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# Harry W. Colmery Veterans Educational Assistance Act of 2017 (P.L. 115-48)

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## Summary

Since the enactment of the Post-9/11 Veterans Educational Assistance Act of 2008 (Post-9/11 GI Bill; P.L. 110-252), Congress has enacted several bills aimed to improve it. Congress's most recent effort to refine the Post-9/11 GI Bill and respond to stakeholder feedback is the Harry W. Colmery Veterans Educational Assistance Act of 2017 (Colmery Act; P.L. 115-48), enacted on August 16, 2017. The Colmery Act enacted over 30 amendments to the Post-9/11 GI Bill and other programs administered by the Department of Veterans Affairs (VA). Most provisions become effective on enactment or on August 1, 2018.

The Colmery Act is better known as the “Forever GI Bill”. One of the prominent provisions of the bill eliminated the Post-9/11 GI Bill delimiting dates (period within which benefits must be used) for some individuals—making the Post-9/11 GI Bill the Forever GI Bill for some. As of enactment, there is no delimiting date for veterans whose last discharge or release from active duty was on or after January 1, 2013; for a spouse using benefits transferred from a veteran who was last discharged or released from active duty service on or after January 1, 2013; or for a Marine Gunnery Sergeant John David Fry Scholarship (Fry Scholarship) recipient who first became eligible on or after January 1, 2013. Other Post-9/11 GI Bill-eligible individuals must use their 36-month entitlement within 15 years of discharge or release, or by a specified age.

Another key provision that went into effect upon enactment allows the restoration of GI Bill entitlement for individuals affected by school closures and disapproved programs of education since 2015. This provision was in response to the closure of multiple large, proprietary institutions of higher education, such as those owned by Corinthian Colleges, Inc. (e.g., Heald College) and ITT Educational Services (e.g., ITT Technical Institutes) that disrupted the postsecondary education and career plans of many students.

Other Post-9/11 GI Bill amendments increase benefit levels for several groups of individuals including, but not limited to, Purple Heart recipients, individuals with at least 6 months of qualifying service but less than 12 months, Fry Scholarship recipients, and reservists on active duty on the first day of a month. Select Post-9/11 GI Bill participants pursuing science, technology, engineering, and math programs that are of longer than average duration may receive an additional nine months of entitlement through the Edith Nourse Rogers STEM Scholarship (STEM Scholarship). Benefit levels for the Survivors' and Dependents' Educational Assistance Program (DEA) also increase, but the months of entitlement are reduced from 45 months to 36 months for individuals who first enroll on or after August 1, 2018.

The Colmery Act enacted several provisions intended to improve administration of all of the GI Bills. The VA is now required to use a risk-based approach in conducting oversight of approved programs of education in an effort to ensure they are of a high-quality and meet all statutory provisions. Additionally, school certifying officials will now be required to complete training on their GI Bill administrative responsibilities and are to have access to information to help them advise GI Bill participants.

In addition to GI Bill amendments, the Colmery Act authorizes a five-year High Technology Pilot Program. The program is intended to provide GI Bill-eligible veterans the opportunity to enroll in high technology programs of education that are not GI Bill approved, such as coding boot camps. Under the pilot, the VA reimburses education providers with successful outcomes for the cost of tuition and other fees and provides a monthly housing allowance to GI Bill-eligible veterans.

Finally, the bill requires the VA to reconsider claims for disability compensation based on exposure to mustard gas or lewisite during World War II that had been denied before the date of enactment of the Colmery Act.

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## Introduction

As of FY2018, the Department of Veterans Affairs (VA) administers benefits under six GI Bills: the Post-9/11 Veterans Educational Assistance program (Post-9/11 GI Bill),<sup>1</sup> Survivors' and Dependents' Educational Assistance Program (DEA), Montgomery GI Bill—Selected Reserve (MGIB-SR), Montgomery GI Bill—Active Duty (MGIB-AD), Reserve Educational Assistance Program (REAP), and Post-Vietnam Era Veterans Educational Assistance Program (VEAP).<sup>2</sup> The GI Bills provide financial assistance to eligible servicemembers and veterans and their families while pursuing education and civilian job or career training. In general, GI Bill benefits are available for pursuit of a variety of education and training programs from apprenticeships to graduate education over 36 months (or the equivalent in part-time pursuit). In FY2017, the GI Bills provided over \$12 billion in payments to or on behalf of almost one million participants.<sup>3</sup>

During the 114<sup>th</sup> Congress and early in the 115<sup>th</sup> Congress, Members introduced several pieces of legislation intended to update and improve the GI Bills<sup>®</sup>. Three bills were enacted in the 114<sup>th</sup> Congress to enhance GI Bill benefits, protect GI Bill participants, and collect outcome data on participants, among other purposes. For a description of the bills enacted in the 114<sup>th</sup> Congress, see CRS Report R44586, *GI Bill Legislation Enacted in the 114th Congress*. Despite the legislation enacted in the 114<sup>th</sup> Congress, several issues and stakeholder requests remained outstanding.

The Harry W. Colmery Veterans Educational Assistance Act of 2017 (Colmery Act; P.L. 115-48) was introduced on July 13, 2017, as a compilation of several bills, some of which had previously received committee and subcommittee hearings. The House Committee on Veterans' Affairs (HVA) marked up and approved the bill on Thursday, July 19, 2017. On Tuesday, July 24, 2017, the House suspended its rules and passed the bill, by a vote of 405-0. In the following week, the Senate passed the House version of the bill by unanimous consent on August 2, 2017. The President signed the bill into law on August 16, 2017. On September 29, 2017, the Department of Veterans Affairs Expiring Authorities Act of 2017 (P.L. 115-62) was enacted, making several technical corrections to the Colmery Act.

This report describes the provisions of the Colmery Act, as amended. The first section describes amendments made by the law to the Post-9/11 GI Bill. The two subsequent sections describe amendments that affect multiple GI Bills and GI Bills other than the Post-9/11 GI Bill. The final sections describe amendments to other programs and a new program.

## Post-9/11 GI Bill Amendments

The Post-9/11 Veterans Educational Assistance Act of 2008 (“Post-9/11 GI Bill”)—originally established by Title V of the Supplemental Appropriations Act, 2008 (P.L. 110-252) and enacted

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<sup>1</sup> For a detailed discussion of the Post-9/11 GI Bill, see CRS Report R42755, *The Post-9/11 Veterans' Educational Assistance Act of 2008 (Post-9/11 GI Bill): A Primer*.

<sup>2</sup> For a full description of the non-Post-9/11 GI Bills, see CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans' Educational Assistance Programs: A Primer*.

<sup>3</sup> *President's FY2019 Budget Request*.

on June 30, 2008—is the newest and most widely used GI Bill.<sup>4</sup> In FY2017, the Post-9/11 GI Bill provided over \$11 billion in payments to or on behalf of over 750,000 participants.<sup>5</sup>

The following sections describe changes to the Post-9/11 GI Bill, as enacted by the Colmery Act. The first section describes changes to participant eligibility criteria. The second section explains changes to the eligible benefit payments. The third section indicates changes to the period during which the benefits must be used. The final sections illustrate new institutional reporting requirements and claims processing requirements for the Department of Veterans Affairs (VA).

## Post-9/11 GI Bill Eligible Individuals

Prior to the enactment of the Colmery Act, to be eligible for the Post-9/11 GI Bill, servicemembers and veterans were required to fulfill a minimum aggregate period under qualifying active duty service orders on or after September 11, 2001, and meet other requirements. Individuals who served the minimum aggregate period (90 days) received benefits at the 40% level. Individuals who served at least 36 aggregate months and individuals who were discharged or released for a service-connected disability after serving a minimum of 30 continuous days received benefits at the 100% level. The Colmery Act enacted changes to the types of qualifying active duty, the benefit levels, and established new processes for eligibility.

Prior to the enactment of the Colmery Act, family members of servicemembers and veterans also could have been eligible for the Post-9/11 GI Bill through a transfer of benefits or the death of a servicemember. The Colmery Act enacted changes the transfer process.

