



VETERANS EDUCATION SUCCESS

STATEMENT FOR THE RECORD

LEGISLATIVE PRIORITIES

SUBMITTED TO THE

SENATE AND HOUSE COMMITTEES ON VETERANS AFFAIRS

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March 9, 2020

Chairmen Moran and Takano, Ranking Members Tester and Bilirakis, and Members of the Committees on Veterans Affairs:

Veterans Education Success thanks you for the opportunity to share our legislative recommendations on veterans' issues for consideration in the second session of the 116th Congress. Veterans Education Success is a non-profit organization with a mission 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. In addition to research, providing free case work to students having trouble with the GI Bill or impacted by predatory schools, and elevating the voices of military-connected students in policy makers, we are focused on addressing ways to increase the continued academic success of military-connected students in their pursuit of their academic goals.

ENACT THE PROTECT THE GI BILL ACT – H.R. 4625

We join [42 VSOs and MSOs](#)¹ in urging the Senate to pass H.R. 4625, the [Protect the GI Bill Act](#), which passed the full House on suspension on November 12, 2019 after passing unanimously out of the House Veterans Affairs Committee. This important legislation includes key provisions Military and Veteran Service Organizations have been advocating for since 2012, including:

¹ Letter from 42 Veterans and Military Service Organizations to the Senate Veterans Affairs Committee (Nov. 21, 2019), available at <https://vetsedsuccess.org/42-veterans-and-military-organizations-request-senate-action-on-hr-4625-protect-the-gi-bill-act/>.

- Parity for military-connected students with Title IV students by restoring VA education benefits for students whose school closed.
- Parity for military-connected students with Title IV students on overpayments: Requires schools (not students) to repay VA tuition overpayments when a student drops out or drops a class.
- Common-sense oversight of schools that faced punitive action by federal or state government or the school's accreditor.
- Protection of Title 38 funds if the Education Department terminates a school's eligibility to receive Title IV money.
- Strengthening the ban on deceptive college recruiting.
- Protection for military-connected students from fake law schools.
- Requirement that schools honor deployments and provide military-connected students a point of contact and clear information about the program, including cost, transferability of credits, etc.
- Clarification of GI Bill transferability rules for dependents to include adopted and foster children.

ENACT THE PROTECT VETS ACT – S. 2857

We urge Congress to enact the first-ever bipartisan bill to close the 90/10 loophole, S. 2857, the Protect Veterans' Education and Training Spending ([Protect VETS](#)) Act.

Endorsed by Senate Committee on Health, Education, Labor, and Pensions (HELP) Chairman Lamar Alexander (R-TN) and crafted by a bipartisan team in the Senate led by Senators Tom Carper (D-DE), Bill Cassidy (R-LA), James Lankford (R-OK), and Jon Tester (D-MT), this bill would finally close the 90/10 loophole, a top priority of VSOs and MSOs for many years.

The 90/10 rule requires proprietary schools to receive at least 10% of funds from private sources, as a market viability test. As the U.S. Supreme Court explained in [upholding](#) the rule's precursor:

“Experience... since World War II revealed a need [to] minimize the risk that veterans' benefits would be wasted on educational programs of little value... and 'prevent charlatans from grabbing the veteran's education money.' [This is] based upon the rational assumption that, if 'the free market mechanism [were allowed] to operate,' it would 'weed out those institutions [which] could survive only by the heavy influx of Federal payments.'”²

Drafters of the 90/10 Rule [inadvertently](#) left out VA educational funds and DoD funds in the 90% calculation. This, in turn, has led to predatory practices by low-quality colleges unable to attract private funds to target military-connected students to meet this requirement.

S. 2857 will close the loophole and ensure that schools are providing a quality education for student veterans and other eligible GI Bill beneficiaries like their spouses and children - giving military-connected students the same protections as Title IV students.

ADEQUATELY FUND VA'S IT BUDGET

In 2018, VA experienced delays in distributing GI Bill benefits due to complexities in the Harry W. Colmery Veterans Educational Assistance Act. Unfortunately, VA's legacy IT systems were not equipped

² *Cleland v. Nat'l College of Business*, 435 U.S. 213, 219 (1978), available at <https://caselaw.findlaw.com/us-supreme-court/435/213.html>.

to handle the changes Congress made, leading to delays and errors in veterans receiving their benefits. VA has made remarkable progress in meeting or exceeding timeline goals in implementing the Colmery Act, but VA needs adequate funding of its IT budget to continue making progress and disseminating benefits accurately and on time. Under Secretary of Benefits Dr. Paul R. Lawrence expressed his frustration at the current state of IT infrastructure and the need to address it at a recent hearing. “Our legacy systems are old We need to replace them at some point Our systems right now are inflexible and limit us tremendously and they require more resources to be fixed.”³ We agree with Dr. Lawrence.

