



STATEMENT FOR THE RECORD  
HEARING ON PENDING LEGISLATION  
HOUSE COMMITTEE ON VETERANS AFFAIRS  
ECONOMIC OPPORTUNITY SUBCOMMITTEE  
118TH CONGRESS, FIRST SESSION

March 30, 2023

Chairman Van Orden, Ranking Member Levin, and Members of the Economic Opportunity Subcommittee of the Committee on Veterans Affairs:

We thank you for the opportunity to share our views regarding legislation under consideration by the Subcommittee. Veterans Education Success is a nonprofit organization with the mission of advancing higher education success for veterans, service members, and military families, and protecting the integrity and promise of the GI Bill and other federal education programs.

**HR 1767: To amend Title 38 U.S.C. to provide that educational assistance paid under Department of Veterans Affairs educational assistance programs to an individual who pursued a program or course of education that was suspended or terminated for certain reasons shall not be charged against the entitlement of the individual, and for other purposes.**

We strongly encourage the Subcommittee to support this legislation, which restores veterans' education benefits if a veteran (or veteran's dependent beneficiary) is unable to complete a course or program of education because it is suspended because of a finding from the U.S. Department of Veterans Affairs (VA)'s risk-based survey or because the U.S. Department of Education finds that student loan borrowers at that program warrant student loan forgiveness under "borrower defense to repayment" due to fraud.

We also support the second section of the draft legislation ("repayment of funds in case of fraud") which would give VA legal authority to recoup its costs of GI Bill restoration from the schools that had defrauded the student veterans (and veterans' dependent beneficiaries).

### Background:

Currently, the U.S. Department of Justice (DoJ) is **seizing the bank accounts** of the House of Prayer<sup>1</sup> – a bible school we exposed and brought to VA’s attention<sup>2</sup> because veterans were being cheated out of their GI Bill and abused by an alleged religious cult leader.

But even when the federal government recovers their GI Bill funds, the veterans who earned those GI Bill benefits will get nothing.

In another example, **DoJ recouped more than \$150 million** from Retail Ready Career Center<sup>3</sup> and sent the owner to jail for 19 years, after he had swindled thousands of veterans, taking their GI Bill but not educating them and taking their housing allowance but then forcing them to live in substandard migrant housing. But when the federal government recovered \$150 million, the veterans got nothing and did not get their GI Bill benefits back. Currently, when federal law enforcement recovers fraudulently-obtained GI Bill funds or Veteran Readiness and Employment (VR&E) funds, veterans get nothing back.

We are confident that members of the Subcommittee agree that veterans who are defrauded out of their hard-earned GI Bill, having already invested their time and effort into programs that later prove to have been fraudulent, should not be doubly penalized by also losing their chance at education to improve their career prospects.

This is also a **parity issue**. Student loans are forgiven by the Department of Education if fraud is evident, but student veterans have no parity with regard to their GI Bill and VR&E benefits at VA. Student veterans should have parity with, and be at least as equally protected as, students at the Department of Education.

### Suggestions

We have several suggestions to improve the draft legislation:

*First, a technical correction to have the legislation amend 38 U.S.C. § 3699(b) rather than (b)(1)*

The proposed legislation amends 38 U.S.C. § 3699(b)(1), which therefore limits applicability to only those veterans (or veterans’ dependent beneficiaries) who were “unable to complete such

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<sup>1</sup> *United States of America v. \$115,800.00 in U.S. Currency Funds*, available at:

<https://vetsedsuccess.org/us-attorney-action-against-house-of-prayer-bible-seminary-january-2023/>.

<sup>2</sup> Veterans Education Success, *Our Letter to VA and Georgia SAA Regarding House of Prayer Christian Church* (Aug. 2020), available at: <https://vetsedsuccess.org/letter-to-va-and-georgia-saa-regarding-house-of-prayer-christian-church/>.

