

LEGISLATIVE HEARING ON H.R. 147, H.R. 228,
H.R. 297, H.R. 466, H.R. 929, H.R. 942, H.R. 950,
H.R. 1088, H.R. 1089, AND H.R. 1171

HEARING
BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
OF THE
COMMITTEE ON VETERANS' AFFAIRS
U.S. HOUSE OF REPRESENTATIVES

ONE HUNDRED ELEVENTH CONGRESS

FIRST SESSION

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**LEGISLATIVE HEARING ON H.R. 147, H.R. 228,
H.R. 297, H.R. 466, H.R. 929, H.R. 942, H.R. 950,
H.R. 1088, H.R. 1089, AND H.R. 1171**

WEDNESDAY, MARCH 4, 2009

U.S. HOUSE OF REPRESENTATIVES,
COMMITTEE ON VETERANS' AFFAIRS,
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
Washington, DC.

The Subcommittee met, pursuant to notice, at 1:09 p.m., in Room 340, Cannon House Office Building, Hon. Stephanie Herseth Sandlin [Chairwoman of the Subcommittee] presiding.

Present: Representatives Herseth Sandlin, Teague, Adler, Boozman.

OPENING STATEMENT OF CHAIRMAN HERSETH SANDLIN

Ms. HERSETH SANDLIN. Good afternoon, ladies and gentlemen. The Committee on Veterans' Affairs, Subcommittee on Economic Opportunity hearing on pending legislation will come to order.

I would like to call attention to the fact that the full Committee's Ranking Member, Mr. Steve Buyer, and Congressman Rodney Alexander have asked to submit written statements for the hearing record. If there is no objection, I ask for unanimous consent that their statements be entered for the record.

Hearing no objection, so entered.

[The prepared statements of Congressmen Buyer and Alexander, and Chairman Filner appear on p. 56 and p. 57.]

Ms. HERSETH SANDLIN. I ask unanimous consent that all Members have 5 legislative days to revise and extend their remarks and that written statements be made part of the record.

Hearing no objection, so ordered.

Today, we have 10 bills before us that seek to: establish a voluntary fund to assist homeless veterans; create a scholarship program for students seeking an education in the areas of visual impairment; orientation and mobility; expand vocational rehabilitation and employment (VR&E) subsistence allowance; protect wounded veterans in the workforce; create a program for veterans to meet the needs of the current job market; establish a 5-year pilot project to assist veterans seeking training on the purchase of a franchise enterprise; expand Chapter 33 housing benefits to veterans taking distance learning courses; improve training for those required to take National Veterans' Training Institute (NVTI) core training; authorize the Office of Special Counsel (OSC) to review certain Uniformed Services Employment and Reemployment Rights

Act (USERRA) cases; and reauthorize the Homeless Veterans Reintegration Program.

Let me say a bit more about two of these bills. Some in the room today will recall at least two Subcommittee hearings we held in the last Congress highlighting the responsibilities of Disabled Veterans' Outreach Program (DVOP) Specialist and Local Veteran Employment Representative (LVER) staff, which are primarily administered through State employment agencies and the U.S. Department of Labor (DOL).

While several recommendations were highlighted, one recommendation was to change DVOP and LVER training requirements at NVTI from the current 3-year timeframe to 1 year from the date of employment.

Unfortunately, the current core training requirements failed to meet the needs of veterans by permitting DVOP and LVER to assist veterans when they don't have the proper training to effectively assist the veterans they seek to help.

Recognizing the need to have properly trained DVOP and LVER staff, I introduced H.R. 1088, the "Mandatory Veteran Specialist Training Act of 2009." This legislation would require DVOPs and LVERs to be trained for their position within 1 year from the date of employment. I look forward to receiving comments from the Department of Labor and veteran service organizations (VSO) on this important legislation.

Another bill that I introduced as a result of a previous hearing in the last Congress is H.R. 1089, the "Veterans Employment Rights Realignment Act of 2009." On February 13, 2008, the Subcommittee held a hearing on "Review of Expiring Programs."

Pursuant to Public Law 108-454, the U.S. Office of Special Counsel (OSC) began receiving and investigating certain Federal-sector USERRA claims on February 8, 2005, and sunset on December 31, 2007, after Congressional intervention extending the original sunset. This law gave OSC authority to investigate Federal-sector USERRA claims brought by persons whose Social Security numbers end in an odd-numbered digit. Under the project, OSC received and investigated all Federal-sector USERRA claims containing a related prohibited personnel practice allegation, for which OSC has jurisdiction regardless of the person's Social Security number.

In the hearing, we received testimony from several veteran service organizations and the Office of Special Counsel that outlined the results that have increased the Department of Labor's effectiveness by decreasing their turnaround rate for pending USERRA cases.

Protecting our Nation's servicemembers and veterans from potential workforce discrimination is an issue I will continue to address in this Congress.

I now recognize the distinguished Ranking Member of this Subcommittee, Mr. Boozman, for any opening remarks he may have.

[The prepared statement of Chairwoman Herseth Sandlin appears on p. 27.]

OPENING STATEMENT OF HON. JOHN BOOZMAN

Mr. BOOZMAN. Thank you, Madam Chair. I appreciate that we are bringing several pieces of legislation before the Subcommittee, including my bill, H.R. 1171, the "Homeless Veterans Reintegration Program Reauthorization Act of 2009."

As you know, the Homeless Veterans Reintegration Program, or HVRP, has been cited by GAO as an example of the successful program designed to put homeless veterans back to work. It is a relatively inexpensive program funded last year at about \$26 million, that provides grants to community-based providers serving the homeless veteran population.

The U.S. Department of Veterans Affairs (VA) now estimates that about 154,000 veterans are homeless, a level down well from over 200,000 just a few years ago. I believe that HVRP has played an important role in reducing the homeless veterans population by putting them back to work and I congratulate the Veterans' Employment Training Service (VETS) and all the grantees for that success.

I am also looking forward to hearing the testimony from the National Coalition of Homeless Veterans (NCHV), Executive Director, Ms. Beversdorf, on the state of the homeless community.

I would also note that we have a number of excellent bills on today's agenda, and I want to thank you, Madam Chair, and your staff, for bringing forth two very, very good bills, H.R. 1088 and H.R. 1089.

I yield back the balance of my time.

[The prepared statement of Congressman Boozman appears on p. 28.]

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman. I would now like to welcome our colleagues who are testifying on our first panel before the Subcommittee today. Joining us are Congressman Steve Israel of New York, and Congressman Peter Welch of Vermont. We thank you for introducing the bills that we will consider at this hearing today.

The Chairman of the full Committee is en route. We will start with you, Mr. Israel; you are recognized for 5 minutes.

STATEMENTS OF HON. STEVE ISRAEL, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF NEW YORK; AND HON. PETER WELCH, A REPRESENTATIVE IN CONGRESS FROM THE STATE OF VERMONT

STATEMENT OF HON. STEVE ISRAEL

Mr. ISRAEL. Thank you, Madam Chair, and Ranking Member Boozman and Members of the Subcommittee.

I have introduced H.R. 147 which establishes on the Federal income tax form a check-off for homeless veterans, similar to the check off for contributions to the presidential campaign.

One of the deep concerns that I know we all have is the issue of homeless veterans. But not everyone is aware just how serious the problem is. Tonight in America, 154,000 veterans will be homeless. At any point in a veteran's life, about 300,000 experience homelessness over the course of a year. The National Coalition for Homeless Veterans estimates that one out of every three homeless

men sleeping in a doorway, an alley or a box in our cities or rural communities has served in the military.

H.R. 147 creates a section on the annual tax return form that would allow taxpayers to designate \$3 of their income tax liability to programs that assist homeless veterans without increasing the taxpayer's tax liability. It is patterned after the presidential campaign check off which has worked very effectively.

H.R. 147 creates a Homeless Veterans Assistance Fund within the Treasury Department where the contributed money would automatically be deposited and safeguarded by the Treasury and expenditures from the fund would have to be appropriated. The bill stipulates that funds can only be used for the purpose of providing assistance to homeless veterans.

We introduced a bill last year with the support of national veterans' organizations in the Senate. Senator Hillary Clinton sponsored it last year as a companion bill.

This year we have 41 bipartisan cosponsors and, once again, I am pleased to report that the national veterans' organizations such as the American Legion and the Veterans of Foreign Wars (VFW) have endorsed the bill.

Thank you, Chairwoman, for the time. I'd be pleased to answer any questions.

[The prepared statement of Congressman Israel appears on p. 28.]

Ms. HERSETH SANDLIN. Thank you, Mr. Israel.

Mr. Welch, you are recognized.

STATEMENT OF HON. PETER WELCH

Mr. WELCH. Thank you very much, Madam Chair, Members of the Committee.

I am here with a reintroduction of a bill that I worked on last year with this Committee, Mr. Boozman, and I'm delighted this year that Mr. Teague is joining as a cosponsor. We are calling it MOST, and it is about trying to give employment opportunities to military veterans.

And very specifically, what this bill would do is help veterans find good-paying jobs. And what this Committee knows more than anything else is that the real desire of our veterans when they return is to reintegrate into their lives, productive lives where they are raising their families, paying their bills and feeling good because they have got employment that makes a difference for them.

The Military Occupational Specialty Transition (MOST) program is designed to target veterans who are unemployed or underemployed or had a military occupational specialty that may not have adequately trained them for re-entry into the civilian force. You know, there's a lot of skills, as again you know, I'm preaching to the choir here, that are enhanced in the military. But, also, there are certain skills that are specific to the military that don't easily transfer. So we have got to help those folks get jobs.

The VA has estimated that MOST would serve up to about 3,000 veterans every year. It would provide employers with 50 percent or \$20,000 of a veteran's wages while he or she was going through that training period. And of course, that's a big boost for our employers who are on the knife edge as to whether or not they are

going to hire anybody. And they may want to hire a veteran, but then they are going to have the training period, which is a very expensive time for the employer, helped by the taxpayer, that's going to make a difference in those decisions.

While H.R. 929 grew out of the Service Members Occupational Conversion and Training Act (SMOCTA) program, this Committee supported reauthorization and the House of Representatives accepted your recommendation last year. We didn't get it through the Senate, same old story, but we are back to try again.

And while H.R. 6272 was a straight reauthorization of part of the 1993 Defense Authorization Act, this bill, H.R. 929, was changed in the Subcommittee Markup to increase the amount that could be paid to employers and for other reasons.

Finally, just a personal note, Madam Chair. I so appreciate working with you and the Ranking Member. It is just delightful in Congress with all the noise out there, the partisanship and how it goes back and forth, that we have a Committee Majority and a Committee Minority and staff who put the veterans first. And I wish you guys ran the Congress. I mean that is—you are doing a great job.

I was a new Member last year. I had an idea. Actually, you know, you were ahead of me on it, but anybody in Congress last year in our class who had an idea to try to help our veterans, you wanted to hear it and evaluate it and act on it. So it is just an example of the way we ought to operate around here and I thank you.

[The prepared statement of Congressman Welch appears on p. 30.]

Ms. HERSETH SANDLIN. Thank you, Mr. Welch, we appreciate the vote of confidence.

We thank you both for these important bills. We are pleased to consider them today, and again we appreciate working closely together to advance the bills. Mr. Welch, thank you for the work you put in to the bill last Congress. We hope to continue to make headway both in this chamber and the other, this Congress. Mr. Israel, we appreciate your important bill, one that we agree the American public would respond to.

Again, we are pleased to consider it. I don't have any questions for either of my colleagues, but I believe Mr. Boozman may have one question.

Mr. BOOZMAN. The only question that I would ask, Mr. Israel, I guess one of the concern, I think your ideas are good ones and I really want to commend you on that.

I guess a concern is what do we do if we do this and the appropriators in looking and consider this amount of money is coming in for that, and then they arbitrarily cut back that amount of money? I guess that is the only concern that I have is, can we think of some sort of a way to prevent that from happening? Can you comment on that for me?

Mr. ISRAEL. Sure, Mr. Boozman, thank you. As an appropriator, yeah, I understand exactly where you are coming from.

Mr. BOOZMAN. You can have some tough, well, you have got a very tough—yeah, you've got a tough job and you have got very limited resources.

Mr. ISRAEL. Well, you're right. You're right. The bill is currently written so that the funds would actually be deposited in a separate account to the Department of the Treasury and the Secretary of the Treasury would have to promulgate regulations with respect to how to allocate the funds.

Now, if you choose to advance this bill in any markup, we would leave it to your discretion to ascertain what the best way of ensuring that those funds are absolutely frozen in a separate account and disbursed. So we would leave it to your discretion.

Mr. BOOZMAN. Well, as an appropriator, you could give us some good advice regarding that because, again, I think that is a concern that we would have.

Mr. Welch, we appreciate you with your bill and we really are going to work with you and see what we can do. I think there is a little bit of concern about just administering the program and how you do that. So, like I say, we will be glad to work with you.

Mr. WELCH. Right, and I defer to your judgment on that because I know the Committee has expertise and I take your concerns about that as ones that are intended to try to make it work. Thank you.

Mr. BOOZMAN. Well, thank you. Thank both of you very much.

Ms. HERSETH SANDLIN. Mr. Adler?

Mr. Adler I guess I wanted to comment about what Mr. Boozman said a moment ago.

Frankly, Mr. Israel, I'm hoping that your bill gets considered because there is a public service value just to having it out there to remind America that we have not yet met the needs of our heroes, too many of whom are homeless. I am actually frankly hopeful that Mr. Welch's measure and the GI Bill for the 21st century make your bill moot in the very near term and we don't have homeless veterans where we have met the medical needs, met the disability claims, met the psychological needs and got them the education and the opportunities for work that they deserve. And so we want to put you out of business in that narrow capacity.

Good luck with the bill, though.

Ms. HERSETH SANDLIN. Thank you, Mr. Adler.

Mr. Teague.

Mr. TEAGUE. No, I don't have anything to say now. Thank you.

Ms. HERSETH SANDLIN. Thank you, both for taking the time out of your busy schedules to be here and discuss your bills. We will look forward to working with you further. Thank you, both.

Mr. ISRAEL. Thank you.

Mr. WELCH. Thank you.

Ms. HERSETH SANDLIN. The Chairman of the full Committee is on his way, actually, so we are going to wait for a couple more minutes. We will recess for a few minutes.

[Recess.]

Ms. HERSETH SANDLIN. Joining us at the witness table, Mr. Justin Brown, Legislative Associate, National Legislative Service for the Veterans of Foreign Wars of the United States; Ms. Cheryl Beversdorf, President and Chief Executive Officer of the National Coalition for Homeless Veterans; Mr. John Wilson, Associate National Legislative Director for the Disabled American Veterans (DAV); Mr. Mark Walker, Assistant Director, Economic Commis-

sion for the American Legion; and Dr. Thomas Zampieri, Director of Government Relations for the Blinded Veterans Association (BVA).

In the interest of time and courtesy to all the panelists here today, we ask that you limit your testimony to 5 minutes, focusing on your comments and recommendations. Keep in mind, your entire written statement has been entered into the Committee record.

Mr. Brown, we will start with you. You are recognized for 5 minutes.

STATEMENTS OF JUSTIN BROWN, LEGISLATIVE ASSOCIATE, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS OF THE UNITED STATES; CHERYL BEVERSDORF, RN, MHS, MA, PRESIDENT AND CHIEF EXECUTIVE OFFICER, NATIONAL COALITION FOR HOMELESS VETERANS; JOHN L. WILSON, ASSOCIATE NATIONAL LEGISLATIVE DIRECTOR, DISABLED AMERICAN VETERANS; MARK WALKER, ASSISTANT DIRECTOR, NATIONAL ECONOMIC COMMISSION, AMERICAN LEGION; AND THOMAS ZAMPIERI, PH.D., DIRECTOR OF GOVERNMENT RELATIONS, BLINDED VETERANS ASSOCIATION

STATEMENT OF JUSTIN BROWN

Mr. BROWN. Thank you, Madam Chair. Thank you, Ranking Member Boozman.

On behalf of the 2.2 million members of the Veterans of Foreign Wars of the United States and our auxiliaries, I would like to thank this Committee for the opportunity to testify. The issues under consideration today are of great importance to our members and the entire veteran population.

During this economic recession, the number of unemployed veterans has increased to nearly 850,000 as of January 2009. That is an increase of nearly one-quarter of a million veterans since last November and an increase of more than 400,000 since last April. Of these unemployed veterans, nearly 100,000 are veterans from the Iraq and Afghanistan conflicts. Clearly, veterans are not exempt from the current economic crisis, and we appreciate this Committee's ambition in addressing these issues.

The VFW is thankful for the tax incentive provisions in the economic stimulus, which will aid recently separated servicemembers in locating employment. This is smart policy and we hope that businesses find the value in an added incentive to hiring our Nation's newest combat veterans.

However, while we laud this provision, we are also worried that the infrastructural spending provisions of the stimulus will allow circumvention of the Jobs for Veterans Act of 2002. What this means for veterans is that contractors that receive stimulus money, via State grants in excess of \$100,000, will not be held accountable to the requirements outlined in the Jobs for Veterans Act.

In particular, contractors receiving stimulus money may be bypassing reporting requirements for open employment positions and the annual filing requirement known as the VETS-100, which identifies affirmative action issues in regards to veteran hiring practices and tracks veteran employment percentages.

Also, in recent news, the new budget as proposed by President Obama could increase the Federal workforce by 100,000 to 250,000 employees. Regardless of the number, we would hope to see a large number of America's unemployed veterans fill this new workforce.

We are thankful that the Federal Government has increased its veterans and disabled veterans percentage of new hires in the previous 5 years.

In fiscal year 2007, 22.7 percent of all new Federal hires were veterans, and 5.7 percent were disabled veterans. Veterans Federal Employment Preference is working, and we hope to see it continue to do so with the new jobs created by an increased budget in the economic stimulus. If the Federal Government maintains or exceeds its hiring rate of 22.7 percent, this would equate to 20,000 to 60,000 new veteran jobs and drastically cut the total unemployment of the veteran population.

As America's largest group representing combat veterans, we thank you for allowing the Veterans of Foreign Wars to present its views on these bills. The number of unemployed veterans has nearly doubled. Our veteran's employment programs and resources will be pushed to their limits and now, more than ever, we need them to perform.

Madam Chairwoman, this concludes my testimony, and I will be pleased to respond to any questions you or the Members of this Subcommittee may have. Thank you.

[The prepared statement of Mr. Brown appears on p. 33.]

Ms. HERSETH SANDLIN. Thank you very much, Mr. Brown.

Ms. Beversdorf, you are now recognized.

STATEMENT OF CHERYL BEVERSDORF, RN, MHS, MA

Ms. BEVERSDORF. Chairwoman Herseth Sandlin, Ranking Member Boozman, Members of the Subcommittee, as a representative of the National Coalition for Homeless Veterans, I am pleased to be invited to provide our views on several bills that have been referred to your Subcommittee for consideration.

Of the 10 bills that you cited, I will restrict my comments to H.R. 147, which would amend the Internal Revenue Code to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and H.R. 1171 which would amend Title 38, U.S. Code, to reauthorize the Homeless Veteran Reintegration Program for fiscal years 2010 through 2014.

Before providing comments on these two bills, I would like to talk briefly about the issues of homelessness among veterans and why more funding for programs, services and housing are needed to address this tragedy. Studies have shown that veterans are at a greater risk of becoming homeless due to a number of factors. These include uniquely military skills not needed in the civilian sector, combat-related health issues, minimal income due to unemployment, and a shortage of safe, affordable housing.

Most veterans who are currently homeless served during prior conflicts or in peace time. However, according to a 2008 RAND Corporation study, nearly 20 percent of military servicemembers, who have returned from Iraq and Afghanistan, 300,000 in all, report symptoms of post-traumatic stress disorder (PTSD) or major depression, yet only slightly more than half have sought treatment.

This new generation of combat veterans, both men and woman, also suffer from other war-related conditions, including traumatic brain injuries, which puts them at risk for homelessness.

Women veterans report serious trauma histories and episodes of physical harassment and/or sexual assault while in the military. VA and homeless veterans service providers are also seeing increased numbers of female and male veterans with children seeking their assistance.

According to the Department of Veterans Affairs, there are an estimated 154,000 veterans who were homeless on any given night, which is actually a 40-percent reduction since 2001.

If this trend toward reducing the number of homeless veterans is to continue, more funding is needed for supportive services, employment and housing options to ensure veterans, who served prior to and during the Iraq and Afghanistan wars, can live independently and with dignity.

Now about the two bills. H.R. 147. NCHV sincerely appreciates Representative Israel's concern for homeless men and women veterans and the need to provide them with assistance. We represent community-based organizations in 46 States, the District of Columbia, Puerto Rico and Guam, which offer this support every day by providing the full continuum of care to both homeless veterans and their families.

However, to address the needs of veterans who are currently homeless and also help the homeless and at-risk Operation Enduring Freedom/Operation Iraqi Freedom (OIF) veteran population who are seeking help at VA medical centers and community-based organizations, additional funding is necessary.

We believe the Homeless Veteran Assistance Fund could be a major resource from which community-based organizations could seek funds to provide more supportive services and housing to these veterans. However, if H.R. 147 is enacted, we believe additional attention needs to be given to how the fund will be managed and administered, in addition to what the compliance requirements will be for the organizations that receive the funds.