In addition, a modern IT system could also automate the payments audits, thereby freeing up VA staff and State approving agencies to spend more time on quality oversight of GI Bill schools, because payment audits are currently taking up too much time, as we documented in our 2019 [report](#).⁴

We ask Congress to please work with the Veterans Benefits Administration to identify the appropriate amount of resources needed to update their IT system and then ensure the money is both allocated and appropriated accordingly. Students are put in harm’s way by continuing to utilize an outdated system; appropriating the necessary funds to upgrade the system is vital.

ADDRESS VA OVERPAYMENTS AND UNWARRANTED COLLECTION ACTIONS

GAO [reported](#) that GI Bill overpayments affect 1 in 4 GI Bill students and cost \$416 million in FY 2014.⁵ VA’s regulation calls for, and VA engages in, very “aggressive” debt collection practices. Passing HR 4625 will help address a number of overpayment problems veterans face, but additional work is needed for veterans who receive overpayment charges from the VA for other reasons. VA needs to dramatically change its debt collection practices when the cause of the debt is VA’s own error in accounting or approval of benefits. For example, “retroactive adjustments” to GI Bill benefits due to VA’s administrative error are not fair to a student who has already finished the classes. If VA authorizes a student to attend classes, but later determines the student received a GI Bill overpayment, it is VA that should bear the burden of that mistake, because the student already counted on that GI Bill payment for the classes based on VA’s approval of their benefits.

GAO determined that VA collects most debts by withholding a veteran’s other benefits, such as disability compensation. Veterans benefits are essential to meeting basic needs. Disabled veterans rely on the VA disability compensation for housing and food. We ask Congress to embrace S. 805, which would limit VA from taking more than 25% of a veterans’ benefits to cover unrelated debts to VA. We also believe this problem can be helped by having VA slow down the reporting of debts to credit agencies and the Treasury in situations where VA is unable to reach a veteran. This will help ensure veterans are not

³ VA Under Secretary for Benefits Dr. Paul R. Lawrence, House Committee on Veterans’ Affairs, Economic Subcommittee Hearing on Forever GI Bill Implantation Efforts, at 48:00 – 48:30, available at <https://www.youtube.com/watch?v=Tzc7r1OkfZQ>.

⁴ Veterans Education Success, *VA and States Should Act on Early Warning Signs When Risks to GI Bill Beneficiaries and Taxpayers Emerge at Participating Schools* (2019), available at: <https://vetsedsuccess.org/va-and-saas-should-act-on-early-warning-signs-when-risks-to-gi-bill-beneficiaries-and-taxpayers-emerge-at-participating-schools/>.

⁵ U.S. Government Accountability Office, *Post-9/11 GI Bill: Additional Actions Needed to Help Reduce Overpayments and Increase Collections* (2015), available at <https://www.gao.gov/assets/680/673230.pdf>.

unnecessarily harmed due to a potential administrative issue. Lastly, we urge the Committees to require VA to modernize its letter process and make the information clearer.

CLARIFY THE RELATIONSHIP BETWEEN VA AND STATE APPROVING AGENCIES

Congress specifically included state governments for VA education program approvals and disapprovals, but the relationship between the states and VA is less than smooth. Tensions exist over the current contract (cooperative agreement) and the increased tasking of State Approving Agencies (SAAs) with payment audits, which crowd out SAAs' ability to undertake quality oversight of GI Bill schools, as our [report](#) details.⁶ We urge the Committees to hold hearings to address the relationship between VA and SAAs.

One problem is that the roles of VA and SAAs in the college approval and disapproval authorities are conflicting and ambiguous, as documented in a separate [report](#) we published. Specifically, statutory language describing the respective authorities of VA and SAAs was changed in 2011 (in the context of a significant restructuring of SAAs' day-to-day responsibilities) and then again in 2016 (largely intended to restore SAA's approval authority primacy). Although the intent of the 2016 language is clear, the changes were piecemeal rather than comprehensive. As a result, the changes created ambiguity and contribute to disagreements between VA and SAAs and between VA and the VA Office of Inspector General about these authorities.⁷ We urge the Committees to address these inconsistencies.

MODERNIZE THE GI BILL COMPARISON TOOL

The GI Bill Comparison Tool contains important information for both prospective students and researchers, but it is clunky and not user-friendly. We urge the Committees to reassert recommendations made by the Committees in 2012 that VA make the Comparison Tool more modern and user-friendly, including enabling:

- Side-by-side comparisons of schools.
- Searches by major or degree sought and by geographic area.
- Updated student outcome metrics from the Education Department.
- A "Risk Index" to enable students to avoid risky schools and improved "Caution Flags" to show government or accreditor action against the school.
- Student complaints received by VA.