## Qualifying Active Duty

Prior to and following the enactment of the Colmery Act, the Post-9/11 GI Bill qualifying active duty service orders are specified in 38 U.S.C. §3301. In the 2012 *Eleventh Quadrennial Review of Military Compensation*, the most recent review, the Department of Defense (DOD) noted inequities in the types of active duty service that qualify for the Post-9/11 GI Bill.<sup>6</sup> DOD recommended expanding the definition of qualifying active duty service to include several authorities:

- voluntary orders for authorized health care by reservists (10 U.S.C. §12301(h));
- involuntary orders to respond to major disasters or emergencies by reservists (10 U.S.C. §12304a);
- involuntary orders by reservists for preplanned missions in support of combatant commands (10 U.S.C. §12304b);
- voluntary orders to receive treatment for or recover from an injury or illness incurred or aggravated while performing inactive duty (“drill”) for more than 30 days by reservists (10 U.S.C. §12322);
- involuntary orders to respond full-time to major disasters or emergencies by National Guard members under the command of the governor (32 U.S.C. §501(f)(1)(A));

<sup>4</sup> For a detailed discussion of the Post-9/11 GI Bill, see CRS Report R42755, *The Post-9/11 Veterans’ Educational Assistance Act of 2008 (Post-9/11 GI Bill): A Primer*.

<sup>5</sup> *President’s FY2019 Budget Request*.

<sup>6</sup> Department of Defense, *Report of the Eleventh Annual Quadrennial Review of Military Compensation*, June 2012, pp. 199-201.

- voluntary orders by National Guard members to perform DOD missions, such as drug interdiction and counter drug activities, or to maintain programs, such as the National Guard youth challenge program (32 U.S.C. §502(f)); and
- voluntary orders by National Guard members at the request of the President under the command of the governor to assist federal agencies when the country is not under a national emergency and when the national emergency does not cover the duty’s purpose (Title 32 of the U.S. Code).

Sections 101 and 401 of the Colmery Act expand the types of qualifying active duty service to include 10 U.S.C. §§12301(h), 12304a, and 12304b, as described in the prior paragraph. The addition of §12301(h) applies to service on or after September 11, 2001, and educational pursuit beginning on or after August 1, 2018. The addition of §§12304a and 12304b applies to service on or after June 30, 2008, and educational pursuit beginning on or after August 1, 2018.

### Benefit Levels

Section 105 of the Colmery Act increases the benefit level of individuals with less than 12 months of qualifying active duty service. Under the new provisions, an individual with at least 6 months, but less than 12 months, of qualifying active duty service increases from 50% of the full benefit level to 60%. The benefit level of an individual with at least 90 days, but less than 6 months, of qualifying active duty service increase from 40% to 50% of the full benefit level. The change in benefit level is effective August 1, 2020. **Table 1** displays the relationship between benefit levels and aggregate length of active duty service.

**Table 1. Post-9/11 GI Bill Benefit Level by Aggregate Length of Active Duty Service**

Aggregate Qualifying Active Duty Service	Benefit Levels (%)	
	Before August 1, 2020	After July 31, 2020
At least 36 months active duty service	100	100
At least 30 continuous days and discharged due to a service-connected disability	100	100
At least 30 months, but less than 36 months	90	90
At least 24 months, but less than 30 months	80	80
At least 18 months, but less than 24 months	70	70
At least 12 months, but less than 18 months	60	60
At least 6 months, but less than 12 months	50	60
At least 90 days, but less than 6 months	40	50

**Sources:** Prepared by CRS based on P.L. 115-48, Title 38 U.S.C. §§3311 and 3313, and data available from the U.S. Department of Veterans Affairs.

### Purple Heart Recipients

Prior to the enactment of the Colmery Act, Purple Heart recipients did not receive special eligibility consideration under the Post-9/11 GI Bill. The Purple Heart is one of the oldest and

most recognized American military medals, awarded to servicemembers who were killed or wounded by enemy action.<sup>7</sup>

Section 102 of the Colmery Act extends the Post-9/11 GI Bill to eligible Purple Heart recipients at the 100% benefit level regardless of the individuals' length of qualifying active duty service. An eligible Purple Heart recipient is one who receives a Purple Heart as a result of an event that occurs on or after September 11, 2001, while the individual is serving in a qualifying active duty status. To receive Post-9/11 GI Bill benefits, Purple Heart recipients, like other Post-9/11 GI Bill eligible servicemembers and veterans, must either continue on active duty or be discharged or released from active duty with an honorable discharge or with an honorable service characterization. All newly eligible Purple Heart recipients may begin receiving benefits at the 100% benefit level on or after August 1, 2018.

### **Reserve Educational Assistance Program Recipients**

The Reserve Educational Assistance Program (REAP), as originally enacted in 2005,<sup>8</sup> provided educational assistance benefits to eligible reservists who served at least 90 consecutive days in qualifying duty authorizations after September 10, 2001.<sup>9</sup> The National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92) terminated REAP by establishing that no educational benefits be paid after November 25, 2015, with one exception. Individuals who received REAP benefits for the enrollment period immediately preceding November 25, 2015, received benefits through November 25, 2019, or until exhausting their entitlement, whichever comes first.

Section 106 of the Colmery Act permits individuals who lost REAP eligibility as a result of the REAP November 25, 2015 sunset date to be eligible for the Post-9/11 GI Bill. Service that was previously used to qualify the individual for REAP may be credited toward Post-9/11 GI Bill eligibility. The individual converting to the Post-9/11 GI Bill from REAP receives the same number of months of Post-9/11 GI Bill entitlement as the individual had remaining months of REAP entitlement. Prior to January 2018, the VA identified and notified the approximately 3,200 eligible REAP participants of their option to elect the Post-9/11 GI Bill.<sup>10</sup>

### **Transferees**

Prior to and following the enactment of the Colmery Act, individuals eligible for the Post-9/11 GI Bill based on their own service (qualifying individuals) may transfer their benefits to their child, their spouse, or some combination of children and spouse. Prior to the enactment of the Colmery Act in order to designate a transfer of benefits, qualifying individuals had to be members of the Armed Forces (active duty or Selected Reserve) or active duty members of the Commissioned Corps of the Public Health Service or National Oceanic and Atmospheric Administration.

Section 110 of the Colmery Act provides two exceptions, allowing transfers for qualifying individuals who are no longer members of the Armed Forces:

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<sup>7</sup> For more information, see CRS Report R42704, *The Purple Heart: Background and Issues for Congress*.

<sup>8</sup> Section 527 of the Ronald W. Reagan National Defense Authorization Act for FY2005 (P.L. 108-375).

<sup>9</sup> For a detailed description of REAP, see CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans' Educational Assistance Programs: A Primer*.

<sup>10</sup> U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Hearing: An Update on the Implementation of the Forever GI Bill, the Harry W. Colmery Educational Assistance Act of 2017*, Testimony of MG Robert M. Worley II USAF (Ret.), Director, Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., December 12, 2017.



- A qualifying individual may transfer any remaining entitlement from a deceased transferee to another dependent; and
- A transferee may transfer his or her remaining entitlement to another dependent of the qualifying individual following the death of the qualifying individual.

The provision goes into effect for deaths occurring on or after August 1, 2009, and for training on or after August 1, 2018.

## **Post-9/11 GI Bill Benefit Payments**

Prior to and following the enactment of the Colmery Act, the Post-9/11 GI Bill provides several types of benefit payments, including payments for tuition and fees, the Yellow Ribbon program, housing, books and supplies, tutorial assistance, test fees, and relocation and travel assistance. The Colmery Act enacted changes to the Yellow Ribbon program, enacted adjustments to the housing allowance, and established a new benefit payment.

### **Yellow Ribbon Payment Eligibility**

Prior to and following the enactment of the Colmery Act, an institution of higher learning (IHL) may voluntarily enter into a Yellow Ribbon Payment agreement with the VA. Under the agreement, the VA and IHL match an equal percentage of some portion of the tuition and fee charges remaining in cases in which the tuition and fees at an IHL are not fully covered by the Post-9/11 GI Bill tuition and fees benefit payment. Prior to the enactment of the Colmery Act, only veterans at the 100% benefit level and some transferees at the 100% benefit level were eligible for Yellow Ribbon payments. In addition, active duty servicemembers and their spouses to whom benefits were transferred and Marine Gunnery Sergeant John David Fry Scholarship recipients (Fry Scholars) were not eligible for Yellow Ribbon payments.