NCHV believes veterans are citizens first. The people of this country have a responsibility to show respect and gratitude to the men and women who have served in the military. Enactment of H.R. 147 would give all Americans an opportunity to thank these former warriors for their service by making contributions to a fund that would help those men and women who need assistance as they return to civilian life.

Now about H.R. 1171. Regarding this bill, NCHV wants to thank Representatives Boozman and Buyer for introducing this bill. The HVRP program is the only Federal program wholly dedicated to providing employment assistance to homeless veterans.

This program is unique, and as Mr. Boozman said, highly successful because it doesn't fund employment services, per se, but rather, it rewards organizations that guarantee job placement.

In 2008, DOL reported 65 percent of homeless veterans served through HVRP entered employment and 72 percent of them retained employment at the 90-day mark.

In fact, in fiscal year 2009, DOL estimated that \$25.6 million in HVRP funding would provide approximately 15,330 homeless vet-

erans with employment and training assistance. What does that cost? Average cost per participant, \$1,670; average cost per placement, \$2,407. These costs represent a tiny investment for moving a veteran out of homelessness and off of dependency on public programs.

In anticipation of the new wave of men and women veterans returning from Iraq and Afghanistan who may become homeless and will need effective employment programs to ensure their economic stability, reauthorization of the HVRP program as stated in H.R. 1171 is imperative.

In conclusion, NCHV appreciates the opportunity to submit its views to this Subcommittee regarding these two bills. We look forward to continuing to work with you to ensure our Federal Government does what is needed to prevent and end homelessness among our Nation's veterans.

[The prepared statement of Ms. Beversdorf appears on p. 36.]

Ms. HERSETH SANDLIN. Thank you, Ms. Beversdorf.

I would now like to welcome to the dais the gentleman from Texas, Mr. Doggett, and recognize him for purposes of discussing his bill, H.R. 466, the "Wounded Veteran Job Security Act."

**STATEMENT OF HON. LLOYD DOGGETT, A REPRESENTATIVE
IN CONGRESS FROM THE STATE OF TEXAS**

Mr. DOGGETT. Thank you, Madam Chair, and Mr. Boozman, Members of the Subcommittee.

I apologize for being late. I chaired the Texas delegation and you know how everybody talks slow down there in the South and I could not get out.

I believe I have covered it really in my written testimony and fortunately the attachments to it that include letters of support from a number of the groups that are represented here, the American Legion, the VFW, and the Disabled American Veterans.

My interest in this piece of legislation grew from a contact from a constituent and problems that he felt had occurred in gaps in the Uniformed Services Employment and Reemployment Rights Acts with which this Subcommittee on Economic Opportunity is very familiar.

Basically, a situation with some employers that they found were not saying that their denial of job rights to a returning veteran was because of that veteran's absence in service or because of an injury that the veteran had suffered, but because the veteran required medical care in frequent visits in that regard.

One example that I got was of a Texan who suffered a serious back injury when his Humvee rolled over in Iraq. And when he returned home and went back to the job, he was told that his visits for treatment to the local VA hospital were "unexcused absences," and just 6 months after risking life and limb for his country, his employer dismissed him, saying that he exceeded the number of unexcused absences that were allowable.

Another example that was reported to me was of a soldier who suffered a leg injury while serving in Iraq. He required physical therapy. I broke my own leg last year. I know how important that is. And his employer said that the company leave policy did not

allow him to get that type of treatment, and this injured veteran was dismissed 3 months after returning from the battlefield.

Hopefully, these are isolated incidents, but I think that they do deal with something of a, perhaps of a loophole or misinterpretation in this legislation which this Subcommittee, and Committee as a whole, have been responsible for enforcing. And I know also the work of this Committee in trying to do more to get health care for our veterans and despite the significant progress we have made with the last couple of VA appropriations bills, this type of thing can occur with some significance because, as I am sure is true in your State of South Dakota, some of these veterans, for something like physical therapy, may have to travel long distances. So it is not just a matter of an hour out of the office. It may be half a day out.

And so I believe there is a problem here that needs attention, and I offer the very narrow legislation that I have submitted, that some of you have cosponsored, and would ask for the Subcommittee's valuable recommendation.

[The prepared statement of Congressman Doggett appears on p. 30.]

Ms. HERSETH SANDLIN. Thank you very much, Mr. Doggett.

Mr. BOOZMAN or any other Subcommittee Members have questions or comments?

Mr. BOOZMAN. I don't have any questions. I appreciate you. Certainly, the two instances that you cite are, we all agree are unacceptable, inexcusable. And we do need to figure out a way to do this, so we thank you for bringing this forward.

Mr. DOGGETT. I thank the Members of the Subcommittee for your understanding. I'm going to slip over to Ways and Means now. Thank you very much.

Ms. HERSETH SANDLIN. Thank you, Mr. Doggett.

I now recognize Mr. Wilson. You are recognized for 5 minutes.

STATEMENT OF JOHN L. WILSON

Mr. JOHN WILSON. Thank you.

Madam Chairwoman and Members of the Subcommittee, on behalf of the 1.2 million members of the Disabled American Veterans, I am honored to present testimony addressing various bills before the Subcommittee today. In accordance with our Congressional charter, the DAV's mission is to "advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans." We are, therefore, pleased to support various measures insofar as they fall within that scope.

Of the legislation under consideration today, I will address three in my oral statement.

The first is H.R. 297, the "Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009," which seeks to increase the monthly subsistence allowance payable to veterans participating in the VA vocational rehabilitation program. This legislation would, for example, increase the current subsistence allowance for a single veteran going to school full-time from approximately \$541 to \$1,200 per month.

Further, it directs VA subsistence allowance for the first time to those veterans who are not participating in vocational rehabilita-

tion, but rather, are using the employment arm of vocational rehabilitation and employment services. This legislation would provide such veterans a subsistence allowance for 3 months during this period of active job hunting.

While not opposed to the favorable consideration of this legislation and we commend Mr. Buyer for its introduction. We do, however, recommend it be amended to authorize vocational rehabilitation and employment, Chapter 31 participants, to receive the higher subsistence allowance offered under the Post-9/11 GI Bill, Chapter 33.

For example, the higher subsistence allowance equals approximately \$1,570 per month for a single E-5 living in the D.C. Metro area. A significant increase from the approximate \$541 currently, and an increase in the proposed \$1,200, to the same veteran, in this legislation.

The difference in the subsistence allowance may be significant enough to cause some to actually opt out of vocational rehabilitation, which, in the long term, may be detrimental to their physical and mental health, as well as their ability to retain employment. We believe this was not the intent of Congress.

There is precedent which can be found under section 31-08-F of Chapter 30, which governs the Montgomery GI Bill. It allows a veteran to receive vocational rehabilitation assistance, but at the subsistence allowance under the Montgomery GI Bill.

Therefore, we ask for your favorable consideration in amending this legislation to grant the higher subsistence allowance offered under the Post-9/11 GI Bill, yet allowing veterans to continue vocational rehabilitation.

The second piece of legislation I would like to address is H.R. 288, which directs the Secretary of Veterans Affairs to establish a scholarship program for individuals who: (1) pursue a program of study leading to a degree or certificate in either visual impairment, orientation and mobility, or both; (2) provided they agree to become a full-time VA employee for 3 years, within the first 6 years after program completion.

While the DAV has no resolution on this issue, we are not opposed to this legislation. The only amendment we would recommend is that the scholarship program's emphasis is on providing such educational opportunities first to service connected veterans with visual impairment, orientation and/or mobility disabling conditions.

The third and last piece of legislation I will address is H.R. 466, the "Wounded Veteran Job Security Act," which amends Uniformed Services Employment and Reemployment Rights Act, prohibiting discrimination and acts of reprisal by civilian employers against persons who receive treatment for conditions incurred in or aggravated by service in uniformed services.

Although the DAV has no resolution on this issue, we are not opposed to the favorable consideration of this legislation as it would protect veterans from discrimination and reprisal as they seek care for their disabilities.

Madam Chairwoman, this concludes my testimony on behalf of the DAV. We hope you will favorably consider our recommenda-

tions. I would be happy to answer any questions Members of the Subcommittee might have. Thank you.

[The prepared statement of Mr. John Wilson appears on p. 39.]

Ms. HERSETH SANDLIN. Thank you, Mr. Wilson. We appreciate your recommendations.

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

STATEMENT OF MARK WALKER

Mr. WALKER. Thank you. Madam Chairwoman and Members of the Subcommittee, thank for this opportunity to present the American Legion's views on the several pieces of legislation being considered by the Subcommittee today. The American Legion commends the Subcommittee for holding a hearing to discuss these important and timely issues.

H.R. 147, the American Legion supports this provision. This fund will provide medical, rehabilitative, and employment assistance to homeless veterans and their families. Homeless veteran programs should provide supportive services such as, but not limited to, outreach, health care, case management, daily living, personal financial planning, transportation, vocational counseling, employment and training, and education. This designation of funds would provide these needed services for America's most vulnerable veterans.

H.R. 228, the American Legion supports this pilot program. There is a strong need for more medical providers in these medical fields and this program would provide the necessary funding for veterans who are interested in these career opportunities.

H.R. 297, the American Legion supports this provision. This subsistence increase would allow the veteran to meet his or her needs and maintain their educational pursuits within the VR&E program.

H.R. 466, the American Legion supports this amendment to the USERRA to allow veterans to maintain their employment while being treated for service-connected disabilities.

H.R. 929, the American Legion supports this legislation. This program would provide job training in a relevant career field for veterans who have been unemployed for at least 90 of the previous 180 days, are not eligible for education or training services, or do not have a primary or secondary military occupation specialty that is readily transferable to the civilian workforce. This program would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by State veterans' employment personnel to assist veterans with employment barriers.

H.R. 942, the American Legion supports this provision. The American Legion views small business as the backbone of the American economy. This program would defray the cost and allow training that is required to run a franchise successfully.

H.R. 950, the American Legion believes that paying veterans a lesser benefit when they receive credit via distance learning is a concern. The U.S. Department of Defense reports that over 70 percent of its enrollees are receiving credit via distance learning, and the VA is reporting a similar shift toward increasing utilization of the distance learning modality.

Accordingly, the American Legion is recommending that the allowances for distance learning be similar to those for residential learning. This policy assures equity for veterans, including such individuals as single parents and veterans with significant medical disabilities.

H.R. 1088, the American Legion recommends that these personnel be trained within a year. We agree with this legislation.

And H.R. 1089, the American Legion has no position on this enforcement through the Office of Special Counsel of Employment and Unemployment Rights, Veterans and members of the armed forces employed by executive agencies.

And lastly, H.R. 1171, the American Legion strongly supports the reauthorization of HVRP for fiscal years 2010 to 2014. HVRP is the only nationwide program that focuses on assisting homeless veterans to reintegrate into the workforce.

Again, thank you for the opportunity to submit these opinions of the American Legion on these issues. I am willing to answer any questions.

[The prepared statement of Mr. Walker appears on p. 41.]

Ms. HERSETH SANDLIN. Thank you, Mr. Walker.

Dr. Zampieri, you are now recognized.

STATEMENT OF THOMAS ZAMPIERI, PH.D.

Dr. ZAMPIERI. On behalf of the Blinded Veterans Association, I appreciate the opportunity to provide the testimony today to the Committee.

We aren't going to give up. We appreciate the fact that, actually, you all passed H.R. 1240 in the last session, and I appreciated the bipartisan support of the Committee in trying to get this scholarship program for the blind, rehabilitative instructors and the orientation mobility instructors.

Since then, the bad news is, of course, the friends of mine on the Senate side didn't get a chance to pass the bill in the 110th Congress, but I have spent the last week over there. And I am sure that, if nothing else, they want to get rid of me, so they said, we'll try this time to get the bill passed. And I think, Senator Brown actually is going to be introducing the companion bill in the near future and with, also, bipartisan support over there.

So, again, we appreciate your bringing this bill up again before your Committee. And hopefully, we'll get it passed. The bad news is that as the VA has tried to expand its outpatient blind rehabilitative programs to more medical centers since we last testified 8 months ago, or whenever the hearing was, the number of vacant positions now has increased.

The good news is, the VA is trying to expand its ability to improve access for blind and low-vision veterans. And actually, they've opened up 53 new programs.

The bad part of that is, is when you are trying to recruit these individuals, there are only 30 universities in the whole country that offer a master's level degree in blind instruction and orientation mobility. And there's actually a national shortage of these individuals coming out of these 30 programs because these programs are very small to begin with.

And so the VA will be able to use this scholarship program, obviously, as a great recruitment tool to bring these individuals into the system.

The polytrauma centers and the other blind rehabilitative centers, especially, have felt the problems with trying to be able to recruit these individuals. And as mentioned by other witnesses, these individuals coming back, or polytrauma patients, not only are they visually impaired, but they often have other physical injuries, burns, amputations. A significant number of them, or their polytrauma patients, have PTSD, and the best place for them to be treated is within a multi-disciplinary health care system, like the VA operates at its blind centers in conjunction with the other specialists that are needed to treat these individuals.

The other pieces of legislation before the Subcommittee today, BVA supports all of those. I did make a little error in testimony under H.R. 942. I meant to have a section there where it talked about returning medics and corpsmen. Actually, it should have been under Congressman Welch and Congressman Boozman's bill, H.R. 929.

It is a great resource of individuals returning with combat life-saving skills. It is not easily transferred into the private sector, although these individuals that are combat medics and navy corpsmen can come back and apply to be emergency medical technicians. In many rural States, those are volunteer positions on fire departments and rescue squads. They can't get employment, even though they have these amazing life-saving skills.

So if there is a way to include corpsmen and medics into this as a way of helping them in any way as far as getting into the VA and going back to school and becoming physician assistants helps meet several things in regards to providing rural health care, primary care providers that physician assistants are. So I just want to bring that up.

These other things are also important. Congressman Doggett's bill, I just want to say that we have also supported that because I know of servicemembers who have had problems where they are actually afraid, especially National Guard and Reservists who come back who have had traumatic brain injuries (TBIs), tell their employer that I had a TBI. Now, here we are, constantly trying to figure out better ways to screen, diagnose and treat these individuals, but I am hearing that there is a stigma attached now and employers get real suspicious of an individual who comes back and says, oh, by the way, I had a TBI or I had PTSD because of my experience in Iraq. And just so you know, there are cases out there that I am familiar with where persons have suddenly been treated differently than in the past.

So any way that you can protect an individual so that they are not discriminated against because of the fact that, you know, they are seeking treatment and care for war-related injury or illness or mental health problems, we fully support your action here on the Committee.

And I just wanted to mention that today I have a blinded OIF servicemember who came with me from Walter Reed, and I am not sure how you all would do this, but you are the experts. One of the things, too, with Congressman Doggett's bill, and I know the Com-

mittee has looked at, if there is a way to sort of help the parents or the spouse or a family member who is a caretaker. We have heard of cases where individuals are trying to take care of their son or daughter and they start to get harassed at work, because they are taking time off from work in order to get their son or daughter to appointments and stuff. I know this gets complex, in a lot of different ways. But it is just something that I wanted to draw attention to.

And so, again, we appreciate the opportunity to be able to testify today and we would be willing to answer any questions.

[The prepared statement of Dr. Zampieri appears on p. 43.]

Ms. HERSETH SANDLIN. Thank you, Dr. Zampieri, and thank you for your tenacity in working with our colleagues on the Senate side. I appreciate it.

Let me just start out with a couple of questions for Ms. Beversdorf. First, are you satisfied by the geographic location of the services provided by the Homeless Veterans Reintegration Program?

Ms. BEVERSDORF. I'm sorry. Could you repeat the question?

Ms. HERSETH SANDLIN. Are you satisfied by the geographic locations of the services provided by the Homeless Veterans Reintegration Program? My understanding is the Department of Labor funds are limited to a number of grantees and a limited number of States.

To phrase it differently, are there some areas that are underserved by the Homeless Veterans Reintegration Program because of the geographic locations as identified by the Department of Labor?

Ms. BEVERSDORF. There are definitely areas that are underserved. And part of the problem, frankly, Madam Chairman, is that only a limited amount of funding is available. While the program is authorized at \$50 million each year, the Department of Labor has required only a \$2 million increase in funding.

And so, the number of grants that are available, both urban as well as suburban, is limited. Most of the time DOL has far more grant applications than they are able to fund because of limited dollars.

HVRP is a successful program. If there is anything this Subcommittee can do, it would be to request full authorized funding for the program this year.

Ms. HERSETH SANDLIN. Thank you.

Mr. Brown, in your testimony, you state that while the VFW is supportive of the intent of the legislation—I think referring to H.R. 297—it doesn't address the core issues facing VR&E. Could you, perhaps, identify for the Subcommittee, either now or follow up in writing what the VFW deems to be the top three or five core issues facing VR&E today?

Mr. BROWN. I would be happy to follow up in writing, Madam Chairwoman.

[The DAV response is provided in the response to Question #1 in the Post-Hearing Questions and Responses for the Record, which appears on p. 71.]

Ms. HERSETH SANDLIN. Thank you.

This question is for anyone on the panel who would like to comment. Mr. Brown, I think your testimony indicates that VFW can't

support H.R. 950 because it would create inequities among veterans pursuing distance learning. I'm wondering if VFW could support the bill, Mr. Walker, you may have referenced this in your testimony, if it was changed to the student's residence at enrollment, instead of the institution's location.

Mr. BROWN. That would certainly make it more favorable to the VFW.

Ms. HERSETH SANDLIN. Okay.

Mr. BOOZMAN.

Mr. BOOZMAN. Mr. Brown, can you elaborate a little bit on Mr. Welch's bill, H.R. 929?

Mr. BROWN. Yes, Congressman. And exactly how would you like me to elaborate on it, if I may?

Mr. BOOZMAN. Well, you all, do you oppose that?

Mr. BROWN. We are not in support of the legislation, Congressman.

Mr. BOOZMAN. Yes, what I'd like to know is, a little bit more where if you see a situation that can be fixed or just, do you have, I guess, a recommendation on fixing the bill?

Mr. BROWN. Well, one of the biggest things that struck out while looking at the bill, in consideration of the total unemployment right now for veterans, we're looking at about 850,000 people. Even before the economic decline, it was about half of that. If veterans were to use this benefit to the full amount of \$20,000 a year, for the period of 1 year, an appropriation of \$60 million, that would only affect 3,000 veterans.

So, I guess, one of our biggest issues with the legislation is that we feel that we really need to look at maybe some other avenues to really try to affect a larger veteran population. The legislation seems like it is aimed at a certain demographic of veterans. In particular I think it cites that anybody that is eligible for educational benefits is not eligible under this section.

Also, we think that, you know, that the bill is essentially just paying employers to hire veterans. And another program that also kind of does something like that, but their job is to hire other veterans is the DVOPs and LVERs through the Workforce Investment Act. They are appropriated at about \$160 million. Their job is to hire other veterans. This is a \$60 million appropriation that would just pay kind of any employers.

We just feel like there are more effective ways of trying to go after this demographic.

Mr. BOOZMAN. Well, that's very reasonable.

Ms. Beversdorf, you mentioned that the authorization was \$50 million and that it was—how much—one of the arguments has been that there is not enough providers to, if you did dole out more money, some people are arguing that there are not enough providers to actually use the money efficiently. Can you comment on that?

Ms. BEVERSDORF. NCHV represents 260 community-based organizations. Many who are not NCHV members also provide services to the homeless veterans. Many providers have been applied for HVRP funding and have been turned down even though they have submitted excellent proposals. DOL is accepting only the very best proposals.

Approval of the proposals may depend on who is reviewing them. In terms of eligible providers, many would qualify for funding. An additional \$25 million would increase the number of people who would apply for the program and who could receive funding.

Mr. BOOZMAN. I agree. Thank you very much.

Thank you, Madam Chair.

Ms. HERSETH SANDLIN. Thank you, Mr. Boozman. Mr. Brown, could you clarify if it is the VFW's position, as it is the DAV's position, that you are advocating for the subsistence allowances offered under the Post-9/11 G.I. Bill be available for VR&E participants, at that level?

Mr. BROWN. The level of what?

Ms. HERSETH SANDLIN. The level of funding offered under the Post-9/11 G.I. Bill. In your testimony, VFW estimated that the Chapter 33 basic allowance for housing is more generous than what is currently offered for subsistence.

Mr. BROWN. Correct.

Ms. HERSETH SANDLIN. Do you agree that we should make the level of subsistence allowance the same level for VR&E participants under Chapter 31, as it is under Chapter 33?

Mr. BROWN. Right. At the minimum. I mean, we are also talking about disabled veterans as well.

Ms. HERSETH SANDLIN. Mr. Wilson, that was your testimony for the DAV as well, right?

Mr. JOHN WILSON. Yes, that's correct.

Ms. HERSETH SANDLIN. Mr. Walker, is the American Legion taking a position on this?

Mr. WALKER. We have not taken one on that.

Ms. HERSETH SANDLIN. You have not? Okay.

My final question relates to my bill with regard to the Office of Special Counsel and USERRA complaint issues. Do any of the veterans service organizations, represented today on this panel, have a position as to whether or not OSC should be the lead agency handling USERRA complaint issues?

Mr. WALKER. Not at this time.

Ms. HERSETH SANDLIN. Not at this time.

Mr. BROWN. Not at this time.

Ms. HERSETH SANDLIN. Okay.

Mr. JOHN WILSON. Not at this time, no, ma'am.

