

A REVIEW OF VETERANS PREFERENCE IN FEDERAL GOVERNMENT HIRING

HEARING

BEFORE THE

SUBCOMMITTEE ON ECONOMIC OPPORTUNITY

OF THE

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A REVIEW OF VETERANS PREFERENCE IN FEDERAL GOVERNMENT HIRING

Wednesday, April 20, 2016

COMMITTEE ON VETERANS' AFFAIRS,
U. S. HOUSE OF REPRESENTATIVES,
Washington, D.C.

The Subcommittee met, pursuant to notice, at 2:30 p.m., in Room 334, Cannon House Office Building, Hon. Brad Wenstrup [Chairman of the Subcommittee] presiding.

Present: Representatives Wenstrup, Zeldin, Costello, Takano, and Rice.

OPENING STATEMENT OF BRAD WENSTRUP, CHAIRMAN

Mr. WENSTRUP. Good afternoon, everyone. The Subcommittee will come to order. I want to thank you all for joining us here today to discuss the role of veterans preference in the Federal hiring process.

Some form of veterans preference has been a fixture in Federal hiring since the Civil War, and while it is clear that the Federal government does do a good job of hiring veterans, we need to look at ways to modernize current rules and regulations, increase enforcement, and change, overall, the bureaucratic attitudes about hiring veterans.

In theory, veterans and disabled veterans should be eligible for the 10- or 15-point preference in the competitive or excepted service, which should act as a tiebreaker, so that if you have two equally qualified candidates for one job, and one of them is a veteran, then they should receive the position.

In reality, veterans preference is often thwarted by an overly complicated competitive or excepted service system, as well as a feeling of unfairness from veterans' civilian counterparts who are also applying for jobs in the Federal government.

What is more disappointing is that this Committee hears complaints on both sides of the issue. It is not uncommon for VA hiring managers to complain that they always try to use a special hiring authority to hire a new employee because when they use the competitive hiring service they get back a certification list from VA's HR that blocks qualified nonveteran candidates and only lists non-qualified veteran candidates. And I am sure that this is an issue facing HR officials across the Federal government.

On the flip side, it is not uncommon for us to hear from veterans who were blocked by HR officials or managers for consideration because of their bias against veteran candidates. A recently uncovered court document highlighted this bias where a senior official at

one VA hospital said that when hiring for positions at their hospital, they gave more credit to a candidate who was involved in community organizations, like the Boy Scouts or something like that, than those with veteran status. When asked if they always tried to hire veterans, the official was quoted as saying: “Not really, and thank God.”

Now, I believe personally that veterans are what they were in uniform, selfless and able to put the needs of others ahead of themselves. But that comment about “Not really, and thank God” is the type of institutional bias that has to be eliminated from the Department and governmentwide. I can only hope that this official’s views represent the smallest minority of VA and government hiring managers, but I am not sure.

It is also concerning to me that while veterans make up approximately 33 percent of VA’s workforce, a recent media report highlighted that only 13 percent of VA senior managers are veterans. I do understand that with education and experience come opportunities for promotion. It is critical that VA and all government agencies find ways to improve veterans hiring for management positions as well.

I look forward to hearing from our witnesses today about how to modernize veterans preference rules and regulations and how Federal government agencies, like OPM and DOL, are enforcing current laws. The Committee will continue its work on hiring reforms at VA and the Federal government, and I am hopeful that a meaningful and frank conversation today will assist us in these efforts.

I now yield to my colleague, Ranking Member Takano, for any opening statement he may have.

OPENING STATEMENT OF MARK TAKANO, RANKING MEMBER

Mr. TAKANO. Thank you, Mr. Chairman.

First, I want to say what a pleasure it is to have Assistant Secretary Michaud back in the House Veterans’ Affairs Committee.

Welcome back, sir.

Veterans have a devoted and highly informed ally at DOL vets, and we are looking forward to working together with him on policies that will help veterans transition to civilian life and find meaningful jobs.

Chairman Wenstrup, I appreciate your decision to call this hearing, even though veterans preference policies fall under Title 5 and are not part of this Committee’s jurisdiction, there is no doubt that Members of this Subcommittee on both sides of the aisle want to learn how we can improve the process.

Federal jobs allow veterans to continue the public service they began when they entered the military, and veterans preference in the Federal hiring process is an important aspect of how we as a Nation reward those who chose to serve. These policies are meant to ensure that veterans seeking Federal employment are not penalized for their time spent in military service, especially after being deployed overseas during wartime.

Veterans preference restores veterans to a favorable competitive position for government employment and acknowledges the larger obligation that we as a society owe to disabled veterans. Most im-

portantly, veterans preference hiring policies make good business sense, as we will hear from our witnesses today.

Our Nation invests significant resources into training and developing our servicemembers, and Federal agencies directly benefit from this training when they hire veteran employees. Veterans are trained in a wide variety of valuable skills and experiences during their time in the military.

To name just a few examples, the skills gained while leading others, making quick decisions, and developing strategy directly translate into management roles in the Federal government. And experience in fields like IT and cybersecurity help advance the missions of our Federal agencies by filling crucial skills gaps.

While veterans preference policies do not guarantee veterans a job, they provide useful tools in the application process for qualified candidates. I am pleased that we will be reviewing the program from the veteran's point of view as opposed to reviewing it from a managerial perspective as they do at the Oversight and Government Reform Committee.

I appreciate all of the witnesses being here today and look forward to the opportunity to ask questions and have the benefit of your answers.

Thank you. And I yield back, Mr. Chairman.

Mr. WENSTRUP. Thank you, Mr. Takano.

I now want to recognize our first panel of witnesses today. On our first panel, we have the Honorable Michael H. Michaud, Assistant Secretary of the Veterans' Employment and Training Service at the U.S. Department of Labor; Ms. Carin M. Otero, the Associate Deputy Assistant Secretary for HR Policy and Planning for the Office of Human Resources and Administration at the U.S. Department of Veterans Affairs; and Mr. Mark D. Reinhold, the Associate Director for Employee Services for the U.S. Office of Personnel Management.

Assistant Secretary Michaud, it is a pleasure to have you back with us today in this hearing room. And I appreciate, personally, the outreach that you took upon yourself since accepting your position. It is appreciated very much. So let's begin with you, and you have 5 minutes for your opening statement.

STATEMENT OF MICHAEL H. MICHAUD

Mr. MICHAUD. Thank you very much, Mr. Chairman. And good afternoon, Mr. Chairman, Ranking Member, and distinguished Members of Subcommittee. Thank you for the opportunity to participate in today's hearing.

I appreciate the opportunity to discuss the Department's performance with and responsibility to veterans preference in Federal government hiring. While the employment situation for veterans continue to improve with veterans' unemployment being lower than nonveterans' unemployment, DOL will not rest as long as any veteran needs assistance finding meaningful civilian employment.

The Department is committed to following veterans preference in our hiring. We have steadily increased the percentage of veterans in the DOL workforce from 20.6 percent in fiscal year 2013 to 21.4 percent in fiscal year 2015. In fiscal year 2015, one in three new hires at DOL was a veteran, of which 37.5 percent of those vet-

erans hired were veterans with a rated disability of at least 30 percent.

DOL's Veterans Employment Program Office provides leadership and direction for the Department to ensure DOL attracts, hires, and retains qualified veterans. In November 2009, President Obama issued Executive Order 13518, which created the Veterans Employment Initiative to enhance recruitment of and promote employment opportunities for veterans within the executive branch.

Executive Order 13518 also established the Council on Veterans Employment. The Council is still working to complete its fiscal year 2015 report, but has published data for fiscal year 2014, when 33.2 percent of the executive branch new hires were veterans, a 9.2 percent point increase over the fiscal year 2009 baseline of 24 percent. Veterans currently represent 30.8 percent of the Federal workforce as compared to 25.8 percent in fiscal year 2009.

Under the Veterans Employment Opportunities Act, or VEOA, VETS is responsible for investigating claims alleging a Federal agency failure to apply veterans preference in hiring or during a reduction in force. While VETS has investigative responsibility, OPM is responsible for interpreting and administering the statutes and regulations governed by veterans preference in Federal hiring and during a reduction in force.

When a complaint is filed, VETS field staff investigate if rights have been violated by a Federal agency during either a hiring process or a reduction in force. Upon reaching the determination, VETS notifies the agency and advises on action to be taken to comply with the VEOA. If the agency complies, the case is closed as either settled or granted based on agreement between the parties. The resolution depends on the violation that occurred and may include payments, back payments, or benefits.

If the agency fails to comply, the claimant is notified of his or her rights to appeal the case to the United States Merit System Protection Board, or the MSPB. Finally, if the MSPB issues a decision adverse to the claimant, the claimant may further appeal to the court of appeals for the Federal circuit.

If VETS determines that a VEOA violation has taken place or there is evidence of a violation, a copy of the complete case file, including the complaint information and supporting documentation, is forwarded to the United States Office of Special Counsel.

Of the 606 complaints received in fiscal year 2015 and the 34 cases that were carried over from fiscal year 2014, VETS closed 590 cases. On average, the cases were resolved in 23 days. Of the 590 veterans preference cases closed in fiscal year 2015, 32, or 5.4 percent, were found to have merit in fiscal year 2015.

Investigations were completed in 491 of the 590 cases. The remaining 99 cases were closed administratively, withdrawn by the claimant, or the claimant elected to proceed to the MSPB before the investigation concluded within the timeframe allowed by statute.

The Department looks forward to working with the Committee in this area. Veterans are some of our strongest and most capable employees in the public workforce, and we are committed to making sure that they have a place at the Department of Labor in their preference rights.

So, Mr. Chairman, Mr. Ranking Member, and Committee Members, this concludes my opening statement. I look forward to the opportunity to work with you, and I welcome your questions. Thank you very much. And I yield back the balance of my time.

[THE PREPARED STATEMENT OF MICHAEL H. MICHAUD APPEARS IN THE APPENDIX]

Mr. WENSTRUP. All right. Good job. Under the wire.

Thank you, sir.

Ms. Otero, you are now recognized for 5 minutes.

STATEMENT OF CARIN M. OTERO

Ms. OTERO. Good afternoon, Chairman Wenstrup, Ranking Member Takano, and Members of the Subcommittee. Thank you for your invitation to appear before the Subcommittee on veterans preference and the Department of Veterans Affairs' success in recruiting and hiring veterans.

I would like to highlight the Department's commitment to hiring veterans. We believe that affording qualified veterans a statutory preference in employment is not merely the obligation of a grateful Nation, it is also good government and good business. It gives VA an advantage in recruiting and retaining employees from a pool of the Nation's most highly motivated, disciplined, and experienced preference-eligible veterans.

VA is adamant about and consistent in ensuring the application of the existing Federal regulation, which requires the selection of all qualified preference-eligible veterans over other individuals when filling positions that are open to the general public. VA's internal hiring procedures are aligned with the Merit System Principles, of which the basis is to recruit qualified individuals from all segments of society and select and advance on merit after fair and open competition.

In addition to our hiring policies and procedures that address veterans preference, VA's Human Resources Oversight and Effectiveness Office evaluates compliance with veterans preference laws, regulations, and policies, conducting onsite evaluations of human resources offices throughout VA.

VA has focused on veterans hiring for many years. We track the employment of veterans by facility throughout VA. We have launched various programs and initiatives which have resulted in VA placing in the top tier of agencies employing veterans. As of February 29, 2016, more than 119,000, or just shy of 33 percent, of VA's 365,000 employees are veterans. More than 100,000 of the 33 percent are veterans preference eligibles, and 47,000, approximately 12 percent, are disabled veterans. VA proudly ranks first among nondefense agencies in hiring veterans.

VA regularly uses veteran-specific special hiring authorities, such as the Veterans Employment Opportunities Act, the veterans recruitment appointment, and 30 percent or more disabled veterans. We have also hired veterans using the Schedule A authority for people with disabilities.

In the first 5 months of fiscal year 2016, VA hired 8,705 veterans using a mixture of all of the above-mentioned authorities. The De-

partment has established a strategic target of 35 percent veterans for its employee population.

