

Statement of
The Honorable Dan G. Blair
Deputy Director
Office of Personnel Management
Before the
Committee on Veterans' Affairs
United States House of Representatives

Good morning Mr. Chairman and members of the Committee. I appreciate the opportunity to appear before you today to discuss the proposed legislation expanding health insurance coverage for our deployed service members and the public sector's obligation to veterans under the Uniformed Services Employment and Reemployment Rights Act (USERRA).

President George W. Bush and Office of Personnel Management (OPM) Director, Kay Coles James, are dedicated to ensuring veterans receive the rights and benefits to which they are entitled under all veterans' employment laws, including USERRA. In truth, Director James has both a professional and a personal interest in veterans' rights issues. Her son-in-law recently returned from active duty in the Naval Reserves. So you know her dedication is genuine.

The Federal Government is the Nation's leader in employing veterans. Approximately one out of every four Federal employees is a veteran. The number of veterans in the Federal workforce is roughly 450,000. What's more, the Federal Government employs more reservists and National Guard members than any other employer – about 120,000 in total, of whom nearly 65,000 are military technicians whose civilian Federal employment requires National Guard or Reserve membership.

Today, over 15,000 Federal employees are serving on active duty with the Guard and Reserve. These veterans left their employment and placed their careers on hold to go fight in far-off lands . . . for us. These brave men and women were not forced to serve — it was by choice. They volunteered! These veterans deserve more than our thanks. When they leave the uniformed service, they deserve to know their right to return to public sector employment is protected.

As the leader in veterans' employment, the Director takes OPM's obligation to reemploy these men and women under USERRA very seriously. Again, it is not just the law . . . it is the right thing to do. We administer veterans' entitlements under the United States Code, in both title 5, including veterans' preference in employment and reduction in force, as well as title 38, which covers

USERRA reemployment rights. (Title 38 also governs veterans' entitlement to benefits administered by the Department of Veterans Affairs (VA)).

Health Benefits Extension

First, I will speak to the proposed legislation to expand health benefit premium payments for reservists called up for active military service.

OPM is the Government's chief personnel office, which includes responsibility for administering the Federal Employees Health Benefits (FEHB) Program for Federal employees and annuitants. OPM is committed to finding ways to provide health benefits for our called-up employee reservists who bravely commit themselves to defending our Country.

Before 1994, Federal law allowed employee reservists to continue their FEHB enrollment for up to 365 days while on military duty. USERRA extended the 12 month period to 18 months by amending section 8906 of title 5 to provide up to 6 months additional coverage for reservists called to active duty. USERRA also empowered agencies to pay both the enrollee share and the Government share of the FEHB premium for called-up reservists for up to the entire 18 months.

On May 13, 2002, OPM Director James issued a Memorandum for Heads of Executive Departments and Agencies stating that OPM strongly encourages agencies to assist employees called-up to active duty by paying both shares of the FEHB premium. Director James specifically asked agencies to pay both shares of the premium in support of these reservists supporting Operation Iraqi Freedom, the September 11 terrorist attacks, Kosovo, other ongoing operations and future operations under title 10 of the United States Code.

Last year, we asked agencies how much of the FEHB premium they pay for these reservists. I am pleased to report most agencies pay both shares. Of the 114 agencies surveyed, 96 pay the full premium. We have learned the Postal Service recently indicated they will pay both shares of the premium, retroactive to 2003.

OPM will continue to support our called-up employees in every way possible. If the extension of FEHB coverage to 24 months becomes law, we will again strongly encourage agencies to pay both shares of the health benefits premium for the entire 24-month period. Based on the number of reservists now called to active duty and assuming up to 20 percent are extended to 24 months we estimate the cost to the agencies of the additional premium to be \$9.6 million.

USERRA Reemployment Rights

Now, I would like to discuss reemployment rights under USERRA as it applies to the public sector.

Basically, USERRA:

- Prohibits discrimination against persons because of their service in the Armed Forces Reserve, the National Guard, or other uniformed services;
- Prohibits an employer from denying any employment benefit based on an individual's membership or application for membership, or performance of, application for, or obligation for service in the uniformed services;
- Applies to all executive branch agencies, including the U.S. Postal Service; and
- Provides the right of called-up Reservists and National Guard members, as well as individuals who left their jobs to enlist in the Armed Forces, to be reemployed in their jobs when their military service obligation is over.