Ms. HERSETH SANDLIN. Okay. That's all I have.

We thank you for your testimony, your commitment to our Nation's veterans, your recommendations and your thoughts on the bills that we have under consideration in this hearing today. Thank you very much.

I would now like to invite our witnesses on the third panel to the witness table. Joining us today is Mr. Patrick Boulay, Chief of the USERRA Unit for the U.S. Office of Special Counsel, and Mr. Keith Wilson, Director of the Office of Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs.

Thank you both for being here, and thank you for your written testimony which will be entered in its entirety into our hearing record.

Mr. Boulay, we will begin with you. Thank you, again, for being here at the Subcommittee. We'll recognize you for 5 minutes.

**STATEMENTS OF PATRICK H. BOULAY, CHIEF, USERRA UNIT,
U.S. OFFICE OF SPECIAL COUNSEL; AND KEITH M. WILSON,
DIRECTOR, EDUCATION SERVICE, VETERANS BENEFITS AD-
MINISTRATION, U.S. DEPARTMENT OF VETERANS**

STATEMENT OF PATRICK H. BOULAY

Mr. BOULAY. Thank you, Madam Chairwoman, Mr. Ranking Member and Members of the Subcommittee.

Good afternoon, and thank you for the opportunity to testify today on important matters of concern to our veterans, their families and our Nation as a whole.

My name is Patrick Boulay and I am Chief of the USERRA Unit at the U.S. Office of Special Counsel.

OCS is honored to serve as the Federal-sector prosecutor of the Uniformed Services Employment and Reemployment Rights Act, the law that protects the civilian employment rights of our veterans.

There are several important bills concerning veterans benefits and programs that are the subject of today's hearing. Because OSC's role is limited to USERRA, however, our testimony today focuses on H.R. 1028, the "Veterans Employment Rights Realignment Act of 2009," which proposes to expand OSC's role in USERRA by giving OSC exclusive jurisdiction to not just prosecute, but also investigate USERRA complaints involving Federal executive agencies.

Our Nation's military commitments in Iraq, Afghanistan and elsewhere have resulted in unprecedented deployments of our national Guard and Reserves during this decade.

As a consequence, we have seen, and are likely to continue to see, increased activity surrounding USERRA in the months and years ahead as soldiers continue to transition to and from the civilian workforce. Federal agencies, which employ approximately 25 percent of the Guard and Reserve, will play an important role in this process.

As you may know, the U.S. Office of Special Counsel is an independent Federal executive and prosecutorial agency whose primary mission is to safeguard the merit system in Federal employment by protecting Federal employees and applicants from prohibited personnel practices such as whistle-blower retaliation.

In 1994, OSC's mission was expanded with the enactment of USERRA, which is intended to ensure that those who serve in our Nation's military are not disadvantaged in their civilian careers because of military service, are promptly reemployed in their civilian jobs upon their return from duty, and are not discriminated against in employment based on past, present or future military service.

This law applies to all employers, Federal, State, local and private. Congress intends for the Federal Government to be a model employer under USERRA.

OSC is privileged to play a critical role in the enforcement of USERRA. Specifically, OSC provides legal representation and files suit on behalf of Federal employees and applicants whose USERRA rights have been violated by their Federal agency employers.

Since USERRA's enactment, OSC has sought to vigorously enforce USERRA to help fulfill Congress' goal that the Federal Gov-

ernment be a model employer under the law. We believe that Federal agencies must set an example for private, State and local employers to follow. We owe an immeasurable debt of gratitude to those who serve, and we must make certain that they are restored to their full employment rights and benefits when they come home, and that they are not discriminated against in employment.

Under current law, Federal employees and applicants who have USERRA complaints must first submit those complaints to the U.S. Department of Labor. The Department of Labor then investigates and attempts to resolve their complaints. If DOL's efforts are unsuccessful in resolving the complaint, the claimant may request that his or her complaint be referred to OSC.

Once OSC receives the case, it reviews the investigative file from the Department of Labor and determines whether to represent the claimant in a USERRA appeal before the U.S. Merit Systems Protection Board (MSPB).

Thus, USERRA creates a bifurcated process for Federal employees and applicants seeking to vindicate their USERRA rights by splitting the investigative and prosecutorial functions between two agencies, the Department of Labor and OSC.

OSC has long enjoyed a cooperative, productive partnership with DOL enforcing USERRA. Nevertheless, in USERRA cases referred from DOL to OSC, OSC must rely on DOL's investigations, which are sometimes incomplete or not fully or properly analyzed under the law. This often requires OSC to conduct additional follow-up investigation to make its determination.

Recognizing the inefficiencies of the bifurcated USERRA complaint process for Federal employees, as well as OSC's extensive experience and expertise in investigating and resolving other Federal employment claims, Congress established a USERRA demonstration project in 2004, under which OSC directly received roughly half of all USERRA complaints for both investigation and possible prosecution.

Under the demonstration project, OSC resolved the USERRA complaints it received in an efficient and highly effective manner, obtaining full relief for claimants in one-in-four of all claims filed with our office.

OSC achieved this unusually high rate of corrective action through its thorough investigations, expert analysis of the law, ability to educate Federal agencies about USERRA and a credible threat of litigation before the Merit Systems Protection Board.

Claimants whose cases OSC received also benefited from having a single centralized entity handle their claims from beginning to end, instead of being transferred within and between the Department of Labor and OSC.

The demonstration project ended on December 31st, 2007, without further Congressional action. If enacted into law, H.R. 1089 would expand and make permanent the benefits realized under the demonstration project by authorizing OSC to not just prosecute, but to receive and investigate all USERRA complaints involving Federal executive agencies.

By consolidating the investigative and prosecutorial functions in one specialized enforcement agency, we believe H.R. 1089 would make the USERRA complaint process more transparent, account-

able, efficient and effective for military servicemembers employed or seeking to be employed by the Federal Government. It would also allow the Department of Labor to better focus on providing its best service to those employed by non-Federal employers and to administer other vital veterans programs.

For these reasons, we believe H.R. 1089 is a win-win proposition for the men and women who serve in our Nation's military for Federal servicemembers who would benefit from OSC's specialized experience and approach, and for non-Federal servicemembers who would benefit from greater attention and focus on their claims at the Department of Labor.

Thank you for attention and I look forward to your questions. [The prepared statement of Mr. Boulay appears on p. 45.]

Ms. HERSETH SANDLIN. Thank you.

Mr. Wilson, you are recognized for 5 minutes.

STATEMENT OF KEITH M. WILSON

Mr. KEITH WILSON. Thank you. Madam Chair, Ranking Member Boozman, thank you. I am pleased to be here today to provide you comments and views on pending benefits legislation.

Several bills on the agenda today affect programs and laws administered by the Department of Labor, the Office of Special Counsel and the Internal Revenue Service. We defer to those lead agencies and expect that they will best speak to the following bills, H.R. 147, H.R. 466, H.R. 1088, and H.R. 1089 and the Draft Bill to Reauthorize Homeless Veterans Reintegration Programs.

I regret we did not have sufficient time to formulate formal views on two bills, H.R. 228 and H.R. 297. However, we would be pleased to provide written views for the record.

[The Administration Views for H.R. 228 and H.R. 297 were provided in a follow-up letter from Secretary Eric K. Shinseki, dated May 26, 2009, which appears on p. 77.]

H.R. 942, the "Veterans Self Employment Act of 2009," would direct VA to conduct a 5-year pilot to test the feasibility and advisability of using VA education assistance to pay for training costs associated with the purchase of a franchise enterprise.

Currently, there is no provisions under any education benefit program for payment of benefits to help cover the training costs associated with the purchase of a franchise enterprise. The impact on this legislation on VA with regard to the number of claimants would be minimal. However, there would be more significant administrative impact in that VA would be required to develop regulations for proper administration to program, as well as conduct adequate oversight to ensure compliance.

VA supports enactment of this act, subject to the identification of offsets for the additional benefits costs. VA estimates that enactment of H.R. 942 would result in benefit costs of \$594,000 for fiscal year 2010, and \$23.7 million over 10 years.

H.R. 929 is an educational training program which would require VA to establish a Military Occupational Specialty Transition program for training to provide eligible veterans with skills relevant to the job market. VA supports the initiatives goal of expanding education opportunities that is currently drafted. This bill would be

problematic to implement and execute. Therefore, we cannot endorse at this time.

Under the program, VA would enter into contracts with employers who had received payments for providing programs of apprenticeship or on-the-job training. Under the MOST program, the Secretary would be required to determine whether a veterans' military occupational specialty has limited transferability to the job market and whether the veteran has not acquired a marketable skill since leaving military service. Because of these unique determinations, we believe MOST would be better implemented as a joint program between the Department of Labor and VA.

The MOST program would allow for payment to employers who provide a program of apprenticeship or training for eligible veterans, and it is expected that the employer would hire the veteran upon completion of the training, but there are no guarantees. Reimbursing an employer for a portion of the apprenticeship or on-the-job wages, as well as to ensure that veterans are protected with rights as employees, it would seem to be a better program if the employers are required to hire the veterans at the beginning of the training program.

As written, the program puts the risk upon the veteran and the VA, with only a hope of future employment for the veteran. This legislation would require significant development of regulations and procedures to administer the benefit. As the proposed legislation appears to be effective the date of enactment, there would be a considerable delay in VA's ability to pay claims associated with the MOST program.

H.R. 950 is a bill designed to pay college housing allowance to veterans who take education courses over the Internet, in other words, distance learning via the Post-9/11 GI Bill. As currently written, this program poses a risk of unintended increased costs due to the locality determination of this subsidy. Therefore, as currently drafted, we oppose the bill.

Currently, under the bill, individuals who are pursuing a program of education are eligible to receive a monthly housing allowance stipend equal to Department of Defense basic allowance for housing rates for an E-5 with dependents. This bill would extend this benefit to individuals taking courses over the Internet, regardless of their location.

This legislation would have an impact on VA business processes and procedures. Housing stipends are based on basic allowance for housing (BAH) rates where the school is located, versus the individual's residence. We anticipate some individuals would enroll in a distance learning program at the schools with the highest BAH rate. Presumably, it would be better to base the housing stipend on where individuals live and/or their home of record at the time of enrollment.

VA estimates an enactment of H.R. 950 would result in benefit costs of \$20.4 million for fiscal year 2010, and \$1.5 billion over 10 years. In view of the cost and because BAH rates are based on the locality of the school, bear no relationship to the cost of living associated at a locality, VA opposes this bill.

Madam Chair, this concludes my statement. I would be happy to entertain any questions you or other Members of the Subcommittee may have.

[The prepared statement of Mr. Keith Wilson appears on p. 51.]

Ms. HERSETH SANDLIN. Thank you, Mr. Wilson.

Mr. Boulay, is it correct to state that the Department of Labor must accept every USERRA case while OSC can pick and choose among the cases for which it was referred?

Mr. BOULAY. I mean, in a sense, the Department of Labor at this time receives all USERRA complaints against all employers and if they investigate it and are unable to resolve the complaint, the claimant, regardless of the merit of the case, can ask that the case be referred to OSC. And then OSC must then determine whether to prosecute the case, pursue settlement, file the case with the MSPB, et cetera.

So, in a sense, you know, the Department of Labor picks and chooses in the sense that they try to determine merit through their investigations, and then only approach an employer if they think there is something to a case. In terms of trying to get something for the servicemember, and I suppose we do, too, in the sense that we are trying to evaluate whether there is enough evidence to go forward.

Ms. HERSETH SANDLIN. Okay. Well, let us touch on the issue of the evidence because you were critical in your testimony of the Department of Labor's investigations and analyses. Can you identify some of the most common deficiencies that OSC finds with the Department of Labor's investigation?

Mr. BOULAY. Well, I think there are a number of things that seem to be common problems. One being that Department of Labor is just trying to get enough information to figure out if there is some merit to the case and if they can maybe settle it.

So, you know, oftentimes they might not interview all the witnesses, they might not ask all the questions, they might not get all the documents that would be needed to prove a case in court. So there is some incompleteness. We have also seen that sometimes they analyze cases, for instance, under the anti-discrimination part of USERRA, rather than the reemployment part, or vice versa which, of course, affects how they investigate the case, and, you know, our ability to evaluate it if it is not analyzed under the right part of the statute.

And I think that that could be due to the fact that, you know, the Department of Labor's process for USERRA is very decentralized. They have these offices throughout the country which, you know, I am sure benefits our veterans in terms of them being able to go to a local office.

But, you know, in terms of outcomes in USERRA cases, there is a lot of inconsistency in the quality we see because there is not a lot of central oversight.

Whereas, at OSC we are a small agency, we are located here in D.C. We have a few field offices, but everything is done, you know, everything—when we have a USERRA case under the demonstration project, all the cases come in for the USERRA unit through me as the chief, and I review them before their determination is finalized. So we get more consistency that way.

Ms. HERSETH SANDLIN. Okay. Let me ask just a couple of questions on the number of cases referred under the current process. How many cases are referred from the Department of Labor to OSC in an average year?

Mr. BOULAY. Well, in the past, that number was generally anywhere from 10 to 20 cases on average.

Ms. HERSETH SANDLIN. On average. How about last year?

Mr. BOULAY. Last year, well, I think last year I believe it was in that range, however, we were still kind of dealing with the demonstration project.

Ms. HERSETH SANDLIN. Right.

Mr. BOULAY. So that tends to depress the numbers. Actually, this year, I think in part because of a new law that imposes deadlines and Department of Labor's improvement in notifying veterans that they can come to OSC, we are actually on pace to get about 40 or 50 referrals this year, in this fiscal year. So we are seeing an uptick, but obviously we would see, you know, I think in the vicinity of 300 to 400 cases, if we were getting—that is about the number of total Federal cases a year, 300 to 400.

Ms. HERSETH SANDLIN. Okay, let us say you get them.

Mr. BOULAY. Yes.

Ms. HERSETH SANDLIN. Is the OSC prepared to handle the increased workload?

Mr. BOULAY. Yes, we are, and that's because, you know, we had a USERRA unit in operation, a fairly large group during the demonstration project. Our personnel have been spread out a little bit into different departments as the work had decreased, but we can bring them back together.

And you know, this wasn't even hard when we got the demonstration project because this is not a stretch for us. We investigate cases. We enforce USERRA. It wasn't a stretch for us to start investigating USERRA cases as well. They are very similar to the other cases we also investigate, like whistle-blower cases.

So it is really not, you know, a big stretch for us to have to do this. And you know, we think there would be a need for some additional staff and resources, but we have already kind of projected that, and I don't think it would be that difficult.

Ms. HERSETH SANDLIN. Would you need additional staff resources?

Mr. BOULAY. We would need some additional resources, you know, beyond our existing staff to, you know, handle the larger volume.

Under the demonstration project, we were only getting half of the cases.

Ms. HERSETH SANDLIN. Right.

Mr. BOULAY. So we would need, you know, some additional staff.

Ms. HERSETH SANDLIN. But you haven't done any estimates on how many additional staff you would need if this bill were to become law?

Mr. BOULAY. Well, we actually have.

Ms. HERSETH SANDLIN. Okay.

Mr. BOULAY. And we estimate that we would need, I believe, 19 full-time employees. We have a handful right now.

Ms. HERSETH SANDLIN. Nineteen additional.

Mr. BOULAY. Well, that is 16 additional employees and an increase, I think, in the vicinity of \$2.5 million in funding to cover that.

Ms. HERSETH SANDLIN. Final question. Should there be a mandatory referral to OSC from the Department of Labor, or would making OSC the lead agency be better in your opinion?

Mr. BOULAY. Well, I think definitely making OSC the lead agency would be better because then it wouldn't place the burden on the claimant, for one thing, to ask for a referral and if we got involved in the cases sooner and we were able to do our investigation, we could approach an agency, a Federal agency sooner on the claimant's behalf, perhaps get settlement. I think it would just be much more efficient.

I mean a mandatory referral kind of takes it out of the hands of the claimant. I mean, they have that right as a matter of law. So I just think, again, just us being able to do these cases from beginning to end, given our experience and our mission, would definitely be a benefit and allow us to really make the Federal Government the model that it is supposed to be.

Ms. HERSETH SANDLIN. Thank you.

Mr. BOOZMAN.

Mr. BOOZMAN. Thank you, Madam Chair. I really don't have any questions. We appreciate you all being here. We appreciate your testimony.

Ms. HERSETH SANDLIN. Well, Mr. Wilson, we are not going to let you out that easily.

Mr. KEITH WILSON. I would be disappointed otherwise.

Ms. HERSETH SANDLIN. Just a couple of quick questions for you. I asked this question to a prior panel on H.R. 950. If the bill was amended to pay the student housing stipend, based on their current residence from which they were taking the distance learning courses, rather than the location of the institution, would VA support the bill? Or would VA be more inclined to support the bill?

Mr. KEITH WILSON. It would take away one of our core concerns about the bill. I would preface that, though, with our need to take into account what we have in place right now with implementation of a new GI Bill.

Ms. HERSETH SANDLIN. Right.

Mr. KEITH WILSON. Because we would have to take into account any impact it would have with our functional requirements, rollout, et cetera.

Ms. HERSETH SANDLIN. Okay. You also stated that the MOST program would be better implemented between the Department of Labor and the VA, correct?

Mr. KEITH WILSON. Correct.

Ms. HERSETH SANDLIN. Just elaborate for the Subcommittee a bit further on how a joint program would be better?

Mr. KEITH WILSON. The specific determinations that the Secretary would be required to make are largely items that we would not necessarily have the expertise in, and perhaps the Department of Labor would have better expertise in that area.

Ms. HERSETH SANDLIN. Okay. One final question. You state that H.R. 929 would be challenging to implement. Do you have any thoughts on how the implementation might be streamlined?

Mr. KEITH WILSON. Not at this point. I would be more than happy to work with the Subcommittee or provide more details on that. At this point I don't.

[The VA response is provided in the response to Question #2 of the Post-Hearing Questions and Responses for the Record, which appears on p. 76.]

Ms. HERSETH SANDLIN. Okay. We appreciate that.

Well, thank you both for your testimony, for being here before the Subcommittee. We thank you for your statements this afternoon, as well as the statements of the other witnesses on the previous panels. Again, we look forward to following up on some of the suggestions that have been made, both by the veteran service organizations, our advocates for homeless veterans, and the agencies that are represented here. We do hope to mark up a number of these bills this month. The full Committee hopes to take action on them by the end of the month.

Your comments and recommendations are timely and we appreciate them. I know some of our witnesses joined us today on rather short notice.

Once again, thank you for the opportunity that we had to visit with you today. The hearing now stands adjourned.

[Whereupon, at 2:30 p.m. the Committee was adjourned.]

A P P E N D I X

Prepared Statement of Hon. Stephanie Herseth Sandlin, Chairwoman, Subcommittee on Economic Opportunity

I would like to call to attention the fact that the Committee Ranking Member, Steve Buyer, Congressman Rodney Alexander and Blinded Veterans Association have asked to submit written statements for the hearing record. If there is no objection, I ask for unanimous consent that their statements be entered for the record. Hearing no objection, so entered.

I ask unanimous consent that all Members have five legislative days to revise and extend their remarks and that written statements be made part of the record. Hearing no objection, so ordered.

Today we have 10 bills before us that seek to: establish a voluntary fund to assist homeless veterans; create a scholarship program for students seeking an education in the areas of visual impairment, orientation and mobility; expand VR&E subsistence allowance; protect wounded veterans in the workforce; create a program for veterans to meet the needs of the current job market; establish a 5-year pilot project to assist veterans seeking training on the purchase of a franchise enterprise; expand Chapter 33 housing benefits to veterans taking distance learning courses; improve training for those required to take National Veterans' Training Institute (NVTI) core training; authorize the Office of Special Counsel to review certain USERRA cases; and reauthorize the Homeless Veterans Reintegration Program.

Some of our audience members will recall at least two Subcommittee hearings we held in the last Congress highlighting the responsibilities of Veteran Outreach Program Specialist (DVOPS) and Local Veterans Employment Representative (LVER) staff, which are primarily administered through state employment agencies and the U.S. Department of Labor.

While several recommendations were highlighted, one recommendation was to change DVOP and LVER training requirement at NVTI from the current 3 year timeframe to 1 year from date of employment.

Unfortunately, the current core training requirements fail to meet the needs of veterans by permitting DVOP and LVERs to assist veterans when they do not have the proper training to effectively assist the veterans they seek to help.

Recognizing the need to have properly trained DVOP and LVER staff, I introduced *H.R. 1088, the Mandatory Veteran Specialist Training Act of 2009*. This legislation would require DVOPs and LVERs to be trained for their position within 1 year from the date of employment. I look forward to receiving comments from the Department of Labor and veteran service organization on this important legislation.

Another bill that I introduced as a result of a previous hearing is *H.R. 1089, the Veterans Employment Rights Realignment Act of 2009*. On February 13, 2008, the Subcommittee held a hearing on "Review of Expiring Programs."

Pursuant to Public Law 108-454, the U.S. Office of Special Counsel (OSC) began receiving and investigating certain Federal sector USERRA claims on February 8, 2005 and sunset on December 31, 2007 after Congressional intervention extending the original sunset. This law gave OSC authority to investigate Federal sector USERRA claims brought by persons whose social security number ends in an odd-numbered digit. Under the project, OSC received and investigated all Federal sector USERRA claims containing a related prohibited personnel practice allegation over which OSC has jurisdiction regardless of the person's Social Security number.