<sup>3</sup> United States Attorney’s Office, Northern District of Texas Press Release, *For-Profit Trade School Sentenced to Nearly 20 Years for Defrauding VA, Student Veterans* (Sept. 22, 2021), available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-sentenced-nearly-20-years-defrauding-va-student-veterans>.

course or program [of education] as a result of...” school closure or because, after the individual enrolls, a course is disapproved due to a change in the law, regulations, or the Department’s policies.

We offer a technical correction: We recommend that the legislation amend section 3699(b) – not (b)(1). In other words, we urge the Committee to move the proposed legislation from section 3699(b)(1) to a new section 3699(b)(3). This would remove the proposed provisions from the limitation of veterans who are “unable to complete such course or program as a result of...”

There are many benefits to this technical correction:

- This technical correction would enable the legislation to cover all veterans who were defrauded – not just those who were “unable to complete” the program, including, for example:
  - Veterans who voluntarily drop out of a program because of fraud but who don’t fall within one of the enumerated situations for being “unable to complete” a program;
  - Veterans who do complete a program but discover later that they have been defrauded. For example, the U.S. Federal Trade Commission’s lawsuits against both DeVry (settled for \$100 million)<sup>4</sup> and University of Phoenix (settled for nearly \$200 million)<sup>5</sup> were specifically about the schools’ having defrauded students about their graduates’ job placement possibilities – which students might not discover until after they finish the program. Similarly, the Department of Education’s determination to provide federal loan forgiveness to defrauded students (under “borrower defense to repayment”) does not depend on whether the student was able to complete the program – but instead on the nature of the deceptive conduct and harm to the students. Student veterans and military connected students deserve the same protection; and
  - Veterans who did complete the program but whose program has been determined by the Secretary of Education to have defrauded students who are therefore eligible for student loan discharge under Department of Education borrower defense to repayment regulations. A veteran should be entitled to restoration if,

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<sup>4</sup> See U.S. Federal Trade Commission, DeVry University, available at: <https://www.ftc.gov/legal-library/browse/cases-proceedings/132-3278-x160024-devry-university>

<sup>5</sup> See U.S. Federal Trade Commission, \$191 Million FTC Settlement with University of Phoenix Addresses Deceptive Employment Claims (Dec. 10, 2019) available at: <https://www.ftc.gov/business-guidance/blog/2019/12/191-million-ftc-settlement-university-phoenix-addresses-deceptive-employment-claims>

but for using veterans' education benefits, the veteran is in the same position as student loan borrowers who are receiving federal student loan forgiveness under a group discharge determination by the Secretary of Education.

- This technical correction would solve the current drafting problem wherein the legislation (at page 1, line 18) inadvertently limits restoration to the impossible situation wherein the Secretary of Education's action on borrower defense somehow stops a veteran from completing a program. Of course, the Secretary of Education's actions on borrower defense do not directly cause veterans not to complete programs.

*Second, expand the types of fraud covered for benefits restoration*

We recommend expanding the first section of H.R. 1767, which enables veterans' benefits restoration if a course or program is suspended or terminated by reason of information collected during a risk-based survey or if the Secretary of Education determines that an educational institution committed an actionable act or omission under Department of Education regulations such that student loan borrowers are warranted student loan forgiveness under borrower defense to repayment.

We urge the Subcommittee to add additional situations in which a veteran would have his or her education benefits restored because of federal findings of fraud – beyond a risk-based survey finding by VA or a borrower defense determination by the Department of Education.

Specifically, we urge the Subcommittee to enable benefits restoration:

- When there is a final federal or state agency determination that a school engaged in fraud of any kind and there is evidence of harm to the student veteran warranting restoration of the education benefits; and
- When there has been a government agency determination or a class action lawsuit resulting in financial relief to students due to the alleged misconduct of the school. Specifically, there are instances where the Department of Education does not act, but the U.S. Federal Trade Commission (FTC) or another agency acts to recover funds for students. For example, the FTC secured \$100 million in financial relief for students of DeVry University<sup>6</sup> and \$200 million for students of the University of Phoenix.<sup>7</sup> A veteran should be entitled to restoration of his or her education benefits if a school committed fraud such that students are receiving financial relief.

