuss our support for two bills that would strengthen our ability to conduct fair and comprehensive oversight.

S. 2687, the Strengthening Oversight for Veterans Act of 2021, would provide the Inspector General the ability to require the testimony of individuals who are not currently employed by VA or its contractors. The OIG supports this bill as drafted. We thank Chairman Tester, Senator Boozman, and Senator Manchin for introducing this much needed bill.

We also support, as drafted, S. 2431, the Department of Veterans Affairs Office of Inspector General Training Act of 2021. This legislation would require VA employees to be trained on how and when to report wrongdoing to, and cooperatively engage with, OIG staff. We appreciate Senators Hassan and Boozman for sponsoring this bill.

S. 2687 is important because the VA OIG currently cannot compel non-Federal individuals and entities with potentially relevant information to provide testimony in support of our oversight of VA operations. Presently, we can obtain documents and other materials from VA and non-Federal individuals and entities, and VA employees and contractors must speak with OIG staff subject to the constitutional protection against compelled self incrimination. S. 2687 would enable us to obtain sworn statements from others, including former Federal employees, former employees of current Federal contractors, and others who do not have an employment or contractual relationship with VA.

We are committed to using this authority responsibly and support the procedures Congress has included to ensure that we do, which include providing the witness with notice of our intent to issue a subpoena and an opportunity to testify voluntarily, authorizing the Attorney General to object if the testimony may interfere with an ongoing investigation, endeavoring to arrange an interview conveniently for the witness, and requiring a Federal district court order to enforce the subpoena if challenged.

Additionally, our semi-annual report to Congress will contain information on our use of the authority. This authority is comparable to that of other OIGs that conduct oversight of extremely large contracting and healthcare organizations, specifically, the Department of Defense, the Department of Health and Human Services, and the newly created Pandemic Response Accountability Committee.

Our written statement discusses several healthcare inspections where we were unable to interview healthcare providers who left Federal service before or during our reviews. For example, a dentist and the Chief of Dental Services left Federal service during our review of improper dental infection control practices at the Tomah VA Medical Center. As a result, we were unable to learn more about the lack of supervision that potentially exposed 592 veterans to bloodborne pathogens.

In our healthcare inspection conducted subsequent to the criminal investigation into veterans' murdered by Reta Mays at the Clarksburg VA Medical Center, an individual with knowledge of

the hiring of Ms. Mays was not questioned due to their having left VA employment.

Our effective oversight also depends on VA employees promptly reporting suspected wrongdoing to the OIG and cooperating with OIG staff. Early and effective reporting can save lives, recover or save millions of dollars per year, and help ensure veterans are receiving the benefits and services they deserve.

S. 2431 would require VA employees to receive training on their responsibilities to report wrongdoing to, and cooperate with, the OIG. While the VA Secretary recently directed staff to take this training, codifying the training into law would ensure this needed training is maintained regardless of who is leading the Department. The legislation would also give the Inspector General access to VA's e-mail system, which could be used for fraud alerts and other direct communications with VA staff.

Unfortunately, we have found that employees have not reported suspected wrongdoing either due to lack of knowledge of OIG's authorities or fear of retaliation or the mistaken belief that they need supervisor approval. These failures can have direct consequences for veterans. Dr. Robert Levy, a former pathologist at the VA medical center in Fayetteville, Arkansas, misdiagnosed about 3,000 veterans, with errors resulting in death or serious harm to many of them, and is currently imprisoned. Staff concerns about his impairment were not heard by management and festered for years before the OIG was alerted.

The OIG appreciates the strong steps Congress takes to support the OIG's mission by providing appropriate authority to conduct our oversight.

Chairman Tester, Ranking Member Moran, this concludes my statement. I would be happy to answer any questions you may have.

[The prepared statement of Mr. Wilber appears on page 76 of the Appendix.]

Senator MORAN. See why I tried to go earlier in asking my questions. The Chairman has returned.

Chairman TESTER [presiding]. You know what, Senator Moran? I will go totally out of order. I will ignore my Democratic colleagues and let you go first. Please, go ahead.

Senator MORAN. Please, Mr. Chairman.

Chairman TESTER. No. I insist.

Senator TUBERVILLE. [Inaudible.]

Chairman TESTER. No. Then it will be Senator Hirono and then you.

Senator MORAN. Well, Mr. Wilber, let me start with you then. In your testimony, in talking about the IG Training Act, you indicate that the training required in the bill will test staff knowledge of when to report misconduct to OIG and when to report to other entities like VA's Office of Accountability and Whistleblower Protection or the Office of Special Counsel.

My staff have heard from VA employees that there has been confusion among the workforce on where to report wrongdoing, including misconduct and poor performance. Would you clearly explain to

the Committee in what instance wrongdoing should be reported to the OIG and when it should be reported elsewhere?

Mr. WILBER. Yes. Wrongdoing in the sense of fraud, waste, abuse or other potentially criminal acts should always be reported to the OIG. The OIG has the broadest authority to address those issues of any of the organizations you identified. I think where we want to explain to VA staff about reporting in terms of our training is that the OIG, as I said, is available to deal with these issues of fraud, waste, abuse, and other things.

One of the things principally that we do not have—that we do not take on is whistleblower retaliation claims that staff may have, in part because we do not have the statutory authority to provide them any relief. So if they make the claim to us, we might be able to investigate it, but we would not be able to provide them any relief whereas OAWP and OSC have that authority.

With respect to whether employees should report to OAWP, one of the things that OAWP has authority to do is, one, deal with whistleblower retaliation, but also deal with issues of poor performance as opposed to improper conduct or fraud, waste, and abuse. And so if an employee has concerns that their manager really is not performing their job in an acceptable way, that would be an appropriate disclosure to make to OAWP.

Senator MORAN. Thank you. I will check with my staff and see if they have other questions, and I may come back to you and see if there is anything else that needs to be filled in.

Ms. Ogilvie, I want to thank the Department for their technical assistance while we were crafting the National Guard GI Bill Parity Act earlier this year.

I do have a question regarding the VA's assertion that it would take 18 to 24 months to update your system and adjust the information sharing with DOD to incorporate those newly covered under this statute. Congress has expanded the eligibility to additional duties status in the past, and we have also appropriated money for VBA in the past to update your IT systems so that you can properly adjudicate these GI Bill claims under the new eligibility requirements.

So in my mind, this would just be an additional expansion of what the VA has already undergone in the past when it comes to the GI Bill. Why then would it take nearly two years to make these updates before the National Guard and Reservists can receive these earned benefits? What VBA IT enhancements are not being prioritized within the Department?

Ms. OGILVIE. Thank you for that question. So the actual concern comes down to some of the DOD records. So a lot of—we already have an information data exchange with DOD through the VADIR system, but some of the National Guard and Reserve records are kept more locally and they are not as centralized. So we would need to ensure that DOD could get those records incorporated into VADIR to be able to share that with VBA.

One other thing we would need to do is make sure that the records are programmed into the Digital GI Bill and the Post 9/11 GI Bill long-term solution to be able to calculate the certificates of eligibility as quickly as possible. Right now, with the Digital GI Bill, we are able to provide a certificate of eligibility very quickly

for veterans, and we would want to be able to provide that for veterans who served in the National Guard and Reserve as well.

Senator MORAN. So is the challenge relying upon the DOD to provide additional information? That is where the delay would come from?

Ms. OGILVIE. Yes. That is what we believe. We would need to work closely with DOD to make sure that we had quick access to the Reserve and Guard records which, as I mentioned, are sometimes kept in a local—more locally. Especially if we are looking at any sort of retroactivity with this bill, which I think was being considered, that is something that we would want to make sure that we get the full scope of the records that we would need to ensure that we can get that certificate of eligibility.

Senator MORAN. I serve on the appropriations committee that funds the Department of Defense, but I know someone who is the Chairman of that subcommittee, and maybe we should have conversations quickly with those who might be able to speed up this process at the Department.

Chairman TESTER. We can do that.

Senator Hirono.

SENATOR MAZIE HIRONO

Senator HIRONO. Thank you, Mr. Chairman.

I would like to first say a few words in support of S. 2761, the Every Veteran Counts Act, which would fundamentally change the way VA handles veterans' demographic data and provide new opportunities for this Committee to better serve veterans. We regularly discuss the way particular subpopulations of veterans are in need of more services—I mean, the biggest group would be the growing number of women who are veterans, for example—so that we can better tailor the care and specialized attention from Congress for these subgroups of veterans.

And over the last decade, as our veterans' population has continued to diversify rapidly, it has become increasingly important that we are considering the different kinds of impacts our policy decisions can have on different groups of veterans. In some cases, in particular when trying to reduce veteran suicide and address mental and behavioral health concerns, being able to understand which community is impacted is critically important and potentially lifesaving information. Hawaii is one of the most diverse States in the country, and like many of my colleagues' States, our veteran population reflects that diversity.

It is time that this Committee, our House counterparts, and the outside organizations that advocate for veterans have the tools we need to ensure the health and success of all veterans. I would like to ask for my colleagues' support in continuing to advance the goal of more accessible, comprehensive veterans' demographic data.

And while I appreciate VA's willingness to discuss this bill, the process has been subject to repeated delays and drawn out unnecessarily in my opinion. Moving forward, I expect VA to prioritize this and other items that advance equity and support for underserved and minority communities of veterans because attention to these issues is long overdue.

I do want to thank the DAV and VFW for their advocacy and support on this issue and for this bill, and I certainly look forward to continuing to work with them.

I have a question for you, Ms. Ogilvie. So I note in the testimony that you provided on this bill, 2761—and I am looking at the bottom part of your page of testimony, and you testified that VA is engaged in ongoing discussions on this bill with the House Veterans' Affairs Committee and also with my staff. And you say that this dialogue is necessary to ensure that these efforts are integrated and consistent with existing laws and executive orders. And then there is an entire number of laws that you cite as having to, I do not know, converge so that we can get the kind of information that is requested for in this bill.

So I realize that is all in the implementation side of things, seems to me. So can you explain why the concerns you mentioned in your written testimony, some of which I just referred to, about the Every Veteran Counts Act, cannot be addressed in implementation of this law rather than ahead of the passage by the Senate?

Ms. OGILVIE. Thank you for that question. I actually am going to have to take this for the record and defer to our Office of Enterprise Integration, who is responsible for the views on this bill. I know that we can get back to you with an answer on that.

[For VA response to Senator Hirono, see Questions 1 and 2 on page 109 of the Appendix.]

Senator HIRONO. Mr. Chairman, what started off as whatI thought was a pretty simple bill that requests important demographic and other kinds of data, especially when it was brought to my attention that Asian American-Pacific Islander veterans have a higher suicide rate than other veterans—and it occurred to me that we ought to have this kind of information so that the programmatic support and resources we provide can really be effective. And you said that preventing veteran suicide, just as one example, is a top clinical priority for the VA. So I should think that we would want this kind of data so that we can really provide—and I am, at this point, repeating myself—the kind of effective support for our growing veteran population as we can.

So what I do not get is why it is taking so long. So you should see all of the—it is like the foundation for evidence based what? Policy? We have like four or five different laws that have to be, I do not know, come together or something. There are privacy issues and things like that which I would ask that the VA address once we pass this into law.

Thank you, Mr. Chairman.

Chairman TESTER. Thank you, Senator Hirono. I think your request is reasonable, and we ought to figure out if there is some holdup on our end. If there is, we will try to rectify it.

Senator Tuberville.

SENATOR TOMMY TUBERVILLE

Senator TUBERVILLE. Thank you, Mr. Chair. Thank you for being here today.

I do not really have a question. I just want to say a few words about my bill, Supporting Families of the Fallen Act, which would

increase the maximum coverage allowed under servicemember and veteran group life insurance plans. The current cap of $400,000 has not been modified since 2005, and after 15 years I think it is time that the cap be adjusted to align with the rate of inflation and provide families the financial security and peace of mind that they have chosen the best rate of coverage for them in the event if a servicemember dies.

I thank my committee colleagues, Senator Rounds and Senator Cramer, for co-sponsoring this legislation, and I do appreciate all the help and support.

Thank you, Mr. Chair.

Chairman TESTER. Thank you, Senator Tuberville.

Senator Manchin.

SENATOR JOE MANCHIN

Senator MANCHIN. Thank you, Mr. Chairman, and thank all of you for being here today.

And I want to say, in the past two years, I have spent a good amount of time in front of this Committee discussing the horrific murders of the veterans that took place at the Clarksburg VA. I think you all know about that. I am proud of the work colleagues and all of you, Mr. Chairman, and all of you have done in helping us fix the specific problems in the Clarksburg VA that led to those murders and help prevent them anywhere else in the country.

I have worked to pass legislation to install security cameras, fix shortcomings in staff training and accountability standards, and give the VA Office of Inspector General the authority it needs to conduct the investigations. These are all important steps, but I think there is so much more that we need to do.

And I have got two pieces of legislation which I think would help you all be able to do the job that you need to do, and I think we spoke to that again. So I want to thank the Chairman and Ranking Member and the Committee for helping improve the quality of service that our veterans receive.

The one, Mr. Wilber, that you know we are talking about, it is a sobering look at the issues that the VA and your office investigates on a daily basis. The issues you spoke of with hiring practices and quality of care in North Carolina and Mississippi sound eerily similar to those we experienced in West Virginia. Unfortunately, that confirms my fear that the failures that led to the veterans being murdered in West Virginia are indicative of systematic VA failures everywhere.

So I would ask, Chairman Tester, I will be working on scheduling a VA patient safety oversight hearing in the very near future. I would ask if you would help us set that up, if we could, because there are some things I think that can be brought to light that would help us very much as far as getting to the crux of what our problems would be.

We have a piece of legislation that allows you all to subpoena, which I believe that you all have asked for or felt it would be very helpful in getting to the crux. I will tell you what happened in Clarksburg. When it came time to really get into it, we could not get the person who had basically taken either retirement or ran for the hills. Literally, in West Virginia, you can run for the hills, and

we cannot find you. But anyway, he was gone. Had no way of bringing him back. So if you would comment on that, Mr. Wilber, and how that might be of help to you.

Mr. WILBER. Yes, sir. I would like to express my condolences once again for the families in Clarksburg, to the veterans and their loved ones.

Yes, as you described, that is what occurred when we were conducting our healthcare inspection following our criminal investigation in Clarksburg. A key individual who was responsible for both the review of the credentials——

Senator MANCHIN. It was a risk manager, I believe. Does every hospital have a risk manager?

Mr. WILBER. I would not want to answer that question, sir. I think it is an important role for each hospital, but I would not want to say that each hospital in fact does have one.

Senator MANCHIN. Okay. That was a risk manager we were trying to get to testify, and I believe the person was gone.

Mr. WILBER. That person left during the course of the investigation. And so, yes, testimonial subpoena authority would be important to our ability to reach out to someone like that, serve them with a subpoena, and require them to talk to us.

And again, this is to advance our oversight of VA. So, this is not about a criminal investigation of that person. This is not about putting that person in jail. This is about getting critical information from that person so that we understand what happened, we understand the root causes of the problem that occurred in Clarksburg, and that can allow us to make recommendations to the Department on how to fix it.

Senator MANCHIN. Senator Tester, you and Senator Boozman are both on that bill, and I want to thank you for that.

And also, I have one more, Ms. Ogilvie, if you will. I introduced Senate Bill 2687, Strengthening Oversight for Veterans Act of 2021, again with Chairman Tester and Boozman, to give the authority to subpoena. And on that there, so my question would be: What more can we do to hold these employees responsible for failures that happen at the VA so the veterans can build the trust back to the VA that we need? Is there more than can be done?

We are trying to get the information. But, is there something more that we can do to give you all the ability and the power that you need and to prevent this from ever happening?

Let me ask you—I will follow up with another question on that. So I can give you two for one. We are continuing to pay our retirement benefits to employees like those in Clarksburg. I cannot believe that. They are getting full benefits, and these are people we know committed horrific, horrific crimes. But they could not be proven, I guess, but we know that. But is there anything we can do that would prevent that from happening?

Ms. OGILVIE. So I would honestly defer to OIG for his comments, but I do agree that the subpoena power and the ability to hold people accountable and be able to get the witnesses that we need to follow through on, you know, the investigation that we are doing is something that is of critical importance. So you know, that is all I would say from my perspective, but I am not sure if Mr. Wilber wants to——

Senator MANCHIN. I know my time is running out, Mr. Wilber, but if you have comments to that, I appreciate it.

Mr. WILBER. Well, with respect to the benefits for individuals who have left VA, if those individuals have been convicted of a crime, then the ability for the VA to reduce their benefits, I do understand, exists. But for those individuals, if you mean somebody like the risk manager who left VA employ, that person has gone without any disciplinary action against them, and now that they are out of Federal service——

Senator MANCHIN. Let me ask you this, hypothetically. If we had been able to subpoena that person and bring him back and found out derelict of duty they did not—they were not overseeing. They were not monitoring or watching, and they could have maybe prevented that. If we could have proven that and shown that in the subpoena power that you would have now, would that be able to reverse their retirement and pensions?

Mr. WILBER. No, sir, I do not believe it would.

Senator MANCHIN. Oh, boy.

Chairman TESTER. Senator Rounds.

SENATOR MIKE ROUNDS

Senator ROUNDS. Thank you, Mr. Chairman.

Ms. Ogilvie, the GI Bill is an important benefit for our veterans, but too often they are targeted for abuse of this program. As you know, I am one of the lead sponsors of S. 1607, along with Senator Schatz. This is the Student Veterans Transparency and Protection Act of 2021. The goal of the legislation is to improve veterans' access to information about higher education and allow the Department of Veterans Affairs to restore benefits that veterans use at schools that become subject to civil enforcement.

I understand based on written testimony submitted to the Committee that there are some changes that you would like to see in the bill, and I look forward to working with you on that so that we can maximize the benefits to our veterans.

What steps is the Department currently taking to protect veterans from institutions that are really working in a predatory manner, seeking to take advantage of these veterans, and is there anything you need from Congress to reinforce your efforts today?

Ms. OGILVIE. Thank you for that question. VA takes seriously predatory practices that are occurring not only in the education space but in other spaces as well. So in the education space, VA conducts regular and targeted compliance actions with—each year at locations that use the GI Bill. And we are also in regular contact with the Department of Education, and we do a lot of information sharing which helps inform veterans.

Also, maintaining the GI Bill Comparison Tool is a great—and as this bill does, it codifies that. It is a great tool for veterans to use to be able to ensure that schools, when they say what their placement rate is, what they say, you know, their employment rates are, that they can hold them accountable and make sure that those are actually the statistics that are lining up with what the schools are saying.

Senator ROUNDS. Is this through civil enforcement?

Ms. OGILVIE. Yes, I believe so.

Senator ROUNDS. So there could be penalties, or there could be a punitive action with regard to taking them out of the program or restricting the ability of others to participate at those institutions. Would that be a fair way of measuring the types of penalties that you would impose?

Ms. OGILVIE. Yes. So under the Isakson and Roe Act, there are some penalties for removing schools from the GI Bill program if they are using predatory practices or not being honest with their information and advertising.

Senator ROUNDS. Thank you.

Mr. Wilber, I was rather surprised that you did not have the ability to protect a whistleblower, and I would like to talk about that a little bit. Seems to me that if someone were going to come to the OIG with a serious complaint their job is probably at risk, and yet, it seems to be the logical location to come. In your opinion, would it be appropriate for the OIG's office to be able to offer protection and assistance to a whistleblower coming forth with information from the Department of Veterans Affairs?

Mr. WILBER. Currently, there are several organizations already existing that do provide that protection. Our Office is focused on taking that information from the whistleblower and using that to conduct an investigation into that underlying issue the whistleblower has identified.

We then—when a whistleblower comes to us, and they raise a concern that they have been retaliated against, we then advise the whistleblower that their best remedy for that is to go to the Office of Special Counsel or to OAWP because those organizations have statutory authority to protect the whistleblower. You know, OSC can go to the MSPB to provide a stay of any action against that person, for example, if they are going to be terminated or let go. OAWP has similar authorities to protect that person's job.

The OIG is outside of the Department in a sense. It does not have the ability to affect management's decisions directly. We can make recommendations. And so, for that reason, we are not the protector of the whistleblower, but we are the organization that will investigate that individual's disclosures and try to root out any misconduct at the Department that that person has identified.

Senator ROUNDS. Would you say that the fact that you are not in a position to offer that type of protection would be a detriment to someone coming forward to provide information to you in an investigation?

Mr. WILBER. I do not know that I would say it is a detriment because those other organizations do have that authority and do provide strong protections. For example, OSC, the Office of Special Counsel, is very active in protecting whistleblowers, and we have worked with them on those cases in terms of coordination. Again, the Office of Accountability and Whistleblower Protection also has authorities to protect whistleblowers.

We do not, and I do not think—to my knowledge, I could not say that whistleblowers have been injured by not having the OIG as their protector because they do have these other organizations that can protect them. Our focus is really on what is the underlying issue this person has identified and what can we do to try to identify whether there is a problem there.

Senator ROUNDS. Thank you.
Thank you, Mr. Chairman.
Chairman TESTER. Senator Brown.

SENATOR SHERROD BROWN

Senator BROWN. Thank you, Mr. Chairman.

One of the reasons that Senator Tester does this job well as Chair but as a Senator from Montana is that he listens to people at home and hears about problems that vets face, especially the gaps in programs at DOD and VA, and I want to explore that. My question is for you, Ms. Ogilvie, but I want to make some fairly lengthy comments first.

A few years ago, Tom Wike, an Ohio veteran, came to my office with an idea to improve the transition process for veterans so they would know what to expect, especially in terms of mental health, as they left their time in service and returned to their local communities.

And, Mr. Chair, you see a request to enter into the record his letter?

Chairman TESTER. Without objection.

[The letter from Mr. Wike appears on page 122 of the Appendix.]

Senator BROWN. Thank you. And I would like to just take a—do a small little read from Tom's statement. He said: "I had a difficult transition from military to civilian life. I used those experiences in conversations with other veterans to begin work on this legislation in 2018 while pursuing a bachelor's degree in social work. It takes three months to train for a civilian to become a Marine, but the servicemember is expected to return a normal civilian life after a minimum of five days of training." Think about that.

I want to work with VA to address some of those concerns with the bill text, but there really is no excuse. And a number of us in this Committee—I know Senator Rounds cares about it. I know that Senator Hassan cares about it. A number of us have continued to point out the problem of transition from DOD, from active service, from military duty to VA and especially the lack of preparation and screening for our servicemembers and veterans.

November 9th, DOD OIG released a report. An evaluation of the Department of Defense's implementation of suicide prevention found, quote, "that DOD did not screen for suicide risk or provide uninterrupted mental health care to transitioning servicemembers." I am incredulous that is still the case, that after all this time, when we know that suicide is a problem for way too many groups in this country, but suicide—veteran suicide especially, and it is something we know we could do something about.

DOD findings highlighted the Separation History and Physical Exam does not include a mental health assessment or suicide risk screening component. It is the only exam required. The SHPE, the Separation History and Physical Exam, is the only exam required for transitioning servicemembers. So we must make sure that it covers all aspects.

The report illustrates why we need the bill that Tom and I have worked on to prevent veteran suicide, improve mental health access. Two of his friends that we are naming the bill after, two of

his friends who committed suicide, Daniel J. Harvey and Adam Lambert, two Marines were living through the worst pandemic in a generation. So the problem is almost certainly worse today than two years ago. On top of an affordable housing crisis, the pandemic, both undoubtedly impact the mental health, frankly, of all of us, civilian and military alike.

Ms. Ogilvie, my question to you: I have spoken to Ohio veterans who do not know what mental health resources VA could offer them or what benefits might help them as they navigate mental health concerns.

So my questions are two. Is it important to you for servicemembers to learn how the transition process could impact their mental health? That is question number one.

Number two, do you see value in veterans just receiving a call from a mental health professional at their local VA facility within the first 90 days of separation?

Ms. OGILVIE. So I am going to quickly take this one, and then I will defer it to Ms. DeBord who has a lot more to say about that, about that answer. But what I would like to first say is, yes, it is important. And currently, the TAP curriculum does cover some social and emotional health resources, some integration resources, how to integrate into the community and how to use vet centers to get mental health resources.

Right now we are also doing the Solid Start program, where our national call center will contact veterans three times in that first critical year, first within the first 90 days. And out of the veterans, the 157,000 recently separated veterans that we contacted last fiscal year, 26,000 were deemed priority veterans who had a mental health appointment within the last year of active duty. So we do track those veterans to make sure that we are especially reaching out to them.

So that is just quickly what we are doing on the benefits side, and I will defer to Ms. DeBord to talk about the health side.

Ms. DEBORD. Thank you, Ms. Ogilvie.

So thank you, Senator, for your support of this bill. I think it gives us an opportunity to really do things differently. And so VA would like to propose that we use a well established program, the VA Liaisons for Healthcare. They have been in effect since 2003. There are 48 of them across the country, 43 of them stationed at military treatment facilities; five of them are virtual. So all military treatment facilities should be able to utilize VA Liaisons.

But what they do is they are—there is a handoff from case managers in DOD to the VA Liaisons for those seriously ill, seriously injured, those going through the IDES process as well.

But then there is that whole section of veterans that are transitioning who maybe they have just—they have had unreported MST, military sexual trauma, they have undiagnosed PTSD. They maybe have housing insecurity, food insecurity, all kinds of things that they are going to be dealing with as they transition out. So they are not really on a radar as far as like they might really need the extra help.

And so this would be an opportunity. We are proposing for this pilot. We would have 10 transition assistance centers that would have VA Liaisons attached to them during this 5-year pilot.

And we would then—here is—I think the really heartening news to this is that rather than 180 days after they transition that they would have an appointment the VA Liaisons make contact with them before they are transitioning, before they discharge. They get them registered in the VA. They get them appointments based upon what their needs are. It is a very individualized, you know, serviceperson-specific plan.

And then they hand them off to the military-to-VA case manager that is at all VA medical centers, so there is a warm handoff. So they are going to be seen by a VA Liaison (RN or SW), you know, individually before they are ever transitioned out, and then they are—they will have a warm handoff to VA case managers and appointments scheduled at the receiving VAMC immediately following their military separation date.

So we really feel like this enhancement might get to some of those veterans that just are not on anybody's radar as maybe, you know, having higher risk of suicide.

Senator BROWN. Thank you. I guess I do not know why you cannot do all this without the Lambert-Harvey bill. One time in Banking Housing Committee, which Jon and I sit on, the Chair of the Richmond Federal Reserve once said, watch me and make sure you know you are watching me. And I know you are good public servants. I know you do your best. But this has got to be better.

Ms. DEBORD. Yes, sir. And we do not disagree, and we want to make it better. And I think suicide prevention is on all of our radars. We all want to make this better, and it is going to take all of us working together.

Senator BROWN. Thank you.

Chairman TESTER. Senator Boozman.

SENATOR JOHN BOOZMAN

Senator BOOZMAN. Thank you, Mr. Chairman, and thank you all for being here very much.

VA employees do an incredible job and work so, so very hard for our veterans and deserve the recognition that they get and even more so. Sadly, we have instances periodically that crop up that seem to overshadow that. It is important that VA personnel are aware of the channels that are available to them to report unwanted actions within the VA and ensure the violators are held accountable, even if they no longer are employed at the VA. And we have been talking about this.

The VA OIG General Training Act, which I was able to work with Senator Hassan, that we introduced, mandates that VA employees complete training to ensure they know how to recognize and properly report wrongdoing.

Mr. Wilber, we appreciate your testimony in support of that concept and support of the legislation. As you mentioned, Secretary McDonough signed a directive mandating this training shortly after the introduction of this legislation. Can you again highlight the importance that this training be codified and not subject to the discretion of whatever sitting VA Secretary that we have at the time? And this is really a common-sense—you know.

Mr. WILBER. Yes, sir. Thank you. Yes. I mean, I think in terms of having the codification of this requirement, that ensures that it will be training that VA employees receive going forward——

Senator BOOZMAN. Right.

Mr. WILBER [continuing]. And that it is not just something that is subject to the discretion or whims of whomever may be the VA Secretary at the time, but that it institutionalizes this notion and really gets VA employees consistently throughout, you know, new employees who join as well as those who have been there for some time, to understand the unique authorities and reasons why they may need to report to the Office of Inspector General.

Senator BOOZMAN. Right.

Mr. WILBER. And so we do appreciate your introducing this legislation. We do think it is important, particularly that it extend the training requirement.

In addition to the educational aspects of this, there is also the access that the Inspector General has then to the e-mail system, which allows the Inspector General direct communications to all 400,000-some employees of the Department——

Senator BOOZMAN. Right.

Mr. WILBER [continuing]. Which we currently do not have. And so that will give us an opportunity to, you know, alert employees to fraud issues or just to educate them, you know, to provide some additional information about our office.

Senator BOOZMAN. No, it is so important. And again, I am glad you brought up that aspect of it. But the idea that, you know, you could be working there and simply not know, you know, what you do in these types of situations that would, you know, help avoid some of these situations that we have had in the past.

Your testimony highlights several successes of VA employees recognizing and reporting illicit instances like the example of the VA Police Department uncovering a potential sale of VA equipment on eBay, valued at over $100,000. So as you put the directive in place, is there any correlation between staff at VA facilities that have completed the training and instances of reported misconduct at VA facilities?

Mr. WILBER. We have not been able to do a direct correlation at this point. In part, the directive has been in place for about eight weeks, but it gives employees up to a year to complete the training. And we do not have updated data yet on just how many employees have done that. We will be working with VA to get that.

What I can say is just anecdotally, Inspector General Missal happened to be speaking with a senior VA official several months ago, and during that conversation, Mr. Missal explained to that senior official what it is the OIG does, what our authorities are, and that sort of thing. And that official had not understood what those were and said to Mr. Missal at that time, "Oh, you may be able to help us. We have this suspicious potential sale of PPE."

This was during the pandemic. And you know, we looked into it. Our criminal investigators got involved, and it turned into an $800 million dollar criminal conviction against an individual who was trying to sell fake PPE to the Department. And, had that conversation not taken place, we may not have gotten that referral which, you know, fortunately we did, but it just highlights the need for

even senior people at the Department to understand what the OIG does.

Senator BOOZMAN. Right. Very quickly because my time is running out, but the—I have enjoyed working with Senator Tester on the Strengthening Oversight for Veterans Act, which gives the VA authority to subpoena individuals that previously worked for the Department or other potentially relevant—during OIG reviews and investigations.

I had the opportunity to serve on the House VA Committee, and I have been dealing with this a long time. I mean, the idea that you can retire or whatever and then be not subject to the IG's reach makes absolutely no sense to me at all. You know. And I know it has got to—you could probably spend hours talking about how that has impeded investigations in the past.

So I do not really have a question. I just think that this would be a tremendous tool in your toolbox as we go forward and, you know, hold people accountable that in some cases have done just really some terrible acts.

So thank you, Mr. Chairman.

Chairman TESTER. Senator Hassan.

SENATOR MARGARET WOOD HASSAN

Senator HASSAN. Well, thank you, Mr. Chairman.

And I want to thank Senator Boozman because we are both sponsoring the OIG Training Act together, and I wanted to just follow up on his line of questioning with regard to that. I just want to make sure there is not anything else you would like to add about both the importance of making sure that this is mandatory training regardless of who is in charge at the VA and the importance of being able to contact employees directly from the IG's office as opposed to having to go through the Secretary's office. So is there anything else you would like to add? I think Senator Boozman covered a lot of it.

Mr. WILBER. Just to add again, the importance of making this mandatory is to ensure that every VA employee really does understand what the OIG does, why we are here and, most importantly probably, our independence which is different than, for example, OAWP or other organizations to which they may have the opportunity to report. The OIG is different. We are independent, and we conduct criminal investigations, which is something that the other organizations within the Department do not do.

So if—you know, if employees have concerns that there may be a crime being committed or something, they need to know that they can come to us and that we have the authority and the resources to look into that. So I would say that.

And again, it really is important for the Inspector General to be able to communicate directly with the employees, which has been something that our office has not been able to do so far, just to highlight again the importance of blowing the whistle when you see things that you do not think are right. And, making sure employees understand they do not have to be right about whether it is a problem; they just need to report it. We will look into it. We will figure out if it is right or wrong or otherwise.

And so I think those are really the important things that this bill will accomplish.

Senator HASSAN. Thank you very much and thank you for your work.

I wanted to turn now to you, Ms. Ogilvie. New Hampshire National Guardsmen and Reserve swear to defend the Constitution and their country just as their active duty counterparts do, and they deserve the same respect and recognition. So that is why I introduced bipartisan legislation with Senator Shaheen and Senator Cramer, sitting right across from me, and Senator Hoeven to reform the Veterans Cemetery Grants Program to ensure that all members of Reserve components and the National Guard are eligible to be buried in State veterans cemeteries.

I am glad to hear that the VA supports this legislation. Will you all commit to continue your work with my office so that we can get this done?

Ms. OGILVIE. Yes, ma'am. I will speak for the National Cemetery Administration and say that we are committed to working with you.

Senator HASSAN. Yes. And I will just note that our National Guardsmen and women in particular, and Reserves, have been so heavily deployed during the War in Afghanistan, the Global War on Terrorism generally. The thought that they are not eligible to be in our veterans cemeteries is really just outrageous. So I appreciate that very much.

And lastly, Mr. Chair, I will just finish with I really appreciated the conversation you all were having with Senator Brown about the issue of transition and the impact of transition on our veterans' mental health. I am pleased that we were able to pass the Solid Start Act, which would make it permanent in statute through this Committee.

I will just note that one of the veterans I talk with a lot in New Hampshire has pointed out to me. He said, you know, why do we act as if PTSD is something we have to diagnose and maybe treat as unusual when in fact given the experience of our servicemen and women we should expect PTSD? And we should be expecting to need to help people deal with it and treat it appropriately.

And I think that goes for the whole issue of mental health generally. So I look forward to working with all of you so we can really make sure that the stigma around it is lifted and lessened over time and really get the treatment that our veterans need so completely, as our active service men and women do, too.

So thanks for you work on that, and thank you, Mr. Chair.

Chairman TESTER. Senator Cramer.

SENATOR KEVIN CRAMER

Senator CRAMER. Thank you, Mr. Chairman. Thanks to all of our witnesses for being here. And thank you, Senator Hassan for supporting that legislation, and I want to drill down on it a little bit if you do not mind.

I, too, am grateful for the support that you all are providing in your testimony and today. I am a little perplexed why it takes legislation to do the right thing. It does not seem to be that complicated a rule. That said, that is why we are here. So I appreciate

your work on it and your helping us get it done but also get it done right.

I am also glad that General Quinn is coming to North Dakota next week to talk about it and hear directly from folks. I am disappointed that my schedule was not consulted before. I mean, I would love to be there with him, but nonetheless, he is going to be talking to the right people. That is good.

So, Ms. Ogilvie, you mentioned in your testimony that the VA published this notice of request for information in the Federal Register this past summer, and you go on to say that the majority of the responses were supportive of expanding the eligibility for burial benefits. I am wondering if you could just add a little more color to that response. You know, when you say the majority, was it a large majority? What kind of comments did you get?

Ms. OGILVIE. Thank you for your question. I have to take this for the record to have the National Cemetery Administration get an answer back to you.