In the hearing we received testimony from several veteran service organizations and the Office of Special Counsel that outlined the results that have increased the Department of Labor's effectiveness by decreasing their turnaround rate for pending USERRA cases.

Protecting our Nation's servicemembers and veterans from potential workforce discrimination is an important issue I will continue to address in this Congress.

**Prepared Statement of Hon. John Boozman, Ranking Republican Member,
Subcommittee on Economic Opportunity**

Good afternoon everyone. Madam Chair, I appreciate the opportunity that we are bringing several pieces of legislation before the Subcommittee including my bill, H.R. 1171, the Homeless Veterans Reintegration Program Reauthorization Act of 2009.

As you know, the Homeless Veterans Reintegration Program, or HVRP, has been cited by GAO as an example of a successful program designed to put homeless veterans back to work. It is a relatively inexpensive program, funded last year at about \$26 million, that provides grants to community-based providers serving the homeless veteran population.

VA now estimates that about 154,000 veterans are homeless, a level down from well over 200,000 just a few years ago. I believe that HVRP has played an important role in reducing the homeless veteran population by putting them back to work and I congratulate the Veterans Employment and Training Service and all their grantees for that success. I am also looking forward to hearing the testimony from the National Coalition of Homeless Veterans' Executive Director, Ms. Beversdorf, on the state of the homeless community.

I would also note that several Members have excellent bills on today's agenda. I want to thank you and your staff Madam Chair for H.R. 1088 and H.R. 1089.

I yield back.

**Prepared Statement of Hon. Steve Israel,
a Representative in Congress from the State of New York**

Madame Chairwoman, Ranking Member Boozman, and Members of the Subcommittee, thank you for the opportunity to testify before you today. Let me start off today by telling you about a good friend of mine. His story is an important one:

Joe Soukup is a veteran who survived Vietnam with a Purple Heart. In the years that followed his homecoming he went through a painful divorce, endured several breakdowns and struggled with a drug addiction. A few years after his service ended he had to live without a home for 3 years.

In the end he was left with nothing but his truck which he often parked at the Mayfair Shopping Center in Commack—right in my District. Joe, who suffers from post-traumatic stress disorder and several shrapnel wounds from the war was lost, cold, homeless, hopeless and in pain.

And on February 14, 2007, he felt he had nothing left to live for and decided to end his life. There was a terrible ice-storm bearing down on Long Island that day and the truck was almost out of gas. Joe figured he had just enough gas to drive to a bridge. There, he would let the ice storm take him to the death he avoided in Vietnam.

Joe then had a thought: if he was going to die, he should do it with dignity at a Veterans hospital. So he drove to the Northport VA, in Long Island.

After receiving help and support from several VA staffers Joe started to turn his life around:

- He kicked a drug habit.
- He took anger management counseling.
- He began understanding that the flashbacks of grisly combat in Vietnam were just flashbacks.

Although he was diagnosed with post-traumatic stress disorder, the government gave him a senselessly low disability rating. He came to my office for help, and after months of phone calls and frequent pestering navigating an endless bureaucratic maze we were able to get Joe Soukup what he was owed. The work paid off—literally. One year ago, March 2008, I called Joe to tell him that we secured a retroactive payment of \$57,834 and monthly checks of \$2,527.

Being able to help Joe was one of my proudest moments in Congress, but at the same time it shouldn't have taken a call to a Congressman's office for Joe to finally get the benefits he deserved. No Veteran who has risked their life for this country should ever have to worry about having a roof over their head after they come home. However, the facts relating to homeless veterans are heartbreaking:

- There are approximately 154,000 homeless veterans on any given night. (VA)
- Twice that many experience homelessness over the course of a year. (*National Coalition for Homeless Veterans*)

- The National Coalition for Homeless Veterans estimates that one out of every three homeless men sleeping in a doorway, alley or box in our cities and rural communities served in the military.

This is not just unfortunate . . . this is unacceptable and an embarrassment. How can one of the greatest countries in the world let the men and women who made it so great sleep on the streets?

That is why I introduced House Resolution 147.

This bill creates a section on the annual tax return form that would allow taxpayers to designate \$3 of their income tax liability to programs that assist homeless veterans without increasing the taxpayers' tax liability. The method is based on the Presidential Campaign Fund, where the user can check a box at the top of the tax form to donate.

H.R. 147 creates a Homeless Veterans Assistance Fund within the Treasury where the contributed money would automatically be deposited and safeguarded by the Treasury. Expenditures from the fund would have to be appropriated and the bill stipulates that funds can only be used for the purpose of providing assistance to homeless veterans.

The idea for this bill originated with New York's Iron Workers Local 361 who approached me during the 110th Congress and have been instrumental in garnering support for this bill.

We introduced the bill last year with the support of national veterans' organizations. Then Senator Hillary Clinton introduced the Senate companion bill (S. 19) on November 20, 2008. This year we have 41 bi-partisan cosponsors and once again national veterans' organizations like The American Legion and Veterans of Foreign Wars have offered their support for H.R. 147.

Serving persons faced with homelessness is a constant challenge due to the myriad of needs they may have, in addition to losing their home. Veterans add additional dimensions to this challenge as many are faced with substance abuse, mental health difficulties and other disabling disabilities, as well as the stigma of being homeless.

- 45 percent of homeless veterans suffer from mental illness. (*Center for American Progress*)
- Approximately 70 percent suffer from alcohol or other drug abuse problems. (VA)
- 30 percent of the troops returning from war zones have experienced some level of Post-Traumatic Stress Disorder (*Center for American Progress*).

Many programs exist across the country in effort to provide services to these veterans, including housing, psychiatric, medical, vocational and monetary, however this continues to be an underserved population. Simultaneously, the increased number of individuals currently returning from Iraq and Afghanistan is complicating this already insurmountable crisis. Many of these veterans have attempted to begin a new life outside of the military and have already been faced with obstacles such as lack of affordable housing and lack of employment opportunities, both issues simultaneously impacting on one another in the midst of an economic crisis. This newer population of veterans, as per studies, has been found to have a lower incidence of substance abuse but a higher incidence of mental illness. The population also appears to be a larger group of female veterans than in the past. Though the problem of homelessness after times of war is an age-old problem, the dynamics and needs of the population have changed considerably, thereby creating a more challenging demand for housing and services.

The U.S. has faced so many challenges throughout its history, but no matter how grave and great each threat has been our armed forces, our service men and women, and our veterans have been there to see us through. All because they have sacrificed so much time and energy to fight for and defend our country they should be taken care of by their country when they return.

I hope this Subcommittee will look favorably on this legislation and I am grateful for the consideration. I hope that H.R. 147 will help show that our government will go beyond symbols and rhetoric and distribute tangible relief and assistance that honors those who fight for us.

I believe that our Veterans and their families are the heart of this country and they deserve the very best America can offer.

Thank you for your time and consideration.

**Prepared Statement of Hon. Peter Welch,
a Representative in Congress from the State of Vermont**

Thank you, Chairwoman Herseth Sandlin, Ranking Member Boozman, and Members of the Subcommittee, for the invitation to speak today about H.R. 929, which would authorize the Military Occupational Specialty Transition (MOST) program, a program designed to help veterans find work and train for good-paying jobs.

The MOST program is inspired by and builds upon the success of the Servicemembers Occupational Conversion and Training Act (SMOCTA), which helped veterans in the early 1990s during a period of force reduction. During a hearing on my legislation to reauthorize this program in the 110th Congress, the Disabled American Veterans, the American Legion, the Paralyzed Veterans of America, and the Vietnam Veterans of America all came before this Subcommittee and expressed their support for this bill and my goal of helping all veterans find good-paying jobs. I am grateful that the Subcommittee held further hearings on my bill and suggested the changes that are reflected in H.R. 929. As we move forward with H.R. 929, I hope that the same veterans service organizations—and others—will recognize the need for the MOST program and once again voice their support.

The MOST program acknowledges and seeks to address two important facts: too many veterans are unemployed or can't find good jobs, and many veterans leave the military without acquiring advanced skills that are applicable to the civilian workforce. While their leadership skills, character, and capacity to take on tough challenges are well-known and sought after by employers, some veterans simply don't have the skills they need to compete in the workforce. In this time of economic recession, too many businesses don't have the resources to provide the on-the-job training that these veterans need.

MOST would address this problem by partnering veterans with employers willing to provide training, and sharing the cost of training programs that will give veterans concrete skills to help them compete in an increasingly competitive global marketplace. Through this important program, veterans would learn the skills they need to compete in a time of intense economic turmoil and increasing globalization. The program would be available for veterans who are not currently eligible for education or training benefits. The Congressional Budget Office estimates that MOST could serve as many as 3,000 veterans every year.

The men and women of the United States military are the world's finest. When I speak with them back home in Vermont and on Congressional delegation trips to Iraq and Afghanistan, I am consistently impressed by the dedication, professionalism, and selflessness of those who wear our country's uniform. It is critical that, after leaving the military, veterans can find steady employment; those who have given and risked so much deserve our support.

Unfortunately, far too many veterans are out of work and falling through the cracks. Last year, the Bureau of Labor Statistics issued a report indicating that the unemployment rate among Gulf War-era II veterans age 18 to 54 (6.5 percent) was higher than that of non-veterans (4.7 percent). This rate was even higher for younger veterans: in 2006, unemployment among Gulf War-era II veterans age 25 to 34 registered at 7.5 percent, while the rate for the same age group in the total population was 4.6 percent.

As our economic struggles continue, it is likely that more and more veterans will lose their jobs, be unable to find work, or be underemployed. While I am pleased that we made significant strides in increasing educational benefits associated with military service during the last Congress, those benefits will not reach all veterans. For these reasons, the time could not be better to authorize the MOST program.

Again, I would like to thank the Subcommittee for the opportunity to discuss this important program and would be happy to answer any questions you have.

**Prepared Statement of Hon. Lloyd Doggett,
a Representative in Congress from the State of Texas**

Madam Chairwoman, Members of the Committee, I greatly appreciate you affording me the opportunity to speak on behalf of my bill, H.R. 466, the Wounded Veteran Job Security Act. This legislation clarifies and strengthens the Uniformed Services Employment and Reemployment Rights Act (USERRA) to ensure that employers do not discriminate against veterans who require medical care for their service-connected injuries. The American Legion, Veterans of Foreign Wars and Disabled American Veterans have endorsed my legislation.

The benefit to wounded veterans returning home will be significant, but in terms of cost to the Federal Government, the Congressional Budget Office has said that the bill will have “no significant impact.”

Over 30,000 troops have been wounded as a result of their service in Iraq and Afghanistan. Of these, over 8,000 have suffered from Traumatic Brain Injuries (TBI) and over 1,200 have required amputation of a limb. Complications arising from amputations can force a veteran to return repeatedly to the VA for care, and what begins as a migraine may later be diagnosed as TBI, requiring a battery of time-consuming tests. Even those veterans living near a facility may find it difficult to balance their medical treatments with other demands on their time, but this difficulty is only heightened for the vets who live far from a facility that can meet their needs. For example, a veteran in Colorado County, Texas, will find the long drive to the VA hospitals in Houston or more remote Temple can mean an additional 4 or 5 hours for the round-trip.

Often, the amount of time required for the treatment of a veteran’s service connected disability exceeds the amount of vacation and sick leave allotted to the veteran. Some employers have viewed this as grounds to terminate veterans, leaving them faced with an impossible choice—whether to continue receiving the treatment that they need or to keep the job that supports them.

When Congress passed the Uniformed Services Employment and Reemployment Rights Act 1994, its first purpose was “to encourage noncareer service in the uniformed services by eliminating or minimizing the disadvantages to civilian careers and employment which can result from such service.” The possibility that a wounded veteran may have to choose between his life and his livelihood constitutes a significant disadvantage that veterans were never meant to face. By according veterans the full protection under USERRA that they were meant to have, this legislation ensures that no veteran must confront such a choice again.

Enclosures:

Letter of Support from Disabled American Veterans
 Letter of Support from The American Legion
 Letter of Support from Veterans of Foreign Wars

Disabled American Veterans
 Washington, DC.
February 4, 2009

The Honorable Lloyd Doggett
 United States House of Representatives
 201 Cannon House Office Building
 Washington, D.C. 20515

Dear Representative Doggett:

On behalf of the more than one million members of the Disabled American Veterans (DAV), I would like to thank you for introducing H.R. 466, the Wounded Veteran Job Security Act.

As you know, the Uniformed Services Employment and Reemployment Rights Act (USERRA) provides protection from employment discrimination for persons to perform military duty. It also requires employers to make reasonable accommodations regarding any disability incurred while in military service. However, USERRA does not require employers to allow veterans with service-connected disabilities to be absent from the workplace to receive treatment for these disabilities.

H.R. 466 clarifies and strengthens USERRA to require employers to accommodate the absences of service-connected disabled veterans for treatment of their service-connected conditions.

During the DAV’s most recent National Convention, held August 9–12, 2008, in Las Vegas, Nevada, delegates approved Resolution No. 080, supporting the strengthening and clarification of USERRA. Therefore, the DAV strongly supports the passage of this legislation.

Thank you once again for introducing this important bill and we look forward to working with you to build better lives for America's disabled veterans and their families.

Sincerely,

JOSEPH A. VIOLANTE
National Legislative Director

American Legion
Washington, DC.
February 25, 2009

The Honorable Lloyd Doggett
U.S. House of Representatives
201 Cannon House Office Building
Washington, DC 20515

Dear Congressman Doggett:

On behalf of the 2.6 million members of The American Legion, I would like to express full support of H.R. 466, a bill that will amend the Uniformed Services Employment and Reemployment Rights Act (USERRA). This legislation prohibits discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated while serving in the uniformed services.

Servicemembers who honorably defend this country depend on laws like USERRA to protect their jobs while they are activated and deployed to a war zone. It was the intent of Congress in enacting USERRA that no veteran be denied employment, reemployment advancement or be subjected to discrimination in employment for serving their country as a member of the Armed Forces.

Once again, The American Legion fully supports the intent of H.R. 466 and we applaud your efforts to amend USERRA so as to allow veterans to maintain their employment while being treated for service-connected disabilities.

Sincerely,

DAVID K. REHBEIN
National Commander

Veterans of Foreign Wars of the United States
Washington, DC.
February 4, 2009

The Honorable Lloyd Doggett
United States House of Representatives
201 Cannon House Office Building
Washington, DC 20515

Dear Congressman Doggett,

On behalf of the 2.4 million members of the Veterans of Foreign Wars and our Auxiliaries, I would like to offer our support for your bill to extend protection from discrimination and acts of reprisal against veterans to include not only those who suffer illnesses, injuries and disabilities incurred in or aggravated by service in the armed forces, but also to those receiving treatment for such service-connected health conditions.

This important legislation will protect veterans from unfair treatment and/or prejudice upon their return from defending our Nation by ensuring they do not face employment discrimination due to health conditions they may have or be receiving treatment for. Too often young men and women return home to find themselves without their previous employment or with other disadvantages incurred from service which prohibit them from advancing in their jobs. This bill will guarantee that veterans both obtain and retain the employment they need for a successful reintegration into civilian society.

Congressman Doggett, this legislation is a great opportunity to honor and give back to those who have sacrificed so much for our Nation. Thank you for concentrating on changes that can make a difference in the lives of our veterans. The VFW commends you and we look forward to working with you and your staff to ensure the passage of this important legislation.

Thank you for your continued support for America's veterans.

Sincerely,

DENNIS CULLINAN
Director National Legislative Service

**Prepared Statement of Justin Brown,
Legislative Associate, National Legislative Service,
Veterans of Foreign Wars of the United States**

Madam Chairwoman and Members of this Subcommittee:

On behalf of the 2.2 million members of the Veterans of Foreign Wars of the United States and our Auxiliaries, I would like to thank this Committee for the opportunity to testify. The issues under consideration today are of great importance to our members and the entire veteran population.

During this economic recession the number of unemployed veterans has increased to 841,474 as of January 2009. That is an increase of nearly 250,000 since November 2008 and an increase of more than 400,000 since April of 2008. Of the unemployed veterans nearly 100,000 are veterans from Iraq and Afghanistan. For unemployed veterans this means that twice as many of their counterparts will be relying on the same limited resources. Clearly, veterans are not exempt from the current economic crisis.

The VFW is thankful for the tax incentive provisions in the economic stimulus which will aid recently separated servicemembers in locating employment. This is smart policy and we hope that businesses find the value in an added incentive to hiring our Nation's newest combat veterans. While we laude this provision, we are worried that the infrastructural spending provisions of the stimulus will allow circumvention of the *Jobs for Veterans Act of 2002* (JVA). What this means for veterans is that contractors that receive stimulus money via state grants in excess of \$100,000 will not be held accountable to the requirements outlined in JVA. In particular, contractors receiving stimulus money may be bypassing reporting requirements for open employment positions, and the annual filing of the VETS-100 form which identifies affirmative action issues in regards to veteran hiring practices.

H.R. 147, To amend the Internal Revenue Code 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and for other purposes.

The VFW supports H.R. 147, which would provide taxpayers with the opportunity to designate three dollars of their income tax payment to a Homeless Veterans Assistance Fund. With nearly 140 million taxpayers in 2007 this program has the potential to raise 420 million dollars for America's homeless veterans in its first year of implementation. This would be a substantial sum of assistance and would go a long way toward alleviating homeless veterans. On any given night, more than 150,000 veterans are homeless, and this fund will help support the programs that assist them.

H.R. 228, To direct the Secretary of Veterans Affairs to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility.

The VFW supports H.R. 228, which would direct the Secretary of Veterans Affairs to establish and carry out a scholarship program aimed at remedying the difficulty in recruiting new graduates of university programs specializing in blind rehabilitation. VA estimates that there are currently 169,000 legally blinded veterans throughout the country, of which 47,450 are enrolled in Veterans Health Administration (VHA) services; this number is projected to reach 55,000 within 10 years. A new generation of OIF/OEF blinded and impaired low vision veterans will require a concerted effort by VA to respond to their needs. By offering students scholarships in exchange for a commitment to work for VA as Blind Specialists immediately following graduation, this legislation will provide a means to address a significant gap

in VA health care for visually impaired veterans by aiming at reducing VA's critical shortage in blind rehabilitation practitioners.

H.R. 297, To amend title 38, United States Code, to provide for an increase in the amount of subsistence allowance payable by the Secretary of Veterans Affairs to veterans participating in vocational rehabilitation programs, and for other purposes.

The VFW supports a Vocational Rehabilitation and Training (VR&E) for the life of the veteran. The sole purpose of VRE, as authorized under Chapter 31 of 38 USC, is to employ qualified, disabled veterans. VRE helps to equip veterans with marketable skills to transition quickly back into the workforce. While VRE focuses on employment, it is not designed to forecast the changes in the job market or the changing nature of a veteran's service-connected injuries. Both the recent market instabilities and the dynamic nature of OIF/OEF injuries require lifelong access to training and continuous education to fulfill the lasting commitment to those veterans who gave a piece of themselves in defense of our Nation.

VR&E is in need of modernization.

- Increase the monthly stipend of VRE to reflect the Basic Allowance for Housing (BAH) payments under Chapter 33.
- Cover all books, fees, and adaptive equipment deemed necessary to ensure a maximum independence in daily living to the maximum extent feasible.
- Eliminate any impediments to reentry into VRE regardless of the veteran's age or date of claim of service-connection.
- Allow all service-connected disabled veterans access to career counseling.
- Focus the goal of the program on career skills and career-long employability.

This bill seeks to increase the amounts of full, three-quarter, and half-time subsistence allowance for veterans receiving VR&E subsistence payments. Further, it affords a veteran access to 3 months of subsistence allowance after the Secretary determines the veteran has reached a point of employability. H.R. 297 improves upon the access to funding for veterans using VR&E. This bill is a positive step toward improving upon the VR&E program. We support this bill, but urge this Committee to review the values of the VR&E program.

The underlying problem with VR&E is the focus of the program; it seeks to put vets in jobs, not careers. Increasing the compensation structure is needed for VR&E, but even more dire is the need to improve upon the values of the program. While we may put more money into VR&E, we may not achieve the ultimate goal, creating veterans that are independent, productive citizens. While we are supportive of the intent of this legislation, it does not address the core issues facing VR&E.

H.R. 466, To amend title 38, United States Code, to prohibit discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by service in the uniformed services.

The VFW is in support of H.R. 466, the Wounded Veteran Job Security Act. This legislation would extend the prohibition against discrimination and acts of reprisal against armed servicemembers to include persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by their service. Passage of this legislation would prohibit employers from discriminating or making any adverse employment decision against a veteran on the basis of treatment for an illness, injury, or disability incurred or aggravated by uniformed service.

H.R. 929, To amend title 38, United States Code, to require the Secretary of Veterans Affairs to carry out a program of training to provide eligible veterans with skills relevant to the job market, and for other purposes.

The VFW does not support H.R. 929. This bill is reminiscent of a similar program known as the Service Members Occupational Conversion and Training Act of 1992 (SMOCTA). It was created as a mechanism to help veterans transition to the workforce as DoD was drawing down the military's size following the Cold war era. SMOCTA provided employers money for training if they guaranteed a veteran with employment. However, it is the opinion of the VFW that this training money was a subsidy to reduce labor costs which was attractive to potential employers. SMOCTA transformed into a short term employment solution that subsidized veterans' jobs and failed to provide long-term employment, training, and specialization. In essence, the government directly purchased veteran employment. When the appropriation was cut, many of its participants found themselves searching for new jobs while lacking transferable certifications or training.