ENSURE THE TOTAL AND PERMANENT DISABILITY STUDENT LOAN DISCHARGE FOR VETERANS IS EFFECTIVELY IMPLEMENTED

Last year, President Trump signed an [Executive Order](#) to cancel all federal student loans for veterans who qualify for total and permanent disability (TPD) discharge. The TPD program was established to provide veterans who have been deemed individually unemployable or to have a 100% disabled designation by

⁶ Veterans Education Success, *Overemphasis on Payment Accuracy Impedes More Effective SAA Oversight of Schools Participating in the GI Bill* (2019), available at <https://vetsedsuccess.org/overemphasis-on-payment-accuracy-impedes-more-effective-saa-oversight-of-schools-participating-in-the-gi-bill/>.

⁷ Veterans Education Success, *VA and SAA Approval and Disapproval Authority Should be Clarified* (2019), available at <https://vetsedsuccess.org/va-and-saa-approval-and-disapproval-authority-should-be-clarified/>; VA Office of the Inspector General, *VA's Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students* (2018), available at <https://www.va.gov/oig/pubs/VAOIG-16-00862-179.pdf>.

the VA with the discharge of their federal student loans. Previously, each individual disabled veteran had to apply to have his/her loans discharged, and the Department of Education had placed [over half](#) of the veterans who had qualified for the discharge but hadn't applied in default on their student loans.

We urge Congress to make certain the TPD Discharge is expeditiously and effectively implemented. Additionally, we urge Congress to ensure that veterans who have had their wages, taxes, or disability payments unfairly garnished are properly reimbursed.

IMPROVE SKILLBRIDGE

Nearly one-third of veterans seeking employment are underemployed, a rate that is 15.6% higher than others seeking employment. SkillBridge works to address this by providing opportunities for transitioning service members to garner civilian experience and gain the training and credentialing necessary for employment within the civilian workforce. Transitioning servicemembers are able to utilize Tuition Assistance or GI Bill funds to gain valuable work experience and can be granted up to 180 days of permissive duty to focus on their training.

While this program has the potential to create necessary pipelines to viable career options, it will be successful only if it provides access to quality programs, training, and certifications. Subpar programs will not aid a transitioning servicemember in finding employment that utilizes their skills and experience at the same level as their civilian counterparts. There is work currently underway to address concerns around quality and identify reputable organizations to participate in SkillBridge, but we believe much more can be done. This includes further conversations with key stakeholders to better define what quality looks like and to create useful parameters to protect transitioning service members from programs looking only to capitalize on access to federal dollars and hard-earned GI Bill benefits. More clearly articulating these issues will strengthen the SkillBridge program and increase opportunities for employment, build out a lifelong learning model that creates stackable credentials, and provide a strong return on investment for the time and energy put into this program by the service member as well as the taxpayer.

AUTHORIZE GI BILL ENTITLEMENT FOR CERTAIN NATIONAL GUARD-RESERVE INCLUDING MEDICAL HOLDS

Recognizing the enormous value of Guard and Reserve (G-R) capabilities to the national security, Congress in 2012 established authority for the Secretary of Defense and Service Secretaries to more easily access the Reserve forces. In addition to call-ups in law for "national emergencies" and "contingency operations," the Pentagon may call Guard and Reserve formations to active duty for missions that are "pre-planned and budgeted." Since enactment of the law-change, the Services have substantially increased their reliance on pre-planned and budgeted call-ups of the Guard and Reserve.

The exclusion of veterans benefits for the G-R mobilized under Section 12304b was likely an oversight. It warrants immediate correction. The Committees recognized the problem and included a change in the near-final version of the Veterans First Act in the last session of Congress. But lack of agreement over funding resulted in removal of the provision in the final version of the Act. We recommend the Committees favorably report legislation to permit GI Bill entitlement for Guard and Reserve members activated under Section 12304b, 10 USC.