Senator CRAMER. Okay. All right. You also mentioned—and maybe you are going to give the same answer, but you mentioned in your testimony the legislation would create an inconsistency between the VA national and the VA grant-funded. Largely, former Governors love the grant-funded cemeteries in our States. We all do. And you state this inconsistency that would also create inconsistencies across States as current State laws are different. Right?

But doesn't that inconsistency exist either way? I mean, how is that relevant to the law? Do you know? Or, to the bill.

Ms. OGILVIE. I am sorry. I am going to have to take this for the record as well and have someone from the National Cemetery Administration get back to you on that.

Senator CRAMER. Okay. Maybe I will just offer them, you know, for the record, and we can get back. And that is fair. Then I do not have any other questions.

I also just want to give a shout-out to S. 2794 that Senator Tuberville introduced, the Supporting Families of the Fallen Act, and that is supported by Senator Rounds. I know that you guys have talked about it. Just kudos to him on doing it. It is the right thing, and I am sure we will have success. But thank you.

Thank you, Mr. Chairman. That is all I have.

[For VA response to Senator Cramer, see Questions 1 and 2 on page 117 of the Appendix.]

Chairman TESTER. Senator Blumenthal has graciously yielded his position, not his time but his position, to Senator Murray who is online. Senator Murray, the floor is yours.

SENATOR PATTY MURRAY

Senator MURRAY. Well, thank you very much, Senator Blumenthal, and thank you to all of our panelists today. There has been a lot of discussion surrounding how to improve the Transition Assistance Program, TAP, along with how to help our veterans and their families make the transition as seamlessly as possible. This program is incredibly important, with over 200,000 servicemembers leaving the U.S. Military and transitioning back to civilian life every year.

Senator Brown's bill outlines a pilot program that would help counsel servicemembers about mental health and make veterans aware of the services that are available to them at VA facilities.

Ms. Ogilvie, I wanted to ask you, what else is VA doing to engage with veterans and improve suicide prevention protocols, and what other outreach does VA do to make veterans aware of the mental health resources that are available to them?

Ms. OGILVIE. So VA's curriculum for TAP is an eight-hour curriculum, and it is one day. The curriculum does cover social and emotional health resources, does cover vet centers, how to seek help, how to integrate into your community again.

In addition to that, as I mentioned before, we are doing Solid Start. We are contacting veterans three times in the first critical year after separation, making sure that we connect with them and talk to them about any needs that they may have.

I will also defer to Ms. DeBord to talk a little bit more about what is going on from the health and social work perspective.

Ms. DEBORD. Thank you, Ms. Ogilvie.

So, Senator Murray, what I would say is there is obviously always a lot of work going on, but over this last year, under the Health Executive Committee, they have created a Care Coordination Work Group. So—and there is a lot of work being done in this space. How can we synergize our work together, making sure that we are addressing the needs of these transitioning veterans?

Also, JIF was established, which paid for, which funded the virtual liaisons, the five virtual liaisons that cover all of the country, that are not covered at the military treatment facilities.

So there is a lot of fairly robust work going across the aisle between DOD and VA.

Senator MURRAY. Okay. Thank you for that. You know, another question I wanted to ask you about is—I have been taking a lot of time to talk with student veterans across Washington State, and I have heard a lot about the need for improved communication from VA around the Veteran Readiness and Employment Program and a desire for more support for vet centers at our colleges and universities. The Veteran Education Empowerment Act by Senator Rosen addresses this concern by reauthorizing a grant program to help higher education institutions establish and maintain these student veteran centers.

But, Ms. Bowman, if I could just ask you, what differences in retention are you seeing when a college or university does have a robust program versus a program that is not well funded?

Dr. BOWMAN. This is kind of out of what we know and do as the Office of Academic Affiliations. I do not know exactly what is done at colleges per se in terms of understanding these things. We are familiar with the health professions programs, particularly those that we support, who rotate at the VA, and we do have 120,000 trainees in VHA a year under the training supervision of our various VA employees and health professionals.

But I do not have a specific answer to what is done at the colleges, and I am not sure simply how to get an answer, but I can see what I can find out. And I hope that you——

Senator MURRAY. Well, I think it is really important to know because a lot of our veterans are really struggling at our colleges and

universities today, finding a place where they feel comfortable, where they feel that they can get the help and support that they need, that they have earned, and a lot of colleges and universities are not set up to do this. These vet centers at a college make a huge difference, but they are not uniform.

And I really would appreciate if you looked at Senator Rosen's bill and get back to me with a response.

Dr. BOWMAN. We will work on that, and the information will probably come from—related to the veteran centers. And I thank you.

Ms. OGILVIE. We deferred that bill to the Department of Education for their views. So I would recommend maybe checking with the Department of Education on what their views are on that. They may be able to provide more information.

Senator MURRAY. Okay. I will do that, but I hope you do as well.

So thank you very much, Mr. Chairman. I appreciate the time.

Chairman TESTER. Senator Blumenthal.

SENATOR RICHARD BLUMENTHAL

Senator BLUMENTHAL. Thanks, Mr. Chairman.

Thank you all for being here and thank you to all of you in the VA for your service to our veterans.

I want to add my voice to the sentiments expressed by a number of my colleagues, including Senator Brown, on behalf of the Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act. You know, as long as I have been on this Committee, which is 10 years, we have worked on this problem, and we are nowhere near where we have to go. I am willing to try anything and everything that we can to provide the support that is needed by our veterans, whether it is using the TAP program or in any other arena or concern.

And I see that you have some concerns about some of the technical aspects of this bill, but I urge you to support it and provide us as soon as possible specific suggestions so that we can move forward with it.

I must say that I am disappointed with your apparent opposition to the Building Credit Access for Veterans Act of 2021 in contrast to the VFW, and we are going to hear from them later. You do not seem to believe there is a problem with veterans having access to this type of credit.

And I am quoting the VFW's written testimony supporting the legislation. The VFW describes it as, quote, "one of the most significant measures that provides economic opportunity and upward mobility for veterans to establish a stable life for themselves after serving." That is access to the VA Home Loan.

And you say in your testimony that you, quote, "the VA does not have data to suggest that creditworthy veterans are unable to access the home loan benefit."

There is data. Maybe it is not the data that you would look to have in specific statistics and numbers, but the reason we are proposing it is that we talked to veterans, not only the sponsors, but I think many others.

And your point, I think, is that "VA regulations and policies already contemplate the use of alternative credit information and

scoring models to be used by lenders when underwriting VA-guaranteed loans." It is not enough to contemplate it. It is to do it that we want.

And again, we would not be proposing this program if there were not solid evidence that it is necessary to consider alternative scoring information and scoring models to make these loans available. They are one of the main ways that veterans can lift themselves up financially, getting this kind of loan. And Senator Scott and I—it is bipartisan—feel that it is necessary.

I would be happy to hear your comments.

Ms. OGILVIE. So VA agrees that alternative credit scoring is essential for veterans. What our position on this bill is, is that we do not need a pilot program to establish that.

So VA guarantees the loan, but the lenders underwrite the loan. We already encourage lenders to use alternative credit scoring means, and this bill would propose a pilot that has the Secretary designate what kind of alternative credit scoring means are possible. And we already encourage lenders to use any credit scoring means that they have.

Senator BLUMENTHAL. I recognize you encourage it. That is like contemplating.

Ms. OGILVIE. Right.

Senator BLUMENTHAL. Encouraging lenders may get results and just as likely will not get results because the lenders are looking for the most secure kind of loans. And I do not need to spell it out for you. If there is no credit history, for all kinds of reasons, it may seem insecure. So the whole purpose of the pilot program is to show that these encouraged alternative ways of scoring and assessing credit information actually work.

Ms. OGILVIE. Right. So unfortunately, VA cannot mandate that lenders utilize alternative credit scoring models. If Congress's intent is to encourage lenders to utilize those alternative credit scoring models, we would propose that the best way to get at that is to mandate that the lenders utilize them in their automated underwriting processes.

So lenders use manual—or automated underwriting to be able to score veterans and other lenders. I am sorry, other borrowers. And if we mandated or if through a pilot a lender signed up to work with us, to use alternative credit scoring, it would amount to a manual underwriting, and a lot of lenders do not like to do that.

Senator BLUMENTHAL. Here is what we are trying to do. You are encouraging the lenders to do something that they are going to say does not work. And if we seek to mandate it, they are going to tell us the same thing. What we are trying to do is show that these alternatives do work, and the best way to do it is through a pilot program.

I hope you will support this legislation. I am out of time. But this program is vital to our veterans. And I do not impugn your good motives. I know you want to help veterans. I am just trying to enable the VA to have a way of proving the system, an alternative system that could well work for veterans.

Thank you.

Chairman TESTER. Thank you. I want to start out my questioning with just a statement. Thank you all for being here. I appreciate it very much. And I have not got a lot of time.

This is a question that I am just curious about, Mr. Wilber. I assume that the Inspector General's subpoena authority probably was a result from what occurred in West Virginia. Is that a fair statement?

Mr. WILBER. We had actually been looking for this authority for some time even before that had occurred.

Chairman TESTER. Okay. And do you see this authority as being able to speed up the investigatory process?

Mr. WILBER. Well, we primarily see it as a way of creating a complete record of what had happened in an underlying matter that we may be investigating. Really, we see this as largely supporting our health care inspections, some of our audits, and some of our special reviews. And so, yes, I think having this authority could certainly speed things up in the sense that we know we will be able to get access to people. We will be able to speak to them. And having that information, particularly if we can get it early on in one of our projects, will allow us to use that information, yes.

Chairman TESTER. Thank you.

Ms. Ogilvie, the claims backlog is nothing new, and I do not think there is any one solution that can fix it, but there are many provisions of the Veterans Benefits Improvement Act that I think will cut the timeline for processing these claims. For example, this bill is going to require an outreach program to explain to veterans how VA contractors will schedule the civilian exams and what kind of information they will be asked. Can you talk a little bit about this outreach, and will it save time? Will it potentially prevent fraud?

Ms. OGILVIE. Yes, we support this section of the bill. So VBA already utilized a government delivery system to e-mail veterans to let them know in advance of when the contractors are contacting them for exams so that they do not think that it is, you know, a spam call or anything like that. And so that proactive contact has been very helpful for them.

We also—once the exams are scheduled, we also e-mail them every day to remind them of their exams. But we think that the examination scheduling will definitely be improved by involving their representatives, who they already know and trust, to make sure that scheduling is done.

Chairman TESTER. Do you also use electronic notification when it comes to mailing veterans their claim decisions?

Ms. OGILVIE. At this time, no, unfortunately. So there is legislation, or there is a law already in place, that says that most decision notices have to be mailed by first class mail. So the electronic delivery section would really improve our ability to deliver, electronically, notices and decisions to veterans who choose to do so in a much more timely manner, enabling possibly even same-day delivery for veterans who are checking their status tracker online of their appeals and their claims. And they will see a decision is made, but if it is coming in the mail they may not get it for several weeks or even now, with the government printing delays, months.

Chairman TESTER. Yes. Okay. We will just continue on with the RURAL Exams Act, Ms. Ogilvie, which would require VA to offer performance-based incentives to encourage contractors to provide better quality exams for rural veterans as well as financial disincentives to discourage contractors from failing to provide an exam in a timely manner.

Okay, Ms. Ogilvie. Can you explain some of the challenges VA faces in providing medical disability examinations to rural veterans and how the incentives in this bill will help veterans?

Ms. OGILVIE. So VA faces similar challenges with providing examinations and providing treatment for veterans who are in rural areas. Our vendors already have—they have expanded their mobile clinic fleets. So we have some expansion of assistance with our vendors to reach rural veterans. A lot of these mobile fleets, they provide the specialty type of examinations, such as audio, vision, and dental, audio being one of the most popular exams that we provide. We also encourage vendors to use telehealth, to use the acceptable clinical evidence when possible.

But you know, any challenges that exist with any rural veterans, as you would expect—you know, it takes veterans a long time, too, if they have to travel to a facility. And you know, we try to do what we can to accommodate them, but sometimes that—you know, that impacts it.

So one of the things that we also do right now with a modified contract that we just put in place in September is that we do provide monetary incentives to contractors, both positive and negative, for their performance, for their quality, for their customer satisfaction, and for their performance requirement levels which are measured by the average days pending of the exam request.

So these additional incentives for rural veterans, we would have to create a new metric for that, but that is something that—you know, that is something that we would look into.

Chairman TESTER. Okay. Thank you.

Senator Blackburn, virtually.

SENATOR MARSHA BLACKBURN

Senator BLACKBURN. Thank you, Mr. Chairman.

Ms. Ogilvie, I would like to come to you. In 2016, the VBA centralized distribution of the disability compensation claims workload throughout the National Work Queue, which prioritizes and distributes claims to regional offices based on their capacity. I understand that you all did this in hopes of spreading the workload from one office that may be overworked to one that did not have as much work.

And I know that you primarily use timeliness and accuracy measures to assess the regional offices' performance in processing disability compensation claims. And I want to focus on the accuracy measures because the GAO report that you got in October 2018 recommended that VBA develop and implement a new regional office performance measure that allows it to better measure the accuracy of each regional office's work. So has VBA implemented new performance metrics to assess the accuracy of each regional office's work and not just the office that completes the claim?

Ms. OGILVIE. So each regional office is assessed on timeliness metrics and quality metrics, yes.

Senator BLACKBURN. Okay. And talk to me about the watch metric so that you are looking at the individual's performance and accuracy at each regional office.

Ms. OGILVIE. I am sorry. Can you clarify that question a little bit? Which watch metric are you referring to specifically?

Senator BLACKBURN. The one that looks at the individual's performance accuracy.

Ms. OGILVIE. So——

Senator BLACKBURN. And this is part of your VBA performance metric plan.

Ms. OGILVIE. Right. So we have driving and watch metrics in VBA. The driving metrics, you know, depends on the regional office. Different regional offices have different performance metrics based on what special issues they are dealing with at that regional office.

Senator BLACKBURN. Okay. Then let us do it this way. Explain to me how this new metric would fit into a regional office's evaluation and into each individual's evaluation. The reason I want to know this is I know that a good number of the claims continue to go to appeal and then continue to end up in court, end up before the judge. So let us look at this metric as how you are looking at that regional office's competencies and also the individual's competency and their accuracy.

Ms. OGILVIE. So as part of our quality program, we do look—we can drill down to an individual basis to figure out where trends are, what specific employees are causing specific errors. I would mention about the——

Senator BLACKBURN. Okay. So in that, do you hold these employees accountable, and what kind of accountability do they face?

Ms. OGILVIE. Yes, ma'am. The quality metric is part of every employee's individual performance plan, and if they are not meeting their quality metrics they would be put on a performance improvement plan and eventually terminated if they did not improve.

Senator BLACKBURN. Okay. How many people have been terminated under this plan?

Ms. OGILVIE. I am going to have to take that for the record and get back to you.

Senator BLACKBURN. Okay. That would be helpful. What I would like to know is under this new plan, your performance metric plan, how many employees have been put on an improvement plan and how many have been removed? How many offices have been put on an improvement plan?

The reason for this, the—once you had that Appeals Improvement Modernization Act that was done in 2017, you should have had a better review process in place. Now the fact that we continue to hear so much from our veterans about the dissatisfaction with the way these claims are processed, both on accuracy and timeliness, and the fact that there seems to be so many of these that go to appeal and then that end up going to a judge, would you not agree with me that this says that something is wrong with this process?

Ms. OGILVIE. Actually, I would say that since the Appeals Modernization Act passed in 2017 we have been able—in the past, there has always been an appeal—historically, 10 to 12 percent of claims have gone to appeal. Since the Appeals Modernization Act, we have been able—because there is a closed record in that, in several lanes of that law, we are able to actually drill down to specific errors that are being done and error trends based on those lanes. And we have integrated work groups that work together to address common issues that we are seeing and trends that we are seeing as part of the Appeals Modernization Act.

Senator BLACKBURN. Okay. What total percentage of appeals now—or claims go to appeal now?

Ms. OGILVIE. So it is hard to measure it in the same way because there is three separate lanes right now, one of them—two of them being claim lanes and one being an appeal. I know that out of the ones where a disagreement is filed——

Senator BLACKBURN. Okay. Let us do this because my time is expired. Why don't you get those numbers for us? I think you have heard frustration, not only from me but from others, that there seems to be a lack of accountability, individually and in these regional offices, and a frustration from veterans with accuracy and timeliness when it comes to the VBA. So our goal would be to help you improve that.

[For VA response to Senator Blackburn, see Questions 1 and 2 on page 114 of the Appendix.]

Mr. Chairman, you were generous with the time. Thank you so much.

Chairman TESTER. Senator Moran.

Senator MORAN. Chairman, thank you. I want to use this moment while the veterans witnesses are here, while the Department of Veterans Affairs witnesses are here. The Republican members of this Committee asked Secretary McDonough in a letter dated October 27th to provide details about the vaccine among VA personnel, compliance of the vaccine mandate, VA's operational assessment of the impact of the mandate. We asked for a response by November the 5th. We have not yet received a reply. It is a month past the VHA's deadline for personnel to be vaccinated and five days away from the deadline for the remainder of VA personnel.

And my question is—which I do not expect you to be able to answer, Ms. Ogilvie—when can we expect a reply? And so I hope that you would take that back to the Department, but perhaps it is not even necessary for you to do that. I expect that the Secretary will learn of my inquiry. So if you want to respond, you are welcome to.

Ms. OGILVIE. I would just say that I will make sure to check in on that for you and make sure that you get a reply soon.

Senator MORAN. Thank you for your kindness.

Ms. OGILVIE. Thanks.

Chairman TESTER. The other thing that I would offer up—and I do not know if you have the Secretary's direct line. If you do not, I will give you his number.

[Laughter.]

Senator MORAN. Just a response, but you and I can have this conversation among ourselves.

Chairman TESTER. I am just here to help. I am just here to help, Jerry.

So it is good. That concludes our first panel. I would like to—so thank you all very much. You are welcome to stay.

We have another panel up that is very important. It is the veterans' advocates. We have Jeremy Villanueva, Assistant National Legislative Director for the Disabled Americans Veterans, and we have Patrick Murray—get your name right this time, Patrick. Patrick Murray, Legislative Director for the Veterans of Foreign Wars, which has been referenced already today.

And as soon as you guys get seated, Mr. Villanueva, we will let you begin. But thank you both for being here. You have been here before, and you will probably be here again. And we value your input and look forward to your testimony.

So, Mr. Villanueva, you are up.

PANEL II

STATEMENT OF JEREMY VILLANUEVA

Mr. VILLANUEVA. Thank you, Chairman Tester, Ranking Member, and members of the Committee. Thank you for inviting DAV to testify at this hearing before the Senate Veterans' Affairs Committee to provide our views on the legislation before you.

DAV is a nonprofit charity that provides a lifetime of support for veterans of all generations and their families, and I am honored to be here to discuss these important pieces of legislation. Our submitted written testimony addresses all 22 bills on today's agenda, but I would like to highlight 4 in my remarks to you.

In the 2020 VA Challenge Survey, 6 of the top 10 unmet needs for homeless veterans were civil legal assistance. Family law court fee and fines, debt collection, expungement of a criminal record, and child support issues are common examples of civil legal needs expressed by veterans. These legal issues can impact income and access to housing, leaving veterans at risk of falling into poverty and homelessness.

In addition, today's veterans are at a higher risk for involvement with the criminal justice system. Post-traumatic stress disorder has been estimated to affect nearly 20 percent of Iraq and Afghanistan War veterans, and the prevalence of combat experience leads to higher rates of PTSD and of increased severity. PTSD, especially untreated, has shown a strong positive association with increased rates of arrest and conviction for veterans.

To help justice-involved veterans, we support S. 1564. This bill would authorize the VA to provide law school programs grants of up to $2 million a year to help provide free legal assistance to veterans. This practice of law schools providing legal assistance to veterans is one that DAV has supported, and we consider it a key component of eliminating veteran homelessness. However, we consider it critical that additional funding be appropriated for this and that funding from existing VBA programs not be used for this purpose.

S. 1936 would codify protections ensuring veterans, survivors, and their families do not lose access to their educational and employment benefits due to natural disasters and events such as the pandemic we are currently experiencing. By extending delimiting dates for programs such as Veteran Readiness and Education and Dependents' Educational Assistance, we are ensuring that disabled veterans, their families and survivors can finish the program that this Nation promised them. It is critical that legislation is passed that extends these provisions prior to the December 21st expiration of the previous protections. Student veterans and their families should never lose their benefits due to forces outside of their control.

S. 2513 would make automatic, reoccurring, annual clothing allowance payments to veterans unless that veteran elects to no longer receive them or the VA determines that the veteran is no longer eligible. This legislation would allow veterans to receive five years of clothing allowance benefits before the first review of eligibility. It would also require the VA to establish a regulatory standard to determine if the veteran's disability that requires the allowance is subject to change. If it is not, the review will no longer be required such as in the cases of amputees and those catastrophically disabled. Veterans should not have to take unnecessary steps to access benefits they are entitled to, and this bill would streamline and improve the clothing allowance process.

And finally, DAV supports S. 1664, which would require the VA to establish an ongoing national training program for claims processors who review compensation claims for service-connected PTSD. Claims processors would be required to participate in this training at least once a year starting in their second year of being a VA claims processor. Additionally, the bill would require standardization of training at all VA regional offices and establish a formal process for conduct of annual studies.

An OIG report from December 2020 focused on PTSD-related claims, estimated that claims processors did not follow VA regulations and procedures when handling 16 percent of these PTSD cases. The majority of errors were due to improper or inadequate stressor verification. The report determined that these employees do not fully understand the various types of in service stressors nor the stressor verification procedures. This was the result of a lack of training on PTSD claims after the first year of employment coupled with the lack of clear and concise guidance.

We are greatly concerned by the report's findings and the negative impact that a lack of proper training has on a veteran's ability to obtain the benefits they have earned. The VA must prioritize ongoing instruction and quality control of training and manuals. Veterans struggling with PTSD face many challenges. However, VA training and correct rating decisions should not be one of them.

Mr. Chairman, that concludes my testimony, and I would be happy to answer any questions you or the Committee may have. Thank you.

[The prepared statement of Mr. Villanueva appears on page 83 of the Appendix.]

Chairman TESTER. There will be questions. Thank you for your testimony. Appreciate it very much.

Patrick Murray, from the Veterans of Foreign Wars, the floor is yours.

STATEMENT OF PATRICK MURRAY

Mr. MURRAY. Chairman Tester, Ranking Member Moran and members of the Committee, on behalf of the men and women of the Veterans of Foreign Wars of the United States and its auxiliary, thank you for the opportunity to provide our remarks on these important issues.

The VFW supports the GI Bill National Emergency Extended Deadline Act of 2021. This legislation would make permanent the extensions of time limits and eligibility periods created for students using VA education benefits during the COVID–19 pandemic. As we continue to face uncertainty, it is critical we do not force student veterans to ponder the fate of their education benefits in times of national emergency. The VFW supports making these extensions automatic and believes that all time limits, age limits, periods of eligibility or delimiting dates should be removed from VA education and employment benefits as these are truly lifelong needs for veterans and their families.

We have also been pleased to hear continued reports from VBA on the status of the Digital GI Bill upgrades and continued meeting of milestones toward automation. Updating these IT services will streamline the process for determining eligibility and improve communication between VA and institutions. We believe these enhanced technology measures will have a direct impact on students' success and prevent overpayments that may cause students financial distress.

The VFW supports S. 2089 and S. 2644. Both of these proposals would provide parity for certain members of the Reserve component.

S. 2089 would allow members of the National Guard and Reserve, some of whom have access to VA health care, education benefits, and VA Home Loan eligibility, to have the eligibility to be buried in a State veterans cemetery. States that choose to broaden the eligibility of veterans beyond what the NCA currently allows should not be restricted from the Veterans Cemetery Grants Program.

S. 2644 would allow all members of the National Guard and Reserve to earn eligibility toward the GI Bill for every type of duty. As our country increasingly calls upon the service of our Guard and Reserve forces in times of national crisis, and as the nature of their orders on which these individuals are activated varies, it is important their service is recognized alongside of their active duty counterparts.

The VFW supports the Every Veteran Counts Act, which would collect, maintain and publish veteran demographic information. We suggest making sure the current crop of VA users is also specifically identified in this repository of information as well. Knowing which veterans are utilizing VA and which veterans are not would help inform stakeholders about any and all gaps for veterans' care. The VFW believes detailed data collection and transparency of

which specific veterans are affected by which specific issues will help determine how we should focus resources and attention in the future.

The VFW supports the intent of S. 2405 to improve outreach to veterans, but we have a few concerns and would like some clarification. The VFW believes the language should be clarified in this legislation to ensure States have the flexibility to fully allocate grant funds, not only to county, tribal, and state service officer but also service officers from VSOs that are recognized by VA for preparation of their claims. Many States do not utilize accredited county service officers, and the VFW would like to ensure these States are not inadvertently overlooked or underprioritized in this proposal. States such as Rhode Island, Kansas, and Montana utilize State services officers or have VSOs perform those duties on behalf of the State. We would like to see this proposal be all encompassing to make sure that veterans in every State could benefit from these grants.

The VFW supports some portions of the draft Benefits Bill but have concerns with certain sections of the proposal. We believe the VA accreditation portion of this proposal is unnecessary. If the intent of this portion is to allow for more transparency for veterans and their claims, then we believe adding a permission for VSOs accredited in the OGC's data base to have read-only access will accomplish that goal. Asking VA to accredit, maintain, and oversee their own service officers is an unnecessary step in accomplishing that.

Additionally, while we appreciate the Committee's support in restoring and approving notifications to veterans and their representatives, we believe any changes are premature at this time. The current Claims Accuracy Review Pilot Program is only in phase two of implementation, and we believe we should wait until we have more information to fully assess the pros and cons of this program before making permanent changes.

Chairman Tester, Ranking Member Moran, this concludes my testimony. I am prepared to answer any questions you or any of the members may have.

[The prepared statement of Mr. Murray appears on page 97 of the Appendix.]

Chairman TESTER. Thank you, Patrick. To the second by the way, I might add, of the testimony. Good job.

Good job to you both. We appreciate your testimony, your input, your suggestions.

This is a question for both of you. As you are both aware, the COVID pandemic has resulted in an increase in the backlog of pending disability claims. What are you guys hearing from your members about the timeline for getting these claims processed?

Mr. MURRAY. Senator, right now we are concerned, and we think a—we are hearing that it is too long. If you look at numbers from 2019 versus today, the average days for complete was 82 versus 146 right now. So it has jumped up by almost double.

But a very fast way to reduce the backlog and what we are calling workload, not necessarily backlog, is the National Personnel Records Center. Last month, up until last month, they were only

operating at 25 percent. They finally jumped up to about 45 percent. That is a place that a lot of elderly veterans, who some of them present with more complicated health care issues, who need that care and benefits right now—the National Personnel Records center, cranking out the records and the work that they need to get done, will help some of our elderly veterans get the care and benefits right now and drop down that backlog immediately.

Chairman TESTER. Mr. Villanueva, do you have anything to add from your membership?

Mr. VILLANUEVA. Yes, Mr. Chairman. Thank you very much for that question. And it is—the timeliness of getting the claims back to the veterans is, of course, important. And like Patrick just said, this is—we are at 146 days now, which is, you know, again, you know, quite a bit longer than what it was prior to the pandemic.

That being said, you know, we have not had that many, you know, complaints from, you know, our membership about the timeliness. However, the quality, to ensure that these are claims are done accurately we think would do, you know, significant amounts to reduce not just the backlog of pending claims but pending appeals. You know, there is 90,000, you know, appeals that are backlogged at the board. And as long as we can ensure, especially with PTSD claims, that they are done right the first time and given back to the veteran, then that would significantly reduce this workload.

Chairman TESTER. Okay. Let us talk about the RURAL Exams Act for a second. Could you guys explain some of the challenges your rural members face when they are trying to schedule a disability medical examination and how, and if, the RURAL Exams Act would address those challenges?

Mr. PATRICK. Senator, distance is obviously one of the most glaring issues that some rural veterans are facing to either VA facilities or access to either contracting examiners that can perform those. The RURAL Exams Act, one of the key things that we really appreciate in there is timeliness. It is something that we have been trying to change the way we are talking about this.

In the past, we have talked about the speed of exams. Timeliness has a usefulness category in that if exams are done in an efficient, quick, and useful manner, that will knock down the backlog. Having an exam returned to you and it is incorrect, you then put it back in the appeals. Even if eventually you get it adjudicated months later, that is not timely. We appreciate that this Act has "timely" in it. That will help us make sure that they are done with an element of speed but also an element of usefulness.

Chairman TESTER. Mr. Villanueva?

Mr. VILLANUEVA. Yes. So one thing that, you know, we have to understand about, you know, rural veterans, as I am sure, Mr. Chairman, that you know, you know, is that many rural veterans are, you know, in a worse health shape, wage-earners a lot of times, you know, and elderly. Many of these people cannot afford to take the time out to go to the next urban, built-up area to go and take these examinations.

And then when you couple that with homebound veterans, even if you are going for an examination for being homebound, it is, you know, unacceptable to expect that a homebound veteran should get

up and move sometimes hundreds of miles away just for an examination for a claim that they do not even know how it is going to come out.

So any way that we can get the access to these rural veterans, you know, would definitely benefit our membership.

Chairman TESTER. Thank you. The GRAD VA Educational Assistance Parity Act would allow Federal active duty performed by members of the Guards and Reserve to go toward their GI eligibility. Could you folks talk about this legislation, if you like it and if you think it is necessary?

Mr. MURRAY. Senator, we like it. We think it is necessary. We strongly support it. Every day in uniform should count the same, making sure that the men and women who are standing next to each other, standing next to their active duty counterparts, are getting the same equitable benefits as each other.

Chairman TESTER. Anything to add, Mr. Villanueva?

Mr. VILLANUEVA. No, sir, Mr. Chairman. Of course, we definitely understand and, you know, support the intent of this legislation. However, we do not have a resolution to support it.

Chairman TESTER. Very quick question and then I am going to kick it over to Senator Moran. You have heard a lot about the Act, the bill, that allows for IG subpoena authority. Do you guys have any problem with that?

Mr. PATRICK. Senator, we believe that that might be necessary to get to the bottom of some of the issues and will only make VA better. If VA is better, it is taking care of our veterans in a better capacity.

Chairman TESTER. Okay. Thank you both.

Senator Moran.

Senator MORAN. I like that answer. Thank you.

Senator Tester asked about the difference in treatment between Active and Reserve and Guard, so he has covered my question. I thank you for your support of that legislation.

Let us talk about the backlog a little bit more. In your testimony, Mr. Villanueva, you discussed the benefits, the discussion draft mentions that it alleviates some of the concerns DAV has had with the current state of VA medical disability exams and the claims process and the current backlog. Outside of what is included in this bill, what more do you think the VA can be doing to reduce the backlog down to pre-pandemic levels?

Mr. VILLANUEVA. That is a great question, Senator. You know, A-number-one thing, you know, I think that might not be talked about, you know, although it is addressed in one of these bills, is of course the training. The training for VA employees because, you know, as we look at it, I think that the backlog, you know, specifically with say, you know for example, PTSD claims. Simple mistakes that get to the veteran and the veteran has to disagree with and that that delays the process and includes more work for the VA to do fix that.

You know, we believe that a fully trained and, you know, competently trained VA employee puts out good work and quickly, and that alleviates the claim on both the VBA side and the board side. You know, we used to say in the military, you know, slow is smooth, but smooth is fast. You know, as long as these folks are

competently trained and confident in what they are doing, you know, we believe that this would, you know, not only speed up the process but also reduce the backlog.

Senator MORAN. Thank you.

Mr. Murray, anything you would add to that?

Mr. MURRAY. As Mr. Villanueva said, accuracy. I had a colleague this morning testify before the House on MST claims, and the OIG report stated that approximately 50 percent of them were being adjudicated incorrectly, which kicks them back into the system. That is just another example of clogging up the system with claims that should have been done correctly the first time. So cultural competency training is important.

The other thing that we have heard from our members is allowing not only feedback to help make sure that there is review and oversight of the C&P exams but also allowing for veterans to have some agency in the decision about their exams. We had a veteran from New Jersey that was assigned a C&P exam three weeks later. Well, three weeks later was actually her due date for her child. If she was not able to make that exam, then it was going to be counted as a missed exam. She called us, frantically worried about that, because she did not have any say in when to actually schedule that, what is best for her. Obviously, giving birth to your child is a very legitimate reason for missing an exam.

But that is the kind of decision we think would help improve the system, not just making sure that things are more accurate, but so that veterans have more of a say in the process.

Senator MORAN. I debated whether to phrase this question this way, but you have kind of set the stage for this. I mean, you have mentioned a couple of things: training of VA employees, accuracy matters, allowing the veteran to have engagement in how the—what the timing is of the exam.

I have been a member of the Veterans' Committee for 25 years. I cannot imagine I have not supported, endorsed every piece of legislation designed to speed up the process, some of which became law. First of all maybe, is there examples of legislation that we have passed that had a difference in reducing the backlog of claims, or have we—in addition to that question, have we now ran the gamut of things that we can do legislatively to alleviate the backlog and it really now rests with the VA and its employees? In some ways, your answer to that was, particularly you, Mr. Villanueva, training, attention to detail, accuracy.

How many more bills, or what is the bill we can pass that gets us to a position that is different than what we have been in for so long?

Mr. MURRAY. Senator, I do not want to say that we have exhausted all options. Outside-the-box thinking always helps.

But typically when we face a backlog over time, it is hiring new, additional people, like a surge capacity for a period of time but also making sure that they are done correctly. A fully developed claim, thoroughly reviewed, quality the first time reduces that redundancy. So some of it does rely on the actual individuals in the process itself. We would always encourage more help to speed it up, but you know, there are some certain steps that are almost the tradi-

tional backlog-reducing steps that just need to happen every time that there is ebbs and flows of the backlog.

Senator MORAN. Anything further?

Mr. VILLANUEVA. Yes, Senator. You know. And I would be remiss to say that the VA has not, you know, gotten speedier, especially in the last 10 years, you know, when it comes to the efficiency and getting these claims back to the veterans. That being said, we should—we could always be better. We should always strive for better and—you know.

And I know this pandemic did not help things, you know, at all, getting things out and—you know, we have had to—you know, all of a sudden the VA has had to pivot to, you know, telehealth appointments to get the C&P examinations done, which of course, you know, I am sure added onto the backlog.

But you know, like my colleague from the VFW said, yes, training should always be a must. We have to strive to get better. The moment we start sitting on our laurels and start being happy about that there is no more backlog, the backlog, as we have all seen, will always just grow. So, always striving to be better and staying on the VA and making them accountable for when there is deficiencies.

Senator MORAN. Maybe my takeaway from your answers is this, which is, while there may be legislative things we should do—we ought not foreclose that opportunity—we ought to be focused on number of personnel, personnel training, personnel attitude approach, and appropriations to make sure the necessary resources are there to complete the process. Is that a fair summary of where we might be?

Mr. MURRAY. Getting it right the first time is going to make this process a lot faster, Senator. That is what we really hope to have happen. And training, cultural competency, making sure that individuals—as I mentioned, the MST example, while it is a smaller subset of claims, those are complex claims that take up a lot of time, that if you are doing them two or three times, that just only gums up the system. Let us get it right the first time.