This legislation proposes to provide a veteran with 1 year of subsidized training/employment up to a \$20,000 credit paid to the employer. With an appropriation of

60 million dollars a year this program could affect as few as 3000 veterans (.00356 percent of the total number of currently unemployed veterans), excluding any administrative costs. The VFW believes that this money might be better spent offering these veterans a direct educational and/or training credit of \$20,000 to use toward positions DOL identifies as high demand industries. This would enlarge veterans' options in regards to training and would prevent employers from taking advantage of "free money" and veterans with little regard to their successful long-term employability.

H.R. 942, *To direct the Secretary of Veterans Affairs to conduct a pilot project on the use of educational assistance under programs of the Department of Veterans Affairs to defray training costs associated with the purchase of certain franchise enterprises.*

The VFW does not support H.R. 942, which seeks to expand the uses of Chapter 30 of title 38, Chapter 32 of title 38, Chapter 35 of title 38, Chapter 1606 of title 10, and Chapter 1607 of title 10, to training costs associated with the purchase of certain franchise enterprises. The aforementioned chapters were created for the purpose of providing veterans with the ability to transition from the military into a degree or certificate bearing program that would provide lifelong skills. If a veteran were to use this program and fail in establishing or maintaining a franchise, their primary education benefit would be liquidated. It is the belief of the VFW that these educational benefits are the best transitional benefits available and we do not want to see them diverted from their initial intent which may encourage programs that lack a high probability of long-term success.

H.R. 950, *To amend chapter 33 of title 38, United States Code, to increase educational assistance for certain veterans pursuing a program of education offered through distance learning.*

We would like to thank this Committee and staff for all of your work on the New GI Bill. We believe this new benefit will help reinvest in our troops and our veterans. The powerful recruiting and retention aspects will continue to ensure the high standards we have come to expect from our military.

With the passage of the New GI Bill, creating Chapter 33 of Title 38, we have transformed the way we look at the GI Bill. Chapter 33 is the promise of a full-ride (paying books, tuition, fees, and a housing stipend) at any in-state institution in the Nation. Chapter 33 resembles the original WWII GI Bill, which is a dramatic departure from the Montgomery GI Bill, Chapter 30. In taking this huge step toward a WWII style benefit, we must continue to examine all of the education benefits that were previously tied to Chapter 30 rates.

The VFW believes that Congress should standardize, simplify, and restructure all education programs with, an eye toward equitable benefits for equitable service, in accordance with Chapter 33. Remaining Chapter 30 programs (lump sum payments, vocational training, distance learning) should be moved into Chapter 33. Title 10 section 1606, the guard and reserve Select Reserve GI Bill needs to reflect the Chapter 33 scale. Chapter 35, survivors and dependents educational benefits should also be comparable to Chapter 33. Ultimately, phasing out Chapter 30 and simplifying benefits based on Chapter 33.

H.R. 950 would provide student veterans, who are pursuing purely distance/correspondence, a living stipend equivalent to student veterans attending in-class room programs. The VFW does not oppose providing equitable stipends for students enrolled in distance learning.

However, this bill would create further inequities among veterans pursuing an education at institutions of distance learning. Currently, cost-of-living stipends are paid to the student according to the real cost of living attached to the zip code of the institution the veterans attends. Under this bill, the cost-of-living stipend would still be fixed to the institution, regardless of the actual costs a veteran faces while attending classes online. This would over compensate veterans living in areas more affordable than the zip code of their school while under compensating veterans that live in more expensive areas relative to their school. For this reason, the VFW cannot support H.R. 950.

H.R. 1088, *To amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute.*

The VFW strongly supports H.R. 1088 which would require all disabled veterans' outreach program specialists (DVOP) and local veterans' employment representatives (LVER) to attend the National Veterans' Employment and Training Services Institute within 1 year of being employed. The findings of the VFW have been that

many DVOP/LVER positions have been subject to turnover rates in excess of 15 percent and extreme variables in salary. Therefore, a large number of DVOPs/LVERs are failing to attend critical skills training at an early stage of their employment. In fact, half of the DVOPs/LVERs waiting for training were employed in 2006 or earlier yet 95 percent of them sent to training were hired after 2006. What this means is that the states are tending to send newer employees even though older employees have still failed to participate in the training. Furthermore, the National Veterans' Employment and Training Services Institute would need temporarily increased resources in order to catch up with the number of untrained DVOPs/LVERs.

While the VFW sees the value in providing training to DVOPs/ LVERs we maintain that DOL needs to conduct the overdue impact evaluation required by law to assess the effectiveness of one-stop services.

H.R. 1089, To amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes.

The VFW has no formal position on this legislation at this time.

H.R. 1171, To amend title 38, United States Code, to reauthorize the Homeless Veterans Reintegration Program for fiscal years 2010 through 2014.

The VFW supports this legislation which reauthorizes The Homeless Veterans Reintegration Program (HVRP), within the Department of Labor's Veterans Employment and Training Service (VETS), provides competitive grants to community-based, faith-based, and public organizations to offer outreach, job placement, and supportive services to homeless veterans. HVRP grants are intended to address two objectives: 1) to provide services to assist in reintegrating homeless veterans into meaningful employment, and 2) to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans.

HVRP is the primary employment services program accessible by homeless veterans and the only targeted employment program for any homeless subpopulation. HVRP removes homeless veterans' barriers to employment by providing specialized support unavailable through other employment programs. Job placement, training, job development, career counseling, and resume preparation are among services that are provided. Additionally, support services such as clothing, provision of or referral to temporary, transitional, and permanent housing, referral to medical and substance abuse treatment, and transportation assistance are also provided to meet the needs of this target group.

As America's largest group representing combat veterans, we thank you for allowing the Veterans of Foreign Wars to present its views on these bills. The number of unemployed veterans has nearly doubled. Our veterans' employment programs and resources will be pushed to their limits, and now, more than ever, we need them to perform.

Madam Chairwoman, this concludes my testimony and I will be pleased to respond to any questions you or the Members of this Subcommittee may have. Thank you.

**Prepared Statement of Cheryl Beversdorf, RN, MHS, MA,
President and Chief Executive Officer,
National Coalition for Homeless Veterans**

EXECUTIVE SUMMARY

Homelessness Among Veterans

Veterans are at a greater risk of becoming homeless due to a number of factors including having uniquely military skills not needed in the civilian sector, combat-related health issues, minimal income due to unemployment, and a shortage of safe, affordable housing.

Most Americans believe our Nation's veterans are well-supported. In fact, many go without the services they require and are eligible to receive. Neither the VA nor its state and county equivalents are adequately funded to respond to these veterans' needs. Moreover, community-based and faith-based homeless veteran service providers lack sufficient resources to care for this population.

According to the Department of Veterans Affairs there are an estimated 154,000 veterans who were homeless on any given night, **a 40-percent reduction since 2001**. If this trend toward reducing the number of homeless veterans is to continue,

more funding is needed for supportive services, employment and housing options to ensure veterans who served prior to and during the Iraq and Afghanistan wars can live independently with dignity.

H.R. 147

NCHV believes veterans are citizens first. The people of this country have a responsibility to show respect and gratitude to the men and women who have served in the military. Enactment of H.R. 147 would give Americans an opportunity to thank these former warriors for their service by making a contribution to a fund that would help those men and women who need assistance as they return to civilian life. NCHV conditionally supports H.R. 147 but believes further discussion is needed regarding the administration and operation of the Homeless Veteran Assistance Fund.

H.R. 1171

The Homeless Veterans Reintegration Program (HVRP) is the *only* Federal program wholly dedicated to providing employment assistance to homeless veterans. The program is unique and highly successful because it does not fund employment services per se; rather it rewards organizations that guarantee job placement. In 2008, DOL reported 65 percent of homeless veterans served through HVRP entered employment and 72 percent of those who entered employment retained employment at the 90-day mark.

HVRP is the primary employment services program accessible by homeless veterans and the only targeted employment program for any homeless subpopulation. In anticipation of the new wave of men and women veterans returning from Iraq and Afghanistan who may become homeless and will need effective employment programs to ensure their economic stability, reauthorization of the HVRP program, as stated in H.R. 1171 is imperative.

Chairwoman Herseth Sandlin, Ranking Member Boozman, Members of the Subcommittee:

As the representative of the National Coalition for Homeless Veterans (NCHV), I am pleased to be invited to provide our views on several bills that have been referred to your Subcommittee for consideration. Of the ten bills you cited, I will restrict my comments to H.R. 147, which would amend the Internal Revenue Code of 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans, and H.R. 1171, which would amend title 38, United States Code, to reauthorize the Homeless Veterans Reintegration Program for fiscal years 2010 through 2014.

Homelessness Among Veterans

Veterans are at a greater risk of becoming homeless due to a number of factors including having uniquely military skills not needed in the civilian sector, combat-related health issues, minimal income due to unemployment, and a shortage of safe, affordable housing.

Most currently homeless veterans served during prior conflicts or in peacetime. However, according to a 2008 RAND Corporation study nearly 20 percent of military servicemembers who have returned from Iraq and Afghanistan—300,000 in all—report symptoms of post-traumatic stress disorder or major depression, yet only slightly more than half have sought treatment. This new generation of combat veterans of Operation Iraqi Freedom and Enduring Freedom (OIF–OEF), both men and women, also suffer from other war related conditions including traumatic brain injuries, which put them at risk for homelessness. The evolving gender mix of the military—women represent 15 percent of the military population—poses new challenges for the Nation’s support system for returning veterans and their families. Women veterans report serious trauma histories and episodes of physical harassment and/or sexual assault while in the military. The VA and homeless veteran service providers are also seeing increased numbers of female and male veterans with children seeking their assistance.

Most Americans believe our Nation’s veterans are well-supported. In fact, many go without the services they require and are eligible to receive. According to a Congressional staff analysis of 2000 U.S. Census data conducted in 2005, one and a half million veterans—nearly 6.3 percent of the Nation’s veteran population—have incomes that fall below the Federal poverty level, including 634,000 with incomes below 50 percent of poverty. Neither the VA nor its state and county equivalents

are adequately funded to respond to these veterans' health, housing and supportive services needs. Moreover, community-based and faith-based service providers also lack sufficient resources to care for this population.

According to the VA 2007 Community Homelessness Assessment, Local Education and Networking Groups (CHALENG) report, there are an estimated 154,000 veterans who were homeless on any given night. **This estimate of homeless veterans is down 21 percent from the 2006 estimate and represents a 40 percent reduction since 2001.** The VA stated the decrease was due in part to the partnership between the VA and community-based homeless veteran service providers and provides evidence that the VA's programs to help homeless veterans are effective.

If the trend toward reducing the number of homeless veterans is to continue, more funding is needed for supportive services, employment and housing options to ensure veterans who served prior to the Iraq and Afghanistan wars can live independently and with dignity. Additionally, increased funding for VA homeless veteran assistance programs will help prevent homelessness among the newest generation of combat veterans from OIF/OEF. With the help of Congress, the VA and other Federal, state and local agencies, community-based organizations will be able to develop a coordinated approach to reduce, eliminate and ultimately prevent homelessness among all of America's veterans.

H.R. 147

If enacted, H.R. 147 would amend the Internal Revenue Code to establish in the Treasury the Homeless Veterans Assistance Fund and would allow individual taxpayers to designate on their tax returns \$3.00 of income taxes (\$6.00 in the case of joint returns) to be paid to such Fund to provide assistance to homeless veterans. The Fund would be administered by Treasury officials. The bill stipulates funds can only be used for the purpose of providing assistance to homeless veterans.

H.R. 147 does not provide details regarding Fund management and administration nor does it provide guidelines for dissemination of Fund amounts, including grant recipient eligibility, programmatic expectations, utilization requirements, size of funding requests, relationship of Fund assistance to other government and non-government funding resources, program accountability, expected outcomes, performance measures of success, and evaluation methodologies.

NCHV represents community-based organizations in 46 states and the District of Columbia that provide the full continuum of care to homeless veterans and their families, including emergency shelter, food and clothing, primary health care, addiction and mental health services, employment supports, educational assistance, legal aid and transitional housing. Many of these organizations currently receive funding from grants administered by the Department of Veteran Affairs and the Department of Labor in addition to other state and local government sources, for-profit and not-for-profit organizations. However, to address the needs of the homeless and at-risk OEF–OIF veteran population, additional funding is needed to provide supportive services and housing to ensure they will return to productive, self-sufficient lives.

NCHV believes veterans are citizens first. The people of this country have a responsibility to show respect and gratitude to the men and women who have served in the military. Enactment of H.R. 147 would give Americans an opportunity to thank these former warriors for their service by making a contribution to a fund that would help those men and women who need assistance as they return to civilian life. NCHV conditionally supports H.R. 147 but believes further discussion is needed regarding the administration and operation of the Homeless Veteran Assistance Fund.

H.R. 1171

If enacted, H.R. 1171 will amend title 38, United States Code, to reauthorize the Homeless Veterans Reintegration Program (HVRP) for fiscal years 2010 through 2014. HVRP is the only Federal program wholly dedicated to providing employment assistance to homeless veterans. HVRP is funded by the Department of Labor (DOL) Veterans' Employment and Training Service (VETS) and requires the Secretary of Labor to conduct, directly or through grant or contract, such programs as the Secretary determines appropriate to expedite the reintegration of homeless veterans into the labor force.

HVRP programs fill a special need because they serve veterans who may be shunned by other programs and services because of problems such as severe post-traumatic stress disorder (PTSD), long histories of substance abuse, serious psychosocial problems, legal issues, and those who are HIV-positive. These veterans require more time-consuming, specialized, intensive assessment, referrals and coun-

seling than is possible in other programs that work with veterans seeking employment.

HVRP is unique and so highly successful because it doesn't fund employment services per se; rather it rewards organizations that guarantee job placement. HVRP grantees produce highly positive outcomes for homeless veterans. The success of the program has been documented by DOL—65 percent of homeless veterans served through HVRP enter employment and 72 percent of those who enter employment retain employment at the 90-day mark.

DOL estimated for FY 2009, \$25,600,000 in HVRP funding would provide employment and training assistance to approximately 15,330 homeless veterans and of those approximately 10,665 will be placed into employment (average cost per participant = \$1,670 and average cost per placement = \$2,407). These costs represent a tiny investment for moving a veteran out of homelessness, and off of dependency on public programs.

HVRP is the primary employment services program accessible by homeless veterans and the only targeted employment program for any homeless subpopulation. In anticipation of the new wave of men and women veterans returning from Iraq and Afghanistan who may become homeless and will need effective employment programs to ensure their economic stability, reauthorization of the HVRP program, as stated in H.R. 1171 is imperative.

Conclusion

NCHV appreciates the opportunity to submit its views to the House Veterans Affairs Subcommittee on Economic Opportunity regarding H.R. 147 and H.R. 1171. We look forward to continuing to work with the Subcommittee to ensure our Federal Government does what is necessary to prevent and end homelessness among our Nation's veterans.

Prepared Statement of John L. Wilson, Associate National Legislative Director, Disabled American Veterans

Madame Chairwoman and Members of the Subcommittee:

On behalf of the 1.2 million members of the Disabled American Veterans (DAV), I am honored to present this testimony to address various bills before the Subcommittee today. In accordance with our congressional charter, the DAV's mission is to "advance the interests, and work for the betterment, of all wounded, injured, and disabled American veterans." We are therefore pleased to support various measures insofar as they fall within that scope.

H.R. 147

Congressman Israel introduced H.R. 147 in January 2009. This bill would amend the Internal Revenue Code to establish in the Treasury the Homeless Veterans Assistance Fund and to allow individual taxpayers to designate on their tax returns \$3.00 of income taxes (\$6.00 in the case of joint returns) to be paid over to such Fund to provide assistance to homeless veterans. The DAV has a standing resolution recommending adequate funding and permanency for veterans' employment and/or training for homeless veterans programs. Given that this legislation establishes a homeless veterans' trust and to the extent that this fund would not diminish the government's responsibility to provide for our Nation's homeless veterans, the DAV would not be opposed to the favorable consideration of this legislation.

H.R. 228

Congresswoman Jackson-Lee introduced H.R. 228 in January 2009, which directs the Secretary of Veterans Affairs to establish and carry out a scholarship program of financial assistance for individuals who: (1) are accepted for, or currently enrolled in, a program of study leading to a degree or certificate in visual impairment or orientation and mobility, or both; and (2) enter into an agreement to serve, after program completion, as a full-time Department of Veterans Affairs (VA) employee for 3 years within the first 6 years after program completion. It sets maximum assistance amounts of \$15,000 per academic year and \$45,000 total. The legislation requires pro rated repayment for failure to satisfy education or service requirements, while allowing the Secretary to waive or suspend such repayment whenever non-compliance is due to circumstances beyond the control of the participant, or when waiver or suspension is in the best interests of the United States. The DAV has no

resolution on this issue. The DAV is not opposed to this legislation, provided the scholarship programs emphasis is focused first on providing such educational opportunities to service-connected veterans with visual impairment, orientation and/or mobility disabling conditions.

H.R. 297

Congressman Buyer introduced the *Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009* in January 2009 which increases the amount of monthly subsistence allowance payable to veterans participating in the veterans' vocational rehabilitation program (a program of training and rehabilitation for veterans with service-connected disabilities). It further directs the Secretary of Veterans Affairs, in the case of a veteran who has reached a point of employability and is participating only in a program of employment services, to pay such veteran a subsistence allowance for 3 months while the veteran is satisfactorily pursuing such program.

The DAV has no resolution on this issue. The DAV does support the legislation as it raises subsistence allowances. However, we recommend it be amended to authorize Vocational Rehabilitation (Chapter 31) participants to receive the higher subsistence allowance offered under the Post-9/11 GI Bill (Chapter 33). This would prevent veterans from having to choose between a program that provides a greater financial benefit and one that focuses on their rehabilitation as they seek to support themselves and their families.

H.R. 466

Congressman Doggett introduced the *Wounded Veteran Job Security Act* in January 2009, which seeks to amend title 38, United States Code, to prohibit discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by service in the uniformed services. Although the DAV has no resolution on this issue, we are not opposed to the favorable consideration of this legislation as it would protect veterans from discrimination and reprisal as they seek care for their disabilities.

H.R. 929

Congressman Welch introduced legislation in February 2009 to amend title 38, United States Code, to direct the Secretary of Veterans Affairs to carry out a program of job training in skills relevant to the job market for discharged veterans who are either currently not paid at more than 150 percent of the Federal minimum wage, or: (1) had a military occupational specialty of limited transferability to the civilian job market; (2) are not otherwise eligible for veterans' education or training services; (3) have not acquired a marketable skill since leaving military service; (4) were discharged under conditions not less than honorable; and (5) have been unemployed for at least 90 of the previous 180 days. It designates the program as the MOST (military occupational specialty transition) Program and directs the Secretary to contract with employers to provide on-the-job training or apprenticeship programs for such veterans. It limits payments under the program to \$20,000 per veteran and 24 months in duration. The DAV has no resolution on this issue. Additionally, this legislation is outside the scope of the DAV's mission. We nonetheless have no opposition to its favorable consideration.

H.R. 942

Congressman Alexander introduced the *Veterans Self-Employment Act of 2009* in February 2009, which directs the Secretary of Veterans Affairs to conduct a 5-year pilot project to test the feasibility and advisability of the use of educational assistance under certain VA programs to pay for training costs associated with the purchase of a franchise enterprise. It prohibits the use of such assistance unless: (1) training is required and provided in connection with the purchase and operation of a franchise; and (2) such training, and the training entity, is approved by the Secretary. It also provides training and entity approval requirements. The DAV has no resolution on this issue. Additionally, this legislation is outside the scope of the DAV's mission. We nonetheless have no opposition to its favorable consideration.

H.R. 950

Congressman Filner introduced legislation in February 2009 to amend chapter 33 of title 38, United States Code, to increase educational assistance for certain veterans pursuing a program of education offered through distance learning. The DAV

has no resolution on this issue. We nonetheless have no opposition to its favorable consideration.

H.R. 1088

Congresswoman Herseth Sandlin introduced legislation in February 2009 to amend title 38, United States Code, to provide for a 1-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute. The DAV has no resolution on this issue. We nonetheless have no opposition to its favorable consideration.

H.R. 1089

Congresswoman Herseth Sandlin introduced legislation in February 2009 to amend title 38, United States Code, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies, and for other purposes. The DAV strongly supports Federal, State and local veterans' preference laws and related efforts to protect employment and reemployment of veterans. The DAV would not be opposed to the favorable consideration of this legislation.

H.R. 1171

Congressman Boozman introduced in February 2009 the *Homeless Veterans Reintegration Program Reauthorization Act of 2009*, which amends title 38, United States Code, to reauthorize the Homeless Veterans Reintegration Program for fiscal years 2010 through 2014. The DAV has a standing resolution recommending adequate funding and permanency for veterans' employment and/or training for homeless veterans programs. The DAV supports this legislation.

Madame Chairwoman, this concludes my testimony on behalf of DAV. We hope you will consider our recommendations. I would be happy to answer any questions Members of the Subcommittee might have.

