

VETS REORGANIZATION; IMPLEMENTATION OF THE USERRA AND ONE-STOP EMPLOYMENT CENTERS

HEARING BEFORE THE SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING OF THE COMMITTEE ON VETERANS' AFFAIRS HOUSE OF REPRESENTATIVES ONE HUNDRED FOURTH CONGRESS FIRST SESSION

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THURSDAY, JUNE 29, 1995

HOUSE OF REPRESENTATIVES,
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT
AND HOUSING,
COMMITTEE ON VETERANS' AFFAIRS,
Washington, DC.

The subcommittee met, pursuant to call, at 10:05 a.m., in room 334, Cannon House Office Building, Hon. Steve Buyer (chairman of the subcommittee) presiding.

Present: Representatives Buyer, Cooley, Hutchinson, Waters, Mascara and Evans.

OPENING STATEMENT OF CHAIRMAN BUYER

Mr. BUYER. The subcommittee will come to order. Let's go ahead and get going.

First of all, let me thank all of you—and offer the panel of witnesses who are here this morning and guests, an apology. That is what happens around here. And those of you who have worked with the committees before understand what happens in the House. And since we were in session through the night and none of us have had any sleep and we are moving into today's cycle, we are going to go ahead and get through this hearing.

But on your behalf. Perhaps while you may think we are cranky, actually, we are not. And we will probably move one of the fastest hearings in history, which might be good.

I had a conversation with the distinguished Ranking Member, Ms. Waters, who has not had any opportunity at all to freshen up at all, and I want to move and get moving with the hearing, and we will have her statement in the record.

The subcommittee now will, in fact, come to order.

Today, we are here to review the reorganization of the Veterans' Employment and Training Service, as well as its implementation of the Uniformed Services Employment and Reemployment Rights Act. Finally, we look forward to hearing all of your views on how VETS will provide services under a one-stop employment center concept.

I know that the last time we met on the subject of VETS generated some interest in the press and definitely out in the field. What I want everyone to understand is that I am personally com-

mitted to seeing to it that veterans get a fair shake in pursuing employment opportunities.

I strongly support the mission of VETS, and I am opposed to anything that would degrade its ability to deliver the quality services to veterans, and that is what makes today's hearing so important.

The first principle of management is that you must organize properly to be effective. That means you must have the right people with the right skills in the right place at the right time. I know that VETS has been going through a lengthy internal review of its organization. I look forward to hearing how the changes will benefit veterans.

The USERRA law has not been around long, and it is probably too early to know its full impact on the law on both veterans and the business community. However, I know this law is the product of years of negotiations with many government and business entities. I know also that this act is designed to protect the veterans' ability to return to the workforce following service, while at the same time not overburdening employers across the country.

As the Nation comes to rely more on the Guard and Reserve forces to augment a smaller Active Duty force, it is important that we provide the protections needed to ensure the Guard and Reserve units are fully manned. As everyone knows, the Gulf War necessitated the call-up of thousands of civilian soldiers to take their place along their Active Duty comrades. Not since the World War II has the Guard and Reserve played such an important role in our Nation's defense.

I am pleased to see in the written statements that the National Committee for Employers Support of the Guard and Reserve is doing its best to encourage the business sector to make a strong commitment to employ and retain members of the Reserve forces. As a reservist, I can appreciate the intent of the law. I can assure you that I will follow its effects closely.

I am aware that the administration has proposed some technical amendments to the law, and I look forward to working with my distinguished colleagues to craft legislation to improve such act.

The One-Stop Employment Center offers the opportunity to greatly improve the delivery of employment services to all of our citizens, including veterans.

I would like to take this opportunity to publicly thank a member of this subcommittee, my good friend from Arkansas, Tim Hutchinson, for making the case for the specific inclusion of the Veterans Employment System in H.R. 1617. I understand that the Senate may have included similar provisions in the legislation, and I am confident that VETS, and the DVOPs and the LVERs will be positioned to remain a vital and viable part of the emerging national employment and training system. Special thanks to you, Tim.

Now I would like to recognize any of my colleagues if they have any comments they would like to make before the hearing. If not, we will move—

Yes, the gentleman from Arkansas.

OPENING STATEMENT OF HON. TIM HUTCHINSON

Mr. HUTCHINSON. Mr. Chairman, I have another hearing, and I am going to have to leave. So if I could just make a brief comment and say that you are amazingly coherent after last night and complement you on that.

I will be very brief. I want to start by thanking and welcoming our witnesses who are here to testify on the reorganization of Veterans Employment Services and the implementation of USERRA and the One-Stop Employment Centers. I appreciate you taking time to be with us this morning. And as we talk about the mechanics of veterans employment and reemployment systems and, specifically, the one-stop shop, I want to thank all of the VSOs and their representatives for the support they gave in our efforts to ensure that the job-training needs of the veteran community are met.

H.R. 1617, otherwise known as the Careers Act, guarantees that Veterans Employment Services' providers will be assured a spot in the one-stop centers and that a veterans' representative will serve as a member of both the local and the State job-training boards.

I am very pleased with the progress that we were able to make on this legislation. I believe that H.R. 1617 will meet the special employment needs of veterans so that their skills and dedication serve our country's economy as powerfully as they defended it in wartime. And I am optimistic that the Senate will follow suit and that we will have something that truly will meet the employment needs of our veterans, and I appreciate the support of this committee and our Chairman in those efforts.

Mr. BUYER. I thank the gentleman of Arkansas. You played a very instrumental role, and I think all the members of the committee on both sides appreciate your leadership that you played in the dual role being there, formerly the Education and Labor Committee. Thank you, Tim.

Right now, I would like to welcome all the witnesses who are here to testify today. Without objection, their entire statements will be made part of the record. I would ask that they be as brief as possible so that we may ask the questions.

The first panel, if they would please come take their place. Our first panel is composed of representatives of several veterans' service organizations. Mr. Terry Grandison will represent the Paralyzed Veterans of America. Bob Manhan from the Veterans of Foreign Wars, Kimo Hollingsworth from the American Legion, Len Gilmer of the Disabled American Veterans, Bob Carbonneau of AMVETS and Bill Crandell from the Vietnam Veterans of American.

Welcome to this distinguished panel. You are an important part of the hearing because you represent many of those who have or will seek services from the employment system where the law is designed to protect veterans' employment rights. I know each of you have your written statements, which will be entered into the record, and I am going to ask that you summarize so we will move to the questions.

Before I do that, I have before me a statement by Congressman Frank Mascara of Pennsylvania, his opening statement, and it will be entered into the record.

[The prepared statement of Congressman Mascara appears at p. 33.]

STATEMENTS OF TERRY GRANDISON, ASSOCIATE LEGISLATIVE DIRECTOR, PARALYZED VETERANS OF AMERICA; BOB MANHAN, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; ROBERT P. CARBONNEAU, NATIONAL LEGISLATIVE DIRECTOR, AMVETS; KIMO S. HOLLINGSWORTH, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE COMMISSION, THE AMERICAN LEGION; LENNOX E. GILMER, ASSOCIATE NATIONAL EMPLOYMENT DIRECTOR, DISABLED AMERICAN VETERANS; AND WILLIAM F. CRANDELL, DEPUTY DIRECTOR, GOVERNMENT RELATIONS, VIETNAM VETERANS OF AMERICA

Mr. BUYER. Please let us begin. We will just go from left to right and begin with Mr. Crandell.

STATEMENT OF WILLIAM F. CRANDELL

Mr. WILLIAM F. CRANDELL. Thank you, Mr. Chairman. I will also try to keep this brief.

I do want to enter into the record VVA's thanks to Representative Hutchinson for the role that he has played in H.R. 1617.

Mr. BUYER. Thank you. I will pass that word on to him.

Mr. WILLIAM F. CRANDELL. As we understand that bill now in DOL's pilot programs, we are satisfied with it.

We are generally supportive of the decisions that Secretary Taylor has made in the reinventing government proposals. He has done an excellent job of reenergizing VETS.

The pieces that we would like to talk most about this morning are the proposal that came up in the May 3rd hearing on moving VETS to the VA, simply because we feel that that is also a piece of reorganization.

We have spoken at some length on that in our written testimony, and we cover that, but we think there are some serious problems with the idea. We think that it works better where it is.

But the second idea that really interests us, particularly because of its boldness and the willingness that it shows to seek real solutions rather than make timid adjustments, is the idea that has been presented with that move of creating at VA a third administration parallel to Veterans Health Administration and the Veterans Benefits Administration that would deal with economic issues. I know that part of the suggestion is that if VETS were moved to VA, it would go there. We would rather see VETS work with such an administration if it were moved.

Such an administration would need to be more proactive than VA usually is because economic issues just—they are not hospital issues. You don't come in when you are sick. You have really got to be out in the field.

But some of the programs that we think ought to be there if such an administration were created are VA vocational rehabilitation, the Small Business Administration's Office of Veterans Affairs, which we feel, frankly, has not accomplished a lot in recent years.

We have been quite concerned as the budget has come out that the Office of Personnel Management may no longer be capable of

monitoring veterans' preference, which is a serious issue to us. The best solution is for the OPM budget to be a little more generous. Failing that, you might consider creating such an office within this new administration, if such an administration is created.

And that is our testimony for this morning. Thank you.

[The prepared statement of Mr. Crandell appears at p. 40.]

Mr. BUYER. Before I move to the next witness, Ms. Waters, the distinguished Ranking Member is here; and if you would like to make any comments at this time, you will be recognized.

Ms. WATERS. Thank you very much, Mr. Chairman. I have a statement that I will submit for the record.

Rather than comments, I would like to raise a question that perhaps you could help me with. I have been unable to discern the focus of our hearing for today, and I am wondering whether or not legislation that I have introduced, H.R. 1633, a bill that would make technical and clarifying changes to Public Law 103-353—and additionally some other bills by Mr. Montgomery that I think are still yet to be heard are part of this discussion today.

Mr. BUYER. Yes, it is. That is what the purpose is, is to receive not only the input from the VSOs but also the administration of the reforms. And in my opening comments, I referred to the fact that my colleagues had some technical amendments. And I look forward to working not only with you, but also Mr. Montgomery, how they pertain also with these comments, and we will move that in a markup at a later date.

Ms. WATERS. Thank you then. We will ask unanimous consent to submit my statement.

Mr. BUYER. Absolutely. Your statement will be in the record. Thank you.

Ms. WATERS. All right.

Mr. BUYER. Any other comments?

Ms. WATERS. No other.

Mr. BUYER. Thank you.

[The prepared statement of Congresswoman Waters appears at p. 36.]

Mr. BUYER. Mr. Carbonneau.

STATEMENT OF ROBERT P. CARBONNEAU

Mr. CARBONNEAU. Thank you, Mr. Chairman, for holding this hearing and for inviting AMVETS to testify today.

AMVETS was pleased that the Department of Labor and Assistant Secretary Taylor rejected the reinvention team's recommendations regarding the elimination of veterans' status and the change in the ADVET formula to a nationwide level. We applaud them for taking that action.

We will closely monitor the reorganization to ensure that service delivery providers remain intact. As many of us have seen in the past, reorganizations similar to this one end up with more headquarters people and fewer hands-on people in the field. We also would oppose any action that would eliminate the State director, who we view to be the vital link between DOL and the respective governor's office.

AMVETS does not object to the reduction of the number of regions from ten to five. However, we will be vigilant in following the

selection process of these five regional director positions. If they are open to competition, we expect the spirit and the intent of the Merit Principles to be applied and demand that the best qualified be selected for these positions.

On USERRA, AMVETS supports many of the positive changes recently enacted to enhance and strengthen USERRA. We are grateful that USERRA 1994 continues to acknowledge the importance of protecting civilian job rights and benefits for veterans and members of the Reserve components.

We also recognize the need to clarify the law of the veteran employees, as well as employers. Furthermore, we are encouraged by efforts aimed at improving enforcement mechanisms and providing Federal Government employees assistance in claims processing through the Department of Labor.

The new law increases from 4 to 5 years the maximum cumulative length of time veterans may be absent from military duty and retain their reemployment rights. It also makes allowances for initial enlistments exceeding 5 years, periodic training duty and involuntary Active Duty extensions and recalls. This can be of major significance, especially during times of national emergencies.

We remain concerned, however, that more than a simple time factor may be necessary to encourage employers to come around to the latest USERRA requirements. As past experience shows, it may be virtually impossible to take corrective action without a reliable, consistent means of monitoring employer actions under USERRA, identifying offenders and providing stringent sanctions against them. It would be rather naive to assume that simply because the law changes, employers will immediately comply.

AMVETS also recognizes that an attempt to evaluate the effectiveness of USERRA is premature. We will be alert and ever cognizant of the fact that education and enforcement on the part of DOL are essential ingredients to the success of USERRA.

One-Stop Service Centers. As the budget gets tighter, AMVETS would like to know where the ASVET will look for fat. Will it be less people, a realistic look at training, less investment in technology, more partnerships to share resources—or combinations thereof? If Wagner-Peyser funds are cut, the implementation and development of one-stops will be short-lived. It is imperative that this Congress does not let that happen.

AMVETS believes that one-stops are the way to go in today's market. However, it is not without its problems. We believe that a clear definition of priority of services for veterans in this process is essential. The States seem to have their own logic on this important issue; some embargo employment opportunities from anywhere from 8 to 24 hours before releasing them to the general public. Perhaps the better approach is improved training and preparation for employment of the veterans. At the very least, it is part of the answer.

Mr. Chairman, that concludes my statement. Thank you.

Mr. BUYER. Thank you.

[The prepared statement of Mr. Carbonneau appears at p. 45.]

Mr. BUYER. Mr. Manhan.

STATEMENT OF BOB MANHAN

Mr. MANHAN. Thank you very much, Mr. Chairman.

It is a pleasure for the VFW to be here this morning. We have always been a very strong supporter of the Veterans' Employment and Training Service as it is presently organized in Department of Labor.

Generally speaking, because this is an overview hearing, we are going to summarize our position by simply saying the present reorganization attempt has streamlined management to bring more and better employment services to a greater number of veterans.

The most significant thing for the employment specialist today is the fact that they will be trained in employment case management procedure, as well as complaint procedures, to include being able to subpoena records from employers if veterans are not reemployed.

We realize that many VETS employees will attend their own national training institution and become more proficient in these areas. We notice that there will be a new competitive type of bidding to go out for a greater number, but fewer contracts, under the Joint Training Partnership Act, title IV-C.

We are also aware of the fact that VETS has put more emphasis on command interest in those people on Active Duty who are within 6 months of being discharged to actually attend Transition Assistance Programs which will help them move back into the civilian economy.

Under the Uniformed Services Employment and Reemployment Right Act, known as USERRA, it is going to cover more people from the Department of Defense's viewpoint. We think this is very important, because today about 1,800,000 members of the Active Duty force really come out of National Guard and/or Reserve units. We think it is significant that reservists and National Guard are being included.

One-Stop Employment Center. We realize there are about six pilot programs. We are interested and we are monitoring how the respective six or seven different State pilot programs are interpreting their responsibility to veterans.

If we have any concerns at this time, Mr. Chairman, it is this; we want to be sure that the LVERs and DVOPs can concentrate on those veterans who really need employment assistance. And those type of veterans come in two packages—the disabled veteran, that is, someone rated 60 percent or more disabled, and/or the homeless veteran, who is seldom able to hold a meaningful, productive job.

We do think that VETS is on the right track, wherein they have recently published a handbook to outline or contain what I would call procedures and regulations on how the One-Stop Employment Centers, which are composed of several different Federal agencies, will maintain and carry out their responsibilities.

This concludes the summary of the VFW's testimony. Thank you very much, Mr. Chairman.

Mr. BUYER. Thank you.

[The prepared statement of Mr. Manhan appears at p. 49.]

Mr. BUYER. Mr. Grandison.

STATEMENT OF TERRY GRANDISON

Mr. GRANDISON. Good morning, Mr. Chairman, members of the subcommittee. On behalf of the Paralyzed Veterans of America, I wish to thank you for the opportunity to present testimony today concerning the U.S. Department of Labor's Veterans' Employment Training Service reorganization and one-stop initiatives.

At the outset, PVA commends Assistant Secretary Preston M. Taylor for his outstanding leadership and steadfast support for the VETS program as a whole. He has demonstrated great courage by consistently confronting those who would attempt to compromise the vital mission of the VETS program.

The VETS reinvention process has its genesis with the Administration's National Performance Review. The VETS reinvention process is an ongoing initiative, and in many ways it is difficult to analyze comprehensively its effect on veterans in this transition period. In addition, many recommendations proffered by the VETS Reinvention Committee have not been accepted for implementation at this point.

Nevertheless, PVA is encouraged by what we have seen so far. Many of the VETS reinvention recommendations focus on improving the delivery of services to its veteran consumers. While PVA believes many of these recommendations will improve VETS's ability to deliver needed services to veterans, we are concerned about what would be the practical effect at the State and local levels.

The main objective of the VETS reorganization is to shift more responsibility and authority to regions in the States. As these responsibilities are shifted, it is vital to ensure that strong oversight responsibility remain at the national level.

PVA views the use of one-stop centers as a beneficial step in the efforts to increase the efficiency of VETS employment programs. Currently, each State is proceeding independently to develop the systems it envisions as the most responsive to the needs of its consumers. As one-stop centers evolve, the veterans preference policy must be maintained and protected. With the proliferation of electronic media, employment, kiosk, computer bulletin boards and other information distribution methods, we are concerned that veterans preference, whether by design or chance, could be left by the wayside. This would be a great disservice to our Nation's veterans and a violation of the promise made to them for their service.

PVA is not opposed to increasing the efficiency and functions of the employment programs, but we believe as these one-stop centers come into being the commitments guaranteed to veterans should not be subjugated.

Mr. Chairman, this concludes my testimony. I will be happy to respond to any questions you or members of the subcommittee may have. Thank you.

Mr. BUYER. Thank you, Mr. Grandison. Good to see you.

Mr. GRANDISON. You too, sir.

[The prepared statement of Mr. Grandison appears at p. 55.]

Mr. BUYER. Mr. Hollingsworth.

STATEMENT OF KIMO S. HOLLINGSWORTH

Mr. HOLLINGSWORTH. Mr. Chairman, the American Legion appreciates this opportunity to testify, and we want to thank you for holding this hearing.

The American Legion would also like to thank Mr. Hutchinson for his work on H.R. 1617, as well as the staff on this committee. They did outstanding work; and hopefully we can duplicate that on the Senate side.

I will keep my comments very brief in regards to reinvention process.

The American Legion would like to say that we hope the next time the reinvention team undertakes reinvention efforts they would consult members of the veterans' service organizations to include the American Legion.

In regards to USERRA, we believe that VETS is definitely on the right track, and we would like to make one suggestion in that area. Since many of the members of the Guard and Reserves are part of the government workforce, we would like to suggest that maybe mid-level management and career courses would devote some time to talk about USERRA. It is obvious that the Reserves and the National Guard are playing a more important part in the post cold war and the probability of them getting called up is more real every day.

In regards to the one-stop shop, it is a fluid process. We hope that we would be consulted in the process and that veterans would be represented and not forgotten.

That concludes my oral testimony. Thank you.

Mr. BUYER. Brevity.

[The prepared statement of Mr. Hollingsworth appears at p. 58.]

Mr. BUYER. Mr. Gilmer.

STATEMENT OF LENNOX E. GILMER

Mr. GILMER. Mr. Chairman, from the Disabled American Veterans, we wish to express our appreciation for being invited to testify here before you today.

We would like to add our statement of appreciation to Mr. Hutchinson for his work on H.R. 1617, and I cannot say enough for your staff and their work in this area. And, ultimately, we understand that in the Senate, the groundwork that was laid by your staff in this committee had a considerable impact on the Kassebaum bill; and we were basically appreciative not only for what you did in the House but ultimately for what has come about in the Senate.

We want to point out that we believe that these hearings are timely, primarily because there is a national debate right now focusing on shifting State and Federal roles that slated almost every Federal agency for cutbacks and at the same time will provide block grants to States reducing Federal program control. However, no credible voice has called for national security to be divided among the 50 States.

Mr. Chairman, where do veterans' readjustment, veterans' status and special needs fit in this debate? Does the welfare of veterans affect national security? Is there a national interest in protecting

the rights of those who are considering service, are in service or served in the U.S. military?

Geopolitical change has shifted national security paradigms from the threat of global nuclear annihilation to containment of regional conflicts. A downsized Active Duty all-volunteer force now depends on the National Guard and Reserve and a total force concept to provide national security.

Mr. Chairman, this military is now more vulnerable to public perception for its recruits and for employer support for the Guard and Reserve. A measure of this support is the declining interest in the 16 to 21 age group from which they draw their recruits.

In part, public perception is based on public relations. And, Mr. Chairman, right now that media message includes high rates of unemployment for recently discharged veterans, frequent turnover in jobs and lower civilian pay. The 1994 annual unemployment rate for veterans exceeds their nonveterans counterpart for every age group from age 20 through 44 years. One-third of the homeless population are veterans, the vast majority being Vietnam and Persian Gulf veterans.

The disabilities of disabled veterans are impediments to their gaining employment and is reflected in their leaving the labor force in large numbers. Eighty percent of those with service-connected disabilities valued 60 percent or greater are out of the labor force, 25 percent for those evaluated 30 percent or greater.

While approximately 300,000 personnel continue to be discharged from the military into the civilian economy annually, congressional decisions will affect their readjustment programs. We believe the overwhelming public support, as high as 93 percent for veterans programs, is intrinsically linked to the military service and national security. Thus, as it appears the veterans' well-being and national support decline, that message is given to those who would otherwise consider joining the military and employers who impact our Guard and Reserve members.

As it regards veterans reorganization or VETS reorganization, we would point out that, as it has been said, the National Performance Review recommended that VETS be moved under ETA and also called for the advisory committee regarding veterans' employment and training not be implemented. We would note that our Assistant Secretary, Mr. Taylor, opposed that. The Secretary of Labor took that fight to the Vice President; and, ultimately, those two initiatives or recommendations were removed. And the Secretary of Labor has implemented that advisory committee, and we are grateful for that.

We found VETS' internal review to be necessary and in depth, and the Secretary is to be commended for the open and comprehensive approach he took. We were pleased to participate. We think particularly in downsizing, changing roles, that it was important that—those reviews occur.

The VETS implementation of the USERRA is very important. We believe that there are three areas which are going to have a major impact in the implementation: subpoena power, which will require more sophisticated investigators; increased protections for Federal employees requires increased coordination with Federal agencies, the Office of Special Counsel and the Merit Systems Protection

Board; and reduced personnel, which has in some cases reduced the ability to implement this program.

The men and women who serve deserve the full implementation of this law. An unforeseen result of this law may be broad employment civil rights protection for those considering enlistment in the military or separated from the military. That ought to be looked at.

VETS' role in One-Stop Employment Centers. Veteran service organizations' initial efforts to have input were stonewalled. However, we have seen the VETS' staff thoroughly incorporated in that process. We think that these one-stop centers will become the models for the H.R. 1617 consolidation legislation which Representative Hutchinson was so important in getting veterans language in.

For that reason and because veterans' priority of services is not well defined in the one-stops or in H.R. 1617, we believe that a bill such as H.R. 1593 is important. We think it requires some minimal amendments, but the thrust of that bill is critical.

Mr. Chairman, we appreciate the opportunity to testify before you, any questions that we can answer for you. Thank you.

[The prepared statement of Mr. Gilmer appears at p. 60.]

Mr. BUYER. Well, I would say, Mr. Gilmer, with regard to any—and to all of you—with regard to any technical amendments or recommendations, please feel free to work with myself or the staff in your recommendations. I think it is vitally important. So if you have, Mr. Gilmer, as you stated, some of those recommendations for some minor amendments, please let us know what they are.

Mr. GILMER. Thank you.

Mr. BUYER. I appreciate also—Mr. Gilmer and Mr. Hollingsworth, you both mentioned with regard to the total force concept, if we are going to support an all-volunteer force, and that is what the Congress has made that decision to do, then there is a lot that plays into that role. And you touched on, Mr. Gilmer, some of the facts regarding the recruitment.