It also helps that ease of mind of the veterans to make sure that their belief, that they have, you know, the faith in the system and not have to fight the system. It should be very non-adversarial. And getting it right the first time will really help with that.

Mr. VILLANUEVA. Cultural competency, you know, instilling confidence, you know, showing the veteran that this can be done but also, you know, being relevant with the times, understanding that the new advances in technology that are out there and taking advantage of them, so that we can reach the more rural veterans and that we can—you know, the VA can, you know, be there and put the onus not on the veteran to be able to provide some of these things that are needed for, you know, a basic claim.

Senator MORAN. Thank you. Thank you to the DAV and to the Veterans of Foreign Wars, the VFW, for your testimony today and for the work you do with your members and other veterans.

Chairman TESTER. I want to echo those comments. I also want to thank the Office of Inspector General and the VA for being here today. Both panels were valuable because they shared the kind of insight that we need to move forward with today's agenda.

We will keep the record open for one week, and with that, this hearing is adjourned.

[Whereupon, at 4:55 p.m., the Committee was adjourned.]

A P P E N D I X

Hearing Agenda

UNITED STATES SENATE
COMMITTEE ON VETERANS' AFFAIRS

Hearing: Pending Legislation

November 17, 2021, 3:00 p.m.
Russell Senate Office Building, Room 418

1. S. 1296 (Brown/Blumenthal) Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act
2. S. 1564 (Shaheen) Veterans Legal Support Act of 2021
3. S. 1607 (Schatz/Rounds) Student Veterans Transparency and Protection Act of 2021
4. S. 1664 (Klobuchar/Rounds) Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021
5. S. 1838 (Scott/Blumenthal) Building Credit Access for Veterans Act of 2021
6. S. 1850 (Warnock/Boozman/Cassidy) Chaplains Memorial Preservation Act
7. S. 1881 (Rosen) Veteran Education Empowerment Act
8. S. 1936 (Booker) GI Bill National Emergency Extended Deadline Act of 2021
9. S. 2089 (Shaheen/Hassan/Cramer) Burial Equity for Guards and Reserves Act of 2021
10. S. 2329 (Rubio/Sinema) BEST for Vets Act of 2021
11. S. 2405 (Baldwin/Sullivan) Commitment to Veteran Support and Outreach Act
12. S. 2431 (Hassan/Boozman) Department of Veterans Affairs Office of Inspector General Training Act of 2021
13. S. 2513 (Cortez Masto/Boozman) Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021
14. S. 2644 (Moran/Tester) GRAD VA Educational Assistance Parity Act of 2021
15. S. 2687 (Tester/Boozman/Manchin) Strengthening Oversight for Veterans Act of 2021
16. S. 2761 (Hirono) Every Veteran Counts Act of 2021
17. S. 2794 (Tuberville/Cramer/Rounds) Supporting Families of the Fallen Act
18. S. 3047 (Portman/Sinema) Veterans Pro Bono Corps Act of 2021
19. S. 3094 (Moran/Manchin/Sullivan/Hirono/Hassan) Reaching Every Homeless Veteran Act of 2021
20. S. 3163 (Tester/Moran) RURAL Exams Act of 2021
21. S. XXXX (Tester) Veterans Benefits Improvement Act of 2021

Prepared Statements

STATEMENT OF
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VETERANS BENEFITS ADMINISTRATION (VBA)
DEPARTMENT OF VETERANS AFFAIRS (VA)
BEFORE THE
SENATE COMMITTEE ON VETERANS' AFFAIRS

November 17, 2021

Good afternoon Chairman Tester, Ranking Member Moran, and Members of the Committee. I appreciate the opportunity to appear before you today to discuss pending legislation, including bills pertaining to disability compensation, health care, education, transition assistance, and other benefits. Accompanying me today are Jill DeBord, Executive Director, Care Management & Social Work, Veterans Health Administration (VHA); and Marjorie Bowman, MD, MPA, Chief Academic Affiliations Officer, Office of Academic Affiliations, VHA. VA defers to the Department of Education (ED) with respect to views on S. 1881.

S. 1296 – Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act

S. 1296 would require VA and the Department of Defense (DoD) to carry out jointly a 5-year pilot program to assess the feasibility and advisability of providing a 3-hour module under the Transition Assistance Program (TAP) for each member of the Armed Forces as a means of reducing the incidence of suicide among Veterans. The module would have to include an in-person meeting between the cohort of the member and a social worker who would counsel the cohort on (1) specific potential risks confronting members after discharge or release from the Armed Forces; (2) the potential risks and resources for members of the cohort who have been diagnosed with physical, psychological, or neurological issues; (3) the resources afforded to victims of military sexual trauma through VA; and (4) the five stages of grieving, the manner in which members might experience grieving, and resources available to them for grieving through VA.

The module would also require each cohort member be provided contact information for a counseling or other appropriate VA facility and the submittal by cohort members to VA (including both VHA and VBA) of their medical records in connection with their service in the Armed Forces, whether or not the member intends to file a claim for benefits with respect to any service-connected disability. Under the pilot program, a VA social worker or behavioral health coordinator would contact the member within 90 days of the discharge or release of the member from the Armed Forces to schedule a follow-up appointment to occur within 90 days of such contact. The pilot program would be carried out at not fewer than 10 TAP Centers jointly selected by VA and DoD, and the Centers would be selected, to the extent practicable, to serve, whether individually or in aggregate, all the Armed Forces and both the regular and reserve components of

the Armed Forces. VA and DoD would be required to commence the pilot program within 120 days of the date of the enactment of this legislation. If VA and DoD recommend in a report to Congress that the pilot program be extended, the Departments could continue the pilot program jointly for such period as they consider appropriate. VA would be required to report to Congress, not later than 1 year after the date of the enactment and every 180 days thereafter, on the activities under the pilot program.

We would support this bill, if modified, and subject to the availability of appropriations; we have concerns with the bill as written and would appreciate the opportunity to discuss these with the Committee. VA has a number of existing programs and practices that could be expanded to provide coordinated transitions into VA health care to a larger population of transitioning Service members if this authority were enacted and if resources were provided to support such efforts. Currently, VA has 48 social workers and nurses who work as VA Liaisons for Healthcare to provide direct access and coordinate individualized health care at VA for transitioning Service members; 43 Liaisons are onsite at 21 Military Treatment Facilities (MTF), and 5 virtual VA Liaisons support all other MTFs. VA and DoD are collaborating on several improvements to transition programs, including development of an Enterprise Individual Standard Assessment tool that provides a baseline well-being assessment of an individual's suicide risk, and their susceptibility to social pitfalls such as mental and physical health and societal relationships, during transition. This well-being assessment tool allows for targeted interventions to resolve those issues, and features a warm handoff to VA services for those members unable to resolve the risk issues prior to transition and subject to their eligibility for such services.

We have some concerns regarding placement of the 3-hour module within the TAP program, as this could affect delivery timelines of other mandated requirements and instruction. We also would like to discuss the potential privacy issues that could arise under this pilot program.

As noted, we have several technical comments on the bill that we would be pleased to share with the Committee. In general, we believe the legislation could distinguish more clearly between intended general education and specific individual counseling, as TAP briefings consist of large groups where individual attention may be difficult or impossible. Our most significant comments arise from section 2(c), which would require VA to contact the member for a follow-up appointment within 90 days. It is unclear on what this appointment would be "following up". More fundamentally, we are concerned about the issues the bill raises between its requirements and VA's authorities concerning eligibility, enrollment, and the furnishing of care. Notably, the bill specifically would require the development of a medical treatment plan under section 2(c)(2)(B), which would normally only occur in the course of an ongoing patient-provider relationship. If the separated Service member were ineligible for health care from VA, this bill would seem to require VA to identify issues and develop a plan to treat those issues but would prohibit VA from actually treating the issues because of the former Service member's ineligibility to receive care under 38 U.S.C. Chapter 17. We believe

further discussion with the Committee could resolve these concerns and allow VA to support the bill.

VA estimates that, if enacted, the bill would cost the General Operating Expenses account $3.06 million in FY 2022 and $16.5 million over 5 years; VA anticipates additional IT costs, but has not yet developed an estimate.

S. 1564 – Veterans Legal Support Act of 2021

S. 1564, the "Veterans Legal Support Act of 2021," would authorize VA to provide support to one or more eligible university law school programs that are designed to provide legal assistance to Veterans. Eligible programs may include university law school programs that assist Veterans with filing and appealing claims for VA benefits and such other civil, criminal, and family legal matters as VA considers appropriate. VA could provide financial support of the program, but the total amount of financial support provided in any fiscal year could not exceed $2 million. Funding for such programs would be derived from amounts appropriated or otherwise made available to the General Operating Expenses (GOE) account of VBA.

VA supports the concept but does not support the bill as written. VA requests that further detail be provided on what is envisioned for this program. We note the potential overlap between this bill and existing authorities for legal services grant funding in 38 U.S.C. § 2022A and in section 548 of the National Defense Authorization Act (NDAA) for FY 2021 (P.L. 116-283), enacted in January 2021. 38 U.S.C. § 2022A allows VA to issue grants to public or nonprofit private entities, potentially including law school clinics, for the provision of general legal services to homeless Veterans or Veterans with unmet legal needs who are at risk of becoming homeless. Section 548(b)(2) of the NDAA for FY 2021 also specifically calls for a legal services grant program to eligible entities to include university law school clinic programs. We recommend Congress consider how the program proposed in S. 1564 would differ from or complement existing authorities for legal services. We would be happy to discuss this further with the Committee. Ultimately, we share the goal of increasing access to legal services for Veterans. We would also welcome the opportunity to provide technical assistance on this legislation.

VA does not have a cost estimate for this bill at this time, but we predict there would be costs.

S. 1607 – Student Veterans Transparency and Protection Act of 2021

Section 2 of S. 1607, the Student Veterans Transparency and Protection Act of 2021, would make numerous changes to VA's G.I. Bill Comparison Tool that was established under Executive Order 13607 or a successor tool. Section 2(a) would require the Secretary of Veterans Affairs (Secretary) to maintain the tool to provide relevant and timely information about programs of education approved under chapter 36 and the educational institutions that offer such programs. VA would be required to

ensure that historical data that is reported via the tool is easily and prominently accessible on the benefits.va.gov website, or a successor website, for at least seven years from the date of initial publication.

Under section 2(b), VA would be required, not later than one year after the date of the enactment, and in coordination with ED to make changes to the tool as determined appropriate to ensure that such tool is an effective and efficient method for providing information pursuant to 38 U.S.C. § 3698(b)(5) regarding postsecondary education and training opportunities. Section (2)(b) of this bill would modify 38 U.S.C. § 3698(a) and (b)(5) to make them applicable to individuals entitled to educational assistance instead of only to Veterans and members of the Armed Forces. This section of the bill would also require several additional disclosures related to various aspects of educational programs including a requirement for more information to be disclosed about the Federal student aid program pursuant to subsection 3698(c) of title 38 United States Code.

Section 2(c) of this bill outlines additional improvements that VA would be required to make to the GI Bill Comparison Tool regarding feedback from students, including providing institutions of higher learning with up to 30 days to review and respond to feedback and address issues regarding the feedback before it is published. Section 2(d) would require VA, not less than one year after the date of enactment, to ensure that personnel employed or contracted to provide counseling, vocational or transition assistance, or similar functions, including employees or contractors of VA who provide counseling or assistance as part of the TAP, are trained on how to properly use the G.I. Bill Comparison Tool or a successor tool and provides appropriate educational counseling services to Veterans, members of the Armed Forces, and other individuals.

Section 3 would amend section 38 U.S.C. §3699(b)(1) to preclude a charge against entitlement to educational assistance for payments made to an individual who is pursuing a course or program at an educational institution under chapter 30, 31, 32, 33, or 35 of title 38, or chapter 1606 or 1607 of title 10, if the Secretary determines that the individual was unable to complete their course or program as a result of a Federal or State civil enforcement action against the education institution or an action taken by the Secretary. Additionally, the proposed legislation would allow such an individual to obtain a partial restoration of entitlement by submitting a request to VA and allow the individual to specify the percentage of the charge to the entitlement that they request to be applied. The percentage could not be less than zero or more than 100. VA would be required to establish a mechanism that could be used by an individual approved under this provision to obtain relief under 38 U.S.C. §3699(a).

VA supports portions of S. 1607, subject to the availability of appropriations, but also has concerns with certain aspects of the bill. VA supports section 2 of the bill as it would codify the G.I. Bill Comparison Tool as a valuable source of information for prospective and current G.I. Bill beneficiaries. Moreover, VA supports the provision as it would expand the information available to users of the tool. Implementing the provision outlined in section 2(b) of the bill, would require significant technical changes to the tool

in order to provide the required information and significant support from other partners ED, to locate the required information and receive regular updates. VA also supports section 2(d) specifically as it pertains to the training of VA personnel and contractors on the delivery of educational counseling services, which include education benefits counseling, transition assistance, and similar services. Veteran Readiness & Employment (VR&E) staff provide these services for VBA. VA and contracting staff must meet strict educational requirements to obtain this position. These educational requirements meet and exceed those outlined in this section. The Office of Outreach, Transition and Economic Development's Personalized Career Planning and Guidance program also provides guidance to individuals entitled to educational assistance via Contract Counseling. VA has several technical comments and will be happy to follow up at the request of the Committee.

VA supports section (3)(a) of the bill as it would expand restoration of entitlement to include protection for when an individual is unable to complete a course or program due to a Federal or State civil enforcement action against the educational institution.

However, VA has concerns with section 3(b) and 3(c) of the bill. Currently, under 38 U.S.C. § 3699(a), an individual impacted by a school closure or disapproval is not charged for any payment of educational assistance, the entitlement is not counted against their aggregate period, and these individuals are able to keep the educational assistance payments that were paid to them. Under section 3(c) of the bill, if implemented, upon a request VA would be required to charge the entitlement and, as a result, count the entitlement against the individual's educational benefits. Thus, beneficiaries could be negatively impacted by the loss of entitlement. Additionally, under section 3(b) of the bill, VA would be required to establish a mechanism that would allow individuals eligible under this provision to obtain relief for restoration of entitlement. This would require VA to establish a system that can accept these requests on the date of enactment of the bill.
Discretionary cost estimates will be determined. No mandatory costs are associated with section 2 of S. 1607. Mandatory costs are associated with section 3 of S. 1607, but VA is unable to estimate the cost at this time due to insufficient data.

S. 1664 – Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021

This bill would require VA to take certain actions to improve the processing of disability claims for post-traumatic stress disorder (PTSD). Effective no later than 180 days from passage, the bill would require:

(1) An updated ongoing, national training program for claims processors who review PTSD claims;
(2) Participation in training at least once each year beginning in the second year in which the claims processor carries out duties;
(3) Training to include instruction on stressor development and verification;
(4) Standardization of training provided at regional offices;

(5) Establishment of a formal process to analyze, on an annual basis, training needs based on identified processing error trends;
(6) Establishment of a formal process to conduct, on an annual basis, studies to help guide the national training program; and,
(7) Evaluation of the guidance relating to PTSD at least once a year to determine if updates are warranted to provide claims processors with better resources regarding best practices for claims processing, including specific guidance regarding development of PTSD claims.

VA supports continued improvement in the processing of disability claims based on PTSD, and appreciates interest from Congress in ensuring that VA provides adequate training on PTSD for claims processors, however, VA already has a comprehensive training curriculum and annual training requirement for claims processors. While VA has no objection to this bill, we consider it unnecessary.

Currently, VBA's training curriculum contains 21 different training modules pertaining to PTSD. These training modules cover all topics pertaining to processing PTSD claims, including general development and evidence gathering, submitting examination requests, applying guidance to sympathetic reading of mental disorders, development for stressors related to personal trauma, evaluating evidence, and deciding a claim for service connection for PTSD.

In addition to the training requirement, this bill asks VA to analyze error trends and provide an annual report on the metrics for PTSD claims. VA already has a robust quality review process and publishes reports on overall quality for all issues, including quality specific to PTSD claims, on a monthly basis. During FY 2021, VA rated 104,820 PTSD issues with an overall grant rate of 68%. In April 2020, the PTSD grant rate was 58% and has been steadily climbing since this time. In FY 2020 through April 2020, the quality of PTSD issues reviewed by STAR was 97.0% and for FY 2021 was 97.2% through August 2021. VA believes that the increased grant rate reflects the measures VBA has taken over the years to provide additional training and conduct quality reviews for claims specifically for PTSD. Therefore, the requirements in this bill appear to be unnecessary.

There are no mandatory or discretionary costs associated with this bill.

S. 1838 – Building Credit Access for Veterans Act of 2021

The Building Credit Access for Veterans Act of 2021 would require VA to commence, within one year of enactment, a pilot program to assess the feasibility and advisability of using alternative credit scoring information or credit scoring models (1) to improve the determination of credit worthiness of individuals and (2) to increase the number of individuals who are able to obtain a VA-guaranteed loan. Participation would be limited to Veterans and members of the Armed Forces (hereinafter referred to as Veterans) who qualify for VA home loan benefits under chapter 37 of title 38 United States Code, and whose credit history is insufficient for a lender or the Secretary to

determine credit worthiness. “Insufficient credit history” would be defined in the bill as an individual without a credit record with one of the national credit reporting agencies or an individual whose credit record contains insufficient information to assess creditworthiness. Under the bill, participation in the pilot program would be voluntary for lenders and Veterans. VA would be authorized to limit the number of participating individuals and lenders, but would be required to notify Congress of any limitation.

Additionally, the bill would require VA, in consultation with such entities as the Secretary considers appropriate, to establish criteria and approval for acceptable commercially available credit scoring models and to publish such criteria in the Federal Register. VA would be required to consider the Federal Housing Finance Agency’s regulation on credit score assessment (12 C.F.R. § 1254.7) and to approve any commercially available model approved for use by Fannie Mae and Freddie Mac.

The bill would also require VA to conduct outreach to lenders and Veterans to inform them of the pilot program. VA would also be required to report to Congress findings related to the pilot program within two years of enactment. The bill would set a termination date for the pilot of no later than September 30, 2025.

While VA supports the use of alternative credit information and alternative credit scoring models in evaluating Veterans’ creditworthiness for purposes of the VA home loan program, it does not support this bill. VA recognizes Veterans may lack sufficient credit history as a result of being recently discharged from service, having a preference to purchase with cash rather than credit, or having not acquired new obligations following a bankruptcy. As such, VA regulations and policies already contemplate the use of alternative credit information and scoring models to be used by lenders when underwriting VA-guaranteed loans. Additionally, VA does not have data to suggest creditworthy Veterans are unable to access the home loan benefit.

Existing statutory authority in 38 U.S.C. § 3710(g) directs the Secretary to prescribe regulations to establish credit underwriting standards to be used in evaluating loans as well as standards in obtaining credit information. Pursuant to this authority, VA’s regulation at 38 C.F.R. § 36.4340(g)(6) states that the absence of a credit history will not generally be viewed as an adverse factor in credit underwriting. Whereas a number of Federal housing agencies have minimum credit score requirements, VA does not. Instead, Chapter 4.1.a of the *Lenders Handbook* (VA Pamphlet 26-7) encourages lenders to make VA loans to all qualified Veterans who apply, and outlines expectations that underwriters use good judgment and flexibility when determining creditworthiness. Both VA regulation and the *Lenders Handbook* provide guidelines for evaluating the creditworthiness of individuals with an absence of credit history and instruct lenders to base the determination of credit approval on alternative or non-traditional credit in which a payment history can be verified. VA also offers lenders and underwriters training and individualized assistance in determining credit qualifications pursuant to 38 U.S.C. § 3710(b) and (g).

VA's present regulation and policy allow lenders significant latitude in determining the optimal alternative and non-traditional credit sources to use on an individual loan to establish creditworthiness and support loan approval. VA notes that it does not currently prescribe specific credit scoring models that may be considered. As such, this bill, in restricting lenders to credit models approved by the Secretary, would appear to limit lenders' options in evaluating Veterans. It may also lead lenders to consider less alternative credit information than under the current policy. In this regard, obtaining approval of a credit scoring model might delay the processing of a loan application and lead lenders to utilize an already-approved, but perhaps less robust, scoring model instead. Further, a commercially-available credit scoring model may not incorporate all potential sources of alternative or non-traditional credit information based on the individual's profile. Conversely, under VA's existing regulation, lenders are encouraged to develop evidence, including through non-traditional documentation, of timely payments on any non-installment debts such as rent and utilities with information provided by the Veteran. Underwriters are directed to make an informed decision based on any alternative or non-traditional documentation obtained by the lender.

In view of the foregoing, VA does not believe that a pilot program is necessary to determine whether alternative credit scoring information or credit scoring models would improve Veteran outcomes related to VA-guaranteed loans. Based on existing data, VA believes that this bill would likely result in no or insignificant costs.

S. 1850 – Chaplains Memorial Preservation Act

S.1850, the "Chaplains Memorial Preservation Act," would allow the Secretary of the Army to permit the National Conference on Ministry to the Armed Forces (NCMAF) to make updates and corrections to the Protestant chaplain memorial located in Arlington National Cemetery and to make similar updates and corrections to the memorial to Catholic chaplains and the memorial to Jewish chaplains, also located in Arlington National Cemetery. NCMAF is an umbrella group of religious organizations that endorse clergy for service as military chaplains in the U.S. Armed Forces. It functions as the point of contact between religious groups and the U.S. military to satisfy the U.S. military requirement that chaplains serving with the various branches of the U.S. Armed Forces hold "ecclesiastical endorsement" from their religious communities and also serves as a forum for discussions among member organizations regarding issues relating to the military chaplaincy.

VA defers to the Department of the Army for comment on this bill as the Federal agency that owns and operates Arlington National Cemetery.

S. 1936 – GI Bill National Emergency Extended Deadline Act of 2021

Section 2 of the proposed legislation would add a new subsection (i)(1) to 38 U.S.C. § 3031 that would require VA to extend the 10-year period for using entitlement under the Montgomery GI Bill if an individual is prevented from pursuing a chosen program of education before the expiration of the 10-year period because an

educational institution closed (temporarily or permanently) due to an emergency situation, or another reason that prevents the individual from pursuing the individual's chosen program of education, as determined by the Secretary. The 10-year period would not run during the time the individual is prevented from pursuing the program and would begin again on a date determined by the Secretary that is not earlier than the first day after the individual is able to resume training under the Montgomery GI Bill, and not later than 90 days after that date. Section 2 would also amend 38 U.S.C. § 3321(b)(1) to extend the 15-year period for use of entitlement under the Post-9/11 GI Bill in the same manner as subsection (i) applies under section 3031 with respect to the running of the 10-year period of eligibility.

Section 3 of the proposed legislation would add a new subsection (h)(1) to section 3103 and would extend the period of eligibility to those disabled Veterans who use vocational rehabilitation training and were affected by a school closure.

Section 4 of the proposed legislation would amend 38 U.S.C. § 3679(c) to provide for the disapproval by the Secretary of courses of education offered by public institutions of higher learning that do not charge the in-state tuition rate for eligible students using VA education benefits under the Survivors' and Dependents' Educational Assistance Program. The bill would do so by amending 38 U.S.C. § 3679 to add Chapter 35 beneficiaries to the definition of a "covered individual" by which VA must disapprove a course of education offered by a public institution of higher learning if the institution does not charge in-state tuition and fees for covered individuals. The amendments would take effect on the date of the bill's enactment and would apply with respect to an academic period that begins on or after August 1, 2022.

Section 5 of the proposed legislation would require VA to implement a modern information technology (IT) service to process claims for educational assistance under chapters 30, 33, 35, and 36 of title 38 United States Code, using one or more commercial software systems. VA would be required to complete the implementation not later than August 1, 2024. The bill would require that VA ensure the modern IT service, as compared to the legacy IT systems (both of which would be defined under the bill), can process claims faster and more efficiently through improved processing integration and accuracy, data exchange and reporting, customer integration, and simplification of the online experience. The modern IT service would have to be capable of facilitating timely communication by VA employees to individuals and educational institutions using an online portal that could provide real-time information on claims for educational assistance, fully automating (to the extent practicable) all original and supplemental claims (to include calculating accurate awards). Additionally, the service would have to have the ability to be customized to address future capabilities required by law, electronically process changes made by educational institutions, verify attendance at an educational institution, process validations made by an educational institution, allow individuals entitled to educational assistance to electronically apply for, withdraw from, and amend their entitlement, and reallocate a transferred entitlement.

Further, section 5 of the bill would require VA to meet certain reporting and notification requirements. VA would be required to provide the Committees on Veterans' Affairs of the House of Representatives and Senate an initial report not later than 120 days after the date of enactment. This report would have to contain information on the cost, schedule, and performance of the project for implementing such system, including, with respect to such project, cost estimates, an implementation schedule, key objectives, statistics related to original and supplemental claims processed on a monthly basis, estimated savings realized by using the modern IT system over the legacy system, claim timeliness and processing accuracy, and a description of how the modern IT service will automate the processing of original claims and supplemental claims.

Section 6 of the proposed legislation would redesignate subsection (h) as subsection (f) and add a new subsection (g) to 38 U.S.C. § 3512 to allow dependents to receive benefits under Chapter 35 at any time after August 1, 2023, and without regard to the age of the dependent. This provision would apply to dependents who first become eligible on or after August 1, 2023; and those who first become eligible before August 1, 2023; and become 18 years of age, or complete secondary schooling, on or after August 1, 2023.

Section 7 of the proposed legislation would require that the Assistant Secretary of Labor for Veterans' Employment and Training carry out a pilot program that allows a State to use a grant or contract under 38 U.S.C. § 4102A(b)(5) to carry out a short-term fellowship program. The Secretary would be required to select at least three, but not more than five, states to carry out a short-term fellowship program. Each state that is selected would be required to enter into an agreement with a non-profit organization to carry out the fellowship program.

Additionally, a program carried out under this section would have to consist of Veterans participating as fellows with an employer for a period not exceeding 20 weeks; provide to such Veterans a monthly stipend during such period; and provide Veterans an opportunity to be employed on a long-term basis with the employer following their fellowship participation. The amount of the stipend paid to the Veteran would be equal to the amount of wages earned during the month for participating in the fellowship program.

The proposed legislation would require that the Comptroller General provide a report to the House of Representatives and Senate Veterans Affairs Committees no later than four years after the fellowship pilot program begins. The definition of States would include the District of Columbia, and the Commonwealth of Puerto Rico, and may include Guam, American Samoa, the Virgin Islands, the Commonwealth of the Northern Marianas Islands, and the Trust Territory of the Pacific Islands. The proposed legislation would provide additional funding to the Assistant Secretary of Labor in the amount of $15,000,000 for each fiscal year from 2021 through 2025. This would be in addition to the funding levels already established under 38 U.S.C. § 4102(a)(b)(5).

VA supports section 2 of the proposed legislation, subject to the availability of appropriations, as it would ensure that individuals prevented from training due to a school closure because of an emergency situation, or due to another reason as determined by VA, would have additional time to use their Montgomery GI Bill and Post-9/11 GI Bill educational assistance benefits.

VA has no objection to section 3, subject to the availability of appropriations, which would grant VA the authority to extend the eligibility period for use of vocational rehabilitation and employment benefits and services under Chapter 31. For individuals who are discharged on or before December 31, 2012, the current eligibility period is 12 years from the date of discharge or the initial notification of a VA service-connected disability rating, whichever occurs last. This section would amend 38 U.S.C. § 3103 by adding a new subsection (h) that would grant VA the authority to extend the eligibility period if an individual was prevented from participating in a vocational rehabilitation program for a number of reasons, to include a temporary or permanent facility closure due to an emergency or another reason that prevents participation as determined by the Secretary of VA. The eligibility period would pause during these periods if the individual is prevented from participation. The eligibility period would resume no later than 90 days after the individual is able to resume participation.

VA supports section 4 of the proposed legislation, subject to the availability of appropriations. Currently, covered individuals include only those beneficiaries under Chapters 30, 31, and 33 of title 38. This section would allow Chapter 35 beneficiaries to receive the same protections under the law as beneficiaries who are in receipt of benefits under other VA educational programs.

VA does not support section 5 of the proposed legislation. On March 11, 2021, VA awarded a contract to Accenture Federal Services who will partner with Education Service and the Office of Information and Technology to develop the Digital GI Bill, which is a modernized business platform that will feature world-class customer and financial services to enable timely and accurate delivery of payments and real-time eligibility and benefit information. This new platform will provide an end-to-end systems management perspective to ensure proper compliance and oversight of GI Bill programs and will allow the use of data and business intelligence tools to monitor and measure school and student outcomes. Using this platform, GI Bill students will have the ability to engage with VA and their earned benefits through electronic outreach, intake, and communication tools for on-the-spot service.

The new technology will also modernize our operations by streamlining processes, providing new data intelligence tools, and decreasing the amount of time to process claims. With this change, VA is going beyond the technical modernization of claims processing by transitioning to a holistic service that improves user experiences across our entire ecosystem.

VA supports section 6, subject to the availability of appropriations, of the proposed legislation as it would provide additional time for certain dependents to use their chapter 35 educational assistance.

VA defers to the Department of Labor (DOL) for views on section 7 of this proposed legislation as it does not require coordination with or involvement of VA.

There are no discretionary costs associated with this bill. Sections 2 and 3 would result in mandatory costs, that are yet to be determined.

S. 2089 – Burial Equity for Guards and Reserves Act of 2021

S. 2089, the "Burial Equity for Guards and Reserves Act of 2021," would amend 38 U.S.C. § 2408 to allow interment of certain individuals in certain State Veterans' cemeteries. Section 2(a) would require that grants provided by VA for State Veterans' cemeteries not restrict States from authorizing interment of Reservists whose service was terminated under honorable conditions, members of the Army or Air National Guard whose service was terminated under honorable conditions, members of the Reserve Officers' Training Corps (ROTC) of the Army, Navy, or Air Force whose death occurred under honorable conditions while a member of the ROTC of the Army, Navy, or Air Force; and the spouse, any minor child, or unmarried adult child of such individuals solely by reason of the ineligibility of such individual for burial in an open national cemetery under the control of the National Cemetery Administration.

Section 2(b) would prohibit VA from enforcing certain conditions on State Veterans' cemeteries with respect to grants that were awarded/established prior to the enactment of the bill. Section 2(c) would amend 38 U.S.C. § 2303(b)(1) to authorize payment of a plot allowance to a State Veterans' cemetery for an eligible Veteran interred in that cemetery that also inters individuals described in section 2(a).

VA supports this bill, and greatly appreciates the Committee's support of the mission VA shares with its Veterans Cemetery Grants Program (VCGP) to meet the burial needs of our Nation's heroes. The VCGP was established by Congress to complement/augment burials in VA national cemeteries in recognition of the service and sacrifice of eligible Veterans and Service members. Current law states that VA may make a grant to a State for the purpose of establishing, expanding, improving, or operating and maintaining a Veterans' cemetery. VA's regulations were established based on the definition of Veteran provided under 38 U.S.C. § 101(2). Reservists may become eligible for burial in a national cemetery under specific circumstances, such as a call to active duty, death or disability incurred during active duty for training or inactive duty training, death while undergoing treatment at the expense of the United States for injury or disease incurred during training exercises, or eligibility for retirement pay under particular title 10 provisions.

However, to better understand the issues affecting States and Tribal Organizations in meeting burial and other needs of their National Guard and Reservist

populations with respect to burial in VA grant-funded cemeteries, VA published a Notice of Request for Information (RFI) in the *Federal Register* at the end of July. The majority of the responses to the RFI were supportive of expanding eligibility for burial benefits to non-Veteran National Guard and Reserve members and their spouses and dependents. Feedback included proposed minimum service time and requisite character of service for the non-Veteran National Guard and Reserve members. Concerns were raised by some State Veterans' cemetery representatives about costs associated with burial plots, headstones or markers, and cemetery maintenance.

This bill as written would not mandate State or Tribal Veterans' cemeteries that receive such grants to inter such individuals; however, we do note that expanding VCGP burial eligibility as proposed would create an inconsistency between VA national and VA-grant funded cemeteries and would also likely create inconsistencies across States as State laws vary regarding burial eligibility in State Veterans' cemeteries. In addition, the potential increase in demand for burial in State Veterans' cemeteries would drive additional burial capacity/cost/resource challenges for the States.

Regarding the plot allowance, under the bill's proposed language, there would still remain a discrepancy between interment of Guard/Reserve members versus their spouses/dependents. The current section 2303(b) allows a State Veterans' cemetery to receive a plot allowance for interment of an eligible Veteran if the cemetery (or section of the cemetery) inters former Guard/Reserve members discharged under conditions "other than dishonorable," but not their spouses/dependents. By contrast, this bill's proposed expansion to allow the cemetery to inter spouses/dependents only applies to spouses/dependents of Guard/Reserve members whose service "was terminated under honorable conditions." Thus, the spouses/dependents of those members who received an other than dishonorable discharge, not a discharge under honorable conditions, would be excluded, even though such members themselves could be interred there with no detrimental effect on the cemetery's eligibility to receive plot allowances for Veterans.

There would be no mandatory benefit costs to VA associated with this bill. There would be minimal discretionary operations and maintenance costs to VA related to implementation and regulation development.

S. 2329 – Better Examiner Standards and Transparency for Veterans Act of 2021

S. 2329, the Better Examiner Standards and Transparency for Veterans Act of 2021, or the "BEST for Vets Act of 2021," would require that only licensed health care professionals furnish medical disability examinations under the pilot program established in Section 504 of the Veterans Benefits Improvement Act of 1996 for the use of contract physicians for disability examinations. The bill would also require annual reports to Congress on the conduct of the pilot program and the actions of the Secretary.

VA supports the provisions of this bill, except for the annual reporting requirement in section 2(c). Section 2(c) lacks specificity as to what information regarding "the conduct of the pilot program" is to be included in the report. Additionally, VA believes reporting is unnecessary as the contract used to implement the pilot program specifically states the contractor shall ensure all examiners have all licenses, permits, accreditation, and certificates required by law and are not barred from practicing such health care profession in any state, the District of Columbia, or a Commonwealth, territory, or possession of the United States. Additionally, VA currently maintains an independent third-party contract, validating the contract license requirements stated above, in addition to validating there are no pending disciplinary actions against the examiners. VA also requires training and certification to be completed prior to performing work under the contract.

There are no costs associated with this bill.

S. 2405 – Commitment to Veteran Support and Outreach Act

Section 2 of S. 2405, the Commitment to Veterans Support and Outreach Act, would amend 38 U.S.C. chapter 63 to authorize VA to award grants to states to improve outreach to Veterans through County Veterans Service Officers (CVSO) and Tribal Veterans Service Officers (TVSO) serving through States. The grant would provide funding to expand existing outreach programs, activities, and services or to hire more CVSOs and TVSOs, or for travel and transportation necessary to accomplish those purposes. In addition, a grant could also be used to provide education and training, including on-the-job training, to state, county, local, and Tribal government employees who provide (or when trained, will provide) Veteran's outreach services, to help those employees obtain VA accreditation in accordance with procedures approved by the Secretary. The bill would authorize appropriations of $50 million per year for each year FY 2022 through FY 2026 through a separate appropriation account, and thereafter would require VA to submit a separate statement of the amount requested in the budget justification materials submitted to Congress.

