



**Legislative Bulletin.....February 3, 2014**

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**H.R. 1791 - Medical Preparedness Allowable Use Act (Bilirakis, R-FL)**

**Order of Business:** [H.R. 1791](#) is scheduled to be considered on February 3, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** This bill amends the Homeland Security Act of 2002 to allow certain grant funds from the Federal Emergency Management Agency (FEMA) to be used for enhancing medical preparedness, medical surge capacity, and mass prophylaxis capabilities. Examples of permissible activities include the purchase of medical kits and diagnostics to protect first responders and victims. This bill simply codifies existing authority.

**Additional Background:** FEMA’s Urban Area Security Initiative (UASI) and State Homeland Security Grant Program (SHSGP) provide grants to state and local governments to prevent, prepare for, protect against, and respond to acts of terrorism. This bill clarifies that SHSGP and UASI funds may be used for medical preparedness.

**Committee Action:** This bill was introduced on April 26, 2013, and referred to the House Committee on Homeland Security. The committee held a markup on October 29, 2013, and the bill was passed by voice vote.

**Administration Position:** No statement of Administration Position is available at this time.

**Cost to Taxpayers:** [CBO](#) estimates that implementing this legislation would not affect federal expenditures for those grants and would have no impact on the federal budget over the next five years.

**Does the Bill Expand the Size and Scope of the Federal Government?:** No.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 1791 contains no intergovernmental or private-sector mandates as defined in the Unfunded Mandates Reform Act and would not affect the budgets of state, local, or tribal governments.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** No.

**Does the Bill Delegate Any Legislative Authority to the Executive Branch?:** No.

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, "Congress has the power to enact this legislation pursuant to the following: This bill is enacted pursuant to Article I, Section 8, Clause 1 of the Constitution of the United States, which grants Congress the power to provide for the common Defense of the United States, and Article I, Section 8, Clause 18 of the Constitution of the United States, which provides Congress the power to make "all Laws which shall be necessary and proper" for carrying out the constitutional powers vested in the Government of the United States."

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## **H.R. 547 — GI Bill Tuition fairness Act of 2013 (Miller, R-FL)**

**Order of Business:** [H.R. 357](#) is scheduled to be considered on February 3, 2014, under a motion to suspend the rules and pass the bill, which requires a two-thirds majority vote for passage.

**Summary:** Sections 1-3 include the short title, references and scoring of budgetary effects.

**Section 4:** Approval of courses of education provided by public institutions of higher education for purposes of All-Volunteer Force Educational Assistance Program and Post-9/11 Educational Assistance conditional on in-State tuition rate for veterans:

- Requires any public institution in a state, as a condition of approval of any GI Bill education benefits, to give all veterans in-state tuition rates. This section applies to academic terms that begin after July 1, 2016.

**Section 5:** Clarification of eligibility for services under the Homeless Veterans Reintegration Program:

- Clarifies that those who qualify for grant programs conducted by the Secretary for reintegration are homeless veterans, veterans participating in the Department of Veterans Affairs supported housing program, and veterans who are in transition from being incarcerated. These grant programs can include: providing job training, counseling, and placement services (including job readiness and literacy

and skills training) all with the hopes of expediting the reintegration of homeless veterans into the labor force.

**Section 6:** Extension of Eligibility Period for Vocational Rehabilitation Programs:

- Extends from a twelve year period to a seventeen year period the eligibility window veterans have to receive services furnished by the Vocational Rehabilitation and Employment Program (VR&E).

**Section 7:** Work-study allowance:

- The existing legal authority for VA's work study program expires on June 1, 2013, and this section extends the authorization through June 1, 2018.

**Section 8:** Responsibilities of the Directors of Veterans' Employment and Training:

- Codifies the roles and responsibilities of Directors of Veteran Employment and Training. Their responsibility is to oversee the Disabled Veteran Outreach Program Specialists (DVOPS) and Local Veteran Employment Representatives (LVERS) who are funded by the Jobs for Veterans State Grant Program.

**Section 9:** Contents of Transition Assistance Program (TAP):

- Requires that if a service member plans to use their education benefits following discharge they would be required to take the education track as part of the mandatory portion of TAP. Information provided includes an overview of the entitlement and appropriate post-secondary courses that are compatible with the member's educational goals.
- Also requires the U.S. Department of Labor (DoL) to include information on disability-related employment and education protections in its portion of TAP.

**Section 10:** Rounding Down of Increase in Rates of Disability Compensation and Dependency and Indemnity Compensation:

- Rounds down to the nearest dollar COLA increases for disability compensation and other benefits for FY 2013.

**Section 11:** Limitation on Performance Awards in the Senior Executive Service:

- Would limit all bonuses for Senior Executive Service employees at VA for fiscal years 2014-2018 to \$1 million.

**Section 12:** Semiannual reports to Congress on Cost of Certain Travel:

- The Secretary must submit a report to Congress detailing travel of employees of the VA and travel funded by non-Federal sources. Included in the report are requirements such as: purpose, destination, cost and expenses.

**Section 13:** Report of Infectious Disease at Medical Facilities of Department of Veterans Affairs:

- Requires the Secretary to report to the appropriate entity each case of an infectious disease or condition that is diagnosed at a medical facility of the VA in

accordance to the state laws of where the facility is located. It also gives states certain rights if an infectious disease is not reported.