Sections 103 and 104 of the Colmery Act extend eligibility for Yellow Ribbon payments to Fry Scholars, Purple Heart recipients, and active duty servicemembers at the 100% benefit level and their spouses to whom benefits are transferred. Eligibility for Yellow Ribbon payments to Fry Scholars and Purple Heart recipients takes effect on August 1, 2018. Yellow Ribbon payments to active duty servicemembers and their spouses to whom benefits were transferred take effect on August 1, 2022.

### **Housing Allowance Adjustments**

Prior to and following the enactment of the Colmery Act, Post-9/11 GI Bill-eligible individuals may receive a monthly housing allowance. The housing allowance is based on the DOD-determined monthly basic allowance for housing (BAH) for a member of the Armed Forces with dependents in pay grade E-5 (hereinafter referred to as the “E-5 with dependents BAH”).

#### ***For Participants Beginning After January 1, 2018***

The FY2015 and FY2016 National Defense Authorization Acts allowed the Secretary of Defense to reduce BAH payments by 1% of the national average monthly housing cost in FY2015 with an additional 1% reduction per year through 2019 (for a maximum reduction of 5% under the

national monthly average housing cost).<sup>11</sup> The Post-9/11 GI Bill housing allowance was exempt from the reductions.<sup>12</sup>

Section 501 of the Colmery Act applies the DOD reduction effective January 1, 2018, to Post-9/11 GI Bill participants who first use their entitlement on or after such date.

### ***For Local Campuses***

Prior to the enactment of the Colmery Act, the housing allowance was based on the E-5 with dependents BAH for the area where the educational institution or employer was located. For educational institutions, the area where the educational institution or employer was located was determined by the ZIP code in which all, or a majority, of the primary institution was located. The VA and educational institutions determined the primary institutional location based on the institution's administrative preference and capability. For example, an educational institution with multiple branch campuses could have chosen to centralize GI Bill administration at the main campus, in which case the primary location was the location of the main campus. An educational institution with multiple branch campuses could have chosen to decentralize administration at each branch campus, in which case the primary locations were each of the branch campus locations.

Section 107 of the Colmery Act, as amended by Section 501(b) of P.L. 115-62, modifies the maximum housing allowance for individuals pursuing a noncollege degree program or a program of education leading to a degree at an IHL. For such individuals whose initial enrollment in a program of education occurs on or after August 1, 2018, the maximum housing allowance is the E-5 with dependents BAH for the area of the campus where the individual physically participates in a majority of classes.

### ***For Reservists Called to Active Duty***

Prior to and following the enactment of the Colmery Act, an individual on active duty is not eligible to receive the Post-9/11 GI Bill housing allowance. Regulations provide that an individual who is released from active duty status will begin receiving the monthly housing allowance on the first day of the month following the date the individual was discharged.<sup>13</sup> Therefore, prior to the enactment of the Colmery Act, if an individual was called to active duty in the middle of a month, the individual was not eligible to receive the housing allowance for the remainder of the month. However, if an individual was on active duty on the first day of a month, the individual was not eligible for a housing allowance for any portion of that month.

Section 113 of the Colmery Act, as amended by Section 501(c) of P.L. 115-62, prorates the housing allowance based on the time not spent on active duty during a month, regardless of whether the individual started the month on active duty or not. This provision goes into effect for academic terms beginning on or after August 1, 2018.

### **Edith Nourse Rogers STEM Scholarship**

Section 111 of the Colmery Act establishes a new Post-9/11 GI Bill benefit payment, the Edith Nourse Rogers STEM Scholarship (STEM Scholarship). Under the STEM Scholarship, the VA is

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<sup>11</sup> The Carl Levin and Howard P. "Buck" McKeon National Defense Authorization Act for Fiscal Year 2015 (P.L. 113-291) and the National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92).

<sup>12</sup> The exemption also applied to the Vocational Rehabilitation & Employment program (VR&E) stipend that is based on the Post-9/11 GI Bill housing allowance.

<sup>13</sup> 38 C.F.R. §21.9625(k).

authorized to grant up to an additional nine months of entitlement to selected Post-9/11 GI Bill participants. The STEM Scholarship is intended to provide selected individuals extra time to achieve their educational objective in qualifying science, technology, engineering, and math (STEM) fields (**Table 2**).

Over the 9-month STEM Scholarship period, individuals are to receive the Post-9/11 GI Bill tuition and fees payments, housing allowance, and books and supplies stipends for which they would otherwise be eligible. The aggregate STEM Scholarship payments may not exceed \$30,000 per individual. An individual eligible for the Yellow Ribbon program may receive the educational institution’s share but not the VA match. STEM Scholars are not eligible for other Post-9/11 GI Bill benefits such as tutorial assistance. Finally, the aggregate STEM Scholarship payments to all selected individuals are limited to \$0 in FY2018; \$25 million in FY2019, starting on August 1, 2019; \$75 million in each of FY2020 through FY2022; and \$100 million in each fiscal year thereafter.

To be eligible for selection, the Post-9/11 GI Bill participant must apply and have exhausted or almost (within 180 days) exhausted his or her Post-9/11 GI Bill entitlement. Individuals using transferred Post-9/11 GI Bill benefits are not eligible. In addition, to be eligible the individual must be enrolled in a qualifying STEM program (see **Table 2**) that leads to either

- a bachelor’s degree requiring more than 128 semester (or 192 quarter) credit hours, or
- a teaching certification.

Finally, if the individual is enrolled in a bachelor’s degree program, the individual must have completed at least 60 semester (or 90 quarter) credit hours toward the degree. If the individual is enrolled in a teaching certification program, the individual must have completed a qualifying STEM bachelor’s degree requiring more than 128 semester (or 192 quarter) credit hours. The Secretary’s selection of eligible individuals must give priority to individuals who require the most credit hours and individuals at the 100% benefit level.

**Table 2. Qualifying STEM Fields for Edith Nourse Rogers STEM Scholarship**

Agriculture science program	Engineering technologies	Physical science
Biological or biomedical science	Health profession or related program	Science technologies or technicians
Computer and information science and support services	Mathematics	Statistics
Engineering	Medical residency program	Other subjects and fields identified by the VA as meeting national needs
Engineering-related field	Natural resources science program	

**Source:** P.L. 115-48.

In addition, Section 110 of the Colmery Act requires the Government Accountability Office (GAO) to submit two assessment reports to Congress on the STEM Scholarship. An interim report is due by August 1, 2020, and the final report is due by August 1, 2024. The reports are to compare STEM Scholars to veterans who were not STEM Scholars in the following areas: types of educational institutions, programs of education, student completion rates, job placement rates in the STEM field, median annual earnings, and student ages. The reports are to also provide information on programmatic changes made by educational institutions, STEM fields identified by the VA, and recommendations for improving the STEM Scholarship. Furthermore, the final

report is to include the percentage of STEM Scholars who completed a program of education who were subsequently employed in the STEM field for a period of less than six months and for a period of six months or longer.

## **Post-9/11 GI Bill Delimiting Date**

Prior to the enactment of the Colmery Act, individuals were required to use GI Bill benefits before a delimiting date on and after which no GI Bill benefits may be paid. For the Post-9/11 GI Bill, the delimiting dates were as follows:

- for a qualifying individual, 15 years after discharge or release from active duty;<sup>14</sup>
- for a spouse using transferred benefits, 15 years after the qualifying individual's last discharge or release from active duty;
- for a child using transferred benefits, the 26<sup>th</sup> birthday;<sup>15</sup>
- for a Fry Scholarship recipient who was the child of an individual who died in the line of duty while serving on active duty, the 33<sup>rd</sup> birthday;
- for a Fry Scholarship recipient who was the spouse of an individual who died in the line of duty while serving on active duty, 15 years after the spouse first became eligible.<sup>16</sup>

Section 112 of the Colmery Act eliminates the delimiting dates for some individuals—making the Post-9/11 GI Bill the “forever GI Bill” for some. This provision went into effect upon the bill's enactment. There is no delimiting date

- for a qualifying individual whose last discharge or release from active duty was on or after January 1, 2013;
- for a spouse using benefits transferred from a qualifying individual who was last discharged or released from active duty service on or after January 1, 2013; and
- for a Fry Scholarship recipient who first became eligible on or after January 1, 2013.