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<sup>6</sup> See U.S. Federal Trade Commission, DeVry University, available at: <https://www.ftc.gov/legal-library/browse/cases-proceedings/132-3278-x160024-devry-university>

<sup>7</sup> See U.S. Federal Trade Commission, \$191 Million FTC Settlement with University of Phoenix Addresses Deceptive Employment Claims (Dec. 10, 2019) available at: <https://www.ftc.gov/business-guidance/blog/2019/12/191-million-ftc-settlement-university-phoenix-addresses-deceptive-employment-claims>

Third, expand the clawback of funds from fraudulent programs

We recommend expanding the second section of H.R. 1767, which ensures that VA can recoup some of the costs of restoring benefits to veterans by directing schools – as a condition of participating in VA education programs – to repay benefits to VA if the school closes or suspends or terminates a course or program of education by reason of a determination of fraud by the FTC or the Secretary of Education:

- This clawback section should be expanded so that VA can recoup fraudulently-obtained GI Bill funds in cases of fraud found by agencies other than the FTC or Department of Education. For example, both House of Prayer<sup>8</sup> and Retail Ready Career Center<sup>9</sup> were found guilty of fraud by the U.S. Department of Justice, but not by the FTC or the Department of Education.
  - Neither House of Prayer nor Retail Ready Career Center was ever approved for Department of Education student aid, and so neither school was ever subject to Department of Education findings of fraud.
  - Neither school was ever subject to a finding of fraud by the FTC. The FTC’s jurisdiction is limited in two ways:
    - First, the FTC’s jurisdiction is statutorily limited to actions by private for-profit entities. Therefore, any nonprofit college – such as House of Prayer – would lie outside the FTC’s jurisdiction.
    - Second, the FTC’s jurisdiction is statutorily limited to the specific matter of deceptive advertising practices. The fraud at Retail Ready – as found by the Department of Justice – did not relate to advertising practices, but to other methods of fraud.
  - Consider also the case of physical abuse of veterans. Recall that the Retail Ready operator was accused of housing veterans in subpar migrant housing while taking their GI Bill housing allowance. Similarly, a US-K9 operator was suspended from

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<sup>8</sup> *United States of America v. \$115,800.00 in U.S. Currency Funds*, available at:

<https://vetsedsuccess.org/us-attorney-action-against-house-of-prayer-bible-seminary-january-2023/>.

<sup>9</sup> United States Attorney’s Office, Northern District of Texas Press Release, *For-Profit Trade School Sentenced to Nearly 20 Years for Defrauding VA, Student Veterans* (Sept. 22, 2021), available at: <https://www.justice.gov/usao-ndtx/pr/profit-trade-school-sentenced-nearly-20-years-defrauding-va-student-veterans>.

VA education programs in part for subjecting veterans to menial labor.<sup>10</sup> The FTC would have no jurisdiction over physical abuse and the Department of Education would not approve such job training programs for federal student aid, but surely the Committee would want veterans who suffered physical abuse to get their GI Bill restored. Therefore, we recommend additional provisions to ensure that VA is able to recoup all of its costs of restoring veterans' education benefits.<sup>11</sup>

- This clawback of funds section could also be expanded to add additional funding mechanisms, in case a school shuts down and VA is unable to claw back the funds or in case a school engages in a protracted legal fight over the clawback. Alternative funding mechanisms for the Subcommittee to consider are:
  - Authorizing VA to require at-risk or underfunded schools to obtain a financial guarantee through a “Letter of Credit” from a bank, as is required at the Department of Education to protect Title IV funds when the Department determines a school is of financial risk.<sup>12</sup> Having such letters of credit on file enables the Department of Education to recoup millions of dollars in student aid when a school commits fraud or suddenly shutters. The banks have pledged the money and the Department of Education is able to recover taxpayer funds, easily without a legal battle and without worrying about a school's ability to pay if it declares bankruptcy; and
  - Requiring all schools or all at-risk schools to contribute to a “GI Bill recovery fund” – like the student tuition recovery funds operated by many States<sup>13</sup>, akin to Unemployment Insurance funds for employers – which would be available for defrauded students' restoration of VA education benefits.