You know, it was disconcerting to me when the Marine Corps didn't even meet their recruiting standards last year. We asked why on the National Security Committee. Do we need to give you more money for advertising? What impact does the National Service Program have on it? And we have got a particular recruiting pool, and if you are going to support an all-volunteer force, you want to be very protective of your recruiting pool, and what role does the educational benefits—and later on we will get into—have some hearings later on the GI bill and those kinds of things.

But I agree with you completely about the public's perception out there and the downsizing of the force. And there is a lot of political hype and political rhetoric here in the town right now with regard to, whether they are going to move the balanced budget. Then everything is going to be questioned—whether it is going to be done and cuts are going to be made on the backs of veterans, and people in Washington aren't going to care about veterans today.

I mean, I have seen all the rhetoric and I have seen all the spins and that gets played across America, too, and it is about the public perceptions and that kind of thing. I understand what you are referring to.

Mr. Hollingsworth, you recommended education within the Guard and Reserve mid-level management and training about the

new reemployment act. Now, as I understand, every year JAG officers are required in their training to provide briefings, soldiers and sailors and employment and that type of thing. As I understand, that is done in the field, is it not?

Mr. HOLLINGSWORTH. Mr. Buyer, like yourself, I am a member of the Reserves, and I am sure that you know the reality is, many times, that doesn't happen, particularly down in the field units. So the education needs to take place there, and it needs to happen.

Many Guard and Reserve units fulfill an Active Duty training schedule, so they cram a 1-month training-schedule into 2 to 2½ days. A lot of times, when that happens, the administrative things go by the wayside. But what the comment was intended to suggest, is that government mid-level management needs to be made aware of USERRA and educated on that process.

Mr. BUYER. Okay, governmental mid-level management—not so much the training of the force, but other aspects?

Mr. HOLLINGSWORTH. Yes, sir.

Mr. BUYER. That is what you were referring to. Thank you. We were on two different rails going in the same direction.

The other comment I did want to make—and I am sure all of you are aware that the Assistant Secretary of Defense for Guard and Reserve Affairs, Deborah Lee, has given some initiatives and suggestions out there on the same issues of reemployment and actually some filling of some gaps on some programs. If you haven't seen those, you ought to be in touch with her office. They are pretty interesting initiatives.

Let me ask a couple questions, one of the VFW, Mr. Manhan. One thing, in your written statement, if you would help me out here and explain the VFW's concept of the two-tier service delivery. Help me out there.

Mr. MANHAN. We interpret that to mean that while all veterans initially can get the same type of assistance or help from veteran employment people, those persons who obviously know how to write a resume and/or who have more education or a job to go back to will get less assistance, less help because they obviously don't need it.

However, VETS can then provide or tailor more assistance to that person, that individual, who obviously is almost starting from ground zero on how to go about seeking employment, from resume writing to marketing his or her own skills, even how to use the employment section in a newspaper.

That was the thrust of what we were trying to say, Mr. Chairman.

Mr. BUYER. All right, thank you.

And I want to make sure, on the one-stop concept, does the VFW fully support that concept?

Mr. MANHAN. Philosophically, yes, but we want to see how it is actually implemented. Today we have several different interpretations by the respective State governors how they are going to best implement this one-stop concept. The VFW may prefer one concept over another.

Our primary concern is that the LVERs and the DVOPs can and will be able to focus on the particularly hard-to-employ veteran, the

disabled and/or the homeless veteran. We realize the concept can work to our advantage, and my constituency is the veteran.

Possibly more employment assistance or awareness will be made available to the LVERs and DVOPs because they are going to be working shoulder to shoulder with all the other State employment agencies and/or facilities.

Our primary concern, is to ensure that veterans are going to help veterans get a primary opportunity to be either trained for a meaningful job or be placed in a meaningful job.

Mr. BUYER. All right, thank you.

Before I ask another question, I am aware of past practices of this committee. I have not experienced it on either of the other two committees I sit on, but since there are unusual circumstances of the day, and Ms. Waters having to go freshen up, I will yield to Jill Cochran. She is going to ask a couple questions on behalf of Ms. Waters.

Ms. COCHRAN. I have just one quick question for the panel. Are there any recommendations made by the VETS regarding invention committee that have not been accepted for implementation that you think should have been accepted?

Mr. GILMER. There is one recommendation which we are concerned about, and we did not talk about in our testimony, and it has been talked about just briefly. It has to do with the cutting back of regional offices. I don't know that I am going to directly answer your question, but as we understand the law, the law currently requires 10 of those locations—or 10 sites.

The idea was that the RA VETS then would be able to access the regional national administrators for the Employment Training Administration for the U.S. Department of Labor so they would have a peer relationships when they were talking to one another about how do we get services in their respective programs.

Without that peer relationship, protocol would tend to reduce the impact of VETS in impacting ETA services as they reach down into the States.

As we looked at recommendations that are coming to us now, we are very concerned that there appears to be a willingness to cut back in those regional offices perhaps deeper on the VETS side than the ETA side. We just encourage that as ETA cuts back, we can appreciate why VETS would also want to cut back, and we support that.

But wherever an ETA regional office exists, we believe that VETS' staff should not be cut back, appropriate input to those regional administrators in ETA will be reduced, and we are concerned about that.

Mr. HOLLINGSWORTH. The American Legion would like to echo what DVA said, and that is we concur with Assistant Secretary Taylor's decisions in regards to the recommendations. The point we are trying to make is if the formal reinvention team had consulted more with the Legion, and the VSOs, we probably wouldn't have some of the rejections and rewrites that we are currently seeing.

Mr. GRANDISON. PVA echoes the other panel members. We support the recommendations that were offered. There are none that we disagree to.

Mr. MANHAN. The VFW had no new concerns that were not already addressed, but we have already been on record as supporting very much the actions that have already been taken by General Taylor and his staff.

Mr. CARBONNEAU. AMVETS is comfortable with the decisions that have been made, and we differ a little bit from the DAV in that we do recognize the constraints on the budget. We don't feel that the protocol issue is that big of an issue for us as far as going from ten to five regions. Our only concern in that area is that when the selection is made for those people that they follow the merit selection principles.

Mr. WILLIAM F. CRANDELL. And the short answer for the VVA is no.

Ms. COCHRAN. Thank you.

Mr. BUYER. Thank you.

I have a question for Mr. Carbonneau. You asked a good question of the ASVET as to where the priorities should be in light of dwindling resources. And I wrote in my notes here, you expressed some of your concerns: less people, more technology, and you are curious as to what the balance is. Share with me, since you spent the most time on that of any of the witnesses, what would be your recommended priorities?

Mr. CARBONNEAU. I would view that the partnering that is going on now would have to continue, and they would have to really get serious about working with other agencies and sharing resources, particularly in the area of technology, and that is going to be critical in the one-stops. And it is, in my view, imperative that that is where the efforts begin, that, obviously, we are going to have to look at the people issue and placement of where the people are, but it is a matter of the technology, sharing training, technology and those issues with other agencies, whether it be OPM or the VA.

And some inroads have been made recently on that, and I would hope it would continue. We don't need to continue to reinvent the wheel on a lot of these things or wring our hands for months over them. We just need to roll up our sleeves and get to work on them, which I think they have got a good head start on them. Thanks.

Mr. BUYER. Thank you. One other question I have is, I sense concerns about Merit Principles in the hiring of regional directors.

Mr. CARBONNEAU. As I understand it, there are four vacancies in the regions, now which leave six people that are currently holding those jobs. The perception of preselect, if in fact you are going to go to competitive process on selecting the people for the five regions, they have to be squeaky clean on this and really look at the skills, the skill matches of the people, best qualified for the position.

And it may be that someone is going to have to step into those positions who has strong leadership, strong communication skills and experience in the TQM process, and those things have to be looked at closely before selections are made. And I just encourage them to deal with the issue of the perception of preselect on some of these and whether it be from—

Mr. BUYER. Do you have some fears? Do you have some internal—are you doing this in your gut or do you have some realistic internal fears that it is not going to happen?

Mr. CARBONNEAU. I worked at OPM for a number of years and retired from there in 1994.

Mr. BUYER. Your gut feeling is pretty good.

All right, thank you. I don't have any further questions of this panel. I appreciate your taking the time to prepare your statements and to come here to testify today. And please, again, let me emphasize and welcome your input as we move forward in technical corrections and amendments. Thank you very much.

Our next panel, if they would move forward. It is composed of Mr. Mike Cline, the Executive Director of the Enlisted Association of the National Guard of the United States; Mr. Robert Spruell, the Acting Deputy Assistant Secretary of Defense for Reserve Affairs, Manpower and Personnel.

Before you proceed, I would like to compliment Mr. Cline on the quality and detail of his written testimony, and I highly recommend it as an excellent summary of the act under discussion here today, the Reemployment Act.

Again, gentlemen, your prepared statements will be made a part of the record, so I ask you to summarize. And we are under the 5-minute rule.

STATEMENTS OF MICHAEL P. CLINE, MASTER SGT. (RET), EXECUTIVE DIRECTOR, ENLISTED ASSOCIATION OF THE NATIONAL GUARD OF THE UNITED STATES; AND ROBERT WAYNE SPRUELL, ACTING DEPUTY ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS (MANPOWER AND PERSONNEL)

Mr. BUYER. And Mr. Cline, if we can begin with you, thank you.

STATEMENT OF MICHAEL P. CLINE

Mr. CLINE. Thank you, Mr. Chairman. Good morning again.

Mr. Chairman, on behalf of Enlisted Association of the National Guard of the United States, we would like to compliment you on conducting these oversight hearings on the Uniformed Service and Reemployment Act, USERRA, for granting us the opportunity to participate. And we concur with the comments of the VSOs previously on the other panel concerning the USERRA law.

As you know, Mr. Chairman, the use of the National Guard and Reserves during Desert Shield and Desert Storm—and you were there—brought about the need for updating and changing several laws that were either outdated, outmoded or both. The Veterans Employment and Reemployment Rights Act law was one of such laws that was already in the process of being updated at the time of the Persian Gulf war, and its timing was perfect. The 1994 USERRA law brought about many such needed changes.

However, just as with a new car, there are many times you have to make some technical adjustments to correct the flaws. I have addressed several of these changes in our written testimony, Mr. Chairman, and knowing that you have been up all night, I will let them stand near.

Mr. Chairman, we have also provided, as you mentioned, in our written testimony a brief overview of the USERRA law. And we think many in Congress are looking

Our association concurs with several of the recommended changes made by the Department of Labor.

Mr. Chairman, although we realize that at times a compromise must be reached in order to accomplish goals, we nevertheless continue to oppose section 4312, paragraph (b)(1) which stipulates an employer is not required to reemploy under the chapter if the employer's circumstances have so changed that such reemployment is impossible or unreasonable. Or B, as in section B, that it would impose a undue hardship on the employer. We believe that the language needs to be more restrictive and explicit regarding what constitutes hardships and why reemployment could be impossible.

As you are well aware, Mr. Chairman, any two lawyers can interpret those paragraphs to mean different things.

I would like to take this opportunity, Mr. Chairman, to take time to also state that needed are providing tax incentives for employers to go along with the USERRA law. Although the law provides protection for hiring, we also know that employers can use a variety of excuses on why not to hire an individual. A tax incentive could be the answer to open a door for Guard and Reserve members.

We would also like to commend the National Committee on Employers' support of the National Guard and Reserve on the fantastic job they have done. Their ombudsmen in the field are the people who resolve many of the problems before they get to the courts. The Honorable Deborah Lee, the Assistant Secretary of Defense for Reserve affairs, and Ms. Cheryl Bowen, the Executive Director of the NCESGR Committee, and their staffs worked tirelessly for the Guard and Reserve members.

In closing, Mr. Chairman, we must do everything we can to protect the rights of our military personnel who may be called to risk their lives for our country and its interests. We and the leadership of the National Guard and Reserve must do more to ensure our people know the rules and provide their employers with adequate notice of military duty as prescribed in section 4312. Approximately 80 to 90 percent of the problems that we experience with employers are directly the result because our people did not inform the employers of the necessary training.

Mr. Chairman, we commend the Congress for providing for the members of the military to stand ready to leave their plowshares behind, pick up their rifles and defend their country. The citizen soldiers of our Nation's oldest military force, the National Guard, need your assistance and continued support in order to be ready, willing and capable to defend our Nation's interests. This means insuring that employers who hire them can rest comfortably at night knowing that the citizen soldiers are ready to come forth and protect our way of life. Without the USERRA law, this may be more difficult.

Thank you, Mr. Chairman.

Mr. BUYER. Thank you, Mr. Cline.

[The prepared statement of Mr. Cline appears at p. 68.]

Mr. BUYER. Mr. Spruell.

STATEMENT OF ROBERT WAYNE SPRUELL

Mr. SPRUELL. Thank you, Mr. Chairman. It is a pleasure for me to be here to represent the Department of Defense on the Uni-

formed Services Employment and Reemployment Rights Act of 1994.

I think it is important, even though it has been said, to emphasize that this law really recognizes the sacrifice of individuals who want to perform military service to the Nation and not make that service a career. It recognizes their sacrifice with regard to civilian employment, and it ensures that these members, these servicemembers who perform noncareer service, are not penalized in those civilian careers.

This is particularly important, as you well know, for the almost two million members of the Ready Reserve who are required to train regularly and also to be available at a moment's notice to augment our Active forces in any operational contingencies.

The reservists are constantly faced with balancing a civilian career with family responsibilities and military service, and it is never easy. And in this day and age they are being called on to do more, and their training and readiness are even more important than ever before.

From all indications, the employer support out there is very strong, but the concerns about civilian employment are a significant—remain a reason and always will be a significant reason for people to leave the Guard and Reserve. So these protections are important.

The law is now very clear in stating that it doesn't matter when or for how long or how often an individual serves or whether the service is voluntary or involuntary. The protections are there under the law regardless.

There are now responsibilities that servicemembers are faced with, such as the advanced notification. We have tried to get word out that these responsibilities are there and to make sure that servicemembers are not denied protections because they—the law has changed in that regard.

In implementing USERRA, I think we have worked very closely, the Department has, with the Department of Labor and other agencies within the interagency working groups. We have continued the relationship that was fostered during the years of development of the USERRA legislation, and these efforts now include providing interim guidance, outreach programs for information and joint training sessions and a number of other efforts.

It is extremely important that reservists and their employers clearly understand all the rights, obligations and responsibilities under the law. It is our policy to ensure within the Department, that our servicemembers are informed of their rights, benefits and obligations; to provide assistance in exercising those rights; to resolve issues as they arise and to assist with documentation as it becomes necessary.

Our implementing guidance is going to require that points of contact be established within the field to ensure there is a responsible authority out there that employers can contact with any concerns they have about training and duty requirements of reservist employees.

And, in summation, I think the combined efforts of the Department of Defense, Department of Labor and other key Federal agencies are directed at insuring an effective implementation of the

USERRA provisions to support the total force of today and tomorrow.

I thank you, sir. I am prepared to answer any questions.

[The prepared statement of Mr. Spruell appears at p. 80.]

Mr. BUYER. Before I get on a roll, let me ask, do you have any questions? Go ahead.

Ms. COCHRAN. Mr. Spruell, I know that USERRA has been in place only about 6 months, but have the members of the national committee had an opportunity yet to get feedback from the employer community relative to the changes that have been made? We try to be very sensitive to the needs of the employer community. I would like to think that indeed we were successful with it.

Mr. SPRUELL. At this point, we are not aware of any major concerns or any significant concerns with the changes that have been effected by USERRA, and we are still trying to get all the information out.

Ms. COCHRAN. I am sure the Chairman and Ms. Waters would greatly appreciate being informed over the next—I would assume it will take a year, year-and-a-half really, to know what additional issues may arise.

Mr. SPRUELL. We have not noted any increase in the number of complaints or in the tenor of the complaints at this point.

Ms. COCHRAN. Mr. Cline, I just appreciated your evaluation of the Department of Labor legislative recommendations. Our members shared your views. Mr. Montgomery introduced H.R. 1941 yesterday, so it was very nice to have a confirmation that indeed they are on the right track.

Mr. CLINE. Thank you, ma'am.

Ms. COCHRAN. Thank you.

Mr. BUYER. I have a statement of my colleague, Mr. Cooley, and it will be submitted for the record.

[The prepared statement of Congressman Cooley appears at p. 38.]

Mr. BUYER. Mr. Spruell, are you in the Reserves?

Mr. SPRUELL. I retired from the Marine Corps Reserve a couple of years ago.

Mr. BUYER. Rank?

Mr. SPRUELL. Lieutenant Colonel.

Mr. BUYER. I have a series of questions for both of you. I think both of you gentlemen know of my commitment to a total force concept. Some in the Guard may be confused as to what the hell that means; and I would submit, Mr. Cline, that as a former master sergeant, I have deep respect for your service to the country and your frankness.

Mr. CLINE. Thank you, sir.

Mr. BUYER. And you should also understand that when things are said—and the interesting thing about this town is that walls have ears and things are said and comments are made. You would be surprised what comes back to me. You would be surprised what letters and documentations and memorandums that get sent around the country that end up on my desk. So—

Mr. CLINE. We can send them to you, too.

Mr. BUYER. Well, that would be fine. I would appreciate that.

But, at the same time, I respect your frankness and know that it is not an easy task to wake up the Pentagon, that I think with regard to the restructuring in our societies there will be two institutions that will be last to restructure and one, in fact, will be the Pentagon and the other, in fact, will probably be the colleges and universities in our societies.

So—and I think—I know—I don't want to get off on tangents, because I am sure we will have your testimony perhaps over in the personnel committee, under the roles and missions which will be highly controversial and the recommendations on the eight divisions coming out of the Guard. But understand this, Mr. Cline, that I have a deep commitment to the total force concept and that I will be as helpful through this committee to ensure that those who are going to serve, whether it be in the Guard and Reserves, are in fact taken care of.

And, Mr. Spruell, your comments about the pressure on the reservists today, immediately I think of the Air Guard and the Air Force Reserves who pull incredible amounts of time and the pressures of the employers today on them because of how much extra duty they, in fact, pull.

And so here we are talking about the massive call-up, but there are some tremendous stresses out there in the present system as we downsize the Active force and place stress by increasing personnel tempos and operational tempos in all places of the world.

And that reliance then—you know, they call out there to that Air Guard Commander or Reserve Commander and say, we need you to be in a particular theater of operation, and there is such a can-do attitude out there that it is a compliment to the Reserve and to the Guard that they respond.

And it is very distressful when you are out there and you talk to a sergeant that said, I had to leave. I had 8 years in, but I had to leave. I couldn't do it. I could no longer do the balance.

And so what we seek to do—and that is why I brought up Deborah Lee. Some of her recommendations, I thought, are pretty interesting because they are trying to take care of the present stress in the system. So I wanted to make that comment.

Mr. Spruell, what are your concerns, if any, that you might have expressed through the ombudsmen to the Department regarding the act, if you have any?

Mr. SPRUELL. As I indicated, from the ombudsman's standpoint, at this stage, they haven't expressed any really specific concerns. We haven't seen any major concerns out there.

I think—our big concern is to continue to try to get the word out at the lowest levels possible. When you are talking about 4,500 to 5,000 Guard and Reserve units out there, as was implied in the last panel, the word probably hasn't gotten down to all of them at this stage, but NCESGR is working through its 200 volunteer ombudsman to try and do local briefings.

They schedule briefings, which include the USERRA presentations, at the unit level. The ombudsmen are well trained in the USERRA provisions, and they are doing their best to try to get briefings out to those individual reservists. We have issued fact sheets and information handouts, which we worked closely with the Department of Labor on and tried to get those out.

We published a manual for some of the legal offices which provides the case histories and how the law was changed and why. Because a lot of what USERRA did was to incorporate 54 years of case history in the rewrite and clarification of the old Veterans Remployment Rights Act.

Mr. BUYER. The cases that are not resolved by the national committee's intervention or by other means are referred to DOL for determination. How would you describe the working relationship of DOD and the VETS when complex cases are involved?

Mr. SPRUELL. As I said earlier, we have had a strong working relationship, a partnership really, with Labor in the whole transition from the old law to the new law. We have been handling employment/reemployment cases together over the years. Labor can probably address now how their responsibilities have increased or have changed with the passage of the new law.

I would say that the exchange of information continues at all stages of the development of a case. We turn over the complicated cases to the Department of Labor, but at the same time we continue the dialogue, and we continue to discuss all the aspects of the case. We can address what the impact is from the Guard and Reserve standpoint or from that of the Active military, for that matter.

Mr. BUYER. With regard to the new act, is the word getting out to the Reserve components, do you know?

Mr. SPRUELL. It is getting out. We need to continue that. We have got a major instruction at the DOD level which, once that is finalized, and we are in the process of doing that, will drive more regulations and more policies from the services that will get down to the lower levels.

As I said, NCESGR is doing a great job of conducting briefings at the individual unit levels, and we have produced a lot of information. We have furnished many articles in a lot of the service publications to try to get the word out on USERRA, and Labor has been tremendous in their efforts. They have a number of ongoing initiatives at all levels—interagency working groups, joint sessions, training sessions—that have included DOD representatives, including the service representatives as both participants and briefers, and I think the word is getting out, and we are going to continue to do that, continue to stress it.

Mr. BUYER. From my personal experience, doing mobilization briefings and working with the families that went to the Gulf, then talking about the employment rights and being in touch with employers, it all went very well. Of course, I am not going to judge the dimension of America through Indiana, but in Indiana it went very well.

And the odd thing about that operation is here I do this on the front end, never dreaming that I ended up going. Then when we come back on June 6th, I end up helping out youths that come home. And I mean there are only so many JAG officers, and I cannot personally recall one problem. If there was one, it was handled by someone else. But in Indiana, I just cannot recall one problem.

And as a matter of fact, there were cases of employers who would even make up the difference in pay. I can think of Frito Lay, in fact, did that. And I am sure that there were others that did. So

just because we end up with a new bill, we shouldn't in any way be harsh upon the business community. Because from my dimension of Indiana, there was tremendous outreach and assistance to those who were called up.

With regard to sole proprietors, whether they be a carpenter or a plumber or electrician to even a professional, you take it on the chin. And I had personal experience what that, in fact, meant. But I want you to know from my perspective it all went well, but I also am aware that in different parts of the country there were some problems.

To Mr. Cline, the protection of the rights of the Reserve component members, and we just talked about its importance, and you state that your association and leadership of the Guard and Reserves must do more to ensure that people know the rules prescribed in section 4312, 1, 2 and 3. What are your suggestions?

Mr. CLINE. Well, again, like the VSOs have mentioned before, we need to do a better job in getting the word down to the unit level. We need to train our NCOs out in the field of what is available and make sure those NCOs pass that word down to those people that they need to notify their employers when they have training coming up. They can't wait until the last day and expect an employer to all of a sudden bend over backwards to accommodate them. Eighty to 90 percent of the problems that we hear about are directly related to a failure by the Guard member or the Reserve member to notify the employer.

Mr. BUYER. Do we know that when we place all the responsibility upon the servicemember for the advance notice under the act, how is the advance notice adequate and appropriate?

Mr. CLINE. Under the previous law, I think the courts decided that there was really no set time limit of advance notice. But I think common sense has to tell us that if we have an employer out there that we need to give them at least 1 to 2 weeks notice of when we are going to be leaving for training. Most people in the field know almost a year in advance of when their annual training is going to be.

Mr. BUYER. What if they were placed on the orders when you are activated as a reminder? What do you think?

Mr. CLINE. That is a possibility, sir.

Mr. BUYER. Mr. Spruell, would you suggest that as a suggestion over at DOD?

Mr. SPRUELL. If it is a military necessity, the advance military notification doesn't even have to apply. If there is a military need that takes precedent, the individual doesn't have time to inform the employer.

As far as the time frame is concerned, I think it should be as advanced as possible for the employer, but it is also going to depend on when the Guardsman or reservist was notified. If he wasn't given much notification by the service, then it is not—he is not going to be penalized for the fact that he couldn't advise the employer sooner.