## **Reporting of the Academic Progress of Post-9/11 GI Bill Participants**

The Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315) authorized the Secretary to disapprove courses at educational institutions that did not provide annual academic progress information on Post-9/11 GI Bill participants.<sup>17</sup> The law also required that the VA's academic year annual report to Congress on the Post-9/11 GI Bill

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<sup>14</sup> The 15-year limitation did/does not include periods when individuals were ineligible for the program but their discharge status was later amended to make them eligible for the program, and periods when individuals were detained by a foreign government or power and any related recovery period in a hospital. Individuals incapable of beginning education as a result of a physical or mental disability could/can be granted an extension for the period of incapacity.

<sup>15</sup> Children to whom Post-9/11 GI Bill benefits are transferred and who are incapable of pursuing their chosen program of education before age 26 as a result of being the primary caregiver, according to the family caregiver assistance program (38 U.S.C. §1720G(a)), are granted an extension of the delimiting date.

<sup>16</sup> 38 U.S.C. §3311 note provides an exception such that spouses of individuals who died during the period beginning on September 11, 2001, and ending on December 31, 2005, may use the benefit until the earlier of 15 years following January 1, 2006, or remarriage.

<sup>17</sup> For more information on P.L. 114-315, see CRS Report R44586, *GI Bill Legislation Enacted in the 114th Congress*.

and the Survivors' and Dependents' Educational Assistance Program (DEA) include such academic progress information, in addition to the requirements that preceded the enactment of P.L. 114-315. Prior to P.L. 114-315, the Secretary's annual report was required to include information on participation, expenditures, student outcomes, and appropriate recommendations for administrative and legislative changes. The provision was intended to become effective on December 16, 2017.

Section 114 of the Colmery Act requires the VA to summarize the academic progress information in a calendar year report to Congress no later than March 1 of each year.

## Post-9/11 GI Bill Information Technology (IT) Claims

### Processing Systems

Over the last few years, several changes to the Post-9/11 GI Bill program have been enacted.<sup>18</sup> During hearing testimony prior to the enactment of the Colmery Act, the VA expressed concerns regarding the cost and time required for implementation of some of the changes to the Post-9/11 GI Bill long term solution (LTS) and other VA information technology processing systems.<sup>19</sup> LTS is the primary VA information technology processing system for the Post-9/11 GI Bill.

Section 115 of the Colmery Act requires the VA to automate all original and supplemental Post-9/11 GI Bill claims to the extent possible using rules-based processing. The VA is required to provide an implementation plan for such automation to Congress within 180 days of enactment and report to Congress on such implementation within one year, by August 16, 2018. The VA has indicated that increased automation would likely require at least 24 months for procurement, development, and deployment.<sup>20</sup> Finally, Section 115 of the Colmery Act authorizes the appropriation of \$30 million during FY2018 and FY2019 for such planning, automation, and reporting.

## Amendments Affecting Other or Multiple GI Bills

Although the Post-9/11 GI Bill represents the overwhelming majority of GI Bill participants and spending, there are five other GI Bills that also provide educational assistance.<sup>21</sup> The following sections describe Colmery Act provisions that affect benefits under multiple GI Bills and under GI Bills other than the Post-9/11 GI Bill. The first section describes changes to participant eligibility criteria. The second section explains changes to eligible benefit payments and their administration.

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<sup>18</sup> The Veterans Access, Choice, and Accountability Act of 2014 (P.L. 113-146), enacted on August 7, 2014, expanded eligibility and reduced tuition and fee charges for some participants. The National Defense Authorization Act for Fiscal Year 2016 (P.L. 114-92), enacted on November 25, 2015, prohibited concurrent receipt of unemployment insurance and Post-9/11 GI Bill Benefits. The Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315), enacted on December 16, 2016, extended benefit availability for some individuals and streamlined claim processing.

<sup>19</sup> U.S. Congress, Senate Committee on Veterans' Affairs, *Pending Benefits Legislation*, Written Testimony of Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, Department of Veterans Affairs, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., June 15, 2017.

<sup>20</sup> U.S. Congress, Senate Committee on Veterans' Affairs, *Pending Benefits Legislation*, Written Testimony of Mr. Curtis L. Coy, Deputy Under Secretary for Economic Opportunity, Veterans Benefits Administration, Department of Veterans Affairs, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., June 15, 2017.

<sup>21</sup> For a full description of the non-Post-9/11 GI Bills, see CRS Report R42785, *GI Bills Enacted Prior to 2008 and Related Veterans' Educational Assistance Programs: A Primer*.

## **GI Bill Entitlement**

Prior to the enactment of the Colmery Act, most GI Bills allocated 36 months (or the equivalent in part-time educational assistance) of GI Bill entitlement to eligible individuals. The Survivors' and Dependents' Educational Assistance Program (DEA) allocated 45 months of entitlement. With few exceptions, an individual's entitlement was charged or reduced for the receipt of most educational assistance payments. In general, once an individual's entitlement was exhausted, the individual was no longer eligible for further GI Bill payments, except in special circumstances. The Colmery Act reduces an individual's entitlement under DEA and establishes new criteria by which previously charged GI Bill entitlement may be restored.

## **Reduction in DEA Entitlement**

Section 202 of the Colmery Act reduces the DEA entitlement from 45 months to 36 months for individuals who first enroll in a program of education for which they receive DEA benefits on or after August 1, 2018.

## **Restoration of Entitlement for Closed Schools and Disapproved Programs of Education**

Since 2015, the closure of multiple large, private for-profit institutions of higher education, such as those owned by Corinthian Colleges, Inc. (e.g., Heald College) and ITT Educational Services (e.g., ITT Technical Institutes) has disrupted the postsecondary education and career plans of many students. Section 109 of the Colmery Act, as amended by Section 501(d) of P.L. 115-62, restores entitlement for individuals affected by school closures and disapproved programs of education. Entitlement is restored for an incomplete course or program at an educational institution for which the individual is unable to receive credit or lost training time because

- the school closed, or
- the course itself or a course that is a necessary part of the intended program was disapproved as a result of a subsequently established or modified policy, regulation, or law.

This provision applies to individuals who were enrolled within 120 days of a closure or disapproval if the closure or disapproval occurred on or after January 1, 2015. The amount of entitlement restored for closures and disapprovals occurring from January 1, 2015, through August 16, 2017, is based on the entire period of the individual's enrollment in the closed school or disapproved program. The amount of entitlement restored for closures and disapprovals occurring after August 16, 2017, is based on the academic term during which the school closed or the program was disapproved. The restoration of entitlement went into effect November 14, 2017. The VA has notified almost 8,000 individuals of their potential eligibility for entitlement restoration and the process for applying.<sup>22</sup>

In addition to restoring such entitlement, Section 109 of the Colmery Act permits the VA to continue paying a Post-9/11 GI Bill housing allowance through the end of the academic term during which such closure or disapproval occurred but no longer than 120 days. Entitlement is not charged for the extended housing allowance. The extension of benefits following such closure or

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<sup>22</sup> U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Hearing: An Update on the Implementation of the Forever GI Bill, the Harry W. Colmery Educational Assistance Act of 2017*, Testimony of MG Robert M. Worley II USAF (Ret.), Director, Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., December 12, 2017.

disapproval is only applicable to the Post-9/11 GI Bill. Eligibility for the extended housing allowance payments begins August 16, 2017, and they are payable effective August 1, 2018.

Finally, Section 109 of the Colmery Act requires that the VA notify affected individuals of imminent and actual school closures and notify them how such closure will affect their GI Bill entitlement.