One of the challenges that we face is the rate at which veterans are leaving the Department. While recognized early on by the Office of Personnel Management as having one of the better retention rates in government, the cohort of veterans who joined the Department of Veterans Affairs after the Vietnam war is now eligible for retirement.

In contrast, younger veterans, similar to other U.S. workers their age, are frequently more mobile, changing jobs and employers more often than many older employees. On average, VA has lost about 1,300 veteran employees per month during this fiscal year through separations and retirements. Countering these losses, we have, on average, hired about 1,740 veterans per month during this fiscal year.

In 2011, in support of Executive Order 13518, Employment of Veterans in the Federal government, VA established the Veteran Employment Services Office, VESO, within the Office of Human Resources and Administration. VESO supports the Interagency Council on Veterans Employment created by the executive order by recruiting qualified veteran candidates for critical VA positions, managing retention initiatives, and reporting the veteran hiring and retention statistics for VA to the Council for inclusion in its annual report to the President.

VESO focuses on giving veterans the tools to find Federal jobs, making the transition to civilian employment seamless, and improving veteran engagement and satisfaction. Activities include personalized one-on-one services to support Federal veteran recruitment, support to retention efforts, support to veterans throughout a deployment life cycle, and providing Federal partners with services that support veterans recruitment.

In closing, every day at VA, we see the sacrifices which veterans have made for our Nation. It is our responsibility and privilege to support their return to civilian employment. We are committed to continue our robust and successful focus on veterans hiring in VA.

Chairman Wenstrup, thank you again for the opportunity to testify today. I am prepared to respond to any questions the Subcommittee may have.

[THE PREPARED STATEMENT OF CARIN M. OTERO APPEARS IN THE APPENDIX]

Mr. WENSTRUP. Well, thank you, Ms. Otero.

Mr. Reinhold, you are now recognized for 5 minutes.

STATEMENT OF MARK D. REINHOLD

Mr. REINHOLD. Chairman Wenstrup, Ranking Member Takano, and Members of the Subcommittee, thank you for your invitation to testify at today's hearing on veterans employment in the Federal government and OPM's role in the implementation of veterans preference in the Federal hiring process.

This administration has made it a priority to honor veterans for their service and sacrifice in defense of our Nation, including assisting them in reentering civilian life and finding employment. In November of 2009, President Obama issued an executive order lay-

ing out three objectives: that we honor our obligations to our Nation's veterans, that we use the talents of veterans to help the Federal government meet today's dynamic challenges, and that we create a model veterans employment program.

Veterans bring distinctive training, skills, leadership, and experiences that we need at every agency in the Federal government. The Federal government invests significant resources in the training and development of the brave men and women in our military. Efforts to hire transitioning military service personnel to positions in the Federal workforce helps maximize our return on this investment.

Veterans possess a wide variety of skills and experiences, as well as a dedication to public service, that can be of enormous benefit to the government as an employer and to the American people that these individuals will continue to serve. Not only is hiring veterans the right thing to do, it also makes good business sense.

Preference eligibility for veterans in Federal employment is defined in statute and applies to new appointments in both the competitive and excepted service. The technical application of veterans preference is defined in statute and regulation and varies depending on the ranking and selection method used by the employing agency to select candidates for Federal employment.

Additionally, OPM encourages agencies to make full use of the various hiring authorities that can facilitate veterans employment. This includes veterans recruitment appointments, which are an excepted authority that allows agencies to appoint an eligible veteran without competition. Agencies may also noncompetitively appoint any veteran with a 30 percent or more service-connected disability.

And though not specifically for veterans, the Schedule A authority for people with disabilities is an excepted authority that agencies can use to appoint eligible veterans who have a severe physical, psychological, or intellectual disability.

Finally, the Veterans Employment Opportunities Act allows veterans to apply to job announcements that are otherwise open only to current or former Federal employees who completed requirements for career or career conditional tenure.

These efforts have yielded good results since 2009. In fiscal year 2014, 33.2 percent of executive branch new hires were veterans, surpassing the fiscal year 2000 rate of 31 percent. Veterans currently represent 30.8 percent of the Federal workforce, as compared to 25.8 percent in fiscal year 2009.

The Federal government has protections in place in order to ensure veterans are properly accorded the preference to which they are entitled. OPM, through our Merit System Accountability and Compliance Office, conducts regular reviews of agency-delegated examining units across the government to ensure that veterans are receiving the preference they have earned in the Federal hiring process.

Executive branch recourse exists for a veteran or other preference eligible who believes that his or her rights under any law or regulation related to veterans preference have been violated, a disabled veteran who believes he or she has been discriminated against in employment because of his or her disability, and the in-

tentional failure by a government official to comply with veterans preference requirements.

Public outreach is key to the government's recruiting efforts. We teamed with our administration partners to create FedsHireVets.gov to serve as the principal source for Federal employment information to assist our veterans, transition servicemembers, their families, Federal HR professionals, and hiring managers. The purpose of the site is to provide consistent and accurate Federal employment information, useful training, and other resources to better inform the applicant, the employee, and the hiring agency.

Agencies are responsible for applying the law correctly so that preferences are not inappropriately withheld or granted. To support agencies in this effort, OPM recently launched the Hiring Excellence Campaign. Through this campaign, OPM is working directly with agency hiring managers and human resources staff to help them identify skills gaps and find and recruit the best talent to fill positions. This allows us to hear directly from hiring managers and supervisors, while also giving us the opportunity to have discussions with Federal agencies about the tools and flexibilities available to them, including those available for hiring veterans.

We have also launched a Hiring Toolkit on HR University, which provides guidance on various hiring authorities and flexibilities, information about assessment techniques, and how to leverage data to inform recruiting and outreach.

Since 2009, significant progress has been made to enhance employment opportunities for veterans in the Federal government, but we know that challenges remain and improvements can be made. As OPM works to meet our mission to recruit, retain, and honor a world class workforce, we will continue to focus on helping agencies bring in skilled and diverse employees with the best talent to serve the American people.

Thank you for the opportunity to participate in today's hearing, and I welcome any questions.

[THE PREPARED STATEMENT OF MARK D. REINHOLD APPEARS IN THE APPENDIX]

Mr. WENSTRUP. I thank you all for your remarks, and I will now yield myself 5 minutes for questions.

I am not sure who can answer this best of the three of you, but I am just curious, what percent of veterans that are applying for jobs that are not hired end up filing a complaint? Or even an estimate?

Mr. MICHAUD. I can follow-up, for the record with more information.

Mr. MICHAUD. When you look at fiscal year 2015, out of the 590 cases that were closed, 371 had no merit. Of those cases, 359 had to do with hiring issues. I am not sure exactly how that is. But we can get back to you, see if staff has a further breakdown.

If you look at the cases in 2015, only 5.4 percent, as I mentioned, had merit. In the previous year, only 2.3 percent had merit. So there is a huge percentage that have no merit.

Mr. WENSTRUP. So you see where I am going with this. I am just wondering if it is like an automatic process for people, that if they

are not hired they just immediately make a claim. So that is an interesting statistic too, that out of all those, only 5.4 percent had merit.

And from my understanding, and I think you touched on this, if someone knowingly disregarded the system, then a complaint should be filed. And so how do you prove that someone knowingly was adverse to the veteran?

Mr. MICHAUD. Once the case is closed, by the Department of Labor, then it would be referred to the Merit System Protection Board. I can just talk about the Department of Labor. If you look at the number of cases that were filed with us, there were six cases in fiscal year 2015. Out of the six, one case was found to have merit.

When I looked at the previous years with the low amount of merit, it led me to believe that the system is complex. It is very difficult to understand whether it is on the hiring managers' side or the veteran themselves as far as how the law applies to them. I read a couple of reports from the Merit System Protection Board, and they actually recommend that the statutes and regulations governing veterans preference should be consolidated and streamlined in one single body. Both reports, in August and November, recommended that recommendation.

Mr. WENSTRUP. Well, I guess I am still curious as to how you discover that somebody knowingly acted out of bounds on the rules and against the veteran, what is it that actually proves that. And maybe that is kind of something that needs to be better defined to show how they did that.

And then in the case of someone who knowingly did that, what action was taken on the manager that knowingly disregarded the system or knowingly ruled against the veteran when they should not have?

Mr. MICHAUD. Only cases with merit are referred to OSC for violations. In those cases, if they are not resolved, the claimant, if they are not satisfied, they can file with the Merit System Board. But I am not sure out of those cases how many are actually intentional. But we can get back to you for the record on that.

Mr. WENSTRUP. Yeah, I would just like to look at that further more on process, I guess, as much as anything else.

And another question I have is, during the process, are there any points awarded for anyone else, besides veterans, for something in their background or their status or organization or affiliation with something, or are there only additional points awarded to veterans through the hiring process? Are there other point systems?

Mr. REINHOLD. So I am happy to take that one. Generally speaking, when agencies apply an assessment to a pool of candidates, they often use a numerical score to rate and rank those candidates.

Veterans preference is the only provision in statute that provides a benefit to individuals of additional points. So for many veterans it is 5 points, and for disabled veterans with a 30 percent or more service-connected disability, it is 10 points.

Mr. WENSTRUP. So those points are in at the beginning.

Real quickly, and maybe we can take this for the record, Mr. Secretary, is there any type of training or recommendations you may have that we can include during the TAP program to enhance vet-

erans' preparation for applying with the VA or any other Federal government agency?

Mr. MICHAUD. Thank you very much.

Under the new curriculum, it actually talks about veterans preference. And what we have done for that new curriculum is actually we took the OPM's site as far as it relates to veterans preference. Plus OPM actually teaches the trainers. I believe they have an hour worth of training as far as it relates to the veterans preference piece under the TAP program. And the curriculum was signed off on by OPM.

Mr. WENSTRUP. Thank you, sir.

Ms. OTERO. And, sir, if I could just ask. I was integrally involved during the redesign of the Transition Assistance Program, the TAP program, and that was also in response to the VOW Act, the career readiness standards and a checklist to help the veteran be career ready, the transitioning servicemember to be career ready and to be their own advocate to have knowledge of what hiring authorities that they are eligible for, so that that gives them an extra punch toward their career readiness as they transition.

Mr. WENSTRUP. Well, thank you.

I now recognize the Ranking Member for any questions he may have.

Mr. TAKANO. Thank you, Mr. Chairman.

Mr. Secretary, I want to ask you about retention of veterans once they are hired. We have talked about the process, about getting the veterans preference, and recourses for veterans that feel that they might not have been treated fairly, but I want to talk about what happens in the agencies. What are agencies doing to retain them and what do those statistics look like?

Mr. MICHAUD. Well, thank you very much, Mr. Ranking Member. I can provide you and the Committee for fiscal year 2013 and 2014 the retention rate for veterans versus nonveterans in all the agencies. I will make sure we provide that to you for the Committee's reference.

Mr. MICHAUD. Looking quickly at the list, the agency with the lowest retention rate had 61.54 percent for veterans, and the highest agency had a 88.41 percent retention rate. So it does vary depending on the agency, but we will provide the Committee with this information.

There is actually a Council on Veterans Employment meeting on May 4. I had a Subcommittee meeting last week. And part of that discussion is to find out what agencies are doing as far as retention, trying to get the best practices for each agency, so we can get that out to all the agencies.

Mr. TAKANO. Okay. Do these retention rate statistics also indicate whether or not they may be intentionally letting these veterans go before the end of their probationary period?

I know that there were these, when I was on the community college board, there was always this part of the year where new faculty, for example, were going to run up against that moment by which it would become very, very difficult, under their tenure, to have them removed. Is there a similar sort of probationary period letter? There has to be some statistic on this as well.

Mr. MICHAUD. As far as why they might leave, it could be for various reasons. They actually could receive a promotion somewhere else that will better for the veteran, or they could leave for another agency. So we do not delve into the reasons why they left, but I do have the number as far as retention. They could have left for various reasons.

I have heard the comment, the anecdotal comment, that you just mentioned, that they just keep them there until they can say, "Well, we hired a veteran," then they let them go. That would be a concern, but that is only anecdotal at this time, and we will definitely be keeping a very close eye on that as well.