But by the same token, if he was advised well in advance and waited intentionally to provide advance notification to the employer at the last minute and this caused problems for the employer, I think that would be taken into consideration and looked upon unfav-

vorably if there was a complaint and to resolve through follow-on legal action. In fact, there have been court cases where dismissal was upheld rather than reemployment because of the fact that an individual didn't provide sufficient advance notification.

Mr. BUYER. And the difficulty in this, especially if you have a claim to submit, is on the oral notification.

Mr. SPRUELL. And that is why we would strongly recommend, if you have any question, put it in writing and keep a copy.

Mr. BUYER. You know, I can remember, we recommended just attaching a note, whether it is a Post-stick or stickum Post-its to the orders, give the orders to your employer as an idea.

Let me—Mr. Cline, let me get comfortable with this. When you talked about the restrictive language that was necessary, why does the association believe that more restrictive language is necessary?

Mr. CLINE. I think—my personal belief, sir, is that the current language is somewhat broad in nature. You have opened up interpretation by anybody as to why reemployment is a hardship. You know, it could be the financial situation. It could be they went through bankruptcy or reorganization or what have you.

We just think that for better protection, if it was better defined in that particular chapter, it could keep us from having further problems in the future as to why a person can't be rehired.

Mr. BUYER. As I asked, if you would submit your recommendations to me, I would appreciate it.

I don't have any further questions, and I appreciate both you gentlemen coming and testifying. Look forward to seeing you again.

Mr. CLINE. Thank you, sir.

Mr. BUYER. Let's go ahead and move into the next panel. That is not a vote, so let's do that.

The final panel represents the Veterans' Employment and Training Service. General Taylor, in his capacity as Assistant Secretary for Veterans' Employment and Training, has only one guiding principal for his job and that is to do what is best for the veteran. And I have heard you say that often, often, often.

General Taylor, because of your long service with the Guard, I know this topic is of particular interest to you, and I would ask you to introduce the colleagues who are with you today and then proceed.

STATEMENT OF HON. PRESTON M. TAYLOR JR., ASSISTANT SECRETARY OF LABOR, VETERANS' EMPLOYMENT AND TRAINING SERVICE (ASVET), DEPARTMENT OF LABOR ACCOMPANIED BY RICHARD LARSON, DIRECTOR FOR PLANNING, POLICY AND QUALITY; AND JEFFREY CRANDALL, DIRECTOR OF FIELD OPERATIONS AND ACTING DIRECTOR FOR VETERANS EMPLOYMENT, REEMPLOYMENT AND TRAINING

Mr. TAYLOR. Good morning, Mr. Chairman. I thank you for holding this hearing and giving me the opportunity to tell the positive story of what the Veterans' Employment and Training Service has been doing in the areas under consideration today.

I want to thank for the record Congressman Hutchinson for his efforts in protecting the Veterans' Employment and Training Services as the Congress is considering block grants to the governors.

Mr. BUYER. Would you please introduce who is with you?

Mr. TAYLOR. Yes, sir. I have with me today Mr. Jeff Crandall, Director of our Field Operations and Acting Director for Veterans' Employment, Reemployment and Training, and Mr. Richard Larson, Director for Planning, Policy and Quality.

Mr. BUYER. Thank you.

Mr. TAYLOR. I would like to make a few brief remarks highlighting the main points in my statement that has been submitted for the record.

I will begin by highlighting the significant accomplishments of our reinvention efforts over the past year and a half.

First, we streamlined VETS' grants program under the Job Training Partnership Act to lessen the agency's overall administrative burden and produce better results for our customers in those geographic areas that won new, competitively awarded grants. In the process, we eliminated a whole set of regulations.

A second reinvention accomplishment with great positive potential was the advent of the Customer Satisfaction Surveys. This is another aspect of the total quality management approach to which I am very much committed.

I would note to the Chairman that our use of these surveys helped place VETS among the Department's leaders in the administration-wide drive to establish customer satisfaction feedback as a guiding force in program design.

Other viable recommendations include the transfer of grant processing authority to the field, a reduction in the number of our regional offices, and a plan to provide upward mobility and an expanded customer service role for our clerical employees.

Mr. Chairman, VETS has gone forward within the Department to develop a legislative proposal that would implement these recommendations requiring an amendment to title 38 of the United States Code. We have worked closely with Congress and service organizations in the reinvention process, as well as the implementation of the Uniformed Services Employment and Reemployment Rights Act, or USERRA. In my written testimony, I outline the agency's implementation plan and the various actions we have taken since USERRA's enactment in October of 1994.

As you have heard from the last panel, USERRA is an important safety net for nearly two million members of the Ready Reserve.

Mr. Chairman, a lot of Federal agencies have worked closely together since last October to provide an effective seamless security net for our veterans, reservists and Guard members. In particular, I would like to single out this morning the Department of Defense's Office of Reserve Affairs and its supporting agency, the National Committee for Employer Support of the Guard and Reserve. These two organizations have worked diligently to strengthen an already existing good relationship with the Department of Labor and make it a model of Federal partnership.

Partnership is also the operative word for successful one-stop career centers. Mr. Chairman, I see the dynamic initiative of one-stops as an opportunity to improve employment assistance services for veterans. Once fully implemented, one-stop career center systems will present a broad range of workforce development services

that previously were not accessible or easily available to veterans who reported to local employment security offices.

Mr. Chairman, let me assure you that at the national decision-making table, VETS is well represented and has been granted full partnership status with our sister agency, the Employment and Training Administration. And at the State level, where one-stop centers are being designed for the uniqueness of their jurisdiction, we have empowered our State directors for veterans employment and training to ensure that services on behalf of veterans in those States are provided.

In closing, Mr. Chairman, I am proud of VETS' reinvention efforts and its USERRA implementation accomplishments, and I am pleased with the agency's level of involvement in the ongoing evolutionary development of one-stop career systems.

Again, I thank you for the opportunity to tell the VETS story. I would be very happy to answer your questions.

Mr. BUYER. Thank you, General Taylor.

[The prepared statement of Mr. Taylor appears at p. 88.]

Mr. BUYER. Let me, first, turn to counsel, if she has any questions.

Ms. COCHRAN. Secretary Taylor, would you submit for the record an analysis of the effect of H.R. 1593 on veterans employment services, not drawing any value judgments in terms of this is good or if this is bad, just an analysis?

Mr. TAYLOR. I would be very happy to submit our comments for the record.

Ms. COCHRAN. Thank you.

(See p. 103.)

Mr. BUYER. I have got a ton of questions here, but believe me, this isn't like last time, okay?

Mr. TAYLOR. Okay.

Mr. BUYER. Let me just go down them. If you would describe the resulting organizational look of VETS, what do you think it is going to look like?

Mr. TAYLOR. I think it is going to be slimmer. The national office will be much smaller. We will be moving our resources down to the front line, and we will be empowering our people in the States to make decisions at their level.

Mr. BUYER. You said the right word to a Republican.

Mr. TAYLOR. Well, I really believe in what I just said, Mr. Chairman.

Mr. BUYER. Congratulations.

Mr. TAYLOR. And we are well on the way to doing exactly those things.

Mr. BUYER. It is the wave. I don't care if you are a Republican or a Democrat; it is the present wave. It is a way to move bureaucracies out of Washington.

You know what this really is all about is—it is strange today, as United States Congressmen, to stand up in the face of animosity towards government, to say I believe in good government. And I stand up and do that, will stand up and say, I believe in good government. I get the most frowns and strange looks.

And there are such things as good government. There are services which government can provide and provide very well. And

when there is a trust deficit between the American people and their government, what we seek to do is to bridge the trust deficit, and you do that by bringing sensitivity into the system, enhanced by bringing government closer to people because there is a greater trust.

Mr. TAYLOR. Absolutely. I agree with you 100 percent. We view our organization as having five customers.

Mr. BUYER. Five?

Mr. TAYLOR. Five sets of customers: the veteran, those who are in the Guard and the Reserve, and those who are about to leave the military in 180 days. As you know, we trained 163,000 people at 200 military bases last fiscal year on how to find a job.

We also view employers as our customers, and we are doing outreach to employers. But our employees are also our customers, and so we are developing strategies to deal with each group that I have just mentioned. And in order to do that effectively we have to change the mind-set and the culture of the organization and become more customer focused. And I believe that is what you are saying when you say you believe in good government.

Mr. BUYER. With regard to a qualified veteran in the residency of a State for 2 years being among the basic qualifications for the State director and the assistant director, do you foresee a change in the residency requirements for the director or the assistant director?

Mr. TAYLOR. Well, earlier you heard representatives from the veterans' service organizations testify about the reinvention recommendations that had been accepted and rejected. One of the reinvention recommendations was to eliminate the 2-year residence requirement. I neither rejected it nor accepted it. I deferred my decision until I had a chance to further evaluate that law, and it is in law.

Our budgets are dwindling. We have vacant mandated positions in the country. It appears at this time that we are going to have to address that issue again. I am inclined at this point in time to ask the Congress to allow me the authority to move people around in the country.

Mr. BUYER. Well, recognize with the amendments and changes we are going to make we want to do that in one swoop. I don't want to move a bill and then come back 6 months later and say, oh, by the way—

Mr. TAYLOR. What we are doing is trying to bundle up our legislative requests and send them over.

Mr. BUYER. Give me some kind of time line. What are you looking at?

Mr. TAYLOR. Hopefully, we will have several of our legislative requests that we have already generated out of the Solicitor's Office over at the Labor Department within the next month or so.

Mr. BUYER. By September you will have it all?

Mr. TAYLOR. I am optimistic. We are discussing the changes with the Solicitor on a daily basis almost. So, hopefully, you will see them over here in the fall, early fall.

Mr. BUYER. Okay. Early fall.

Mr. TAYLOR. Well, September, late September, early October.

Mr. BUYER. Somewhere in there?

Mr. TAYLOR. Yes.

Mr. BUYER. All right. Are you going to make any suggested changes with regard to duties?

Mr. TAYLOR. The duties and responsibilities outlined in the position descriptions are for the State directors and the assistant directors. We can modify those and do those empowerment things that I mentioned to you without changing the law, and so we will take those actions unilaterally that will give them more power. However, we don't foresee actually changing any of the specific duties and responsibilities. They will probably just get more authority to make decisions at their level.

Mr. BUYER. Well, I have respect for you, so I will see that when it happens, I guess.

Mr. TAYLOR. Okay. Sir, it has already begun to happen. We are pushing delegation of authority down today to those States. This is a new paradigm. And, you know, sometimes changing the culture takes a little while.

Mr. BUYER. Whether it is this system—there are a lot of different macrosystems that have microsystems out there.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. And when the American people come and say, I don't like the general direction of the country, when you try to change that trend line back to direction for which the American people are saying, this is what we agree on, where you set benchmarks and different megatrends, macrosystems, microsystems, wherever you set those benchmarks to try to bring it back is how you get judged whether you are cold, callous and uncaring or whether you are thoughtful and caring in the process.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. And—pardon?

Mr. TAYLOR. I have heard you say you don't want to micromanage. I have said that from the day I have come into this office. I don't like micromanagement either. And I am willing to trust those that work for me, and I think that they will come through and make the right decisions as I empower them.

Mr. BUYER. With LVERs and DVOPs and all the functions they perform, as you well know, one of which is TAP, should they continue working on those programs?

Mr. TAYLOR. Oh, absolutely. We—

Mr. BUYER. Just throw it out.

Mr. TAYLOR. We have found that the DVOPs and LVERs are really magnificent people.

I have to tell you on the record here, Mr. Chairman, that as I have traveled back and forth and up and down this country, and I travel about 35 to 40 percent of the time talking to DVOPs and LVERs, I have come to not only respect them but almost to love them. Because these are the people who actually put their hands on our veterans that need jobs and counseling and help, and they are doing a marvelous job.

They also are doing great work when they go to the bases. They teach young men and women who have never had to look for a job, and even some folks who are about to retire that never had to look for a civilian job, how to write a resume, how to dress for an inter-

view, how to take an interview. The DVOPs and LVERs are doing marvelously good work, and so I would not want that changed.

Mr. BUYER. Should the DVOPs and LVERs be stationed?

Mr. TAYLOR. Outstationed?

Mr. BUYER. Yes.

Mr. TAYLOR. I think that that is effective because we have to be proactive. We just can't sit back and wait for the employers to come to us all the time.

Not all good employers use the State employment system. We have to go out and talk to employers and convince them that it is good business for them to hire veterans because of the virtues and attributes that veterans have. We find that this is effective.

And of course, as we discussed at the last hearing, we will be working very closely with the VA and their voc rehab program to place those 4,500 people who graduate. We are going to ask the DVOPs and the LVERs to be doing some outreach at those voc rehab centers and help us get some of those people good jobs.

I think that outreach is important, and the DVOPs are doing a wonderful job. I just wish all other programs worked as effectively as ours. I am quite happy with what they are doing out there.

Mr. BUYER. I know you believe that, which is important. You wouldn't travel as much as you do. I mean, you are doing leadership by example.

I should have asked this question earlier when you said you were going to move some of the legislation here to us this fall. Give me some of the ideas of what you are working on.

Mr. TAYLOR. Well, we mentioned the residency thing, and we are going to be revisiting that. We shall be seeking authority to reduce the number of regions from ten to five.

Mr. BUYER. That is going to require—

Mr. TAYLOR. Is in law and that proposal is in the Solicitor's office as we speak. To allay Mr. Carbonneau's concerns, I believe in squeaky clean, competitive selections. So when and if we do reduce from ten to five regions, those regional directors, those five regional directors will be selected based on a competitive, squeaky clean process. There will be no preselection, and I have gone on record to say that.

One other piece of legislation that is in the Solicitor's office is a request to change the language which prohibits our clerical staff from being upgraded in the States.

In each DVETS office, there is a clerical person. Most of them are women. I would say that about 99 percent of them are women. They are dead-ended at the very low levels. Some of them are very, very knowledgeable about these programs. However, they are not veterans, and so they don't qualify for the ADVET and the DVET positions. But we have people who are investigating USERRA or VRR cases who are also not veterans and are on a career track to be GS-12 level.

What I am attempting to do is ask Congress to allow the clerical language to be expanded a little bit, clerical and technical. If Congress would accept that change, then we can write position descriptions which will enable some of these women to bridge over into a different career series. We then would train them and give them

growth potential. But first, Congress has to approve it. That is all there is at this time that we are going to be sending over to you.

Mr. BUYER. I will pledge to you my help and cooperation.

Mr. TAYLOR. Thank you. I appreciate it.

Mr. BUYER. And work with you.

Mr. TAYLOR. Thank you.

Mr. BUYER. And I am sure we can come to agreements.

Mr. TAYLOR. Thank you, sir. I am sure we can, too.

Mr. BUYER. And likewise work with the VSOs. And as I understand, you keep in contact with them, do you not?

Mr. TAYLOR. Mr. Chairman, I believe in an open process, completely open process, and I know there is some risk in telling people what your plans are, but I am willing to take risk.

Mr. BUYER. Oh, I have experienced that before.

Mr. TAYLOR. We have developed and implemented a strategy whereby we ask the VSOs to come in, and we brief them on everything that we plan to do. Now, sometimes they don't like what we plan to do, but that is okay, too.

Mr. BUYER. That is part of the system.

Mr. TAYLOR. Absolutely. But we also do that with the staffers on the Hill, both on the Majority and the Minority side. We let them know exactly what our plans are and in which direction we want to take this agency.

One of the things we have done is to establish an office of plans and programs, which the agency had never had before. I like written plans. I like to have a road map as to where we are going. We have a very high-ranking individual dedicated to helping us with our plans, our programs, and our total quality management implementation.

Mr. BUYER. Well, General Taylor, to join the executive branch, you couldn't have placed yourself in a job and work with a committee in Congress that has better cooperation and quality people on both sides, Republican and Democrat staffers, than this committee.

Mr. TAYLOR. Well, I need to tell you this, Mr. Chairman, that earlier I thanked Congressman Hutchinson. I did have the opportunity to thank him in person for helping us with H.R. 1617.

But I also need to thank the staffers. They were very helpful. We are in constant communication with them, by the way, and I don't think that hardly a day goes by that we don't have a conversation with the staffers, both on the Majority and Minority side. I come up to the Hill a lot and I talk to people, and if the Congressman or the Congresswoman is not available to talk to, I will talk to the staffers.

Mr. BUYER. Actually, with Tim Hutchinson being chairman of the hospitals, you can always pick up the phone and call him. It is a shame he is not here.

Mr. TAYLOR. And the staffers have been helpful to us. I would like to listen to what other people have to say.

Mr. BUYER. Let me move to another area of question.

VETS estimates that of the 251 Federal staff, as many as 113 equivalents, 45 percent of workforce time, is devoted to administration of veterans reemployment rights. You are also expecting a greater workload due to expanded responsibilities previously handled by the Office of Personnel Management. Does VETS have the

necessary manpower to accomplish the growing mission of this new act enforcement in the face of staff reductions?

Mr. TAYLOR. Mr. Chairman, I am going to give Mr. Crandall an opportunity to answer that question.

Mr. JEFFREY CRANDALL. The answer is, yes, with our current staffing levels and what we project will be our staffing levels in the outyear, Mr. Chairman. We are adapting to the downsizing at the same time that we are implementing the new law. We are adjusting to it.

So far, we think we have done pretty well. We are monitoring the caseload, as was mentioned earlier. We don't know what the total impact will turn out to be. We know what the projections were. We have a pretty good handle on what has happened so far.

Mr. BUYER. Good, thank you.

With regard to the act, cases that are not resolved by the national committee's intervention or by other means are referred to DOL for determination. Explain the working relationship between DOD and VETS when a servicemember has reemployment issues that cannot be resolved by the National Committee for Employer Support of the Guard and Reserve.

Mr. TAYLOR. The way I understand it is, NCESGR will attempt to resolve cases if there is no monetary or salary issue, and they have about 10 days to do that. But if there is a salary issue involved, I think they have about 3 days to resolve it. And if they can't, then the case is forwarded to VETS for action. Is that correct, Jeff?

Mr. JEFFREY CRANDALL. That is absolutely correct. And the hand-offs have been smooth. We worked out this relationship with NCESGR years ago, and I think your experience in Indiana kind of reflects the way it has been for quite some time and continues to be today.

Mr. BUYER. What kind of caseload do investigators have out there?

Mr. JEFFREY CRANDALL. We have distributed this workload throughout the staff. We have about roughly half of our total staff involved in some way, shape or form. Typically, we estimate caseload of about 50 cases per person per year. The experts carry a little more. Those who are not quite as expert—

Mr. BUYER. That is not bad at all.

Mr. JEFFREY CRANDALL. Right.

Mr. BUYER. One-stop centers, is that you, Mr. Larson?

Mr. LARSON. Yes, sir.

Mr. BUYER. Two major bills under consideration, changing the nature of the employment system in the country, the expected system of choice by the governor seems to be the one-stop centers. Your current assessment of how VETS fares under H.R. 1617 and S. 143, can you share that with me?

Mr. TAYLOR. I will attempt to answer that one.

I think we are doing very well in regard to H.R. 1617. I haven't seen what has come out of Mrs. Kassebaum's committee yet, but the very fact that our DVOPs and LVERs are protected in H.R. 1617 will enable them to provide veterans preference, which is what we all want, in the one-stop shop.

Mr. BUYER. How is the use of technology working?

Mr. TAYLOR. I think well. I am very glad you asked that question. This agency interfaces with VA, DOD, OPM and soon, hopefully, with HUD in regard to homeless veterans. In regard to DOD—

Mr. BUYER. Interface. Are you on line?

Mr. TAYLOR. There are two Department of Defense programs that we will be on line with shortly. They are the DORS program and the TBB. The DORS is the Defense Outreach Placement Service and the TBB is the Transition Bulletin Board.

Now we are looking at our DVOPs and LVERs all the way down at the local level. We intend to procure laptop computers for them.

The Department of Defense will give us password or access to those two systems that I just mentioned. Our people in the States and in the local employment offices in real time will be able to access those systems. The DOR system is a system where one can put one's resume in and then employers can pursue—take a look at it. The bulletin board has the jobs listed, and so we very shortly will be purchasing laptops for DVOPs at the very lowest level.

This is an example of our attention to cyberspace.

We are also working with the States. The one-stops are very unique. It is going to be a marvelous opportunity for us, I think. Your State, Indiana, will receive a grant to begin implementation of one-stop this summer. What we have done is empower our Federal State directors, through negotiation of the solicitation for grants that the States submitted to require that these be representation on the board by a member of our organizations to insure that veterans will get priority of services.

When that happens, the DVOPs and LVERs will work with veterans that come in. They will have the electronic or the real time cyberspace capability.

I am looking at this as an opportunity to really do some great things. You know, we had two-and-a-half million veterans registered looking for work at these offices last year. We think we did fairly well with the 560,000 jobs, but I think we can do better.

Mr. BUYER. You place a lot of emphasis then on technology.

Mr. TAYLOR. If we don't pay attention to technology, we are going to be obsolete.

Mr. BUYER. I think you are right. I think you are right.

Mr. Larson, do you have anything to add with regard to what we have talked about here today?

Mr. LARSON. In regards to technology, sir?

Mr. BUYER. Technology and the one-stop and—

Mr. LARSON. I certainly agree with Secretary Taylor that one-stop is a marvelous opportunity.

I think it is very important that we all recognize that one-stop is being developed from the ground up. There is not a single model that is coming out of Washington that people must implement. There is not even a model as a prototype that States must follow. There are four broad guidelines: universality; customer choice; integration; and performance driven/outcome based measures. Within those four broad guidelines, States may develop a one-stop system to meet their unique needs.

So it is critically important that our State directors or DVETS, as well as the veterans' organizations, be involved at the State and

local level in the design and the development and, ultimately, in the implementation of the one-stop system. In the first six States that are implementing one-stop, that has actually occurred quite successfully.

When that level of participation occurs, we not only can assure that veterans preference and priority will continue to be provided to veterans who come into the new one-stop system, equal to what is now being provided in the existing employment service, but I think there are many opportunities for actually improving and expanding the services to veterans in the one-stop environment.

Mr. BUYER. One of the witnesses on the first panel expressed some concern about the one-stop and being able to protect veterans preference. Were you here during that testimony?

Mr. LARSON. Yes, sir.

Mr. BUYER. Would you please address that? What do you think.

Mr. LARSON. Well, the concern that I heard expressed, and I think it is one that we all have, is we are moving away from an old, established system that—where the rules—

Mr. BUYER. We are what?

Mr. LARSON. We are moving away from an old, established system, the employment service. The rules are well established, have been known for a long time. We know how veterans preference gets applied in Indiana or Mississippi or New York. We understand how that system works.

One-stop is a new system. A system that is, in many ways, much different—it is an integrated system. It is not a single program operating in a "silo," but it is many programs—sharing databases, sharing a common intake.

One of the things that will result is, historically, the person—the greeter, the first person that a veteran or any applicant meets when they come to a job service office now is probably the lowest, least knowledgeable person in the totem pole of the overall organization.

In the new one-stop environment, the first person that the applicant is going to meet has to be the most knowledgeable person, because they have to have knowledge of all of the programs that are being offered, not only Federal programs but State programs and local programs in that one-stop environment. So the whole paradigm is shifting.

I think what I heard expressed by some of the veterans' organizations is it sounds good, it looks good, but we don't know for sure. I believe that is a very accurate assessment of where one-stop is today.

The first six grants were let by the Department of Labor in November of 1994. Those States are just now bringing up their one-stop operational systems.

For example, Texas, which is one of the initial six States, today has five operational one-stop centers. Wisconsin, which is another of the initial one-stops States, today has two operational centers. The other four of the initial six States don't have operational centers today.

So I think it is quite fair and quite accurate to say the potential is there, the opportunity is there, we have to all work on this together. It can happen, but let's look at it a year from now.

Mr. BUYER. Thank you.

Does counsel have anything to add based on the questions I had?

All right. Thank you. Let me close the hearing today—and the last time we met, obviously, we explored the relationship between VETS and voc rehab, and I understand the MOU is about ready for signature.