## **GI Bill Benefit Payments**

Prior to and following the enactment of the Colmery Act, GI Bill benefit payments are available to eligible individuals pursuing an approved program of education. The Colmery Act enacted a change to the types of tests eligible for benefit payments, a change in the entitlement charge for test fee benefit payments under the Post-9/11 GI Bill, an increase in the DEA monthly benefit allowance, and modifications to the process for calculating benefit payments.

### **Test Fee Reimbursement and Entitlement Charge**

Prior to and following the enactment of the Colmery Act, under all of the GI Bills, individuals receive reimbursement for approved licensing or certification tests, national tests for admission to an IHL, and national tests providing an opportunity for course credit at an IHL. Under all of the GI Bills except the Post-9/11 GI Bill, an individual's entitlement period was reduced in proportion to the cost of the test and the monthly benefit otherwise payable to such individual. Prior to the enactment of the Colmery Act, an individual's Post-9/11 GI Bill entitlement period was reduced at least a full month.

Section 108 of the Colmery Act expands the types of tests eligible for fee reimbursement and modifies the Post-9/11 GI Bill entitlement charge effective August 1, 2018. For all of the GI Bills except DEA, Section 108 permits reimbursement for national tests that evaluate prior learning and knowledge and that provide an opportunity for course credit at an IHL. Section 108 modifies the Post-9/11 GI Bill test fee entitlement charge to be consistent with the other GI Bills—a prorated charge based on the cost of the test in relation to the monthly rate.

### **Increase in DEA Monthly Allowance**

Prior to and following the enactment of the Colmery Act, DEA provides a monthly allowance for subsistence, tuition and fees, supplies, books, and equipment, the allowance was paid directly to participants. Maximum monthly benefit amounts are adjusted at any time through the enactment of a law and are adjusted annually according to the consumer price index (all items, U.S. city average). Effective October 1, 2017, the maximum monthly rate was \$1,041. Participants received a lower amount depending on the type of education/training pursued and their enrollment rate/rate of pursuit.

Section 203 of the Colmery Act increases the maximum monthly rate to \$1,224 effective October 1, 2018.

### **Modification of Enrollment Start Date**

Prior to and following the enactment of the Colmery Act, under all of the GI Bills, the dates during which the individual pursues the program of education are used to calculate benefit amounts. Educational institutions are required to report the beginning and ending dates of each academic term or program (if not on a term basis), breaks, and any course variations. In accordance with regulations when a student enrolls in a resident course, the commencing date of

the award is the first scheduled date of the term or program; however, there are exceptions.<sup>23</sup> Prior to the enactment of the Colmery Act, one exception was for a resident course that began during the calendar week following the first scheduled date of the term or program such that the commencing date of the award for that particular course was the actual course start date. This meant that an individual's enrollment rate was lower in the first week of the term. The Post-9/11 GI Bill housing allowance and monthly allowance for the other GI Bills were reduced in proportion to the individual's enrollment rate.

Section 309 of the Colmery Act establishes that, for a course that begins no more than seven days after the first scheduled date of the term or program, the commencing date of the award is the first scheduled date of the term or program.

## GI Bill Administration

Prior to and following the enactment of the Colmery Act, the VA is accountable for administrative functions in addition to administering GI Bill benefit payments to eligible individuals. These include approving and reviewing programs of education in accordance with statutory and regulatory requirements, providing outreach and disclosures to GI Bill-eligible individuals, and training personnel at educational institutions and training establishments.

The following sections provide a description of Colmery Act provisions that affect the general administration of the GI Bills. The first three sections relate to the funding, functions, and oversight of state approving agencies (SAAs). The fourth and fifth sections describe changes that directly impact educational institutions and training establishments approved for GI Bill purposes by establishing new requirements and providing additional resources. The remaining sections explain additional Colmery Act provisions intended to increase information disclosure and transparency in order to maximize positive GI Bill outcomes; expand the types of approved programs of education in response to 21<sup>st</sup> century training innovations; and extend the committee that provides recommendations to the VA to improve GI Bill administration and outcomes.

## Increased Funding for State Approving Agencies

Prior to and following the enactment of the Colmery Act, state approving agencies (SAAs) play an important role in the administration of GI Bill benefits.<sup>24</sup> The SAA role is intended to ensure that veterans and other GI Bill participants have access to a range of high-quality education and training programs at which to use their GI Bill benefits. Prior to the enactment of the Colmery Act, statutory provisions provided mandatory funds annually for SAA expenses from the VA Readjustment Benefits appropriations account. The Veterans Benefits Act of 2002 (P.L. 107-330) increased the mandatory fund allocation from the VA Readjustment Benefits appropriations account from \$14 million in FY2002 to \$19 million starting in FY2006. In 2009, the SAAs indicated that the VA reimbursement did not cover actual SAA costs.<sup>25</sup> In 2015, National Association of State Approving Agencies (NASAA)<sup>26</sup> requested additional funds for their

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<sup>23</sup> 38 C.F.R. §21.4131(b).

<sup>24</sup> For more information about SAAs, see CRS Report R44728, *The Role of State Approving Agencies in the Administration of GI Bill Benefits*.

<sup>25</sup> U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., July 16, 2009, H.Hrg. 111-35 (Washington, DC: GPO, 2010), p. 37.

<sup>26</sup> NASAA is the voluntary organization of SAAs founded to coordinate their efforts.



member agencies to offset increased SAA responsibilities of approval, outreach and marketing, and technical assistance.<sup>27</sup>

Section 301 of the Colmery Act increases the mandatory fund allocation from the VA Readjustment Benefits appropriations account to \$21 million in FY2018 and \$23 million for FY2019 and thereafter. In addition, beginning in FY2019, the mandatory allocation adjusts in accordance with the Social Security annual cost-of-living adjustments (**Table 3**).<sup>28</sup>

Section 301 also authorizes a \$3 million appropriation for FY2019 and each succeeding fiscal year (**Table 3**). The decision as to whether to provide that additional funding will be made each year through the annual appropriations process.

**Table 3. Funding Authorization for State Approving Agencies: FY2017-FY2019**

Fiscal Year	Mandatory Funds Authorized for Allocation	Additional Authorization of Appropriations	Total Authority
2017	\$19 million	\$0	\$19 million
2018	\$21 million	\$0	\$21 million
2019	\$23 million	\$3 million	\$26 million

**Sources:** 38 U.S.C. § 3674 and Section 301 of P.L. 115-48.

**Notes:** Mandatory funds are allocated by the VA from funds in the VA Readjustment Benefits appropriations account. Those mandatory funds are provided each year through the annual appropriations process.

## Risk-Based Oversight of Approved Programs of Education

Prior to and following the enactment of the Colmery Act, the VA utilizes SAAs for compliance surveys and other oversight activities. Through Executive Order 13607, *Establishing Principles of Excellence for Educational Institutions Serving Service Members, Veterans, Spouses, and Other Family Members*, signed April 27, 2012, the VA was tasked with establishing procedures for targeted risk-based program reviews of educational institutions with approved programs of education to ensure compliance with the principles described in the Executive Order. By December 30, 2015, as a result of the Executive Order, 79 risk-based program reviews had been conducted by the VA and SAAs based on complaints submitted through the VA’s GI Bill Feedback System.<sup>29</sup> The 2017 policy of the VA was to establish annual priorities in order to conduct compliance surveys of higher risk programs, institutions, and establishments.<sup>30</sup> For example, the FY2017 strategy was intended to ensure compliance surveys of all IHLs with flight programs, and further prioritize private for-profit and nonaccredited institutions and facilities

<sup>27</sup> U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *The Evolution of State Approving Agencies*, 111<sup>th</sup> Cong., 1<sup>st</sup> sess., July 16, 2009, H.Hrg. 111-35 (Washington, DC: GPO, 2010), p. 37; and U.S. Congress, House Committee on Veterans’ Affairs, Subcommittee on Economic Opportunity, *Examining VA’s On-the-Job Training and Apprenticeship Program*, Written Testimony of Dr. Joseph W. Wescott, Legislative Director, National Association of State Approving Agencies, 114<sup>th</sup> Cong., 1<sup>st</sup> sess., November 18, 2015.