Mr. TAKANO. Do we have numbers on that? Do we know? I mean, we should be able to know, people hired under the preference, we should know how many of them are leaving before—

Mr. MICHAUD. Oh, yes. We have numbers on the retention rate and how many are leaving. Not only in the veterans population, but also in the nonveteran population. So we do have that, those numbers, by agencies, and we will provide the Committee with that list.

Mr. TAKANO. Okay.

Mr. MICHAUD. And the 2015 numbers, hopefully, will be out soon, so you will be able to have 2013, 2014, and 2015.

Mr. TAKANO. Well, I certainly would appreciate your office's cooperation in helping us understand what is going on and ascertain whether there are any patterns.

Mr. Chairman, I yield back.

Mr. WENSTRUP. Mr. Costello, you are now recognized for 5 minutes.

Mr. COSTELLO. Thank you Mr. Chairman.

Mr. Secretary, I wanted to ask about the following. In talking about the training provided to servicemembers during TAP about veterans preference laws, do you feel that there needs to be any more of an emphasis or further emphasis on the benefits that veterans preference laws provide to servicemembers, specifically so that they understand what preferences they may be entitled to during the Federal hiring process?

I will ask a second question so that you can just sort of take them both at the same time. Do you have any recommendations to improve existing veterans preference laws, and if so, what might they be?

Mr. MICHAUD. Thank you very much.

Veterans preference is taught in the TAP class. The facilitators are trained on the veterans preference piece. That portion of the TAP class, if you look at the curriculum book, is actually what was signed off by OPM, since OPM administers the veterans preference law and regulations.

As far as what we need to improve, if you look at the role that the Department of Labor plays, we deal with the complaints, if someone feels that they have been violated as far as veterans preference. And as I mentioned earlier, the fact that only 5.4 percent in fiscal year 2015 and only 2.3 percent in fiscal year 2014 were found to have merit, that leads me to believe, consistent with the Merit System Protection Board, that the statutes and regulations governing veterans preference should be consolidated, streamlined,

so it will be easier to administer it and easier to understand the process.

The Department of Labor track of the cases that we currently have. But once they leave us, getting back to the Chairman's question, as far as what happens after that, it goes to the Merit System Protection Board, and then they deal with that. So they would have, hopefully, a more comprehensive reason why they rule in a certain way. But that is something that I can't answer because that is outside of the Department of Labor.

Mr. COSTELLO. As a follow-up, you mentioned the word "feedback." Amongst VA employees who have taken the mandatory training for HR professionals and hiring managers on veterans preference, what type of feedback have you received from employees about that training, if any?

Mr. MICHAUD. I would have to let VA talk about the VA piece. But what we do at the Department of Labor, we actually have a military veterans alliance, a veterans affinity group, that meets regularly and gives input to the senior leadership at the Department of Labor on how we better can recruit and retain employees at the Department of Labor. That is why I am very pleased, when you look at the overall Department, particularly vets, 80 percent of our employees in VETS are veterans.

As far as the VA, what they do, I would leave that for the VA to be able to speak.

Mr. COSTELLO. Ms. Otero.

Ms. OTERO. Good afternoon, sir.

As far as the training for veterans preference and for HR specialists and hiring managers, OPM developed a curriculum, and it is available on HR University, and we find that it is a very robust training. And we also have our VESO office, our Veterans Employment Service Office, that is able to help our hiring managers to navigate how to hire, and if they want to look for a 30 percent disabled veteran.

So we are finding our hiring managers are advocating and they want to hire a veteran. We feel that the robustness of the training is there, that there is strength in the availability through our learning management system, through HR University, and that we do have the added support to provide technical assistance. Any of our HR specialists are able to help hiring managers navigate.

Mr. COSTELLO. And do you have within the VA any program or pipeline in order to recruit and retain veterans at a higher rate within the VA? I mean, could you describe that a little bit?

Ms. OTERO. I am not sure I understand what you mean about recruit and retain at a higher rate.

Mr. COSTELLO. Veterans employees that you have within the VA, can you describe what the VA does to recruit and retain employees at the VA who are veterans?

Ms. OTERO. Okay.

Mr. COSTELLO. I apologize.

Ms. OTERO. We recognize that some of our veterans and transitioning servicemembers have some challenges with the cultural adaptation from leaving military service to coming to sometimes a desk job. So we offer coaching and very strong, robust mentoring programs, we try to get them to feel connection to their job.

And a lot of times it is through mentoring and having another VA employee who is also a veteran, help guide them toward career preparedness to be ready for a promotion when it becomes available, to get the training needed to build their technical skills.

Mr. COSTELLO. Thank you.

Mr. WENSTRUP. Miss Rice, you are now recognized for 5 minutes.

Miss RICE. Thank you, Mr. Chairman.

I would like to speak with Secretary Michaud.

First, I want to welcome you here, and thank you for your commitment to veterans. And you actually showed that by traveling all the way out to my district to visit the American Job Center in Hempstead in February, and everyone was very grateful for your visit.

But one of the things that we constantly hear, whether it is in that kind of a forum where we were or in hearings like this, is outreach and how is it that we connect servicemembers to this benefit that they may not be aware of. So what is the outreach plan? And is there any way to quantify how many veterans are not aware of this, and how we can better reach out to them?

Mr. MICHAUD. As far as outreach, this is taught at the TAP class when every soldier gets ready to leave the military. There is a portion of that that talks about veterans preference that is consistent with what OPM has approved.

One of the areas, as far as outreach, we are trying to make it easier for soldiers or men and women who are in the TAP class, but once they leave, to have a refresher course. The Department of Labor TAP curriculum is going to be on ebook Reader and it is going to be on Kindle, so it will be available 24/7. So if someone needs a refresher course, particularly as it relates to veterans preference, then they would be able to take that refresher course.

When we do outreach, we talk about encouraging businesses to hire vets. And that is where a lot of our outreach has been in the private sector, collaborating with the chamber of commerce and the business community, talking about the benefits of hiring a veteran, and why they should hire a veteran and actually help them find veterans. That has been our primary focus on outreach.

As far as veterans preference, each agency has a goal, that OPM has given guidance on, and I will let OPM talk about that. But we in the Department of Labor with the affinity group really are focused on how can we better recruit, how can we retain the veterans that are in the Department. And we have actually done a phenomenal job in the Department, and we will continue to encourage our HR folks to hire veterans. But as far as overall recruitment, that is more of an OPM question.

Miss RICE. I think one of the earlier questions asked you about how many people who were not hired, veterans who were not hired, who would appeal.

In your study of this, what are the most common causes of a Federal agency's failure to comply with the veterans preference provision in hiring? I mean, you said that you found that some were not for cause. But what were the reasons? Was it a lack of training? Was it intentional? What was the preference for someone else? I mean, what was the reason?

Mr. MICHAUD. I will have to refer to staff if they know more in detail. But when you look at the broader issues, for instance in 2015 the number of cases that were found to have no merit, out of the 371, 359 were because of hiring. As far as what is in that hiring, I would have to get back to you for the record.

Miss RICE. Well, but don't you think that—I mean, to me, that is very relevant information, because if you are talking about training veterans and training employers and the hiring is not—I mean, I just think that the reason for why someone, a veteran, is not hired in this preference program would be relevant.

Mr. MICHAUD. Yeah, absolutely. When you look at that only 5.4 percent have merit, part of the bulk of the reasoning is actually the lack of understanding of the law. It is a very complex law. It is a law where it is spread out through all of Title 5. And that complexity is the reason why a lot of these cases are found to not have merit.

As far as the ones that do have merit and they move forward, I am not sure exactly the final outcome of those. But for the investigations that we do, it is they have no merit, and that is primarily because of the complexity of the law that is out there. And that has been consistent with what the Merit System Protection Board has stated in their last report.

Miss RICE. It is complexity of the law on the part of the employer understanding it?

Mr. MICHAUD. On the part of the veteran and/or employer. Some veterans think that because of veterans preference, that they will automatically be hired in the Federal services. That is not the case.

When you look at veterans preference, you can have two very well qualified candidates, and if one is a veteran and one is not, then the veteran should get hired. But you could have several candidates that are very well qualified and they very well all could be veterans and one gets hired but four or five others do not get hired, you could have cases for those other veterans.

Miss RICE. So I don't know how many of those top three choices that they can choose from are all veterans or if it is a civilian and a veteran. And I think that if more of these appeals are found to be—the smaller percentage of them have merit, then we have to figure out why, what the issue is with the majority of those cases not having merit.

Mr. MICHAUD. Yeah. The issue with the investigations that we do at the Department of Labor is because of the complexity of the law and the lack of understanding of the law. Just because a case is filed doesn't mean that the HR manager violated the law. It could be that the veteran was not eligible in the first place. So that complexity of the law and complication is what I believe is driving the huge amount of nonmeritorious cases that are found.

Miss RICE. Understood. Thank you.

I yield back.

Mr. MICHAUD. Thank you.

Miss RICE. Thank you, Mr. Chairman.

Mr. WENSTRUP. Mr. Zeldin, you are now recognized for 5 minutes.

Mr. ZELDIN. Thank you, Mr. Chairman.

Miss Rice, do you need any additional time?

Miss RICE. I am sorry?

Mr. ZELDIN. Miss Rice, would you like me to yield to you any additional time?

Miss RICE. I would love it. I didn't even get to—

Mr. ZELDIN. I wouldn't mind yielding a minute and a half to Miss Rice. Proceed.

Miss RICE. That is very sweet. Thank you. Thank you, Mr. ZELDIN.

Mr. Michaud, I don't know if you wanted some of the heat to be off of you, not that I was putting any heat on you, but you were talking about the agency goals for hiring.

If you could just talk about that very briefly, Mr. Reinhold, from OPM's position. Can you just explain that? In a minute and a half.

Mr. REINHOLD. Sure. I would be happy to.

So it is actually a performance model that was created by the Veterans Employment Council in collaboration with OPM and other agencies, and it is designed to provide a benchmark, if you will, so that agencies have something to compare themselves to, to see how they are doing when it comes to hiring veterans and retaining veterans.

It is a performance model that is comprised of four components, which include percentage of your new hires who are veterans, percentage of new hires who are disabled veterans, veterans as a percentage of your total workforce, and retention. And all of those factors are combined. Agencies are compared to similar size agencies, so they are compared to a cohort group. There is an algorithm, if you will, that essentially comes up with a rating for an agency ranging from "exemplary" down to "needs improvement."

There are not targets, but rather it is really meant to be informative and instructive to agencies so that they can see how they are doing, and they can identify areas where they need to improve.

Miss RICE. What agency, in your understanding, that you are aware of, has the worst performance?

Mr. REINHOLD. I don't have that information, but to my knowledge, the ratings of "exemplary" through "needs improvement" are documented, and that is something we would be happy to follow-up on.

Miss RICE. That would be great. Thank you very much.

Thank you, Mr. Zeldin.

Mr. ZELDIN. Thank you again, Mr. Chairman.

Ms. Otero, are you familiar with the statement made by Dr. Gonzalo Solis Sanchez of the VA's Caribbean Healthcare System that was quite controversial?

Ms. OTERO. I did become aware of it 2 days ago.

Mr. ZELDIN. Okay. And have you had an opportunity to look into it at all internally?

Ms. OTERO. I must confess, I just heard about the matter. I do understand that the article seemed to extrapolate some comments, and I haven't seen any official transcript of any deposition. But I just want to state emphatically that Veterans Affairs does not tolerate any bias, and there is no room for that type of behavior.

And I have inquired with the Veterans Health Administration, and the doctor has been retrained. And my understanding is that some of his statements were taken out of context because he was

discussing a Title 38, a pure Title 38 position that was a medical position and where veterans preference is only considered if there are absolute equally qualified applicants, and that the veterans preference would then be applied as a positive factor.

But yes, sir, I want to emphasize that there is no tolerance for bias or that type of statement.

Mr. ZELDIN. Okay. So just two things then on that. One, with regards to the words being taken out of context, what was reported was a transcript from a July 2014 deposition in an EEOC complaint where in the exchange with the doctor, when asked whether or not the VA provides a hiring preference, his response was, "Not really, and thank God." But it is—this exchange is documented. So no one is taking anything out of context. It is actually word for word.