*Fourth, a technical fix to cover benefits restoration under additional reasons VA might disapprove a program*

On a related note, we urge the Subcommittee staff to amend 38 U.S.C. § 3699(b)(1)(B) by adding a new section (iii) that states “or for any other reason.” This is something that GOP professional staff suggested previously – and we strongly supported – as a technical fix because

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<sup>10</sup> See Veterans Education Success Letter to the U.S. Department of Veterans Affairs and Louisiana Department of Veterans Affairs (Dec. 9, 2020), available at: <https://vetsedsuccess.org/letter-to-va-and-louisiana-state-approving-agency-about-us-k9-unlimited/>

<sup>11</sup>

<sup>12</sup> See U.S. Department of Education, “Financial Responsibility Standards Requiring a Letter of Credit,” available at: <https://studentaid.gov/data-center/school/loc>

<sup>13</sup> Dozens of States have student tuition recovery funds. Examples are available at Veterans Education Success, “State Tuition Recovery Funds and Other State Programs,” available at <https://vetsedsuccess.org/wp-content/uploads/2018/09/state-tuition-recovery-programs.pdf>

(b)(1)(B) inadvertently limits benefits restoration to students at programs closed or disapproved *by a reason of change of law or policy*, and not to programs disapproved by VA for any other reason (including, for example, VA's termination of a school because it stole GI Bill funds or otherwise broke VA eligibility rules – which the Subcommittee would want to cover).

**Draft legislation to amend title 38, United States Code, to make permanent the high technology pilot program of the Department of Veterans Affairs, and for other purposes (VET TEC).**

We urge the Subcommittee to exercise extreme caution in making VET TEC permanent. Short-term “technology” programs, including coding bootcamps, are increasingly producing disappointing outcomes, particularly those that are more dependent on public financing. Of particular concern with regard to VET TEC are its lack of quality metrics, vagueness of what qualifies as “technology” training, and the very high cost to taxpayers, especially at a time of shrinking job opportunities in high-tech.

At a time of limited availability of federal funds, we urge the Subcommittee to recognize that VET TEC is absolutely not the top spending priority for veterans organizations and should not be the top spending priority for the Subcommittee. Layoffs in high-tech are currently rampant, raising questions about the true likelihood of job opportunities for VET TEC student veterans.

Of major concern is that VET TEC evades all of the approval and oversight protections that are embedded in GI Bill programs. Therefore, VET TEC opens up federal taxpayer funds to waste and fraud.

We offers several specific suggestions should the Subcommittee proceed with VET TEC:

- Embed the program in existing benefits programs so that program operators are subject to the normal VA approval and oversight mechanisms that protect taxpayers. This could be accomplished by **moving VET TEC under 38 U.S.C. § 3676** (approval for nonaccredited courses of education).
- The **section on contracts** (beginning on page 3 at line 20) is currently framed by the specifics of what makes for a qualified program. We would recommend, at the outset, setting forth a clear guiding principle or charge to the Secretary framed in terms of the intended goals of the program. Specifically, we recommend stating at the outset that the fundamental purpose of the program is to create fast-track high-tech training programs that place an acceptable percentage of their students in wage-enhancing sustainable jobs at a reasonable cost to the taxpayers, and this purpose should be the primary requirement

for the Secretary's selection of contractors. After stating the purpose clearly and charging the Secretary with ensuring that the programs selected can meet that purpose, the legislation provides many useful criteria on the Secretary's discretion. We recommend some additional or clarified criteria:

- First, the bill should provide some guidelines on the per-student costs and expected wage outcomes.
- Second, the 25-25-50 payment schedule (page 4, beginning at line 8) is intended as a safeguard but could bring an unintended consequence if it ends up alienating higher-quality providers and instead attracts low-quality providers that would spend less than 25% of tuition (the amount they would be certain to receive at the point of enrollment), for whom the remaining 75% would represent windfall profits if it were to materialize. To prevent this, an additional price-discipline mechanism is needed: the requirement that the Secretary's aggregate payments shall not exceed 125% of total expenditures on eligible students. This would protect VA – and taxpayers – from being overcharged for “made-up” tuition that bears no resemblance to what the provider actually spends on the students.