**Prepared Statement of Mark Walker,
Assistant Director, National Economic Commission,
American Legion**

Madame Chairwoman and Members of the Subcommittee:

Thank you for this opportunity to present The American Legion's view on the several pieces of legislation being considered by the Subcommittee today. The American Legion commends the Subcommittee for holding a hearing to discuss these important and timely issues.

H.R. 147, seeks to amend the Internal Revenue Code 1986 to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans. The American Legion supports this provision. This fund will provide medical, rehabilitative, and employment assistance to homeless veterans and their families. Homeless veteran programs should provide supportive services such as, but not limited to, outreach, health care, case management, daily living, personal financial planning, transportation, vocational counseling, employment and training, and education. This designation of funds would provide these needed services for America's most vulnerable veterans.

H.R. 228, directs the Secretary of Veterans Affairs (VA) to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility. The American Legion supports this pilot program. There is a strong need for more medical providers in these medical fields and this program would provide the necessary funding for veterans who are interested in these career opportunities.

H.R. 297, Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009, amends title 38, United States Code (USC), to provide an increase in the amount of subsistence allowance payable by VA to veterans participating in vocational rehabilitation programs. The American Legion supports this provision. This subsistence increase would allow the veteran to meet his or her needs and maintain their educational pursuits within the Vocational Rehabilitation and Employment program.

H.R. 466, Wounded Veteran Job Security Act, amends title 38, USC, to prohibit discrimination and acts of reprisal against persons who receive treatment for

illnesses, injuries, and disabilities incurred in or aggravated by military service. The American Legion supports this amendment to the Uniformed Services Employment and Reemployment Rights Act (USERRA) to allow veterans to maintain their employment while being treated for service-connected disabilities. Servicemembers who honorably defend this country depend on laws like USERRA. It was the intent of Congress in enacting USERRA that no veteran be denied employment, reemployment, advancement, or be subjected to discrimination in employment for serving their country as a member of the Armed Forces.

H.R. 929, amends title 38, USC, to require VA to provide eligible veterans with skills relevant to the job market. The American Legion supports this legislation. This program would provide job training in a relevant career field for veterans who have been unemployed for at least 90 of the previous 180 days, are not eligible for education or training services, or have a primary or secondary military occupational specialty that is not readily transferable to the civilian workforce. This program would be the only Federal job training program available strictly for veterans and the only Federal job training program specifically designed and available for use by state veterans' employment personnel to assist veterans with employment barriers.

H.R. 942, Veteran Self-Employment Act of 2009, directs VA to conduct a pilot project on the use of educational assistance under programs of the VA to defray training costs associated with the purchase of certain franchise enterprises. The American Legion supports this provision. The American Legion views small business as the backbone of the American economy. It is the mobilizing force behind America's past economic growth and will continue to be the major economic factor as we move into the 21st Century. This program will provide veterans with the training that is required to run a franchise successfully.

H.R. 950, amends chapter 33 of title 38, USC, to increase educational assistance for certain veterans pursuing a program of education offered through distance learning. The American Legion believes that paying veterans a lesser benefit when they receive credit via distance learning is a concern. Department of Defense reports that over 70 percent of its enrollees are receiving credit via distance learning and the VA is reporting a similar shift toward increasing utilization of the distance learning modality. Accordingly, The American Legion is recommending that the allowances for distance learning be similar to those for residential learning. This policy assures equity for veterans including such individuals as single parents and veterans with significant medical disabilities.

H.R. 1088, Mandatory Veteran Specialist Training Act of 2009, amends title 38, USC, to provide a 1-year period for training new disabled veterans' outreach program specialists and local veterans' employment representatives by National Veterans' Employment and Training Services Institute (NVTI). The NVTI was established to ensure a high level of proficiency and training for staff that provide veterans employment services. NVTI provides training to Federal and state government employment service providers in competency based training courses. Current law requires all DVOPs and LVERs to be trained within 3 years of hiring. The American Legion recommends that these personnel be trained within 1 year.

H.R. 1089, Veterans Employment Rights Realignment Act of 2009, amends title 38, USC, to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by Federal executive agencies. The American Legion has no position on this legislation.

H.R. 1171, Homeless Veterans Reintegration Program Reauthorization Act of 2009, amends title 38, USC, to reauthorize the Homeless Veterans Reintegration Program (HVRP) for fiscal years 2010 to 2014. The American Legion notes there are approximately 154,000 homeless veterans on the street each night. This number, compounded with 300,000 servicemembers entering the private sector each year since 2001 with at least a third of them potentially suffering from mental illness, indicates intensive and numerous programs to prevent and assist homeless veterans are needed. The purpose of HVRP is to provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force and to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. HVRP is the only nationwide program that focuses on assisting homeless veterans to reintegrate into the workforce. The American Legion strongly supports the reauthorization of HVRP for fiscal years 2010 to 2014.

**Prepared Statement of Thomas Zampieri, Ph.D.,
Director of Government Relations, Blinded Veterans Association**

INTRODUCTION

Madame Chairwoman and Members of the House Veterans Affairs Subcommittee on Economic Opportunity, on behalf of the Blinded Veterans Association (BVA), thank you for this opportunity to submit for the record our strong legislative support for the **“To direct the Secretary of Veterans Affairs to establish a scholarship program for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility”** (H.R. 228). BVA is the only congressionally chartered Veterans Service Organization exclusively dedicated to serving the needs of our Nation’s blinded veterans and their families. BVA has worked with VA Blind Service in improving the VA ability to provide the necessary blind outpatient mobility and orientation training for blinded veterans for years. With the growing numbers of wounded in both Operation Iraqi Freedom (OIF) and Operation Enduring Freedom (OEF) who are entering the VA health care and benefits system today, with history of penetrating eye trauma and over 70 percent of Traumatic Brain Injury (TBI), having Post-Trauma Vision Syndrome (PTVS), more of these highly skilled professionals are necessary and critical for VA. While the number of legally blind OIF and OEF veterans enrolled in VA Blind Rehabilitative Service is approximately 132, the VA has identified 585 with functional visual impairments that benefit from the rehabilitative skills of these Blind Rehabilitative Outpatient Specialists (BROS) and Blind Instructors.

As of September 2008, VHA reported 8,747 diagnosed TBI with another approximately 7,500 in diagnostic testing for possible TBI. Improvised Explosive Device (IED) blasts contributed to over 64 percent of these injuries. As of January 30, 2009, a total of 43,993 servicemembers had been wounded or injured in Iraq. The number though of hostile wounded requiring air medical evacuation from Iraq between March 19, 2003 and January 30, 2009 was 9,375, of which an estimated 1,348 had sustained combat penetrating eye trauma. The number of direct battle eye injuries however does not include estimated numbers of all moderate to severe TBI servicemembers that may have visual dysfunction according to VA research from those tested by either neuro-ophthalmologists or low-vision optometrists. We stress that only 4 percent of them meet legal blindness definition.

Veterans with neurological vision dysfunction with their moderate or severe TBI will require long term VA eye care follow-up in low vision clinics. Epidemiological TBI studies find that about 70 percent have associated neurological visual disorders of diplopia, convergence disorder, photophobia, ocular-motor dysfunction, color blindness, and an inability to interpret print. Some TBIs result in visual field loss and 4 percent are found to have legal blindness. Like other generations of visually disabled veterans who have desired to continue living independently, the current generation of OIF and OEF veterans deserves the same opportunity and the ability of the VA to recruit these BROS is vital to this effort. These VA BROS work in multidisciplinary teams with VA medical, surgery, psychology, occupational therapists, pharmacists among others that bring together coordinated specialized services needed for the complex wounded and these are not found in civilian low vision or blind independent agencies. These OIF and OEF wounded are often complex polytrauma patients with 44 percent suffering from depression or PTSD in conjunction with other injuries, requiring medication therapy, and BVA would caution this Committee that the best approach is for those blinded servicemembers to be treated within VA Blind Centers and not contracted out where other specialists are not collocated.

BVA would like to stress again to this Committee that data compiled between March 2003 and April 2005 found that 13 percent of all casualties evacuated from Iraq were due directly to eye injuries. VA reports that 86 servicemembers have attended one of the ten VA Blind Rehabilitation Centers (BRCs), 135 are enrolled in local VA Blind Visual Impairment Service Teams (VISTs), and others with TBI vision dysfunction are in the process of being referred. Such rehabilitation programs must be very individualized for each veteran and their family members. As has been the case for an older generation of combat blinded veterans and for those who have recently suffered from age-related degenerative blindness and require these types of VA specialists, this legislation will ensure they all have this care.

The legislation **H.R. 228** will help our Nation’s blind and low-vision veterans by establishing a scholarship program for students seeking careers in blind rehabilitation. There are 167,000 legally blind veterans in the United States, and 46,625 are currently enrolled in Veterans Blind Rehabilitative Services (BRS). In addition, it is estimated that there are over 1 million low-vision veterans in the United States, and incidences of blindness among the total veteran population of 24 million are ex-

pected to increase over the next two decades. This is because the most prevalent causes of legal blindness and low vision are age-related diseases like glaucoma, macular degeneration, diabetic retinopathy, cataracts, and the veteran population is increasing in age, the current average age is 78 years old.

The fact is that there are not enough blind rehabilitation specialists to serve all legally blind and low-vision veterans in the VA. Currently there are only 38 of these Blind Rehabilitative Outpatient Specialists (BROS) with 30 vacant positions. Some of the VA Polytrauma Centers had difficulty for over a year in finding these masters level graduate Orientation and Mobility Specialists at those vital centers. Blind rehabilitation training helps give these veterans awareness of and mobility functioning in their surroundings and enables them to retain their independence and dignity. Veterans without these services may find it difficult to be self-sufficient, relying on others to perform certain daily living skills or even simple tasks on their behalf. Research on blind and low vision Americans show they are at high risk of falls, or making medication mistakes, resulting in costly hospital admissions every year, and of losing their independence to live at home. Falls are the sixth leading cause of death in senior citizens and a contributing factor to 40 percent of all nursing home admissions with annual Federal costs over \$48,000 for each nursing home bed. According to Framingham Eye Study, 18 percent of all hip fractures among senior citizens—about 63,000 hip fractures a year—are attributable to vision impairment. The cost of medical-surgical treatment for every hip fracture is over \$39,000, if outpatient rehabilitation services prevented even 20 percent of these hip fractures, the annual Federal savings in health care costs would be over \$461 million. Essential outpatient, cost effective services that would allow blind veterans to safely live independently at home should be supported by this Congress and the Administration from a health care policy stand point. Research has found that 25 percent of all falls resulting in hip fractures result in nursing home admissions with chronic disability; it is seven times more expensive to care for a disabled nursing home resident than a healthy independent American over age 65.

Public Law 104-262, The Eligibility Reform Act 1996, requires the Department of Veterans Affairs to maintain its capacity to provide specialized rehabilitative services to disabled veterans, but it cannot do so when there are not enough specialists to address these needs. In the 109th congress the Veterans Programs Extension Act was passed, which included a provision by Congressman Michael Michaud to increase the number of Blind Rehabilitation Outpatient Specialists by thirty-five new positions over the next 30 months serving our Nation's veterans but only 14 have been recruited. However, there are currently only 19 university programs that graduate this allied health care professional, and there are not enough counselors certified in blind rehabilitation to provide for the growing number of blind American citizens. According to National Council of Private Agencies for the Blind and Visually Impaired today there are only approximately 3,000 certified in the field in the entire country. Because of this shortage, some of the ten VA Blind Centers have had longer waiting times for admissions.

The Vision Impairment Specialists Training Act H.R. 228 helps VA remedy this recruiting situation by directing the Secretary of Veterans Affairs to establish a discretionary scholarship program for students seeking a degree or certificate in blind rehabilitation (Vision Impairment and/or Orientation and Mobility). This will provide an incentive to students considering entry into the field to consider a VA career in return for this scholarship funding. In addition, in exchange for the scholarship award, students are required to work for 3 years in a health care facility of the Department of Veterans Affairs, to ensure that our veterans are well cared for.

RECOMMENDATIONS

BVA supports including this occupational specialty in the current VA educational program and providing for the aging population of visually impaired and blinded veterans the rehabilitative specialized staffing needed. VA testified in favor and VHA Blind Rehabilitative Service strongly supported this same legislation (HR 1240) in the 110th congress which this Committee passed with bipartisan support BVA again requests the Committee pass this bill. Chairwoman Herseth-Sandlin and Ranking Member Boozman, BVA expresses thanks to both of you for this opportunity to present our testimony for the record and again appreciates that Congresswoman Sheila Jackson-Lee reintroduced this bill. The current lack of access in many networks of VA will continue unless changes are made by enacting this legislation. The future strength of our Nation depends on the willingness of young men and women to serve in our military.

The Blinded Veterans Association also supports the following legislation being considered today:

✓ **H.R. 297** “To amend title 38, United States Code, to provide for an increase in the amount of subsistence allowance payable by the Secretary of Veterans Affairs to veterans participating in vocational rehabilitation programs, and for other purposes.”

✓ **H.R. 466** Congressman Doggett “To amend title 38, United States Code, to prohibit discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by service in the uniformed services.” Returning veterans with Traumatic Brain Injuries and other disabilities are reporting problems with employment.

✓ **H.R. 929** Congressman Welch and Congressman Boozman “To amend title 38, United States Code, to require the Secretary of Veterans Affairs to carry out a program of training to provide eligible veterans with skills relevant to the job market, and for other purposes.” Since Vietnam War we have had combat experienced, well trained veterans return home with military skills and training that can not be easily transferred into civilian skills and this becomes even more of a challenge if the veteran is disabled. This legislation would assist those veterans by providing them with the support to meet their goals in entering the job market.

✓ **H.R. 942** Congressman Alexander bill “To direct the Secretary of Veterans Affairs to conduct a pilot project on the use of educational assistance under programs of the Department of Veterans Affairs to defray training costs associated with the purchase of certain franchise enterprises.”

✓ **H.R. 950** Congressman Filner bill “To amend chapter 33 of title 38, United States Code, to increase educational assistance for certain veterans pursuing a program of education offered through distance learning.” BVA would recommend to this Committee that provision to ensure that only accredited and approved university programs are authorized for this distant educational program. For many disabled veterans, taking online distant educational courses is easier to access especially in some degree programs that might not be available locally, but there are many problems with diploma mills, that develop their own certification standards and guidelines, that must be avoided.

✓ **H.R. 1088** Congresswoman Herseth Sandler bill “To amend title 38, United States Code, to provide for a one-year period for the training of new disabled veterans’ outreach program specialists and local veterans’ employment representatives by National Veterans’ Employment and Training Services Institute.”

**Prepared Statement of Patrick H. Boulay,
Chief, USERRA Unit, U.S. Office of Special Counsel**

EXECUTIVE SUMMARY

The Uniformed Services Employment and Reemployment Rights Act 1994 (USERRA) protects the civilian employment and reemployment rights of those who serve our Nation in the Armed Forces, including the National Guard and Reserves. The U.S. Office of Special Counsel (OSC) plays a critical role in enforcing USERRA on behalf of Federal employees and applicants who file USERRA complaints, helping to fulfill Congress’s goal that the Federal Government serve as a “model employer” under the law. This is especially important because the Federal Government is the civilian employer of approximately 25 percent of the National Guard and Reserves.

Existing law requires that USERRA complaints against Federal agencies must first be filed with the U.S. Department of Labor, Veterans’ Employment and Training Service (DOL–VETS) for investigation and attempted resolution. If DOL–VETS is unable to resolve the complaint, the claimant may request referral to OSC for possible representation of their claim before the U.S. Merit Systems Protection Board (MSPB).

Recognizing the inefficiencies in this system (which splits the “investigative” and “prosecutorial” responsibilities between two agencies), as well as OSC’s extensive expertise and experience in investigating and resolving other Federal employment claims, Congress established a USERRA Demonstration Project in 2004 under which OSC directly received roughly half of all Federal USERRA complaints for both investigation and possible prosecution (eliminating the two-part process for such claims).

Under the Demonstration Project, OSC resolved the USERRA complaints it received in an efficient and highly effective manner, obtaining full relief for claimants in one-in-four claims. OSC achieved this unusually high rate of corrective action for Federal employment claims through its thorough investigations, expert analysis of

the law, ability to educate Federal agencies about USERRA, and a credible threat of litigation before the MSPB. Claimants whose cases OSC received also benefited from having a single, centralized entity handle their claims from beginning to end, instead of being transferred within and between DOL and OSC.

The Demonstration Project ended on December 31, 2007 without further congressional action. H.R. 1089, the “Veterans Employment Rights Realignment Act of 2009,” would make permanent and expand the benefits realized under the Demonstration Project by giving OSC exclusive jurisdiction to not just prosecute, but also investigate, all USERRA complaints involving Federal executive agencies. By consolidating the investigative and prosecutorial functions in one agency, H.R. 1089 would make the USERRA complaint process more transparent, accountable, efficient, and effective for military servicemembers employed, or seeking to be employed, by the Federal Government. It would also allow the Department of Labor to better focus on providing its best service to those employed by private, State, and local entities, and to administer other vital veterans’ programs. For these reasons, we believe H.R. 1089 is a “win-win” proposition for the men and women who serve in our Nation’s military.

INTRODUCTION

Chairwoman Herseth Sandlin, Ranking Member Boozman, and distinguished Members of the Subcommittee: good afternoon, and thank you for the opportunity to testify on important matters of concern to our military veterans, their families, and our Nation as a whole.

My name is Patrick Boulay and I am Chief of the USERRA Unit at the U.S. Office of Special Counsel (OSC). OSC is honored to serve as the Federal sector prosecutor of the Uniformed Services Employment and Reemployment Rights Act 1994 (USERRA), the law that protects the civilian employment and reemployment rights of our veterans.

There are several important bills concerning veterans’ benefits and programs that are the subject of today’s hearing. Because OSC’s role is limited to USERRA, however, our testimony today focuses on H.R. 1089, the “Veterans Employment Rights Realignment Act of 2009,” which proposes to expand OSC’s role in USERRA by giving OSC exclusive jurisdiction to not just prosecute, but also investigate, USERRA complaints involving Federal executive agencies.

OSC values the tremendous commitment of our military men and women and their families, and we are committed to protecting the job rights of those who serve our Nation both as civil servants and as soldiers. We are proud to employ several past and current members of the Guard and Reserves, as well as other military veterans, at OSC. Their valuable skills and dedication to both public and military service are an honor to our government and our Nation.

Since USERRA’s enactment in 1994, OSC has sought to vigorously enforce USERRA to help fulfill Congress’s goal that the Federal Government be a “model employer” under the law. We believe that Federal agencies must set an example for private, State, and local employers to follow. We owe an immeasurable debt of gratitude to those who serve, and we must make certain that they are restored to their full employment rights and benefits when they come home, and that they are not discriminated against in employment based on past, present, or future military service. This is especially true for those who also work as civilians for the Federal Government.

Our military commitments in Iraq, Afghanistan and elsewhere have resulted in unprecedented deployments of our national Guard and Reserves during this decade. As a consequence, we have seen, and are likely to continue to see, increased activity surrounding USERRA in the months and years ahead as soldiers continue to transition to and from the civilian workforce. Federal agencies, which employ approximately 25 percent of the Guard and Reserves, will play an integral role in this process.

OSC is uniquely suited to ensure that the Federal Government serves as a “model employer” under USERRA. By consolidating the investigative and prosecutorial functions in one agency, H.R. 1089 would make the USERRA complaint process more transparent, accountable, efficient, and effective for military servicemembers employed, or seeking to be employed, by the Federal Government. It would also allow the Department of Labor to better focus on providing its best service to those employed by private, State, and local entities, and to administer other vital veterans’ programs. For these reasons, we believe H.R. 1089 is a “win-win” proposition for the men and women who serve in our Nation’s military.

THE U.S. OFFICE OF SPECIAL COUNSEL (OSC)

The U.S. Office of Special Counsel (OSC), an independent Federal investigative and prosecutorial agency, was established by Congress in 1979 to safeguard the merit system in Federal employment by protecting Federal employees and applicants from prohibited personnel practices, such as reprisal for whistleblowing; providing a secure channel for the disclosure of government waste, fraud, and abuse; and enforcing restrictions on political activity by government employees under the Hatch Act.

OSC carries out its mission by: (1) investigating prohibited personnel practice allegations and, where warranted, seeking corrective action on behalf of Federal employees and applicants and disciplinary action against Federal officials, including by prosecuting violations before the U.S. Merit Systems Protection Board (MSPB); (2) receiving and evaluating disclosures of government wrongdoing and, where warranted, forwarding such disclosures to subject Federal agencies for investigation, report, and appropriate action; and (3) providing advisory opinions, investigating complaints, and prosecuting violations of the Hatch Act before the MSPB.

OSC employs a staff of attorneys, investigators, and personnel specialists who are experts in Federal personnel law and are trained to evaluate, investigate, analyze, and resolve Federal employment complaints. The Special Counsel, head of OSC, is appointed by the President and confirmed by the Senate to a 5-year term. Currently, William E. Reukauf, a career Senior Executive, serves as Acting Special Counsel.