VA supports S. 2405 in concept, but asks that Congress adjust some details of the bill. Outreach is an integral part of VA's customer experience framework to engage Veterans, Service members, survivors, and caregivers. VA values the partnerships it has with Veterans Service Organizations, to include State, county, and Tribal Veterans Service Officers who are affiliated with them and continues to look for opportunities to further engage with the organizations. However, although this bill provides a mechanism for VA to receive funding through a separate appropriations account, VA cites concerns because VA would need additional resources or would have to reallocate resources to stand up a grants program, which requires development of regulations, as well as resources to administer a program. Unless Congress allocates additional resources for this grant program, the diversion of current resources would negatively impact VA's ability to continue the current levels of outreach efforts and transition services. Moreover, although this grant program would be administered by VBA, the successful implementation of the program would be measured by additional individuals being

approved for VA accreditation, which is a function performed by the Office of General Counsel (OGC). Thus, OGC would also require additional resources to ensure that those individuals are timely accredited, and that their qualifications and conduct are appropriately tracked and monitored.

Under 38 U.S.C. § 7703 (5), VBA is responsible for outreach programs and other Veterans' services programs. Along with this authority is the responsibility of informing Service members, Veterans, survivors, dependents, and eligible beneficiaries about the benefits and services for which they may be eligible. VBA maintains a robust outreach program, reaching millions of Veterans and partners each year through various forms of customer-focused outreach programs, communications, and activities. In FY 2020, VBA participated in more than 6,000 outreach events, reaching over 348,000 Veterans to provide information, benefits, and services to Service members, Veterans, survivors, dependents, and eligible beneficiaries. In FY 2021, VBA participated in more than 6,700 outreach events, reaching over 274,000 Veterans. In FY 2021, VBA also hosted a series of national outreach partnership campaigns with the State Departments of Veterans Affairs (SDVA) and the National Association of State Directors of Veteran Affairs (NASDVA). The national campaigns provided an opportunity to highlight ongoing initiatives within VBA to SDVAs and NASDVA and strengthen VA's partnership with these organizations. Beginning in January 2022, VBA will host a series of National Association of County Veterans Service Officers Partnership meetings as part of VBA's effort to further expand collaborative outreach efforts with internal and external partners. In addition, SDVAs are currently integrated within the regional office (RO) outreach framework and often occupy office space within ROs.

Additionally, we note that the stated purpose of the bill includes ensuring that Veterans and their families are "*assisted in applying for*" Veterans' benefits and services. This language, which is similar to language in existing 38 U.S.C. § 6301, has traditionally been reserved for describing the responsibilities of VA and its employees. We believe that using such language with respect to non-VA employees would be confusing, as the role of a non-VA employee would be different. In fact, pursuant to 38 U.S.C. § 5902, the role of these non-VA employees would be much larger in scope than that of a VA employee because it would include the preparation, presentation, and prosecution of the VA benefits claim—not simply assistance with the claim's submission. This potential confusion could be avoided by revising the bill's language to limit the use of the term "outreach" for the purposes of this grant program to informing Veterans and their family members of the availability of VA benefits and services, and then using language consistent with section 5902 when describing the CVSOs' and TVSOs' potential responsibility towards providing claim-specific assistance as a representative who is recognized by VA.

In addition, in 2017, VA revised its regulations that govern VA recognition to clarify that Tribal Veterans' programs may be recognized specifically as "tribal" organizations in a manner similar to state organizations. The bill as currently drafted, would not include Tribal governments as potential recipients under the grant program. VA's General Counsel is also exploring other ways to facilitate representation for Tribal

communities, such as partnering with Tribal governments and using the discretionary authority afforded to him by the Secretary, pursuant to 38 U.S.C. § 5903, to authorize TVSOs who are affiliated with Tribal governments, but not accredited through a VA-recognized organization, to prepare, present, and prosecute Veterans' benefit claims before VA on an ongoing basis. The language of S. 2405 would not allow for Tribal governments that have TVSOs authorized pursuant to the General Counsel's authority to receive grants through this program.

VA's regulations also require representatives of state organizations, CVSOs, or TVSOs to be paid employees, working a minimum of 1,000 hours for the state, county, or Tribal government, respectively, to obtain accreditation as a representative directly through the state's organization. Proposed section 6307(g) and (h) does not seem to permit the grant funds to be used to pay the salaries of CVSOs or TVSOs who are not "new" employees, which could cause any new position developed to be short lived as it would leave the State and county responsible for providing non-grant funding for the CVSOs' and TVSOs' salaries after the first year.

The GOE estimate for FY 2022 is $51.3 million and includes salary, benefits, rent, travel, supplies, other services, and equipment. Five-year costs are estimated at $256.4 million. IT costs are anticipated but not estimated at this time.

S. 2431 – Department of Veterans Affairs Office of Inspector General Training Act of 2021

S. 2431, the Department of Veterans Affairs Office of Inspector General Training Act of 2021, would require VA employees to receive training developed by the Inspector General of the Department on reporting wrongdoing to, responding to requests from, and cooperating with the Office of Inspector General (OIG).

While VA supports the intent of the training proposed in S. 2431, VA does not support the bill, as drafted, because it is duplicative of existing training provided to VA employees. As of September 22, 2021, VA employees began receiving training designed and developed by OIG on the topics identified in the bill. All employees are required to complete the training in VA's Talent Management System by September 22, 2022 or within 90 days of hire. VA's Chief Learning Officer will continue to work closely with OIG to ensure the training is reviewed and revised, as needed.

While the requirements in this bill are duplicative of existing training, VA has not yet determined whether there are costs associated with this measure.

S. 2513 – Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021

S. 2513, the "Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021," would amend 38 U.S.C. § 1162 by adding a new subsection (b) to require VA to make recurring payments for a clothing allowance to

qualifying Veterans until the Veteran elects to no longer receive such payments or until VA determines the Veteran is no longer eligible for such payments. Under a new subsection (c), VA would be required to conduct reviews of clothing allowance claims to determine a Veteran's eligibility when it receives notice the Veteran is no longer eligible or within 5 years of the date on which the Veteran initially received a clothing allowance and periodically thereafter. VA would be required to prescribe in regulation standards for determining whether a claim for clothing allowance is based on a circumstance that is not subject to change. If the claim is based on a circumstance not subject to change, the review under subsection (c) would no longer be required. A new subsection (d) would state that if VA determines, as a result of a review under subsection (c), that a Veteran is no longer eligible, VA would have to provide notice to the Veteran of the determination and a description of applicable actions that could be taken and discontinue the clothing allowance.

VA supports this bill, but we recommend it be modified to incorporate technical amendments VA will share with the Committee. VA welcomes the Committee's interest in this program and authority; it has been more than a dozen years since section 1162 was last amended, and considerable advances in prosthetics, orthopedic appliances, and medications have occurred during that time. Further, OIG published a report (Report #20-01487-142) this summer regarding the clothing allowance program that identified other opportunities to improve this program. We would welcome the opportunity to discuss this program and its authority in more detail with the Committee.

No mandatory or discretionary costs are associated with this bill.

S. 2644 – Guard, Reserve, and Active Duty Department of Veterans Affairs Educational Assistance Parity Act of 2021

S. 2644, the Guard, Reserve, and Active Duty Department of Veterans Affairs Educational Assistance Parity Act of 2021 or the "GRAD VA Educational Assistance Parity Act of 2021," would amend 38 U.S.C. § 3301(1)(B) to expand eligibility criteria for those who are on active duty service as defined in 10 U.S.C. § 101(d), but would exclude inactive duty training. Section 101(d) of title 10 defines the term "active duty" as those individuals who are on full-time duty in the active military service of the United States, including full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. The proposed legislation would also expand eligibility criteria to include those who serve on full-time National Guard duty as defined in 32 U.S.C. § 101, which includes the National Guard, the Army National Guard, and the Air National Guard, as well as those same members when performing active duty. The provisions of the bill would be effective on the date of enactment

VA supports the proposed legislation, subject to the availability of appropriations. However, VA would need additional time to address data collection challenges if such changes were effective the date of enactment. The additional categories falling under the revised definition of full-time active duty and the sufficiency of the data received

under the current computer matching agreement for identifying individuals falling within those categories would need to be discussed with DoD. VA has concerns regarding the availability of DoD data elements corresponding with IT systems and adjudication rules; therefore, VA believes that significant collaboration between VA and DoD would be required in order to facilitate the data exchange needed to make automated claims adjudication possible. The proposed changes would require VA to make significant changes to the type of data currently exchanged between DoD and VA through the VA/DoD Identity Repository and displayed in the Veteran Information System. In addition, new rules would need to be programmed into the Post-9/11 GI Bill Long Term Solution in order to calculate eligibility based on the new categories of qualifying active-duty service. Based on the cumulative effect of these changes, VA estimates that it would take 18 to 24 months from enactment of the proposed legislation to make necessary adjustments.

No discretionary costs are associated with this bill. Mandatory costs will be determined.

S. 2687 – Strengthening Oversight for Veterans Act of 2021

The "Strengthening Oversight for Veterans Act of 2021" would provide authority for the issuance of administrative subpoenas (for the production of documents and records) from non-Federal agencies or individuals. Compliance with such subpoenas would be enforceable through appropriate Federal district courts. VA has no objection to the proposed legislation. However, we note VA's Office of Inspector General (OIG) currently lacks authority to compel non-Federal employees, through the issuance of an administrative subpoena to provide testimony under oath.

The expansion of the ability to issue subpoenas, without judicial consideration, to former government officials and other individuals who might have information relevant to an IG investigation would add a mechanism by which former officials could no longer avoid questions from IG investigators. This enhanced authority could increase the depth of VA OIG investigations and contribute to a greater transparency and accountability. Some Federal IG offices currently have the authority to issue administrative subpoenas for testimony in specific types of investigations. The Department of Defense is currently the only agency that has an expansive authority to issue administrative subpoenas for testimony, as even the Department of Justice currently lacks such authority.

In addition to this proposed bill, on March 19, 2021, the "IG Subpoena Authority Act" was also introduced in the House. This similar bill would provide enhanced administrative testimony subpoena authority to all Federal IG offices. The Administration supports accountability and transparency and recognizes that increased subpoena authority would impact the completeness of IG investigations by providing an additional mechanism by which to obtain investigatory evidence of fraud, waste, or abuse. VA OIG, as the oversight authority for the Department, can provide further insight into how such increased authority may impact IG investigations and operations.

VA has not yet determined if there are costs associated with this bill.

S. 2761 – Every Veteran Counts Act of 2021

Section 2 of S. 2761 would express Congress' findings regarding the need for more detailed information on the Veteran population to better serve Veterans and other beneficiaries.

Section 3 of the bill would add a new section 528 to title 38 United States Code to require VA to collect demographic data on Veterans, from any source of such data available to VA, and to maintain a database of such data. This data would include sex, gender identity, age, educational level, race and ethnicity, sexual orientation, household makeup, gross income and sources of income, housing status, employment status, history of service in the Armed Forces, whether the Veteran is enrolled in VA health care, whether the Veteran has received a disability rating from VA, the location of the Veteran's residence, and any other information VA considers appropriate. The data in the database would be machine readable and anonymized to prevent the release of sensitive personal information. VA would be required to maintain a public website that provides access to the database and would have to update this website not less frequently than once each year. VA would have 180 days to carry out the new section 528, as added by this section.

Section 4 of the bill would require VA, not later than 1 year after the date of the enactment, to submit to Congress a report describing the progress, challenges, performance, and opportunities of implementing VA's data strategy. This report would need to include a number of elements, such as progress toward strengthening data management, progress in cataloging and inventorying VA's data assets, progress in implementing requirements under the Paperwork Reduction Act, efforts to move towards a rules-based and transparent enterprise approach to data, and a discussion of current risk assessments regarding data breaches and information security. Not later than 30 days after submitting this report to Congress, VA would have to publish such report on VA's open data website.

We understand the intent of this bill is to seek to address a significant aspect of any agency's efforts to bolster inclusion, diversity, equity, and access and ensuring we have the demographic information necessary to identify and respond to groups of Veterans who may have been historically marginalized and underserved. The bill aims to do that by establishing and ensuring that VA has, as much as possible, access to demographic data, whether it is held by other Federal agencies or non-Federal entities.

VA is engaged in ongoing discussions with House Veterans' Affairs Committee staff concerning multiple bills targeting demographic data collection, sharing, management, and use for both operational and analytic purposes. VA strongly supports continued dialog to ensure these efforts are integrated and consistent with existing laws and Executive Orders (EO) including the Foundations for Evidence-Based Policymaking Act, the Information Quality Act, Paperwork Reduction Act, the Federal Data Strategy and ongoing efforts under EO 13985, Advancing Racial Equity and Support for

Underserved Communities Through the Federal Government, 86 Fed. Reg. 7009 (January 20, 2021) (the Order). The Order charged VA with pursuing a "comprehensive approach to advancing equity for all, including people of color and others who have been historically underserved, marginalized and adversely affected by persistent poverty and inequality. Affirmatively advancing equity, civil rights, racial justice and equal opportunity is the responsibility of the whole of our Government."

Part of the Order establishes an Interagency Working Group on Equitable Data, or Data Working Group. It noted that "[m]any Federal datasets are not disaggregated by race, ethnicity, gender, disability, income, Veteran status, or other key demographic variables. This lack of data has cascading effects and impedes efforts to measure and advance equity. A first step to promoting equity in Government action is to gather the data necessary to inform that effort."

This bill's goals have much in common with the aims of the Order. These efforts are necessarily complicated, especially across Federal agencies and other sources of data, as VA must take care not to run afoul of Veterans' expectations of privacy or laws ensuring the protection of information. We also must be mindful that it may be important to distinguish the characteristics of the Veterans who use VA with the Veteran population at large.

As a result, VA would like to continue a dialogue with the Committee on these efforts, as well as discuss the technical aspects of this bill in more detail than we can do today. We would ask that the Committee forego advancing this legislation at this time to allow for that discussion, and for VA to advance its ongoing efforts.

VA has not yet determined the costs associated with this bill, but assumes there to be mandatory and discretionary costs.

S. 2794 – Supporting Families of the Fallen Act

This bill would amend 38 U.S.C. §1967 to increase the maximum amount of coverage in the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) that a member can carry while in service from $400,000 to $500,000. Under this bill, following separation from service, former members would be eligible to purchase VGLI up to the proposed $500,000 maximum coverage amount.

VA supports this bill. To operationalize an increase in SGLI and VGLI maximum coverage, VA would be required to coordinate with DoD's Manpower Data Center and the primary insurer in the SGLI/VGLI program. This coordination will address administrative matters that include IT system changes, updates to forms, modifications to letters, and updates to online communications to reflect the new coverage amounts. As such, VA notes that these activities confirming administrative soundness would occur after confirming the new maximum coverage amounts and corresponding premiums are actuarially sound.

There would be no mandatory costs for VA from this proposed legislation as the SGLI and VGLI programs are self-funded by Service member premiums and interest earned on such premiums. However, please note that DoD would have mandatory costs related to this bill due to 37 U.S.C. § 437, which requires DoD to reimburse Service members for their SGLI premiums when they serve in a combat zone. DoD is projecting these costs based on the current SGLI premium rate and internal data on the number of Service members projected to serve in a combat zone for varying periods of time. DoD would also have IT costs to make enhancements to pay systems as well as the SGLI Online Enrollment System, the system of record for SGLI elections. DoD is developing these costs in response to this bill.

S. 3047 – Veterans Pro Bono Corps Act of 2021

Section 2 of the draft bill would require VA, not later than 180 days after the date of the enactment of this Act, to commence a 5-year pilot program to assess the feasibility and advisability of providing grants through a competitive basis to accredited entities administering a medical residency or fellowship program that assist Veterans applying for compensation under chapter 11 of title 38 United States Code, in substantiating their claims with independent medical examinations and opinions. VA could give preference in the award of grants to eligible recipients in a rural area or an underserved area. Grant funds would be used to establish or maintain a program in which medical residents or fellows would provide pro bono medical examinations and opinions for C&P examinations. Residents and fellows would be required to practice under the supervision of attending physicians and to meet other requirements as well. VA would have to provide each grantee all current DBQ forms. Not later than 180 days after the date of the enactment of this bill, VA would have to, in partnership with Veterans Service Organizations, implement an informative outreach program for Veterans regarding the availability of services from programs established or maintained under the pilot program. VA would have to report to Congress annually on the time, number, and accuracy of examinations, among other requirements, conducted under this program. Rural areas would be defined as those areas classified as rural by the Bureau of the Census, and underserved areas would be defined as those areas that have a high proportion of individuals with limited access to health care, a high proportion of individuals with limited access to legal services, or both.

VA does not support the draft bill and has significant concerns with different elements in the bill. The bill does not appear to appreciate the important role that Graduate Medical Education (GME) serves in preparing residents and fellows to practice medicine. The Accreditation Council for Graduate Medical Education (ACGME) is the only nationally recognized accrediting agency for GME, and hence would be the only agency that accredits any eligible residency or fellowship program participating in the pilot program. However, ACGME determines the goals and objectives of such programs, and the proposed C&P examinations do not align with these goals and objectives. The proposed program seems focused exclusively on providing access to services for Veterans, but there is no discussion of the educational goals or benefits for

medical residents. We believe this could be a significant problem for this proposal, as program sponsors and ACGME may not find this arrangement acceptable and could decline to participate. Residents and fellows are in these programs to build their knowledge and skills to become Licensed Independent Practitioners (LIP), and they are evaluated based on their ability to develop core competencies as determined by ACGME. ACGME closely monitors residents' perceptions on service obligations versus beneficial educational training; performing C&P examinations at VA would count as a service obligation and would likely be of little benefit in the development of residents as LIPs. The bill also makes no mention of the important ethical difference between a C&P examination and regular clinical activities, as a C&P examiner has no treatment relationship with the patient and has no physician/patient responsibility; this underscores the greater weight of service versus education for trainees participating in this initiative. We believe the necessary background to develop curriculum for this activity would also be a barrier to programs participating in this pilot program.

We have other logistical concerns with the bill as well. Initially, we note that Congress has previously expanded VBA's contract examination authority, which ensures C&P examinations are available worldwide, including in rural and underserved areas in the U.S. Veterans can obtain C&P examinations from VBA contractors or from VHA clinicians. We believe this authority is sufficient to ensure that Veterans are able to receive the examinations they need in places that are convenient to them. We are also concerned that many C&P examinations require the clinician to review the entire electronic claims file to complete the DBQ, but for non-VA residents and fellows, this would require permission to access VA's internal systems. VA does not currently have an electronic system in place to facilitate the submission of examination requests to participants in the pilot program or to receive completed DBQs; VA would require additional resources to provide training and establish a quality-control program to monitor examinations completed under this pilot program, which would result in additional administrative costs. As noted above, C&P examinations are substantially different from providing medical treatment, and clinicians who perform C&P examinations require specialized training and specific certification. The amount of training required for such examiners could be exceptionally burdensome on staff and residents alike. The logistics involved for grantees to market the pilot program, identify eligible Veterans, obtain data to screen participants, obtain consent, schedule examinations, obtain necessary clinical data, and report to the national program office could be expensive and complex.

VA has provided technical assistance on an earlier draft of this bill, and we believe many of those comments are still applicable to the current draft. For example, we noted that VA currently pays residents by disbursement agreements and pays supervising physicians as well, meaning that any services such residents, fellows, or physicians provided would not truly be "pro bono." We also stated that we do not believe the 180-days authorized under section 2(a) would be sufficient time to implement a program of this nature as there are critical elements of this proposal that VA would need to define through regulation.

We assume this bill would result in additional expenses to VA as a result of awarding grants for the purposes described in the bill, but VA does not have a cost estimate for this bill.

S. 3094 – Reaching Every Homeless Veteran Act of 2021

The draft bill, "Reaching Every Homeless Veteran Act of 2021," would amend 38 U.S.C. § 2021 to authorize the Secretary of Labor, in awarding grants for purposes of conducting programs to provide job training, counseling, and placement services to expedite the reintegration of homeless Veterans and other Veterans with housing issues. Specifically, the bill would require DOL, to the maximum extent practicable, to consider applications for fundable grants from entities in all States; further, the bill would require, in each state in which no entity has been awarded a grant, DOL to organize and conduct, in coordination with the Director of Veterans' Employment and Training in the state, an outreach and education program to raise awareness of the programs conducted under section 2021A. The draft bill would also modify DOL's biennial reporting requirements to include additional elements, and it would make technical and conforming edits.

While VA generally defers to DOL on this proposal, we note as a technical matter that because the changes made by this bill would be codified in title 38 United States Code, the definition of "State" in 38 U.S.C. 101(20) would apply to this authority. That definition establishes in relevant part that "State" means each of the several states, territories, and possessions of the United States, the District of Columbia, and the Commonwealth of Puerto Rico. This definition may be different than DOL's other authorities.

Unnumbered Bill – Reform and Update Rural Access to Local Exams Act of 2021

The Reform and Update Rural Access to Local Exams Act of 2021 or the "RURAL Exam Act of 2021," would require VA to undertake several actions related to rural Veterans' access to medical disability examinations required to obtain VA disability compensation or pension benefits. The bill would require VA to collect data regarding timeliness, quality, and Veteran satisfaction and the disaggregation of data by state and county of individual contractors and VHA facilities conducting covered disability examinations. VA would also be required to conduct a study comparing the average number of days to complete a covered medical disability examination for rural Veterans to non-rural Veterans, including a root cause analysis of the differences between both and provide an annual report of the study not later than two years after the enactment of the bill. The bill would require VA to provide in contracts for the provision by a contractor of a medical disability examination, financial incentives for providing medical disability examinations to rural Veterans and housebound Veterans in a timely manner, and disincentives for failing to timely provide medical disability examinations to Veterans in rural areas and housebound Veterans. Finally, the bill would require VA to yearly inspect not fewer than three percent of all sites, locations and facilities used by

contractors, ensuring the number of inspections of rural areas is similar to non-rural areas.

Subject to the availability of appropriations, VA would support this bill if amended, and notes the following concerns. With respect to the definition of "housebound" in section 2, VA notes that we are unable to determine whether a Veteran meets the definition of "permanently housebound" unless there is a rating of record that denotes "permanently housebound." With respect to the data collection requirement and disaggregation of data, VA is unable to identify Veterans' county of residence; however, we note that zip codes are available. Additionally, VA has privacy concerns related to the requirement to make Veteran and contractor performance data publicly available on an internet website.

With respect to the study in section 4 and the requirement to conduct a root cause analysis, VA notes that this requirement is ambiguous and requests that Congress specify the elements required. VA also notes that the reporting requirement under section 4(d) does not include an end date.

With respect to section 5, VA notes that we have incentives and disincentives for overall contract performance. However, an incentive and disincentive does not exist strictly for rural Veterans. Additionally, VA would need to develop a separate timeliness calculation for rural and housebound Veterans and provide a specific incentive for this timeliness metric. With respect to section 6 and the inspection requirements, VA has concerns with the requirement of three percent due to the associated costs and logistics related to travel and number of facilities. This would require VA to conduct approximately 410 site visits per year. Pursuant to the current status of the global pandemic and national emergency, all non-essential travel is prohibited. VA also notes that terms such as "dignified" and "general fitness" are subjective and lack specificity.

Mandatory costs associated with this unnumbered bill are estimated to be $7.8 million in 2022, $39.9 million over five years, and $100.9 million over 10 years. Contract exams are initially funded by VBA's discretionary GOE account and then reimbursed by VBA's mandatory C&P account. Therefore, no discretionary costs are associated with this bill.

Unnumbered Bill – Veterans Benefits Improvement Act of 2021

Title I of this bill addresses Board of Veterans' Appeals (Board) matters. Section 101 would create a new section 7114 in title 38, U.S.C., under which VA would be required to establish a competitive internship program for high-achieving law students at the Board. The bill specifies that participating students must attend a law school accredited by the American Bar Association, and VA would be required to establish the internship program no later than one year after enactment.

Section 102 would create a new section 7115 under which VA would be required to establish an honors program at VA to help recruit high-achieving law school students,

recent law school graduates and entry-level attorneys for potential employment at the Board. The bill specifies that VA would provide priority consideration for applicants who successfully complete the internship program established under section 101 of this bill. Participants in this program, who enter into an agreement requiring not less than three years of service at VA, would be eligible to receive student loan repayment benefits authorized under 5 U.S.C. § 5379, which authorizes agencies under current law to set up their own student loan repayment programs for eligible employees and loans. Section 102 further specifies that participants in the honor program would receive a mentor who is a managerial employee at VA and who also is outside of the participant's chain of command. In addition, the bill would provide each participant at least one full-time legal assignment rotation within OGC of not less than 120 days and not more than 180 days. Participants would also be eligible for one or more 30 to 180-day rotational assignments within VA for the purpose of additional professional development. VA would be required to establish the honors program not later than one year after enactment of the bill.

Section 103 of title I of the bill would require VA to establish, not later than 180 days after enactment, a pilot program at VA to reimburse claimants for expenses incurred for travel to hearings held by picture and voice transmission before the Board. The intent of the pilot program would be to assess the feasibility and advisability of claimant reimbursements for expenses incurred due to travel from the home of the claimant to the location at which the hearing before the Board is scheduled to be held. The bill specifies that reimbursement for participants in the pilot would occur in instances where VA determines that travel to such location was reasonably necessary and participant selection would focus on claimants most likely to benefit from reimbursement under the program, including claimants limited by geography. VA would also be required to submit a report, including analysis and recommendations for the program, no later than one year after the commencement of the pilot.

Title II addresses medical disability exam matters. Section 201 would amend section 2006 of the Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020 (P.L. 116–315; 38 U.S.C. § 5101(d)(1)(A)) to require VA to publish all Disability Benefits Questionnaires (DBQ) and fact sheets that are available to VHA personnel and contract personnel for the completion of compensation and pension examinations (C&P exams). Section 202 would amend 38 U.S.C. § 111(b)(1)(F) to explicitly authorize VA to pay travel expenses for Veterans who are abroad to travel to scheduled C&P exams and would direct the Secretary to update training aids, manuals, and informational materials for staff of the Department, Veterans, members of the Armed Forces, and stakeholders. Section 203 would require that, when VA contracts for the provision of medical disability examinations, VA require that the contractor recognize powers of attorney executed under 38 U.S.C. §§ 5902, 5903, or 5904, for the preparation, presentation, and prosecution of claims. Section 204 would require VA to partner with Veterans Service Organizations to implement an outreach program regarding contact information for contractors providing C&P exams and the need for Veterans to provide personally identifiable information when contacted by such contractors to verify the Veterans' identity.

Title III would address other matters. Section 301 would require VA to establish a pilot program to assess the feasibility and advisability of accrediting governmental Veterans Service Officers, who would be employees of a state, county, municipal, or Tribal government. The program would include training for such officers and expanded access to VA systems, including electronic claims records of individuals that the governmental Veterans Service Officer is not authorized to represent. Section 302 would amend 38 U.S.C. §§ 5101, 5104, 5104B, and 7105 to allow VA the option of providing notification of decisions to claimants electronically. Section 303 would permit VA to disclose Federal tax information to contractors and vendors.

VA supports the intent of sections 101 and 102, but the provisions regarding student loan repayment benefits are unnecessary, since the referenced honors program participants would be eligible to receive student loan repayment benefits under the general authority in 5 U.S.C. 5379 without the proposed new statutory text.

VA supports the intent of section 103 and would recommend that the pilot program be limited to considering for reimbursement only those Veterans who establish that such travel is reasonably necessary, such as those individuals who do not have a mobile device and Internet connectivity reasonably available. The Board is eager to build on recent successes (96% of hearings are now held virtually) and engage in constructive ways to improve access.

VA opposes section 201 of this bill due to the following concerns. P.L. 116-315 was signed into law on January 5, 2021. Section 2006 of the law required VA to reinstitute the public use DBQs and publish these forms *as they were on January 1, 2020 on VA's website*. This bill would require VA to publish 11 additional internal DBQs that have never previously been available for public use. We note that, pursuant to 38 U.S.C. § 501(a), the Secretary is authorized to prescribe rules and regulations pertaining to the nature and extent of proof and evidence, as well as the method of taking and furnishing it, required to establish the right to benefits. Section 501(a) also grants the Secretary authority to regulate the forms of application by claimants and the methods of making investigations and medical examinations. As explained below, whether to make the internal DBQs publicly available is a decision that directly affects the method of taking and furnishing evidence and, specifically, the method of making medical examinations.

VA requests a Veteran's claims file be reviewed by a C&P examiner in certain situations. The basic premise for the claims file review in these situations is that the content of the claims file has been considered critical information for the examiner to conduct a fully informed examination and provide a full and complete examination report. Board remands and formal medical opinions require claims file reviews based on supporting regulatory guidance. Examinations for traumatic brain injury do not have a regulatory requirement; however, because of the importance of all information of record to perform a full and accurate examination, and the frequency with which examiners are

required to provide opinions as to differentiation of symptoms and association of co-morbid conditions with these examination reports, examiner review has been considered the standard. Additionally, there are certain regulatory requirements that have served to reinforce this determination that VHA and VBA contracted examiners complete these questionnaires. It is important to mention the following DBQs are currently available internally to VHA examiners and VBA contract examiners:

- **Initial PTSD DBQ**. For a claim for service connection for PTSD based upon a stressor related to the Veteran's fear of hostile military or terrorist activity, 38 C.F.R. § 3.304(f)(3) directs that the examination must be conducted by a VA psychiatrist or psychologist, or a psychiatrist or psychologist with whom VA has contracted.
- **Medical Opinion DBQ**. This DBQ was designed to allow a standardized format for the request and provision of medical opinions required as part of the Secretary's duty to assist Veterans in the claims process. 38 U.S.C. § 5103A(d) obligates the Secretary to obtain a medical examination or medical opinion when specific evidence criteria are met, but the evidence of record is insufficient to decide a claim. The implementing regulation, 38 C.F.R. § 3.159(c)(4), states such an opinion will be "based upon a review of the evidence of record . . . ." It is for this reason this DBQ was relegated to internal VA use only. While the cited regulation requires that such opinions be based upon a review of the evidence of record, there is no authorized or practical means for a treating clinician to obtain access to the entire claims record to conduct such a review.

- **Hearing Loss and Tinnitus DBQ**. This DBQ was designed to address multiple specific issues that affect Veterans in very large numbers. This DBQ contains extensive instructional and explanatory notes to ensure the report is full and complete to established VA audiological standards. Because of the very complex nuances of military life and experiences relating to a plethora of audiological hazards, and the specific requirements of VA's Schedule for Rating Disabilities (VASRD) relating to hearing loss, this DBQ was retained only for internal VA use. 38 C.F.R. § 3.385, Disability Due to Impaired Hearing, defines what level of hearing is determined disabling. Additionally, this regulation prescribed that speech recognition ability be tested using the Maryland Consonant-Vowel Nucleus-Consonant (CNC) Test. Further, the VASRD at 38 C.F.R. § 4.85 reiterates this requirement. Because hearing loss and tinnitus are so prevalent among Veterans, VHA's Audiology and Speech Pathology Service has developed an extensive set of audiological testing standards and protocols, "Handbook of Standard Procedures and Best Practices for Audiology Compensation and Pension Examinations," as a means of ensuring uniformity in the conduct of all audiological examinations. All VHA audiology clinics and VBA contracted audiology facilities are equipped and utilize trained providers to conduct testing to the exacting standards. Providing this DBQ for public use would undermine our efforts for consistency and uniformity in the testing protocols. Further, the required speech recognition test, Maryland CNC, is not commonly used or available in the private audiology community. Allowing private

or treating audiologists to complete DBQs in lieu of a standardized VA audiological examination would bring about testing variations and inconsistencies into the adjudication process, introducing inequities in the adjudication and evaluation of claims for hearing loss and tinnitus.

- **Gulf War General Medical DBQ**. When requesting the VA Gulf War general medical examination, VA claims processors must ask the examiner to conduct not only a general medical examination, but also to conduct any required specialist examinations. VBA's manual requires that the claims folder be sent to the examiner for review. These complicated claims must contain either a medical statement or an opinion with supporting rationale as to whether the disability pattern or diagnosed disease is related to a specific exposure event experienced by the Veteran during service in Southwest Asia. Again, 38 C.F.R. § 3.159(c)(4) states such an opinion will be "based upon a review of the evidence of record." It is for this reason that the Gulf War General Medical DBQ was designated for internal VA use only. While the cited procedures and regulation require that such opinions be based upon a review of the evidence of record, there is no authorized or practical means for a treating clinician to obtain access to the entire claims record to conduct such a review.

VA supports section 202 in principle, subject to the availability of appropriations. VA believes the intent of the section is to allow the reimbursement of expenses for travel to a Department facility or a facility of a Department-contracted provider, regardless of whether the facility is inside or outside the United States, for C&P exams. However, we believe section 202 may be unnecessary and are exploring how this can be accomplished under current statutory authority.

VA could support section 203 if it were amended to limit its applicability to communications regarding the scheduling of medical disability examinations. VA has determined that claimants do not have a right to have an attorney present during disability examinations, as the presence of an attorney may, in some situations, undermine the candor and communication essential to the examination process. We do not believe the purpose of section 203 is to undermine that communication, but is to ensure that medical disability examiners communicate with claimants' representatives, as appropriate, about matters relating to the scheduling of examinations for purposes of benefit claims.

VA supports section 204 as we believe it will help with the examination scheduling process. We also note that it may help protect Veterans by helping them screen calls from predatory claims assistance practices and unwanted calls, including robocalls.

VA does not support section 301 of this bill. VA believes it is duplicative in nature compared to current statutory authority for VA to recognize organizations and their representatives, particularly because such authority has already been interpreted by VA to include the authority to recognize State departments of Veterans affairs as "State

Organizations" pursuant to 38 C.F.R. § 14.628(b)(1). There are approximately 8,000 individuals who are recognized by VA as representatives of VA-recognized organizations and over 4,000 of those individuals are affiliated with governments of states or U.S. territories. Alaska and the District of Columbia are the only governmental entities that do not currently have VA-recognized State organizations, and VA would welcome their requests for recognition of their Veterans Affairs Departments.

It is unclear how a governmental Veterans Service Officer under the pilot program proposed in this section would help Veterans obtain benefits and services in comparison to similar functions currently being performed by representatives of VA-recognized organizations. For example, pension eligibility is dependent on numerous requirements and information is utilized from several different sources – many of which the governmental Veterans Service Officer within the pilot program would not be permitted to view when proactively guiding claimants to obtain benefits and services (e.g., income, asset, and service information received via computer and/or matching agreements with other Federal agencies). *Compare* 26 U.S.C. § 6103(l)(19)-(20) (authorizing disclosure of tax return information to contractors of certain agencies) *with* 26 U.S.C. § 6103(l)(7)(D)(viii) (containing no similar authority for tax return information disclosed to VA). Most guidance on benefits and services provided by a governmental Veterans Service Officer in the pilot program would be similar to guidance currently being provided by representatives of VA-recognized organizations.

Subject to the availability of appropriations, VA supports section 302 of this bill, which would provide the Secretary the general authority to provide notification through a method determined appropriate by the Secretary, which may include electronic notification, as this would enhance the efficiency and timeliness of the claims adjudication process, while allowing a surer method of providing notice to claimants. However, we recommend certain technical amendments.