- **Provider Qualifications:**

- First, it would be important to explicitly state an unspoken assumption, by adding, on page 5, a requirement that the Secretary ensure that providers have adequate financial, administrative, and educational resources to actually deliver on their obligations. While some aspects of the program are spelled out (such as faculty credentials), others are left unaddressed, such as adequate facilities, curriculum, assessments, and industry-recognized certifications and credentials.
- Second, we recommend adding (on page 5 or, perhaps better, on page 3 where contracts are first defined) the standards that govern all federal procurement: place the burden on providers (as bidders for government contracts) to demonstrate to VA that the providers have the resources to deliver services that would place vets in real jobs (based on data).
- Third, the language defining providers that qualify (on page 5, lines 13-16) allows providers to self-certify their offerings through an unverified claim that certain jobs exist. To ensure providers' claims are accurate, the legislation should require providers to produce attestations from employers, business groups, or some local/state governmental entity and be additionally supported by data and market research.



- Fourth, we recommend that the bill include protections for student veterans who do not complete a program. The bill should prohibit providers from seeking payment from veterans for any amounts that would have been payable had the veteran completed the program, similar to the language in the Veteran Rapid Retraining Assistance Program.

**HR 728: To direct the Assistant Secretary of Labor for Veterans' Employment and Training to carry out a pilot program on short-term fellowship programs for veterans**

We recommend the Subcommittee consider whether the price tag is worth the proposed pilot program, given that apprenticeships and on-the-job training are already supported by the GI Bill and other VA education benefit programs.

If the Subcommittee elects to move forward with this legislation, one wise element of the legislation – which should be retained – is that it limits the program to nonprofit organizations to select the placements for the Fellows. This is smart to protect taxpayer funds from profiteering, as many for-profit job training programs have been exposed as fraudulent.

**Draft legislation to amend Title 38 U.S.C. to render an individual, who transfers certain educational assistance, to which the individual is entitled because of an agreement by such individual to serve in the Armed Forces, to a dependent of that individual, and who fails to complete such agreement, solely liable for the overpayment of such educational assistance, and for other purposes.**

We understand the impetus for this legislation and would generally support it, but urge the Subcommittee to consider the ramifications of the current high rate of administrative error by VA.

We have advised many veterans who suffered administrative error by VA.

One such case brought to Veterans Education Success involved a beneficiary who had the Post-9/11 GI Bill transferred to her by her father, who was assured by his Service personnel office that retiring a few days before the end of the additional service obligation he incurred for transferring his education benefit would not affect that benefit transfer. Seven years after her father retired, and six years after she graduated, VA sent the beneficiary a debt collection notice stating that she

owed up to \$100,000, and that they were also going to restore her father's education benefit, in clear contravention of the wishes of the family.

We urge the Subcommittee to give serious consideration as to whether it is fair to retroactively change a veteran or eligible dependent's GI Bill payments when he or she has already finished the classes. In these cases, veterans rely on a promise that the GI Bill would cover their classes, VA comes back to the veteran after the classes are completed to say it was a mistake, and the veteran needs to come up with tens of thousands of dollars. This is not a client-oriented action.

The problem of VA administrative error is compounded by VA's debt collection practices. In practice, the impact of VA's aggressive debt collection on veterans is significant. VA has sent out hundreds of thousands of overpayment notification letters in the recent years, and annually recoups around \$1.6 billion in debts.<sup>14</sup> To recoup overpayments, VA is allowed to withhold up to 100% of a veteran's monthly disability benefits until the debt is fully repaid.