So what is the retraining that would take place in a case like this?

Ms. OTERO. As a senior executive, all senior executives, when you are onboarded, you are given onboarding training, and you are told about ethics, about HR hiring, about policies. And so it was reiterated to the doctor what the veterans preference rules are, what the authorities are, and explaining that this is our commitment to—

Mr. ZELDIN. Do you know when that retraining took place?

Ms. OTERO. I don't know exactly because I just found out about the article 2 days ago, and I inquired. I just found out this morning that there was retraining. I don't know the date, but I will take it for the record.

Mr. ZELDIN. Okay. And would you be able to submit that to the Committee as to when the retraining took place?

Ms. OTERO. Yes, sir.

Mr. ZELDIN. Okay. And is anything usually put in writing as far as this retraining or counseling?

Ms. OTERO. I couldn't speak to that because if it is about any counseling or any discussion with that person's supervisor, I would not have knowledge of it, and I don't have—

Mr. ZELDIN. Okay. So you can submit to the Committee when the retraining took place?

Ms. OTERO. Yes.

Mr. ZELDIN. If you find out if anything was done in writing, would you be able to let us know that as well?

Ms. OTERO. Yes, sir.

Mr. ZELDIN. Thank you.

Ms. OTERO. I will take that for the record.

Mr. ZELDIN. I yield back.

Mr. WENSTRUP. Well, if there are no further questions, the panel is now excused.

Mr. WENSTRUP. And I now invite our second and final panel to the table.

Mr. WENSTRUP. With us today, we have Mr. Aleks Morosky, the Deputy Director of the National Legislative Service for the Veterans of Foreign Wars of the United States; Mr. Daniel P. Smith, the Assistant Director of the Veterans Employment & Education Division for the American Legion; and Mr. Rick Weidman, the Executive Director of Government Affairs for the Vietnam Veterans of America.

I want to thank you all for being here today, for your service to our Nation in uniform, and for your hard work and advocacy on behalf of our Nation's veterans.

In the effort of time, we are going to submit all of your testimonies for the record so that we can go directly to questions to you. And I appreciate your willingness on that part.

[THE PREPARED STATEMENTS OF ALEKS MOROSKY, DANIEL P SMITH, AND RICK WEIDMAN APPEARS IN THE APPENDIX]

Mr. WENSTRUP. And with that, I will allow myself 5 minutes for questions.

Mr. Weidman, can you explain why removing the, quote/unquote, "knowingly" portion in the VEOA is so important?

Mr. WEIDMAN. Mr. Chairman, the Veterans Employment Opportunities Act actually started in this room, even though it was considered by another Committee. And it was action of Mike Brinck, when he and I both had hair, in 1996, who brought in Mr. Mica's, John Mica's staff, who was head of that Civil Service Subcommittee at that time. And Mr. Mica was a great champion throughout the two Congresses that we had to go through to get here.

When it left Mr. Mica's Subcommittee and left the Full Committee on the Workforce to go to the other side of the Hill, that word "knowingly" was not there. And it got inserted on the Senate side, specifically as a poison pill, and it has worked because virtually no managers have ever been disciplined, much less fired, for violating veterans preference, no matter how egregious the violation is.

And it is OPM, not specifically the individuals who are here, but OPM in general and HR shops across the government have tried to confuse veterans preference with affirmative action, two totally different animals. Veterans preference is based on a 19th century concept of the bounty, which is reward for sacrifices made and service rendered, and that is the basis of it. That is why California, when their State Supreme Court threw out affirmative action, upheld veterans preference because it was a different philosophical base.

Incidentally, the other thing that is different about veterans is we are black, we are brown, we are white, we are Native American, we are Asian and Pacific Islanders, men, women, and increasingly women. So you can satisfy every affirmative action guideline in the book and only hire vets, and in many cases only hire disabled vets.

Mr. WEIDMAN. But you are not going to get any enforcement of that across the government until you take that word "knowingly" out. If somebody is a manager and doesn't understand veterans preference, then they ought to be immediately relieved and proceedings started to dismiss them for total incompetence.

Mr. WENSTRUP. I appreciate that. And on the other point, I feel that being a veteran is a qualification in and of itself that lends you to greater expertise in working in the VA. That is maybe just my personal opinion, but I find it to be true.

Mr. Morosky, in your written statement you commented that veterans preference laws currently disadvantage reservists and guardsmen that have not served 180 consecutive days on Active Duty. This Subcommittee has been working with the Health Sub-

committee to fix this and change it to 180 cumulative days of Active-Duty service to be eligible for veterans preference. Could you inform us why you believe this change is necessary?

Mr. MOROSKY. Thank you, Mr. Chairman.

Particularly in the post-9/11 era, and for Guard and Reservists in particular, they get activated for short periods of time, but several times throughout their careers. And so in many cases, although they are not necessarily able to accumulate 180 days consecutively, put together they will have far more than 180 days. And we feel as though that service should also be recognized for the purposes of veterans preference.

A new topic that we hadn't been aware of has just come to our attention where you have veterans in some cases who are going to school full-time—student veterans who are being activated just to go fly drones on the weekends. That is good service. I mean, that should count towards veterans preference, Mr. Chairman.

Mr. WENSTRUP. Thank you very much.

Mr. Takano, you are now recognized.

Mr. TAKANO. Thank you, Mr. Chairman.

Mr. Weidman, you state in your written testimony the Disabled Veteran Affirmative Action Program, or DVAAP, should be scrapped, that DVAAP plans for Federal entities are never effectively checked for the actual result against the stated goals at the end of each year. This thing serves no purpose except to be a fig leaf for agencies doing nothing or little to hire disabled veterans and other veterans preference eligible. Furthermore, veterans are not another affirmative action group, as you said in your oral testimony.

My question to you is, why do you recommend scrapping the program rather than straighten it out? Don't these vets need this initiative to get jobs?

Mr. WEIDMAN. Implicit in that, Congressman, is that veterans are, in fact, an affirmative action group, and that if you get 30 percent of the new hires are veterans, then that is okay, you have met that quota.

But that is not it. Veterans preference accrues as an individual right to the man or woman who takes a step forward pledging life and limb to defend the Constitution, particularly during wartime, and that is when they get veterans preference.

So it shouldn't be included in affirmative action, and that is where it was stuck for years, and it is still stuck there. It should be with the deputy of the agency. The chief operating officer ought to be responsible to make sure that the agency is looking first to qualified veterans and disabled veterans, sir.

Mr. TAKANO. So your quarrel is that it is classified as an affirmative action program?

Mr. WEIDMAN. It is that, and nobody checks. OMB has for years put the same—they change the number by 1 or something. And they have never come close to actually meeting it, but they submit the same plan on their Web site every year. Nobody comes back and says: Wait a minute, you didn't do anything towards recruiting disabled vets.

Mr. TAKANO. All right. Thank you.

Have votes been called?

Mr. WENSTRUP. They have.

Mr. TAKANO. What are your members' main complaints with the veterans preference process, real quickly?

Mr. MOROSKY. The main complaint that we hear is people apply for a job, they don't get the job, and they feel that a nonveteran was necessarily hired ahead of them. They don't understand that you have to also be qualified and meet the basic job qualifications in the first place.

It is sort of a myth that veterans preference is a guarantee of employment in any job in the Federal government that you apply for. And so I think that could be helped with training, better training, at the TAP program. The TAP Web site could probably be a little bit better. Instead of being essentially just a narrative of the highly technical statutory language, maybe do a myth/fact, frequently asked questions, that sort of thing.

But the main complaint we get is that people are upset because they didn't get hired, but they don't necessarily understand the system either.

Mr. TAKANO. Okay. I think that kind of answered my other question.

Quickly, anything to add from either one of you?

Mr. SMITH. Yes. Thank you for the question.

The main thing is it is subjective. There is no way to know if veterans preference is actually being followed. You have an HR manager or a hiring official inside of a closed door. They have two applicants, one is a civilian, one is a veteran. There is no way of knowing if they are using veteran preference.

I don't have a solution for that and the American Legion doesn't have a solution for that. Hopefully, this Committee could look into that. But ultimately there is no way of knowing if veterans preference is working, but when veterans preference is used, it works. I will leave it at that.

Mr. TAKANO. All right.

Mr. Weidman, anything to add.

Mr. WEIDMAN. The proof is in the pudding, Congressman. What underpins all of this, unfortunately racism and sexism are alive and not well within our society, but so is vetism, and it is every bit as ugly as racism or sexism. And people don't like us. And it all started during Vietnam, and it became part of the corporate culture of the Federal bureaucracy, and it is passed on. They do things, they are still doing things like, quote/unquote, Outstanding Scholar Program in order to get around veterans preference.

When I was in school a million years ago, when I rode my horse up to Colgate University, 3.5 meant you were way up there. The median grade point average of my class was 2.7, and that was reflective of colleges around the country. And what happened in the late 1960s and 1970s was grade inflation, 3.5 now is no big deal at a lot of institutions.

And so it is a way to circle around veterans preference. Like I say, you can satisfy every affirmative action guideline in the world and hire only vets.

Mr. TAKANO. Thank you, Mr. Chairman. I yield back.

Mr. WENSTRUP. Thank you.

Mr. Costello, do you have any questions at this time.

Mr. COSTELLO. I do.

But, Mr. Smith, if you could detail for the record—we don't want to miss votes—if you could detail your suggestion as to how you would streamline the veterans preference rights, any violation or allegation of violation, as well as why you feel that it may be necessary to streamline. I think that is an important question that I would like to get feedback on.

Mr. COSTELLO. I will yield back.

Mr. WENSTRUP. Miss Rice, you are recognized.

Miss RICE. Thank you, Mr. Chairman.

My question is, it is bothersome to me that a lot of veterans apply for positions because most of them are offered by either the VA, DoD, or Homeland Security. And the fact that they are not getting jobs there because of a lack of qualifications or misunderstanding of the law is bothersome enough.

But I would like to just put it out to everyone for us to figure out a way to encourage other agencies within the Federal government to be as aggressive as the VA, DoD, and Homeland Security are, and actually pass that on to our veterans to understand that they don't have just these three agencies to choose from.

Thank you, Mr. Chairman.

Mr. WENSTRUP. One of the things I am taking away from this is that we don't really have a definitive system that we are working with on this, that we don't have a defined set of rules that we can follow.

I agree with you, Mr. Weidman, on the "knowingly" portion. It certainly changes things. One of the things I was trying to get to is, what are the criteria and how do you prove knowingly. And so we should have a system in place, and that is something that we need to work on.

So I want to thank you all for being here today and for taking the time to discuss these issues and for your testimony. It is valuable to us.

I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and include extraneous material. Without objection, so ordered.

Mr. WENSTRUP. And this hearing is now adjourned. Thank you.

[Whereupon, at 3:37 p.m., the Subcommittee was adjourned.]

A P P E N D I X

Prepared Statement of Michael H. Michaud

Introduction

Good afternoon, Chairman Wenstrup, Ranking Member Takano, and distinguished Members of the Subcommittee. Thank you for the opportunity to participate in today's hearing. As Assistant Secretary for the Veterans' Employment and Training Service (VETS) at the Department of Labor (DOL or Department), I appreciate the opportunity to discuss the Department's performance with and responsibility to veterans' preference in federal government hiring.

It is also my personal privilege to return to this room once more, now as a member of the Executive Branch. I have proud memories of the great work done by the Committee while I was a member - or should I say "in spite of my having been a member." All kidding aside, the House Veterans Affairs Committee has a sacred duty, so eloquently put by Abraham Lincoln, "to care for him who shall have borne the battle and for his widow, and his orphan." I am pleased to report that I found the spirit of that commitment alive and well at the Department of Labor upon my arrival there five months ago.

While the employment situation for veterans continues to improve, and last month marked 23 of 24 months with veterans' unemployment being lower than non-veteran unemployment, DOL will not rest as long as any veteran needs assistance finding meaningful civilian employment. A great place for our veterans to find such employment is through continued public service as a Federal employee, as a third of all new Federal hires last year have learned for themselves.

