

On January 5, 2021, the President signed into law the *Johnny Isakson and David P. Roe, M.D. Veterans Health Care and Benefits Improvement Act of 2020* ([H.R. 7105](#)), a comprehensive package focused on veteran education and healthcare, which includes provisions from the *Protect the GI Bill Act*. We understand that Committee staff have begun work on technical amendments to the legislation.

The provisions included from the *Protect the GI Bill Act* make many changes to how higher education benefits are administered at the Department of Veterans Affairs (VA), including requiring the VA to implement a new dual certification process for students to receive VA education benefits, creating new risk-based surveys to conduct oversight, and more. Staff addressed a major concern that would have required institutions to provide monthly certification reports to the VA. One key issue that remains is a provision that makes colleges liable for any overpayment to a veteran for tuition and fees—colleges would need to pay this money back to the VA (Sec. 1019). While the bill includes changes that are aimed at reducing overpayments, this change is still highly problematic.

APLU joined the higher education community in sending letters to [House](#) and [Senate](#) leadership outlining remaining concerns with provisions detailed in the *Protect the GI Bill Act*.

Beyond the provisions that were included from the *Protect the GI Bill Act*, the comprehensive veterans package includes a number of additional higher education provisions, including a requirement that all public institutions provide in-state tuition for GI Bill students, regardless of when they separated from the military. This provision expands the current statutory requirement that public institutions provide in-state tuition for GI Bill students who have separated from the military within the last three years.

All higher education provisions, including provisions on COVID-19 response (in Subtitle B), are discussed below. (View bill pdf [here](#).)

## **Title I – Education**

### **Subtitle A. Education Generally.**

#### **Sec. 1001. Edith Nourse Rogers STEM Scholarship.**

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The bill expands the Edith Nourse Rogers STEM Scholarship program of the U.S. Department of Veterans Affairs to cover students pursuing careers in health care that require clinical training. It also allows the VA to use a priority system in years where the scholarship lacks funding and stops students' STEM eligibility counting against their 48-month cap on total education benefits.

**Sec. 1002. Fry Scholarship Expansion.**

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The bill amends the Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) program of the VA to expand access to the scholarship program for children of certain deceased service members.

**Sec. 1003. Montgomery GI Bill Participation.**

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Beginning two years from the date of passage, the bill would allow service members to choose whether or not they want to pay into the Montgomery GI Bill after their first six months of service as opposed to after their first few days of service.

**Sec. 1004. Montgomery GI Bill Sunset.**

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The bill would sunset the Montgomery GI Bill program starting in 2030.

**Sec. 1005. In-State Tuition Requirement.**

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The bill requires all public institutions to provide in-state tuition for GI Bill students regardless of when a veteran separated from the military. This provision expands the current statutory requirement included in the *Veterans Access, Choice and Accountability Act of 2014* ([H.R. 3230](#)) that public institutions provide in-state tuition for GI Bill students who have separated from the military within the last three years (this requirement went into effect January 1, 2016).

The bill also directs the VA to create a website with a database to include any public schools' in-state tuition requirements and allows VA to disapprove any school that does not provide VA with certain information on these requirements.

**Sec. 1006. Veterans Work-Study Program Expansion.**

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The bill allows students to perform outreach work in Congressional offices as a part of the VA Work-Study program.

**Sec. 1009. Active Duty Benefits.**

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Under current law, servicemembers receive housing allowances in each month they are enrolled more than half time in an institution or in specific full-time vocational training programs. Servicemembers on active duty and their spouses receive housing allowances from DOD.

The bill authorizes the VA to pay housing allowances during periods of active duty less than 30 days—for example, during the two weeks of annual training required for reservists.

**Sec. 1010. Enrollment Verification.**

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The bill creates a dual certification system for students to receive VA education benefits. As we understand it, the institution will first certify enrollment with tuition and fees reported as “\$0.00 dollars” to start the veteran’s housing payments, then amend the certification with the correct tuition and fee amount after the end of the add-drop payment when course schedules are unlikely to change. Dual certification is not currently required by the VA but it is strongly encouraged, and many colleges and universities already use this process—particularly those with large student veteran populations.

The bill also requires students to electronically verify their continued enrollment on a monthly basis throughout the term.

**Sec. 1011. Post 9/11 Dependents Eligibility.**

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Under current law, servicemembers may transfer their post-9/11 GI bill benefits to spouses, as well as biological and adopted children under the age of 21 (or 23 if enrolled full-time at an institution).

The bill allows servicemembers to transfer their GI Bill benefits to their children, as well as child wards including foster children, who are under the age of 26.

**Sec. 1012. Program Disapproval Authority.**

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The bill allows the VA to disapprove programs if they are offered by an institution that is at risk of losing accreditation.

**Sec. 1013. Risk-Based Surveys.**

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The bill requires the VA to work with State Approving Agencies (SAAs) to create a new risk-based survey to provide oversight for all schools. The bill further requires the VA and SAAs to create a searchable database to track all these risk-based surveys.

For more on the risk-based review system, see this [report](#) from Education Council published in December this year.