<sup>28</sup> For more information on the Social Security cost-of-living adjustments, see CRS Report 94-803, *Social Security: Cost-of-Living Adjustments*.

<sup>29</sup> The GI Bill Feedback System allows recipients of GI Bill benefits to submit complaints against educational institutions or employers. The system is accessible at <http://benefits.va.gov/GIBILL/Feedback.asp>. Source: Robert M. Worley II, Director, Education Service, “NASAA Mid-Winter Training & Business Meeting,” Education Service Updates, February 8, 2016.

<sup>30</sup> Department of Veterans’ Affairs, “Procedural Advisory: FY2017 Compliance Survey Scheduling.”

offering federal on-the-job training or apprenticeships that are not registered by the Department of Labor.<sup>31</sup>

Section 310 of the Colmery Act, as amended by Section 501(a) of P.L. 115-62, codifies the requirement that the VA conduct risk-based surveys and other oversight in consultation with the SAAs.

## Evaluation of State Approving Agencies

Prior to the enactment of the Colmery Act, a statutory provision did not require that the Government Accountability Office (GAO) report on SAAs. Section 311 of the Colmery Act requires the GAO to report on the performance of SAAs by August 16, 2018. The report will

- analyze the effectiveness of the cooperation between the VA and SAAs as required by statutory provisions;
- analyze the resources, including funding, required by SAAs to fulfill their statutory obligations;
- evaluate and examine the use of and outcomes of using risk-based oversight by SAAs; and
- recommend how the VA and SAAs can better use data to evaluate, approve, or disapprove educational institutions.

## Training Requirement for School Certifying Officials

Prior to and following the enactment of the Colmery Act, each educational institution and training establishment must designate a school certifying official (SCO) to fulfill the requisite responsibilities for administering GI Bill benefits. Prior to the enactment of the Colmery Act, various formal and informal training opportunities were available to SCOs to ensure proper administration of GI Bill benefits. For example, SAAs offered formal training programs, on-site training, and as-needed technical assistance to SCOs. The VA offered training manuals and other resources. Both the GAO and VA Office of Inspector General indicated that required SCO training would improve the timeliness and accuracy of GI Bill administration and reduce overpayments.<sup>32</sup>

Section 305 of the Colmery Act requires the VA, in consultation with the SAAs, to establish training requirements for SCOs at educational institutions with at least 20 GI Bill and VR&E participants. Section 305 is effective starting August 1, 2018.

## Changes to GI Bill Reporting Fees

Prior to and following the enactment of the Colmery Act, the VA is authorized to pay educational institutions and training establishments a reporting fee based on the number of GI Bill and VR&E participants enrolled or pursuing training. The reporting fee is intended to partially compensate or reimburse educational institutions and training establishments for reports and certifications required for GI Bill administration.

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<sup>31</sup> Ibid.

<sup>32</sup> Department of Veterans Affairs, Office of Inspector General, *Audit of Post-9/11 G.I. Bill Monthly Housing Allowance and Book Stipend Payments*, 13-01452-214 (Washington, DC: July 11, 2014); and U.S. Government Accountability Office, *POST-9/11 GI BILL: Additional Actions Needed to Help Reduce Overpayments and Increase Collections*, GAO-16-42, October 21, 2015.

Since 2011, the reporting fee amount has been modified several times in order to either offset the estimated increased costs of other amendments or to compensate for the increased GI Bill-related administrative requirements of educational institutions and training establishments (**Table 4**). The original effective dates of reporting fee amounts in **Table 4** are often superseded by subsequent legislation, as is evident in **Table 4**. Prior to the enactment of the Colmery Act, the reporting fee for the year beginning on August 1, 2018, would have been \$7 for each GI Bill and VR&E participant enrolled in a program of education or pursuing training and \$12 for each GI Bill participant for whom the institution received an advanced GI Bill payment. Section 304 of the Colmery Act, as amended by Section 411 of P.L. 115-62, changes the reporting fee beginning August 1, 2018 through July 31, 2020, to \$15 for each GI Bill and VR&E participant enrolled in a program of education or pursuing training. Section 304 eliminates the differential reporting fee for each GI Bill participant for whom the institution received an advanced GI Bill payment.

**Table 4. Legislative Changes to GI Bill Reporting Fees, 1977-2017**

Public Law	Reporting Fee	Original Effective Dates
GI Bill Improvement Act of 1977 (P.L. 95-202)	\$7 and \$11	On or after October 1, 1977
Post-9/11 Veterans Educational Assistance Improvements Act of 2010 (P.L. 111-377)	\$12 and \$15	On or after October 1, 2011
Department of Veterans Affairs Expiring Authorities Act of 2014 (P.L. 113-175)	\$9 and \$13	September 26, 2014– September 25, 2015
P.L. 113-175	\$12 and \$15	On or after September 26, 2015
Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315)	\$6 and \$12	December 16, 2016–September 25, 2017
P.L. 114-315	\$7 and \$12	September 26, 2017– September 25, 2026
P.L. 114-315	\$12 and \$15	On or after September 26, 2026
Department of Veterans Affairs Expiring Authorities Act of 2017 (P.L. 115-62)	\$6 and \$12	December 16, 2016– July 31, 2018
Harry W. Colmery Veterans Educational Assistance Act of 2017 (P.L. 115-48)	\$16	On or after August 1, 2018
P.L. 115-62	\$15	August 1, 2018–July 31, 2020
P.L. 115-62	\$16	On or after August 1, 2020

**Source:** Table prepared by CRS from the listed public laws.

**Notes:** The first fee amount is the fee for each GI Bill and VR&E participant enrolled in a program of education or pursuing training. The second fee amount, if available, is the differential fee for each GI Bill participant for whom the institution received an advanced GI Bill payment.

Prior to the enactment of the Colmery Act, reporting fees were used solely for certifying the enrollment and pursuit of participants for GI Bill and VR&E purposes and for supporting programs for veterans. Section 304 of the Colmery Act clarifies that the reporting fees may not be used for or merged with amounts available for the general fund at educational institutions and training establishments with 100 or more GI Bill and VR&E participants.

## Increased Information Transparency and Disclosure

Prior to the enactment of the Colmery Act, some Congressional Members, GI Bill participants, training establishments and educational institutions expressed an interest in increased access to

information that could ensure GI Bill participants were making the most informed decisions about using their benefits.<sup>33</sup>

Prior to and following the enactment of the Colmery Act, statutory provisions require that the VA provide information to veterans and servicemembers to help them use their GI Bill benefits in an informed manner. The VA's GI Bill website includes links to the GI Bill Comparison Tool and Department of Education's College Scorecard.<sup>34</sup> Section 303 of the Colmery Act requires the GI Bill Comparison Tool include information on whether educational institutions offer priority enrollment to veterans. Priority enrollment allows eligible students to enroll in courses earlier than other students in order to increase the chances that such students are able to complete their program of education in a timely manner.

Prior to the enactment of the Colmery Act, to help counsel GI Bill participants in the use of their benefits, SCOs indicated a desire for easier access to information on the status of a student's GI Bill entitlement, claims, eligible benefit amounts, expected payment dates, and pending issues. SCOs obtained the information by calling the VA call center. GI Bill participants also retrieved some information through eBenefits, a web portal for veterans, servicemembers, and their families to research, find, access, and eventually manage their benefits. Section 308 of the Colmery Act requires that the VA also provide benefit entitlement information on enrolled GI Bill participants to educational institutions through a secure information technology system unless the GI Bill participant opts out. This provision takes effect on August 1, 2018.