Employment Situation of Veterans - 2015 BLS Report

Every March, DOL's Bureau of Labor Statistics (BLS) releases an in-depth report on the employment situation of veterans. In 2015, 21.2 million men and women were veterans. Veterans are more likely to be men (only 9% are women) and older than nonveterans. In part, this reflects the characteristics of veterans who served during World War II, the Korean War, and the Vietnam era. Veterans who served during these wartime periods accounted for 42% (8.9 million) of the total veteran population in 2015. One-third of veterans (7.0 million) served during the Gulf War-era I (August 1990 to August 2001) or Gulf War-era II (September 2001 forward). Another quarter (5.3 million) served outside the designated wartime periods.

Regardless of their period of service, many veterans with a service-connected disability worked, or are working, in the public sector. In August 2015, 36% of employed veterans with a disability worked in Federal, state, or local government, compared with 20% of veterans with no disability and 13% of nonveterans. Among the employed, 25% of veterans with a disability worked for the Federal government, compared with 7% of veterans with no disability and 2% of nonveterans.

A higher proportion of employed Gulf War-era II veterans worked in the public sector in 2015 than employed nonveterans-26% and 14%, respectively. Among the employed, 14% of Gulf War-era II veterans worked for the Federal government, compared with 2% of nonveterans.

Veterans Preference at the Department of Labor

The Department is committed to following veterans' preference in our hiring. As Secretary Perez has said, we are not just an organization that promotes veterans' employment. We practice what we preach. We have steadily increased the percentage of veterans in the DOL workforce from 20.6% in Fiscal Year (FY) 2013 to 21.4% in FY 2015. In FY 2015, one in three new hires at DOL was a veteran, and one in six of all new hires was a veteran with a rated disability of at least 30%. And the vast majority of the staff at VETS are veterans.

DOL's Veterans Employment Program Office (VEPO) within the Office of Diversity and Inclusion provides leadership and direction for the Department's Veterans Employment Program to ensure DOL attracts, hires, and retains qualified veterans who have served and sacrificed in defense of our country. In addition, the VEPO provides advisory services, outreach, training, career development and promotional opportunities in support of the government-wide veterans hiring initiative, the Department of Labor's mission, our partners, our employees, our customers, and the veteran community.

The increased hiring of veterans within DOL allows the Department to capitalize on their unique and diverse backgrounds, and to benefit from the leadership and technical skills they learned or enhanced while serving on active duty. Our DOL workforce is strengthened through our increased employment of veterans, who understand the critical importance of education and training as the basis for success in accomplishing tasks on a personal as well as on a national level.

DOL REPRESENTATION RATES

At the end of FY 2015, the Department had a total workforce of 15,937, of which 3,419 (21.4%) were veterans.

In FY 2015, DOL employed a greater percentage of disabled veterans than in FY 2014. Specifically, in FY 2015, DOL's workforce included 1,605 (10.0%) veterans with disabilities compared to 1,503 (9.4%) in FY 2014.

In FY 2015, DOL employed a greater percentage of veterans with a rated disability of at least 30% than in FY 2014. In FY 2015, the DOL workforce included 1,109 (7.0%) of these veterans compared to FY 2014, when the DOL workforce included 1,017 (6.4%).

DOL HIRING RATES

Of DOL's FY 2015 veteran hires (440), 236 (53.6%) were veterans with disabilities. The number of disabled veteran hires increased nearly 32% compared to FY 2014, when 179 of our veteran hires were veterans with disabilities. Significantly, 165 (37.5%) of our FY 2015 veteran hires were veterans with a rated disability of at least 30%. This represented an 18.7% increase over the previous year, when 139 of our veteran hires were veterans with a rated disability of at least 30%.

Veterans' Employment Initiative

In November 2009, President Obama issued Executive Order 13518, which created the Veterans Employment Initiative to enhance recruitment of and promote employment opportunities for veterans within the Executive Branch, consistent with merit system principles and veterans' preferences prescribed by law. Executive Order 13518 also established the Council on Veterans Employment (Council). We are proud that the Secretary of Labor co-chairs that Council with the Secretary of the Department of Veterans Affairs (VA). The Director of the Office of Personnel Management (OPM) serves as vice-chair of the Council.

The Council is still working to complete its FY 2015 report, but has published data for FY 2014 when "33.2 percent of Executive Branch new hires were veterans, surpassing the FY 2013 rate of 31 percent, a 9.2 percentage point increase over the FY 2009 baseline of 24.0 percent. Veterans currently represent 30.8 percent of the Federal workforce, as compared to 25.8 percent in FY 2009."

Secretary Perez is committed to fairly executing veterans' preference not only at DOL, but also across the Federal government. Under his co-leadership with VA and OPM, in 2014, the Council published its Strategic Plan for Government-wide Veterans Recruitment and Employment. The plan covers FY 2014 to FY 2017 and emphasizes the hiring and retention of veterans.

The Role of VETS in Veterans' Preference in Federal Hiring

Under the Veterans' Employment Opportunities Act (VEOA), 5 U.S.C. §§ 3330a-3330c, VETS is responsible for investigating claims alleging a Federal agency's failure to apply veterans' preference in hiring or during a reduction-in-force, as well as claims from veterans alleging a lack of access to a Federal agency's covered employment opportunities. While VETS has investigative responsibilities, it is important to note that OPM is responsible for interpreting and administering the statutes and regulations governing veterans' preference in Federal hiring and during reductions-in-force.

Under 5 U.S.C. §§ 2108 and 3304(f), as added by the VEOA, preference-eligible spouses and those persons with "derived" preference (e.g., spouses of disabled vet-

erans), as well as veterans who have been separated from the Armed Forces under honorable conditions after three years or more of active military service, are allowed to apply for certain Federal merit promotion opportunities for which an agency accepts applications from individuals outside its own workforce. Under 5 U.S.C. § 3330a, VEOA also provides that preference-eligibles who allege their rights have been violated under any statute or regulation relating to Veterans' Preference may file a claim with VETS.

When a complaint is filed, VETS field staff investigate if rights have been violated by a Federal agency during either a hiring process or a reduction-in-force. Upon reaching a determination, VETS notifies the agency of the determination and advises on actions to be taken to comply with the VEOA.

If the agency complies, the case is closed as either settled or granted, based on agreement between the parties. The resolution depends on the violation that occurred and may include payment of back wages and benefits.

If the agency fails to comply, VETS advises the claimant of VETS' inability to resolve the issue and closes the investigation case file. In those circumstances, the claimant is notified of his or her right to appeal the case to the United States Merit Systems Protection Board (MSPB) against the federal agency determined to have violated his or her VEOA rights. Finally, if the MSPB issues a decision adverse to the claimant, the claimant may further appeal to the Court of Appeals for the Federal Circuit.

If VETS determines that a VEOA violation has taken place, or there is evidence of a violation, a copy of the complete case file, including the complaint information and supporting documentation, is forwarded to the United States Office of Special Counsel (OSC), after the case is closed, as a potential prohibited personnel practice (PPP) case for review under a Memorandum of Understanding between OSC and VETS. OSC's role is to ascertain whether a PPP has taken place pursuant to 5 U.S.C. § 2302(b)(11), which provides that a Federal employee who has authority over personnel decisions may not:

(a) knowingly take, recommend, or approve any personnel action if the taking of such action would violate a veterans' preference requirement; or

(b) knowingly fail to take, recommend, or approve any personnel action if the failure to take such action would violate a veterans' preference requirement.

OSC's review of the VEOA complaint does not affect VETS' investigation. OSC's review for PPPs is a separate matter, and OSC's review occurs after VETS' investigation and attempt to settle a case. Further, OSC's review has no impact on the claimant's right to appeal to the MSPB or to the Federal Circuit Court. Instead, OSC reviews cases to determine if PPPs took place that warrant disciplinary action against the agency or its responsible personnel.

VETS maintains an interactive Veterans' Preference Advisor that provides information and advice in an electronic format on the roles and responsibilities of both employers and employees regarding Veterans' Preference issues. In particular, the Advisor helps veterans determine the types of preferences and benefits to which they are entitled, and if they determine they may have been denied their Veterans' Preference rights, the Advisor explains the process for filing a complaint, and provides an electronic capability to file a complaint form. The Advisor can be found on the Department's "elaws" website at <http://www.dol.gov/elaws/vetspref.htm>. VETS also provides its investigators with a "Veterans' Preference Operations Manual," which, among other things, provides uniform guidance for processing complaints brought by preference-eligible veterans who allege a denial of their rights under the provisions of the VEOA.

Tables 1 and 2 below display the total number of Veterans' Preference cases investigated by VETS and associated outcomes, during FY 2015. Of the 606 complaints received in FY 2015, and the 34 cases carried over from FY 2014, VETS closed 590 cases. On average, cases were resolved in 23 days.

Of the 590 Veterans' Preference cases closed in FY 2015, 32 (5.4%) were found to have merit. Investigations were completed in 491 (83.2%) of the 590 cases. The remaining 99 cases were closed administratively, withdrawn by the claimant, or the claimant elected to proceed to the MSPB before the investigation concluded within the time frame allowed by statute.¹

¹ In these cases, the claimant may request that VETS cease investigative action after 60 days and appeal to MSPB directly on the 61st day after VETS' receipt of the claim.

² As reported in the Veterans' Preference Information Management System (Run Date October 30, 2015).

Table 1. FY 2015 Veterans' Preference Cases /2/

Category or Subcategory	Number or Percentage of Cases
Total Cases	640
Cases Carried Forward from FY 2014	34
Cases Opened During FY 2015	606
FY 2015 Opened Cases - Issue Hiring	589
FY 2015 Opened Cases - Issue Reduction in Force	17
Total Cases Closed During FY 2015	590
Percent of FY 2015 Cases Closed within 60 days	97.5%
Percent of FY 2015 Cases Closed within 90 days	98.3%
Average Number of Days Case Was Open	23

Table 2. FY 2015 Veterans' Preference Case Outcomes

Category or Subcategory	Number of Cases
Total Cases Closed	590
Cases Closed Due to "Merit Finding"	32
Hiring	32
Reduction in Force	0
Cases Closed Due to "No Merit Finding"	371
Hiring	359
Reduction in Force	12
Cases Closed Due to "Not Eligible"	57
Cases Closed Due to "Untimely Filed"	31
Cases Closed Due to "Merit Determination Not Made"	99
Administratively Closed	31
Claim Withdrawn	50
Merit Undetermined	7
Duplicate	11
Total Cases Converted to USERRA Claims	0
Total Cases Still Pending	50

Conclusion

The Department looks forward to working with the Subcommittee to ensure that Veterans' Preference in Federal government hiring remains strong. Veterans are some of our strongest and most capable employees in the public workforce and we are committed to making sure that they have a place at DOL and their preference rights are not violated. Mr. Chairman, Ranking Member, and distinguished Members of the Subcommittee, this concludes my written statement. Thank you for the opportunity to be a part of this hearing. I welcome your questions.

Prepared Statement of Ms. Carin M. Otero

Good afternoon, Chairman Wenstrup, Ranking Member Takano and Members of the Subcommittee. Thank you for your invitation to appear before the Subcommittee on Veterans' preference and the Department of Veterans Affairs' (VA) success in recruiting and hiring Veterans.

I would like to highlight the Department's commitment to hiring Veterans. We believe that affording qualified Veterans a statutory preference in employment is not merely the obligation of a grateful Nation, it is also good government and good business. It gives VA an advantage in recruiting and retaining employees from a pool of the Nation's most highly motivated, disciplined and experienced preference-eligible Veterans.

VA is adamant about and consistent in ensuring the application of the existing Federal regulation, which requires the selection of all qualified preference-eligible Veterans over other individuals, when filling positions that are open to the general public. VA's internal hiring procedures are aligned with the Merit System Principles, of which the basis is to recruit qualified individuals from all segments of society and select and advance on merit, after fair and open competition. In addition to our hiring policies and procedures that address Veterans' preference, VA's Human Resources Oversight and Effectiveness Office evaluates compliance with

Veterans' preference laws, regulations and policies, conducting onsite evaluations of human resources offices throughout VA. VA has focused on Veterans' hiring for many years. We track the employment of Veterans by facility throughout VA.