Mr. TAYLOR. I am extremely happy to report to you, sir, that it has been cleared by the staff here.

Mr. BUYER. How big is it?

Mr. TAYLOR. It is one page.

Mr. BUYER. Congratulations.

Mr. TAYLOR. We have also, you know, had the VSOs take a look at it, and everyone is pleased with it. I am pleased with it. It should be signed within the next couple of weeks, and then we will move out rapidly with implement.

Mr. BUYER. That is good.

You are right. I don't want to micromanage. And it is interesting, the times that we are in right now, for awhile, it would be, well, we can always solve problems by just giving more money and that can take care of it. Where now we are saying, we can begin to solve problems by thinking.

Mr. TAYLOR. Yes, sir. Yes, sir.

Mr. BUYER. And that is what is really good right now is utilization of our good minds. You have a lot of good men and women out there in the system, and we can begin to rethink the systems analysis. And you are right about the changing of the cultures. It is not going to be easy, especially in this town.

Mr. TAYLOR. It is very hard. I want to tell you.

Mr. BUYER. It is very hard. And whether it is political cultures to governmental function cultures, on all various fronts of government, it is not easy. And it is very difficult, and it will take a lot of years because it will take transitions of generations to be able to do some of that.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. I am not sure how patient the American people are, and there are certain times—that is what I mentioned last time. There are certain opportunities where you have to move with bold strokes. But I am also a good listener and a good observer, and so I will keep watching and keep monitoring, and so far I like what I see.

Mr. TAYLOR. Thank you very much, sir.

Mr. BUYER. God bless you. This hearing is concluded.

[Whereupon, at 11:53 a.m., the subcommittee was adjourned.]

APPENDIX

STATEMENT BY CONGRESSMAN FRANK MASCARA

VETERANS OVERSIGHT HEARING

JUNE 29, 1995

GOOD MORNING MR. CHAIRMAN. IT IS GOOD TO BE HERE THIS MORNING.

WHILE I AM GOING TO HAVE TO LEAVE FOR ANOTHER COMMITTEE MEETING, I WANT TO SAY RIGHT OFF THE BAT THAT I THINK IT IS GOOD WE ARE HOLDING THIS OVERSIGHT HEARING. IT IS VERY IMPORTANT THAT WE RECEIVE AN UPDATE ON THE REORGANIZATION OF THE VETERANS EMPLOYMENT AND TRAINING SERVICE, IMPLEMENTATION OF THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT ACT, AND THE DEVELOPMENT OF THE ONE-STOP EMPLOYMENT CENTERS.

IN LOOKING OVER THE TESTIMONY, I WAS VERY PLEASED TO NOTE THAT ALL THE VETERANS ORGANIZATIONS TESTIFYING TODAY HAVE SUCH A HIGH REGARD FOR GENERAL TAYLOR, THE ASSISTANT SECRETARY OF LABOR FOR VETERANS EMPLOYMENT AND TRAINING SERVICE.

GENERAL TAYLOR VISITED MY OFFICE SEVERAL WEEKS AGO AND I, TOO, WAS IMPRESSED WITH HIS GRASP OF VETERANS' EMPLOYMENT AND TRAINING ISSUES AND HIS SINCERE DESIRE TO SERVE AND ASSIST OUR COUNTRY'S VETERANS.

I ALSO PLEASED THAT ALL THE VETERANS GROUPS HERE THIS MORNING FEEL THEY HAVE BEEN INCLUDED IN THE REORGANIZATION PROCESS AND THAT THEIR VIEWS AND CONCERNS ARE BEING GIVEN CAREFUL CONSIDERATION.

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I KNOW FROM MY WORK ON THE GOVERNMENT REFORM AND OVERSIGHT COMMITTEE THAT IT IS IMPORTANT TO GET ALL INTERESTED PARTIES INVOLVED IN A REORGANIZATION EFFORT FROM THE BEGINNING IF IT IS GOING TO HAVE ANY CHANCE OF SUCCEEDING.

KEEP UP THE GOOD WORK, GENERAL TAYLOR!

AT THE SAME TIME, I MUST SAY I AGREE WITH THE CONCERN EXPRESSED BY THE PARALYZED VETERANS OF AMERICA REPRESENTATIVE WHO WARNS THAT IF MORE RESPONSIBILITY AND AUTHORITY IS GOING TO BE SHIFTED TO THE STATE LEVEL, IT IS IMPERATIVE THAT A NATIONAL OVERSIGHT EFFORT BE MAINTAINED. SCARCE RESOURCES SIMPLY CANNOT BE PASSED ON TO THE STATES WITH NO STRINGS ATTACHED. THERE MUST BE ACCOUNTABILITY AND ASSURANCES THAT VETERANS WILL BE PROVIDED QUALITY SERVICES.

PROGRESS ON IMPLEMENTING THE UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT ACT IS ALSO VITAL, ESPECIALLY IN THIS DAY OF AN ALL VOLUNTEER FORCE. THOSE INVOLVED IN THE GUARD AND VARIOUS RESERVE UNITS MUST BE ASSURED THEIR JOBS WILL BE WAITING WHEN THEY RETURN FROM BATTLE.

WHILE THIS LAW, WHICH WILL HOPEFULLY HELP PROMOTE SECURE AND CONTINUING MILITARY SERVICE, IS VERY NEW. MY UNDERSTANDING IS THAT THE DEPARTMENT OF LABOR HAS DETERMINED IT NEEDS TO BE FINE-TUNED.

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I WILL CERTAINLY SUPPORT WHAT EVER NEEDS TO BE DONE TO SEE THIS NEW LAW IS A SUCCESS. AS A RESULT, YESTERDAY I AGREED TO COSPONSOR A TECHNICAL CORRECTIONS BILL BEING INTRODUCED BY OUR RANKING DEMOCRATIC MEMBER, SONNY MONTGOMERY.

FINALLY, I MUST SAY I SHARE THE CONCERNS THAT WILL BE EXPRESSED THIS MORNING ABOUT THE ABILITY OF THE ONE-STOP CENTERS TO ADEQUATELY SERVE VETERANS. SOME VETERANS WILL HAVE SPECIAL NEEDS THAT DESERVE TO BE ADDRESSED. THESE CENTERS MUST HAVE TIES TO APPROPRIATE AGENCIES THAT CAN MEET THESE NEEDS. AND AS SEVERAL WITNESSES MENTIONED, VETERANS PREFERENCE IN HIRING MUST BE PRESERVED AND HONORED.

I AM SORRY I HAVE OTHER COMMITMENTS BUT AM SURE THIS HEARING WILL PROVE TO BE VERY WORTHWHILE.

THANK YOU MR. CHAIRMAN.

THE END

OPENING STATEMENT
THE HON. MAXINE WATERS
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT
AND HOUSING
June 29, 1995

Thank you, Mr. Chairman.

We have many important issues to cover this morning, so I will be brief. I do, however, want to express some puzzlement at the structure of this hearing.

For example, a primary discussion point today is the implementation of PL 103-353, the Uniformed Services Employment and Reemployment Act of 1994. When this important, bipartisan measure was enacted last year, we knew that several minor and technical amendments would be necessary. Accordingly, on May 12, 1995, I introduced H.R. 1633, a bill that would make technical and clarifying changes to PL 103-353. Additionally, I understand that Chairman Montgomery introduced a lengthier bill yesterday, H.R. 1441, which encompasses changes to PL 103-353 formally recommended by the Departments of Labor and Defense. Finally, Mr. Montgomery introduced H.R. 1469, a bill to amend the Internal Revenue Code in order to protect employers as well as service members covered under the reemployment rights law. This measure

is pending in the Committee on Ways and Means. It seems to me that considering these measures during today's hearing, particularly when our calendars are all so crowded, would make good sense.

I also want to point out that implementation of one-stop centers is a focus area this morning. A related measure, which was introduced by Mr. Montgomery on May 9, 1995, would establish a Veterans' Employment and Training Bill of Rights. This bill would have an extraordinary impact on the provision of employment and training services to veterans at one-stop centers and would be appropriate for today's discussion.

I understand the difference between a legislative and an oversight hearing. Generally, however, when pertinent bills are pending that will eventually require action, that legislation is reviewed during hearings such as this.

So, although these bills are not officially being considered today, I may have questions for our witnesses related to these measures. Additionally, I asked staff to provide copies of these bills so that our visitors this morning can become familiar with them if they are not already.

Prepared statement of Hon. Wes Cooley

**OPENING STATEMENT FOR THE SUBCOMMITTEE ON
EDUCATION, TRAINING, EMPLOYMENT, AND HOUSING**

MR. CHAIRMAN, I WILL BE BRIEF. AFTER ONE OF OUR RECENT HEARINGS ON VETERANS REEMPLOYMENT PROGRAMS, I WAS RATHER UPSET WITH WHAT I PERCEIVED AS BUSINESS AS USUAL WHEN IT CAME TO INTERAGENCY FIGHTING OVER TERRITORY AND FUNDING.

SINCE THAT TIME I HAVE DISCUSSED THIS MATTER AT LENGTH WITH OTHERS AND I HAVE HAD SOME OF MY QUESTIONS ANSWERED. I BELIEVE THAT WE ARE MOVING IN THE RIGHT DIRECTION, ALBEIT SLOWLY.

IT IS MY HOPE THAT TODAY WE DO NOT FIND SIMILAR PROBLEMS IN THE IMPLEMENTATION OF THESE IMPORTANT PROGRAMS. USERRA AND THE ONE-STOP CAREER CENTER ARE VITAL TO PROTECTING THE INTERESTS OF THE MEN AND WOMEN WHO SERVE OUR NATION.

I GUARANTEE THAT IF THESE PROGRAMS ARE NOT WORKING AS THEY SHOULD, I WILL BE FOLLOWING UP AND BEATING SOME DOORS DOWN FOR ANSWERS AND SOLUTIONS. VETERANS DO NOT DESERVE OUR INDIFFERENCE AND THEY WILL NOT RECEIVE IT FROM ME.

I YIELD BACK.



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A Not-For-Profit Veterans Service Organization Chartered by the United States Congress

"VVA, At Work in Your Community"

STATEMENT OF

VIETNAM VETERANS OF AMERICA

Presented by

***William F. Crandell
Deputy Director,
Government Relations***

***Before the
House Veterans Affairs' Committee***

***Subcommittee on
Education, Training, Employment and Housing***

***on the
Veterans' Employment and Training Service Reorganization,
Implementation of USERRA,
and
One-Stop Employment Centers***

June 29, 1995

INTRODUCTION

Mr. Chairman and members of the Subcommittee, Vietnam Veterans of America (VVA) appreciates the opportunity to present its views on critical changes in veterans employment programs. There was never a time when these issues counted for more, because veterans face increasing employment problems and need the programs Congress created for them.

Veterans' Employment and Training Service Reorganization

The Reinventing Government Proposals

VVA is a strong supporter of the ideas behind the Reinventing Government campaign, aiming at making federal agencies more user-friendly and more efficient. Involving representatives of the unions and the field operations in any reorganization is an important source of input, whether their suggestions are on target or not.

As to the specific recommendations of the Reinvention Team (RT) for the Department of Labor's Veterans' Employment and Training Service (VETS), VVA is generally supportive of the decisions of Assistant Secretary Preston Taylor. General Taylor has done an excellent job of re-energizing what has almost always been an organization kept moribund by its leaders, and he provides an example of why leadership rather than formulae remains the key to making government work.

General Taylor's rejection of all or parts of most of the RT's recommendations seems to us rooted not in unwillingness to change, but in a clear understanding of the mission and operation of his organization. He has accepted measures that increase flexibility and rejected notions that flow from hypothetical prototypes. He was absolutely right in rejecting the idea that Directors of Veterans' Employment and Training (DVETs) and Regional Administrators of Veterans' Employment and Training (RAVETs) no longer be required to be veterans. There have been successful and unsuccessful administrators in both the DVETs and RAVETs posts, but there was never an effective one who lacked empathy, and that requires more than a good background in the job service. General Taylor's modification of RT Recommendation #10 (Training) uses scarce training dollars on an "as needed" basis, linked to specific skills and individual development, rather than aiming at the creation of homogenized staff. Basing staffing in each jurisdiction on workload rather than on formula is good administration and sound stewardship.

The Proposal to Move VETS to VA

During the May 3 hearing of this Subcommittee, Chairman Buyer and Ranking Member Waters both asked about the advisability of moving VETS from the Department of Labor (DOL) to the Department of Veterans Affairs (VA), dollar-for-dollar and item-for-item. Vietnam Veterans of America testified at that hearing that greater cooperation is necessary to make the Vocational Rehabilitation Program effective in leading disabled veterans to rehabilitation and employment. The idea of putting VETS under VA had the attraction of a single chain of command, at a time when cooperation between VETS and VA's Vocational Rehabilitation Program is minimal.

However, VVA advised – and continues to advise in strong terms – against moving VETS to VA. The most important reason, we think, is that VETS has a mandate to serve the entire population of veterans, not only those relatively few who qualify for and actually enter the Vocational Rehabilitation program. The real answer with regard to cooperation between VA and DOL is that such efforts are always difficult and require a great deal of monitoring to make certain that both the letter and the spirit of the agreement are observed.

There are other problems with the idea of putting VETS in VA. VA has no labor exchange, and making the state employment agencies cooperate would be problematic. VA Secretary Jesse Brown has said that he does not want to take over and operate VETS, and

our experience with VA is that it does not do well at tasks it does not want to perform.

Locations are also a major problem: in New York State, for example, NYS DOL – which runs the network of Disabled Veterans Outreach Specialists (DVOPs) and Local Veteran Employment Representatives (LVERs) there – has 86 locations covering the whole state. VA, in contrast, has only 12 Vet Centers and 12 VAMCs. To provide comparable coverage, VA would need to obtain dozens of additional sites.

Providing direction to employment specialists would also be a problem if they were all taken from job service offices and placed at VA facilities on their own. While some DVOPs work quite well on their own when outstationed at VA facilities under current arrangements, others work best under direct supervision. If they were stationed only at VA facilities, where would that supervision come from?

DVOPs and LVERs are state employees paid with federal dollars. If they were federalized to make this move work, how would Congress grandfather them into the federal system, given the pay differential? If VETS *did* become part of VA, how long would it last, given the current budget climate? When FTEE must be cut, VA never elects to cut health care personnel. That is why the current Vocational Rehabilitation Program has about 30 percent of the staffing it had in 1980.

The organizational culture at VA is already the root of the problem with the Vocational Rehabilitation program. VA is a reactive bureaucracy rather than a proactive one. The hospital model does not work in employment. That is the problem now with VA Vocational Rehabilitation.

It has been argued that so long as the money and the instructions for operating the federal-funded, state-directed DVOPs and LVERs come from the federal government, it does not matter which agency is the channel. That argument ignores the difficulties of federal-state interaction. We are in a period in which state governments view all federal standards and directives as intrusive. Governors want to take the money and run their own programs. It will be difficult enough, in situations that truly demand it, for the federal Secretary of Labor to make the state Commissioner of Labor observe directives, even with the money as a control device. What chance is there that the federal Secretary of Veterans Affairs will be able to control the state Commissioner of Labor in requiring that federal funds allocated for veterans employment programs be spent on veterans employment programs? What likelihood is there that the Secretary of Veterans Affairs will even try, given all that there is to do within the Department of Veterans Affairs?

What Changes Would a Move to VA Require?

While VVA does not believe that moving VETS to VA is the answer, we are impressed by the boldness of the idea and the willingness it shows to seek real solutions rather than make timid adjustments. We also recognize that this move may be carried forward despite our misgivings. In that eventuality, there is more to making it work than cutting and pasting organizational charts. Let us put forward some thoughts.

Our colleagues from Disabled American Veterans, who support such a move, have detailed the complex changes that must be part of such a switch. Our concern is not with the particulars but with the general ability of VA to operate and direct such an enterprise, given VA's culture of passivity rather than aggressive outreach.

Whether or not VETS is moved to VA, Vietnam Veterans of America is interested in the recently-advanced idea of creating within VA a third Administration to deal with a variety of veterans economic and employment issues. Such an organization would parallel the Veterans Benefits Administration (VBA) and the Veterans Health Administration (VHA), except that it would be proactive, and would unite a number of scattered and dispirited veterans programs that are economic in nature.

VA's own Vocational Rehabilitation program is one of these, and should be rescued

from VBA and re-energized so that employment is a major focus. The Small Business Administration's Office of Veterans Affairs is another. A third could be a small office charged with enforcing veterans preference in federal employment, given the difficulties the Office of Personnel Management (OPM) has had with that task even before its budget was so severely pared down that OPM can no longer hope to see that federal law is obeyed by federal agencies.

If Congress decides to relocate VETS at VA, such an Administration is where VETS would have to be located. If Congress concludes that, as VVA suggests, VETS will be more effective at DOL, such an Administration must coordinate Vocational Rehabilitation's work with VETS.

In any case, a VA Administration charged with economic matters must not be merely an umbrella covering disconnected and dysfunctional programs. It will need proactive leadership and a mission that integrates the services it offers. It must work with other federal and state agencies so that veterans who need help in finding or keeping employment or in starting or expanding business enterprises get it with the least bureaucratic delay and inanity possible. Such an Administration need not cost more than the scattered programs that it would comprise cost now, because they give little for what they cost as they currently operate. This Administration ought to be created as soon as a name can be devised for it.

Implementation of USERRA

Vietnam Veterans of America is generally satisfied with the manner in which VETS is implementing the Uniformed Services Employment and Reemployment Rights Act of 1994 (USERRA), to which we contributed our assessments throughout the process from which it resulted. For the most part, this is a measure that is of greater interest to organizations solely representing members of Reserve and National Guard components, relatively few of whom are active in VVA.

Even so, the hopefully slight possibility of a future conflict that will call forth a reinstatement of the draft stirs our memories of the woefully inadequate employment protections that were available a quarter of a century ago, when young men were pulled out of society and left to find their own way home. We believe that the protections written into the 1994 bill offer solid job protection, if they are enforced vigorously.

It seems early to evaluate DOL's enforcement efforts, though the reports we have received – mostly from DOL rather than our members – show a serious effort to reach out with information on rights and protections. Making qualified personnel aware of their rights remains the key to enforcing them. VETS received 1,208 new claims last year, which seems to indicate that employees are getting the information they need. More to the point, 1,240 cases were resolved. VVA is content that VETS is doing a vigorous job of implementing USERRA.

One-Stop Employment Centers

"One-stop career center systems" are an idea whose time has been coming for several years. The idea of being able to get your needs met at a single site rather than chase from one part of a city to another is enormously appealing, and should be as efficient for involved agencies as it is for clients.

We were opposed to last year's Reemployment Act of 1994 (H.R. 4050), because it permitted State Employment Security Agencies (SESAs) to circumvent veterans employment and training services and the laws established by Congress through the use of "voluntary" one-stop career centers. States would have been allowed to waive specific statutory and regulatory requirements that protect services for veterans. Our opposition was not to one-stop as a concept, but to allowing states to abandon priority services to veterans – created by Congress in response to real needs which still exist – as part of the package. That bill never emerged from committee.

Since then DOL has worked with both VETS and the VSOs to integrate veterans

services into One-stop. We have been kept fully informed and given a reasonable measure of sign-off. The resultant DOL plan would give veterans the priority of service that Congress intends, as well as the logistical benefits of a One-stop operation.

Our understanding is that HR 1617, the "CAREERS Act," incorporates DOL's planning and keeps the veterans employment system operational amid massive changes in the federal-state relationship in job training and employment assistance. The collaborative process at the state and local level through workforce development boards includes representatives of VETS at the state level and of veterans at the local level. We believe that these inclusions will keep these boards conscious of their legal and moral responsibility to include veterans. Should that expectation prove false, this subcommittee will hear from us again on One-stop. For now, VVA supports the idea of One-stop Career Center Systems as incorporated in DOL's pilot programs and in HR 1617.

Mr. Chairman, this concludes our testimony.

Statement of Robert P. Carbonneau, AMVETS National Legislative Director

Thank you, Mr. Chairman, for holding this hearing and for inviting AMVETS to testify today on three issues of increasing importance to the thousands of American men and women leaving the military as a result of ongoing Defense Department down-sizing. We are keenly interested in what effect the Veterans Employment and Training Service (VETS) reorganization will have on veterans, the efforts of employers to fulfill their Uniformed Services Employment and Reemployment Act (USERRA) responsibilities to veterans, and the development of One-Stop Employment Centers into a viable employment resource for veterans.

VETS REORGANIZATION

AMVETS was pleased that the Department of Labor and Assistant Secretary Taylor rejected the Reinvention Teams' recommendations regarding the elimination of veterans' status and the change in the ADVET formula to a nationwide level. We will closely monitor the reorganization to ensure that service delivery providers remain intact. As many of us have seen in the past, reorganizations similar to this end up with more headquarters people and fewer hand-on people in the field. We also would oppose any action that would eliminate the state director, who we view to be the vital link between DOL and the respective governor's office.

AMVETS does not object to a reduction in the number of regions from ten to five. However, we will be vigilant in following the selection process for these five regional director positions. If they are open to competition, we expect the spirit and the intent of the Merit Principles to be applied and demand that the best qualified be selected.

USERRA

AMVETS supports many of the positive changes recently enacted to enhance and strengthen USERRA. We are grateful that USERRA 1994 continues to acknowledge the importance of protecting civilian job rights and benefits for veterans and members of Reserve components. We also recognize the need to clarify the law for veteran employees as well as employers. Furthermore, we are encouraged by efforts aimed at improving enforcement mechanisms and providing federal government employees assistance in claims processing through the Department of Labor.

We particularly appreciate the enhanced protection of veterans who become disabled while performing military duty. This includes requiring employers to make reasonable accommodations for people with disabilities and allowing convalescing veterans up to two years to return to their jobs.

The new law increases, from 4 to 5 years, the maximum cumulative length of time veterans may be absent for military duty and retain their reemployment rights. It also makes allowance for initial enlistments exceeding 5 years, periodic training duty, and involuntary active duty

extensions and recalls. This can be of major significance, especially during times of national emergency.

We remain concerned, however, that more than a simple "time" factor may be necessary to encourage employers to come around to the latest USERRA requirements. As past experience shows, it may be virtually impossible to take corrective action without a reliable, consistent means of monitoring employer actions under USERRA, identifying offenders and providing stringent sanctions against them. It would be rather naïve to assume that, simply because the law changes, employers will immediately comply.

AMVETS also recognizes that an attempt to evaluate the effectiveness of USERRA is premature. We will be alert and ever cognizant of the fact that education and enforcement on the part of DOL are essential ingredients of the success of USERRA.

ONE-STOP SERVICE CENTERS

As the budgets get tighter, AMVETS would like to know where the ASVET will look for fat. . . . will it be less people? . . . a realistic look at training? . . . less investment in technology? . . . more partnerships to share resources? . . . or combinations thereof.

If Wagner-Peyser funds are cut, the implementation and development of one-stops will be short lived. It is imperative that this Congress does not let that happen. AMVETS believes that one-stops are the way to go in

today's market. However, it is not without its problems. We believe that a clear definition of priority of services for veterans in this process is essential. The states seem to have their own logic on this important issue; some embargo employment opportunities from eight to twenty-four hours before releasing to the general public. Perhaps the better approach is improved training and preparation for employment of the veteran. At the very least, it is part of the answer.

Mr. Chairman, this concludes my statement. Thank you!

VETERANS OF FOREIGN WARS OF THE UNITED STATES



OFFICE OF THE DIRECTOR

STATEMENT OF

BOB MANHAN, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE SERVICE
VETERANS OF FOREIGN WARS OF THE UNITED STATES

BEFORE THE

SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING
COMMITTEE ON VETERANS AFFAIRS
UNITED STATES HOUSE OF REPRESENTATIVES

WITH RESPECT TO

AN OVERSIGHT HEARING ON VETS REORGANIZATION, USERRA, AND ONE-STOP
EMPLOYMENT CENTERS

WASHINGTON, DC

JUNE 29, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for inviting the Veterans of Foreign Wars of the United States (VFW) to participate in this very important hearing. Historically, many of our 2.1 million members have received employment assistance from the Veterans Employment and Training Service (VETS) program and we expect many of our younger and newer members to likewise obtain employment and/or reemployment help from VETS in the years to come. Philosophically the VFW believes it is still absolutely necessary that our government continue to honor its obligation to give veterans priority and preferential employment services based on past service to country. We are also aware of the many complex factors that are involved in the issue of employment at this time.