OSC'S ROLE AND SUCCESS IN ENFORCING USERRA

In 1994, OSC's mission was expanded with the enactment of USERRA, *codified at* 38 U.S.C. §§ 4301–4333. USERRA is intended to ensure that those who serve in our Nation's military: (1) are not disadvantaged in their civilian careers because of their military service; (2) are promptly reemployed in their civilian jobs upon their return from duty, with full benefits and seniority, as if they had never left; and (3) are not discriminated against in employment (including initial hiring, promotion, retention, or any benefit of employment) based on past, present, or future military service. The law applies to Federal, State, local, and private employers.

Under USERRA, a person claiming a violation by a Federal executive agency may either file an appeal with the MSPB (with or without the assistance of private counsel) or submit a complaint to the U.S. Department of Labor, Veterans' Employment and Training Service (DOL–VETS).

If the USERRA claimant chooses to submit a complaint, DOL–VETS must investigate and attempt to resolve it. If DOL–VETS is unable to resolve the complaint, the claimant may request referral to OSC for possible legal representation before the MSPB. If, after reviewing the complaint and investigative file, and conducting any necessary follow-up investigation, OSC is reasonably satisfied that the claimant is entitled to relief under USERRA, OSC may act as attorney for the claimant and initiate an action before the MSPB. If OSC declines representation, the claimant may still file an appeal with the MSPB on his or her own or with the assistance of private counsel.

USERRA thus expanded OSC's role as protector of the Federal merit system and Federal workplace rights by giving OSC prosecutorial authority over Federal-sector USERRA claims. However, it also established a "bifurcated" process in which DOL–VETS first investigates and attempts to resolve such claims, followed by possible referral to OSC for prosecution before the MSPB when DOL–VETS is unable to achieve resolution.

Since 1994, OSC has successfully resolved a number of USERRA cases, including several before the MSPB, resulting in significant awards to Federal employees and applicants whose USERRA rights were violated by the Federal Government, but who were unable to obtain relief before coming to OSC. Many of the cases were considered unwinnable or had been languishing for years before arriving at OSC.

In a case involving a Federal employee who had served in the Air Force, but was refused reemployment when he tried to return to his civilian job, DOL–VETS did not recommend prosecution by OSC. OSC disagreed and filed an appeal with the MSPB on the servicemember's behalf, obtaining full corrective action, including \$85,000 in back pay, reemployment in his former position, and full restoration of seniority and benefits.

In another case, a Reservist was dismissed from his Federal employer's supervisory training program because his Reserve duties conflicted with part of the training schedule and he would be absent from work on Saturdays, which the agency believed would cause morale problems. The training program was important because it resulted in automatic promotion and related benefits. OSC filed suit with the

MSPB and successfully obtained full relief for the Reservist, including a retroactive promotion with back pay upon completion of the training.

Another case illustrates both OSC's effectiveness and the flaws in the current "bifurcated" USERRA complaint process for Federal employees. It involved an Alaska national Guardsman who left his Federal position to serve an extended tour of duty. When he was refused reemployment upon his return, he filed a USERRA complaint with DOL-VETS. His case languished for over 5 years before he finally obtained Federal employment again (he had been forced to find part-time and temporary work to pay his bills in the interim). However, his new employment did not restore the five-plus years of pay, seniority, and benefits (including retirement contributions, vacation time, and sick leave) he lost as a result of the government's failure to promptly reemploy him. After repeated requests, his case was referred to OSC in November 2006. Within a few months of receiving the case, OSC negotiated a settlement that provided the Guardsman with 65 months of back pay plus interest, restored his seniority and Federal retirement benefits as if he had been properly reemployed over 6 years earlier, and provided him the vacation time and sick leave he had lost.

OSC has long enjoyed a cooperative, productive relationship with DOL in enforcing USERRA. Nevertheless, in USERRA cases referred from DOL to OSC, OSC has often found that further investigation is needed to make a determination or that the claim has not been fully or properly analyzed by DOL under the law. For instance, in two of the cases filed by OSC with the MSPB since 2004, DOL recommended that OSC not afford the claimant representation (*i.e.*, that the claims were non-meritorious), but OSC disagreed and obtained full relief for the servicemember. OSC has also found that DOL-VETS investigations are incomplete in that important documents have not been obtained or key witnesses not interviewed. Last, a number of cases referred from DOL have been investigated and analyzed under the wrong part of the statute (*e.g.*, the anti-discrimination provisions instead of the reemployment provisions, or vice versa).

Moreover, many of the claimants described above could have received relief faster had OSC been able to receive and investigate their claims from the beginning, without the need for attempted resolution and referral by DOL-VETS. As a government Accountability Office (GAO) report found, the referral process alone adds an average of over 8 months to the resolution of such claims (*i.e.*, from the time DOL-VETS completes its investigation and attempted resolution to the time DOL's Solicitor's Office refers the claim to OSC).¹ In the last case described above, this process took years and caused significant hardship and delayed relief for a deserving servicemember.

The cases above are only a few examples of OSC's effectiveness in enforcing USERRA. As explained further below, the timely, highly favorable results OSC obtains for servicemembers would be greatly expanded if H.R. 1089 becomes law.

THE USERRA DEMONSTRATION PROJECT

In 2004, recognizing the shortcomings of the "bifurcated" USERRA complaint process for Federal employees, as well as OSC's unique expertise and experience in investigating and prosecuting Federal employment claims, Congress passed the Veterans Benefits Improvement Act of 2004 (VBIA). The VBIA included a Demonstration Project to determine whether OSC could provide better service and results to Federal employees filing USERRA claims.

Under the Demonstration Project, which ran from February 2005 through December 2007, roughly half of all Federal USERRA claims were submitted directly to OSC for investigation and prosecution, rather than first going through DOL-VETS.² During this period, the sometimes confusing, time-consuming process that shuffled Federal USERRA claims among different Federal agencies before finally being resolved by OSC was eliminated for some claims.

During the Demonstration Project, OSC obtained corrective action for servicemembers in approximately 25 percent of the USERRA claims it received, a rate that is significantly higher than that for most governmental investigative agencies. OSC achieved this high rate of corrective action through its thorough investigations, expert analysis of the law, ability to educate Federal employers about the requirements of USERRA, and a credible threat of litigation before the MSPB. The GAO

¹ See GAO Report No. 07-907, p. 23.

² During the Demonstration Project, OSC had exclusive investigative jurisdiction over Federal sector USERRA claims where: 1) the claimant's Social Security Number ended in an odd digit, or 2) the claimant alleged a Prohibited Personnel Practice as well as a USERRA violation (regardless of Social Security Number). DOL-VETS retained investigative jurisdiction over all other Federal sector USERRA claims.

study of the Demonstration Project also found that it took OSC less than 120 days on average to resolve cases (which includes prosecution as well as investigative time).³

OSC's centralized and straight-line process ensured that the USERRA claims we received were resolved efficiently, thoroughly, and correctly under the law. The numerous and varied corrective actions OSC obtained for servicemembers included back pay, retroactive promotions, restored seniority and retirement benefits, reimbursed leave, improved performance ratings and bonuses, and priority consideration for future positions. OSC seeks not to simply settle the USERRA claims it receives as quickly as possible, but to ensure that the servicemember gets all of the relief to which he or she is entitled. For this reason, virtually all of the USERRA cases OSC has resolved resulted in full, complete corrective action for the servicemember.

In addition to obtaining relief for individuals, OSC also seeks "systemic" corrective action in appropriate cases, *i.e.*, broader changes in agency policies and practices to prevent future USERRA violations. To this end, we have assisted Federal agencies in modifying their leave, evaluation, and promotion policies to better comply with USERRA; provided USERRA training to agency managers, attorneys, and personnel specialists; and required agencies to post USERRA information on their Web sites and in common areas.

For example, in one case involving the U.S. Postal Service, OSC was instrumental in authorizing military leave that was improperly denied to an eligible employee. In addition, we worked with the agency to ensure that its managers accommodate employees who perform military duty by identifying and scheduling replacement workers and posting USERRA informational posters in locations accessible to employees. The claimant indicated that after the OSC's involvement, he noticed a greater interest in the agency's efforts to recognize and support veterans.

OSC's success under the USERRA Demonstration Project is attributable to several factors:

1. OSC has extensive experience and expertise in investigating and resolving Federal employment claims, so the Demonstration Project did not require significant re-training or hiring of new personnel;
2. OSC staff specializes in Federal personnel law, of which USERRA is a part, and its primary mission and focus is protecting the merit system of Federal employment (in contrast to DOL, which administers numerous, varied Federal programs and laws);
3. OSC's USERRA Unit is centralized in one location, with a small, specialized group of attorneys and investigators working closely and collaboratively on a daily basis to investigate and resolve USERRA claims (in contrast to DOL-VETS, which relies on a decentralized network of offices throughout the country that also administer several other programs besides USERRA);
4. All USERRA claims, investigations, and determinations at OSC are reviewed by the USERRA Unit Chief (in contrast to DOL, which conducts quality control review on only a very small percentage of its USERRA cases, which are randomly selected);
5. All USERRA claims, investigations, and determinations at OSC receive legal and supervisory review throughout the process (in contrast to DOL, which has investigators handle all claims, with supervisory review of only a limited number and legal consultation only on an ad-hoc basis or if the claimant requests referral to OSC); and
6. There is a credible threat of litigation by OSC.⁴

Congress tied the outcome of the USERRA Demonstration Project to a GAO evaluation. OSC participated in the evaluations conducted by the GAO, but their report did not meet the April 1, 2007, deadline mandated by Congress. Instead, the final report was published only 2 weeks before the congressional August recess, leaving Congress with no opportunity to act on USERRA before the Demonstration Project would conclude on September 30, 2007.⁵

Moreover, the GAO report did not address the central question that the Demonstration Project was intended to answer, namely: Are Federal sector USERRA claimants better served when they are permitted to make their complaints directly

³See GAO Report No. 07-907, p. 22. GAO found that DOL's case closure dates were not reliable and, as a result, could not accurately determine an average case processing time. *Id.*, p. 4.

⁴Many of the differences in structure and approach between OSC and DOL are described on pages 8-16 and 24-25 of GAO Report No. 07-907.

⁵Congress extended the Demonstration Project through December 31, 2007, as part of several Continuing Resolutions for the Federal budget.

to OSC, for both investigation and prosecution, bypassing the “bifurcated” process of referral between agencies? We submit that the answer is an emphatic “yes.” Unfortunately, the GAO report focused on data outputs, rather than real-life outcomes for servicemembers.

After the Demonstration Project ended on December 31, 2007, OSC no longer had authority to directly accept USERRA claims from Federal employees and applicants for investigation, but retained its critical role of prosecuting Federal sector USERRA claims referred from DOL–VETS.

OSC: POISED TO HANDLE ALL FEDERAL USERRA CLAIMS UNDER H.R. 1089

OSC considers it a privilege to be engaged in Federal sector USERRA enforcement, and continues to vigorously enforce the law to obtain full relief for aggrieved servicemembers and improve USERRA compliance by the Federal Government.

As an example, in September 2008, OSC filed a novel USERRA appeal before the MSPB on behalf of a Federal Government contract employee who left his job at the Department of Homeland Security to serve in Iraq. When he returned and asked for his job back, the government told the contractor that it did not want him back because it might have to train him on some new duties and that it would cancel the contract on which he worked if the contractor brought him back. As a result, the servicemember was unemployed for over a year and suffered significant hardship. In the first case before the MSPB to consider this issue, OSC argued that the Federal Government acted as an employer under USERRA because it “controlled his employment opportunity” within the meaning of the law, and therefore should be held liable for damages. While the case is currently still on appeal, it demonstrates OSC’s commitment to servicemembers and willingness to “push the envelope” if necessary to protect their rights.

OSC also filed a successful *amicus curiae* (friend of the court) brief in a USERRA case before the U.S. Court of Appeals for the Federal Circuit. In that case, to which OSC was not a party, the MSPB had ruled that Federal employees covered by collective bargaining agreements could only enforce certain USERRA rights through negotiated grievance procedures, precluding them from the independent third-party review and judicial enforcement mechanisms available to them under USERRA, including OSC representation. Recognizing the severe implications of the MSPB’s ruling for a large segment of Federal employees, OSC argued for reversal. After OSC filed its brief, the MSPB acknowledged that its ruling was erroneous (adopting many of the same arguments put forth by OSC) and requested that the Federal Circuit remand the case, which it did.

If enacted into law, H.R. 1089 would expand and make permanent the benefits to servicemembers that OSC’s track record demonstrates. By authorizing OSC to directly receive all Federal USERRA claims, H.R. 1089 would eliminate the time-consuming, cumbersome “bifurcated” USERRA referral process and allow claimants to obtain faster, more effective relief. Instead of having to rely on another agency’s investigation and frequently having to conduct additional investigation, OSC would have control of the investigation throughout, bringing its unique expertise and experience in investigating and resolving other Federal employment claims to bear on USERRA claims, as it did during the Demonstration Project. In these trying economic times, taxpayers should only have to pay for one investigation per claim, not two.

Moreover, because OSC can and will file suit with the MSPB, Federal agencies are more willing to quickly resolve meritorious claims (as they often did under the Demonstration Project) instead of taking their chances with the existing referral process. USERRA claimants also benefit from a more efficient, transparent process that increases accountability and communication by having a single, centralized entity handle and resolve their claims from beginning to end.

As described above, OSC has often found deficiencies in DOL’s investigation and analysis of USERRA claims. This is somewhat understandable given the “many hats” DOL’s investigators and attorneys must wear. Authorizing OSC to directly receive and investigate all Federal USERRA claims, however, would eliminate these problems and extend the benefits realized under the Demonstration Project to all Federal servicemembers.

In sum, granting OSC exclusive jurisdiction over all Federal sector USERRA cases, as H.R. 1089 does, would benefit Federal employee claimants by having a specialized agency resolve their claims, as evidenced by OSC’s track record in USERRA enforcement and its performance during the Demonstration Project. For these reasons, and given OSC’s almost thirty years’ experience in investigating and resolving Federal employment claims, Federal sector USERRA investigation and enforcement is a natural “fit” for OSC and its mission. Such a change would also free DOL–

VETS from having to navigate Federal personnel law (OSC's particular expertise), allowing DOL-VETS to focus on serving the larger volume of USERRA claimants from the private sector and those in State and local governments.

Thus, all servicemembers (Federal and non-Federal) would benefit under H.R. 1089—Federal servicemembers would benefit from OSC's specialized experience and approach, and non-Federal servicemembers would benefit from greater attention and focus on their claims at DOL-VETS.

USERRA "SURGE" AHEAD?

Today, the United States is in the middle of the largest sustained military deployment in three decades. In recent years, the number of members of the National Guard and Reserve mobilized at one time peaked at more than 212,000. As of last week, the Department of Defense reported that 124,594 reserve component members were currently on active duty for voluntary and involuntary mobilizations.

We do not know when they will start returning home in greater numbers, boosting demand for USERRA enforcement. With Federal employees comprising about 25 percent of the National Guard and Reserve, there will likely be a significant number of USERRA claims filed against Federal agencies for the foreseeable future. The government must be prepared to efficiently and effectively handle such claims, and to ensure that Federal agencies set an example for private, State, and local employers to follow.

We believe that adequate information has been developed to support a decision by Congress to assign the task of investigating and resolving all USERRA claims by Federal employees and applicants to OSC, as proposed by H.R. 1089. We are poised to assume this important responsibility and to do our part in making the transition back to civilian life as smooth as possible for our veterans.

Thank you for your attention and I look forward to your questions.

Prepared Statement of Keith M. Wilson, Director, Education Service, Veterans Benefits Administration, U.S. Department of Veterans Affairs

Madam Chairwoman and other Members of the Subcommittee, good afternoon. I am pleased to be here today to provide the Department of Veterans Affairs' (VA) views on pending benefits legislation.

At the outset, I would note that we are dedicated to our partnerships with other agencies on programs and initiatives that affect our Nation's Veterans. We humbly take on the role as the principal advocate for our Nation's Veterans. It is in that vein that we have provided our insight on several bills on the agenda. Several other bills on the agenda affect programs or laws administered by the Department of Labor (Labor), the Office of Special Counsel (Special Counsel), and the Internal Revenue Service (IRS). We respectfully defer to those lead agencies, and expect that they will best speak to the following bills: H.R. 147 (designation of tax payment to homeless veterans—IRS), H.R. 466 (prohibiting discrimination against wounded veterans—Labor), H.R. 1088 (providing for 1-year period of training for disabled veterans' outreach program specialists (DVOPs) and local veterans' employment representatives (LVERS)—Labor), H.R. 1089 (enforcement of employment rights of veterans and certain servicemembers—Labor and Office of Special Counsel), and the draft bill to reauthorize the Homeless Veterans Reintegration Program (Labor). I regret we did not have sufficient time to formulate formal views on two measures, H.R. 228 and H.R. 297. However, we will be pleased to provide written views on these bills for the record. As to the proposed legislation that we will speak to today, I want to begin by stating that every initiative reviewed has admirable goals of assisting our Nation's veterans, yet not every initiative can be implemented as currently written, and we provide our commentary as follows:

H.R. 942

H.R. 942, the "Veterans Self-Employment Act of 2009" would direct VA to conduct a 5-year pilot project to test the feasibility and advisability of using VA educational assistance benefits provided under chapters 30, 32, and 35 of title 38, and chapters 1606 and 1607 of title 10, United States Code, to pay for training costs associated with the purchase of a franchise enterprise. The amount of educational assistance benefit payable to an eligible individual for such training would be made in a lump-sum payment and would be one-half of the franchise fee or one-third of the remaining amount of education assistance to which the individual would be entitled, whichever is less. This payment would not be made unless the training in question was

a requirement for the purchase and operation of the franchise and the program and the entity or organization offering the training were approved by VA in accordance with the aforementioned chapters under titles 10 and 38 and regulations prescribed by VA in accordance with this Act. VA would be allowed to use State approving agencies for this purpose.

The bill also would require GAO to conduct periodic evaluations of the pilot project and, not later than the end of the third year after its inception, submit to Congress a report to include: (1) the number of individuals who participated in the project, (2) the number of franchise enterprises operated by such individuals by reason of such participation, (3) the aggregate payments made by VA under the project, (4) recommendations for the continuation of the project, and (5) such other recommendations for administrative action or legislation as the GAO determines to be appropriate.

VA would be required to implement the pilot project established by H.R. 942 as soon as practicable, but not later than 18 months after the date of enactment of the Act.

Currently, there are no provisions under any education benefit program for payment of benefits to help cover the training costs associated with the purchase of a franchise enterprise.

The impact of this legislation on VA, with regard to number of claimants, would be minimal. However, there would be a more significant administrative impact in that VA would be required to develop regulations for proper administration of this program, as well as conduct adequate oversight to ensure compliance.

VA supports enactment of this Act, subject to the identification of offsets for the additional benefits costs. VA estimates that enactment of H.R. 942 would result in benefits costs of \$594,000 for FY 2010 and \$23.7 million over 10 years.

H.R. 929

H.R. 929 is an educational training program that, as currently drafted, would be problematic to implement and execute. VA supports this initiative's goal of expanded education opportunities, but the policy is currently not implementable by the VA as drafted, and we cannot endorse it at this time. H.R. 929 would require VA to establish a Military Occupational Specialty Transition (MOST) program of training to provide eligible veterans with skills relevant to the job market. To be eligible, a veteran must: (1) be discharged under conditions not less than general under honorable conditions; (2) be an individual whose military occupational specialty at the time of discharge is deemed by VA to have limited transferability to the civilian job market; (3) not otherwise be eligible to receive education or training services under title 38; (4) not have acquired a marketable skill since leaving military service; and (5) have been unemployed for at least 90 days during the 180-day period preceding the date of the individual's application for the MOST program, or the maximum hourly rate of pay of such individual during such 180-day period must not be not more than 150 percent of the Federal minimum wage.

Under the program, VA would enter into contracts with employers who would receive payment for providing programs of apprenticeship or on-the-job training. The rate of pay for the training the veteran would receive would not be less than the rate of pay of nonveterans in similar jobs, and VA would reasonably expect the veteran would both be qualified for employment in the field of study at the completion of his training and that the employer would hire the veteran at that time. The amount of payment to each employer for any period would be 50 percent of the wages paid by that employer to the veteran for such period calculated on an hourly basis. The amount paid to the employer would not exceed a monthly amount of \$1,666.67 or \$20,000 in the aggregate and would only be made during the first 12 months of the veteran's participation in the program. If the veteran participates in the program on a less than full-time basis, VA would extend the number of months of payment not to exceed 24 months and proportionally adjust them, but not to exceed the \$20,000 maximum payment.

The bill further provides that employers participating in the MOST program would submit a quarterly report to VA certifying the wages paid and any other information VA may specify. H.R. 929 would also authorize to be appropriated \$60 million for each of fiscal years 2009 through 2018 to carry out this program, and would require VA to provide a detailed description of the activities carried out under the MOST program in the annual report prepared by the Veterans Benefits Administration.

While VA supports the principle of expanding occupational opportunities for veterans, we do not support enactment of the legislation as written. Under the MOST program, employers would have to submit a written application to the appropriate State approving agency (SAA) for approval of programs not currently approved

under 38 U.S.C. § 3677. Additionally, the Secretary would be required to determine whether a veteran's military occupational specialty has limited transferability to the job market, and whether the veteran has not acquired a marketable skill since leaving military service. This would be better implemented as a joint program between the Departments of Labor and VA. Since there could be a significant difference between the time the SAA approves the training program and the determination of the veteran's eligibility, we believe the implementation of this bill would be challenging.