OPM is responsible for, and may order the placement of, a returning military service member in a different agency if it is impossible or unreasonable for the original agency to reemploy the returning veteran, if, for instance, the original agency was abolished.

Any Federal employee, permanent or temporary, who performs duty with a uniformed service whether voluntary or involuntary, is entitled to be restored to the position he or she would have attained had the employee not entered the uniformed service, provided the employee:

- Gave the agency advance notice of departure, except where prevented by military circumstances;
- Was released from uniformed service under honorable conditions;
- Served not more than a cumulative total of 5 years, with certain exceptions; and
- Applies for restoration within statutory time limits.

Pursuant to OPM's regulations in part 353 of title 5 of the Code of Federal Regulations, agencies must tell their employees who enter the uniformed service about their entitlements, obligations, benefits, and appeal rights. Also, we note that under the proposed H.R. 4477, *all* public and private employers with employees having USERRA rights, would be required to post a notice, with text to be provided by the Secretary of Labor, of those rights and benefits.

Those employees completing their military service obligation must apply for reemployment within specific timeframes, depending on how long they served. Agencies must reemploy these employees as soon as possible after receiving the reemployment application but no later than 30 days after receipt.

Generally, returning employees must be treated as if their employment had not been interrupted by military service. They must be reemployed in the

position for which they would have been qualified. If they are not qualified for that position and cannot become qualified through reasonable employer efforts, the employee is entitled to be placed in the position he or she left.

Employees reemployed under USERRA are treated like they never left for most purposes including seniority, pay increases, retirement (a deposit to the retirement fund is usually required to cover the military service period), and leave rate accrual. Reemployed veterans are protected from not-for-cause separations (for example, by reduction in force) for 1 year after their return for those who served more than 180 days and 6 months for those who served more than 30 days but less than 180 days.

Applicants or employees who believe that an agency has not complied with the law or with OPM regulations governing USERRA restoration rights may file a complaint with the Department of Labor's local Veterans' Employment and Training Service (VETS) or, if VETS is unsuccessful in resolving the complaint, appeal to the Merit Systems Protection Board.

OPM Actions for Veterans

Director James has directed OPM to take a number of steps to guarantee that the rights and entitlements of our veterans are not compromised as they return to their Federal jobs. We provide guidance to Federal agencies and departments as well as directly to veterans.

- On September 14, 2001, 3 days after the tragedy of September 11, we published extensive guidance to agencies on the rights and benefits of employees called to active duty.
- On October 29, 2001, we published a set of Frequently Asked Questions on military leave.
- We update "VetGuide" on OPM's Web site to ensure it remains the most comprehensive site for veterans' information.

As a part of our general oversight authority, which we execute through Human Resource Operations audits and Delegated Examining Unit (DEU) audits, OPM ensures that veterans are protected against discrimination. Each year, we conduct approximately 20 operations audits and 125 DEU audits Governmentwide. We notify agencies of our coverage of veterans' issues and programs before each review and discuss key OPM initiatives.

Through the newly created OPM Veteran Invitational Program (VIP), we are providing veterans with timely, accurate, and useful information to inform them of their rights and employment opportunities with the Federal Government. The VIP provides assistance to military personnel who are transitioning to civilian life through various informational tools and publications. In this regard, OPM works with Transition Assistance Program offices on military bases to recruit and

assist veterans. We distribute posters, pamphlets, and wallet size information cards as well as inform veterans through an accessible Web link. OPM has also produced the DVD "*What Veterans Need to Know About Veterans' Preference*," a comprehensive 40-minute video seminar of veterans' preference rights and eligibilities.