We have launched various programs and initiatives which have resulted in VA placing in the top tier of agencies employing Veterans. As of February 29, 2016, more than 119,000, or just shy of 33 percent, of VA's 365,000 employees are Veterans. More than 100,000 of the 33 percent are Veterans' preference eligibles, and 47,000, approximately 12 percent, are disabled Veterans. VA proudly ranks first among non Defense agencies in hiring Veterans. VA regularly uses Veteran-specific special hiring authorities, such as the Veterans Employment Opportunities Act, the Veterans Recruitment Appointment, and 30 percent or more Disabled Veterans. We have also hired Veterans using the Schedule A authority for people with disabilities. In the first 5 months of fiscal year 2016, VA hired 8,705 Veterans using a mixture of all of the above-mentioned authorities.

The Department has established a strategic target of 35 percent Veterans for its employee population. One of the challenges that we face is the rate at which Veterans are leaving the Department. While recognized early on by the Office of Personnel Management (OPM) as having one of the better retention rates in government, the cohort of Veterans who joined the Department of Veterans Affairs after the Vietnam War is now eligible for retirement.

In contrast, younger Veterans, similar to other U.S. workers their age, are frequently more mobile, changing jobs and employers more often than many older employees. On average, VA has lost about 1,300 Veteran employees per month during this fiscal year through separations and retirements. Countering these losses, we have, on average, hired about 1,740 Veterans per month during this fiscal year.

Although the math on our Veteran gains versus losses on the surface does not depict a challenge, VA is measured by an OPM metric expecting no more than a 5 percent gap between retention of Veteran and non-Veteran employees. Currently, our retention gap is more than 7 percent, with 2014 showing an 80.30 percent retention rate for non-Veterans and 73.23 percent for Veterans. Also, there is an enormous cost to replace each employee and a loss of stability and efficiency as well. Additionally, there are indicators of a poor employee experience associated with the reasons for leaving the organization.

In 2011, in support of Executive Order 13518 (Employment of Veterans in the Federal Government), VA established the Veteran Employment Services Office (VESO) within the Office of Human Resources and Administration. VESO supports the Interagency Council on Veterans Employment, created by the Executive Order, by recruiting qualified Veteran candidates for critical VA positions, managing retention initiatives and reporting the Veteran hiring and retention statistics for VA to the Council for inclusion in its annual report to the President. VESO's mission is to develop and implement innovative and comprehensive programs, procedures, and services to support VA and Federal Veteran recruitment and VA retention and reintegration.

To execute the mission, VESO focuses on giving Veterans the tools to find Federal jobs, making the transition to civilian employment seamless, and improving Veteran engagement and satisfaction. Activities include: personalized one-on-one services to support Federal Veteran recruitment, support to retention efforts, support to Veterans throughout a deployment lifecycle, and providing Federal partners with services that support Veterans recruitment, retention and reintegration.

In closing, every day at VA we see the sacrifices which Veterans have made for our Nation. It is our responsibility and privilege to support their return to civilian employment. We are committed to continue our robust and successful focus on Veterans' hiring in VA. Chairman Wenstrup, thank you again for the opportunity to testify today. I am prepared to respond to any questions the Subcommittee may have.

Prepared Statement of Mark D. Reinhold

Chairman Wenstrup, Ranking Member Takano, and Members of the Subcommittee:

Thank you for your invitation to testify at the Subcommittee's hearing on veterans' employment in the Federal Government and about the Office of Personnel Management's (OPM's) role in the implementation of veterans' preference in the Federal hiring process.

Veterans' Employment Initiative

This Administration has made it a priority to honor veterans for their service and sacrifice in defense of our Nation, including assisting them in re-entering civilian life and finding employment. In November 2009, President Obama issued Executive Order 13518, which clearly laid out three objectives: that we honor our obligations to our nation's veterans; that we use the talents of veterans to help the Federal Government meet today's dynamic challenges; and, that we create a model veterans employment program. The Order established the Veterans Employment Initiative to reinforce the commitment to enhance recruitment of, and promote employment opportunities for, veterans in the Federal workforce, consistent with merit system principles and existing veterans' preferences.¹ In addition, the Order created the Council on Veterans Employment (the Council) to advise and assist the President on improving employment opportunities for veterans in the Federal Government. The Council is co-chaired by the Secretaries of Labor and Veterans Affairs, and the Director of OPM serves as Vice Chair. Twenty-four agencies are represented on the Council.

Veterans bring distinctive training, skills, leadership, and experiences that we need at every agency in the Federal government. An example is the increasing need we have for people trained in information technology and other technical areas. The Federal Government invests significant resources in the training and development of the brave men and women in our military. Efforts to hire transitioning military service personnel to positions in the Federal workforce helps maximize our return on this investment. Veterans possess a wide variety of skills and experiences, as well as a dedication to public service, that can be of enormous benefit to the Government as an employer and to the American people that these individuals will continue to serve. There are a number of skills gaps in the Federal workforce, including health care, information technology, and cybersecurity, that these individuals can fill immediately. Not only is hiring veterans the right thing to do, it also makes good business sense.

In April 2014, the Council published its second Strategic Plan for Government-wide Veterans Recruitment and Employment (the Strategic Plan).² The Strategic Plan, which covers the period from Fiscal Year (FY) 2014 through FY 2017, builds on the Council's work to tackle barriers to veterans' employment in the areas of leadership commitment, skills development, marketing employment opportunities for veterans, and creation of a single-source information gateway for disseminating veterans' employment information. The current Strategic Plan added an additional emphasis on retention of veterans and reintegration of deployable Reservists or National Guardsmen.

These efforts have yielded good results since 2009. In FY 2014, 33.2 percent of Executive Branch new hires were veterans, surpassing the FY 2013 rate of 31 percent. This was a 9.2 percentage point increase over the FY 2009 baseline of 24.0 percent. In FY 2014, as the number of total Federal employees onboard dropped from 2,015,000 in FY 2013 to 1,990,000, the total number of veterans onboard saw an increase from 607,000 to approximately 612,000. Veterans currently represent 30.8 percent of the Federal workforce, as compared to 25.8 percent in FY 2009. Last summer, OPM published a report, "Employment of Veterans in the Federal Executive Branch, Fiscal Year 2014," demonstrating the improvements that have been made in employment opportunities for veterans in the Federal workforce.³ This report, issued on an annual basis and drawn from data in OPM's Enterprise Human Resources Integration-Statistical Data Mart, is in support of the Executive Branch's efforts to support the employment of veterans in the Federal government. In regard to diversity among new veteran hires in the Executive Branch, of the 33.2 percent of new veteran hires for FY 2014, 25 percent were women, 66.2 percent were Caucasian/non-Hispanic, and 27.2 percent had a rated disability of at least 30 percent.

Veterans' Preference

Preference eligibility for veterans in Federal employment is defined in section 2108 of title 5, United States Code, and applies to new appointments in both the competitive and excepted service. While veterans' preference does not guarantee veterans a job and does not apply to appointments under merit promotion procedures or internal agency actions such as promotions, transfers, reassignments and reinstatements, it does provide a very useful tool in the application process for qualified candidates.

Under 5 U.S.C. 2108, and supported by implementing regulations by OPM, certain types of active duty service may qualify for veterans' preference (i.e., preference

¹ <https://www.whitehouse.gov/the-press-office/executive-order-veterans-employment-initiative>

² <https://www.fedshirevets.gov/pdf/Vets—Initiative—Strategic—Plan—2014.pdf>

³ <https://www.fedshirevets.gov/hire/hrp/reports/EmploymentOfVets-FY14.pdf>

eligible).⁴ There are three types of preference eligible (as defined by the points added to the veteran's passing examination score or rating):

- 10-point preference eligible
 - oAn individual who served at any time and has a service-connected disability or has received a Purple Heart, and survivors or spouses of certain veterans.
- 5-point preference eligible
 - oAn individual with active duty service during certain time periods specified in law or who received an armed forces expeditionary or campaign medal.
- 0-point preference eligible
 - oAn individual who is released or discharged from a period of active duty from the armed forces, after August 29, 2008, by reason of a "sole survivorship discharge."

In addition, only veterans discharged or released from active duty in the armed forces under honorable conditions (or, more recently, active duty members who certify through official documentation that they are expected to be honorably discharged or released within 120 days) are eligible for veterans' preference. Retired members of the armed forces are not included in the definition of preference eligible unless they are a disabled veteran or they retired below the rank of major or its equivalent.

The application of veterans' preference is provided for in statute, and depends on the ranking and selection process agencies use to select candidates for Federal employment. As part of improving the Federal recruitment and hiring process, in May 2010, President Obama directed agencies to use category rating for most competitive examinations for Federal employment. Under category rating, applicants who meet basic minimum qualification requirements established for the position and whose job-related competencies or knowledge, skills and abilities have been assessed are ranked by being placed in quality categories instead of being ranked in numeric score order. Preference eligibles are listed ahead of non-preference eligibles within each quality category. Veterans' preference is absolute within each quality category, which means a hiring manager cannot select a non-preference eligible over a preference eligible within the same category.

An agency generally cannot bypass a preference eligible who meets the qualifications to perform the duties of the position and has achieved a passing score in order to appoint a non-preference eligible. However, if the hiring manager concludes that a preference eligible is not qualified to perform the duties of the job the manager may request to "pass over" the preference eligible. In most cases, the authority to decide to pass over a veteran is delegated to the agencies, except that OPM, by statute, must make the determination whether a veteran with a 30 percent or more service-connected disability may be passed over.

The Federal Government has long been at the forefront of appointing veterans - particularly disabled veterans. OPM, through our Merit System Accountability and Compliance office conducts regular reviews of veterans hiring across the government to ensure that veterans are receiving the entitlements they have earned in the Federal hiring process. A veteran or other preference eligible person who believes that his or her rights under any law or regulation related to veterans' preference have been violated may file a written complaint with the U. S. Department of Labor's Veterans' Employment and Training Service. A disabled veteran who believes he or she has been discriminated against in employment because of his or her disability may file a discrimination complaint with the offending agency under regulations administered by the Equal Employment Opportunity Commission. In addition, the intentional failure by a government official to comply with veterans' preference requirements is treated as a prohibited personnel practice, which can be reported to the Office of Special Counsel for investigation and is grounds for disciplinary action.

Special Hiring Authorities for Veterans

OPM encourages agencies to make full use of the various hiring authorities that can facilitate veterans' employment.

Veterans' Recruitment Appointments (VRA) are an excepted authority that allows agencies to appoint an eligible veteran without competition if he or she: is in receipt of a campaign badge for service during a war or in a campaign or expedition; is a disabled veteran; is in receipt of an Armed forces Service Medal for participation in a military operation; or, is a recently separated veteran (within the last 3 years), and separated under honorable conditions. Individuals can be appointed under this

⁴ <https://www.opm.gov/policy-data-oversight/veterans-employment-initiative/vet-guide/#2>

authority at any grade level up to and including a GS-11 or its equivalent. After successful completion of 2 years of Federal service, the employee is converted to the competitive service unless he or she is employed in a temporary (not to exceed 1 year) or term (more than 1 year, but not more than 4) position.

Agencies may also non-competitively appoint any veteran with a 30 percent or more service-connected disability if they retired from active military service with a service-connected disability rating of 30 percent or more or they have a rating by the Department of Veterans Affairs showing a compensable service-connected disability of 30 percent or more. This authority can be used to make initial temporary or term appointments in the competitive service lasting at least 60 days, and the veteran can be converted to a permanent appointment.

In addition, though not specifically for veterans, the Schedule A authority for people with disabilities is an excepted authority that agencies can use to appoint eligible veterans who have a severe physical, psychological, or intellectual disability. Agencies can use this authority, at their discretion, to appoint individuals at any grade level and for any job (time-limited or permanent) for which they qualify. After two years of satisfactory service, the agency may convert the employee, without competition, to the competitive service.

Finally, the Veterans Employment Opportunity Act of 1998 (VEOA) allows veterans to apply to job announcements that are otherwise open only to current or former Federal employees who completed requirements for career or career-conditional tenure. To be eligible to apply for a position under VEOA, the veteran's discharge must be issued under honorable conditions and he or she must either be a preference eligible or have completed 3 or more years of active service.