Section 302 states, "[t]he Secretary may provide notice under subsection (a) electronically unless the claimant or the claimant's representative requests, in the application for benefits, that such notice be sent by mail." VA has concerns with this proposed language. The specific reference to "application for benefits" would require VA to update a significant number of benefit forms to comply with this requirement. Additionally, this provision suggests that opting-in to electronic notifications could be claim specific, and not apply uniformly to all pending claims. For example, a claimant could opt-in to receive electronic notifications on an application for an increased rating and decide to receive a paper mailing on an application which was submitted for a claim for a separate disability. VA recommends that if a claimant opts-in to receive electronic notifications, that electronic delivery method apply uniformly to all correspondence and claims.

Also, as section 302(b) would require revision of multiple forms (a process that is lengthy), VA recommends that section 302 be amended to include an effective date of one year after the date of the enactment of the bill, with the opportunity for the claimant

to opt-in to electronic notice prior to that date. VA also recommends consideration of a catch-all provision that makes clear that electronic notice is an acceptable means of notice for *any* notice required under title 38 even if a statute or regulation says "mailing."

VA supports the purpose of section 303 but would appreciate the opportunity to work with the Committee on technical changes to the provision. VA understands the intent of section 303(a) is to allow VA contractors and vendors access to return information for the purpose of administering (or assisting in administering) certain types of benefit claims. This would improve the efficiency of VA claim adjudication. However, VA is concerned that the bill as written could be interpreted to limit its contractors' or vendors' ability to perform some key functions with respect to the claim process, such as processing mail and maintaining information technology systems. We would welcome the opportunity to address this issue with the Committee.

VA has no concerns with section 303(b).

Costs associated with an internship program under section 101 would be assumed within baseline funding and managed within approved full-time equivalent (FTE) and funding levels.

Costs to establish an honors program under section 102 to help recruit and retain high-achieving law school students, recent law school graduates, and entry-level attorneys for employment with the Board would be assumed within baseline funding and managed within approved FTE and funding levels.

Discretionary costs associated with establishing a pilot program under section 103 to assess the feasibility and advisability of reimbursing claimants for travel expenses incurred for travel to hearings held by picture and voice transmission before the Board would be insignificant.

No mandatory or discretionary costs are associated with section 201.

Mandatory costs associated with section 202 are estimated to be $13.8 million in 2022, $71.8 million over five years, and $151.0 million over 10 years. Contract exams are initially funded by VBA's discretionary GOE account and then reimbursed by VBA's mandatory C&P account. Therefore, no discretionary costs are associated with this section.

No mandatory or discretionary costs are associated with sections 203 and 204.

No mandatory costs are associated with section 301. IT costs will be determined. The GOE estimate for FY 2022 is $10.5 million and includes salary, benefits, rent, travel, supplies, other services, and equipment. Five-year costs are estimated to be $50.5 million, and 10-year costs are estimated to be $105.9 million.

No mandatory costs are associated with section 302. IT costs will be determined. The GOE estimate for FY 2022 is $37.5 million and includes salary, benefits, rent, travel, supplies, other services, and equipment. Five-year costs are estimated to be $187.3 million, and 10-year costs are estimated to be $374.8 million.

There are no anticipated mandatory or discretionary costs associated with sections 303.

Conclusion

Mr. Chairman, this concludes my testimony. My colleagues and I are prepared to respond to any questions you or other Members of the Committee may have.

DEPARTMENT OF VETERANS AFFAIRS
OFFICE OF INSPECTOR GENERAL

STATEMENT OF CHRISTOPHER A. WILBER
COUNSELOR TO THE INSPECTOR GENERAL
OFFICE OF INSPECTOR GENERAL, U.S. DEPARTMENT OF VETERANS AFFAIRS
BEFORE THE
U.S. SENATE COMMITTEE ON VETERANS' AFFAIRS
HEARING ON
S. 2431, S. 2687, AND OTHER PENDING LEGISLATION
NOVEMBER 17, 2021

Chairman Tester, Ranking Member Moran, and Committee Members, thank you for giving the Department of Veterans Affairs (VA) Office of Inspector General (OIG) the opportunity to discuss S. 2687, which would strengthen the effectiveness of the OIG's oversight of VA programs and operations. This bill would provide OIG investigators and other oversight staff the ability to obtain relevant information from individuals who are not currently employed by VA, but whose testimony could be critical to conducting fair and comprehensive work. The OIG also appreciates this chance to comment on S. 2431, which would require all VA employees to receive training on their responsibilities to report wrongdoing to, and cooperatively engage with, OIG staff. My statement on behalf of the OIG provides an analysis of the OIG-related measures before the Committee today. It highlights both prior OIG work in which testimonial subpoena authority would have had a significant impact and why the training bill would help ensure all VA employees properly report indicators of serious wrongdoing, risks to patient safety, and misconduct affecting the welfare of veterans, their families, and caregivers.

S. 2687—THE STRENGTHENING OVERSIGHT FOR VETERANS ACT OF 2021

The Strengthening Oversight for Veterans Act of 2020, S. 2687, would give the VA Inspector General the authority to require by subpoena the attendance and testimony of individuals as necessary to enable the OIG to perform its authorized oversight functions. The OIG thanks Chairman Tester, Senator Boozman, and Senator Manchin for introducing this much-needed bill.

Analysis of Legislation

This bill would give OIG personnel an important tool to conduct comprehensive and effective oversight of VA's activities and potential harm to veterans and VA employees, which is why the OIG strongly supports its passage. It is critical that OIG staff consider all available information from individuals with knowledge of serious misconduct, fraud, and inefficiencies that risk the care and safety of veterans and their families. Testimonial subpoena authority strengthens the OIG's ability to gather information critical to allowing VA to hold responsible individuals accountable.

Under present legal authorities, the OIG can obtain documents and other materials from VA and other federal agencies and can subpoena such records from nonfederal individuals and entities. The OIG also may compel VA employees and contractors to speak with OIG staff in connection with the OIG's work, except when an individual claims constitutional protection against compelled self-incrimination.[1] However, the OIG has no mechanism to compel former federal employees or other individuals with potentially relevant information to provide testimony in support of OIG oversight activities. S. 2687 would give the OIG the authority to obtain sworn statements from such individuals, including former federal employees, former employees of current federal contractors, employees of former federal contractors, and others who do not have an employment or contractual relationship with VA.

This authority would entrust the VA OIG with the same tool afforded other OIGs that conduct oversight of large healthcare delivery and contracting organizations: the Department of Defense and the Department of Health and Human Services.[2]

The OIG recognizes the gravity of this authority and is committed to using it prudently and with appropriate controls. This legislation includes important external checks and tracking mechanisms to ensure the OIG makes responsible use of the authority. First, it requires the OIG to provide the proposed witness notice of its intent to issue a subpoena, giving the witness the opportunity to testify voluntarily. Second, it requires the OIG to notify the US Attorney General before issuing a subpoena and gives the Attorney General up to 10 days to object if the subpoena may interfere with an ongoing investigation. The OIG must also endeavor to arrange the interview in a location convenient to the witness. Additionally, the OIG would be required to report to Congress in the OIG's mandated semiannual report the number of testimonial subpoenas issued, the number of individuals interviewed pursuant to the subpoenas, the number of times the Attorney General objected to the issuance of a subpoena, and any other matters the OIG considers appropriate related to this authority.

The lack of subpoena authority for witness testimony has hampered prior comprehensive oversight efforts. The following are several examples of occasions on which OIG personnel have been unable to fully analyze potential wrongdoing because they were unable to interview essential participants as they left federal employment before or during the OIG review.

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[1] For VA employees, *see* 38 C.F.R. §0.735-12(b). For contractors, *see* Federal Acquisition Regulation, 48 C.F.R. §52.203-13.

[2] For Department of Defense authorities, *see* 5 U.S.C. App 3 §8. For Department of Health and Human Services authorities, *see* 42 U.S.C. §1320a-7a(j).

Facility Hiring Processes and Leaders' Responses Related to the Deficient Practice of a Radiologist at the Charles George VA Medical Center, Asheville, North Carolina

An OIG healthcare inspection team evaluated deficiencies identified in the practice and oversight of a radiologist working on a fee basis.[3] The concerns were identified in response to the OIG's prior work on the facility's deficient examination of the radiologist's credentials, the radiologist's provision of inadequate health care, and the facility's delayed evaluation of that care.[4]

The OIG reported in 2019 that when the radiologist began providing services in 2014, the chief of imaging, the radiologist's supervisor, conducted inadequate oversight. When the chief of imaging finally reviewed the radiologist's work, it was noted as "unsatisfactory" and raised concerns about the radiologist's diagnostic interpretations. The facility did not review the radiologist's work until after 2016 and did not alert regional leaders to the clinical failures until 2018, which was after the OIG initially identified the concerns. In the interim, the radiologist left the facility, preventing OIG staff from compelling testimony and conducting a more complete review of the clinical failures. Two patients received disclosures that mistakes affected the health care they received from the facility resulting from the radiologist's deficient practices, and dozens of other images were not read to standard. Had the OIG been able to compel the former radiologist, it could have more fully assessed whether additional corrective and preventive measures were needed by both VA and other medical oversight authorities stemming from the radiologists' poor performance.

Alleged Improper Release of Procurement Information

The OIG investigated allegations that current and former VA employees provided confidential VA procurement information to contractors, which would provide the contractors an advantage in the procurement process.[5] In the fall of 2017, VA issued a request for information as part of an acquisition process related to the VA STOP Fraud, Waste, and Abuse (FWA) initiative. The VA Improper Payments Remediation and Oversight Office developed criteria and ranked 37 respondents submissions. A former VA employee allegedly obtained the rankings and approached two potential contractors, telling them he could use his knowledge of VA to help them win contracts to support the STOP FWA initiative. The OIG sought testimony from the former VA employee, who declined to speak with OIG investigators. The OIG ultimately determined there was insufficient evidence to substantiate the allegations. Had the

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[3] *Facility Hiring Processes and Leaders' Responses Related to the Deficient Practice of a Radiologist at the Charles George VA Medical Center, Asheville, North Carolina*, September 30, 2019.

[4] *Comprehensive Healthcare Inspection Program Review of the Charles George VA Medical Center, Asheville, North Carolina*, October 16, 2018.

[5] *Alleged Improper Release of Procurement Information*, May 1, 2019.

OIG been able to compel the former employee's testimony, evidence may have been developed sufficient to support a criminal referral or to recommend administrative action to VA.

Facility Leaders' Oversight and Quality Management Processes at the Gulf Coast VA Health Care System, Biloxi, Mississippi

The OIG conducted an inspection in response to multiple allegations of a thoracic surgeon's poor quality of care.[6] Before hiring the surgeon in August 2013, facility leaders knew of malpractice issues and the surgeon's prior relinquishment of a state medical license to avoid prosecution of a disciplinary case. Still, the facility director hired the surgeon. Facility leaders failed by granting and continuing the surgeon's clinical privileges without required evidence of competency. The surgeon was removed in October 2017 without following required processes, including notifying external reporting agencies. As a result of not following requirements, facility leaders could not report the surgeon to the National Practitioner Data Bank and were delayed in reporting to state licensing boards. These failures led the OIG to review service file documentation for 50 other facility care providers, which showed deficiencies in facility oversight responsibilities. The facility leaders at the time the surgeon's initial privileges and credentials were granted had left VA employment before they could be interviewed by the OIG and were, therefore, unavailable to detail their actions and decisions to OIG staff. The inability to compel their testimony limited the OIG's ability to delve into hiring and clinical privileging oversight processes and recommend improvements that might help safeguard other VA patients.

Review of Improper Dental Infection Control Practices and Administrative Action at the VA Medical Center, Tomah, Wisconsin

In connection with the OIG's review of a VA provider's improper dental infection control practices, the OIG was unable to conduct a detailed interview with the dentist, who was the central person identified in the allegation. Moreover, OIG staff were unable to interview that individual's supervisor, the chief of dental services, since both left federal service during the course of the review and declined voluntary interviews.[7] By moving beyond the OIG's reach, these individuals' refusal to be interviewed hampered the team's ability to fully investigate the alleged safety issues and address a key objective of the inspection: to identify all factors that might have contributed to facility leaders being unaware of the dentist's improper sterilization practices. The inability to speak with them also prevented the OIG from fully examining how the dental clinic was supervised. The OIG determined the dentist potentially exposed 592 veterans to blood-borne pathogens as a result of improper dental sterilization practices.

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[6] *Facility Leaders' Oversight and Quality Management Processes at the Gulf Coast VA Health Care System, Biloxi, Mississippi*, August 28, 2019, and *Inadequate Intensivist Coverage and Surgery Service Concerns, VA Gulf Coast Healthcare System, Biloxi, Mississippi*, March 29, 2018.

[7] *Review of Improper Dental Infection Control Practices and Administrative Action, Tomah VA Medical Center, Tomah, Wisconsin*, September 7, 2017.

S. 2431—THE DEPARTMENT OF VETERANS AFFAIRS OFFICE OF INSPECTOR GENERAL TRAINING ACT OF 2021

The OIG is grateful to Senator Hassan and Senator Boozman for introducing S. 2431 in July 2021 to ensure every VA employee knows how to respond to OIG requests for information and when and how to properly report indicators of serious wrongdoing, risks to patient safety, and misconduct affecting the welfare of veterans, their families, and caregivers.

Analysis of Legislation

S. 2431 mandates that all existing VA employees complete training within one year of enactment, and all new employees complete the training during their first year of employment at VA. Importantly, S. 2431 would allow the Inspector General to send at least two messages a year via VA's email system to all personnel in the VA directory on engaging with the OIG and how to report issues.

Although the VA secretary signed a directive mandating this training that commenced on September 22, 2021, which is an important step in improving VA's culture of accountability, this legislation is still needed. Mandated training should not be dependent on the VA Secretary serving at any given time. Amending Title 38 would make the training mandate permanent and add the important provision of permitting the Inspector General's access to the email system, which can be used for alerts and other important communications.

Examples of the Impact of Improving Reporting and Engagement

Effective oversight depends on VA employees promptly reporting suspected wrongdoing to the OIG and cooperating with OIG staff. Early and effective reporting can save lives, recover or save millions of dollars each year for VA, and help ensure veterans are receiving the benefits and services they deserve.

As an example, hospital staff at a VA facility in Fayetteville, Arkansas had concerns about potential substance abuse by the chief of pathology that were not heard and promptly acted on that allowed him to work while impaired for years.[8] He misdiagnosed about 3,000 patients, with errors resulting in death or serious harm and is currently imprisoned. The OIG found a culture in which staff did not report serious concerns about the chief pathologist, in part, because of a perception that others had reported him, or they were concerned about reprisal. Any one of these breakdowns could cause harmful results. Because they occurred together and over an extended period of time, the consequences were devastating. In addition to saving lives, OIG reports routinely detail where veterans' health care has not been at the quality expected. This training can help spark additional reporting that can improve veterans' access to quality health care and prompt, accurate benefits processing.

Anyone can be key to reporting—whether it is the person cleaning a VA facility, checking in patients, or providing VA care and services. For example, a purchasing agent uncovered a fraud scheme that

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[8] *Pathology Oversight Failures at the Veterans Health Care System of the Ozarks in Fayetteville, Arkansas*, June 2, 2021

involved a chief at a medical facility steering a contract that resulted in more than a half million dollars in losses for VA. Also, a member of the VA police department reported VA Puget Sound Health Care System staff discovered missing bronchoscopes valued at over $100,000. Three ventilators valued at $30,000 were also missing, and some of the items were found on a VA employee's eBay account. A former VA employee was imprisoned for the thefts.[9]

In prior years, OIG staff have seen personnel in VA medical facilities give up on reporting that inventory and other critical supply chain systems were not working.[10] These systems' failures can put patients at risk and make it difficult for staff to do their jobs, in addition to wasting resources. Failures in information technology systems and poorly executed modernization programs are also a persistent problem that can put veterans at risk of not receiving benefits, services, and health care. The OIG needs early notification of these issues to help VA instill a culture of accountability where employees feel empowered to effect change.

But many VA personnel do not timely report serious misconduct, failed systems, and suspected crimes—in part because they lack a basic understanding of the OIG's authority and the duty to cooperate with the OIG. The OIG also wants to communicate with VA employees so they are comfortable reporting suspected wrongdoing and can be assured of their confidentiality when they do so. The OIG understands that some employees may have come to believe incorrectly that the OIG routinely shares complainants' identities with VA. There have also been instances when VA employees have mistakenly believed they need supervisors' approval to respond to requests for data or other information from the OIG, or they have lacked candor or responsiveness.

While VA employees have numerous training requirements, investing in OIG training is offset by the lives and the hundreds of millions of dollars potentially saved. For example, during the pandemic, discussions with a senior VA leader about reporting suspicious activity to the OIG resulted in the leader reporting concerns about a vendor seeking to sell more than $806 million of nonexistent personal protective equipment to VA. The OIG stopped the criminal scheme before VA handed over any funds.[11]

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[9] US Department of Justice Press Release, https://www.justice.gov/usao-wdwa/pr/veterans-affairs-respiratory-therapist-sentenced-prison-stealing-and-selling-medical, January 11, 2021.
[10] *Critical Deficiencies at the Washington DC VA Medical Center*, March 7, 2018; *Equipment and Supply Mismanagement at the Hampton VA Medical Center, Virginia*, September 26, 2019.
[11] US Department of Justice Press Release, www.justice.gov/usao-wdny/pr/former-rochester-man-pleads-guilty-charges-related-ponzi-and-covid-19-fraud-schemes, August 10, 2021.

S. 2431 will help ensure that VA employees know when and how to respond to OIG requests and report issues. The training

- details OIG legal authority to oversee all VA operations, services, and care;
- tests staffs' knowledge of when to report misconduct and potential crimes to the OIG and when to report to other VA entities like VA's Office of Accountability and Whistleblower Protection and non-VA entities, such as the Office of Special Counsel;
- advances Congress' commitment to holding VA employees accountable as well as protecting whistleblowers and other complainants;
- proposes ways for VA staff and OIG personnel to work toward improving the effectiveness and efficiency of VA programs and services; and
- empowers VA staff to tell veterans, their families, and caregivers about when to contact the OIG.

CONCLUSION

The OIG strongly supports S. 2687, The Strengthening Oversight for Veterans Act of 2021, and appreciates this Committee's consideration of the legislation. Obtaining testimonial subpoena authority would strengthen the OIG's ability to conduct rigorous and thorough oversight of VA programs and operations. The OIG also strongly supports and is grateful for the opportunity to comment on S. 2431, The Department of Veterans Affairs Office of Inspector General Training Act of 2021. Its passage would empower VA employees to assist the OIG in improving VA's operations and using taxpayer dollars to the greatest effect; helping protect patients and improving their care; and ensuring veterans and others receive services and benefits for which they are eligible. Chairman Tester, this concludes my statement. I would be happy to answer any questions you or other members of the Committee may have.

KEEPING OUR PROMISE TO AMERICA'S VETERANS

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STATEMENT OF
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DAV (DISABLED AMERICAN VETERANS)
COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE
NOVEMBER 17, 2021

Chairman Tester, Ranking Member Moran and members of the Committee:

Thank you for inviting DAV (Disabled American Veterans) to testify at this legislative hearing of the Senate Veterans' Affairs Committee. As you know, DAV is a non-profit veterans service organization (VSO) comprised of more than one million wartime service-disabled veterans that is dedicated to a single purpose: empowering veterans to lead high-quality lives with respect and dignity.

We are pleased to offer our views on the bills impacting service-disabled veterans and their families and the programs administered by the Department of Veterans Affairs (VA) that are under consideration by the Committee.

S. 1243, Improving VA Accountability to Prevent Sexual Harassment and Discrimination Act of 2021

S. 1243 includes provisions to create a more effective and responsive process for employees in VA to report sexual harassment and employment discrimination. The bill would require the VA to realign the Equal Employment Opportunity (EEO) director under the Deputy Secretary, and ensure the director would not be responsible for oversight of personnel functions that may create a conflict of interest when handling complaints.

The bill would further ensure that EEO program managers at the facility level have a direct report to the Office of Resolution Management, would direct VA to create an employment discrimination complaint resolution process and require all VA managers to report any employment discrimination complaints to the Office of Resolution Management within two days of receiving the complaint. The bill would also require the VA to develop training on the complaint resolution process, review and update internal policies to incorporate any changes made to the sexual harassment or employment discrimination policies in response to this Act and issue a final directive and a handbook for the Harassment Prevention Program of the Department. VA would then be required to report to Congress semi-annually on its progress in implementing the policy.

A Merit Systems Protection Board survey in 2016 found an estimated 22% of VA employees experienced some form of sexual harassment in the workplace from mid-2014 through mid-2016. This prompted a GAO (Government Accounting Office) report released in 2020—*Sexual Harassment: Inconsistent and Incomplete Policies and Information Hinder VA's Efforts to Protect Employees* (GAO Report 20-387)—which included a number of recommendations DAV supports to address identified deficiencies. These recommendations served as the foundation for many of this bill's initiatives.

Specifically, the report identified a number of deficiencies in VA's sexual harassment policies and made recommendations to improve data collection, reporting procedures, employee training and harassment prevention efforts within the Department. GAO found that while VA has policies in place to report and address sexual harassment in the workplace, information collected or provided was incomplete, outdated or not always consistent with the Department's overarching policy. For example, while VA compiles information on sexual harassment allegations, it does not require managers who receive complaints to report them to VA's central office, resulting in an incomplete picture of harassment across the Department. The report indicated that VA has misaligned responsibilities and incomplete implementation of its policies on sexual harassment that impair its ability to properly identify problems and confirm that corrective actions were taken. GAO further noted that VA does provide educational materials and training to its employees; however, the required training does not include in-depth information or current examples on identifying and addressing sexual harassment. Finally, GAO reported a four-year delay in VA finalizing and approving directives and implementing guidance for its Harassment Prevention Program. We concur with GAO's recommendations to address these deficiencies.

As VA works to improve the overall culture within its department and facilities to ensure all veterans feel safe and welcome accessing their care, it must also address issues of harassment within its own workforce so it can effectively recruit and retain employees to support its mission. DAV Resolution No. 015 supports improvements in programming for women veterans—addressing sexual harassment and employment discrimination among VA employees is likely to create a safer, more inclusive and welcoming environment for patients as well. DAV Resolution No. 113 also calls for policies that are favorable to the effective recruitment and retention of valued employees. DAV supports S. 1243 in accordance with these resolutions.

S. 1296, Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act

This bill would require the Department of Defense (DOD) and the VA to jointly implement a five-year pilot program to assess the feasibility and advisability of providing specified counseling and services as part of the Transition Assistance Program (TAP) for service members as a means of reducing the incidence of suicide among veterans.

The pilot program would involve a three-hour counseling module and the provision of contact information for a counseling or similar facility in the locality where the veteran intends to reside. Additionally, participating veterans must submit medical records in connection with their service in the military, regardless of whether they intend to file a claim for VA benefits.

Under the program, a social worker or behavioral health coordinator from the VA must contact the veteran within 90 days after the veteran has been discharged or released from service to schedule a follow-up appointment. There must be a minimum of 10 DOD Transition Assistance Centers and they must serve at least 300 military members in order to be selected to carry out the pilot program.

The bill requires DOD and VA to submit a joint report on the activities under the pilot program. The report must contain certain information to include gender of the military member; their branch of service; a diagnosis of or symptoms consistent with MST, PTSD, TBI, depression or bipolar disorder in connection with their military service; an assessment of whether the activities under the pilot program helped to reduce the incidence of suicide in the members who participated in the pilot program and recommendations for expansion or extension of the program.

DAV supports S. 1296, based on DAV Resolution No. 118, which calls for improved outreach through general media for stigma reduction and suicide prevention, sufficient staffing to meet demand for mental health services and enhanced resources for VA mental health programs and suicide prevention efforts. DOD and VA share a unique obligation to meet the health care needs, including mental health care and rehabilitation, of veterans who are suffering from readjustment difficulties as a result of wartime service.

S. 1564, Veterans Legal Support Act of 2021

This legislation would authorize the VA to support university law school programs that provide legal assistance to veterans. This support may include, but is not limited to, financial support up to $2 million per year, derived from the Veterans Benefits Administration (VBA) General Operating Expense account.

DAV recognizes the benefit of training law students in veterans' law, and for veterans to have access to legal services. DAV's Charitable Service Trust (CST) supports our nation's ill and injured veterans, their families and caregivers through targeted grant support of charitable initiatives. For the last eight years, DAV's CST has provided financial support to Harvard Law School's Veterans Law and Disability Benefits Clinic.

DAV supports S. 1564, the Veterans Legal Support Act of 2021, in accordance with DAV Resolution No. 119, which calls for supportive services, including legal aid services, for veterans experiencing homelessness. However, we consider it critical and recommend that additional funding be appropriated for this purpose and that support for

law schools' veteran legal clinics does not take any funding from existing VBA programs for claims processing and appeals.

S. 1607, Student Veterans Transparency and Protection Act of 2021

This legislation would improve the GI Bill Comparison Tool and ensure veterans, service members, and their families are better informed about their educational benefits. In addition, it would ensure all VA educational, vocational, and transition assistance counselors are knowledgeable about the GI Bill Comparison Tool and would authorize VA to restore educational benefits to beneficiaries who utilized their entitlement at an educational institution that is subject to a civil enforcement action.

Ensuring that veterans and their survivors educational benefits are protected is extremely important to our members. The Student Veterans Transparency and Protection Act of 2021, would restore educational benefits, including Dependents Educational Assistance, to beneficiaries who utilize their entitlement at an educational institution that is subject to civil enforcement action. DAV supports S. 1607, in accordance with DAV Resolution No. 272, which calls for the adoption of programs and legislation to identify, reduce and remove barriers to a service-disabled veteran's employment, continued education and full access and use of other benefits.

S. 1664, Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021

The VA Office of the Inspector General (OIG) report of December 2020, focused on non-military sexual trauma (MST) post-traumatic stress disorder (PTSD) related claims, estimated that VA claims processors did not follow VA regulations and procedures when processing 16% of these PTSD claims. The majority of errors were due to improper or inadequate stressor verification. The review team determined that claims processors do not fully understand the various types of in-service stressors nor the stressor verification procedures when required, which contributed to inconsistencies and errors in the process. This was the result of a lack of training on non-MST PTSD claims after the first year, coupled with the lack of clear and concise guidance.

S. 1664 would require the VBA to establish an ongoing national training program for claims processors who review compensation claims for service-connected PTSD. Claims processors would be required to participate in the training at least once a year starting in their second year of being a VA claims processor. Additionally, the bill would require standardization of training at all VA regional offices (VARO) and establish a formal process for conduct of annual studies.

We are greatly concerned by the VA OIG report findings and the negative impact that a lack of proper training by VBA claims processors has on veterans' ability to obtain the benefits they have earned. VA must prioritize ongoing instruction and quality control of training and manuals. Veterans struggling with PTSD face many challenges; however, VA training and correct rating decisions should not be one of them.

DAV strongly supports S. 1664, in accordance with DAV Resolution No. 036, which calls for legislation that will strengthen training, testing, quality control, as well as accountability measures to ensure that VBA develops a culture focused on getting each claim decided right the first time.

S. 1838, Building Credit Access for Veterans Act of 2021

This legislation mandates the VA to carry out a pilot program to expand access to homeownership for veterans by developing alternative methods of credit scoring methodologies for veterans with insufficient credit history for a lender to determine his/her credit worthiness. For example, alternative credit scoring information may include proof of a veteran's rent, utilities and insurance payment histories. The expectation is that this will expand veterans' financial options and access to credit.

DAV does not have a resolution on this specific issue and takes no position on this legislation.

S. 1850, Chaplains Memorial Preservation Act

The purpose of this legislation is to ensure military chaplains who died while serving their nation are memorialized at Arlington National Cemetery. The bill would allow the National Conference on Ministry to the Armed Forces to update the Protestant, Catholic and Jewish chaplains' memorials at Arlington National Cemetery with the names of all military chaplains who died on active duty.

DAV does not have a resolution on this specific issue and takes no position on this legislation.

S. 1881, Veteran Education Empowerment Act

This legislation would reauthorize and improve a grant program, through the Department of Education, that would assist colleges and universities establish and maintain Student Veteran Centers. Student Veteran Centers act as the hub for veterans' support and success on college campuses all across the United States and provide counseling and tutoring services to veterans to help achieve a successful outcome.

Many student veterans have been away from school for long periods, are older than their peers, or struggle with service-connected disabilities. Student Veteran Centers provide a space for veterans to feel welcome among other student veterans, receive tutoring, peer mentorship and other career support services.

DAV supports the Veteran Education Empowerment Act in accordance with DAV Resolution No. 272, which supports the adoption of programs that help to reduce the barriers to service-disabled veterans continued education.

S. 1936, GI Bill National Emergency Extended Deadline Act of 2021

This bill would codify protections allowing veterans extensions to use their educational benefits when the institution has been impacted by an emergency, such as a pandemic. This would make permanent the emergency measures that were enacted during the beginning of the COVID-19 pandemic and ensure that student veterans whose education is impacted by natural disasters do not lose their earned benefits due to forces out of their control.

Beneficiaries of programs such as Veteran Readiness and Education (VR&E) and Chapter 35 Dependents Educational Assistance (DEA) are already under stringent delimiting dates, which can potentially disrupt the ability for disabled veterans and the surviving family members of veterans to complete their courses.

DAV supports this legislation in accordance with DAV Resolution No. 175, which would extend the delimiting dates for VA educational benefits during school closures caused by disasters and pandemics. Additionally, we support the permanent removal of the delimiting dates for those receiving DEA benefits but would recommend it be removed for all those currently eligible in accordance with DAV Resolution No. 124.

S. 2089, Burial Equity for Guards and Reserves Act of 2021

The Burial Equity for Guards and Reserves Act of 2021, would amend Public Law 116-315 to allow state cemeteries to decide whether to inter an honorably discharged Guard member, Reservist, or their spouse or children, without jeopardizing federal grant money.

In order to be buried in a cemetery under the control of the VA National Cemetery Administration, a veteran must meet certain requirements. Under current law, in order to receive federal grant money from the VA for improvements, state veteran cemeteries are barred from interring many National Guard members and Reservists due to rules requiring active service.

DAV does not have a resolution specific to this issue and takes no position on the bill.

S. 2329, BEST for Vets Act of 2021

Starting in 1996, as part of a pilot program, the VA was authorized to complete disability exams from non-VA medical sources to increase its capacity and improve timeliness, but stipulated no more than 10 VA regional offices (VAROs) could participate. These contract exams, originally managed by the Veterans Health Administration (VHA), were expanded from 10 to 15 VAROs between 2014 and 2016.

In 2016, VHA officially transferred the national compensation and pension disability exam contract and program management to the VBA. VA established VBA's

Medical Disability Examination (MDE) program to manage and oversee contractors, monitor their performance, and ensure that they meet contract requirements, while enhancing the prompt delivery of disability benefits claims and improve the disability exam experience for veterans. The disability contract exam program was also expanded to allow all VAROs access to use the mandatory contract exam program starting in fiscal year 2017.

The contracts for the vendor-provided VA examinations require a specialized focus on three areas: quality, timeliness and customer satisfaction. The examiners for the vendors are required to complete the same training as provided to VHA examiners. In reference to the timeliness, the contract exams are required to be completed within 20 days generally, or within 30 days for specialized exam requests outside of the vendor's network.

S. 2329 would ensure that only licensed health care professionals furnish disability examinations under the VA contract examiner program, which allows for contract physicians to conduct VA disability examinations and provide medical opinions. It would amend section 504(a) of the Veterans' Benefits Improvements Act of 1996, Public Law 104–275 and Section 5101 note of Title 38, United States Code.

The bill provides that no examination as part of this program will be conducted by any health care profession other than a physician, physician assistant, nurse practitioner, audiologist, or psychologist that has a current unrestricted license to practice that health care profession. This is consistent with VA's current policy for VA provided examinations, per its adjudication manual, M21-1, section IVi3A1d.

Additionally, the bill requires VA to provide an annual report to the House and Senate Veterans' Affairs Committees. The report must include the conduct of the program and any actions taken by the Secretary.

The VA Compensation and Pension examination process is a vital part of the claims process as it can be determinative of the existence of a current condition, or if the veteran's illness or injury is related to their active military service or specifically, the severity of that condition. In many cases, the VA exam is the linchpin to establish or deny a claimed benefit.

DAV supports S. 2329 in accordance with DAV Resolution No. 036, which calls for legislation that provides significant and meaningful claims processing reform.

S. 2405, Commitment to Veteran Support and Outreach Act

This bill would authorize the VA to provide grants to assist states in carrying out programs to improve outreach and assistance to veterans and their families to ensure that they are aware of veterans' benefits and programs and assist them in applying for them.

A state applying for this grant must submit a plan that outlines the details for the use for the grant. The state must also identify how the grant funds will be distributed among its counties and meet the unique needs of American Indian or Alaska Native veterans, elderly veterans, women veterans, and veterans from other underserved communities. VA must prioritize the awarding of grants in areas with a critical shortage of county or tribal service officers and areas with high rates of veteran suicide and referrals to the Veterans Crisis Line.

Finally, S. 2405 would authorize appropriations of $50 million for each fiscal year 2022 through 2026 for this new grant program.

This bill would provide outreach and services that help the needs of all service-disabled veterans, to include American Indian and Alaska Native veterans, elderly veterans, women veterans, and veterans from other underserved communities. DAV supports S. 2405, in accordance with our Statement of Policy which calls for enhanced outreach to ensure that all disabled veterans receive all the benefits they have earned and are eligible for.

S. 2431, Department of Veterans Affairs Office of Inspector General Training Act of 2021

S. 2431 would require all VA employees to receive training on reporting wrongdoing, responding to inquiries, and cooperating with the Office of Inspector General (OIG) within a year of enactment or within a year of onboarding with the Department. The OIG would develop this training to ensure employees are familiar with the roles and responsibilities of the Office; the circumstances and mechanisms for reporting wrongdoing; raise awareness of whistleblower protections; and, to identify opportunities for using OIG to overall improve VA's programs, operations and services.

Mr. Chairman, DAV appreciates the role of VA's OIG in ensuring that waste, fraud, abuse and other wrongdoing are addressed within the Department. The VA OIG has saved taxpayers millions of dollars and helped to improve the performance of VA's programs, services and benefits.

We are pleased to support S. 2431, in accordance with DAV Resolution No. 508, which urges VA management to instill practices of transparency and accountability in improving responsiveness to veterans and strengthening VA.

S. 2513, Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021

This bill would make automatic recurring annual clothing allowance payments to veterans unless the veteran elects to no longer receive those payments or it is determined by the VA that the veteran is no longer eligible to receive those payments.

Five years after veterans become eligible to receive clothing allowance benefits, VA would be required to review their eligibility to determine if they continue to be eligible to receive payments. S. 2513, would also require VA to establish a regulatory standard to determine if the service-connected disability of the veteran making the claim for clothing allowance is subject to change. If it is determined the veteran has a service-connected disability that is not subject to change, the eligibility review will no longer be necessary.

If the VA receives a claim for annual clothing allowance and it is determined that the veteran no longer meets the eligibility requirements for this benefit, VA will notify the veteran the benefit will be discontinued.