Specifically, there is a reduction in the overall size of our armed forces; an on-going reduction in the size of the federal workforce to include a reduction in the Department of Defense (DoD) civilian

work force; and a significant change in the American economy as we move from a production to a service economy and where we are becoming a leader in an international or world economy that involves a change in the way we conduct business. This involves recent corporate mergers and takeovers and the deliberate policy of allowing entire jobs to be done abroad simply because it is more profitable to do so.

Based on the above facts, the VFW today firmly believes VETS is on the right track in changing with the times and circumstances to best assist veterans. Attached to this statement is a copy of VFW Resolution No. 621 that was unanimously passed by our voting delegates almost a year ago at our 95th National Convention. It is titled, *"Veterans Employment And Training Service To Stay Within The U.S. Department Of Labor."* The remainder of this statement is devoted to addressing: VETS reorganization under the National Performance Reviews; VETS implementation of the Uniform Services Employment and Reemployment Act (USERRA); and, VETS functional role in DoL's one-stop centers to ensure continued priority of services to veterans.

Before we precede very far into our testimony, we want to offer a word of praise for Preston Taylor, the Assistant Secretary for Veterans Employment and Training (ASVET), and his staff for the great job we feel they have done over the past eighteen months in terms of making the Veterans Employment and Training Service (VETS) a smaller, more efficient and effective agency. Mr. Taylor has brought to the agency a degree of openness that solicits critique of performance at every level and encourages suggestions for improvement. We applaud this. Although many tough reorganization decisions remain to be made in the coming months we anticipate that current leadership will make those decisions consistent with the agency's mission and an unwavering commitment to veterans.

The VETS reinvention team and the five supporting in-house work groups known as ad-hoc teams began the monumental task of reinventing agency programs and operations in mid 1993, and finished their work in early 1994. Of the many proposals for change contained in the work groups' final reports, most were thoughtful, and many will require new legislation before they can be implemented. Many other proposals can and have been implemented on a pilot basis and are already providing improved results. We wish to offer comments today on several of the proposals made by the reinvention team.

Improving service delivery to veterans.

Recommendations and VFW comments

- *Establish a two-tier service delivery system.*

We strongly support this concept which of course recognizes that not all job seekers require the same level of resources or assistance in finding employment. Job seekers who are self motivated and focused will likely find employment quickly while freeing up staff to provide crucial case management services to those clients who really need it.

- *Through the use of funded dedicated staff, require service providers to offer the following minimum activities: Needs assessment, referral and placement, case management, complaint processing, employer relations, job search workshops/job finding clubs, transition assistance programs (TAP), outreach and outstationing.*

We support this proposal. The minimum activities noted are deemed critical to any successful program of job assistance. We note with concern however that a significant number of veterans employment specialists employed with State Employment Service Agencies have not been trained in case management and complaint processing. We urge that providing of such training be made a priority.

- *Ensure cost-effective and efficient delivery of services by designation of a single service provider in a state as determined by the governor.*

We do not support this proposal as written. While we agree that cost containment and efficiency in service delivery is critical, we do not agree that one service provider assures achievement of that goal.

Reinventing the Jobs Training Partnership Act (JTPA) title IV-C program.

The ad-hoc team assigned the task of reinventing the JTPA title IV-C program had three goals for the reinvention process: "To withdraw the [then] current regulations for the IV-C program, to develop and implement a competitive grants process for the program year beginning July 1994, and to increase the efficiency and effectiveness of the program and improve service delivery."

There were various recommendations for improvement made by the reinvention team which were subsequently accepted by the ASVET and administratively implemented. While each of the recommendations made under this section were timely and addressed nagging problems that existed under the old program, the VFW strongly supports those recommendations aimed at increasing efficiency and effectiveness and improving service delivery. One key recommendation in this area requires *A comparison of results under the old formula-funded approach with results under the new competitive approach.*

We also feel that the customer service benchmarks such as "Number of Placements" and "Wage at Placement," which becomes a material part of the competitive grant, are effective gauges for determining whether a regular grantee will then be extended for a second year.

Increasing participating in Transition Assistance Program (TAP) workshops.

The committee assigned to examining the issue of increasing participation in TAP workshops identified common barriers to participation in the program and subsequently made three recommendations for overcoming those barriers. None of the three recommendations requires new legislation. We support each of the recommendations, particularly the following:

- *Increase efforts to market TAP – Enhance TAP's name recognition, increase awareness of benefits of TAP and the need to attend, and influence command emphasis on TAP and transition services.*

The need to "influence command emphasis on TAP" cannot be overemphasized. In 1989 when TAP operated on a pilot basis at installations in seven states, it was not uncommon to receive complaints from service members who had less than 180 days remaining before separation but were not being excused from their military duties. At some facilities, service members were required to request orders before being allowed to attend TAP. However, these practices, at the time, were considered barriers to participation and were soon abandoned. In view of what appeared at the time to be an indifference on the part of some military officials, an appropriate question to ask now is whether residuals of that indifference is still alive that might account in part for the 52 percent participation rate in TAP at this time.

UNIFORMED SERVICES EMPLOYMENT AND REEMPLOYMENT ACT (USERRA)

Enacted on October 13, 1994, the Uniformed Services Employment and Reemployment Act or USERRA continues and strengthens the protection of civilian job rights and benefits for veterans and members of Guard and Reserve components. It is estimated that nearly 2 million service members will fall within the protection of USERRA.

Under USERRA's expanded coverage, new responsibilities are assigned to the Department of Labor's Veterans Employment and Training Service (VETS) and a host of other federal agencies that include the Department of Defense (DoD), Treasury, Veterans' Affairs and Justice; the Office of Special Council, Office of Personnel Management, The Federal Retirement, Thrift Investment Board, and Intelligence Community Agencies.

The VFW has a keen interest in the implementation of USERRA and was provided a detailed briefing last October shortly after enactment of legislation. We have continued to monitor this process through periodic discussions with the ASVET and or members of his staff.

We were particularly pleased with VETS efforts early on when it developed an implementation action plan that addressed the issues of interagency coordination, outreach, operational guidance, and staff training. This action plan we feel has had the immediate and practical effect of increasing communication and forging greater cooperation between the several agencies with USERRA responsibilities.

Other significant actions taken by VETS include the early issuance of detailed written guidance to field staff with accompanying analysis comparing the new law with the old; and issuance of a press release and fact sheet with an 800 phone number. The written guidance of course had the effect of quickly bringing field staff up to speed on USERRA's new coverages and generally prepared them well for handling the inquiries that were anticipated. Similarly, the press release and fact sheet were very important in the weeks immediately following passage of USERRA. These instruments in many respects represents customer service at its best, as they served to inform employers and employees alike what their responsibilities and rights are under the new law.

In recent days we have been informed by VETS that implementation of USERRA is completed and the first draft of a USERRA Handbook has been developed; that consideration is being given to publishing the handbook in The Federal Register for public comment; and finally that the handbook will be used in place of regulations for clarification of USERRA issues.

The VFW supports this concept and encourages VETS and other agencies to follow through with the handbook in lieu of regulations. We feel the handbook will be less burdensome and more user friendly; will perhaps contain less legalese; and finally appears to be consistent with the expressed goal of the Administration and Congress with respect to reducing the proliferation of regulations.

ONE-STOP EMPLOYMENT CENTERS

The one-stop employment center concept is deemed by many to be the vehicle of the future for providing a full range of employment and training services as well as other support services that may be required by job seekers. For the purpose of testing this concept, the U.S. Department of Labor, a year ago, provided an initial round of planning, development and implementation grants to several states that include Connecticut (\$3.0 million); Iowa (\$3.0 million); Maryland (\$3.5 million); Massachusetts (\$3.5 million); Texas (\$5.0 million); and Wisconsin (3.0 million).

Although we have not yet had an opportunity to review any detailed progress reports that may have been generated by the six initial grantees, Labor Department officials indicate that the initial grantees, as well as other states that were awarded grants, are all progressing well.

In spite of this encouraging outlook, however, the VFW remains concerned that priority services for veterans may not be available under some of the one-stop service centers. We therefore reserve judgment on the one-stop center concept until we are able to determine the specifics of how priority employment services will be provided to veterans in each state where "one stop" is being tested.

This concludes the VFW's formal statement. I will be happy to answer any questions that you, Mr. Chairman, or any member of this committee might have. Thank you.

STATEMENT OF
TERRY GRANDISON, ASSOCIATE LEGISLATIVE DIRECTOR
PARALYZED VETERANS OF AMERICA
BEFORE THE
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING
OF THE
HOUSE COMMITTEE ON VETERANS' AFFAIRS
CONCERNING THE
U.S. DEPARTMENT OF LABOR'S
VETERANS EMPLOYMENT TRAINING SERVICE
REORGANIZATION AND ONE-STOP INITIATIVES
JUNE 29, 1995

Mr. Chairman and Members of the Subcommittee, on behalf of the Paralyzed Veterans of America (PVA), I wish to thank you for the opportunity to present testimony today concerning the U.S. Department of Labor's (DOL) Veterans Employment Training Service (VETS) reorganization and one-stop initiatives. At the outset, PVA commends Assistant Secretary Preston M. Taylor Jr. for his outstanding leadership and steadfast support of the VETS program as a whole. He has demonstrated great courage by consistently confronting those who would attempt to compromise the vital mission of the VETS program.

VETS Reorganization:

The VETS reinvention process has its genesis with the Administration's National Performance Review. The VETS reinvention process is an ongoing initiative, and in many ways it is difficult to analyze comprehensively its effect on veterans in this transition period. In addition, many recommendations proffered by the VETS Reinvention Committee have not been accepted for implementation at this point. Nevertheless, PVA is encouraged by what we have seen so far. Many of the VETS reinvention recommendations focus on improving the delivery of services to its veteran consumers. For example, the DVOP/LVER Reinvention

Committee was responsible for recommending changes in the current DOL/VETS service delivery system. According to VETS, their duty was to maximize employment and training opportunities to those most in need. This Committee proposed recommendations in five areas: (1) strengthening current federal legislation responsible for funding employment and training programs; (2) redefining and broadening the veteran population to be provided employment and training programs; (3) exploring and establishing new mechanisms for service delivery while maintaining the successful elements of the past; (4) adopting bills of rights for customers and service partners; and (5) implementing new strategies for measuring quality of services.

While PVA believes these recommendations would improve VETS ability to deliver needed services to veterans, we are concerned about what will be the practical effect at the state and local levels. The main objective of VETS reorganization is to shift more responsibility and authority to the regions and states. This theme of decentralization is seen throughout Washington today. As these responsibilities are shifted, it is vital to ensure that strong oversight responsibility remain at the national level.

PVA is adamantly concerned about the practical effects of this reinvention program. If this reinvention process is not monitored closely by VETS, it can easily have unanticipated adverse effects. Recently there were several efforts to eliminate the DVOPS and LVERS from the veterans' employment system. These efforts, though well intentioned, were due largely to a misunderstanding of the function of DVOPS and LVERS within the VETS program. DVOPS and LVERS were viewed as training programs rather than a veterans' employment program. This misunderstanding caused them to be lumped together with other training programs targeted for consolidation even though they did not fit into this definition. As the reinvention goes forward, it is important to ensure a mutual understanding of the effect of proposed changes on the existing

system to avoid losing a valuable asset through misunderstanding and errors in judgment.

ONE-STOP INITIATIVE:

PVA views the use of One-Stop Centers as a beneficial step in the efforts to increase the efficiency of VETS employment programs. According to VETS, each One-Stop Career Center, whether urban or rural, would enter into local negotiations with participating agencies that can share the same premises: data/information systems at all service deliver points, agencies and remote sites, or elements of both. Currently each state is proceeding independently to develop the systems it envisions as most responsive to the needs of its customers. As One-Stop Centers evolve, the Veterans Preference policy must be maintained and protected. With the proliferation of electronic media, employment Kiosks, computer bulletin boards, and other information distribution methods, we are concerned that Veterans Preference, whether by the design or chance, could be left by the wayside. This would be a great disservice to our nation's veterans, and a violation of the promise made to them for their service. PVA is not opposed to increasing the efficiency and functions of employment programs, but we believe that as these One-Stop Centers come into being, the commitments guaranteed to veterans should not be subjugated.

On the 50th anniversary of Veterans Preference, President Clinton professed his full support for the program. As the ongoing changes to the employment system continue, let us not forget our support for this nation's veterans.

Mr. Chairman this concludes my testimony. I will be happy to respond to any questions you or members of the Subcommittee may have.

STATEMENT OF KIMO S. HOLLINGSWORTH, ASSISTANT DIRECTOR
NATIONAL LEGISLATIVE COMMISSION
THE AMERICAN LEGION
BEFORE THE SUBCOMMITTEE ON EDUCATION, TRAINING,
EMPLOYMENT AND HOUSING
COMMITTEE ON VETERANS AFFAIRS
U.S. HOUSE OF REPRESENTATIVES
June 29, 1995

Mr. Chairman and members of the Subcommittee, The American Legion appreciates this opportunity to express our views on programs and initiatives regarding the Veterans' Employment and Training Services (VETS). The American Legion is committed to preserving and enhancing veterans employment rights and services and will continue to support this goal in the future.

In 1993, the Clinton administration, under the direction of Vice President Gore initiated the National Performance Review (NPR). The review was tasked to investigate the performance of all federal agencies and submit recommendations to improve their efficiency and effectiveness, as well as consolidate or eliminate agencies that provided the same types of services. Unfortunately, veterans representation was not included in this review process and as a result the Veterans' Employment and Training Service was targeted for elimination. The recommendation was quickly rescinded after strong objections from the veterans community.

In conjunction with the creation of the National Performance Review, VETS staff members took the initiative and formed five separate teams to evaluate service delivery, internal organization, customer satisfaction, federal contractors' job listings and Title IV-C of the Job Training Partnership Act. The five teams were tasked to investigate their assigned areas and make recommendations to improve the services provided to veterans. The committees met regularly on an informal basis and included the veterans service organizations in the review process.

One of the federal employee unions became aware that VETS staff members were conducting an internal review with consultation from the veterans service organizations and complained to the Secretary of Labor. As a result, VETS was directed to establish a "VETS Reinvention Team," which was separate from the internal review. The "VETS Reinvention Team" never consulted The American Legion or other veterans service organizations for input into their review process and failed to adopt the recommendations offered by the five working groups. Consequently, many of the recommendations made by the "VETS Reinvention Team" were rejected.

The American Legion has reviewed the work of the five committees and believes they are relevant to the future of the Veterans' Employment and Training Services. Recently, some federal regulations have been changed to improve Title IV-C grants. The changes make the grants more competitive by decreasing the

number of grants available and increasing the amount of each award. The American Legion was consulted in this process and supports that change. The American Legion would encourage the Department of Labor or any agency to consult with the veterans service organizations before making recommendations on how to improve employment services for veterans. The American Legion believes that its input and inclusion in the review process will result in improved services for veterans.

Recently, Congress enacted the Uniformed Services Employment and Reemployment Rights Act (USERRA). This legislation accomplished two major objectives. First, the legislation wrote into statute law, the case law decisions which had evolved from court decisions since implementation of the original act. Second, responsibility for the administration of reemployment rights for federal employees who are members of the National Guard and Reserve forces was transferred from the Office of Personnel Management to the Veterans' Employment and Training Service.

The American Legion is pleased with the current progress of VETS in implementing USERRA. An operations manual for administering the act has been written and a comprehensive handbook to be used by federal managers who will ensure that federal employees are protected under this act is in draft form. Also, a course at the National Veterans' Training Institute for those who will administer the new law is under development. In short, VETS is demonstrating a serious commitment to properly implement USERRA.

The American Legion would like to recommend that all federal managers receive education and training on USERRA as part of their career development. Many members of the federal work force serve in the National Guard and Reserve components. The importance of the National Guard and Reserves is growing rapidly as the active military becomes smaller and operational commitments increase. All employers must realize that members of the Guard and Reserves will be called in time of need and that these employees have reemployment rights under USERRA.

Mr. Chairman, in regards to a "One Stop Center, " for employment purposes, there is currently no common plan or guidelines in place. Some states have received grants to develop and pilot the concept of "One Stop Centers." Because there are no concrete guidelines, it is important to ensure that veterans' services are preserved and made an integral part of whatever models are deemed appropriate for implementation nationwide.

The American Legion is fully prepared to work with Congress and the administration to ensure that unemployed veterans and veterans leaving the armed forces are ready to enter the work force and establish meaningful careers. Mr. Chairman and members of the Subcommittee, this concludes my testimony. Thank you.

STATEMENT OF
 LENNOX E. GILMER
 ASSOCIATE NATIONAL EMPLOYMENT DIRECTOR
 DISABLED AMERICAN VETERANS
 SUBCOMMITTEE ON EDUCATION, TRAINING,
 EMPLOYMENT AND HOUSING
 COMMITTEE ON VETERANS AFFAIRS
 U.S. HOUSE OF REPRESENTATIVES
 WASHINGTON, D.C.
 JUNE 29, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than one million members of the Disabled American Veterans (DAV) and its Women's Auxiliary, I want to express our appreciation for the oversight hearings you are conducting.

For reasons which will follow in our testimony, we believe that it is timely that the subcommittee review (1) Veterans' Employment and Training Service (VETS) reorganization under the National Performance Review Initiative, (2) VETS implementation of the Uniformed Services Employment Rights Reemployment Act (USERRA), and (3) VETS functional role in the development of the Department of Labor's (DOL) One-Stop Employment Centers, particularly as the One-Stops would affect priority of services to veterans.

This oversight hearing is being held while a national debate is recreating a smaller, more efficient, less intrusive federal government. The result will be increased state control over the allocation of resources and services for citizens within its borders.

The national debate has focused on macro issues such as deficit reduction and the changing federal role. In this political climate, no program can assume that it will continue business as usual. In fact, most federal agencies are slated for major budget cuts and consolidation, realignment and curtailment of programs and services. Inherent in this debate is the proposition that federal initiatives have not met citizens' needs because national initiatives cannot be flexible enough to satisfy the variety of problems confronted by local governments.

However, Mr. Chairman, not one credible argument has been advanced that the responsibility for national security be divided among the 50 states and territories. The very argument for greater local control is antithetical to the concept of states providing security for our national borders. No one assumes that there is an inherent political will among Floridians for the expenditure of Florida government resources and its citizens lives to ensure the sanctity of Hawaii state borders.

Where do veterans' readjustment, veterans' status and special needs fit in this debate? Does the welfare of veterans affect national security? Is there a national interest in protecting the rights of those who are considering service, are in service, or served in the U.S. military? If the federal responsibility to provide veterans services is shifted to the 50 states and territories, will politicians in one state have the political will and national political interest to expend their state resources for citizens of other states in a manner ensuring those who are considering service, are in service, or who served will have their needs met in a uniform manner?

Mr. Chairman, we hope today's hearings impact this national debate as Congress provides their answers to these questions.

VETERANS' PROGRAMS AFFECT NATIONAL SECURITY

Tremendous geopolitical change has resulted from the break-up of the United Soviet Socialist Republic ending the Cold War and the threat of global nuclear annihilation. Military strategies now focus on containment of regional conflicts.

With these shifts in national security paradigms have come military downsizing. At the same time the military is becoming smaller it is dependent on "all volunteer" accessions to implement the "total force" concept. The "total force" concept assigns critical military duties to the reserve and national guard. I think we all looked on with pride at how our men and women conducted the Persian Gulf War under the "total force" concept.

Finally, however, most of the men and women have returned home. Many left active duty, and many who were members of the National Guard and reserve returned to their civilian lifestyles.

Ultimately, Mr. Chairman, our ability to maintain a downsized well-trained military using an all volunteer total force is dependent upon public perceptions of what it means to serve in the military. At least one measure of such perception is reflected in the annual Youth Attitude Tracking Study (YATS) conducted by the Department of Defense (DoD). This survey of a nationally representative sample of 10,000 young men and women in the 16 to 21 age group determines their likelihood to enlist in the military.

A memo from the Assistant Secretary of Defense to the Army, Navy, and Air Force Assistant Secretary's for Manpower and Reserve Affairs does not predict an immediate crisis, but, it raises serious questions about the public perception of the desirability of military service. Not surprisingly, the memo indicates that "... the expressed intentions of young men and women are strong predictors of enlistment behavior." Thus, a finding in the memo is reason for concern, "In 1994, the percent of 16 to 21 year old males who expressed such interest ('definitely' or 'probably' enlist in the next few years') in the military continued to decline..." (Emphasis added)

In an effort to determine why the propensity to enlist was dropping, the DoD formed focus groups which, "... suggested reasons for the decline in propensity over the past several years include misperceptions, decline in resources, increased risks and influence of others." (Emphasis added)

The memo indicates that the "influencers" are less likely to have served in the military and may be focusing on perceived greater risks.

At least in part, Mr. Chairman, public perception is based on public relations. The military recruitment message is that military service will benefit recruits through technical training, leadership experience, increased maturity and veterans' benefits, programs and services. The implication is that these rewards will carry over into civilian careers. That message is competing with other contradictory messages which raise serious questions as to how much of the military experience will translate positively into their future civilian endeavors.

The contradictory messages include:

- o High rates of unemployment for recently discharged veterans, frequent turn over in jobs, and lower civilian pay.
- o The 1994 annual unemployment rate for veterans exceeds their nonveteran counterpart for every age group from age 20 through 44 years.
- o One-third of the homeless population are veterans, the vast majority being Vietnam and Persian Gulf veterans.
- o The disabilities of disabled veterans are impediments to their gaining employment and is reflected in their leaving the labor force in large numbers (80 percent for those with service-connected disabilities evaluated at 60 percent or greater, 25 percent for those evaluated 30 percent or greater).
- o While approximately 300,000 personnel continue to be discharged from the military into the civilian economy annually, Congressional decisions will affect their readjustment programs.

The national debate in Washington may be impacting the public perception of Congressional support for veterans' services. Recent polls have shown that the majority of the American people (as high as 93 percent) do not support major cuts in and reduced initiatives for veteran services. We assure you that in the minds of the more than one million members of the DAV and its women's auxiliary, national security and the well being of this nation's veterans are intrinsically tied. We believe that this natural linkage of veterans issues and national security is a reason that veterans programs continue to receive support from a majority of the American people. Thus, as it appears the well-being of veterans has declined, the military accession influencers will be less encouraging in their language to 16 to 21 year olds regarding military enlistment.

VETERANS' EMPLOYMENT TRAINING SERVICE REORGANIZATION

Mr. Chairman, shortly after President Clinton was elected, Vice President Gore was assigned responsibility for review of federal government activities -- the National Performance Review (NPR). At least in part, that review would lead to reduction in the size of the federal workforce and reinvention initiatives by the various departments of the Executive branch. As the Executive agencies were charged with the responsibility of absorbing cuts in staff, they were directed to reinvent their agency. The NPR DOL reinvention recommendations included (1) moving the VETS back under the DOL Employment and Training Administration (ETA), and (2) eliminating the legally mandated Advisory Committee on Veterans' Employment and Training (ACVET).

We appreciated that the Assistant Secretary for VETS (ASVET) opposed the NPR recommendations. The Secretary of Labor agreed with the ASVET and succeeded in having them removed from the NPR. The Secretary not only reversed the recommendations but he also initiated the ACVET which had been ignored for over 4 years after the passage of authorizing legislation.

As reinvention initiatives reached deeper into DOL, VETS reduced staff and initiated an internal review of its evolving role. As examples of role change, the recently enacted USERRA legislation was legally more technical and increased VETS responsibilities; diminishing Wagner-Peyser employment staff meant that if veterans were to be served in State Employment

Service (SES) offices, Local Veterans Employment Representatives (LVERs) and Disabled Veteran Outreach Program (DVOPs) personnel would increasingly have to do the job.