**Section 14:** Prohibition of Visual Recording without Informed Consent:

- Instructs the Secretary to prescribe regulations establishing procedures for the visual recording made of a patient during the course of furnishing care through VA. It requires that any recording have full and informed consent of the patient or in appropriate cases, a representative thereof. There are narrow circumstances laid out in which the requirement for informed consent could be waived.

**Section 15:** Two-Month Extension of Veterans Retraining Assistance Program:

- Extends the authorization for a veteran to use the Veterans Retraining Assistance Program (VRAP) from March 31, 2014, to May 31, 2014, to better align the program with the traditional academic period/semester.

**Additional Background:** Under current law, the Post 9/11 GI Bill only covers tuition and fees at the in-state rates at public schools. If a veteran chooses to attend a college where they haven't established residency, they can pay the difference between in-state and out-of-state tuition or prolong registration until they are officially a resident. [Currently](#), there are 20 states that have state laws providing student veterans a waiver for in-state tuition, eight states have a school or school system that provides a student veteran an in-state tuition waiver, and 12 states have pending legislation.

**Committee Action:** This bill was introduced on January 23, 2013. The Subcommittee on Economic Opportunity held a markup session, and favorably forwarded to the full Committee H.R. 357, as amended. On May 8, 2013, the full Committee held a markup session, and ordered H.R. 357, as amended, reported favorably to the House of Representatives, by voice vote.

**Possible Conservative Concerns:** Some conservatives has expressed concern regarding the requirement of public institutions of higher education to charge veterans no more than in-state tuition and fees regardless of the veteran's state of residency if veterans enrolled in those institutions are to be eligible to use their VA education benefits at those institutions.

**Administration Position:** No statement of Administration Position is available at this time.

**Cost to Taxpayers:** According to [CBO](#), this bill will have a net decrease in the deficit of \$345 million over the years 2014-2024.

**Does the Bill Contain Any New State-Government, Local-Government, or Private-Sector Mandates?:** H.R. 357 contains no intergovernmental mandates as defined in UMRA. The bill would require public institutions of higher education to charge veterans no more than in-state tuition and fees regardless of the veteran's state of residency if veterans enrolled in those institutions are to be eligible to use their VA education benefits at those institutions. Any costs those institutions might incur to comply would be incurred voluntarily as conditions of participating in a voluntary federal program.

**Does the Bill Contain Any Federal Encroachment into State or Local Authority in Potential Violation of the 10<sup>th</sup> Amendment?:** There have been concerns that Section 4, which requires public institutions of higher education to charge veterans no more than in-state tuition and fees regardless of the veteran's state of residency, is potentially a violation of the 10th Amendment.

The following was included in the committee [report](#) about this concern.

*The Committee staff requested an opinion on those issues from Constitutional experts at the Congressional Research Service (CRS). The CRS replied as follows:*

*This e-mail is to memorialize a conversation between Ken Thomas of this office and Mike Brinck, Republican Staff Director, House Committee on Veterans Affairs, on the constitutionality of H.R. 357, the proposed GI Bill Tuition Fairness Act of 2013. Specifically, the question that was discussed was whether the Congress is prohibited by the Spending Clause or the Tenth Amendment from requiring, as a condition of receiving federal education benefits from the U.S. Department of Veterans Affairs, that veterans attending a public university be charged the same rate as the institution charges for residents of the state in which the institution is located, regardless of the veteran's state of residence.*

*In South Dakota v. Dole, 483 U.S. 203 (1987), the Supreme Court held that, in order for a federal grant condition imposed on a state to pass constitutional muster under the Spending Clause, the condition must be related to the particular national project or programs to which the money was being directed. In NFIB v. Sebelius, No. 11-393, slip op. (June 28, 2012), Justice Roberts, in a controlling opinion, suggested that the withdrawal of program funds based on a grant condition that modifies an existing program would, in most foreseeable cases, be constitutional under the Spending Clause. NFIB, slip op. at 53-55. As the tuition discount in H.R. 357 is an amendment to an existing program that is generally related to the policy goal of making affordable higher education available to veterans, this proposed bill would appear likely to be found to be consistent with the Spending Clause.*

*The Court in Dole also considered whether the Tenth Amendment (which provides that state legislatures or executive branch officials may not be 'commandeered') could be an independent constitutional bar to certain grant conditions. The Court suggested that, in some instances, financial inducements offered by Congress might be so coercive as to pass the point at which 'pressure turns into compulsion.' In NFIB, the Court found that, as long as a particular grant condition was related to an existing underlying program, a grant constituting as much as 10% of a state's overall budget could be withdrawn without violating the Tenth Amendment. NFIB, slip op. at 55. Since withholding of veteran's education benefits in order to encourage states to lower education costs for veterans would be related to those existing programs designed to make affordable higher education available to veterans, and since the withholding of such benefits is unlikely to reach 10% of a state's overall budget, the requirements of H.R. 357 would appear to be constitutional.*

**Does the Bill Contain Any Earmarks/Limited Tax Benefits/Limited Tariff Benefits?:** No.

**Constitutional Authority:** According to the sponsor, "Congress has the power to enact this legislation pursuant to the following Article I, section 8 of the Constitution of the United States."

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