**Sec. 1014. Risk-Based Oversight.**

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The bill requires SAAs to conduct a risk-based oversight visit to institutions placed on [Heightened Cash Monitoring 2 \(HCM2\)](#) or provisional status by the U.S. Department of Education; final punitive actions by the Attorney General, Federal Trade Commission, or other Federal department or agency; or the loss of accreditation, or risk of loss, by an institution, including notice of probation, suspension, a show cause order, or revocation of accreditation, which may result in a loss of GI benefit eligibility.

**Sec. 1015. Program Approval Requirement.**

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The bill requires that schools participate in the Federal Student Aid program in order to receive VA education benefits but allows VA to waive this in certain circumstances. The bill also requires the VA Secretary to report any program that has been such a waiver.

**Sec. 1016. Accreditation for Law Schools.**

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The bill requires law schools to be approved by the American Bar Association (ABA) in order to be eligible for GI Bill benefits.

**Sec. 1017. Grounds for Program Disapproval.**

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The bill adds that a specific program of study may be disapproved if it fails to respond to a risk-based survey from a State approving agency.

**Sec. 1018. Information Disclosures.**

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The bill codifies parts of the VA's [Principles of Excellence](#) program, which includes the following requirements:

- Prior to enrollment, every student veteran would need to receive a form “personalized to the individual” providing estimates of information like total costs (e.g., over four years), cost of living expenses, estimate of amount of debt at graduation, info to help compare aid packages from other schools.
- Not later than 15 days after the institution or governing body determines new tuition rates and fees for an upcoming academic year, student veterans must be provided an updated form.
- Provide vets info about program completion requirements including “when required classes will be offered and a timeline to graduate.”
- SAAs must ensure compliance with ED’s incentive compensation ban.
- SAAs must ensure compliance with ED’s misrepresentation rules.

**Sec. 1019. Liability for Overpayments.**

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Under current law, the VA pays tuition and fees directly to schools for all students who receive benefits under the Post-9/11 GI Bill. If a student drops courses or stops attending, a portion of those funds—overpayments—need to be repaid to the VA. Overpayments, on average, total approximately \$350 million annually—about 40 percent of these payments come from students, and the rest come from institutions. The VA typically recovers 87 percent of the amount students owe and 98 percent of what institutions owe.

The bill shifts all responsibility for tuition repayments to institutions, putting colleges and universities in the position of becoming the VA’s debt collector in situations where an overpayment occurs as a result of enrollment changes later in the term. Assuming that the amount of the overpayment is in excess of

any refund owed to the veteran under the institution's refund policy—which is likely for changes occurring late in the term—an institution may need to recoup this debt directly from the veteran. Even if an institution elects not to collect on the debt, a debt on a student's account is likely to prevent the veteran from re-enrolling or from obtaining a transcript to continue at another institution.

**Sec. 1020. Substantial Misrepresentation.**

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The bill subjects schools seeking VA education funds to the same limits on advertising, sales, and marketing that schools must comply with to qualify for Federal Student Aid.

**Sec. 1021. Restoration of Entitlements for Students Enrolled in Closed Schools.**

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Under current law, if a student has not received credit for their courses because their IHE closed or was disapproved, the student may apply to the VA to have their education benefits restored.

The bill clarifies and expands upon the conditions under which a student may have their education benefits restored. It also allows students who attended a school that closed or lost approval between January 1, 2015 and August 16, 2017 to receive a full restoration of benefits for all credits earned at that institution.

**Sec. 1022. Treatment of Institutions that Convert from For-Profit to Non-Profit.**

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The bill requires SAAs to conduct risk-based reviews of for-profit institutions that convert to nonprofit status for the three years following its conversion.

**Sec. 1023. State Approving Agency Outreach.**

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The bill requires SAAs to fulfill all oversight and approval responsibilities for programs prior to conducting any outreach.

**Sec. 1024. Co-location of SAAs and Universities.**

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The bill prohibits recognition of a State approving agency if it is administered at or co-located with a university or university system whose courses or programs of education would be subject to approval by the State approving agency in that State. The bill requires SAAs that are currently colocated with a university to move within 6 months of the enactment of the bill.

## **Subtitle B. Pandemic Assistance.**

### **Sec. 1102. COVID-19 Flexibility.**

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This section allows the VA to continue paying educational assistance benefits during the COVID-19 emergency if the Secretary determines a student was negatively affected by the emergency. This is a broad, flexible authority aimed at covering any gaps in protection the rest of these education provisions do not.

### **Sec. 1103. Entitlement Protections for Closed Schools.**

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The bill ensures that if a school closes due to COVID-19, the entitlement used by a student veteran at that school will not be charged against their overall entitlement amount.

### **Sec. 1104. Entitlement Protection for Withdrawals.**

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The bill requires the VA to view a student's withdrawal from school due to covered reason during the COVID-19 pandemic as mitigating circumstances and not charge the student's entitlement.

### **Sec. 1105. Montgomery GI Bill Eligibility Protections.**

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The bill prevents a veteran's MGIB eligibility from lapsing during the COVID-19 emergency period of 1 March 2020 until 21 December 2021.

### **Sec. 1108. Entitlement Charge Prohibition.**

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The bill amends the Student Veteran Coronavirus Response Act of 2020 to ensure that a student's entitlement and payment allowances are not charged in the event they are unable to continue their program.