## Expansion of Types of Approved Online Training

Prior to and following the enactment of the Colmery Act, training establishments, educational institutions, and programs of education must meet certain statutory requirements to receive and maintain GI Bill approval. Prior to the enactment of the Colmery Act, statutory provisions required that programs of education offered in part or exclusively through independent study (online) had to lead to either a college degree or a certificate that reflected educational attainment offered by an IHL in order to be approved for GI Bill purposes, among other criteria. Nonaccredited programs were not eligible to be approved if offered in whole or in part through independent study.<sup>35</sup>

Section 302 of the Colmery Act expands the types of independent study programs that may be GI Bill approved. The programs must still be accredited. Programs of education offered in part or exclusively through independent study must lead to a college degree, a certificate that reflects educational attainment offered by an IHL, or a certificate that reflects completion at an area

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<sup>33</sup> U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Field Hearing: Best Practices in Veterans Education and Transition to Civilian Life*, 115<sup>th</sup> Cong., 1<sup>st</sup> sess., November 17, 2017, p. Testimony of Mr. Ikaika (Kai) Iuta and U.S. Congress, House Committee on Veterans' Affairs, Subcommittee on Economic Opportunity, *Legislative Hearing on: H.R. 748; 2551; 3286; 3419; 4138; Draft Bill, "To Make Certain Improvements in the Laws Administered by the Secretary of Veterans Affairs Relating to Educational Assistance, and for Other Purposes"*; *Draft Bill, The "Veterans Success on Campus Act of 2016"*; *Draft Bill, The "GI Bill Oversight Act of 2016"*; *Draft Bill, "To Direct the Secretary of Labor to Carry Out a Research Program to Evaluate the Effectiveness of Transition Assistance Program in Addressing Needs of Certain Minority Veterans*, 114<sup>th</sup> Cong., 2<sup>nd</sup> sess., April 14, 2016, H.Hrg. 114-64 (Washington, DC: GPO, 2017), p. 22.

<sup>34</sup> The GI Bill Comparison Tool is available at <https://www.vets.gov/gi-bill-comparison-tool> and the Department of Education's College Scorecard is available at <https://collegescorecard.ed.gov/>.

<sup>35</sup> An accredited program is a program offered by an educational institution that is accredited and approved by an accrediting agency or association which the Secretary of Education has determined to be a reliable authority as to the quality of training offered by an educational institution.

career and technical educational (CTE) school or a postsecondary vocational institution.<sup>36</sup> Certificates that reflect completion at an area CTE school or a postsecondary vocational institution must be recognized by employers of the relevant industry in the state and meet any licensure, certification, or state board requirements.

## **Extension of Veterans' Advisory Committee on Education**

The Veterans' Advisory Committee on Education (VACOE) provides advice to the VA on the administration of education and training programs, including the GI Bills, for veterans and servicemembers and their dependents.<sup>37</sup> The VACOE was authorized through December 31, 2017. Section 306 of the Colmery Act authorizes the VACOE through December 31, 2022.

## **Related Department of Veterans Affairs Programs**

The following sections describe Colmery Act provisions that affect educational programs that are related to the GI Bills and administered by the VA. First, the act amends the eligible activities under the existing VA Work Study program. Second, the act authorizes the administratively created VetSuccess on Campus program. Third, the act authorizes a new pilot program to promote veterans education. Finally, the act modifies eligibility under the existing Vocational Rehabilitation & Employment (VR&E) program.

### **Allowable Work Study Activities**

Prior to and following the enactment of the Colmery Act, the Veterans Work Study Program allows Post-9/11 GI Bill, Survivors' and Dependents' Educational Assistance Program (DEA), Montgomery GI Bill—Selected Reserve (MGIB-SR), Montgomery GI Bill—Active Duty (MGIB-AD), Post-Vietnam Era Veterans Educational Assistance Program (VEAP), and Vocational Rehabilitation & Employment (VR&E) participants to receive additional financial assistance through the VA in exchange for employment. Eligible work-study activities are listed in statutory provisions. The Veterans Education and Benefits Expansion Act of 2001 (P.L. 107-103) authorized three additional activities for a five-year period, which has been extended through six subsequent acts.<sup>38</sup>

Section 201 of the Colmery Act makes the three activities permanently eligible. The activities are

- outreach services to servicemembers and veterans furnished by employees of a state approving agency;
- hospital and domiciliary care and medical treatment for veterans at VA facilities and state homes paid for by the VA; and
- activities related to the administration of a national cemetery or a state veterans' cemetery.

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<sup>36</sup> Generally, such schools are public or private nonprofit postsecondary institutions or departments of institutions that offer career and technical education. An area career and technical education school is as defined in subparagraphs (C) and (D) of section 3(3) of the Carl D. Perkins Career and Technical Education Act of 2006. A postsecondary vocational institution is as defined in section 102(c) of the Higher Education Act of 1965, as amended.

<sup>37</sup> 38 U.S.C. §3692.

<sup>38</sup> P.L. 107-330, P.L. 109-444, P.L. 109-461, P.L. 110-157, P.L. 111-275, and P.L. 114-315.

## Authorization of the VetSuccess on Campus Program

In June 2009, the VA initiated the VetSuccess on Campus (VSOC) program to facilitate the transition from military service to educational and employment objectives. Each college campus participating in the VSOC program was assigned a full-time VR&E counselor and a part-time VA outreach coordinator. The coordinator and counselor ensured veterans were aware of available services, including career and academic counseling, VA benefits and services, and other services. The ninety-four colleges and universities participating since 2014 had high veteran populations and entered into an agreement with the VA to coordinate service delivery.<sup>39</sup>

Section 307 of the Colmery Act codifies the existing initiative. Section 307 further requires the VA to annually report to Congress the VSOC counseling services provided and to suggest recommendations for improving the program.

## High Technology Pilot Program

In 2014, the Obama Administration launched an initiative to expand job-driven training so that Americans could fill available, good jobs.<sup>40</sup> As part of the initiative in 2015, the VA initiated the pilot accelerated learning programs (ALPs) “to ensure that veterans can take full advantage of innovative learning models” and “to identify leading practices among alternative learning models, and evaluate the employment outcomes of accelerated learning programs (ALPs) for post 9/11 veterans.”<sup>41</sup> ALPs were intended to be innovative and non-traditional programs of education (e.g., boot camps) that develop skills that directly translate into careers, particularly in information technology (IT), and that may not be eligible or qualify for GI Bill approval.<sup>42</sup> Under the ALP pilot, transitioning servicemembers and veterans enrolled for free in IT courses that were typically designed to be completed in less than six months. Participants were able to participate in an ALP while using Post-9/11 GI Bill benefits for other programs.<sup>43</sup> Under the ALP pilot, the training providers received reimbursement from the VA based on participant enrollment, completion, and employment.

Section 116 of the Colmery Act authorizes a similar program by requiring the VA to carry out a five-year High Technology Pilot Program.<sup>44</sup> High technology programs are nondegree programs of education that provide qualifying instruction and that are offered by qualified providers. The pilot program is intended to provide GI Bill-eligible veterans the opportunity to enroll in high technology programs of education that the Secretary determines provide training or skills sought by employers in a relevant field or industry. The VA is authorized to expend for the pilot program up to \$15 million annually out of its readjustment benefits appropriation.

Under the program, the VA contracts with qualified providers to provide high technology programs to GI Bill-eligible veterans. Qualifying instruction for high technology programs is

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<sup>39</sup> The locations are available at Department of Veterans Affairs, Vocational Rehabilitation and Employment (VR&E), VetSuccess on Campus, <https://www.benefits.va.gov/vocrehab/vsoc.asp>.

<sup>40</sup> White House, “Ready to Work: New Actions to Expand Job-Driven Training and Broaden the Pathway to the Middle Class,” press release, July 22, 2014.

<sup>41</sup> Ibid.

<sup>42</sup> Department of Veterans Affairs, “Accelerated Learning Programs Offer Innovative Learning Opportunities for Veterans,” press release, September 10, 2014. For information on the GI Bill approval process, see CRS Report R44728, *The Role of State Approving Agencies in the Administration of GI Bill Benefits*.

<sup>43</sup> Department of Veterans Affairs, “VA Launches Accelerated Learning Program Pilot for Transitioning Servicemembers and Veterans,” Fact Sheet, August 2015.