One family we helped had this to say about the stress of the situation:

*"VA is charging our son \$100,000+ GI Bill/911 saying he doesn't qualify for the benefit...they paid four years college and now...four years later they sent a letter asking to pay back that amount of money. We called them every semester and received letters of the remaining of months/benefit. We are under a lot of stress with this...my husband is an 80% Disabled Veteran with 22 years of service/ honorable discharge and I am a disabled person...I don't stop crying." – E.R., a mother of a veteran who reached out to Veterans Education Success to seek help*

**Draft legislation to amend Title 38 U.S.C. to provide certificates of eligibility and award letters to certain individuals using electronic means.**

We support this legislation to provide GI Bill certificates of eligibility and award letters using electronic means.

Because student veterans move so often, letters sent in the regular mail can easily be sent to the wrong address. The U.S. Government Accountability Office (GAO) recommended that VA use

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<sup>14</sup> See Kayla Williams, "Veterans shouldn't have to shoulder VA errors: VA debt collection must be improved," *The Hill* (March 28, 2019), available at <https://thehill.com/opinion/healthcare/436219-va-debt-collection-must-be-improved/>.

its existing portals and means of communicating with student veterans – especially VA’s eBenefits portal.<sup>15</sup>

**Draft legislation to amend Title 38 U.S.C. to expand certain rehabilitation programs for certain veterans with service-connected disabilities.**

We generally support this draft legislation to pay for flight training that does not lead to a degree.

The Committee has faced a long history of waste, fraud, and abuse in flight training, with low-quality flight training programs charging VA exorbitant amounts, up to \$500,000, for a single veteran. There were multiple scandalous news reports of the waste, fraud, and abuse of flight training programs paid for by VA education programs.<sup>16</sup>

**Draft legislation to amend Title 38 U.S.C. to increase the amount of survivors’ and dependents’ educational assistance provided to an eligible individual pursuing a program of education at an institution in the Republic of the Philippines.**

We support the draft legislation to remove the unusual rate of \$0.50 for each dollar for educational assistance allowance that is specific to the Philippines in Title 38.

**HR 6445: Healthy Foundations for Homeless Veterans Act**

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<sup>15</sup> U.S. Government Accountability Office, GAO-16-42, “Post-9/11 GI Bill: Additional Actions Needed to Help Reduce Overpayments and Increase Collections” (Oct. 21, 2015).

<sup>16</sup> See, e.g., *Los Angeles Times*, “U.S. Taxpayers Stuck with the Tab as Helicopter Flight Schools Exploit GI Bill Loophole,” available at: <https://www.latimes.com/nation/la-me-adv-gibill-20150315-story.html#page=1> (“For two years of training to become a pilot, the government often pays more than \$250,000, over twice the amount non-veterans pay at many schools, *The Times* has found from interviews, government documents, price lists and flight school contracts. At one flight company — Utah-based Upper Limit Aviation — records show 12 veterans whose training had cost the government more than \$500,000 each.”); *Los Angeles Times*, “Laws to Prevent Abuse of GI Bill Benefits Weren’t Enforced, Records Show,” available at: <https://www.latimes.com/nation/la-na-flight-school-20150324-story.html> (March 23, 2015) (“Helicopter flight training companies were able to collect tens of millions of dollars a year through a loophole in the latest GI Bill in part because officials didn’t enforce laws aimed at preventing abuse of veteran education benefits, according to interviews, court records and state and federal documents. *The Times* reported this month that some privately owned flight companies routinely collect more than \$250,000 — and sometimes double that — to train a single veteran in a two-year program. It is the most expensive form of education paid for under the GI Bill.”)

We support providing flexibility to the VA as it works to serve veterans experiencing homelessness.

## **Conclusion**

Thank you for inviting our input. We also urge the introduction of new legislation to address technical corrections needed in Isakson-Roe and new legislation to require minimum standards for GI Bill programs, as we outlined in our Statement for the Record on our legislative priorities for the 118th Congress.<sup>17</sup> We look forward to working with Subcommittee staff on these priorities.

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

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

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<sup>17</sup> Veterans Education Success, Statement for the Record, Legislative Priorities Submitted to the Senate and House Committees on Veterans Affairs, 118th Congress, First Session (March 7, 2023), available at: <https://vetsedsuccess.org/statement-for-the-record-legislative-priorities-submitted-to-the-senate-and-house-committees-on-veterans-affairs/>