OVERSEE VA'S IMPLEMENTATION OF GI BILL-RELATED LAWS

Congress enacted the Career Ready Student Veterans Act in 2016, requiring VA to ensure that GI Bill-approved programs leave graduates eligible for licenses in fields that require a license (such as nurses, lawyers, licensed psychologists, electricians, and plumbers). Implementation has been incomplete, as our [report](#) documents.⁸

Similarly, we published a separate [report](#) documenting significant gaps in implementation of 38 U.S.C. 3696.⁹ VA's Inspector General [estimated](#) that VA will waste \$2.3 billion over the next 5 years in improper GI Bill payments to ineligible colleges over the next 5 years if action is not taken to improve oversight, including against schools that should not be approved under 38 U.S.C. 3696.¹⁰

ENFORCE THE MILITARY LENDING ACT

The Military Lending Act is considered by many to be the most impactful consumer protection law put in place. Yet, the Consumer Financial Protection Bureau currently refuses to ensure financial institutions are abiding by the law since they have taken it off the checklist during supervisory examinations. We urge Congress to mandate that the MLA be included in all checks of financial institutions by federal agencies. We urge the Committees to use their oversight function to make sure the MLA is dutifully enforced.

Additionally, we urge Congress to pass H.R. 5050/S. 2833 to extend MLA to all citizens. Ensuring that unactivated reservists, surviving families, and veterans are covered by MLA protections is the right thing to do. Additionally, ensuring that all Americans are not subject to predatory financial practices is vital to decreasing the military-civilian divide.

DEVELOP AND EXPAND THE VETSUCCESS ON CAMPUS PROGRAM

We believe that the VetSuccess on Campus Program (VSOC) has been important in providing needed resources like counseling and on-campus benefits assistance to veterans and their families at 104 selected schools. We would like to see the program further developed and expanded to more colleges. We ask Congress to work to develop a strategic plan with VA to build out VSOC.

PRIORITIZE VETERANS IN HIGHER EDUCATION ACT REAUTHORIZATION

As Congress undertakes the Higher Education Act Reauthorization, we urge Members to bear in mind the [recommendations](#) of 37 leading VSOs and MSOs¹¹:

- Enact the College Transparency Act.
- Protect the Borrower Defense Rule.

⁸ Veterans Education Success, *Despite 2016 Statute, the GI Bill Still Pays for Degrees That Do Not Lead to a Job* (2018), available at <https://vetsedsuccess.org/ves-report-despite-a-2016-statute-the-gi-bill-still-pays-for-degrees-that-do-not-lead-to-a-job/>.

⁹ Veterans Education Success, *VA Still Not Enforcing 1974 Ban on Schools That Engage in Deceptive Advertising and Recruiting* (2019), available at <https://vetsedsuccess.org/va-still-not-enforcing-1974-ban-on-schools-that-engage-in-deceptive-advertising-and-recruiting/>.

¹⁰ VA Office of the Inspector General, *VA's Oversight of State Approving Agency Program Monitoring for Post-9/11 GI Bill Students* (2018), available at <https://www.va.gov/oig/pubs/VAOIG-16-00862-179.pdf>

¹¹ Letter from 37 Veterans and Military Organizations to Congress (2019), available at <https://vetsedsuccess.org/37-veterans-and-military-service-organizations-write-congress-to-share-our-priorities-for-higher-education-act-reauthorization/>.

- Increase oversight of nonprofit conversions.
- Preserve the Gainful Employment Rule.
- Spend education funds on education.¹²
- Ensure schools meet minimum quality standards.
- Align the definition of servicemembers throughout the Higher Education Act to match VA and DoD definitions.
- Rename the “Master Promissory Note” (MPN) to “Student Loan Agreement” so students know what they’re signing.¹³

We urge both Committees to work with their counterparts on the Senate HELP Committee and the House Committee on Education and Labor to ensure student veterans and all students have adequate protections.

Conclusion

Veterans Education Success sincerely appreciates the opportunity to express our legislative priorities before the Committees and we look forward to the enactment of the priorities listed above. Pursuant to Rule XI2(g)(4) of the House of Representatives, Veterans Education Success has received no federal grants in Fiscal Year 2020, nor in the previous two years.

¹² Veterans Education Success, *Should Colleges Spend the GI Bill on Veterans' Education or Late Night TV Ads?* (2019), available at: <https://vetsedsuccess.org/should-colleges-spend-the-gi-bill-on-veterans-education-or-late-night-tv-ads-and-which-colleges-offer-the-best-instructional-bang-for-the-gi-bill-buck/>.

¹³ Many GI Bill students have student loan debt. See Veterans Education Success, *Annual and Cumulative Student Loan Debt Among Veterans Using and Not Using GI Bill Benefits* (2019), available at <https://vetsedsuccess.org/annual-and-cumulative-student-loan-debt-among-veterans-using-and-not-using-gi-bill-benefits/>; *Veteran Student Loan Debt 7 Years After Implementation of the Post-9/11 GI Bill* (2019) available at <https://vetsedsuccess.org/veteran-student-loan-debt-7-years-after-implementation-of-the-post-9-11-gi-bill/>.