Mr. Chairman, we found the VETS internal examination to be remarkably in depth and a necessary step to prepare to implement the USERRA, declining budgets, employment and training initiatives by this Administration, and major changes mandated in pending legislation.

VETS must now prepare itself for House and Senate budget resolutions which propose a 20 to 25 percent cut in DOL program appropriations and a 30 percent cut in DOL salary and expenses. At this time, the President's new budget proposal is not well-defined or understood.

Mr. Chairman, historically, the VETS federal staff has focused primarily on veterans' services in SES activities. Initially, the states had a large Wagner-Peyser staff to provide a full range of employment and training services to both applicants and employers. The State Director of VETS (DVETS) provided an oversight and monitoring role regarding the SES implementation of DOL policies describing, in depth, how veterans' services would be provided in Wagner-Peyser funded activities.

Initially, DOL grants to states for LVER provided a person in each SES office who was an extension of the local office manager. Their primary function was administrative to ensure veterans' priority of service requirements were carried out in the local office. However, they occasionally augmented Wagner-Peyser staff by providing some hands on services to veterans.

Over time, DVOP staff were added. This staff was to provide outreach and direct services to veterans with priority to disabled veterans. When veterans' reemployment rights responsibilities were changed to VETS, the VETS staff was obligated to become more proficient in investigative procedures. Their investigations would develop evidence to support litigation if warranted. Their new role also required them to become proficient in negotiating settlements which were fair to both the employer and the veteran.

As new responsibilities were taken on, the Wagner-Peyser funded SES suffered severe budget cuts. For example, in 1981, the administration proposed initiatives that resulted in a 50 percent budget cut in the last six months. The continuing reduction of the SES budget led to whole new strategies in delivery of labor exchange services. For example, states reduced labor intensive activities by initiating new strategies such as group and common intake, increasing computer job matching, and developing computer kiosks where applicants and employers have direct access to job orders and applicant files. We are informed that in many states veterans are the only applicant group assured of hands on services provided almost exclusively by LVERs and DVOPs.

Mr. Chairman, veterans priority services are being redefined in light of dramatic program changes driven by reduced budgets, administration initiatives, states seeking different solutions to service delivery problems resulting from reduced budgets, and pending employment and training consolidation legislation.

We were invited by VETS to participate in committees, briefings, and meetings with the ASVET as the reinvention activities progressed. VETS is to be commended for their openness and willingness to accept and respond to comments,

during this internal examination. This is clearly an evolving activity. We are pleased to be included.

**VETS IMPLEMENTATION OF THE UNIFORMED SERVICES
EMPLOYMENT, AND REEMPLOYMENT RIGHTS ACT (USERRA)**

USERRA is increasing VETS legal responsibilities by increasing their investigative authority and covered entities. The initial purpose for law changes regarding reemployment rights laws were simple. In essence, take the old legal authority, court rulings which had created new authority, add minor amendments to update the law and weave all this into one piece of legislation that everyone could easily access and interpret. The legislation was enacted on October 19, 1994.

As previously indicated, Mr. Chairman, during a time when VETS national staff is being reduced and anticipating additional cuts, this legislation increased the breadth and depth of VETS responsibilities. For example, VETS staff is required to increase their legal knowledge as they seek to exercise newly authorized subpoena power and now have responsibility for federal employee complaints. The granting of subpoena power inherently carries the responsibility to meet legal standards which VETS employees have not previously had to consider.

VETS will now accept federal employee complaints to be investigated and referred to the Office of Special Counsel which may represent federal employees before the Merit System Protection Board. Thus federal employees have been extended representation that was historically provided private sector employees by the Department of Justice.

To implement this law VETS has had to meet with more federal agencies to define responsibilities and preparing for agreements as to how their functions can be coordinated to meet their obligations under the law. It is our understanding that some VETS staff assigned to USERRA implementation have been assigned to meet other VETS commitments.

The importance of this law rests in the role the National Guard and reserve play in the total force military policy, readjustment issues that affect separated military personnel, and ongoing employment discrimination against those who serve or served in the National Guard, reserve and active military. Clearly, if national security is a priority, and if the National Guard and reserve are critical elements of that priority, the people who serve in the National Guard and reserve should be able to trust national policy will protect them as they serve in the guard and reserve. The full implementation of this law is a fundamental element of this nation's commitment to those men and women who clearly deserve no less.

Mr. Chairman, an issue being more fully realized through implementation of this law is what appears to be broad civil rights protection for people who serve in the military. A literal reading of the law appears to make illegal any employers' unfavorable consideration of military service in the decision to employ a veteran, military personnel and those considering service. If additional legal research bears out this reading, veterans' anti-discrimination protections will be greatly increased. In essence, a military veteran who served honorably in the armed services who believes that he is being discriminated against on the basis of his military service would be able to file a complaint with VETS to seek remedies under this law. We are anxious to be kept informed as this matter develops.

We were pleased to hear that the National Veterans' Training Institute has implemented USERRA pilot training which will be followed by investigation training.

VETS ROLE IN ONE-STOP EMPLOYMENT CENTERS

Mr. Chairman, in the last two years, DOL began to develop the concept of a one-stop employment center. DAV's efforts to be involved were initially stonewalled. Our fear was that LVERs and DVOPs would be misused and veteran services would decline if veterans' priority services were not clearly delineated.

Our concerns should in no way be construed to reduce our support for the One-Stop concept. We wholeheartedly support and encourage the development of integrated services in the community where people live.

Currently, the categorical funding of programs encourages the fencing of programs with separate intake and eligibility determinations, and program goals which discourage cooperation. The failure to integrate services is most felt by those with serious barriers to employment such as disabled veterans. For example, we know that 80 percent of the disabled veterans who are rated by the Department of Veterans Affairs at 60 percent or greater are out of the labor force. (Bureau of Labor Statistics, Sept. 1993) The Bureau of Labor Statistic (BLS) paper entitled "Employment Situation of Vietnam Era Veterans," dated October 21, 1994, indicates that among all disabled veterans, 40 percent perceive their disability to be an obstacle in the labor market.

To successfully place a person in a job who has major barriers to employment may require extensive assessment, support services and training and rehabilitation. At this time, a disabled veteran might have gone to the state employment service and state vocational rehabilitation, been on AFDC, have exhausted their unemployment insurance, and given up searching for employment because they believed they were unemployable due to their disabilities. Homelessness, mental health, drug and alcohol addiction, or other problems are serious barriers to employment that require linkages of programs to implement complex remedies.

Mr. Chairman, the One-Stop Employment Center concept has the potential for bringing many of those resources together with common intake, and eligibility determination and service linkage for seamless access to services. If they are targeted to receive services, disabled veterans should benefit.

As we mentioned in the introductory portion of this testimony, concepts which used to be described in concrete, process oriented terms by DOL policy such as veterans' priority, may now have to be redefined based on the unique conditions presented at the service delivery point. If so, then DVETS, LVERs, and DVOPs may have to view veterans' priority in the context of the local delivery system.

Typically, categorical programs obligate the expenditure of dollars for special populations that do not identify veterans. The failure of the program administrators to meet their obligations under the law would result in liabilities to the administrators and the state, with the loss of program funds. Thus, the effort to link all of these programs electronically, by networking, or under one roof is forcing the administrators of categorical programs to sort out ways to tear down fences that at one time protected them, the state and program resources. Now, they are being asked, not how to build fences but how to build crosswalks. On the one hand, there is an effort to build a more client oriented, more comprehensive seamless service delivery system. On the other hand, levels of

services may be dictated for a particular categorical program which does not include every One-Stop applicant. Thus, any general policy which appears to violate existing categorical funding obligations will be resisted locally and ultimately may be an impediment to the full development of the One-Stop concept.

Mr. Chairman, we are not convinced that veterans' priority services have been adequately built into the One-Stop Career Employment Center concept. However, we are satisfied that the solution is not as simple as applying the old veterans priority services language. As this concept evolves, we may ultimately depend on the ability of VETS staff, LVERs and DVOPs locally working with One-Stop Center managers to incorporate veterans' priority into the integrated service delivery system funded categorically.

Mr. Chairman, while the DAV's initial efforts to meet with DOL personnel responsible for the development of the One-Stop Center concept were fruitless, recently we met with Ms. Grace Kilbane, Lead, One-Stop Career Center Initiative. We have been very pleased with her willingness to accept our comments and respond candidly. She has kept the door open for additional communication.

We could not be more pleased with the level of cooperation between VETS and ETA One-Stop Career Center program, as it has been reported to us. Individual VETS staff have been assigned on a continuing basis for three days out of the five day work week. Additional VETS staff have been assigned to review state proposals. We know that there has been meetings between the ASVET and the Assistant Secretary of ETA.

The information we have received supports the view that ETA has actively sought input from VETS and increasingly sought input from veterans' service organizations. ETA has involved VETS staff in the selection of the grant recipients, and appears to be open to reviewing all of their processes to incorporate veterans priority of services to the extent required by law.

Mr. Chairman, we believe the following areas require additional attention:

- 1) Comprehensive reporting systems must be developed which will allow the tracking of veterans' services in program areas whether or not veterans are identified for services.
- 2) The use of LVERs and DVOPs in One-Stop Centers must be carefully monitored to ensure:
 - a. The LVERs' primary function is to assist in the overall provision of veterans' services, not to service applicants,
 - b. The DVOP provides direct services only to veterans.
- 3) The LVER and DVOP staff must be fully integrated into the One-Stop Center to ensure the veterans they serve have access to all the One-Stop Center activities.
- 4) DVETS monitoring and oversight responsibilities must be included in the evaluation of the One-Stop service delivery point.
- 5) The DVET, while having no authority over any of the state One-Stop participants, is a technical resource whose expertise must be used to assist in resolving issues affecting veterans services across all programs.

- 6) We believe the special grant solicitation must be modified to obligate the grant applicant to describe LVER and DVOP roles and functions as an integral part of the service system.

Mr. Chairman, I wish to thank you and the members of this Subcommittee for requesting DAV's views on these three critical areas important to the delivery of veterans employment and training services. I would be pleased to respond to any questions you may have.

STATEMENT OF
MICHAEL P. CLINE
MASTER SERGEANT (RET)

EXECUTIVE DIRECTOR

BEFORE THE
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING
THE HOUSE VETERAN'S AFFAIRS COMMITTEE

29 JUNE 1995

*Enlisted Association of the
National Guard of the United States*



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INTRODUCTION

Mr. Chairman and members of the subcommittee on Education, Training, Employment and Housing, the 75,000 members of the Enlisted Association of the National Guard of the United States thank you for conducting these oversight hearings on the Uniformed Services Employment and Reemployment Act (USERRA) and for granting us the opportunity to participate.

As you know Mr. Chairman, the use of the National Guard and Reserves during Operations Desert Shield and Desert Storm brought about the need for updating and changing several laws that were either outdated, outmoded or both. The Veterans Reemployment and Employment Rights Act was one such law.

The 1994 USERRA law brought about many much needed changes. However, just as with a new car, there are times you have to make some technical adjustments to correct for flaws. In this testimony, we will address these defects and suggest changes.

PROVISIONS OF THE 1994 USERRA LAW

Reemployment. It provides that an employer is not required to reemploy an individual if his/her employment, prior to military service, was for a brief, nonrecurrent period and there was no reasonable expectation that it would continue indefinitely.

Prohibition against discrimination and acts of reprisal. USERRA provides a broad anti-discrimination and anti-reprisal provision. An employer is forbidden to discriminate against any employee or prospective employee, with regard to hiring, retention, promotion, or any benefit of employment because of past, present or future application for, or membership in a uniformed service. Such acts of discrimination or reprisal will be judged on whether an individual's service, application or obligation for service was a motivating factor in the employer's action. These provisions also extend to any individual who has filed a claim under the Act, sought assistance concerning an alleged violation, testified in a proceeding or participated in an investigation.

Maximum period of service for coverage. USERRA allows a person to accumulate a total absence of five years from his/her employer by reason of military service. However, there are exceptions for training and involuntary active duty extensions. Service beyond five years to complete an initial period of obligated service would also be excepted, such as occurs in high technology military occupations.

Applications for reemployment. Applications for reemployment under USERRA are based on *time away from the employer* rather than the *category of service*. If the service is less than 31 days, or for the purpose of taking an exam to determine fitness for service, the person

must report to the employer for reemployment at the beginning of the first full, regularly scheduled working period on the first calendar day following completion of service and the expiration of eight hours after a time for safe transportation back to his/her residence. If reporting within that period is impossible or unreasonable, the employee should report as soon as possible. If the period of service was for 31 days or more, but less than 181 days, the individual must submit an application to the employer no later than 14 days following completion of service. If submission of an application is impossible/unreasonable, the next full calendar day, when submission of the application is possible, for service over 180 days, the individual must submit an application to the employer not later than 90 days after completion of the service.

USERRA provides for an extension of these time limits by one to two years if an individual is hospitalized or convalescing from an injury caused by active duty. The two-year period would be extended by the minimum time required to accommodate the circumstances beyond the individual's control which makes reporting within the time limits impossible or unreasonable.

Documentation upon return. An individual must provide the employer with documentation that establishes the timeliness of the application for reemployment and length and character of service. If documentation is unavailable, the employer must reemploy the individual until the documentation becomes available. If an individual is absent for more than 90 days, the employer may require documentation before making retroactive pension contributions.

Entitlement limitations. USERRA provides that entitlement under the reemployment law does not depend on the timing, frequency, duration of training or service, or the nature of that service if the service does not exceed the service limitation and the applicable notice requirements are met.

Position entitled to upon reemployment. USERRA provides that an individual with fewer than 91 days of service must be reemployed promptly in a position that s/he would have attained if continuously employed unless proved not qualified after reasonable efforts by the employer. If not qualified for that position, the person would be reemployed in the position s/he left. This pattern is similar for service of 91 days or more with the additional option that a position of like seniority, status and pay may be offered. If unqualified after reasonable efforts by the employer for such position or the position that was left, the individual must be reemployed in any other position of lesser status and pay for which s/he is qualified, with full seniority.

Position entitled to if disabled. USERRA provides that an individual with service-connected disabilities who is not qualified for employment in the position s/he would have attained but for military service, or in the position that was left (even after reasonable efforts by the

employer to accommodate the disability) must be reemployed promptly in any other position of similar seniority, status and pay for which qualified (or would become qualified with reasonable efforts by the employer). Failing this, reemployment must be in a position which is the nearest approximation consistent with the circumstances of the individual's case.

USERRA establishes the prior right for the person who left first, but also offers explicit protection for the other individuals. They are entitled to be employed promptly in any other position which is the nearest approximation consistent with the circumstances of the individual's case and including service-connected disabilities.

Reemployment by the federal government. USERRA provides that when the Office of Personnel Management (OPM) determines that the agency no longer exists or it is impossible or unreasonable to reemploy the person, OPM must "ensure" that a similar or comparable position is offered. Additionally, legislative and judicial branch employers make the determination as to whether it is impossible/unreasonable to reemploy the individual. A new provision is that the Adjutant General of a state determines if it is impossible/unreasonable to reemploy National Guard technicians. In both instances, after such determination, OPM ensures that a job offer is made within the executive branch without the requirement that there be eligibility for competitive civil service status.

General rights and benefits. USERRA addresses seniority and non-seniority benefits in three areas: rights, benefits and obligations of persons absent from service in a uniformed service; health plans; and employee pension benefit plans.

Section 4316 contains many of the same key provisions as the current law. Upon reemployment, a person is entitled to the seniority that the individual had at the beginning of uniformed service, plus any additional seniority and benefits the individual would have attained, with reasonable certainty, had s/he remained continuously employed. Similarly, individuals are considered to be on furlough or leave of absence while away and are entitled to non-seniority based rights and benefits, established by contract, practice, policy or agreement, effective at the beginning of the period of service or implemented while the individual is performing service. A person is not, however, entitled to any benefits for which a person would not be entitled if s/he was not on a leave of absence. The individual may be required to pay the employee's cost, if any, of any benefit to the extent that other employees on furlough or leave of absence are required to pay. It also provides that a person may waive "furlough or leave of absence" benefits if the person knowingly provides written notice of intent not to return to employment after military service.

Accrued leave. USERRA provides that any person whose employment is interrupted (including temporary employees) can use any vacation, annual or similar leave that was accrued prior to service.

Health plans. USERRA requires the health plan (if any) to offer continuous coverage for up to 18 months to persons who are absent due to military service. The health plan may not require the person to pay more than the employee share for that coverage if the period of military service does not exceed 31 days. Should service exceed 31 days, the employees may be required to pay not more than 102% of the full premium under the plan. In the case of multi-employer plans, the plan may allocate the responsibility to pay for this coverage. If the plan does not, the last employer assumes the liability. The bill clearly indicates that all persons (and family members) who have coverage under the plan will not have an exclusion or waiting period upon reemployment.

Employee pension benefit plans. USERRA provides protection under the Act to any plan which falls within the definition of an employee pension benefit plan described in the Employee Retirement Income Security Act of 1974, as well as any federal, state or local government plan. This includes traditional pension plans and deferred compensation arrangements, such as profit-sharing plans.

The bill explicitly defines the rights of reemployed service members under their pension plans. No break in employment service would be considered to have occurred because of military service; no forfeiture of benefits already accrued would be allowed, and there would be no necessity to requalify for participation in the pension plan by reason of absence for military service. In addition, employers would be required to make, on behalf of returning service members, any contributions to their pensions that the employer would have made if the service member had not been absent for military service.

For multi-employer plans, allocation of liability to fund pension benefits would be provided by the plan. If the plan does not allocate this responsibility, the last employer before military service, would be responsible. If there is no longer a functional last employer, the liability would revert to the plan.

For contributory plans which offer benefits only where the employee makes contributions, service members will have up to three times the period of service to make missed contributions (not to exceed five years); the employer is required to make matching contributions only to the extent that the reemployed service member makes the required employee contribution to the plan. No interest or penalty would be charged on the employee or employer contribution, nor would the employee be credited with interest that would have been earned on such contribution.

If there is a need to use the imputed earnings of an employee to calculate pension benefits (because it is not "reasonably certain" what the pay rate during military absence would have been) the average earnings of the twelve months prior to military service will be used. The reemployed service member will not receive earnings and forfeitures made during the period

of military service except to the extent otherwise provided under the plan.

Assistance in asserting claims. USERRA provides that the Secretary of Labor shall give assistance (instead of rendering aid) and is authorized (not required) to use existing federal and state agencies engaged in similar or related activities and the assistance of volunteers.

The Secretary of Labor must conduct an investigation of each claim and make efforts to obtain voluntary compliance from employers where it appears, from the investigation, that the action complained of, did occur. The Secretary must notify an individual of the results of an investigation when compliance efforts are unsuccessful and the right to have the claim referred to the Office of Special Counsel (federal government employer) or the Attorney General.

Enforcement. Under USERRA, the provisions are substantively the same, except that: 1. if the Secretary is reasonably satisfied that a violation has occurred and efforts to obtain voluntary compliance are unsuccessful, the Secretary must refer the case to the Attorney General who may appear in district court on behalf of the individual if reasonably satisfied that the individual is entitled to the rights or benefits sought; 2. the court may award an individual who prevails a reasonable attorney's fee (for those who use private counsel), expert witness fees and other litigation expenses; 3. the court may use its full equity powers to vindicate rights under the Act; 4. a reemployment rights claim may only be initiated by an individual claiming such rights or benefits, not by an employer or prospective employer; 5. a state will be subject to the same remedies, including prejudgment interest, as may be imposed upon any private employer; and 6. if the district court determines that the employer's failure to comply is willful, the court may require the state or private employer to pay, in addition to the compensation determined to be paid the person, an amount equal to that compensation as liquidated damages.

Federal government as employer. USERRA provides the Secretary of Labor with the mandate to investigate all federal sector cases (the District of Columbia is treated as a state, not as an agency of the federal government). If the Secretary is reasonably satisfied that a violation has occurred, efforts to obtain voluntary compliance are not successful, and upon request of the individual that the claim be referred to the Merit Systems Protection Board (MSPB), the Secretary would refer the case to the Office of the Special Counsel. If the Special Counsel is reasonably satisfied that the individual is entitled to the rights or benefits sought, the Special Counsel would be required to appear and act as the attorney for the claimant in an appeal to the MSPB. If the Special Counsel declines to represent an individual or if the individual does not apply to the Secretary for assistance or decides not to use the Special Counsel, the individual may be represented before the MSPB by counsel of the individual's choice. If the MSPB concludes that a federal government employer or the Director of OPM has failed or refused to comply with the reemployment law, it would

require the employing agency or the Director to comply with the law and to compensate the individual for any loss of wages or benefits, including an award of reasonable attorney fees, expert witness fees, and other litigation expenses. A claimant would be able to petition the United States Court of Appeals for the federal Circuit to review a decision of the MSPB if denied relief, and could be represented by the Special Counsel.

Subpoenas. Under USERRA, the Secretary may require, by subpoena, the attendance and testimony of witnesses and the production of documents relating to any matter under investigation, and if defied, may request the Attorney General apply to a district court for an order enforcing the subpoena. Subpoena authority would not apply to the legislative or judicial branches, but would apply to executive branch agencies.

Regulations. Under USERRA, the Secretary of Labor, in consultation with the Secretary of Defense, would be authorized to prescribe regulations with regard to states, local governments and private employers. The Director of OPM, in consultation with the Secretaries of Labor and Defense, would be authorized to prescribe regulations with regard to the federal government as employer (such regulation must be consistent with regulations pertaining to states and private employers and may provide federal employees with greater or additional rights). The MSPB, the Office of Special Counsel and the intelligence community agencies are also authorized to prescribe regulations.

Outreach. USERRA requires that the Secretaries of Labor, Defense and Veterans Affairs take appropriate actions to inform individuals entitled to reemployment rights and benefits and employers of the reemployment rights, benefits and obligation.

Exemption from minimum service requirements. USERRA excludes reemployment benefits under 38 U.S.C. 4301-07 from the minimum service requirement.

Thrift savings plan. Under USERRA, a new section would be added to Title 5 of the USC (Section 8432b) to allow federal and postal service employees who separate or enter leave-without-pay status to perform military service, to make up contributions to the TSP missed because of military service. The maximum amount an employee would be allowed to contribute would be equal to the amount an employee would have been eligible to contribute, subject to the applicable statutory maximums. An employing agency would have to give the employee two times, and up to four times, the length of his/her military service to make up the TSP contributions. The agency would be required to make up any matching contributions in the same manner as regular matching contributions. The employing agency would have the discretion to pay lost earnings.

Revision of federal civil service retirement benefit program (FERS) for Reservists. USERRA provides that individuals enrolled in FERS may not pay more than the amount that

¹Underline denotes "change"

would have been deducted and withheld from basic pay during civilian service if the employee had remained in continuous service. It also expands the definition of military service for both CSRS and FERS by adding to the meaning full-time National Guard duty.

Mr. Chairman, the Department of Labor has recommended several changes to the USERRA and, overall, we concur with those suggestions and will address some of them.

SUGGESTED CHANGES

Our association concurs with several of the recommended changes made by the Department of Labor.

1. SECTION 4301 (a) (2) – PURPOSES; SENSE OF CONGRESS

*** Change:**

"(2) to minimize the disruption to the lives of persons performing service in the uniformed services as well as to their employers, their fellow employees, and their communities, by providing for the prompt reemployment of such persons upon their completion of such service."

Rationale:

Section 4304 explains in detail the provisions of service which could be in conflict with the term "honorable conditions." We support this change.

2. SECTION 4312(a) – REEMPLOYMENT RIGHTS OF PERSONS WHO SERVE IN THE UNIFORMED SERVICES

*** Change:**

"Subject to subsections (b), (c) and (d) and to section 4304, any person whose absence¹ from a position of employment is necessitated by reason of service in the uniformed services shall be entitled to the reemployment rights and benefits and other employment benefits of this chapter if..."