Veterans should not be burdened with unnecessary steps to access benefits they are entitled to. We support S. 2513—which seeks to streamline and improve the processes and overall delivery of clothing allowance benefits and services for our nation's ill and injured veterans. This bill is in line with DAV Resolution No. 007, which calls for the VA to adopt policies and other practices that accelerate the timely delivery of benefits and services and takes into account the unique needs of injured and wounded veterans.

S. 2644, GRAD VA Educational Assistance Parity Act of 2021

The GRAD VA Educational Assistance Parity Act of 2021, would provide GI Bill benefits parity between members of the National Guard and Reserves and active-duty service members. Specifically, this bill would expand entitlement for the Post-9/11 GI Bill by counting every day that a service member is paid and in uniform toward benefit eligibility.

We appreciate the intent of S. 2644; however, as DAV does not have a resolution on this specific issue, we take no position on the bill.

S. 2687, Strengthening Oversight for Veterans Act of 2021

S. 2687 would provide the Inspector General (IG) of the VA testimonial subpoena authority. Additionally, the bill would require the VA IG to notify the Attorney General (AG) of the United States if he/she intends to issue a subpoena, allowing the AG the opportunity to object to the issuance of the subpoena if it would interfere with an ongoing investigation.

The bill would also ensure the VA IG makes clear that a witness can voluntarily cooperate with the Inspector General rather than be subpoenaed and to the greatest extent practicable, have the IG travel to the location of a participating witness. In addition, the bill would require the VA OIG to report to Congress regularly on the number of times they have used this new authority.

DAV does not have a resolution specific to S. 2687, and takes no position on the legislation.

S. 2761, Every Veteran Counts Act of 2021

This bill would require VA to conduct and publish a survey of veterans every 10 years that contains information about veterans' demographic characteristics, including gender identity and sexual orientation, employment, housing and access to broadband. It would look at indicators of utilization of VA services such as enrollment in the VA health care system and service-connected disability rating. The legislation would also require VA to survey veterans about various exposures during service including exposure to environmental hazards, and military sexual trauma. The survey is to include veterans from all service eras and would require VA to consult with Congress, VSOs, its advisory committees and others to review the survey to ensure that it is well designed, the methodology for administering the survey is sound and that it will collect relevant information for its purposes. VA would conduct the first survey one year after enactment of the bill and at least every 10 years thereafter.

DAV appreciates the need for this information in developing sound policy and understanding key gaps in access to VA benefits for certain populations. We suggest VA also collect information on veterans' awareness of benefits, programs and services as this may be a key obstacle in veterans' utilization of VA programs—especially in earlier service eras. We'd also recommend VA collect information about household composition—particularly veterans' responsibilities for dependent children and parents in addition to their access to transportation and child and elder care, if needed. Veterans often cite lack of child care and transportation as barriers to use of VA services.

In past years, the Advisory Committee on Minority Veterans has expressed concerns that the Secretary does not adequately respond to its recommendations, particularly a long-standing recommendation to collect and publish data on veterans in racial and ethnic minorities and their applications and awards for and utilization of VA benefits and services. VA has just begun to collect data on transgender veterans but has no systematic means of collecting data on sexual orientation. The discussion draft would address some of these information gaps.

We believe the benefit of understanding the diverse number of veterans it serves is critical to VA for the purposes of appropriate planning of health care services, specialized programs and resources. DAV Resolution No. 023 urges VA to continue identifying and addressing social and behavioral determinants that may affect health outcomes in addition to barriers to health care for all service-connected veterans by minority and ethnic groups. For these reasons, we are pleased to support this bill.

S. 2794, Supporting Families of the Fallen Act

This bill would increase the benefit amount paid through the Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) from $400,000 to $500,000. This would be the first increase in the benefit amount since 2005.

DAV does not have a resolution that pertains to SGLI or VGLI coverage amounts and takes no position on this legislation.

S. 3047, Veterans Pro Bono Corps Act of 2021

S. 3047 would establish a pilot program authorizing VA to award grants to medical residency and fellowship programs to provide pro bono, independent medical examinations and medical opinions to help low-income veterans substantiate VA disability benefits claims. Additionally, the bill would require VA to establish a competitive process to select grantees and permits VA to give preference to grantees in rural or underserved areas.

The bill would also require participants to undergo training that is substantially the same as or equivalent to training required for VA and VA-contracted examiners as well as requiring VA to provide the Senate and House Veterans' Affairs Committees with annual reports with data needed to evaluate program efficacy.

We do have a concern with utilizing this pilot program for medical opinions. A medical nexus or opinion is required for establishing direct service connection in many instances. In general, if this medical opinion is not based on a review of the veteran's claim folder or service medical records, VA will assign less weight to these opinions. We have the following questions that are not addressed by the bill and ask the Committee to consider:

- How will the pro bono examiners have access to review a veteran's records?
- Will the veteran be required to provide these records to the pro bono examiners?
- Without the medical records to review, will the medical opinions carry appropriate weight with VA to lead to grants of benefits sought?

DAV fully appreciates the goal and intent of the Veterans Pro Bono Corps Act; however, we currently do not have a resolution specific to this bill and take no position on the legislation.

S. 3094, Reaching Every Homeless Veteran Act of 2021

The Department of Labor (DOL) Veterans' Employment and Training Service (DOL-VETS) Homeless Veterans' Reintegration Program (HVRP) is a competitive grant program focused exclusively on competitive employment for homeless veterans. All

HVRPs offer job counseling, resume preparation, job placement, and follow-up at 30-, 90- and 180-day intervals. Program staff also ensure that participants receive essential supportive services such as clothing, shelter, referral for medical services or substance use disorder treatment, and transportation assistance.

The goal of the Reaching Every Homeless Veteran Act is to ensure that HVRP grants are awarded in every state and U.S. territory. In instances where a state or territory is without eligible grant applicants, the DOL would be mandated to coordinate an outreach and education program in coordination with the state's Director of Veterans' Employment and Training to increase awareness around HVRP and the benefits of the program.

The legislation would also mandate reporting requirements for DOL on the HVRP application and selection process, thereby providing Congress with the data necessary to discern future statutory or funding changes. We want to ensure HVRP awards as proposed by this bill would continue to be made on a competitive basis and that the same high-quality application standards continue to be maintained.

We are pleased to support S. 3094, in accordance with DAV Resolution No. 119, which calls for support of programs and supportive services to reduce homelessness among veterans including the DOL VETS Homeless Veterans' Reintegration Program.

Discussion Draft, RURAL Exams Act of 2021

This discussion draft, the Reform and Update Rural Access to Local (RURAL) Exams Act of 2021, would authorize the VA Secretary to offer incentives specifically for contract examiners to ensure better service to rural and housebound veterans and improve transparency of the medical disability examination program for all veterans.

In addition, the proposed bill would improve data collections on rural exams, allow a study on improvements to rural exams and requires VA to inspect locations to ensure all examinations are safe, accessible and dignified.

VA exams are of a unique importance and missed or cancelled exams can negatively impact a veteran's claim and disability rating. If a negative decision is rendered based on a missed or cancelled exam, the veteran cannot simply request to reschedule the exam. At this point, the veteran is required to submit a supplemental claim requesting a new exam for the claimed conditions, thus requiring additional time, development, and a new scheduled exam for a new VA rating decision. Thus, making VA examinations accessible for all veterans, specifically those in rural areas or that are housebound, become of even greater significance.

DAV would support legislative provisions such as those included in the discussion draft, RURAL Exams Act of 2021, as they are in accord with DAV Resolution No. 036, which calls on legislation that provides significant and meaningful claims processing reform.

Discussion draft, Veterans Benefits Improvement Act of 2021

The discussion draft, the Veterans Benefits Improvement Act of 2021, has three main sections to include the Board of Veterans' Appeals (Board), VBA disability medical examinations and specific matters for veterans, accredited representatives and other issues.

The proposed bill would create an attorney internship program and an honors program at the Board. It would also establish a pilot program to reimburse claimants for travel to tele-hearings before the Board. Current VA statutes do not allow for reimbursement to claimants for travel to any requested hearings before the Board. This pilot would provide reimbursement only for those traveling from home to the location of the video/virtual hearing is being held, as long as the Secretary determines that travel to such location was reasonably necessary.

Next, the draft addresses VBA medical examinations, which are vital to compensation and pension claims to answer questions regarding service connection and the current level of impairment provided by the veteran's service-related wounds, injuries, illnesses and diseases. It addresses disability benefits questionnaires (DBQs) and fact sheet access to VHA staff by amending Public Law 116-315.

Veterans who travel to a VA facility or a facility of a VA contracted examiner for a VA compensation and pension examination, are eligible for reimbursement. This draft proposal would authorize travel reimbursement for those veterans residing outside of the United States and traveling to these examinations in foreign locations. In addition, the bill would require VA contract examiners to recognize the veterans' accredited representative and include them in communications to the veterans, especially, notice of the examination. Further, it would also include an informative outreach program for veterans on contact information for contract examiners.

The final section of the proposal would create a pilot program to assess the feasibility and advisability of accrediting governmental veterans service officers and providing access to VBA's electronic Veterans Benefits Management System (VBMS). The bill would also allow the VA to disclose or re-disclose veteran federal tax return information to contractors and vendors, who are administering or assisting in VA programs that require the information.

The consequences of the COVID-19 pandemic and VA vendor failures have caused serious delays in mail, which has negatively impacted VA's mandated requirement of notifying veterans and claimants of VA decisions. This bill would allow veterans to receive all such notifications electronically or to opt out of the electronic notifications and receive all such notices via mail.

In May, DAV testified before the Committee on its hearing on "Supporting Disabled Veterans: The State of Claims Processing During and After COVID-19." We

outlined our concerns involving VA backlogged examinations, pending claims, and the thousands of pending hearings within the Board. This proposed draft would not alleviate all of those concerns, however, it does takes steps toward modernization and streamlining processes within VBA and the Board.

DAV would support the legislative efforts such included in the Veterans Benefits Improvement Act of 2021. The draft is aligned with DAV Resolution No. 036, which calls on legislation that provides significant and meaningful claims and appeals processing reform to address VBA's and the Board's overall workloads while providing veteran-centric notifications, examinations, and hearings.

Mr. Chairman, this concludes my testimony and I would be pleased to answer any questions you or members of the Committee may have.

STATEMENT OF

PATRICK MURRAY, DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

UNITED STATES SENATE
COMMITTEE ON VETERANS' AFFAIRS

WITH RESPECT TO

"Pending Legislation"

Washington, D.C. November 17, 2021

Chairman Tester, Ranking Member Moran, and members of the committee, 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 these important issues.

S. 1296, Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act

Service member and veteran suicide prevention continues to be a top priority for the VFW. Recent research indicates that suicide risk is increased after transition from the military. Additional research shows that risk is also heightened in individuals with mental health diagnoses. Accordingly, it is appropriate to educate and support transitioning service members with connections and resources to ensure risk factors are identified and care is given. The VFW supports this legislation, which would create a five-year pilot program to educate transitioning service members on reintegrating into civilian life and factors related to suicide risk. This pilot program would also facilitate a warm handoff of members to the Department of Veterans Affairs (VA), which would include an initial appointment, a health assessment, and a tailored treatment plan that addresses medical conditions associated with heightened suicide risk.

We do recommend that Congress ensure subsection (b)(1)(B) of this legislation occurs in a private, HIPPA-compliant setting. This would enable transitioning service members to more thoroughly understand the conditions associated with heightened suicide risk, as they may not have pre-existing diagnoses. This type of setting would also ensure a safe, confidential environment to discuss personal, service-related events that could lead to the conditions outlined in this subsection. Furthermore, the VFW also suggests that the Department of Defense (DOD) ensures appropriate processes and resources are in place to accommodate medical record requests and submissions to VA as outlined in subsection (b)(3).

S. 1564, Veterans Legal Support Act of 2021

The VFW supports this proposal to provide support to university law school programs that are designed to provide legal assistance to veterans. Low income and justice-involved veterans face various challenges within the legal system. Certain university law programs offer incredible legal assistance to veterans in need, and this proposal would help expand the availability of those services.

While we strongly support this effort, we would like clarification on the eligibility of which schools can receive resources from this proposal. Are only established programs with veteran legal clinics eligible, or could this proposal be used to expand the availability of similar programs at new law schools that are not currently offering these services?

S. 1607, Student Veterans Transparency and Protection Act of 2021

The VFW supports this legislation which would require necessary improvements to the GI Bill Comparison Tool and ensure veterans and individuals using VA education benefits have access to the information they need to make informed choices when selecting institutions. While measures to combat misrepresentation and aggressive recruiting from predatory institutions are important, it is also critical that individuals have the information and resources they need to accurately research and compare institutions on their own. It is important that this data is not only complete and up to date, but that it is easy to understand and digest for the average individual relying on this information to make important and life-shaping decisions. By adding clearer and expanded definitions of some of the data the tool shares, an individual researching can see not only what is important, but why it is important. Also, by disaggregating the data, veterans will be able to more clearly see outcomes an institution provides for student veterans such as job placement.

Because student veterans and individuals using GI Bill benefits are affected by school closures, faced with lost VA benefits, and possibly saddled with student loan debt, we also support measures in this legislation to restore VA education benefits to individuals who used their entitlement at institutions subject to civil enforcement action. Expanding the scope would give these students a lifeline to complete their degrees in the event their institutions close. The VFW wants the GI Bill Comparison tool to provide the most transparent and accurate record of student feedback. Understanding an institution's history with student veterans and others using VA benefits is necessary to make an informed choice. We support measures to require this feedback be shared in perpetuity, provided the information is clear and accurate regarding each individual infraction. We would also recommend a careful review of how feedback is stored and shared through the tool in cases of change of ownership.

We also support measures to require training for VA counselors on all components of the GI Bill Comparison Tool as they advise potential students in making these decisions. As many student veterans are first-time students on active duty and make their institutional decisions while using tuition assistance benefits, it is critical that DOD counselors are trained to provide accurate and meaningful data and have full understanding of use of the comparison tool.

S. 1664, Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021

Post-traumatic stress disorder (PTSD) can occur after a person experiences or witnesses a traumatic event such as military sexual trauma (MST), combat, severe accident, natural disaster, and serious violence or injury. A veteran can file a disability benefit claim for PTSD as a service-connected injury. An Office of Inspector General (OIG) report from December 2020 indicated that sixteen percent of processed claims were not in accordance with VA regulations and procedures. The OIG recommended training staff in the process of how to gather evidence and verify stressors required for PTSD claims, and to track results.

The VFW supports this proposal to improve PTSD disability claim processes by updating the current training programs, ensuring participants complete required training, analyzing all claims processing error trends, and creating an annual study to guarantee consistent and current national training.

S. 1838, Building Credit Access for Veterans Act of 2021

The VFW supports this legislation to implement a pilot program to allow VA home loan lenders and veterans with insufficient credit history to use VA home loan via an alternative credit method. Service members who lived in military housing and never had cause for purchasing a vehicle, may leave active duty with much less credit history than their civilian counterparts of the same age. The VA home loan program is one of the more significant measures that provides economic opportunity and upward mobility for veterans to establish a stable life for themselves after serving. This legislation would ensure veterans are not denied that opportunity simply due to lack of credit history, if they are able to provide alternative evidence of their financial stability.

S. 1850, Chaplains Memorial Preservation Act

The VFW supports this legislation to authorize updates and corrections to three chaplains' memorials located at Arlington National Cemetery, at no cost to the federal government. As a mission of the VFW is to "Honor the Dead by Helping the Living," we take very seriously our duty to pay tribute to those who gave their lives during service to our nation, the spirit of which aligns with this bill.

S. 1881, Veteran Education Empowerment Act

The VFW supports this legislation to authorize grants to institutions of higher learning to establish, maintain, and improve Student Veteran Centers. These centers are a critical resource for student veterans as they pursue their degrees, and these grants are essential for institutions unable to prioritize funding for student veteran support. Having a centralized location for networking, tutoring, and resources and programs specific to student veterans may be a lifeline during their educational journey. We support expanding resources to help create these centers where most needed and maintain them over time while reporting best practices for student success. In prioritizing institutions to receive this support, we recommend that institutions with

current Veterans Integration to Academic Leadership (VITAL) programs, as well as minority-serving institutions, be added to other priority considerations. We also support collecting data to help all institutions establish better practices for student veteran support services.

S. 1936, GI Bill National Emergency Extended Deadline Act of 2021

The VFW supports this legislation to make permanent the extensions of time limits and eligibility periods created for students using VA education benefits during the COVID-19 pandemic. As we continue to face uncertainty, it is critical we do not force student veterans to ponder the fate of their education benefit in times of national emergency. The VFW supports making these extensions automatic and believes that any time limit, age limit, period of eligibility, or delimiting dates should be removed from VA education and employment benefits, as these are truly lifelong needs for veterans and their families. To this extent, we also support measures in this legislation to remove the age limit from individuals using VA education benefits under Chapter 35, Survivors' and Dependents' Educational Assistance (DEA). The VFW further supports measures in this legislation to require in-state tuition for survivors utilizing DEA, providing parity to those students along with all other VA education benefit users and allowing those students to maximize their Chapter 35 benefit.

We have been pleased to hear continued reporting from the Veterans Benefits Administration (VBA) on the status of Digital GI Bill upgrades and continued meeting of milestones toward automation. Automating these information technology services will streamline the process for determining eligibility, provide much greater accuracy, and improve communication between VA and institutions. We support measures in this legislation that codify technological improvements, and we believe these enhanced technology measures will have a direct impact on student success and prevent overpayments that may cause student financial distress.

The VFW also supports measures in this legislation that would establish grants to pilot fellowships up to twenty weeks in three to five states. Fellowship programs such as DOD SkillBridge have shown success, though still struggle with outreach and the ability to support participation prior to leaving active duty service. Providing veterans in need with fellowship opportunities to learn and prove their worth in new civilian fields would be a big step in the right direction in ensuring seamless transition to civilian life and that transition assistance does not abruptly end at the conclusion of active service.

S. 2089, Burial Equity for Guards and Reserves Act of 2021

The VFW supports this legislation which would ensure that VA grants to state veteran cemeteries do not restrict states from burying veterans who served in the National Guard and Reserve with honorable discharges.

Currently, only certain veterans are eligible for burial at cemeteries managed by VA's National Cemetery Administration (NCA). This includes service members who died on active duty, those who served on active duty and received an other than dishonorable discharge, and those who served in the National Guard or Reserve for at least twenty years and received an other than dishonorable discharge. Service members of the National Guard and Reserve who serve for less

than twenty years and have no time on active duty, even if discharged under honorable conditions, do not qualify.

Service members of the National Guard and Reserve, many of whom also have access to VA health care, education benefits, and VA home loan eligibility, should have the right to be buried in a state veterans cemetery. States that choose to broaden the eligibility of veterans beyond what the NCA currently allows should not be restricted from the Veterans Cemetery Grants Program.

S. 2329, BEST for Vets Act of 2021

The VFW supports this bill, which would ensure only licensed health care professionals furnish medical disability examinations under an existing VA pilot program. A March 2021 Government Accountability Office study reported a significant increase in the use of VBA contractors to perform examinations versus Veterans Health Administration (VHA) medical centers. Therefore, the pilot program established in section 504(a) of the *Veterans' Benefits Improvements Act of 1996* for contracted medical disability examinations would mimic VHA's health care professional medical disability examiners. We do want to clarify that even though this would increase the number of medical disability examiners and create parity between VA and the contracted pilot program, each health care professional needs to furnish these examinations within their scope of practice. The VFW wants to ensure that VA's high-quality standards are maintained with contractors as well.

S. 2405, Commitment to Veteran Support and Outreach Act

The VFW supports the intent of this legislation to improve outreach to veterans regarding the VA benefits to which they are entitled. We see it as a duty of the Department, with the help of Veterans Service Organizations (VSOs) and partners, to continuously seek to improve communications and outreach to veterans regarding their earned benefits, health care, and other services. This legislation would allow VA to award grants to states for outreach activities, to assist veterans in the development and submittal of VA claims, or to hire additional county or tribal veterans service officers, select state service officers, or publicly funded entities.

The VFW believes that language should be clarified in this legislation to ensure states have the flexibility to further allocate grant funds not only to state, county, and tribal service officers, but also to service officers from private VSOs like the VFW and others that are recognized by VA for the preparation, presentation, and prosecution of claims before the agency. Many states do not utilize County Service Officers and the VFW would like to ensure these states are not inadvertently overlooked in this proposal. States such as Rhode Island, Mississippi, Kansas, and Montana utilize State Service Officers or have VSOs perform those duties on behalf of the state. We would like to see this proposal be all encompassing to make sure veterans in every state can benefit.

The VFW appreciates the effort within this legislation to address shortages of accredited service officers in certain parts of the country and for the extra focus on areas where there are high veteran suicide rates. We look forward to working with the committee to make this proposal as inclusive as possible to meet the needs of the veterans' community. We believe we should direct

resources such as VSOs and additional Vet Centers toward areas that have a high demand.

The VFW strongly believes that ensuring veterans gain access to their earned VA health care and benefits can significantly impact a veteran's well-being and mental health. We support expanding access to accredited service officers and Vet Centers to provide additional mental health services in rural areas, as well as increasing funding for a variety of VA economic opportunity and housing programs. Improving outreach to veterans and informing them about VA resources is important in reducing risk factors of veteran suicide.

S. 2431, Department of Veterans Affairs Office of Inspector General Training Act of 2021

The VFW supports this proposal to require each Department employee to receive training developed by the VA OIG for the reporting of wrongdoing, responding to requests, and cooperating with the OIG. The VFW believes the OIG performs a critical role in overseeing and investigating the practices of VA, and a vital component of this role is employee input. Training the employees on the role, responsibilities, and legal authority of the Inspector General and the duty of employees for engaging with the OIG is important to accomplishing its mission.

This training would also empower the employees to identify the circumstances and mechanisms for reporting fraud, waste, abuse, and other wrongdoing, including making confidential complaints. It would help protect the men and women who help our service members, veterans, and families, every single day

S. 2513, Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021

Veterans may qualify for the VA Clothing Allowance when they have prosthetics, orthopedic devices, or skin medicine that affects their clothing. Veterans must reapply for this benefit each year even though, in many cases, the circumstances which qualify them for the benefit will not change over time. The VFW supports this legislation that would require a veteran to apply for the clothing allowance only one time. Once granted, these payments would continue each year until VA determines that the veteran is no longer eligible for the benefit. This would remove the burden from the veteran of having to reapply each year.

S. 2644, GRAD VA Educational Assistance Parity Act of 2021

The VFW supports this legislation which would allow members of the National Guard and Reserve to earn eligibility toward the Post-9/11 GI Bill education benefit through the full scope of their types of duty. As our country increasingly calls upon the service of our Guard and Reserve forces in times of national crisis, and as the nature of the orders on which these individuals are activated varies, it is important that their service and sacrifice is recognized and that they are able to earn time toward GI Bill benefits alongside their active duty counterparts.

S. 2687, Strengthening Oversight for Veterans Act of 2021

The VFW supports this proposal to provide the OIG testimonial subpoena authority, and believes

the OIG performs a critical role in overseeing and investigating the practices of VA. In December 2020, the VA OIG produced a report titled *Senior VA Officials' Response to a Veteran's Sexual Assault Allegations*. In this report the OIG stated, "The OIG's investigation was hindered by the refusal of several senior VA officials to cooperate with requests for follow-up interviews to clarify and resolve conflicts that arose when additional information was gathered after their initial interviews." Although authorized by statute and regulation to require VA employees to testify in its investigations, the OIG lacks independent authority to compel Department staff to appear for interviews. It depends on the cooperation of VA officials to hold employees accountable for meeting their obligations to cooperate in an investigation. This proposal would strengthen OIG's authority to subpoena certain individuals in order to properly perform its charged duties. This change would allow for OIG to ensure full completion of its critical role.

S. 2761, Every Veteran Counts Act of 2021

The VFW supports this legislation to collect, maintain, and publish veteran demographic information. We suggest that language be added to identify whether the veteran has a general caregiver as that term is defined in section 71.30 of Title 38, United States Code. In addition, we want to ensure the current crop of VA users is included in this repository of information. The VFW believes detailed data collection and transparency of which specific veterans are affected by which specific issues will help determine how we should focus resources and attention in the future.

Understanding the veteran population as a whole, including those not utilizing the VA system, is beneficial to any needs assessment, particularly when determining gaps in social determinants of health, mental health access, and suicide prevention and postvention. Data provided and publicly disseminated on the continuously changing veteran population will allow stakeholders to create and develop programs, apply for grants, direct resources, and advocate on legislation to better affect veterans and the communities in which they reside.

Year after year, VA's *National Veteran Suicide Prevention Annual Report* continues to disregard the full scope of veterans' engagement with VBA programs. The VFW insists that VA stop viewing suicide simply as a mental health crisis. It must remove the blinders and gain a better understanding of other underlying causes. The current report lacks information key to examining veterans' social determinants of health like housing security, benefit usage, workforce skill attainment, and steady income, which VA's research indicates is often a better predictor of suicide and suicidal ideation.

We believe this legislation would benefit all veterans, VA, Congress, state and federal government agencies, VSOs, advocacy groups, and stakeholders who are committed to better the lives of veterans and their families. Having a public facing database of this information creates opportunities for development and dissemination of relevant data to empower engagement and innovation of these organizations with veterans and their families.

S. 2794, Supporting Families of the Fallen Act

The Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) maximum payouts have remained at $400,000 for the last sixteen years. The VFW supports this legislation which would increase the maximum payout to $500,000 to adjust for inflation. Service members and their families should have peace of mind when selecting either of these insurance policies for the maximum amounts, anticipating what their needs might be in the event of the individual's passing while considering overall rising costs over time due to inflation.

S. 3047, Veterans Pro Bono Corps Act of 2021

The VFW does not support this proposal at this time. We appreciate the intention behind this bill, but we have concerns about unintended confusion it would cause if implemented. Currently, VA is denying third party medical evaluations through the Disability Benefits Questionnaire (DBQ) at a much higher rate than VA provided evaluations. This is adding to the backlog by requiring redundant examinations to verify medical information already provided by outside examiners. Until VA stops this unnecessary practice, we are concerned that allowing medical residents and fellows to perform examinations will exacerbate this issue as we believe VA would treat these examinations the same as third party examiners.

Compensation and pension (C&P) examinations have a current backlog, but it is not entirely due to a lack of examiners. The Covid-19 pandemic delayed C&P exams because some medical providers were not seeing routine patients, and some patients were not willing to travel to medical facilities to participate in routine examinations. Additionally, a common concern we hear from veterans we represent is a delay in specialty examinations in their respective areas. Veterans in Long Island, New York are being sent to Connecticut for dermatology. Veterans in Birmingham, Alabama are being sent all over the state for audiology. Specialized C&P examinations are needed more than general examinations, and while this proposal does not specifically include or exclude expanded specialty examiners, it is open-ended which would allow for more than just specialty providers to participate in this grant program.

Lastly, we question how the "opt-in" for veterans would take place. The current process for C&P examinations is that when a veteran files a claim it triggers an examination. VA can either accept the claim or order a follow-on examination. The veteran is notified of the scheduled examination with either a VA examiner or a VA contract examiner. The examination then takes place. The VFW believes asking veterans to opt in to a third alternative that is outside the VA system would create confusion unless it is expressly conveyed to the veteran.

S. 3094, Reaching Every Homeless Veteran Act of 2021

The VFW supports this legislation which would provide grants toward homeless reintegration programs and enhance outreach to areas that may lack awareness of employment and training programs available for veterans in need. As housing security and employment security can be a vicious cycle with each relying on the other, homeless veteran reintegration programs that provide job training, counseling, and placement services are critical. Especially during a time

where we face a nationwide housing crisis, we must break the cycle and support resources and organizations that help find veterans struggling with housing to find the employment they need.

RURAL Exams Act of 2021

C&P examinations are a critical part of the VA disability claims process. The VFW supports this legislation to improve data collection from C&P examinations to better track timeliness, quality, and veteran satisfaction. The VFW has asked for this information to better understand the quality of both VA and contract examinations in all parts of the country. It would also provide performance-based incentives for contractors to provide high-quality examinations in rural areas, and require inspections of contractor facilities to ensure examinations are conducted in safe and appropriate locations.

Veterans Benefits Improvement Act of 2021

The VFW supports some portions of this bill but has concerns with other sections of this proposal:

Title I - Board of Veterans' Appeals Matters

The VFW supports the establishment of a competitive internship program at the Board of Veterans' Appeals (BVA). VA has historically been a robust training ground for medical personnel, and the VFW believes this proposed program aligns with the spirit of continuing to recruit and train the best and the brightest within VA.

We also support the creation of an Honors program to officially recruit high-achieving individuals as entry-level attorneys at BVA. Pairing employment incentives with completion of the competitive internship program would potentially provide BVA with high-quality and knowledgeable employees.

The VFW supports implementing a program to reimburse certain claimants for travel to BVA tele-hearings. Not all veterans have access in their homes to high-speed internet, or the access to computers with updated live-virtual programs. This lack of access may require certain veterans to travel to alternate locations in order to participate in tele-hearings. We believe that if certain veterans need to travel in order to participate in their appeals hearings, whether those hearings are virtual or in-person, they should be allowed to file for reimbursement.

Title II - Medical Disability Exam Matters

The VFW supports the section to improve the DBQ forms. DBQs are an integral part of the claims process and need to be kept as simple and user friendly as possible since many times these forms are being used by examiners who are not part of the VA system. Recent changes to the DBQ process were not helpful for veterans, and we are glad to see this committee is committed to make sure DBQs are made as beneficial to veterans as feasible.

The VFW also supports the portions of this proposal to improve matters for veterans seeking disability examinations outside the boarders of the United States, and to update permissions for contract examiners. VA is shifting many of its disability examinations to non-VA providers, and it may eventually move one hundred percent of them to outside examiners. The VFW believes it is imperative to ensure contract examiners are provided the same permissions and are held to the same standards as their VA counterparts.

Title III - Other Matters

The VFW does not support the section of this proposal to establish a pilot program for VA to accredit governmental Veterans Service Officers. VA should not focus on training, accrediting, and overseeing its own accredited representatives, but should instead work toward the oversight of current representatives who process disability claims.

We believe the intent of this section is to ultimately provide more information and transparency to veterans who have VA claims. The VFW supports changes to ensure veterans have more knowledge about their claims, and adding permission for read-only access to accredited representatives would accomplish that mission. We support adding read-only access to individuals in the VA Office of General Counsel accreditation database in order to allow any accredited representative to share the status of claims with individuals, even if those individuals are not represented by the accredited representative.

We also appreciate this committee's efforts to help improve the notification of claims to veterans. The pre-decisional review process was eliminated by previous VA Secretary Robert Wilkie. This change hurt veterans and it made it harder for their representatives to assist with their claims. Pre-decisional review is an important tool in the claims process, and we are grateful that the current administration has reinstated a review and notification process. It is still in the second phase of the current pilot program, and we await further information from VA to determine the effectiveness of this new notification pilot program.

Chairman Tester, Ranking Member Moran, this concludes my testimony. I am prepared to answer any questions you or the committee members may have.

Questions for the Record

Department of Veterans Affairs (VA)
Questions for the Record Submitted to Assistant Deputy Under Secretary for Policy and Oversight, Brianne Ogilvie, Veterans Benefits Administration
Senate Veterans' Affairs Committee
Hearing to Consider Pending Legislation

November 17, 2021

Questions for the Record from Senator Mazie K. Hirono

Every Veteran Counts Act
During the hearing, we discussed whether the concerns expressed in VA's testimony about the Every Veteran Counts Act were important to resolve ahead of the legislation's passage, or if they could be addressed in implementation.

QUESTION 1: Please enumerate any statutory changes the Department feels must be included in the bill text in order for this legislation to be implemented in line with the intent of the bill.

QUESTION 2: Please enumerate additional concerns that the Department feels must be addressed in the bill text in order for this legislation to be implemented in line with the intent of the bill.

VA Response (to Questions 1 and 2): The Department of Veterans Affairs (VA) raised several concerns that we believe are important to resolve to avoid potential issues during implementation. These concerns center around greater alignment with ethical principles for access to and use of Veteran data, adoption of an iterative approach to data management, and investment in data management capability and capacity to deliver targeted outcomes. We recommend the addition of the language in red font to specific sections of the pending legislation that would need to be mitigated.

Additionally, VA has significant concerns with the requirements under proposed section 528 of title 38, United States Code, "Demographic Data of Veterans: collection, retention, publication" as would be added by section 3 of the bill. This section includes some data elements that are neither collected nor maintained by VA for the administration of benefits and services. While VA acquired these data elements from a variety of sources for statistical analysis and modeling uses, VA is not authorized to disseminate record-level data acquired from these sources due to current laws and contractual limitations. Specifically, the pending legislation includes the following data that is external to VA:

1. Socioeconomic data such as gross income, housing status, employment status, and education level. Although the first three data elements are available annually through individual tax filings with the Internal Revenue Service (IRS), current law prohibits the IRS from sharing this data with VA. As such, VA acquires these self-

reported socioeconomic data from commercial vendors. However, VA's agreements with third-party vendors stipulate that the data is to be used for internal statistical analysis purposes and not for a public database; and

2. Military service data such as service in combat, exposure to dead, dying or wounded people, exposure to environmental hazards or military sexual trauma obtained directly from the Department of Defense (DoD). This data is maintained by DoD, and VA is granted access to this data for the purposes of administering VA benefits and services; statistical analysis, and research. However, VA is not authorized to publish these DoD data elements in a public database. Additional enumerated concerns include:

    1. Under Section 2: Findings
    (11)(A) developing enterprise-focused management and improvements in the quality of administrative data collected by the Department *for operational and analytic applications.*

    2. (13) It is necessary for the Department to collect, collate, and analyze all available data on veteran demographics, and to share this ~~data~~ *information* with Congress and other stakeholders on an ongoing basis, in an easily digestible format, *while protecting confidentiality of Veteran information,* to ~~direct~~ *enable* outreach and align policy with the needs of the changing veteran population.

"§ 528. Demographic data of veterans: collection; retention; publication

3. "(a) DATABASE.—(1) The Secretary shall collect demographic data of veterans (from any source of such data available to the Secretary, including *VA services and benefits programs*, the National Center for Veterans Analysis and Statistics of the Department, the Bureau of the Census, and the Social Security Administration) and maintain *an up-to-date* database of such data.

SEC. 3. DEMOGRAPHIC DATA OF VETERANS: COLLECTIONS; RETENTION; PUBLICATION.

4. (c) IMPLEMENTATION DATE.—The Secretary of Veterans Affairs shall carry out section 528 of such title, as added by this section, not later than *one year* after the date of the enactment of this Act, subject to availability of appropriations.

SEC. 4. REPORT ON DATA STRATEGY OF THE DEPARTMENT OF VETERANS AFFAIRS.

5. (b)(3):
"(A) internal evidence-based policymaking;

(B) ethical and appropriate dissemination of statistical aggregates, data-driven analysis, and open data, *and*

(C) improved data management and quality for analytic and operational applications.