Veterans and Agency Education and Outreach

In partnership with the Departments of Defense, Labor, Veterans Affairs, Homeland Security, and other Federal agencies, OPM created www.FedsHireVets.gov to serve as the principal source for Federal employment information to assist our Veterans, transitioning service members, their families, Federal Human Resources (HR) professionals, and hiring managers. The purpose of the site is to provide consistent and accurate Federal employment information, useful training, and other resources to better inform the applicant, the employee, and the hiring agency. This website is a critical component of the Federal Government's strategy to facilitate the recruitment, employment, and retention of Veterans.

OPM has developed mandatory training for human resources personnel and Federal hiring managers on veterans' employment. The web-based training covers veterans' preference, special hiring authorities for veterans, non-competitive appointment eligibility for military spouses, and the Uniformed Services Employment and Reemployment Rights Act. The training is available through Human Resources University, the Federal Government's "one stop" training resource center for the Federal HR professionals, managed by OPM.

Hiring Excellence

OPM recently launched the Hiring Excellence Campaign. Through this campaign, OPM will be working directly with agency hiring managers and human resources staff to help them identify skills gaps and find and recruit the best professionals to fill these positions. This allows us to hear directly from hiring managers and supervisors, while also giving us the opportunity to have discussions with Federal agencies about the tools already available to them, including those available for hiring veterans. We have also launched a Hiring Toolkit on HR University, which includes guidance on various hiring authorities and flexibilities, information about assessment techniques to evaluate applicants, and how to leverage data to inform recruiting and outreach strategies.

Agencies are responsible for applying the law correctly so that preferences are not inappropriately withheld or granted. Agencies should ensure that their job vacancy announcements accurately describe the position being announced and that they have appropriately described the qualifications required to successfully perform the duties of the job. Agencies should also apply effective assessment approaches that help distinguish the best qualified candidates from the overall applicant pool. Agencies are encouraged to define threshold proficiency levels or requirements (beyond simply meeting minimum qualifications) that an applicant must meet in order to be considered further for a position. This will not only assist agencies in their ability to recruit qualified individuals capable of effectively meeting their missions, but also helps ensure that the process is carried out transparently and reduces any perception of unfairness.

The work and mission of the Federal Government has become more complex, as we continue to ensure the safety of our information systems, the security of our bor-

ders, and the health of our veterans, and we must have the workforce with the right skills to meet the challenges we face. To that end, OPM is leading efforts to ensure that agencies are recruiting and hiring the best possible talent and leaders to facilitate a smarter, more innovative, and more accountable government for its citizens. Achieving and maintaining a world-class workforce to serve the American people depends on the ability to recruit and hire the most talented and diverse workforce possible, and that includes our nation's veterans.

Conclusion

Since 2009, significant progress has been made to enhance employment opportunities for veterans in the Federal government, thanks to the efforts across government to implement the Veterans' Employment Initiative, but we know that challenges remain and improvements can be made. As we implement the Governmentwide Veterans Recruitment and Employment Strategic Plan, we will continue to focus on helping agencies develop workforce management strategies to advance the goals of the Initiative and to reaffirm the commitment to advancing economic opportunities for our Nation's veterans. As OPM works to meet our mission to recruit, retain, and honor a world-class workforce, providing the highest quality service as America's model employer for the 21st century we will continue to focus on helping agencies bring in skilled and diverse employees with the best talent to serve the American people.

Prepared Statement of Aleks Morosky

Chairman Wenstrup, Ranking Member Takano and members of the Subcommittee, on behalf of the nearly 1.7 million members of the Veterans of Foreign Wars of the United States (VFW) and our Auxiliaries, I would like to thank you for the opportunity to testify on veterans' preference in federal government hiring.

It is clear that veterans are an extraordinarily valuable asset to the federal government workforce. While veterans make up only nine percent of the adult population in the United States, they represent over 30 percent of federal government workers, with over 25 percent of those being preference eligible. According to the Office of Personnel Management, these numbers have climbed steadily in recent years. While veteran employees do seem to be concentrated in certain federal agencies such as Defense, Veterans Affairs, and Homeland Security, nearly all agencies have consistently increased the percentages of veterans they employ each year since 2009.

It makes sense that veterans would gravitate towards federal employment, as many of them see civilian public service as a way to continue serving their country after the military. The real winner, of course, is our nation, whose federal workforce benefits greatly from the experience, patriotism, and values that veterans bring with them to their civilian careers. For this reason, we believe that the federal government must continue doing all it can to recruit, hire and retain as many veterans as possible.

Although the data indicates that the veterans' preference is a successful program, there are certain opportunities for improvement that we have identified. First and foremost, we strongly support amending veterans' preference to ensure veterans who served in the Guard and Reserves are afforded the same hiring preferences as their active duty counterparts. Currently, veterans who served after September 11, 2001, are required to have served at least 180 consecutive days on active duty. We believe that this is inconsistent with the way the Department of Defense (DOD) has utilized the Reserve Component in recent years. In the Post-9/11 era, National Guard and Reservists are frequently called to active duty for short periods of time in order to support deploying units, providing training support, and backfilling their duties at home duty station. These contributions have been critical to DOD's ability to fight the Global War on Terror with an all-volunteer force. For this reason, we strongly support changing the eligibility for veterans' preference to 180 cumulative days on active duty for veterans who served after September 11, 2001.

As for the feedback we receive from VFW members, the most common complaints are from veterans who applied for federal employment but were not hired. We find that there is a common perception in the veterans' community that veterans' preference all but guarantees federal employment. This, of course, is not the case, as veteran applicants must still meet basic job qualifications and be ranked based on their job-related competencies when applying for a position. The 5 and 10 point preference functions as more of a tiebreaker, rather than a guarantee of employment in all cases. We find that veterans also commonly assume that if they are not hired,

then it must mean that a non-veteran was hired instead. While the veterans' preference makes it far more likely that a veteran will get an interview, it is not uncommon for several preference eligible veterans to interview for the same position.

To address these misconceptions, we suggest that the Transition Assistance Program (TAP) be reviewed to ensure that proper training is being offered on veterans' preference. This should include both the DOD module, and the Department of Labor's online version of TAP. Although it is already part of the curriculum, it is apparent to us that many veterans remain unclear on what it means and how it is administered.

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

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

Pursuant to Rule XI2(g)(4) of the House of Representatives, the VFW has not received any federal grants in Fiscal Year 2016, nor has it received any federal grants in the two previous Fiscal Years.

The VFW has not received payments or contracts from any foreign governments in the current year or preceding two calendar years.

Prepared Statement of Daniel P. Smith

Simply stated, Veterans' Preference is a rising tide that lifts all boats. Because the Armed Forces are comprised of people from every walk of life in the United States, so is Veterans' Preference. This benefit does not discriminate. Veterans' Preference includes veterans from every socioeconomic class, gender, religion, ethnicity, sexual orientation and creed. Veterans' preference is fair, and aims to help our veterans obtain employment all while furnishing the U.S. government with qualified candidates and personnel.

Chairman Wenstrup, Ranking Member Takano, and distinguished members of the subcommittee; On behalf of our National Commander, Dale Barnett, and the over 2 million members of The American Legion, we thank you for this opportunity to testify regarding The American Legion's positions on Veterans' Preference before this committee.

Veterans' Preference is triggered when a hiring manager is deciding between two equally qualified candidates, where one is a civilian and the other is a servicemember or veteran. Veterans' Preference requires a veteran must be fully qualified for the position being sought. The preference was not and is not designed to force agencies to hire a veteran simply because they are a veteran.

When the system in place is working, more veterans are employed, which is obviously a goal of The American Legion. However, when the system fails, perhaps because a hiring manager chose not to select the veteran, even though they are equally qualified, it is extremely difficult to know if ignoring Veterans' Preference was the reason. The culture of seeking employment is filled with customs dictating interview etiquette. Candidates are trained to balance aggression and avoid coming on too strong. In some situations it is not considered proper to ask why you did not get the position you were seeking. Because of these customs it can be hard for a veteran to definitively say they did not receive Veterans' Preference.

Veterans' Preference is important however, and a great benefit to the government, or indeed any organization, to stock their employee ranks with qualified veterans. The government has already invested a great deal of resources in training veterans during their military service, and that training can be put to use in further service of the government. Common military training includes, but is not limited to, the ability to work well within a team, unparalleled work ethic, dedication and many other attributes an employer wants in an employee. The initial investment made by our government in our servicemembers and veterans still continues to pay dividends as these people are still working for the government and using their training to benefit the country and the American tax payer.

The American Legion supports veterans' preference in the federal, state, and private sector:

One of the reasons Veterans' Preference was established was to assist our nation's veterans, who joined the military and were not typically exposed to standard professional social settings. Veterans' Preference accounts for this by giving them inroads into government employment that will allow them to learn the soft personal skills that their civilian counterparts learned early on. Absence from the highly competi-

tive job market due to military service creates an unfair and unequal burden on veterans in competing for employment with non-veteran peers upon completion of military service. Veterans' Preference was created to help restore the place of veterans on equal footing with their civilian counterparts by giving them an advantage.

One area in particular The American Legion has been working to assist servicemembers and veterans happens to deal with an antiquated Department of Defense policy. The policy (5 U.S.C. 3326) stated that a separating servicemember could not obtain employment at the DOD for a minimum period of 180 days. Fortunately, Representative Derek Kilmer authored and introduced H.R. 4527, the Military Retiree Employment Act. This common sense legislation removes the 180 day hold off and permits the DOD to hire qualified and experienced personnel. The American Legion, through Resolution 350¹ was able to support Rep. Kilmer's bill, and we encourage the House of Representatives to consider this proposed legislation.

That said, The American Legion does not only support Veterans' Preference in the federal government, but also within the state and public sectors. Veterans' Preference is mandated at the federal level, and though we would not suggest the private sector be forced to hire veterans, we certainly encourage them to investigate and implement their own level of veterans' preference. Many companies and organizations already do this, including The American Legion. It is worth highlighting that The American Legion does not only advocate for veterans at the federal level, where it's mandated, but at every level. Veterans are a very unique and dynamic group of people who understand and typically possess a great work ethic and know how to work under pressure and stressful conditions.

Where are the problem areas?:

No veterans organization does as much as The American Legion to work to ensure veterans are getting hired and finding their proper place in the workforce. The American Legion annually conducts dozens of Hiring Fairs across the country in conjunction with the Chamber of Commerce. American Legion seminars provide expertise to veterans on constructing resumes and developing interview skills. The American Legion works to develop translators that can convert military skills into civilian resumes and link up qualified service members with the civilian jobs that need them. Through our research and dealings with Veterans Preference in the veterans community, we have found several small issues, which is to be expected in a large bureaucracy such as the federal government.

One of the largest issues we've encountered deals with the reporting or complaint system that a veteran utilizes once they feel their benefits have been violated. Currently, when a veteran wishes to file a complaint, they have multiple options for reporting the possible infraction. A veteran can submit a claim to the Department of Labor Veterans Employment and Training Services (DOL VETS). They can report their complaint to the agency where they applied for the position. They can even report their concern to the Equal Employment Opportunity Commission (EEOC). Though having options is hardly ever viewed as a bad thing, The American Legion is concerned the possibility of not having one location for complaints to travel through may cause problems.

For example, multiple reporting venues makes it difficult to track or consolidate information about possible Veterans' Preference violations. Compartmentalization of the information leads to stove piping which prevents broad analysis which would be helpful. Logically speaking, consolidating complaints through a single path makes the most sense, so if there are many issues with the same agency/office, it will be easier to recognize and correct, instead of complaints being divided among several offices.