In addition to the VIP, Director James and the OPM Team:

- Have developed outreach material to distribute at military bases' Transition Assistance Programs (TAP); Veterans Affairs Regional Offices; Veterans Service Organizations at the national, State and local levels; the U.S. Department of Labor's Veterans Employment and Training Service; and at recruitment fairs, including our recent Nationwide *Working for America* Recruitment Fairs.
- Have improved our USAJOBS Web site to make it more veteran-friendly by adding several veterans' links and additional veterans' employment information.
- Continue to explain veterans' rights at national conventions, conferences, workshops, and service officer training sponsored by the Veterans Service Organizations (VSOs). Also, we have reestablished quarterly meetings with VSO representatives for updates on issues of interest and provide an opportunity for them to share their concerns with OPM. I personally chair these meetings in which we invite leading experts on veterans' employment issues to share information.
- Actively participate as a member of the National Committee for Employer Support of the Guard and Reserve (ESGR), which is a Department of Defense-sponsored organization that seeks to minimize issues and misunderstandings that may arise between Reservists serving on active duty and their employers.
- Are actively involved with and a member of the National Task Force on Disability (assisting with the employment of Disabled Veterans) and the President's National Hire Veterans Committee, on which I personally serve.
- Work with the Department of Labor and the Department of Veterans Affairs to facilitate the employment of veterans, and share program information with the human resources community and others.
- Have staffed booths during the recent series of OPM-sponsored nationwide recruitment fairs to provide information concerning the VIP and other veterans' employment benefits and protections, such as that offered under USERRA. We also conducted workshops at each fair to provide veterans with information on employment preference, special appointment authorities, and complaint procedures.

OPM has been at the forefront of efforts to preserve and protect veterans' rights in Federal employment. We share the view held by Veterans Service Organizations that our Nation owes a debt of gratitude to its veterans. Veterans' preference laws provide a measure of compensation for those brave young men and women who left their families and homes to answer our Nation's call to arms.

Recently, Director James convened a meeting of the Chief Human Capital Officers Council and the leaders of America's Veterans Service Organizations at Walter Reed Army Medical Center. She took advantage of this opportunity to remind attendees that there are no longer any excuses for not using the many hiring authorities available to Federal agencies to bring veterans into the Federal service.

At a recent visit to Walter Reed, Director James stated that OPM will continue "aggressive" audits to ensure veterans' preference law is upheld. The day-long event included a personal message of thanks from Director James on behalf of the nation's 1.8 million civil servants, as well as training seminars and informational workshops for the soldiers conducted by OPM experts. OPM staff offered seminars including one which explained veterans' preference, appointing authorities, basis of preference, and veterans' preference types and benefits. Other seminars and workshops covered navigation of the USAJOBS.opm.gov Web site, resume writing, interviewing skills, and the Federal application process. Staff also met one-on-one with military personnel about the opportunities and benefits within the Government and the processes for obtaining a Federal job.

OPM recently hosted a special Veteran Employment Symposium on veterans' preference and recruitment. The all-day event, attended by agency human capital leaders, human resources specialists, and program managers, focused on advancing existing policies and strategies to recruit veterans into the Federal workforce, and to reiterate that veterans' preference is the law and not a courtesy. As Director James told the audience of over 250 attendees:

"Today's veteran brings the same level of dedication to the job as previous generations of veterans, but in addition they bring many of the high-tech skills needed in the current Federal work force. The Federal Government has a responsibility to help these men and women as they transition back to civilian life. As members of the best trained and volunteer military in the world, veterans have demonstrated an appreciation and competence for excellence and teamwork, and I cannot think of a better source of talent for the Federal Government than those who have completed their service in uniform."

And just yesterday, as part of our VIP, OPM staff conducted an outreach effort at the Department of Veterans Affairs Hampton Rehabilitation Medical Center in Hampton, Virginia. OPM experts provided employment information to veterans seeking careers in the Federal civil service, including training on

maximizing our USAJOBS.opm.gov website in Federal job searches and writing resumés.

Conclusion

The Federal human resources community understands our veterans are a valued resource who have earned, through their very life's blood, hiring preference and reemployment rights we should be so very *honored* to provide. We must never forget disabled veterans have paid a very personal price for our freedom. Veterans are assets to any organization. They bring strength, courage and commitment in a way that cannot be fully imagined by those who have never stood in harm's way for the cause of their country.

I would be glad to answer questions you might have.