Rationale:

This change will cover the period prior to actually entering military service to the extent that such time is necessary to prepare for entering military service or traveling to the military service site. In addition, it would provide protection to Guard/Reserve and ample time to prepare to mobilize and get family affairs in final order. Normally, members of the Guard/Reserve would be given several days notice to report to their units for mobilization. We concur with the recommended change.

3. SECTION 4312 (c) (4) (B) . REEMPLOYMENT RIGHTS OF PERSONS WHO SERVE IN THE UNIFORMED SERVICE

*** Change:**

"(B) ordered to or retained on active duty (other than for training) under any provision of law because of a war or because of a national emergency declared by the President or the Congress as determined by the Secretary concerned."

Rationale:

This would provide an exemption to all service members who are called to service or retained in

¹Underline denotes "change"

service to support, either directly or indirectly, a war or national emergency declared by the President or Congress.

4. SECTION 4312 (c) (3) AND (4)—REEMPLOYMENT RIGHTS OF PERSONS WHO SERVE IN THE UNIFORMED SERVICES

*** Change:**

The suggested changes are as follows:

"(3) performed as required pursuant to section 10147 of Title 10, under 502 (a) or 503 of Title 32, or to fulfill additional training requirements determined and certified in writing by the Secretary concerned, to be necessary for professional development, or for completion of skill training or retraining; or

"(4) performed by a member of a uniformed service who is:

(A) ordered to or retained on active duty under section 12301 (a), 12301 (g), 12302, 12302, 12304, 12305 or 688 of Title 10 or under section 331, 332, 359, 360, 367, or 712 of Title 14;

(B) ordered to or retained on active duty (other than for training) under any provision of law during a national emergency declared by the President or the Congress;

(C) ordered to active duty (other than for training) in support, as determined by the Secretary concerned, of an operational mission for which personnel have been ordered to active duty under section 673 (b) of Title 10;

(D) ordered to active duty in support, as determined by the Secretary concerned, of a critical mission or requirement of the uniformed services; or

(E) called into federal service as a member of the National Guard under Chapter 15 of Title 10 or under section 12406 of Title 10."

Rationale:

The proposed changes are required to reflect amendments made to Title 10 pursuant to Title XVI of the National Defense Authorization Act for Fiscal Year 1995 which was effective on December 1, 1994. We support updating the paragraph numbers so as to avoid future conflict.

5. SECTION 4313 (a) (4). REEMPLOYMENT POSITIONS

*** Change:**

"(4) In the case of a person who, (A) is not qualified to be employed in (i) the position of employment in which the person would have been employed if the continuous employment of such person with the employer had not been interrupted by such service, or (ii) in the position of employment in which such person was employed on the date of the commencement of the service in the uniformed services, and (B) cannot become qualified with reasonable efforts by the employer, in any other position which is the nearest approximation to a position referred to first in (i) and then in (ii) which such person is qualified to perform, with full seniority."

Rationale:

Absent the suggested changes, this section would provide lesser rights than those which existed under VRR. We support this change. The law needs to provide maximum support to the individual.

6. SECTION 4318 (b) (2) — EMPLOYEE PENSION BENEFIT PLANS

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*** Change:**

"(2) A person reemployed under this chapter shall be entitled to accrued benefits pursuant to subsection (a) that are contingent on the making of, or derived from, employee contributions or elective deferrals. No such payment may exceed the amount the person would have been permitted or required to contribute had the person remained continuously employed by the employer throughout the period of service described in subsection (a) (2) (B). Any payment to the plan described in this paragraph shall be made during the period beginning with the date of reemployment and whose duration is three times the period of the person's service in the uniformed services; such payment period not to exceed five years."

Rationale:

As written, the phrase, "not to exceed five years," could be misinterpreted as referencing service in the uniformed service. We support clarification of this paragraph.

7. SECTION 4322 (d) AND (e) – ENFORCEMENT OF EMPLOYMENT OR REEMPLOYMENT RIGHTS

*** Change:**

"(d) The Secretary shall investigate each complaint submitted pursuant to subsection (a). If the Secretary determines, as a result of the investigation, that the action alleged in such complaint occurred, the Secretary shall attempt to resolve the complaint by making reasonable efforts to ensure that the person or entity named in the complaint complies with the provisions of this chapter."

"(e) If the efforts of the Secretary with respect to any complaint filed under subsection (a) do not resolve the complaint, the Secretary shall notify the person who submitted the complaint of --

(1) the results of the Secretary's investigation; and

(2) the claimant's entitlement to proceed under the enforcement of rights provisions provided under section 4323 (in the case of a person submitting a complaint against a state or private employer) or section 4324 (in the case of a person submitting a complaint against a federal executive agency)."

Rationale:

We support this recommended change as it provides the realization that the Secretary may not be able to resolve the complaint and it may be necessary to elevate the complaint to a level that requires the employer/employee to comply with the finding.

8. SECTION 4323 (a) – ENFORCEMENT OF RIGHTS WITH RESPECT TO A STATE OR PRIVATE EMPLOYER

*** Change:**

"(a) (1) A person who receives, from the Secretary, a notification pursuant to section 4322 (e) relating to a state (as an employer) or a private employer may request that the Secretary refer the complaint to the Attorney General. If the Attorney General is reasonably satisfied that the person, on whose behalf the complaint is referred, is entitled to the rights or benefits sought, the Attorney General may appear on behalf of, and act as attorney for, the person on whose behalf the complaint is submitted and commence an action for appropriate relief for such person in an appropriate United States district court."

¹ Underline denotes "change"

- (2) A person may commence an action for relief with respect to a complaint if that person:
- (A) has chosen not to apply to the Secretary for assistance under section 4322 (a);
 - (B) has chosen not to request that the Secretary refer the complaint to the Attorney General under paragraph (1) ; or
 - (C) has been refused representation by the Attorney General with respect to the complaint under such paragraph."

Rationale:

This change is required in order to take into account the previous recommended change.

9. SECTION 4326 — CONDUCT OF INVESTIGATION; SUBPOENAS

*** Change:**

" (a) In carrying out any investigation under this chapter, the Secretary's duly authorized representatives shall, at all reasonable times, have reasonable access to and the right to interview persons with information relevant to the investigation and shall have reasonable access to, for purposes of examination, and the right to copy and receive, any documents of any person or employer that the Secretary considers relevant to the investigation."

Rationale:

The Act does not specifically grant investigators reasonable access and the right to interview individuals, but does specifically grant access to documents. The Act's exclusion of access to individuals could be raised by employers as precluding such access.

We support this change. Investigators should have access to all means necessary to remedy the complaint.

CONCLUSION

Mr. Chairman and members of the subcommittee, although we realize that at times a compromise must be reached in order to accomplish goals, we, nevertheless, continue to oppose Section 4312 paragraph (d) (1) which stipulates that an employer is not required to reemploy under the chapter if:

- (A) the employers' circumstances have so changed that such reemployment is impossible or unreasonable; or
- (B) as in section B, that it would impose an undue hardship on the employer.

We believe the language needs to be more restrictive and explicit regarding *what* constitutes hardships and *why* the reemployment would be impossible.

In closing, Mr. Chairman, we must do everything we can to protect the rights of our military personnel who may be called to risk their lives to protect our country and its interests. We, and the leadership of the National Guard and Reserve, must do more to ensure that our people know the rules and provide their employers with adequate notice of military duty as prescribed in section 4312 (a) 1, 2, and 3.

Mr. Chairman, we commend the Congress for providing for the members of the military who stand ready to leave their plow shares (employment) behind to pick up their rifles and defend their country.

¹Underline denotes "change"

As President Harry S. Truman said,

"Of course when the next fight comes, the civilians will come forward as they did this time, and win it, in spite of the Regular Army."

The citizen soldiers of our nation's oldest military force, the National Guard, needs your assistance and continued support in order to be ready, willing and capable to defend our nation's interests. This means ensuring that the employers who hire them can rest comfortably at night knowing that the citizen soldiers are ready to protect us and our way of life.

¹ Underline denotes "change"

STATEMENT OF THE

ACTING DEPUTY ASSISTANT SECRETARY OF
DEFENSE FOR RESERVE AFFAIRS
(MANPOWER AND PERSONNEL)

MR. ROBERT WAYNE SPRUELL

BEFORE THE

SUBCOMMITTEE ON EDUCATION, TRAINING,
EMPLOYMENT AND HOUSING OF THE

COMMITTEE ON VETERANS AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

ON THE UNIFORMED SERVICES EMPLOYMENT
AND REEMPLOYMENT RIGHTS ACT OF 1994

JUNE 29, 1995

FOR OFFICIAL USE ONLY
UNTIL RELEASED BY THE
SUBCOMMITTEE

ROBERT WAYNE SPRUELL

ACTING DEPUTY ASSISTANT SECRETARY FOR MANPOWER AND PERSONNEL
OFFICE OF THE ASSISTANT SECRETARY OF DEFENSE FOR RESERVE AFFAIRS

Mr. Spruell has served as Acting Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower and Personnel) since February 1 of this year. In this capacity, he is the principal staff advisor to the Assistant Secretary of Defense for Reserve Affairs concerning all National Guard and Reserve manpower, personnel and compensation matters affecting the Reserve components.

Mr. Spruell was born in Washington, DC on July 6, 1945. He received a Bachelor of Arts Degree from the Virginia Military Institute in 1968 and a Masters Degree in History from Georgetown University in 1981.

Mr. Spruell served as the Director of Manpower Programs and Requirements within the Office of the Deputy Assistant Secretary of Defense for Reserve Affairs (Manpower and Personnel) from February 1985 until February 1995. From 1981 until 1985, he served on the Department of the Army Staff in the area of personnel and training. He has been in Federal Service since 1968 including three years active duty with the U.S. Marine Corps.

Mr. Spruell is married to the former Lan Ly from Vietnam. They have a daughter Stacy and two sons, Lee and Nathan.

Mr. Chairman and Members of the Committee:

I am very pleased to appear before you today to discuss the Uniformed Services Employment and Reemployment Rights Act of 1994. The purpose of this significant revision to the statutory employment protections for members of the armed forces--that is, to encourage noncareer military service--while of immense importance to the Department of Defense in general, is especially important to members of the National Guard and Reserve. Approximately 90 percent of all members of the Selected Reserve are employed in the civilian sector, either private or public. There are nearly two million members of the Ready Reserve who are available for mobilization which can result in an unplanned absence from civilian employment at any time for an indefinite period of time. In addition to the many Reservists engaged in training duty, at any point in time, thousands of other Reserve component members are on active duty other than for training at various locations around the world.

While my position is in the Office of the Assistant Secretary of Defense for Reserve Affairs, I must emphasize that the protections afforded by this law apply to all members of the uniformed services who return to civilian life after military duty or training. Each year, over 200,000 people enter full-time active military service, many of whom leave civilian jobs. Following an initial period of obligated service from two to four or even six years, they can choose to return to their civilian employment. Under the new law, they can continue to be assured of protection against discrimination, retention in employment, promotions, or other benefits of employment as a result of military affiliation whether Active, Guard or Reserve.

In the All Volunteer Force era, the employment and reemployment protections afforded members of the National Guard and Reserve have become even more important. Balancing a civilian career, family responsibilities and military service to the country has never been easy, but today, the nation is more dependent than ever on the training and readiness of National Guard and Reserve volunteers. The majority of cases processed under this law involve Reservists. While the attitude of employers toward support of National Guard and Reserve participation by employees generally remains strong, concerns about civilian employment are a major contributor to a Reservist's decision to

separate from the Guard and Reserve. Surveys indicate that it is a factor in at least one-third of all separations from the Reserve components.

The new law, which President Clinton signed on October 13, 1994, clarifies and strengthens the rights and responsibilities of National Guardsmen, Reservists and employers. It completely revises the prior Veterans' Reemployment Rights law to clarify, update and expand the provisions of law covering reemployment rights and protections of veterans. This revision helps to ensure the continued effectiveness of the principle of law that an individual who enters military service for a short period can return to the civilian job held before entering service without loss of seniority or of benefits based on seniority. In enacting this law, Congress has clearly acknowledged that the support of employers in granting employees a leave of absence from their jobs to participate in military training without detriment to earned vacation time, promotions, and job benefits is essential to the maintenance of a strong National Guard and Reserve.

While the Uniformed Services Employment and Reemployment Rights Act (USERRA) retains the basic protections of the prior statute, it also makes some significant changes that are important to Reservists and other military members. It is more explicit than prior law in providing that the timing, frequency or duration of training or service, or the voluntary or involuntary nature of that training or service, is not a basis for denying protection under the statute. It is crucial that, when a Reservist complies with orders to military training or other duty, the Reservist must know with certainty that the legitimacy of the orders will not be subject to question.

USERRA places new responsibilities on persons entering military service and on Reservists performing training and other duty to give advance notification to employers of a forthcoming absence to perform military service. While this advance notification can be either verbal or written, it is required, unless precluded by military necessity, in order for an individual to retain reemployment rights under USERRA. The Department has already issued interim guidance to obtain the assistance of the military departments in informing individual servicemembers of this requirement to ensure their reemployment rights are not jeopardized during the transition from the old to the new law.

Another key provision of USERRA is the elimination of distinctions in protections based on categories of persons or types of duty. Such distinctions are not likely to be of concern to an employer. The most significant factor to an employer is the length of time the employee is absent. USERRA has revised the period of time that a servicemember can be absent from his or her job with a civilian employer and still retain reemployment rights. All periods of active military service are cumulative and may not exceed a five-year cumulative absence from a position of employment. A list of the types of service that are exempt from the five-year limit was issued as part of recent interim DoD implementing guidance which also requested the assistance of the military departments to inform members of the National Guard and Reserve concerning other important USERRA transition provisions.

Since the passage of USERRA, the Department of Defense has continued to work closely with the Department of Labor and the Office of Personnel Management, as part of a larger interagency working group, to effect a smooth transition to the new law. The close working relationship that was fostered during formulation of the original USERRA legislation has evolved into a strong partnership with respect to implementation efforts. These efforts include the provision of key interim guidance, the accomplishment of information outreach programs, and the conduct of joint training sessions.

Information and outreach responsibilities required by the law stem from the premise that both Reservists and their employers need to clearly understand their rights and obligations when Reservists and other employees who are servicemembers are away from the workplace due to training and service obligations inherent in their military status. The National Committee for Employer Support of the Guard and Reserve, an agency within the Office of the Assistant Secretary of Defense for Reserve Affairs that promotes employer support at the state-level, includes as part of its mission fostering an understanding of the legal rights and obligations of both Reservists and their employers. The National Committee, with the support of the Assistant Secretary of Labor for Veterans Employment and Training Service, has produced and widely distributed several fact sheets and information pamphlets concerning the effects of the new law.

The Department has participated in numerous meetings and training sessions, the majority hosted by the Department of Labor, in order to maintain adequate communications and information flow and to resolve key implementation issues. At the time of enactment, the Department of Labor's Office of Veterans Employment and Training Service (VETS) hosted working sessions to ensure uniform understanding and applications of transition provisions that would apply to servicemembers serving on active duty upon the date USERRA was to become effective. Less than one month after the passage of USERRA, the Executive Assistant to the Assistant Secretary of Labor for Veterans Employment and Training Service provided a detailed assessment of the USERRA legislation to the annual meeting of the Reserve Personnel Center Commanders.

Representatives from the National Committee for Employer Support of the Guard and Reserve have attended training courses at the National Veterans' Training Institute in Denver, where they briefed Department of Labor field representatives on the employment and reemployment concerns of Reservists and their employers. The presence of DoD representatives at other Department of Labor training sessions for Federal agencies affected by USERRA, has provided the opportunity to discuss the practical effects of USERRA on servicemembers and employers.

In addition to the efforts of the National Committee for Employer Support of the Guard and Reserve, the Department has formed an internal working group, with representatives from each of the DoD components, to review and coordinate specific DoD implementation guidance. It is the Department's policy to require appropriate action to apprise non-career servicemembers and individuals who apply for military service of their rights, benefits and obligations under USERRA, and to provide assistance in resolving civilian employment issues as they relate to military service.

Implementation guidance in the Department of Defense will require the Services to ensure there is a point of contact at the field level in Reserve commands that can render assistance to employers of National Guardsmen and Reservists with respect to the employers' and the servicemembers' rights and obligations. Appropriate points of contact will ensure that requests from employers to modify or reschedule active duty and

inactive duty training requirements are appropriately considered. The intent is to have a responsible authority that employers can contact when they have concerns with the training and duty requirements of their Reservist employees.

The Department of Defense is working directly with the Department of Labor to address cases in which servicemembers have experienced difficulty in exercising his or her employment or reemployment rights or benefits. In some cases, it is possible to provide sufficient information for the individual to resolve any concerns or issues directly with his employer. Staff members of the National Committee for Employer Support of the Guard and Reserve and their field representatives have been able to effectively deal with cases that can be resolved through an exchange of information. More complex cases are coordinated with the Department of Labor which under the new law has additional means of ensuring the effective administration of the provisions of the new law.

A full-time ombudsman with the National Committee for Employer Support of the Guard and Reserve is available to answer questions concerning USERRA and other employer support concerns through a toll free telephone number. Informal assistance for servicemembers and employers is also available from volunteer ombudsmen in all states, territories and the District of Columbia.

Through both formal and informal coordination with the Department of Labor, the Department of Defense provided suggested modifications in the form of proposed technical amendments to USERRA. As you know the administration's proposed amendments were recently forwarded to the House and Senate Committees on Veterans Affairs. One of the more significant changes that we recommended would ensure that for an individual's military service to be exempted from the five-year cumulative limitation on absence from civilian employment, the individual would have to have been ordered to active duty "because" of a war or national emergency and not ordered for service, during such a period, that was totally unrelated to the war or national emergency.

Changes to the transition rules and effective dates clarify that any service prior to the effective date of USERRA that would have counted towards the limitation on absence from civilian employment under the previous Veterans Reemployment Rights law also counts towards the five-year cumulative limitation under USERRA. Any period of

service that did not count under the old law and that continues after the effective date of USERRA, regardless of when such service began, will begin to count toward the five-year limit only after the effective date of USERRA. This applies to service that was previously exempt under the old law, but no longer exempt under USERRA. Additional changes were recommended to ensure consistency with the recently enacted Reserve Officer Personnel Management Act, which reorganized and consolidated the provisions of title 10, United States Code, relating to the Reserve components.

The Uniformed Services Employment and Reemployment Rights Act of 1994 completely rewrites, clarifies, and strengthens the 54-year old veterans' reemployment rights law. It codifies 50 years of prevailing case law and clarifies previously existing rights and obligations. It continues to support the basic premise that, upon completion of active military duty, returning servicemembers are to be reinstated to their civilian jobs without loss of seniority, status, or pay.

In summary, the Department of Defense has worked closely and effectively with the Department of Labor's Office of Veterans Employment and Training Service and with the Office of Personnel Management to provide adequate information on rights and benefits, to produce and publish appropriate guidance on the changes effected by the new law, and to develop procedures for advising and assisting non-career servicemembers concerning their employment and reemployment rights and obligations under USERRA. The combined efforts of the Department of Defense, the Department of Labor and other key Federal agencies to ensure effective implementation of the important provisions of this statute in support of citizen-soldiers, sailors, marines, airmen, and Coast Guardsmen who will continue to be part of the Total Force of the future.

STATEMENT OF PRESTON M. TAYLOR JR.
ASSISTANT SECRETARY OF LABOR
FOR VETERANS EMPLOYMENT AND TRAINING
BEFORE THE SUBCOMMITTEE ON EDUCATION, TRAINING,
EMPLOYMENT AND HOUSING
HOUSE COMMITTEE ON VETERANS' AFFAIRS
JUNE 29, 1995

Mr. Chairman and Members of the Subcommittee:

Thank you for the opportunity to tell the positive story of what the Veterans' Employment and Training Service has been doing to reorganize itself, how it has implemented the Uniformed Services Employment and Reemployment Rights Act, and how it is working to ensure continued priority of employment services for veterans within the Department of Labor's one-stop career centers.

The Veterans' Employment and Training Service, known as VETS, was established in 1983. Like at other Federal agencies, we have recently expanded our reinvention efforts in VETS based on the recommendations of the National Performance Review and the President's September 11, 1993, Memorandum regarding "Streamlining the Bureaucracy". The expectations were that Federal agencies would increase their efficiency and maintain or increase services with reduced staff levels.

At the outset, we identified our customers. First and foremost among VETS' customers are our veterans. In VETS' context, the term "veteran" includes not only those individuals who have been discharged or separated from the military, but also Reserve and National Guard members who are eligible to receive veterans' reemployment rights services. Additionally, we include in that general category of "veteran", those servicemembers still on active duty who are within 180 days of discharge and eligible for transition assistance.

Second, we recognized that employers are also our customers. As everyone knows, business growth depends on an industrious,

well trained workforce. VETS must constantly seek efficient ways of creating conditions that bring together the needs of employers with the talents and discipline of our veterans for the mutual benefit of both parties, as well as the economic vitality of the Nation.

Finally, VETS recognized that its own employees -- as internal customers -- must be comfortable with Agency restructuring and the re-engineering of work processes. We all fully understood from the outset that unless a climate is created that would foster competency, initiative, and teamwork, the Agency would not be able to provide quality service.

We understood, too, that one of VETS' greatest assets is its network of partners and service providers, such as veterans' service organizations and State Employment Security Agencies. It was imperative, then, that we include everyone in our efforts to streamline and improve customer services.

It has been important to me that the process be highly visible, open and inviting, with frequent opportunities for VETS' staff to have a voice in the evolution of changes being considered. I have always believed in the open-process concept. Our partners and the staff of this Committee have been kept fully informed of our progress at every step of the way.

One of VETS' first steps, taken in October 1993, -- two months before I took office -- was to form four ad hoc committees. In March 1994, a fifth committee was established. All were to address goals that had been developed through broad agency participation. Each ad hoc committee was largely comprised of field staff. I will describe each Committee's goal in a moment but, collectively, the number participating on these committees approximated fifteen percent of VETS' entire work

force. Each committee also had a State Employment Security Agency representative assigned for liaison.

In April 1994, VETS established what we called our "Reinvention Team", developed in accordance with the Department of Labor's Partnership Agreements with its unions. The primary purpose of the Reinvention Team was to review the products and proposals created by the five ad hoc committees and act in an advising capacity for each ad hoc committee prior to its delivery of its product or proposal to me for decision and implementation by the Agency.

Let me briefly describe each ad hoc committee's objectives and products. The first ad hoc committee was charged with proposing improvements in the services provided to veterans through the disabled veterans' outreach program and the local veterans' employment representative program. As you know, in referring to these programs we generally use the acronyms DVOP and LVER.

Products created by this committee included a detailed proposal for redesign of the current service delivery system which would use dedicated veterans' staff concentrated in three functional areas -- case management, outreach services, and employment and training oversight -- to provide labor exchange and placement services to veterans instead of the two current positions -- the DVOP specialist and the LVER. These three proposed functions would target concentrated employment and training services provided under a case management structure to veterans who have exceptional difficulty in accessing the labor market.

Other products of the DVOP/LVER Committee included a series of policy and program papers that proposed new features for the service delivery system, a draft for the fiscal year 1995

DVOP/LVER Solicitation for Grant Applications, a Veterans' Bill of Rights, an Employers' Bill of Rights, and a Partners' Bill of Rights.

VETS' second ad hoc committee -- the JTPA IV-C Committee -- focused on grants awarded under title IV, part C, of the Job Training Partnership Act. The committee was to streamline the grants into fewer, larger-valued grants awarded competitively over multi-year periods. As a result of the JTPA IV-C Committee's efforts, formula-grant regulations have been rescinded and a new, streamlined and simpler Solicitation for Grant Applications was used to make awards for program year 1994. This new streamlined solicitation procedure has made it easier for applicants to apply for funding and has improved the VETS' grant process by targeting services to veterans in the most needed service areas.

A third ad hoc committee was charged with surveying customer satisfaction and increasing employer participation in VETS programs. Products from this committee included customer satisfaction surveys of veterans and employers.