Senator Kyrsten Sinema

QUESTION 1: The Veterans Pro Bono Corps Act would establish a five-year pilot program to provide grants to accredited medical institutions to allow medical residents and fellows to conduct medical examinations that assist veterans in applying for service-connected disability compensation. This program is intended to target residents and fellows who are not already engaged in the VA to expose them to the veteran community by providing training to conduct medical examinations for disability benefits under the supervision of a licensed provider. This program would not only help to address the backlog of medical examinations, but would also expose medical students early on to the VA and the veteran population. The VA has expressed concerns about this legislation. Is the VA supportive of the intent of the legislation to expand the professionals available to veterans who can provide a medical disability examination at no cost to the veteran?

VA Response: VA appreciates Congress' intent; however, VA does not believe legislation to expand the number of professionals available for completing medical disability examinations is necessary.

Congress has given VA the authority to use contracted vendors to complete medical disability Compensation and Pension (C&P) examinations for veterans and the capability to increase capacity as necessary to meet their needs. Additionally, the Veterans Benefits Administration (VBA) partners with the Veterans Health Administration (VHA) to complete these examinations, based on VHA capacity at the facility level.

In addition, many exam types and medical opinions require the clinician to review the entire electronic claims file to successfully complete the Disability Benefits Questionnaire (DBQ). For non-VA residents and fellows, this would require permission to access VA's internal systems. Also, clinicians who perform C&P examinations must complete specific mandatory certification and training prior to performing these examinations. VA would need to establish a technology solution to administer a certification and training program for medical residents or attending physicians providing oversight. Further, VA would need additional resources to provide training on the use of the DBQs and to establish a quality control program to monitor academic institutions and conduct quality reviews on completed examinations from participating residents and fellows. VA does not have an electronic system currently in place with the capability to facilitate the submission of examination requests to participants in the pilot program or to receive completed DBQs into VA's systems from the participants.

QUESTION 2: Does the VA see the benefits of engaging medical professionals early in their careers to support the veteran community and learn more about the VA?

VA Response: Most of the nearly 50,000 physician residents and fellows who rotate through the VA annually already benefit from the opportunity to train in VA and thus have substantial exposure to Veteran-specific health issues. Indeed, over 70% of US physicians report they had VA rotations. VA agrees that exposing medical professionals early in their careers to Veterans and Veteran-specific health issues has tremendous educational benefit for trainees and serves as an important step in the VA physician pipeline. However, we are concerned that the legislation's proposed program would require the following: (a) academic affiliate institutions to approve elective rotations in an already packed physician resident curricula with strict requirements on resident hours; and (b) the supervising faculty to become VBA contracted providers through the VBA contracted provider groups. Both of these are significant barriers, and option (b) is already available to faculty members whether this legislation is enacted or not.

QUESTION 3: Is the VA willing to work with our staff on this legislation so we can address the VA's concerns for the Pro Bono Corps Act?

VA Response: While we have significant concerns about the general structure of the bill regarding the use of medical residents to conduct disability examinations, VA would welcome the opportunity to discuss further.

Senator Marsha Blackburn

QUESTION 1: How does VBA measure the accuracy of each regional office's performance in processing disability compensation claims?

Question 1a: Is this performance metric part of the regional office's annual evaluation?

QUESTION 2: What disciplinary action can be taken if a regional office does not meet a performance metrics?

Question 2a: Can individuals be held accountable?

Question 2b: Is there a performance remediation plan?

VA Response to Questions 1 & 2: In the Government Accountability Office (GAO) Audit 19-15, Better Measures Needed to Assess Regional Office Performance in Processing Claims, GAO recommended that VBA should develop and implement a new regional office performance measure that allows it to better measure the accuracy of each regional office's work. GAO issued this recommendation in response to VBA's deployment of the National Work Queue, which resulted in 88% of claims being processed at more than one regional office, while issue-based accuracy scores continue to attribute any error to the regional office who rendered the decision on the claim regardless of which regional office committed the error.

To implement this recommendation, VBA has considered ways to structure regional office quality assessments based only on workload completed at each regional office. VBA determined that using employee quality assessments is the best way to evaluate the overall quality at a regional office. In fiscal year (FY) 2022, based on recommendations from an independent third-party reviewer (MITRE), VBA has deployed a metric based on the aggregation of all interim quality reviews (IQR) completed on regional office employees. The intent of this metric is to assess the overall regional office level quality throughout the claims process, and it is incorporated as a watch metric in the FY 2022 Regional Office Director Performance Plan. As this is the first year including this metric in the Director Performance Plan, it is included as a watch metric (consistent with past practice). At this time, no regional offices have been put on an improvement plan based on this metric. Additionally, this metric is not used to assess an individual claims processor's quality performance, which occurs under the employee performance plans.

Regional Office Directors are evaluated based on all elements of the Performance Plan. Each performance element provides a leadership area that the Regional Office Director is expected to address in the context of the regional office the Director oversees during the evaluation period. District Directors and the Office of Field Operations monitor performance metrics regularly.

QUESTION 3: The Veterans Appeals Improvement and Modernization Act of 2017 created a new decision review process for claims and appeals. Does VA assess the new appeals process compared to the legacy process?

Question 3a: Why or Why not?

VA Response: VA implemented the Appeals Modernization Act (AMA) on February 19, 2019, giving claimants more choice and control over the process of their benefits claims. VA decreased the number of pending legacy appeals despite receiving thousands of decision reviews and new appeals under AMA. VA is successfully reducing legacy appeals while also working AMA decision reviews to ensure claimants receive their decisions in a timely manner.

Because the current Legacy appeals program and new modernized program are fundamentally different, it is difficult to compare the programs. The AMA system was developed to fix the legacy system, which stakeholders agreed was broken. The Board and VBA have developed extensive workload forecasting, performance metrics and reporting capabilities including timeliness, accuracy, remand rates, and trust scores, which are made publicly available. VA is now looking at opportunities to assess the efficacy of the AMA process compared to the legacy appeals process.

VBA and the Board, along with GAO through the High-Risk List joint action plan, have begun to develop a framework that should provide insight from our partners representing Veterans in both systems. Using the Learning Agenda framework of the Evidence-Based Policymaking Act, VBA and the Board are collaborating to better understand and assess the impact of the new AMA process (supplemental claims, higher-level reviews, and AMA appeals) relative to the legacy appeals process. This effort has potential to utilize qualitative surveys, interviews with beneficiaries and third parties (VSOs, personal representatives, and stakeholders who worked on AMA legislation). Additionally, this effort will collect performance and Board data to understand trends and resultant program effectiveness. VBA and the Board are establishing a working group to develop a long term, holistic approach toward a new way to assess the efficacy of the AMA appeals process compared to the legacy appeals process.

VBA continuously monitors and manages the legacy appeals and AMA decision review workloads. The metrics tracked for assessing these two separate workloads include productivity, quality, and timeliness. The priority metric for the legacy appeals workload is its elimination; the priority metric for the AMA workload is the completion of AMA claims in under 125 days.

QUESTION 4: Does the VA track complete performance metrics for quality, productivity, and veterans' satisfaction for all VBA appeals options.

Question 4a: If no, why not?

VA Response: VBA tracks complete performance metrics for quality, productivity, and Veterans' satisfaction for both the AMA appeals and legacy appeals workloads. Specifically, for quality and productivity, these metrics are tracked and managed at a station-level and program level. VBA tracks quality performance metrics to assess decision accuracy and compliance with statutory, regulatory and manual guidance. The data collected from national quality reviews helps VBA identify and address areas of improvement. VBA tracks productivity to ensure the agency is utilizing its allocated resources in the most efficient manner possible in the timely delivery of decision reviews and legacy appeals. Regarding Veterans' satisfaction, VBA administers an email survey (VSignals) to Veterans who filed a claim in the modernized appeals system. Survey feedback is analyzed for impact of its two decision review processes, the higher-level review and supplemental claim. The five chief categories tracked in the survey are satisfaction, ease/simplicity, efficiency/speed, equity/transparency, and helpfulness/employee interaction.

Please note, VBA does not track quality, productivity or Veterans' satisfaction for work completed by the Board of Veterans' Appeals (Board), as VBA does not have jurisdiction over the Board's workload or operations.

Senator Kevin Cramer

QUESTION 1: Ms. Ogilvie, you mention in your testimony that the VA published a Notice of Request for Information (RFI) in the Federal Register this past summer. You go on to say that the majority of these responses were supportive of expanding eligibility for burial benefits to these groups. I am wondering if you can add some more color to these responses of support?

VA Response: VA's Notice of Request for Information regarding eligibility considerations for the Veterans Cemetery Grants Program (VCGP) was posted in the Federal Register on July 30 with public comment period through August 30. For reference, NCA's summary of comments received is attached. The Notice and full text of all comments submitted are publicly available for anyone to access on the Federal Register and Regulations.gov websites. Specifically, the notice can be found at this link: RFI Notice. All comments submitted in response to the RFI are publicly available, specifically at this link: RFI Comments Received.

In total, 66 public comments were submitted during the comment period. VA received 25 responses from state government officials (some were duplicates), one from a local government official, two from Veterans Service Organizations, and 38 from the general public with seven submitted anonymously.

Key themes and messages from those responses were as follows:

- Most responses were supportive of providing burial benefits for any individual who served in uniform.
- Many comments recommended that eligibility for National Guard and Reserve members should include minimal time and character of service.
- State Veterans Affairs commenters mentioned the financial impact of expanding burial eligibility, such as costs associated with burial plots, headstones or markers; cemetery maintenance; and need for additional cemetery staff.
- Some comments recommended VA cover costs for expanding burial eligibility at state cemeteries. Some commented that without Federal funding they would not be able to support this.
- Other comments recommended states be allowed to charge the families for costs of the burial.
- Many identified the need to change current law and regulations to support these changes, to include ensuring VA funded cemeteries would not be penalized from future VCGP if they inter non-Veteran members of the National Guard and Reserves.
- One comment noted that non-Veteran members of the Reserve Components are not eligible for military honors.
- States were also concerned with challenges they may experience in determining eligibility, as Reserve Component service records are decentralized and often incomplete.

- States wanted assurances the VCGP will be able to support an increase in grant applications for expansions and improvement grants.

QUESTION 2: You do mention in your testimony that this legislation would create an inconsistency between VA national and VA-grant funded cemeteries, and would also create inconsistencies across states as currently state laws vary regarding burial eligibility in State Veterans' cemeteries. Do these inconsistencies not already exist, as this is a state by state issue?

VA Response: Eligibility for burial of Guards or Reservists in a VA national cemetery requires active-duty service (for purposes other than training, subject to certain exceptions), or entitlement to retirement pay at the time of death. The bill would create an inconsistency between VA national cemeteries and VA-grant funded cemeteries by allowing for the burial of Guards and Reservists in VA-grant funded cemeteries regardless of whether an individual served on active duty. In addition, the bill may create an inconsistency among the states as some would choose to authorize interment for such individuals, while others may not; minimal time in service and character of service requirements for Guards and Reservists may also differ among the states.

QUESTION 3: Further, you state that "there would still remain a discrepancy between interments of Guard/Reserve members versus their spouses/dependents". Currently, 2303(b) allows interment of former Guard/Reserve members discharged under conditions "other than dishonorable." Would it help to change the language in this bill to "other than dishonorable" as opposed to the current language "terminated under honorable conditions"? What sort of discrepancy would this cause as it currently is written?

VA Response: Yes, as noted in technical assistance VA provided in October, current 38 U.S.C. § 2303(b) allows a state Veterans' cemetery to receive a plot allowance for interment of an eligible Veteran if the cemetery (or section of the cemetery) inters former Guard/Reserve members discharged under conditions "other than dishonorable", but not their spouses/dependents. By contrast, the bill's proposed expansion to allow the cemetery to inter spouses/dependents only applies to spouses/dependents of Guard/Reserve members whose service "was terminated under honorable conditions". Thus, the spouses/dependents of those members who received a general discharge but not a discharge under honorable conditions would be excluded, even though such members themselves could be interred there with no detrimental effect on the cemetery's eligibility to receive plot allowances for Veterans. Changing the legislative language in section 2(c) of the proposed bill to "other than dishonorable" would address this discrepancy.

Statements for the Record

Statement for the Record in Support of S.3047, Veterans *Pro Bono* Corps Act
Sen. Rob Portman (R-OH)
SVAC Legislative Hearing November 17, 2021

Chairman Tester, Ranking Member Moran: Thank you for considering S.3047, the Veterans *Pro Bono* Corps Act, during today's hearing. I am proud to co-sponsor this bill with my colleague from Arizona and Member of this Committee, Senator Kyrsten Sinema. This bipartisan bill will establish a five-year pilot program authorizing the U.S. Department of Veterans Affairs (VA) to award grants to medical residency and fellowship programs to provide independent, *pro bono* medical examinations and opinions for eligible low-income veterans who are pursuing VA disability compensation claims. This program will provide participating veterans, including those in rural and underserved areas, with another option for obtaining high-quality medical evidence to substantiate their claims. We owe our veterans a debt of gratitude for their service to our nation, and this legislation will aid participating veterans' ability to obtain the benefits they have earned.

STATEMENT OF

TOM WIKE, U.S. MARINE CORPS VETERAN

BEFORE THE

UNITED STATES SENATE COMMITTEE
ON VETERANS' AFFAIRS

WITH RESPECT TO

"**The Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act**"

Washington, D.C. November 17, 2021

Chairman Tester, Ranking Member Moran, and members of the committee I would like to raise the issue of veteran suicide prevention.

To give the committee some context, the bill is named in honor of Daniel J. Harvey Jr. of Johnston, Rhode Island, and Adam Lambert of Adel, Iowa. I had the privilege of serving with them both in the U.S. Marine Corps while on a deployment to Afghanistan in 2012. After leaving the military, Daniel J. Harvey Jr. completed suicide on June 21, 2015, and Adam Lambert followed shortly after on July 5, 2015.

I also had a difficult transition from military to civilian life. I used those experiences and conversations with other veterans to begin work on this legislation in 2018 while pursuing a bachelor's degree in social work. It takes 3 months of training for a civilian to become a Marine, but the service member is expected to return to a normal civilian life after a minimum of 5 days of training. I believe, that at the time if the Department of Defense (DOD) had a more robust Transition Assistance Program (TAP) to properly prepare service members for civilian life, then Harvey and Lambert might still be alive today.

As of October 1, 2019, DOD has implemented new guidelines for TAP. The current curriculum for TAP covers counseling on building resiliency by managing your own transition, translating military skills, financial plan, Department of Veterans Affairs (VA) Benefits and Services brief, Department of Labor (DOL) brief, and access to optional 2-day courses. However, additional action is needed to combat the veteran suicide epidemic as the updates do not go far enough.

If passed, the bill would require a five-year pilot program to be conducted at 10 Transition Assistance Centers. The pilot program would consist of an interactive informational 3-hour course taught by a social worker or behavioral health professional covering trauma, grief, and shame a service member might have encountered before, during, or after their service. This would allow service members to have access to a social worker or behavioral health professional to provide them with the coping skills they will need for their transition and to answer any

questions they might have. The data collected from the program could also be used to further enhance existing DOD and VA suicide prevention programs.

The bill would also require the VA to contact a veteran within 90 days of their discharge to schedule a follow-up appointment with a social worker or behavioral health professional. This takes a proactive approach to encourage a recently discharged veteran to interact with the VA, as they might be dealing with issues that could cause them to attempt and/or complete suicide.

This bill is the first step toward properly transitioning our nation's veterans after their service. By providing them with valuable knowledge and a healthy support system to navigate their transition, they will be more likely to succeed in their post-military lives.

Alex Lintner
Group President, Consumer Information Services

475 Anton Blvd
Costa Mesa, CA 92626

November 16, 2021

The Honorable Jon Tester
Chair
Committee on Veterans' Affairs
United States Senate
311 Hart Senate Office Building
Washington, DC 20510

The Honorable Jerry Moran
Ranking Member
Committee on Veterans' Affairs
United States Senate
521 Dirksen Senate Office Building
Washington, DC 20510

Dear Chairman Tester and Ranking Member Moran:

I write in support of the Building Credit Access for Veterans Act of 2021 (S. 1838) by Senators Tim Scott and Richard Blumenthal and urge the Senate Committee on Veterans' Affairs to pass this legislation.

The Building Credit Access for Veterans Act would require the U.S. Department of Veterans' Affairs to establish a pilot program to assess the use of alternative sources of credit information for the automated underwriting for the VA Home Loan Guarantee Program. New sources of accurate, comprehensive, and timely data can create meaningful change and provide access to credit for more consumers than before. This information can identify consumers who can fulfill their financial obligations and pay responsibly. The legislation could provide an opportunity to expand the number of servicemembers and veterans who could obtain a mortgage under the VA Home Loan Guarantee Program.

Experian supports this legislation because it helps bring new sources of accurate and predictive data to mortgage lending for those who are serving or have served. It is my hope that the committee will pass this legislation.

Respectfully,

Alex Lintner

cc: Senator Tim Scott, Senator Richard Blumenthal

NAFCU
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Arlington, VA 22201-2149
703.522.4770 | 800.336.4644
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National Association of Federally-Insured Credit Unions

November 16, 2021

The Honorable Jon Tester
Chairman
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

The Honorable Jerry Moran
Ranking Member
Committee on Veterans' Affairs
United States Senate
Washington, DC 20510

RE: Tomorrow's Hearing and S. 1838, the Building Credit Access for Veterans Act of 2021

Dear Chairman Tester and Ranking Member Moran:

I am writing on behalf of the National Association of Federally-Insured Credit Unions (NAFCU) in conjunction with tomorrow's hearing to express our support for S. 1838, the *Building Credit Access for Veterans Act of 2021*. As you are aware, NAFCU advocates for all federally-insured not-for-profit credit unions that, in turn, serve over 127 million consumers with personal and small business financial service products. NAFCU's members, particularly defense credit unions, take special pride in serving veterans, and this measure will help increase economic opportunity and make the financial system more inclusive.

The credit reporting system is an essential tool for all financial institutions, including credit unions, to make responsible loans to consumers while ensuring the financial system's safety and soundness. NAFCU is supportive of innovation in the marketplace that maintains an inclusive, safe, and strong financial ecosystem. NAFCU and its member credit unions have long advocated for the use of alternative credit scoring models that accurately identify creditworthy borrowers who would be excluded by traditional credit reporting. Using more and better information to improve credit scoring for loans guaranteed by the Department of Veterans Affairs will also strengthen credit unions' unique relationships with their members and increase veterans' access to affordable financial products and services, including home mortgages. NAFCU is supportive of S. 1838, bi-partisan legislation from Senators Tim Scott and Richard Blumenthal that will take important steps to improve access to the financial system for our nation's veterans.

We thank you for the opportunity to share our thoughts on the importance of improving access to credit for our nation's veterans. Should you have any questions or require any additional information, please contact me or Clark Derrington, NAFCU's Legislative and Regulatory Assistant, at 703-842-2219 or cderrington@nafcu.org.

Sincerely,

Brad Thaler

Brad Thaler
Vice President of Legislative Affairs

cc: Members of the Senate Committee on Veterans' Affairs

ROCKY BOY
VETERANS CENTER

46 Veterans Park Road
Box Elder, MT 59521

(406) 395-5610
Fax: (406) 395-5621

November 22, 2021

Office of Senator Jon Tester
311 Hart Senate Office Building
Washington, DC 20510-2604

RE: Statement for Record

Senator Tester;

This letter supports the Rural Exams Act of 2021 and is the Rocky Boy Veterans Center's Statement for Record.

The need for quality and timely services for rural Montana Veterans, especially American Indian Veterans, is high. The Rocky Boy Veterans Center supports the Rural Exams Act of 2021. By improving data collection by VA and requiring the Department to report annually on how it intends to improve rural access to exams, this legislation will improve the care rural Veterans receive. The Rocky Boy Veterans Center is honored to support you and Senator Moran in your efforts to improve the care for our Veterans.

Thank you for your commitment to Montana and our Veterans.

Sincerely,

Chauncey L. Parker
Executive Director
Rocky Boy Veterans Center

Credit Union National Association
CUNA

Jim Nussle
President & CEO

Phone: 202-508-6745
jnussle@cuna.coop

99 M Street SE
Suite 300
Washington, DC 20003-3799

November 16, 2021

The Honorable Tim Scott
United States Senate
Washington, DC 20510

The Honorable Richard Blumenthal
United States Senate
Washington, DC 20510

Dear Senators Scott and Blumenthal,

On behalf of America's credit unions, I am writing in support of S. 1838, the Building Credit Access for Veterans Act. CUNA represents America's credit unions and their more than 120 million members.

Credit unions have a proud tradition of serving America's servicemembers and veterans. Some of the oldest credit unions in the country were founded to serve members of the military and continue to serve servicemembers and veterans.

This bill would direct the Secretary of Veterans Affairs to create a pilot program that would assess the viability of using alternative credit scoring information. Some of the alternative information could be proof of insurance, utilities, or rent histories.

Credit unions are member-owned cooperatives that exist to look out for the financial well-being of their members. This legislation could potentially help more veterans achieve their goals of homeownership.

On behalf of America's credit unions and their more than 120 million members, thank you for your leadership on this important issue. We look forward to continuing to work with you as your bill advances.

Sincerely,

Jim Nussle
President & CEO

November 17, 2021

The Hon. Jon Tester
Chairman
Committee on Veterans' Affairs
United States Senate

The Hon. Jerry Moran
Ranking Member
Committee on Veterans' Affairs
United States Senate

Dear Chairman Tester and Ranking Member Moran,

On behalf of the National Association of Counties (NACo), the only organization representing the nation's 3,069 counties, parishes, and boroughs, I write to thank you for holding a legislative hearing to consider the *Commitment to Veteran Support and Outreach (CVSO) Act* (S. 2405). Counties support this legislation, which would meaningfully increase our ability to support veterans as they navigate the cumbersome bureaucracy of the U.S. Department of Veterans Affairs (VA) benefits process.

In 29 states, County Veteran Service Officers (CVSOs) play a key role in helping veterans access a range of service-connected federal benefits, including but not limited to disability compensation, employment assistance, education eligibility and benefits, VA health care eligibility and assistance, mental health resources, financial support, housing resources, caregiver and family support, and death and burial benefits. CVSOs are the local, community-based resource for veterans of all generations who have served the nation. They are often the first and most frequent point contact for veterans, family members and caregivers as they navigate the complex intergovernmental chain of veterans services and resources.

It is difficult to overstate the impact that CVSOs have in helping veterans thrive. This relatively small workforce is responsible for successfully processing nearly $86 billion in direct compensation, pension, health care and other benefits for veterans. New qualitative research from the Center for a New American Security finds that disability compensation claims submitted by CVSOs are increasing in number and have a higher rate of success than those submitted by state-level and nonprofit Veteran Service Officers.

Ensuring counties can meet demand for CVSOs is especially in light of the twentieth anniversary of September 11, 2001. We anticipate that as active duty service members who joined the armed forces in the wake of the terrorist attacks become eligible for retirement, counties across the nation will see our veteran populations grow and CVSO caseloads increase by large volumes. We also know that our federal partners are in the process of negotiating legislation to address toxic exposure among veterans in a comprehensive manner. Should these efforts lead to new presumption of service connections for various health conditions, CVSOs will likely see increased workloads associated with helping veterans access their new health and disability benefits.

Research also suggests that veterans treated at the VA are significantly less likely to complete the act of suicide than veterans outside the system. Nearly half of post 9/11 service members utilize VA health

services for a myriad of combat-related issues, including Post Traumatic Stress Disorder (PTSD), Traumatic Brain Injury (TBI), depression and anxiety. CVSOs play an essential role in connecting veterans with these benefits and therefore represent an important component of local suicide prevention efforts.

While CVSOs are highly effective, these officers are currently funded almost entirely by counties, which creates challenges for areas with high demand or counties that serve veterans in rural areas. Local resource constraints can significantly hinder the ability of county governments to expand our CVSOs staff and services to sufficiently meet rising caseloads, resulting in long waiting lists that compound ongoing backlog issues at the VA. The CVSO Act would provide critical federal resources to help us meet our growing caseloads by awarding competitive grants worth $250 million over five years for states to create, expand, or support CVSOs or similar local entities, prioritizing areas with high rates of veteran suicide, Veteran Crisis Line referrals, or CVSO shortages.

NACo urges Congress to pass the CVSO Act immediately to ensure county governments can properly serve the former service men and women living in our communities. We thank you for your ongoing, bipartisan commitment to our nation's veterans and for your attention to this legislation. We stand ready to work with you to ensure its immediate passage.

Sincerely,

Matthew Chase,
Executive Director

NATIONAL ASSOCIATION OF

COUNTY VETERAN SERVICE OFFICERS

Senate Committee on Veterans' Affairs

Statement for the Record on Senate "Veterans Benefits Improvement Act of 2021"

November 16, 2021

Chairman Tester, Ranking Member Jerry Moran, and members of the Senate Committee on Veterans Affairs, on behalf of the National Association of County Veterans Service Officers (NACVSO) and our 1,766 members from local governmental offices from across the Nation, thank you for the opportunity to provide a statement regarding "Veterans Benefits Improvement Act of 2021."

NACVSO supports Title III section 301, "A pilot program on accreditation of governmental veterans service officers by Department of Veterans Affairs." Our support for the pilot program aligns with our organizational mission, which is to aggressively pursue all benefits for veterans and eligible family members. For thirty years, NACVSO has trained, accredited, and provided ongoing professional support to veteran service officers from local, county, municipal, state and Tribal entities. NACVSO currently trains multiple Tribal Nations and is actively looking to expand the number of Tribal Nations it supports.

No matter where a VSO is trained or accredited, they become crucial partners in the mission to support veterans and their families on the front lines. Government Veteran Service Officers (GVSOs), in particular, help fill a lot of gaps, and they deserve an opportunity for ongoing support and engagement from the VA. The frontline advocacy being performed by GVSOs requires ever-evolving adaptation, continual resources, and education. NACVSO sees the language in Title III section 301 as a step in the right direction. There has been a long-standing relationship between GVSOs and

congressionally chartered Veterans Service Organizations through cross-accreditation to represent our shared constituents and Title III section 301 would not remove the need for a VA recognized POA for benefit applications.

Furthermore, NACVSO applauds the decision to expand GVSO access to VA systems. The ability to view veteran data in VA systems would give GVSOs access to the very basic information they need to expeditiously support veterans in their local communities who need support. Having immediate access to the Veteran's status in particular would remove administrative delays when working with some of our most vulnerable veterans. For example, it would allow faster connections and referrals for VA Healthcare and homeless Veteran services, reduce last minute and unnecessary POA changes at the Board of Veteran Appeals, and appropriate services and referrals to combat suicide. In all, "read-only" access will improve the Veteran customer experience and potentially save lives.

Chairman Tester, Ranking Member Jerry Moran, and members of the Senate Committee on Veterans Affairs, we appreciate both the opportunity to submit a statement for the record regarding this matter, as well as your ongoing innovation to improve service quality and coverage for veterans.

Respectfully,

Nichole R. Coleman
NACVSO President

Michael L. McLaughlin
NACVSO Legislative Chair

STATEMENT FOR THE RECORD

PARALYZED VETERANS OF AMERICA

FOR THE

SENATE COMMITTEE ON VETERANS' AFFAIRS

ON PENDING LEGISLATION

NOVEMBER 17, 2021

Chairman Tester, Ranking Member Moran, and members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to submit our views on pending legislation impacting the Department of Veterans Affairs (VA) that is before the Committee. No group of veterans understand the full scope of benefits and care provided by VA better than PVA members—veterans who have incurred a spinal cord injury or disorder (SCI/D). PVA provides comment on the following bills included in today's hearing.

S. 1243, the Improving VA Accountability to Prevent Sexual Harassment and Discrimination Act of 2021

PVA supports efforts to create a healthy company culture and safe environment for VA employees and veterans alike. The Improving VA Accountability to Prevent Sexual Harassment and Discrimination Act of 2021 realigns authorities and organizational structure, creates reporting timelines, and adds measures to mandate training for new employees to improve VA's EEO programs. This move toward greater accountability would help ensure VA employees are treated with dignity and respect.

S. 1564, the Veterans Legal Support Act of 2021

PVA supports the intent behind this measure which would allow VA to provide financial support—totaling up to $1 million in grants per fiscal year—to law school clinical programs that provide pro bono legal services to veterans, including assistance with disability claims and foreclosures. Language in the bill states funding for the grants would be derived from amounts appropriated or otherwise made available to the General Operating Expenses account of the Veterans Benefits Administration (VBA). PVA strongly believes VBA's current funding levels are badly needed to cover its present operating expenses; so, if enacted, this grant program should receive its own designated funding.

S. 1607, the Student Veterans Transparency and Protection Act of 2021

PVA supports this measure which would fix data-sharing between VA and the Department of Education so that VA has more data available for students to use on the GI Bill Comparison Tool. It would also allow VA to reinstate education benefits to students at schools subject to law enforcement actions. This pair of commonsense reforms would give student veterans more access to information to make better decisions about their higher education choices and ensure they are provided relief when adversely impacted by bad-actor schools.

S. 1664, the Department of Veterans Affairs Post-Traumatic Stress Disorder Processing Claims Improvement Act of 2021
In December 2020, the VA Office of Inspector General (OIG)[1] found that VA claims processors inaccurately processed about 18,300 of 118,000 PTSD claims completed in fiscal year 2019. These errors resulted in VA underpaying some veterans and overpaying others, adding up to more than $90 million in improper payments. PVA supports this legislation which requires VBA to update its national training program for claims processors who review PTSD disability benefit claims and establish a formal process that identifies future training needs based on annual error trends.

S. 1838, the Building Credit Access for Veterans Act of 2021
The VA Home Loan Guaranty Program is one of the most valuable non-cash benefits that military service members earn through their service to our nation. PVA supports the Building Credit Access for Veterans Act which would streamline and formalize the program's alternative methods of credit scoring for veterans, opening doors to financial options, including mortgages. It also requires a report on how many veterans participate in the program and how they are being affected which would better inform VA and Congress on how this important benefit is being utilized.

S. 1881, the Veteran Education Empowerment Act
PVA supports this bill which updates and extends a Department of Education grant program for student veteran centers through fiscal year 2029. These centers are extremely important because they provide a one-stop-shop for student veterans to find academic support, networking opportunities, peer mentorship, financial assistance, and career services.

S. 1936, the GI Bill National Emergency Extended Deadline Act of 2021
Current laws that grant VA additional flexibility to ensure that veterans' education benefits are not disrupted because of COVID-19 are set to expire on December 21, 2021. PVA supports efforts to prolong these special provisions and we encourage Congress to quickly reach agreement and pass an extension. Right now, student veterans are having to make decisions about their housing arrangements for the spring semester and uncertainty about the rate of their housing allowance could cause some of them to limit their education goals or abandon them altogether.

S. 2089, the Burial Equity for Guards and Reserves Act of 2021
Members of the National Guard and Reserve are a valuable asset to the safety and security of the United States of America. PVA supports this bill which would make all members of the Reserve Components and certain family members eligible for burial in state veterans cemeteries so long as their service ended under honorable conditions.

[1] Posttraumatic Stress Disorder Claims Processing Training and Guidance Need Improvement | Oversight.gov

S. 2329, the BEST for Vets Act of 2021
Medical examinations for complex, service-related medical conditions like SCI/D, traumatic brain injury, and military sexual trauma should be conducted by a medical practitioner working directly for the Veterans Health Administration (VHA). However, PVA supports this legislation which would require VA to ensure contracted health care providers who perform VA compensation and pension examinations for other conditions are qualified to conduct them.

S. 2405, the Commitment to Veteran Support and Outreach Act
In general, PVA supports legislation that improves outreach to veterans about the VA benefits and services to which they are entitled. This particular bill seeks to allow VA to award grants to states for outreach activities, efforts to assist veterans in the development and submittal of VA claims, or to hire additional county or tribal veterans service officers. Traditionally, county and state veterans' outreach is very inconsistent; so, many programs could be strengthened through this new grant program. Some states, however, do not use them at all. While we appreciate efforts to address shortages of accredited service officers, we believe the language in this bill should be clarified to ensure all states are eligible to participate and specify that the goal of this program is to increase the number of trained and certified people to assist veterans seeking VA benefits and services.

S. 2513, the Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021
VA's clothing allowance is designed to replenish clothing worn or destroyed by the continued use of prosthetic or orthopedic devices or because of necessary skin medications. This affects many PVA members and veterans we represent, and these payments are important to help offset the cost of replacing clothing damaged by the prolonged use of wheelchairs, braces, and crutches.

PVA feels the program's present administration places an unnecessary burden on the veteran, as well as VA who must process each of these claims. Veterans should not be forced to go through this process when their eligibility is affirmed, and their service-connected condition is permanent. If the process were automatic, veterans would not be under any pressure to get their application in by August 1 each year. Also, under current rules, applications require the personal signature of the veteran; so, the application must be brought to their local VA or mailed in. This created a major problem last year when the COVID pandemic was raging, forcing VA to relax its own rules to ensure veterans were not unfairly denied their benefits. In addition, forcing veterans to go through the annual exercise of applying for this benefit creates a tremendous administrative burden on VA employees and the time they use to perform this task might be better spent on other critical tasks.

PVA strongly supports the Brian Neuman Department of Veterans Affairs Clothing Allowance Improvement Act of 2021, which would make the application process automatically renew each year. It makes common sense changes to a program that exists to benefit veterans with disabilities and reduces the administrative burden for VA which should produce some cost savings for the department.

S. 2761, the Every Veteran Counts Act of 2021
PVA supports the Every Veteran Counts Act which would require VA to conduct and publish a comprehensive survey of veterans every 10 years that contains information about veterans' demographic characteristics, including gender, employment, housing, and access to broadband. Another provision directs VA to look at service-connected exposures like hazardous substances or military sexual trauma and examine veterans' use of services such as VA health care and disability compensation. Veterans service organizations and various VA advisory committees would help VA prepare the survey to ensure its methodology is sound. The information garnered from the survey would help ensure our nation's leaders are better informed about the needs of veterans and the delivery of VA benefits,

S. 2794, the Supporting Families of the Fallen Act
The rising costs of living have eroded the value of Servicemembers' Group Life Insurance (SGLI) and Veterans' Group Life Insurance (VGLI) whose rates have stagnated at $400,000 for 16 years now. PVA supports the Supporting Families of the Fallen Act which would raise SGLI/VGLI's automatic maximum coverage from $400,000 to $500,000 to reflect inflation levels, giving military and veteran families across the country peace of mind.

S. 3047, the Veterans Pro Bono Corps Act of 2021
PVA support efforts to increase veterans' ability to obtain medical opinions to support their VA disability claims. The Veterans Pro Bono Corps Act would establish a 5-year pilot program authorizing VA to award grants to medical residency and fellowship programs to provide pro bono, independent medical examinations, and medical opinions to help low-income veterans substantiate VA disability benefits claims. We support this bill because we believe it has the potential to assist our veterans through the claims process. We are concerned, however, that VA may not assign proper weight to these opinions if they are not based on a review of the veteran's claims folder and service medical records. To ensure this does not happen, we recommend language be added explaining how the pro bono provider would gain access to these documents.