A secondary problem is illustrated by a recent example reported in the Federal Times. Sometimes agencies or sections of the government skirt or circumvent the Veteran' Preference regulations. According to an article a few weeks ago, "The Office of Special Council has launched allegations at the Export-Import Bank sought to illegally remove veteran applications from consideration for IT positions within its office."² It is because of cases much like this that The American Legion believes Congress should conduct an investigation of all federal agencies and their individual practices of Veteran' Preference hiring³. An investigation of this sort simply aims

¹ Resolution No. 350 "Veterans Employment Initiative" (August 2014)

² "Allegations of Export-Import Bank dumping vet applicants emerge" - Carten Cordell, Federal Times - March 16, 2016

³ Resolution No. 322 "Support an Investigation of Hiring Practices in the Federal Government" - National Convention, Charlotte, NC - AUG 2014

to ensure the preference is being applied fairly, and not being avoided or being rewarded to those who do not deserve it. Veterans' Preference provides such a strong benefit to both veterans and the government that The American Legion absolutely believes it is important to investigate to ensure it is being properly applied and situations such as the recent problems with the Export-Import Bank do not arise.

Finally, The American Legion is concerned about the potential impact of a bill currently being considered in the House of Representatives, H.R. 1964, the Air Traffic Controllers Hiring Act of 2015, as it is currently written, may place another group on the same level as Veterans' Preference, and this raises warning flags for our members. According to the legislation, which we understand may be revised, people who graduate from Collegiate Training Initiative (CTI) may be given "preferential consideration," just as veterans are. This may be an unintentional consequence of the legislation, but nevertheless, The American Legion believes that to be wrong and is willing to work to ensure the legislation does not damage the effects of Veterans' Preference. The American Legion's position has always been and will continue to be in favor of veterans and Veteran' Preference, and that no other preference should exist on the same level of preference. Attending or obtaining certain certificates or degrees are important and should be recognized for what it is that they do, raise the level of qualifications of a candidate, but this should not replace or counter Veterans' Preference.

The men and women, regardless of rank, who have served our nation boldly gave up a large amount of their lives to do so. The reason for veteran' preference is to reward them and acknowledge that sacrifice over a civilian who did not take that oath and assist the veteran in giving them a hand up. The American Legion "deplores each and every attempt to degrade, dilute or modify the historical precedence of giving job eligibility preference to those who are taken from their communities to serve their country in time of war."⁴

The American Legion has and will aggressively continue to support Veterans' Preference across the federal government. It is our belief that millions of veterans have served our nation honorably, and therefore should be rewarded properly and provided this common sense benefit as thanks for their hard work and sacrifice. As always, The American Legion thanks the Subcommittee Economic Opportunity for the opportunity to explain the position of the over 2 million veteran members of this organization.

For additional information regarding this testimony, please contact Mr. Matthew J. Shuman at The American Legion's Legislative Division at (202) 263-5755 or mshuman@legion.org

Prepared Statement of Richard Weidman

Good afternoon Mr. Chairman, Ranking Member Takano and members of the House Subcommittee on Economic Opportunity. On behalf of VVA National President John Rowan and all of our officers and members, we thank you for the opportunity for Vietnam Veterans of America (VVA) to appear here today to share our views on the implementation of Veterans Preference by the Department of Veterans Affairs as well as across the federal government.

In our legislative agenda for the 114th Congress, VVA called for measures to strengthen Veterans' Preference laws, focusing on better implementation by and accountability of managers. Much of the problem with veterans' preference is in the implementation. VVA does commend the current Administration for their focus through the Office of Personnel Management (OPM) on hiring veterans, particularly young veterans. These efforts have met with success in many departments and agencies across the government, and dramatically increased the number of veterans working for the Federal government for the first time since President Reagan's second term. The honorable Constance Horner was Director of OPM. It was her commitment to veterans that spurred her to force the bureaucracy to do better in regard to honoring veterans' preference in hiring.

President Obama's issuance of Executive Order (EOP) 13518 on November 9, 2009 has helped reinforce proper use of the Veterans Employment Opportunities Act (VEOA), as well as active utilization of other Federal hiring authorities to bring more veterans into the workforce. The percentage of veterans in the Federal workforce is now about a third of all Federal employees. While the initial impetus came from The White House, Director John Barry was personally and passionately in-

⁴ Resolution No. 342 "Support Veterans Preference in Public Employment" - National Convention, Charlotte, NC - AUG 2014

volved in pushing for more veterans to be hired. The “Feds Hire Vets” program has seemed to be of some assistance. The Council on Veterans Employment established by that same 2009 Order has also helped a great deal to focus the attention of the departments and agencies on hiring and retaining veterans.

Despite all of the efforts expended to recruit and hire veterans, we still hear from young veterans that they cannot wend their way through the maze to find a job with the Fed. Additionally we hear from some who were hired and quit after a year or so because they were “bored” or “did not fit in.” It seems clear to us that those who come straight from the military into the Fed need a mentor, perhaps an older veteran, to start learning to negotiate the corporate culture and procedures at that agency, as well as being able to understand the feelings and attitudes of the newer veteran.

Setting up a formal orientation and mentoring program for veterans new to the organization has worked extremely well for many private employers, such as Prudential. It should definitely be tried in Federal agencies. Done properly, it will increase retention. Additionally, managers need to understand that the young veterans just out of the military are used to handling significant responsibilities, often in situations of life or death, depending on how well one does their job. The need to both challenge as well as support these veterans is crucial to their success, and to the overall success of the Federal entities.

Also part of the VVA legislative priorities is the institution of contracting with service disabled veteran-owned small businesses that are veteran preference eligible veteran staffed call centers. The purpose of these call centers would be to collect reports of violations of veterans’ preference in Federal departments and agencies. Further, these call centers could be utilized to do a real investigation of each alleged violation. The current system of having the Director of Veterans Employment & Training (DVET), United States Department of Labor receive and investigate all such complaints just does not work very well.

Additionally, the institution of pro-active reviews of practices and patterns in the recruitment, hiring, and retention of veterans in each hiring authority location to the federal workforce would be a giant stride forward. As this is a new way to approach this, many details would need to be worked out.

The Disabled Veteran Affirmative Action Program (DVAAP) should be scrapped. The DVAAP plans for federal entities are never effectively checked for the actual result against the stated “goals” at the end of each year. This thing serves no purpose except to be “fig leaf” for agencies doing nothing or little to hire disabled veterans and other veterans’ preference eligible. Furthermore, veterans are not another affirmative action group, period.

The main change to the actual VEOA is to delete the word “knowingly” from that section of the law. Nowhere in civil service or other law does it say that a manager cannot be punished if he/she did not know they were violating the individual’s rights to veterans’ preference. In the 18 years since passage of VEOA the number of managers reprimanded and otherwise punished for violating veterans’ rights is in the single digits. This is absurd on the face of it.

Thank you for allowing us to share our views on this vital issue with you here today. I would be pleased to answer any questions.

VIETNAM VETERANS OF AMERICA

Funding Statement

April 20, 2016

The national organization Vietnam Veterans of America (VVA) is a non-profit veterans’ membership organization registered as a 501(c) (19) with the Internal Revenue Service. VVA is also appropriately registered with the Secretary of the Senate and the Clerk of the House of Representatives in compliance with the Lobbying Disclosure Act of 1995.

VVA is not currently in receipt of any federal grant or contract, other than the routine allocation of office space and associated resources in VA Regional Offices for outreach and direct services through its Veterans Benefits Program (Service Representatives). This is also true of the previous two fiscal years.

For Further Information, Contact: Executive Director of Policy and Government Affairs, Vietnam Veterans of America, (301) 585-4000, extension 127

Materials For The Record**REQUESTED BY CONGRESSWOMAN RICE**

The President's Council on Veterans Employment (the Council) has been tasked with carrying out the mission of the President's Veterans Employment Initiative (as established by Executive Order 13518), which directs the Federal agencies to enhance their recruitment and promotion of employment opportunities for veterans within the executive branch. The Secretaries of Veterans Affairs and Labor act as co-chairs of the Council, while the Director of the Office of Personnel Management serves as the vice-chair. On May 4, 2016, the co-chairs and the vice chair came together to host the eleventh meeting of the Council to highlight Government-wide progress and the future of the Veterans Employment Initiative.

At the meeting, current data developments were shared documenting Federal government efforts in recruiting, hiring, and retaining veterans. Agencies are rated on their veteran employment performance using a new Veteran Employment Performance Model which rates agencies based on four veteran employment metrics: Veteran New Hires, Disabled Veteran New Hires, Veterans on-board, and Veteran Retention Rates. This performance model went into effect for FY 2015. The data below was shared at the Council meeting.

FY 2015 - Agency Veteran Employment Performance
4th QUARTER GROUP RESULTS

10K Employees				Veteran New Hires		Disabled Veteran New Hires		Total Veterans On-Board		Veteran New Hire Retention Rate	Non-Veteran New Hire Retention Rate	FY-14 Rating	FY-15 Rating
				20.7%		10.6%		15.9%					
4th QUARTER GROUP RESULTS													
Education				11.1%		4.8%		10.7%		79.7%	89.5%	NI	NI
HUD				23.4%		14.2%		15.2%		80.8%	85.1%	EX	EX
NRC				27.5%		10.4%		21.5%		88.0%	87.0%	E	EX
NSF				11.1%		4.2%		9.3%		68.4%	80.4%	NI	NI
OPM				25.5%		13.1%		23.3%		71.7%	77.4%	EX	EX
SBA				28.5%		16.5%		16.8%		67.2%	83.4%	EX	EX
USAID				17.9%		11.0%		14.7%		71.1%	85.3%	NI	E

4th QUARTER GROUP RESULTS

10K-40K Employees	4th QUARTER GROUP RESULTS					FY-14 Rating	FY-15 Rating
	Veteran New Hires	Disabled Veteran New Hires		Total Veterans On-Board	Veteran New Hire Retention Rate		
		14.7%					
DOL	38.2%	21.3%	21.3%	69.9%	84.4%	EX	EX
Energy	35.8%	13.9%	23.8%	81.2%	86.7%	EX	EX
EPA	16.2%	8.3%	8.3%	83.9%	87.4%	NI	NI
GSA	24.5%	11.3%	21.4%	74.8%	78.8%	EX	EX
NASA	30.7%	16.7%	12.0%	73.2%	70.3%	E	EX
State***	31.8%	16.4%	19.5%	75.4%	85.2%	HE	EX

4th QUARTER GROUP RESULTS

40K-80K Employees	Veteran New Hires		Disabled Veteran New Hires		Total Veterans On-Board		Veteran New Hire Retention Rate	Non-Veteran New Hire Retention Rate	FY-14 Rating	FY-15 Rating
	27.5%		12.0%		20.3%					
4th QUARTER GROUP RESULTS										
DOC	14.3%	4.8%	12.0%	69.9%	79.6%	NI	NI			
D01	16.6%	6.6%	16.8%	71.4%	78.3%	NI	NI			
D01	40.1%	16.3%	36.7%	81.4%	82.2%	EX	EX			
SSA	38.9%	20.3%	15.6%	72.6%	80.7%	HE	HE			

4th QUARTER GROUP RESULTS

80K-250K Employees	Total Veterans On-Board				Veteran New Hire Retention Rate	Non-Veteran New Hire Retention Rate	FY-14 Rating	FY-15 Rating
	Disabled Veteran New Hires		Total Veterans On-Board					
	7.1%		16.8%					
4th QUARTER GROUP RESULTS								
DHS	27.2%	9.8%	27.9%	76.9%	80.8%	HE	EX	
HHS	9.1%	4.1%	7.3%	68.3%	77.5%	NI	NI	
Justice	29.1%	10.0%	25.1%	76.7%	81.9%	E	EX	
Treasury	12.7%	6.9%	11.2%	72.0%	85.0%	NI	NI	
USDA	12.0%	4.6%	12.4%	66.9%	77.9%	NI	NI	

4th QUARTER GROUP RESULTS

	250K Employees	Veteran New Hires		Disabled Veteran New Hires	Total Veterans On-Board		Veteran New Hire Retention Rate	Non-Veteran New Hire Retention Rate	FY-14 Rating	FY-15 Rating
DoD		41.6%		19.6%	40.2%					
VA		48.3%		17.9%	47.2%		74.3%	77.6%	EX	EX
		34.9%		21.3%	33.1%		71.6%	80.0%	EX	EX

RATINGS: Exemplary (EX) Highly Effective (HE) Effective (E) Needs Improvement (NI)
 ***State Dept. FY 2015 performance rating is based on self-reported data.