The customer survey instruments measured the level of satisfaction found among customers and the areas in which VETS would need to improve in order to raise that satisfaction level. Notable survey results among employers showed that over half of the employer respondents seeking unskilled or semi-skilled workers filled openings of those types through the Job Service, while 18 percent of employers responding filling professional, managerial, or technical positions hired through Job Service referrals. About half of the veterans surveyed rated the Job Service overall as very helpful or helpful, and 79 percent stated they would recommend the Job Service to other veterans.

The fourth VETS' ad hoc committee developed proposals for the future structure and operation of the Transition Assistance Program -- which we simply refer to as TAP. This ad hoc committee produced a plan that would increase the delivery of TAP services to 70 percent of separatees in fiscal year 1996. It is anticipated that this goal can be achieved by expanding the scope and awareness of the program and by improving the efficiency of the delivery system for TAP workshops.

The fifth VETS' ad hoc committee focused on improving the Agency's internal structures and operations. The "Internal Review Committee" produced a report that included a series of recommendations for operational improvements, calling for comprehensive restructuring and realignment of functions within the VETS organization. The committee developed proposals to ameliorate the impact of projected staffing reductions. This was to be largely through improvements in operational efficiency, effectiveness, and in the equitable distribution of the Agency's responsibilities and workload among its staff. Front-line employees would be empowered with more real authority to carry out VETS' mission. The committee also proposed to reduce the number of VETS' Regional Offices from the currently mandated ten.

Planning for implementation of VETS' reorganization remains an on-going process, as staffing and budget allotments shift for upcoming fiscal years. At the beginning of the process, VETS developed a long-range downsizing plan that would stage a 12 percent reduction in strength by fiscal year 1999, bringing us to a staffing level of 250 full-time equivalents. Through the careful management of vacancies created by normal attrition and Agency buyouts, I can report that we are on the glide path to meeting our long-range goal.

Mr. Chairman, I also would like to note that last July I created a special VETS' office for Plans and Programs and

assigned to that advisory position a senior staff member, Richard Larson, who is with me today.

In the development of our plans, I am committed to the principles of total quality management. I have seen first hand the positive results of this decision-making system. To ensure the maximum effectiveness of the TQM tools and techniques, the National Veterans' Training Institute, with input from VETS' employees, has developed TQM courses for all Federal staff.

Implementation of many of the committees' recommendations would be contingent upon legislative action to change current statutory mandates.

Speaking of legislation brings me to the second topic of the day -- VETS' implementation of the Uniformed Services Employment and Reemployment Rights Act of 1994, referred to as USERRA.

USERRA was enacted on October 13, 1994, and was designed to clarify and strengthen the existing veterans' reemployment rights law first passed in 1940 and amended several times thereafter. Although certain USERRA provisions took effect when the bill was signed, others became effective ninety days later, on December 12, 1994.

USERRA, like the veterans' reemployment rights law it replaced, provides job security to employees who leave their civilian jobs to enter active military service, voluntarily or involuntarily. Within certain limits, the law generally entitles an individual who serves in the military to return to his or her former civilian job after being discharged or released from active duty under honorable conditions. For purposes of seniority, status, and pay, the employee is entitled to be treated as though he or she never left.

The law applies to servicemembers who have performed and are performing both active-duty service, and to training periods served by Reserve and National Guard members. Its scope of impact is significant. Approximately 1.8 million Americans are now in the Guard and Reserve. Additionally, over 100,000 non-career servicemembers leave active duty military service annually. Veterans' reemployment rights attract the most attention during times of national emergency and large call-ups of Reserve components, such as during Desert Shield and Desert Storm. In our experience, however, employers willingly support their employees called to active duty on those occasions. In practice, the importance of USERRA as an employment protection lies in its constant support of those Reserve and Guard members who attend regular and special training activities. Because USERRA enhances the Department of Defense's ability to recruit and retain qualified servicemembers, it is important to our national defense.

Under USERRA, new responsibilities are assigned to the Department of Labor's Veterans' Employment and Training Service, as well as other Federal agencies, including the Departments of Defense, Treasury, and Justice, the Office of Special Counsel, the Office of Personnel Management, the Federal Retirement Thrift Investment Board, and the intelligence community agencies. For the first time, Federal executive branch employees are provided with both assistance from the Department of Labor and an effective enforcement mechanism. Improved levels of coverage also are given to employees in the legislative and judicial branches, and to National Guard employees of State Adjutants General.

The Department of Labor takes very seriously its responsibility as the lead agency on USERRA implementation. Secretary Robert Reich selected USERRA training of VETS employees, the development of a USERRA outreach program, and the

development of USERRA operational guidance as elements of his performance agreement with the President of the United States. Needless to say, as his assistant secretary, USERRA has my full attention.

To accomplish a timely, smooth, and effective implementation, VETS developed a plan in November 1994 that laid out an action framework in the following four areas: interagency coordination, outreach, operational guidance, and staff training. With the support of the Department's Office of the Solicitor, VETS' plan for implementation is currently on track. This morning I briefly will outline the actions that VETS has taken in line with its plan.

The first area of the USERRA plan was that of interagency coordination. On November 18, VETS hosted an interagency workgroup consisting of all Federal organizations with USERRA responsibilities. Agency roles and responsibilities were identified and discussed. Agencies agreed to cooperate in the development of USERRA policy and other implementing activities. It was agreed that subgroups of agencies would meet on specific implementation issues, and that periodically the entire interagency workgroup would meet. On December 12, VETS provided a day-long briefing on the USERRA law to interagency workgroup participants.

On January 6, 1995, VETS met with the Department of Defense's National Committee for Employer Support of the Guard and Reserve to coordinate employer and claimant outreach efforts.

On January 24, VETS met with the Office of Special Counsel and the Department of Justice to discuss standards for referral of cases, standards for litigation of cases, and coordination of

information for inclusion in the annual report to Congress on USERRA.

On February 8, VETS hosted an interagency workgroup meeting to discuss methods of electronic communications on USERRA implementation between the agencies, including the sharing of resource information. VETS is currently canvassing the agencies on their specific electronic capabilities.

On February 22, VETS, along with the Department of Labor's Pension and Welfare Benefits Administration, met with the Department of Treasury -- including the Internal Revenue Service -- to discuss USERRA's two year compliance period for employee pension benefit plans, and necessary amendments to the Internal Revenue Code that would accommodate USERRA. Treasury agreed to take the lead in developing proposed Code amendments.

In April, VETS provided comments to the Office of Personnel Management on proposed USERRA interim regulations regarding Federal employees who leave their employment to perform duty with the uniformed services.

At the request of Representative G.V. (Sonny) Montgomery for technical assistance, VETS worked with Departments of Defense and Transportation, the Office of Personnel Management, and the Office of Management and Budget on proposed technical amendments to USERRA. These amendments were provided to Mr. Montgomery on May 25, 1995.

I have been meeting on a quarterly basis with the leadership of the National Committee for Employer Support of the Guard and Reserve to review USERRA implementation progress and other matters.

The second area of consideration in VETS' USERRA implementation plan was that of outreach. Sending forth the word has been a major emphasis for us. Upon enactment, VETS distributed a fact sheet, press releases, and briefing packages. Over the past seven months, VETS staff at the national, regional, and State levels have conducted numerous interviews on USERRA. We have updated the information being provided through our 800 number to include information on USERRA, provided input on other agencies' USERRA outreach documents, briefed the veterans' organizations, and addressed a number of gatherings.

Our third area was operational guidance. Within days of the bill signing, VETS issued detailed information on how to implement USERRA. Recently we completed a new USERRA Operations Manual and -- with the assistance of the Department of Defense -- a draft of a new USERRA Handbook. After clearance through the USERRA interagency workgroup, VETS intends to publish the USERRA Handbook in the Federal Register for public comment. The USERRA Handbook, then, may be used for clarification of USERRA issues, just as the Veterans' Reemployment Rights Handbook had been used before enactment of USERRA.

VETS' fourth area of consideration in its implementation plan was that of staff training, something in which we believe deeply. VETS, with the strong support and assistance of the Solicitor's Office and the National Committee for Employer Support of the Guard and Reserve, conducted a series of USERRA briefings for 120 staff at the National Veterans' Training Institute in November 1994. The briefings were videotaped and all VETS staff were provided access to copies.

A USERRA Basic Course, which teaches the procedures according to the new USERRA Operations Manual, has been piloted and will be provided by the National Veterans' Training Institute to 168 VETS staff prior to the end of September. A VETS

Investigators Course is being developed by the National Veterans' Training Institute and will be provided to a minimum of 48 VETS staff in 1995.

Even before the enactment of USERRA, VETS obligated a considerable amount of its Federal resources to the administration of veterans' reemployment rights law. We estimate that of our 251 Federal staff throughout the country, as many as 113 equivalents -- or 45 percent of our workforce time -- are devoted to this program. VETS' personnel are engaged in investigations, case handling, case administrative support, and quality assurance. I am proud to report that, working with local ombudsman volunteers from the National Committee on Employer Support of the Guard and Reserve, VETS is able to resolve over 95 percent of the 12 to 15 hundred complaints it receives annually.

At this point in the year, we have had too little experience with USERRA to predict the impact of our new responsibilities on our workload and resource demand.

The third topic on today's oversight agenda is that of the one-stop career centers -- one of the more dynamic initiatives taken on by the Clinton Administration. The move toward consolidating services through the development of one-stop career center systems marks a direction that I welcome in terms of interagency program cooperation and delivery system integrations. It reinforces the concept of Federal-State partnerships and refocuses all Departmental efforts on services to the general public and employer communities as customers.

The one-stop career center system is only in its infancy. The one-stop concept, as it is being implemented by the Department of Labor, adheres to four basic principles -- universal public and employer access to a wide array of services; customer choice in where and how information and assistance can

be obtained; seamless integration of service delivery at the local level; and the application of performance driven/outcome-based measures.

Based on the President's budget requests for planning and implementation funds, it is anticipated that by the end of fiscal year 1996, all States will be aboard the fast-moving one-stop career center system train. I note that Indiana -- the Chairman's home State -- is scheduled to begin implementation under its grant this summer. Each local one-stop center may have some commonalities, but with independent design to meet unique State and local needs, each will be potentially different than all other centers, even within the same State.

What does this mean for our Nation's veterans? Since the Employment Service and the DVOP and LVFR programs are all required to be a part of each State's one-stop system, the potential exists for veterans to be served more efficiently and effectively. Once fully implemented, the one-stop career center system will present a broad range of workforce development services that previously were not accessible or easily available to veterans who reported to local employment security offices.

Veterans reporting to the one-stop centers for other related services will likely be offered labor exchange services they may not have previously known were available. Using a case management approach to the delivery of services, DVOP and LVFR staff will offer more intensive one-on-one services to enhance the employability of veterans facing barriers to employment. They will be able to capitalize on on-site education or training linkages. They have been trained at the National Veterans' Training Institute on how best to develop long-lasting employment opportunities with career potential for veterans who have gone from one stop-gap job to another, been chronically unemployed, or have been under-employed since leaving military service.

VETS has been provided a prominent place at the one-stop table as full partners. We have dedicated staff resources located with the national one-stop team and are involved in the day-to-day decision-making process. This partnership has yielded several tangible results, such as reference to veterans and veterans' organizations in the recently implemented Solicitation for Grant Applications. VETS staff served on the grant application review teams. We have members of the Federal one-stop teams in every U.S. Department of Labor region. Many of our Directors for Veterans' Employment and Training -- located in each State -- are intricately involved in the technical conduct of developing these centers within their State. They are supported by a network of their peers who maintain communication through regularly scheduled conference calls -- a cost-efficient and productive means of information sharing.

Our Directors for Veterans' Employment and Training, with support of the VETS staff serving on each regional team, serve as a linchpin between our national vision for veterans in a one-stop system and the sub-state or local realities. Our Directors located in each State will work with the appropriate State and Federal officials as local one-stop system designs and operations are negotiated between the several programs and services which will be provided through One-Stop. Local VETS staff may even sit at the table with local workforce investment or development boards when center plans are under consideration as they endeavor to achieve equitable agreement on resource utilization and observance of required service priorities.

It is clear that one-stop service delivery systems are how employment services will be provided everywhere in the very near future. With its flexible and localized construction, VETS will be challenged to ensure the continued priority of employment services for veterans. As I described, we are positioning

ourselves at the appropriate decision making points to provide needed input into center designs.

Mr. Chairman, the expansion of the one-stop career center system has given us the opportunity to clarify matters of preference and service priorities to guide agencies participating under and operating within the one-stop environment. Section 4102 of title 38, United States Code, states that,

Congress declares as its intent that there shall be an effective (1) job and job training counseling service program, (2) employment placement service program, and (3) job training placement service program for eligible veterans and eligible persons ... so as to provide such veterans and persons the maximum of employment and training opportunities, with priority given to the needs of disabled veterans and veterans of the Vietnam era through existing programs, coordination and merger of programs and implementation of new programs.

The Assistant Secretary of Labor for Employment and Training and I agree that the provisions of title 38 require the State Employment Service, including its LVER and DVOP staff, to provide preference to veterans for employment and training services available at each service delivery point. We encourage State Employment Services and their partners to find ways to provide to veterans the maximum of job placement opportunities as they move toward shared resources and the one-stop approach. I will soon be sending policy guidance to this effect to our field staff and their State partners.

In closing, Mr. Chairman, I am proud of VETS' reinvention efforts and its USERRA implementation accomplishments, and am pleased with the Agency's level of involvement in the on-going evolutionary development of one-stop career systems. Again, I

thank you for the opportunity to tell the VETS' story, and will be glad to answer any questions you might have.

U.S. Department of Labor

Assistant Secretary for
Veterans' Employment and Training
Washington, D.C. 20210

October 13, 1995

The Honorable Steve Buyer
Chairman
Subcommittee on Education, Training,
Employment & Housing
U.S. House of Representatives
Committee on Veterans' Affairs
326 Cannon House Office Building
Washington, DC 20515

Dear Mr. Chairman:

At your subcommittee's hearing on June 29, 1995, it was requested on behalf of Ranking Member Waters that I submit for the record our analysis of the effects of H. R. 1593, the "Veterans' Employment and Training Bill of Rights Act of 1995," as introduced by Mr. Montgomery. As requested, our comments interpret its impact on the nation's employment and training services to veterans, but do not evaluate the bill.

This bill would create a new national policy and related performance standard regarding the proportion of services to be provided to certain veterans by federally-funded entities engaged in the delivery of workforce preparation, development, and job placement program services, regardless whether the entities are funded in whole or in part by federal block or categorical grants.

The bill entitles certain veterans to priority for services, and attempts to set forth a clear, quantifiable standard against which the performance by all program service providers is to be evaluated annually by the Secretary of Labor, and reported to Congress.

However, the quantifiable standard stated in proposed section 4100 (e) could be interpreted in at least two distinctly different ways, and requires clarification. As stated in the bill, the standard is "...the services of such programs are in proportion to the incidence of veterans in the labor market, including within groups targeted by such programs, if any."

The term "labor market" is the key, and the question is whether in this context it means "the registered, eligible applicants for the particular program," or "the labor force in a particular geographically defined area?" Each of those interpretations would have considerably different effects. The former would be highly objective in application, and relatively easy and inexpensive to apply to the subject programs. The latter would require development of special labor market information that does not now exist, which would be extremely expensive and time-consuming to produce and maintain thereafter.

If the former interpretation of "veterans incidence in the labor market" is correct, then service providers' actual records would be the source of the baseline data. Also, the standard would be understood to mean, "if veterans (as defined) are X percent of the total number of individuals in a specific labor market or service delivery area who have applied and been determined to be eligible for a particular program, then those veterans must be no less than X percent of the total number of individuals served by that particular program."

Applying that standard would be fairly simple. For example, since veterans are the only people eligible for services under the Disabled Veterans' Outreach Program (DVOP) rules, 100 percent of all of the program's output must be for veterans. The DVOP administrative entity, which now is a State agency but could be otherwise in the future, would further be required under this bill's standard to determine the proportion of the total registered veterans who are veterans as defined and targeted in this bill, and match or exceed that percentage in their services outputs. Federal performance standards for service levels for veterans not included in this bill's target groups would be separately established as part of the DVOP grant provisions. Another hypothetical example of the application of the policy and standard would be, if veterans as defined are ten percent of the total individuals determined eligible by a county-administered, federally funded dislocated workers program, then no less than ten percent of the total individuals served by that program in that area must be such veterans. If the same program were administered elsewhere in the same state, or in another state, but the incidence of veterans in that other locale is twenty-five percent of the eligibles, then the service output of that other program operator for the targeted veterans would have to be no less than twenty-five percent.

If we have correctly interpreted the policy and standard intended by this bill, then one of the impacts would be that the output of each of the covered programs for the veteran target groups would vary from service delivery area to service delivery area, dependent upon the incidence of veterans in the eligible applicant population. That standard seems highly objective,

since it would be reflective of the actual situation in each locale. However, a decision would have to be made as to how the baseline percentage would be established annually in each program. That is, at what point in time would the percentage of veterans in the program operator's file of eligibles be fixed as the standard against which the operator's outputs will be measured? It is a key question, because the standard of measurement will be translated into operational goals. For some program operators, e.g., those that entail months of advance planning to establish appropriate classroom and/or on-the-job skills training, it might be unfair to compare their outputs to the percentage of eligible individuals that veterans comprise at the end of the program year. On the other hand, veterans might be under-served if the percentage is fixed in the prior year, if their incidence in the pool of eligibles increases during the operational year. That problem is not insurmountable but would have to be tackled in the rulemaking process if this bill were enacted.

Section 4100 (d) of this bill requires that each State or local council, board, or advisory body established "to support" programs referred to by this bill have "adequate representation from the veterans community." Since some such councils do more than "support" programs, i.e., they direct or administer them, it would have to be made clear that this bill would apply to such bodies. Also, the meaning of "adequate representation from the veterans community" probably would have to be clarified to facilitate implementation of the requirement. Nevertheless, both the representation requirement and the standard previously discussed appear to be viable means of systematically overlaying a national priority on a situation wherein program decision-making authority is devolving from the Federal level to the State and local governments.

In addition to those impacts upon the various programs and delivery systems, proposed section 4100 (b)(1) would require that all service providers be responsible for informing veterans regarding benefits and services available from other sources, e.g., the Department of Veterans Affairs, and to provide to veterans effective referral services. Presumably this provision applies to all veterans, not only those defined in proposed section 4100 (a), because proposed section 4100 (b)(2) appears to require the provision of information specifically about the available employment and training services, rights, benefits, and privileges to the categories of veterans defined as eligibles under the policy and standard previously discussed. That should be clarified if this is enacted, as it does impose a workload on service providers not covered by the quantifiable performance standard, and has an impact on veterans not otherwise entitled in this bill to services.

In addition to broadening the application of the concept of priority for veterans to all federally-funded employment and training programs and service providers, this bill would narrow the universe of veterans to which the policy would apply. This bill would limit the Federal Government to requiring of service providers the previously discussed threshold level of services only on behalf of those veterans (1) who meet the eligibility requirements otherwise lawfully established for participation in the particular program, and, (2) who applied for the program before the end of the ten year period beginning on the date of discharge or release from active duty. States and/or local program administrators still could choose to give the same or similar level of priority to additional segments of the veterans population, but the Federal Government could not demand, nor hold them accountable for, producing more than the previously discussed standard requires.

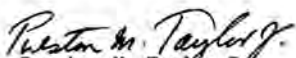
The bill also requires that within that defined universe of veterans, providers of program services at the State and local levels give the highest priority for services to special disabled veterans, as defined in section 4211 of Title 38, United States Code.

It is difficult, if not impossible, to predict all of the effects that this legislation would have if enacted. We do not have data that tells us how many veterans, as defined, there are in any particular labor market or service delivery area, so we cannot compare the projected total output of the system that would result from implementation of this bill to the accomplishments of the past. However, one impact does seem clear. Unlike the present situation, if this bill were enacted all of the service providers and program administrative entities that are federally-funded, in whole or in part, that are engaged in the myriad of employment, training, workforce preparation, and development services authorized by Federal law, as well as all of the Federal agencies administering the grant programs and veterans themselves would have a common understanding of the Federal Government's bottom line regarding services to veterans at the State and local levels. That effect alone should facilitate program planning and budget formulation, lessen tensions between service provider management and the Veterans' Employment and Training Service staff responsible for monitoring and assisting such entities' compliance with Federal policy, lead to streamlining and re-focusing of Federal oversight activities, provide more accurate and comprehensive accounting of the various programs' and delivery systems' productivity for veterans, and result in more coordinated, efficient, and effective service delivery for the defined veterans target groups.

- 5 -

Mr. Chairman, I appreciate the opportunity that you and Ranking Member Waters have provided for me to comment on this important legislation.

Sincerely,


Preston M. Taylor Jr.

Enclosure

104TH CONGRESS
1ST SESSION

H. R. 1593

To amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

MAY 9, 1995

Mr. MONTGOMERY (for himself, Mr. CLYBURN, and Mr. MASCARA) introduced the following bill; which was referred to the Committee on Veterans' Affairs

A BILL

To amend title 38, United States Code, to provide for a Veterans' Employment and Training Bill of Rights, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*
2 *tives of the United States of America in Congress assembled,*

3 SECTION 1. SHORT TITLE.

4 This Act may be cited as the "Veterans' Employment
5 and Training Bill of Rights Act of 1995".

6 SEC 2. VETERANS' EMPLOYMENT AND TRAINING BILL OF 7 RIGHTS.

8 (a) IN GENERAL.—Section 4100 of title 38, United
9 States Code, is amended to read as follows:

1 **"§ 4100. Veterans' Employment and Training Bill of**
2 **Rights**

3 "(a) A veteran is entitled to priority of services under
4 any federally-funded (in whole or in part) work-force prep-
5 aration, development, or delivery program if—

6 "(1) the veteran otherwise meets the eligibility
7 requirements for participating in such program; and

8 "(2) the veteran enters such program before the
9 end of the 10-year period beginning on the date of
10 discharge or release of such veteran from active
11 duty.

12 "(b) In addition to subsection (a), the entity that ad-
13 ministers or delivers services under a program described
14 in subsection (a) shall be responsible for the following:

15 "(1) Providing information and effective refer-
16 ral assistance to veterans regarding benefits and
17 services that may be obtained through other entities
18 or service providers.

19 "(2) Ensuring that each veteran assisted by a
20 program referred to in subsection (a) is informed of
21 the employment-related rights, benefits, and privi-
22 leges to which the veteran is entitled under this sec-
23 tion.

24 "(c) Veterans shall be given priority and preference
25 under subsection (a) in the following order:

26 "(1) Special disabled veterans.

1 “(2) Any veteran not described in paragraph
2 (1).

3 “(d) Each State or local council, board, or advisory
4 body established in support of a program described in sub-
5 section (a) shall include adequate representation from the
6 veterans' community.

7 “(e) The Secretary of Labor shall submit an annual
8 report to the Committees on Veterans' Affairs of the Sen-
9 ate and House of Representatives which shall include such
10 information as the Secretary of Labor determines nec-
11 essary to ensure that veterans are being served by pro-
12 grams described in subsection (a) and that the services
13 of such programs are in proportion to the incidence of rep-
14 resentation of veterans in the labor market, including
15 within groups targeted by such programs, if any. The Sec-
16 retary of Labor shall promulgate such regulations and
17 procedures as may be necessary to ensure that such re-
18 ports are provided.

19 “(f) For the purposes of this section, a federally-
20 funded (in whole or in part) work-force preparation, devel-
21 opment, or delivery program includes (1) programs within
22 the public employment service system, one-stop career cen-
23 ters, the Job Training Partnership Act, a demonstration
24 or other temporary program, and those programs imple-

1 mented by States based on Federal block grants, and (2)
2 programs targeted to specific groups.”

3 (b) CONFORMING AMENDMENT.—The item relating
4 to section 4100 in the table of sections at the beginning
5 of chapter 41 of such title is amended to read as follows:

“4100. Veterans’ Employment and Training Bill of Rights.”