S. 3094, the Reaching Every Homeless Veteran Act of 2021
The Department of Labor, Veterans' Employment and Training Service's Homeless Veterans' Reintegration Program (HVRP) is the only federal grant focused exclusively on competitive employment for homeless veterans. Even though HVRP is a federal program, it is not available throughout the country because states like Kansas, Alaska, Utah, Vermont, and West Virginia do not have organizations to receive grants in the current fiscal year. PVA supports the Reaching Every Homeless Veteran Act of 2021, which seeks to expand the reach of the HVRP to areas of the country not currently being served.

S. 3163, the RURAL Exams Act of 2021
As stated previously, PVA believes strongly that medical examinations for complex, service-related medical conditions like SCI/D, traumatic brain injury, and military sexual trauma should be conducted by a medical practitioner working directly for VHA. However, when it comes to veterans in rural areas who are seriously disabled or housebound, it can be very difficult to travel for hours for compensation and pension (C&P) exams.

The use of performance-based incentives authorized by this bill would encourage contractors to offer these veterans better exams and performance-based disincentives when they do not. We support the bill's requirement for VA to affirmatively inspect such contractor locations to ensure all exams are conducted in a safe, clean, and most importantly, accessible environment. There have been instances where our members were sent to a private contractor for a C&P exam only to find out the facility was not able to accommodate a veteran with an SCI/D. Another positive feature of this bill is a requirement for VA to publish medical disability examination performance data in a way all veterans can understand. Having access to this information would allow us to gain a better understanding of the quality of VA and contract exams in all parts of the country.

Discussion draft, the Veterans Benefits Improvement Act of 2021
Section one of this discussion draft would create an attorney internship program and an honors program at the Board of Veterans' Appeals (Board). We recognize the potential of this effort and believe the loan repayment option will help attract a higher caliber of recent law school graduates into the service of veterans. Another provision in this section seeks to establish a pilot program to reimburse claimants for travel to tele-hearings before the Board. Current VA statutes do not allow for reimbursement to claimants for travel to any requested hearings before the Board. This pilot would provide reimbursement only for those traveling from home to the location the video/virtual hearing is being held, if the Secretary determines that travel to such location was reasonably necessary. We have no objections to this test pilot, but wonder how many veterans would benefit from it or if it is worthwhile to stand up a program such as this if few would benefit. The Board has a lot of issues with hearing attendance, but many of them are self-inflicted, such as failing to provide veterans and their representatives timely notice when hearings are scheduled. This pilot would not solve those problems.

Section two addresses VBA medical examinations which are a critical part of the process for veterans and separating service members seeking VA benefits for service-connected health issues. Under current law, veterans traveling to a VA facility or a facility of a VA contracted examiner for a VA compensation and pension examination are eligible for reimbursement. This draft proposal would authorize travel reimbursement for those veterans residing outside of the United States and traveling to these examinations in foreign locations. We also appreciate the provision directing VA contract examiners to recognize the veterans' accredited representative and include them in all communications to the veteran. A slight adjustment to the language should be made here to ensure that these notices are provided contemporaneously to the veteran and their representative.

The final section creates a pilot program to assess the feasibility and advisability of accrediting governmental veterans service officers and providing access to VBA's electronic Veterans Benefits Management System (VBMS). Accreditation with VA is a serious process and there are many responsibilities that come along with it for the individual being accredited and the organization certifying accreditation. There are things a person or organization cannot do or must do because they are accredited. Also, training is extremely important. We spend a tremendous amount of time training our service officers; so, we would be extremely interested in knowing how VA could ensure what may likely be thousands of governmental veteran service officers have the same level of training, expertise, etc.

Another provision in this section would allow veterans and claimants to receive notices of VA decisions electronically or to opt out of the electronic notifications and receive all such notices via mail. PVA has always been a proponent of electronic notifications provided the means used is reliable, the notice is contemporaneously provided to the veterans representative, and the veteran has to agree to receive as not all of our clients have access to email. We recommend the proposed language in section 302(a), be revised to read, "The term 'notice' means a communication delivered through a method determined appropriate by the Secretary, and which the claimant is capable of receiving." The proposed language in 302(c) should be reworded as well so the choice is not limited to the time when the application is being filed. Veterans often change their representatives and they could change their minds about electronic receipt, too. Finally, we trust Congress will ensure VA has the proper IT infrastructure to handle this new requirement and provide the necessary resources to procure it if they do not.

PVA would once again like to thank the Committee for the opportunity to submit our views on some of the legislation being considered today. We look forward to working with the Committee on this legislation and would be happy to take any questions for the record.

STATEMENT OF

STUDENT VETERANS OF AMERICA

BEFORE THE

COMMITTEE ON VETERANS' AFFAIRS

U.S. SENATE

HEARING ON THE TOPIC OF:

"PENDING LEGISLATION"

NOVEMBER 17, 2021

1012 14th Street NW, Suite 1200
Washington, DC 20005

Phone: (202) 223-4710
Email: contact@studentveterans.org

studentveterans.org

SVA

Chairman Tester, Ranking Member Moran, and Members of the Committee: Thank you for inviting Student Veterans of America (SVA) to submit a statement on pending legislation.

With a mission focused on empowering student veterans, SVA is committed to providing an educational experience that goes beyond the classroom. Through a dedicated network of more than 1,500 on-campus chapters in all 50 states and three countries overseas representing more than 750,000 student veterans, SVA aims to inspire yesterday's warriors by connecting student veterans with a community of like-minded chapter leaders. Every day these passionate leaders work to provide the necessary resources, network support, and advocacy to ensure student veterans can effectively connect, expand their skills, and ultimately achieve their greatest potential.

Extend pandemic protections, implement technical corrections to recent legislation, and restore Rounding Out

We are pleased to see and offer our input on several bills before the committee today that address veterans' education issues. While we appreciate the Committee considering these important bills, there are much more urgent matters impacting veterans' education benefits that require this Committee's immediate attention.

For several months, SVA has been calling on Congress to extend emergency pandemic protections for VA education benefits and to craft a legislative fix for VA's watered-down Rounding Out rule.[1] Despite knowing of the urgent need to address these issues, Congress has failed to address these matters in a timely fashion. Ongoing delay in the House has likely delayed a vote on legislation addressing these concerns until sometime after Thanksgiving, bringing Congress perilously close to the date current pandemic protections will expire. These unnecessary and completely avoidable delays are negatively impacting student veterans across the country at a time when they need certainty in their benefits to register for their next term.

Last year, SVA led the push to establish emergency protections for student veterans, service members, their families, and survivors who were at risk of being harmed by abrupt education changes caused by the pandemic. Thanks to Congress, especially those on this Committee, a host of protections were rapidly passed into law to protect millions of students from nightmare scenarios that would have negatively impacted their education benefits.[2] Those protections are set to expire in December.

Thousands of student veterans remain in online courses due to COVID-19. We have heard numerous first-hand

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[1] STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE H. AND S. COMMS. ON VETERANS' AFFAIRS ON LEGISLATIVE PRIORITIES OF 2021, 117TH CONG. 10 (March 3, 2021), *available at* https://studentveterans.org/wp-content/uploads/2021/03/SVAC_HVAC_SVATestimony_March2021.pdf (calling on this Committee to "[f]ormalize the Department of Veterans Affairs 'rounding out' practice."); STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE SUBCOMM. ON ECONOMIC OPPORTUNITY OF THE H. COMM. ON VETERANS' AFFAIRS, 117th Cong. 2-4 (April 14, 2021), *available at* https://studentveterans.org/wp-content/uploads/2021/04/HVAC-Pending-Legislation-April-14-2021.pdf (encouraging the committee to "take swift action on…draft legislation to ensure adequate protections are in place before VA phases out its informal Round-Out Rule in August."); STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE SUBCOMM. ON ECONOMIC OPPORTUNITY OF THE H. COMM. ON VETERANS AFFAIRS ON PENDING LEGISLATION, 117th Cong. 3 (Sept. 21, 2021), *available at* https://studentveterans.org/wp-content/uploads/2021/09/HVAC_Leg-Hearing_Sept.-21_Final.pdf (asking that the House Committee on Veterans Affairs' Subcommittee on Economic Opportunity "consider extending the existing [pandemic] protections in the immediate future so students and schools can adequately prepare for the upcoming terms and semesters while work on more permanent solutions continues."); Letter from 11 organizations to Sens. Tester and Moran (Sept. 10 2021) (imploring the Senate Committee on Veterans' Affairs to "act on [rounding out] now.") (on file with author); STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE S. COMM. ON VETERANS' AFFAIRS ON "SUCCESS AFTER SERVICE: IMPROVING VETERANS' EMPLOYMENT, EDUCATION, AND HOME LOAN OPPORTUNITIES," 117th Cong. 2-3 (Oct. 27, 2021) (calling on this committee to act on Rounding Out and to extend current student veteran pandemic protections).

[2] Leo Shane III, *Lawmakers pass second emergency package to protect student veterans from coronavirus losses*, MILITARY TIMES (April 21, 2020), https://www.militarytimes.com/education-transition/2020/04/21/lawmakers-pass-second-emergency-package-to-protect-student-veterans-from-coronavirus-losses/.

accounts from schools and students about the need to extend current pandemic protections as online instruction continues due to COVID-19. Students, schools, and VA must have the ability to flexibly adapt to what is still a very dynamic situation.

SVA thanks this Committee and its staff for their hard work over the past year in ensuring student veterans and schools have what they need to succeed. The sheer amount of work involved cannot be overstated, and we are grateful for the Committee's tireless efforts. We ask that this Committee support the extension of current student veteran pandemic protections, necessary adjustments to refine the Isakson-Roe and THRIVE Acts, and the restoration of a robust Rounding Out practice at VA. Our recommendations are detailed below.

Extend temporary student veteran pandemic protections. We all hope that this is the beginning of the end of an awful two years, but hope is not certainty. Thousands of student veterans continue to take courses online due to COVID-19. Students are registering for the coming term as we speak, and many have been doing so for some time. Only the temporary protections provide the assurances they need to confidently craft their academic schedules while maintaining their full VA education benefits.

Restore "Rounding Out" at VA. After initially planning to scrap the practice, VA decided to preserve Rounding Out for students in their final academic term. However, VA narrowed the policy dramatically to comply with the underlying statute. As a result, we believe many student veterans are still at risk of losing a large portion of their Monthly Housing Allowance (MHA) in future terms. To avoid causing undue financial stress to student veterans about to graduate, we encourage this Committee to support a legislative fix for Rounding Out like those found in either H.R. 2878, Native VetSuccess at Tribal Colleges and Universities Pilot Program Act or H.R. 5509, the Student Veteran COVID-19 Protection Act of 2021.[3,4]

Revise recently passed incentive compensation laws to match the Department of Education's (ED) long-standing guidance. An unintended consequence of the recent bills, VA now requires a strict ban on all incentive compensation practices by schools in order to maintain eligibility for title 38 funds. However, ED allows the use of incentive compensation for certain activities, including the recruitment of international students. Since these students are valuable members of campus communities, and often pay full tuition and fees, they are an important addition to any school's student body and financial health. This tension between recently passed VA prohibitions on incentive compensation and ED guidance on the practice creates an untenable friction. It functionally presents schools with the following dilemma: If necessary, would you rather admit international students or student veterans? SVA does not believe any institution should have to make such a decision. We urge this Committee to ensure ED and VA guidance on this issue match.

Allow schools to utilize ED's College Financing Plan (CFP) in satisfying Isakson-Roe Sec. 1018 requirements. Section 1018 in Isakson-Roe compels schools to provide an extensive list of critical information to prospective students. In general, SVA supports these disclosures, and we are glad to see such information made widely available. However, due to the depth and breadth of the requirements, many schools, both foreign and domestic, have expressed concerns about being able to access and provide some of the required information. SVA would like to see schools provided with reasonable flexibility in disclosing such information, particularly in light of VA's concerning lack of guidance on what constitutes compliance with the new standards. We have heard VA and ED are working together to develop a more comprehensive CFP for schools, one we hope will allow institutions to easily satisfy all relevant statutory disclosure requirements.

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[3] Congress.gov, H.R. 2878 – Native VetSuccess at Tribal Colleges and Universities Pilot Program Act. <https://www.congress.gov/bill/117th-congress/house-bill/2878/text.

[4] Congress.gov, H.R. 5509 – The Student Veteran COVID-19 Protection Act of 2021. <https://www.congress.gov/bill/117th-congress/house-bill/5509/text>

Address foreign school privacy law concerns stemming from the Isakson-Roe and THRIVE Acts. SVA has heard from numerous international schools and student veterans that recent legislation, and its subsequent review by VA, have led to intractable compliance issues, leaving students unable to attend the school of their choice and schools no recourse but to withdraw from title 38. In particular, international schools have objected to the requirement that they provide non-VA student information to VA, at VA's behest, as the agency seeks to confirm that VA students are not being charged a different rate for tuition, fees, or licensure tests. According to the foreign schools that have contacted SVA, these requirements conflict with many countries' privacy and information disclosure laws. As a result, these schools are unable to comply, to the detriment of the students who would otherwise attend. We urge this Committee to address this issue immediately and prevent a large-scale withdrawal of students and disapproval of international institutions.

We implore the members of this Committee to work with their counterparts in the House to ensure that a bipartisan bill is crafted to address these crucial issues. As always, SVA stands ready to assist Congress in its efforts.

Permanently codify current emergency protection authority to ensure VA can protect student veterans during emergencies

In addition to extending current pandemic protections for student veterans, we call on this Committee to permanently codify the emergency authority necessary for VA to provide similar relief in the future.

For years, student veterans have encountered challenges with education benefits during times of unexpected hardship—most commonly due to natural disasters.[3] The pandemic exposed the true scale of these challenges and the numerous gaps in VA authority that prevent the agency from protecting students and their benefits in emergency situations. VA simply lacks the legal authority to administer benefits with the flexibility necessary to protect students in emergency circumstances.

Earlier this year, the House passed the *GI Bill NEED Act,* which would pause delimiting dates to ensure veterans' benefits do not expire if a school closes due to an emergency.[4] A related bill is now before this Committee. We appreciate the Committee's attention to this bill and support its passage. Yet, it is important to note that the protections included in this bill only represent a fraction of those passed last year and apply to an ever-shrinking portion of the overall student veteran population.

We urge Congress to codify the remaining emergency protections and flexibilities created over the last 18 months. The critical flexibilities this Committee labored to craft in the midst of the pandemic should be available without major acts of Congress in the future. This Committee has an opportunity to build on its incredible work last year by permanently codifying VA's authority to deliver emergency protections and flexibilities when future emergencies and disasters impact student veterans.

S. 1607, Student Veterans Transparency and Protection Act of 2021

SVA supports this bill, which would make substantial improvements to the overall quantity and quality of information provided by the GI Bill Comparison Tool. The bill would also expand opportunities for education benefit restoration when students are negatively impacted by bad-actor schools.

SVA has long supported improving the quality of information available to student veterans so they can make better-informed decisions about their education. Student veterans deserve access to high-quality information when choosing their schools. This decision has far-reaching consequences for students. It determines the overall quality of their education, the amount of federal funding they can access to finance their studies, and the likelihood of

them obtaining their desired degree or credentials in a timely manner.

This legislation fills critical information gaps in the current GI Bill Comparison Tool. For instance, the bill would require that the Tool include student outcome data, additional information on the amount of financial aid available to students at each institution, and flag legal actions taken against schools. The bill would also increase transparency by requiring VA to keep all information for at least seven years and make it publicly accessible. Further, the bill would ensure relevant VA personnel have the knowledge and training necessary to properly support all service members, student veterans, their families, and survivors in using the GI Bill Comparison Tool. Lastly, the legislation would authorize a much-needed relief option for students who attend schools that are subject to adverse actions by state or federal regulators or the VA, that allows VA to restore these students' education benefits.

The commonsense reforms proposed in this bill would provide student veterans with more information to make better decisions about their higher education journeys and expand their access to critical relief when impacted by bad-actor schools.

S. 1881, Veteran Education Empowerment Act

SVA supports this bill which would reauthorize a Department of Education grant program designed to coordinate resources and services for student veterans. The bill would also make major improvements to the program.

On-campus student veteran centers are crucial to student veteran success. According to the results of a survey conducted by Operation College Promise, "the most beneficial campus service was a veteran center on campus especially one with a specific office/lounge where veteran students can meet, work together and learn about veteran/military student benefits and programs."[5] This closely parallels what SVA hears directly from student veterans.

The reauthorization of funding and improvements made by this bill are critical, coming at a time when veteran-support services are facing reduced funding on many campuses.[6] The programming that would be funded through this bill is demonstrably beneficial for student veterans. For example, the legislation would support dedicated single points of contact for veterans and veteran-specific orientations, which have been shown to increase student veteran success outcomes by nearly 15 percent and 10 percent respectively.[7] These are just a few of the important support mechanisms this bill would make possible at campuses across the country through well-equipped student veteran centers.

SVA is also excited about the bill's requirement that the Department of Education develop and maintain a website dedicated to highlighting best practices for how institutions of higher education can support student veterans. We are hopeful this website could serve as a roadmap to guide more institutions in establishing and improving important infrastructure, services, and resources for these students. Importantly, the benefits of the website would extend well beyond the institutions awarded grants through this program by equipping any interested institution with the knowledge it needs to better serve their student veterans.

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[5] WENDY A. LANG ET AL., COMPLETING THE MISSION II: A STUDY OF VETERAN STUDENTS' PROGRESS TOWARD DEGREE ATTAINMENT IN THE POST 9/11 ERA 10 (Nov. 2013), *available at* https://campussuite-storage.s3.amazonaws.com/prod/1280306/3a32f069-629b-11e7-99ef-124f7febbf4a/1691064/278b511c-024e-11e8-8b36-0a8d44716112/file/completing_mission_ii-Nov2013.pdf (emphasis added).

[6] Military Times Staff, *About 1 in 3 colleges have cut funding for veteran-support programs, survey says*, MILITARYTIMES (Feb. 22, 2021), https://www.militarytimes.com/education-transition/2021/02/23/about-1-in-3-colleges-have-cut-funding-for-veteran-support-programs-survey-says/.

[7] Dr. Abra Kathleen Kinch, The Strategy of Being "Military Friendly" a Comprehensive Look at the Strategies Employed Under the Banner of Military and Veteran Friendliness 39 (2019) (unpublished Ph.D. dissertation, Florida State University) (on file with author).

SVA

We thank Senator Rosen for her leadership on this bill and look forward to working with this Committee to advance this crucial legislation.

S. 1936, GI Bill National Emergency Extended Deadline Act of 2021

SVA supports this legislation, which accomplishes several important objectives.

To begin, the bill would prevent certain veterans' education benefits from expiring during emergencies. Among the several emergency protections passed last year was a policy that prevented certain veterans' education benefits from lapsing during the pandemic.[8] To demonstrate the issue, consider a student who is subject to a delimiting date for their Post-9/11 GI Bill benefits. These students must use the benefit within 15 years of last leaving active duty. During the pandemic, many of these students were unexpectedly prevented from pursuing higher education, despite the clock continuing to run on their benefit eligibility. The protection passed last year paused delimiting periods while students were prevented from pursuing their studies, which protected valuable time for veterans to use their benefits.

The provision in this bill that pauses benefit expiration is a common-sense, forward-thinking policy that would make the authority for this protection permanent and broadly available for use by VA in future emergencies. The COVID-19 pandemic was not the first emergency to impact student veterans, and it will not be the last. Veterans' opportunities to use their earned education benefits must be protected during periods of extreme hardship, and this bill would help ensure VA has the authority to do that. SVA supports this provision as an important *first step* toward permanently codifying the many protections passed in response to the pandemic and fully protecting student veterans and their benefits in future emergencies.

This bill would also set important objectives and transparency requirements for VA's current Digital GI Bill modernization project. SVA has been a consistent, vocal advocate for a full-scale modernization of the GI Bill.[9] The measure has also been championed by many of the leading veteran-serving organizations, including those responsible for issuing the Independent Budget.[10] In the 21st Century, veterans deserve nothing less than the full implementation of a "Digital GI Bill." To meet the needs of our veterans, VA Education Service platforms must become a system that can adapt and change with the evolving landscape of higher education.

This modernization effort is already underway thanks to the steps Congress took last year to provide VA with the funds needed to start this process. We appreciate VA's prompt efforts to begin implementing these changes, but the project is far from complete.

We believe this bill would establish critical benchmarks and requirements for transparency that will ensure VA addresses specific IT infrastructure issues and provides appropriate updates on its progress. We are hopeful this legislation will help VA avoid the pitfalls that plagued previous implementation efforts, like that of the Forever GI

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[8] Pub. L. No. 116-140 § 6.

[9] *See generally* STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE SUBCOMM. ON ECONOMIC OPPORTUNITY AND TECHNOLOGY MODERNIZATION OF THE H. COMM. ON VETERANS' AFFAIRS ON MOVING BEYOND PATCHWORK SYSTEMS: THE FUTURE OF EDUCATION SERVICES IT, 116th Cong. (Sept. 16, 2020), *available at* https://studentveterans.org/wp-content/uploads/2020/09/HVAC-EO_-IT_Testimony_Sept16_2020.pdf; STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE H. AND S. COMMS. ON VETERANS' AFFAIRS ON LEGISLATION PRIORITIES OF 2020, 116th Cong. 6 (March 3, 2020), *available at* https://www.veterans.senate.gov/imo/media/doc/03.03.2020%20-%20SVA%2DTestimony.pdf; STUDENT VETERANS OF AMERICA, TESTIMONY BEFORE THE H. AND S. COMMS. ON VETERANS' AFFAIRS ON LEGISLATIVE PRIORITIES OF 2019, 116th Cong. 7 (March 7, 2019), *available at* https://www.veterans.senate.gov/imo/media/doc/5%20-%20SVA%20Testimony%2003.07.19.pdf.

[10] DISABLED AMERICAN VETERANS, PARALYZED VETERANS OF AMERICA & THE VETERANS OF FOREIGN WARS OF THE UNITED STATES, THE INDEPENDENT BUDGET VETERANS AGENDA FOR THE 117TH CONGRESS 40-41 (2020), *available at* http://www.independentbudget.org/117-congress/pdf/Congress117-IB-Critical-Issues.pdf.

SVA

Bill. SVA looks forward to working with the members of this Committee and officials at VA to ensure this modernization effort is successful. The educational experiences of current and future generations of student veterans depend on it.

This bill would also eliminate time periods for benefit eligibility and expand in-state tuition benefits for Survivors' and Dependents' Educational Assistance (DEA) Program beneficiaries. Post-9/11 GI Bill beneficiaries have enjoyed access to in-state tuition rates for years and have been free of benefit expiration dates since Congress eliminated them in 2017. This bill would finally bring these aspects of DEA in line with the Post-9/11 GI Bill.

Finally, the bill would direct Department of Labor's (DOL) Veterans' Employment and Training Service (VETS) to carry out a pilot program offering short-term employment fellowships to veterans. Fellowships can be an effective tool to connect veterans with post-service employment opportunities. SVA supports the fellowship program proposed in this bill, but we would ask that members of the Committee reevaluate the language affording veterans an opportunity for long-term employment. SVA supports opportunities for long-term employment following a veteran's successful completion of the fellowship, but we are concerned the legislation's current language may mandate long-term employment offers even when a veteran fails to successfully complete the fellowship.

We thank the Committee for its attention to the many important items addressed in this bill.

S. 2644, GRAD VA Educational Assistance Parity Act of 2021

SVA supports this bill, which would expand the kinds of duty that count toward Post-9/11 GI Bill eligibility for members of the National Guard and Reserve.

As U.S. defense plans change from utilizing the National Guard and Reserve Components as a 'strategic reserve' to an 'operational reserve', we have seen an increased operational tempo for members of the reserve component, especially the National Guard.[11] This concern has been especially evident recently as we have seen members of the National Guard tasked with responding to a steady stream of unprecedented challenges including natural disasters, COVID-19, and the violent insurrection in our nation's capital.[12]

This bill would allow members of the National Guard and Reserve to accrue eligibility for the Post-9/11 GI Bill for additional types of duty. This is a good first step, but we encourage this Committee to go further and ensure that every day in uniform counts toward Post-9/11 GI Bill eligibility for members of the Guard and Reserve. This means counting inactive duty training, which this bill specifically omits. We encourage this committee to pursue a more expansive solution like those included in the *Guard and Reserve GI Bill Parity Act* introduced in the House or last session's version of that bill introduced in the Senate.[13]

SVA appreciates the Committee's ongoing commitment to addressing this issue, and we hope to work with members to craft the most equitable solution possible for members of the National Guard and Reserve.

S. 2761, Every Veteran Counts Act of 2021

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[11] Myers, M. (2021, January 29). *State National Guard chiefs call for more troops, more benefits for federal missions.* Military Times. https://www.militarytimes.com/news/your-military/2021/01/29/state-national-guard-chiefs-call-for-more-troops-more-benefits-for-federal-missions/

[12] Steve Beynon, *National Guard will be Used 'More, Not Less' as Military Preps for Future War, General Says*, MILITARY.COM, June 18, 2021, https://www.military.com/daily-news/2021/06/18/national-guard-will-be-used-more-not-less-military-preps-future-war-general-says.html.

[13] Guard and Reserve GI Bill Parity Act of 2021, H.R. 1836, 117th Cong. (2021); Guard and Reserve GI Bill Parity Act of 2020, S. 3266, 116th Cong. (2020).

SVA

SVA supports this bill which would establish a VA-maintained database dedicated to collecting demographic data on veterans.

As the premier organization leading research on student veterans, SVA understands that quality data is the cornerstone of good public policy.[14] This bill will enable collection of data that will help VA, veteran service organizations, Congress, and others better understand and serve the veteran population and its many cohorts, including students. SVA appreciates that the legislation requires collection of data about veterans' educational level as well as their access to broadband internet, among other items. We were also encouraged to see that the bill calls for the Department to collaborate with various entities, including VSOs, to identify priority data requirements. We recommend the bill require VA to consult with the Veterans Advisory Committee on Education, in addition to the other advisory committees currently listed.

We thank Senator Hirono for her leadership on this bill and look forward to working with the Committee to advance this legislation.

Additional Legislation

In addition to the legislation discussed above, SVA supports the following others bill before the Committee:

- S. 1243, Improving VA Accountability to Prevent Sexual Harassment and Discrimination Act of 2021
- S. 1296, Daniel J. Harvey Jr. and Adam Lambert Improving Servicemember Transition to Reduce Veteran Suicide Act
- S. 3094, Reaching Every Homeless Veteran Act of 2021
- S. 1564, Veterans Legal Support Act of 2021

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The continued success of veterans in higher education in the Post-9/11 era is no mistake or coincidence. At SVA, we use the term "the best of a generation." In our nation's history, educated veterans have always been the best of a generation and the key to solving whatever problems our nation faces. This is the legacy we know today's student veterans carry.

We thank the Chairman, Ranking Member, and Committee Members for your time, attention, and devotion to the cause of veterans in higher education. As always, we welcome your feedback and questions.

[14] *Research*, STUDENT VETERANS OF AMERICA, https://studentveterans.org/research/ (last visited November 14, 2021).

VantageScore's Statement of Support for the "Building Credit Access for Veterans Act" (S. 1838)

November 16, 2021

Veterans and active-duty military personnel face unique barriers to accessing credit because their duties defending the nation often place them outside of the conventional credit system for long tours of duty, including outside of the United States. This often prevents creditworthy active-duty personnel and veterans from accessing the credit they deserve, especially mortgage credit.

VantageScore commends Senator Tim Scott (R-SC) and Senator Richard Blumenthal (D-CT), the authors of the Building Credit Access for Veterans Act (S. 1838), for introducing a well-conceived bill that would expand both veterans' and active-duty military personnel's access to mortgage credit in a safe and sound manner while simultaneously benefitting VA lenders by increasing the pool of qualified borrowers desirous of purchasing homes.

"This bill proposed by Senators Tim Scott and Richard Blumenthal will enhance access to credit for our military," said Silvio Tavares, President and CEO of VantageScore. "Too often, our credit worthy uniformed men and women have been denied access to the mortgages they deserve."

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VETERANS EDUCATION SUCCESS

STATEMENT FOR THE RECORD
COMMITTEE HEARING TO CONSIDER PENDING LEGISLATION
SUBMITTED TO THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. SENATE
November 17, 2021

Chairman Tester, Ranking Member Moran, and Members of the Committee:

We appreciate the opportunity to share with the Committee our perspective on the Student Veterans Transparency and Protection Act of 2021 (S.1607).

Veterans Education Success is a non-profit organization that works on a bipartisan basis to advance higher education success for veterans, service members, and military families, and to protect the integrity and promise of the GI Bill and other federal education programs.

Veterans Education Success strongly supports the Student Veterans Transparency and Protection Act of 2021, which would require the U.S. Department of Veterans Affairs (VA) to report student outcome metrics for GI Bill beneficiaries, thereby providing GI Bill beneficiaries and policymakers with information that is key to the informed use of benefits and the oversight of the Post-9/11 GI Bill.

In 2008, policymakers designed the Post-9/11 GI Bill without any student outcomes reporting requirements. Today, this is a program with an average annual cost of over $10 billion intended to support eligible beneficiaries in their pursuit of a postsecondary education. Both policymakers and GI Bill beneficiaries need clear information about student outcomes under the GI Bill: Policymakers need this information for effective oversight, and student veterans need it in order to make an informed choice when picking a college.

The Student Veterans Transparency and Protection Act of 2021 would solve this problem by mandating the collection and publication of student outcome data for GI Bill beneficiaries on the VA's GI Bill Comparison Tool, an online tool mandated by Executive Order 13607 (April 2012) and by the Comprehensive Veterans Education Information Policy Act (P.L. 112-249) (January 2013). Presently, and under the 2013 Act, the outcome data reported on the GI Bill Comparison Tool is limited to information that colleges submit to the Department of Education on *all* students; that is, none of the data applies specifically to GI Bill students.

The legislation before you today would improve the GI Bill Comparison Tool by publishing outcome metrics on GI Bill students (veterans, servicemembers, and eligible family members). In addition, the bill would require VA to maintain and publicly report student veterans' complaints about schools for the entire duration that they are approved to enroll GI Bill beneficiaries, and would clarify GI Bill restoration to students whose school faced a Federal or State civil enforcement action.

Veterans Education Success sincerely appreciates the opportunity to express our views before the Committee today.

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WOUNDED WARRIOR PROJECT
STATEMENT FOR THE RECORD

COMMITTEE ON VETERANS' AFFAIRS
UNITED STATES SENATE

HEARING
ON
PENDING LEGISLATION

NOVEMBER 17, 2021

Chairman Tester, Ranking Member Moran, and distinguished members of the Senate Committee on Veterans' Affairs – thank you for allowing Wounded Warrior Project (WWP) to submit this written statement for the record of today's hearing on pending legislation. We are grateful for the opportunity to highlight WWP's positions on key issues and legislation before the Committee.

Wounded Warrior Project was founded to connect, serve, and empower our nation's wounded, ill, and injured veterans, Service members, and their families and caregivers. We are fulfilling this mission by providing more than 20 life-changing programs and services to over 200,000 registered post-9/11 warriors and family members, continually engaging with those we serve, and capturing an informed assessment of the challenges this community faces. We are pleased to share that perspective for this hearing on pending legislation and are hopeful that it will inform your actions to improve the lives of veterans and their families during the remainder of the 117th Congress.

Although WWP has been pleased to work with the Committee on multiple pieces of legislation over the past several months, today's hearing offers the rare opportunity to recognize the contributions and personal advocacy of WWP Alumni Brian Neuman and Mark O'Brien. These warriors are the inspiration for legislation before the Committee today (S. 2513) – and its House companion (H.R. 4772) – and we are honored to share their courageous stories.

At the age of 21, Marine Corporal Mark O'Brien was serving his second tour of duty in Iraq. On day number 68, Mark was hit by a rocket propelled grenade that ripped through the armor of his Humvee. Though he made it out alive, he lost both his right arm and leg in the explosion.

In 2004, Staff Sgt. Brian Neuman was serving in Iraq when his vehicle was hit by an Explosively Formed Penetrator (EFP). The projectile penetrated the vehicle and ripped across Brian's chest, severely injuring his left arm. Recounting the incident, Brian shares, "I got out of the [vehicle] with my left arm in my right hand."

Mark and Brian's stories are just two examples of the perils of warfighting in the post-9/11 era. Improvements in combat casualty care, including better use of tourniquets, quicker blood transfusions, and faster prehospital transport times, have saved the lives of many who would have been lost in previous wars, including those most critically injured, who experienced a three-fold increase in survival rates from 2001 to 2017.[1] Many of those who survived due to these advances in medical technology and battlefield care were very seriously wounded and will be challenged by lifelong physical disabilities or mental health conditions.

One of the challenges faced by veterans whose injuries require the use of prosthetics, orthopedic appliances, and wheelchairs is that these devices often cause significant wear and tear to their clothing. This is also true of veterans who require medications and ointments for skin conditions such as severe burns. The need to frequently replace clothing that would have otherwise remained serviceable can create a significant financial burden for these veterans. For this reason, the Department of Veteran Affairs (VA) provides an annual clothing allowance for eligible veterans to reimburse them for any clothing that may be damaged or require alterations throughout the year.

While many veterans who avail themselves of this benefit have injuries that will not change, they are currently required to re-apply for the clothing allowance benefit each year. The *Brian Neuman VA Clothing Allowance Improvement Act* and the *Mark O'Brien VA Clothing Allowance Improvement Act* will automatically re-enroll qualifying veterans, eliminating the need to file a form every year and removing a step that is not only burdensome but also insensitive to the fact that the benefit is generally reserved for those with permanent life-long injuries. Reducing paperwork will also create more time for VA providers to focus on what they do best – building and supplying better prosthetics to veterans.

Many returning Service members like Mark and Brian also face psychological wounds in addition to their physical injuries. Whether it be post-traumatic stress disorder (PTSD), anxiety, or the emotional toll of transitioning back to civilian life, mental health challenges add to and exacerbate the frustrations of living with physical scars— as wounded veterans grieve the simpler daily life they can no longer have.

Yet, in spite of all these hurdles, veterans like Mark and Brian have not only found the courage to live fulfilling lives but also found the heart to help others do the same. Today, 17 years after what could have been a fatal accident, Mark has worked as a dispatcher for the Erie County Sheriff's Office, has shared motivational speeches, and is married with two kids. Likewise, Brian is the Alumni Deputy Director for WWP, where he helps other wounded veterans build meaningful lives as they transition back to the civilian world.

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[1] Howard JT, Kotwal RS, Stern CA, et al. *Use of Combat Casualty Care Data to Assess the US Military Trauma System During the Afghanistan and Iraq Conflicts, 2001-2017.* Surgery. Published online 2019, *available at* https://jamanetwork.com/journals/jamasurgery/article-abstract/2729451.

In honor of veterans like Mark and Brian, WWP is proud to support *Brian Neuman VA Clothing Allowance Improvement Act* and the *Mark O'Brien VA Clothing Allowance Improvement Act*, which would automatically re-enroll qualifying veterans like them in the clothing reimbursement program. In a world where everyday tasks can be burdensome for wounded veterans, this legislation gives our nation the chance to pay them back for their service by making their lives easier. WWP encourages lawmakers to stand by this legislation; because in this country, the American spirit is most alive when we recognize, appreciate, and reward the quiet courage of Americans like Mark and Brian — courage that far too often goes without notice.

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