<sup>44</sup> The five-year period begins when the VA enters into a contract for the program.

computer programming, computer software, media application, data processing, or information sciences. Qualified providers are entities that are not IHLs, have been in operation for at least two years, have successfully provided the high technology program for at least one year, and meet VA-developed approval criteria. Qualified providers that offer tuition reimbursement to students who do not find meaningful employment in suitable fields within 180 days of program completion receive preference in contracting.

The VA reimburses the qualified provider for the cost of tuition and other fees for the high technology program. The VA pays 25% of the cost upon enrollment of an eligible veteran, 25% upon program completion by an eligible veteran, and 50% upon employment of an eligible veteran-completer in a suitable field.

GI Bill-eligible veterans enrolled full-time in the pilot program receive a monthly housing allowance. The housing allowance is similar to the Post-9/11 GI Bill housing allowance in that it is based on the DOD-determined monthly basic allowance for housing (BAH) for a member of the Armed Forces with dependents in pay grade E-5 (hereinafter referred to as the E-5 with dependents BAH). For individuals not enrolled through distance learning,<sup>45</sup> the monthly housing allowance is the E-5 with dependents BAH for the area in which the qualified provider is located, reduced according to the individual's enrollment rate (rounded to the nearest multiple of 10). For individuals enrolled through distance learning, the monthly housing allowance is half of the amount for individuals not enrolled through distance learning.

Section 116 of the Colmery Act does not establish the interaction between the High Technology Pilot Program and the GI Bill for which the veteran is eligible. There is no prohibition against concurrent receipt of benefits. There is no prohibition against combining the GI Bills and the High Technology Pilot Program to receive more than 48 months of aggregate educational benefits. There is no requirement that an individual elect either a GI Bill or the High Technology Pilot Program for the same period of qualifying military service.

Finally, Section 116 of the Colmery Act requires reports to Congress from both the VA and GAO. The VA is to report annually on the High Technology Pilot Program. The GAO is to submit an interim assessment of the High Technology Pilot within three years of the first contract with a qualified provider and a final report two years later. The interim report is to include recommendations to improve the program; while the final report will include recommendations on whether to extend the program. In addition, the reports are to include other information and several measures. Information includes the experience of qualified providers, the cooperation between qualified providers and industry on program curriculum, and the average age of program participants. The measures are the program admittance rate, job placement and retention rates for program completers, the percentage of program completers employed less than six months in the field of study, the percentage of program completers employed at least six months in the field of study, median annual salary for employed program completers, and transfer rates to other academic or vocational programs.

## **Modification of Eligibility Extensions for Veterans Eligible for Vocational Rehabilitation**

Prior to and following the enactment of the Colmery Act, the Vocational Rehabilitation and Employment program for veterans (VR&E) is an entitlement program that provides job training

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<sup>45</sup> Distance learning is not defined, but is primarily comprised of online education.

and other employment-related services to veterans with service-connected disabilities.<sup>46</sup> Prior to the enactment of the Colmery Act, a veteran had his or her period of eligibility for the VR&E program extended if the veteran was prevented from participating in such a program because he or she was ordered to serve on active duty under 10 U.S.C. §§688, 12301(a), 12301(d), 12301(g), 12302, or 12304. A veteran who was prevented from participating in a VR&E program while serving under the specified sections had his or her eligibility extended for the period of duty plus four months.

The National Defense Authorization Act for Fiscal Year 2012 (P.L. 112-81) established new active duty orders—10 U.S.C. §§12304a and 12304b. Section 12304a authorizes active duty to provide assistance in response to a major disaster or emergency at the request of a governor. Section 12304b authorizes involuntary activations of Selected Reserve units for up to 365 consecutive days of active duty. Prior to the enactment of the Colmery Act, the VR&E extension provisions did not include these new types of active duty. Thus a veteran who served under §12304a or 12304b would not qualify for an extension.

Section 402 of the Colmery Act modifies Section 3103 of Title 38 to add active duty under §§12304a and 12304b as forms of active duty that qualify a veteran for an extension of VR&E eligibility. A similar provision amending the Montgomery GI Bill-Selected Reserve (MGIB-SR) was enacted by the Jeff Miller and Richard Blumenthal Veterans Health Care and Benefits Improvement Act of 2016 (P.L. 114-315) in the 114<sup>th</sup> Congress.<sup>47</sup>

## Reconsideration of Veterans Mustard Gas and Lewisite Claims<sup>48</sup>

During World War II, thousands of American servicemembers were exposed to nitrogen mustard gas, sulfur mustard gas, and Lewisite as part of weapons testing programs.<sup>49</sup> Prior to the enactment of the Colmery Act, these veterans may have been eligible for disability compensation if it were determined that they had disabilities caused or aggravated by their exposure to mustard gas or Lewisite during service. Prior to and following the Colmery Act, pursuant to VA regulations, there is a presumption that certain medical conditions are caused or aggravated by a veteran's exposure to mustard gas or Lewisite and thus are service-connected for the purposes of eligibility for disability compensation.<sup>50</sup> Prior to the enactment of the Colmery Act and despite this presumptive eligibility regulation, there have been concerns that many veterans who should be eligible for disability compensation on the basis of mustard gas or Lewisite exposure may have been denied compensation by the VA due to inaccurate service records and information on the chemical weapons testing programs, including incomplete information on sites where testing occurred.<sup>51</sup>

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<sup>46</sup> For more information, see CRS Report RL34627, *Veterans' Benefits: The Vocational Rehabilitation and Employment Program*.

<sup>47</sup> For more information, see CRS Report R44586, *GI Bill Legislation Enacted in the 114th Congress*.

<sup>48</sup> For questions from congressional clients regarding this section, please contact Scott D. Szymendera, Analyst in Disability Policy.

<sup>49</sup> For additional information on servicemembers' exposure to mustard gas and Lewisite, see Institute of Medicine, *Veterans at Risk: The Health Effects of Mustard Gas and Lewisite* (Washington, DC: National Academies Press, 1993).

<sup>50</sup> 38 C.F.R. §3.316.

<sup>51</sup> *Cruel and Unusual Service: The Servicemen Left Behind by the Secret Mustard Gas Experiments of World War II*, Prepared by the Office of Senator Claire McCaskill, May 31, 2016, <https://www.mccaskill.senate.gov/imo/media/doc/FINAL-Mustard-Gas-Report-May-31-2016.pdf>.



## **Reconsideration of Previously Denied Claims**

Section 502(a) of the Colmery Act requires the VA to reconsider claims for disability compensation based on exposure to mustard gas or Lewisite during World War II that had been denied before the date of the enactment of the Colmery Act. Claims are eligible for reconsideration if they allege exposure at one of the 22 sites listed in Section 502 or any other site determined appropriate by the VA. These reconsidered claims are to be presumed to be eligible for disability compensation on the basis of mustard gas or Lewisite exposure unless there is affirmative evidence to deny the claim. In making determinations on reconsidered claims, the VA must consider that records of exposure may be unavailable and that many veterans were sworn to secrecy as part of their participation in the testing programs. The VA may not deny claims solely on the basis of information on the Department of Defense and Department of Veterans Affairs Chemical Biological Warfare Database or any list of known testing sites maintained by DOD or the VA. Benefits for reconsidered claims are retroactive to the date of first application for benefits.

## **Investigations and Reports**

Section 502(b) of the Colmery Act requires, within 180 days of enactment, DOD to investigate sites in which the Army Corps of Engineers has uncovered evidence of chemical weapons testing during World War II to assess the effects of full-body exposure of mustard gas and Lewisite on humans; and sites for which more than two veterans have previously been denied compensation in connection with exposure to mustard gas or Lewisite. DOD is required to provide a report to Congress which includes a list of all sites where chemical weapons testing occurred, including sites investigated pursuant to the Colmery Act, the dates of such testing, and number of veterans who were exposed to mustard gas or Lewisite during such testing.

Section 502(c) of the Colmery Act also requires, within 180 days, the VA to investigate and report to Congress the actions taken by the agency to contact veterans who were exposed to mustard gas and Lewisite during chemical weapons testing and the number and percentage of denied claims for compensation related to exposure to mustard gas and Lewisite.

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