Additionally, the MOST program would allow for payment to employers who provide a program of apprenticeship or on-the-job training for eligible veterans, and it is expected that the employer will hire the veteran upon completion of training, but there are no guarantees. To reimburse an employer for a portion of apprenticeship or on-the-job training wages, as well as to ensure that veterans are protected with rights as employees, it would seem a better program if the employers are required to hire veterans at the beginning of a trainee program. As written, the program puts the risk onto the veteran and VA with only a hope of future employment for the veteran. The Department of Labor also feels that there is a need to distinguish between "apprenticeship" and "registered apprenticeship" as implemented under the National Apprenticeship Act, which I understand it will address in its statement for the record.

This legislation would require significant development of regulations and procedures to administer the benefit. As the proposed legislation appears to be effective the date of enactment, there would be a considerable delay in VA's ability to pay claims associated with the MOST program.

The bill would authorize to be appropriated \$60 million for each of fiscal years 2009 through 2018 to carry out the program, for a total 10-year cost of \$540 million.

H.R. 950

H.R. 950 is a bill designed to pay college housing allowances to veterans who take educational courses over the Internet (also defined as "distance learning") via the Post 9/11 GI Bill. As currently written, this program would seemingly give housing allowances to Veterans who are training at home, at work, or at some other location. This does not seem to meet the intent of a housing subsidy for Veterans who travel to attend an institution of higher learning, and also poses a risk of unintended increased costs due to the locality determination of the subsidy. Therefore, as currently drafted, we oppose the bill.

Currently, under the bill (section 3313(c)(1)(B)(i)), individuals who are pursuing a program of education are eligible to receive a monthly housing stipend amount equal to the monthly amount of the basic allowance for housing (BAH) payable under section 403 of title 37 for a member with dependents in pay grade E-5 residing in the military housing area that encompasses all or the majority portion of the ZIP code area in which is located the institution of higher education at which the individual is enrolled. The bill would extend this benefit to individuals taking courses over the Internet, regardless of their location.

This legislation would have an impact on VA business processes and procedures. Housing stipends are based on BAH rates where the school is located versus the individual's residence. We anticipate some individuals would enroll in distance learning programs at the schools with the highest BAH rate. Presumably, it would be better to base the housing stipend on where individuals live, and/or their home of record at the time of enrollment.

VA estimates that enactment of H.R. 950 would result in benefits costs of \$20.4 million for FY 2010 and \$1.5 billion over 10 years. In view of this cost, and because BAH rates based on the location of a school bear no relationship to the cost of living associated with the locality where an individual may reside, VA opposes this bill.

Madam Chairwoman, this concludes my statement. We continue to be encouraged, and challenged to provide our Nation's veterans with the best educational opportunities at our disposal, and look forward to engaging in a dialog to improve upon these admirable initiatives. I would be happy to entertain any questions you or the other Members of the Subcommittee may have.



**Statement of John M. McWilliam,
Deputy Assistant Secretary, Veterans' Employment and
Training Service, U.S. Department of Labor**

Madam Chairwoman Herseth Sandlin, Ranking Member Boozman, and Members of the Subcommittee:

Thank you for the opportunity to submit a statement for the record on several bills. With regard to those bills that solely concern programs that are administered by the Department of Veterans Affairs (VA), specifically H.R. 147, H.R. 228, H.R. 297, and H.R. 942, the Department of Labor (DOL) respectfully defers to the VA.

H.R. 466, the "Wounded Veteran Job Security Act," would amend section 4311 of the Uniformed Services Employment and Reemployment Rights Act (USERRA) to prohibit discrimination and acts of reprisal against persons who receive treatment for illnesses, injuries, and disabilities incurred in or aggravated by service in the uniformed services. The Department would welcome the opportunity to work with the Subcommittee to provide technical assistance to ensure that the bill appropriately addresses Congressional intent.

H.R. 929 would amend title 38, United States Code, to require the Secretary of Veterans Affairs to establish a Military Occupational Specialty Transition (MOST) program, which would help fund eligible veterans' participation in on-the-job training and apprenticeship programs. To qualify for MOST benefits, VA would have to "determine whether a veteran's military occupational specialty has limited transferability to the job market, and whether the veteran has not acquired a marketable skill since leaving military service." Any such job training program should be a joint program between DOL and VA, which would leverage the services and training funds already available through the Nation's workforce investment system, and operated through One-Stop Career Centers across the Nation.

Even so, the Department does not fully understand the intent and scope of the bill. For instance, the bill appears to authorize the payment of MOST funds for Registered Apprenticeship programs operated under the National Apprenticeship Act (29 U.S.C. 50 *et seq.*). Curiously, H.R. 929 contains a provision to restrict the distribution of MOST funds to employers who VA expects will guarantee apprenticeship employment at the conclusion of an apprenticeship; this seems to imply that MOST-funded apprentices would not be deemed employees of the employer during the apprenticeship. Under the National Apprenticeship Act, however, an apprentice in a Registered Apprenticeship program is, in fact, an employee of the employer during the apprenticeship, and remains so even after completion of the program, unless the apprentice or the employer chooses to terminate the employment. The Department would welcome the opportunity to work with the Subcommittee and the VA to fully understand the intent of the legislation, particularly with regard to the application of the National Apprenticeship Act, and to provide technical assistance to ensure that the bill appropriately addresses that intent.

H.R. 1088, the "Mandatory Veteran Specialist Training Act of 2009," would amend title 38, United States Code, to reduce from a 3-year period to a 1-year period the length of time in which new disabled veterans' outreach program specialists and local veterans' employment representatives must satisfactorily complete training provided by the National Veterans' Employment and Training Services Institute (NVTI). While we support H.R. 1088, we note that NVTI would need to provide more classes in order to satisfy this requirement.

H.R. 1089, the "Veterans Employment Rights Realignment Act of 2009," would amend USERRA to shift from the Department of Labor to the Office of Special Counsel (OSC) the responsibility for investigating and attempting to resolve claims relating to Federal agency employers. DOL strongly opposes this legislation.

DOL's Veterans' Employment and Training Service (VETS) is a veterans-focused agency whose sole mission is to serve the workplace needs of separating servicemembers and veterans. Currently, VETS is the single agency authorized to receive and investigate formal complaints filed by individuals who believe their USERRA rights have been violated. Servicemembers who lodge such complaints can—and do—benefit from other services that VETS offers as well. This is because VETS' programs provide personalized access to a wide array of employment and training services that can help individuals upgrade their skills and link them to civilian careers. VETS' unique holistic approach allows it to identify and address the individual needs of our brave servicemembers and veterans.

VETS staff has acquired extensive experience and achieved much success in helping servicemembers resolve USERRA claims. In Fiscal Year 2008 alone, VETS obtained over \$1.9 million in back wages and benefits for USERRA claimants. In addition, as shown by our quarterly report to Congress under the Veterans' Benefits Im-

provement Act of 2008, in the first quarter of its enactment, we met the new statutory case-processing deadlines in every case we handled. Thus, the Department is better positioned than ever before to serve the needs of all veterans, including those who work in the Federal sector.

Currently, if VETS is unable to resolve a USERRA claim involving a Federal employer, we notify the claimant that his or her claim may be referred to the OSC for consideration of no-cost representation before the Merit Systems Protection Board (MSPB). Similarly, if no resolution is obtained in a non-Federal case, VETS notifies the claimant that his or her claim may be referred to the Department of Justice for consideration of no-cost representation in appropriate Federal courts. Historically, less than one-in-ten claimants find it necessary to request referral of their claims.

VETS is proud of its decades-long record of enforcing USERRA and USERRA's predecessor laws in the public and private sectors. The agency has long accomplished its mission through a nationwide network of highly skilled Federal employees, almost all of whom are veterans themselves. In addition to being experts on USERRA and related regulations, VETS investigators have undergone extensive training in investigative techniques and procedures. Located in all 50 States, the District of Columbia, and Puerto Rico, VETS investigators also conduct outreach and provide technical assistance to employers, servicemembers, veterans, and veterans' organizations at the national, State and local levels, as well as where servicemembers are demobilized. We believe that the Department of Labor can effectively and quickly meet the needs of veterans because it has an extensive, accessible nationwide network of offices and subject matter experts who have the necessary, specialized training and experience.

Section 204 of the Veterans Benefits Improvement Act of 2004 (P.L. 108-454) established a demonstration project, which ran from February 2005 through December 2007, whereby certain Federal USERRA complaints were transferred to OSC for investigation and enforcement, and the rest were retained for investigation by VETS under the current procedures. The objective of the demonstration project was to determine whether transferring USERRA cases involving Federal employers to OSC would result in "improved services to servicemembers and veterans" or "reduced or eliminated duplication of effort and unintended delays in resolving meritorious claims." A report to Congress on the demonstration project by the government Accountability Office (GAO-07-907) was inconclusive as to which agency better handled Federal USERRA cases.

VETS is committed to continuous improvement of our USERRA program and our reporting to Congress on investigations. As a result of that commitment, we have made a number of investments to make our USERRA program even more effective, and more are planned. For example, we have enhanced and expanded investigator training, increased supervisory oversight of investigations, and established procedures to ensure that complainants are informed of the process and our progress in investigating their complaints. We have contracted for an external evaluation of the USERRA investigative process to examine the current process and identify program improvement strategies to increase efficiency and effectiveness. An investment in the Department of Labor's USERRA program is an investment in ensuring the USERRA rights of all claimants, regardless of where they are employed. Directing claimants to different agencies based on where they are employed is unnecessary, inefficient, and could result in disparate treatment of claimants and interpretation of law by the Federal Government. Moreover, such an arrangement could confuse claimants about where to go for assistance. We encourage the Congress not to pass such legislation.

H.R. 1171, the "Homeless Veterans Reintegration Program Reauthorization Act of 2009," would amend title 38, United States Code, to reauthorize the Homeless Veterans Reintegration Program (HVRP) for fiscal years 2010 through 2014. We support the extension of this program. HVRP is the only Federal employment program designed specifically to address the employment problems faced by our Nation's homeless veterans. The purpose of the HVRP is to provide services to assist in reintegrating homeless veterans into meaningful employment within the labor force and to stimulate the development of effective service delivery systems that will address the complex problems facing homeless veterans. Employment is the linchpin by which a homeless veteran may start a successful journey back to society, regardless of whether the homelessness is long term or short term, first time or cyclical.

I would be happy to provide written responses to any follow-up questions for the record.

**Statement of Hon. Rodney Alexander,
a Representative in Congress from the State of Louisiana**

Madam Chairwoman,

Thank you for your consideration of H.R. 942, the Veterans Self-Employment Act of 2009.

In 1944, President Franklin D. Roosevelt signed the Servicemembers' Readjustment Act into law. This law, also known as the GI Bill of Rights, provided the means for thousands of veterans to go to college. While many have taken advantage of the opportunity to further their professional or technical education through the G.I. Bill, others have chosen to forego their education and instead directly enter the workforce after completing their service.

Although attending college may be the answer for many veterans, for others it is starting their own business. Many veterans who have invested in the G.I. Bill and have honorably served their Country are unable to capitalize on these benefits because the G.I. Bill does not provide opportunities to the veteran entrepreneur. It is in our Country's best interest to change this.

The Department of Veterans' Affairs should provide veterans, who have honorably served their Country but do not wish to attend college, the opportunity to receive training and assistance if they wish to own their own business. Not only will such a passage reward our veterans with benefits they have already earned, but it will also be instrumental in helping to revitalize a wounded domestic economy.

The United States enjoys much of its economic success to the small business owner. Who better to help own a business than a veteran?

H.R. 942, the Veterans Self-Employment Act of 2009, will implement a five year experimental project under the authority of the VA to test the feasibility of the use of educational assistance to pay for training costs associated with the purchase of a franchise business. In order to receive this VA-funded training, the training must be directly related to the purchase and operation of a franchise and must be approved by the Secretary of Veterans Affairs.

It is important that we provide our veterans all the assistance that we can reasonably give them. They have done so much in forming and preserving the way of life that we cherish so much, and it is irresponsible and disrespectful to not reward these actions and show our appreciation. This bill will serve not only as a token of our appreciation to our veterans by training them to work for themselves, but also as a valiant tool to help provide real stimulation to our economy.

Madam Chairwoman, I once again thank you for your time and consideration.

**Statement of Hon. Steve Buyer,
Ranking Republican Member, Committee on Veterans' Affairs,
and a Representative in Congress from the State of Indiana**

Madam Chairwoman and Members of the Subcommittee, I appreciate the opportunity to present my views on my bill, H.R. 297, the Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009.

During fiscal year 2008, 14,408 veterans dropped out of or temporarily interrupted the VR&E program. A major reason that disabled veterans either decline to enter or drop out or interrupt before completing their VR&E program is their need to work to support their families. With the subsistence allowance, a 20 percent disabled veteran attending an Institution of Higher Learning full time with a spouse and two children would receive only about \$848 per month plus service-connected disability compensation of \$243 for a total of about \$1,091 per month for full time training. Unless the spouse works, it is unlikely that veteran will complete VR&E. Veterans living in high cost areas face even more difficulties making ends meet.

I asked VA to research the last time we made any substantial increase in the allowance. Their records go back to 1995. VA staff could not remember an increase ever being passed and since 1995, other than the cost of living, there have been no increases.

Clearly, it is time to increase the subsistence allowance. My bill would increase the basic rate to from the current \$541 per month to \$1,200. That same 20 percent disabled vet with three dependents would now get a subsistence allowance of \$1,920 plus \$243 in compensation for a total of \$2,163 per month. This will improve the veterans' ability to support their families and to complete the VR&E program.

I look forward to working with the Chair and Ranking Member to identify opportunities to fund this most important VA program for disabled veterans.

**Statement of Hon. Bob Filner,
Chairman, Committee on Veterans' Affairs,
and a Representative in Congress from the State of California**

Good afternoon Chairwoman Herseth Sandlin, Ranking Member Boozman and Members of the Subcommittee. Thank you for the opportunity to speak on H.R. 950.

Last year we successfully passed the Post-9/11 Veterans Education Assistance Act of 2008 to help pay the full cost of tuition at 4-year colleges to veterans of the Iraq and Afghanistan wars. This new law also recognizes the sacrifice of our 1.8 million Reserve and National Guard troops by better aligning their educational benefits with their length of service.

This new law will also provide a monthly housing stipend, a yearly book stipend, match voluntary contributions for more expensive schools, provide a 15-year window of eligibility to use the education benefits, and allow certain servicemembers the opportunity to transfer their entitlements to their dependents.

As stated, current law will provide a housing allowance to qualified veterans who are attending school at least half-time, and enrolled in at least one course at an on-site facility. The amount of the housing stipend is determined by the location of the educational institution.

While this is an important aspect of the Post-9/11 GI Bill, it penalizes hard working veterans who are taking courses that are administered through distance learning. I truly believe we will be doing a disservice to our rural veterans, injured veterans and veterans with family commitments by providing a distinction between those who attend a brick and mortar classroom versus those who study at home and take their tests on a computer.

For this reason I introduced H.R. 950 which would waive the requirement that a student must take at least one class on-site in order to receive the housing stipend. The housing stipend would continue to be determined by the zip code of the school.

Since introducing H.R. 950, I have received letters of support from the Fleet Reserve Association and institutions of higher learning such as the University of Phoenix; American Public University System; Kaplan University; Walden University and Capella University.

I want to thank my colleagues Chairwoman Stephanie Herseth Sandlin and Ranking Member John Boozman for their continued work in the Subcommittee. I share their strong belief that we must remain vigilant to ensure that the needs of our returning servicemembers are met in the 21st century.

I look forward to working with you to provide the needed oversight and continue to improve on existing education programs for our veterans and their dependents. I would be happy to address any questions you may have.

International Franchise Association
Washington, DC.
March 4, 2009

The Honorable Stephanie Herseth Sandlin
Chairwoman
Subcommittee on Economic Opportunity
U.S. House of Representatives
Washington, DC 20515

The Honorable John Boozman
Ranking Member
Subcommittee on Economic
Opportunity
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Sandlin and Ranking Member Boozman:

On behalf of the International Franchise Association (IFA), I am writing today to support H.R. 942, the Veterans Self-Employment Act of 2009. This legislation would allow more veterans to take advantage of the opportunities in franchising by allowing the veteran to apply a portion of his or her educational benefits to defray the portion of a franchise purchase cost attributable to training. We commend you for holding today's Subcommittee hearing on this bill and share in the goal of assisting our military veterans in realizing the dream of owning a small business.

As the largest and oldest franchising trade group, the IFA's mission is to safeguard the business environment for franchising worldwide. IFA represents more than 85 industries, including more than 11,000 franchisee, 1,200 franchisor and 600 supplier members nationwide. According to a 2008 study conducted by PricewaterhouseCoopers, there are more than 900,000 franchised establishments in the U.S. that are responsible for creating 21 million American jobs and generating \$2.3 trillion in economic output.

The IFA has a long and committed history of supporting qualified veterans as franchised businessowners. In 1991, during the Gulf War, the IFA—under the leadership of board member Don Dwyer—launched the Veterans Transition Franchise Initiative, known as “VetFran.” Through VetFran, participating franchise companies pledge to help qualified veterans acquire franchise businesses by providing financial incentives not otherwise available to other franchise investors. With the cooperation of the U.S. Department of Veterans Affairs, and with outreach initiatives to our country’s military and veteran organizations, the program has expanded to include over 330 participating franchise companies. Since 2002, over 1,200 qualified military veterans have invested in their own franchise business through the VetFran program.

Each year, more and more men and women are returning home from active duty service around the world. We believe that in addition to initiatives such as VetFran, H.R. 942 can help even more of our Nation’s veterans return home to more than simply a job; but a career as an owner of a small franchised business and an employer and leader in their local community.

Thank you for your consideration in this matter.

Sincerely,

David French
Vice President, Government Relations

cc: Members of the Subcommittee
Rep. Rodney Alexander

National Association of State Workforce Agencies
Washington, DC.
March 10, 2009

The Honorable Stephanie Herseth Sandlin
Chairwoman
Subcommittee on Economic Opportunity
U.S. House of Representatives
Washington, DC 20515

The Honorable John Boozman
Ranking Member
Subcommittee on Economic
Opportunity
U.S. House of Representatives
Washington, DC 20515

Dear Chairwoman Sandlin and Ranking Member Boozman:

The members of the National Association of State Workforce Agencies (NASWA) constitute State leaders of the publicly funded workforce investment system vital to meeting the employment needs of veterans. The mission of NASWA is to serve as an advocate for State workforce programs and policies, a liaison to Federal workforce system partners, and a forum for the exchange of information and practices. Since 1973, NASWA has been a private, non-profit corporation, financed by annual dues from member State agencies and other sources.

Our members are committed to providing the highest quality of service to our Nation’s veterans, National Guard members and Reservists. With the ongoing war efforts in Iraq and Afghanistan, this is a critical time to ensure high quality workforce services are available for those who served our country in time of war. We appreciate the opportunity to share our views on H.R. 929, H.R. 1088, H.R. 1171 as follows:

H.R. 929, The Military Occupational Specialty Transition (MOST) program directs the Secretary of Veterans’ Affairs to carry out a program of job training in skills relevant to the job market for discharged veterans.

H.R. 929 would require the U.S. Department of Veterans Affairs (VA) to establish a Military Occupational Specialty Transition (MOST) program to provide job training to eligible veterans. NASWA does not support this legislation because it would be problematic to implement.

This bill is similar to the Service Members Occupational Conversion and Training Act of 1992 (SMOCTA). The SMOCTA program ran for a number of years and created opportunities for the U.S. Department of Labor (USDOL) and the VA to work together to provide training for veterans.

SMOCTA was created as a mechanism to help veterans transition to the civilian workforce. It languished because the VA was unable to approve training programs in a timely manner; process all applications; and make all reimbursements for training to employers. Many employer-veteran matches made by the Disabled Veterans’ Outreach Program specialists (DVOP) and Local Veterans’ Employment Representa-

tives (LVER) could not be completed due to delays in processing and approving applications.

NASWA suggests this legislation should be implemented as a joint program or partnership between the USDOL and the VA. The USDOL's, Veterans and Employment Training Service (VETS) and the States' workforce system funded by VETS and the Employment and Training Administration (ETA) have significant experience in employment and training for veterans.

H.R. 1088 provides a 1-year period for the training of new disabled veterans' outreach program specialists and local veterans' employment representatives by the National Veterans' Employment and Training Services Institute.

While NASWA supports H.R. 1088, we are concerned funding is insufficient for all DVOPs and LVERs to attend the National Veterans Training Institute (NVTI) within 1 year of being employed. In the Fiscal Year (FY) 2009 Omnibus Appropriations Bill, H.R. 1105, which passed the U.S. House of Representatives on February 25, 2009, \$1.949 million was provided for NVTI; the same level as FY 2008. NASWA strongly urges FY 2010 funding be increased by approximately \$2 million, or nearly double the FY 2008 funding. Otherwise, States probably would not be able to meet the objective of the bill.

H.R. 1171 reauthorizes the Homeless Veterans Reintegration Program for fiscal years 2010 through 2014.

NASWA strongly supports this legislation which provides grants to providers of job training and employment services for homeless veterans by reauthorizing The Homeless Veterans Reintegration Program (HVRP) within USDOL's Veterans Employment and Training Service. HVRP is the only Federal program wholly dedicated to providing employment assistance to homeless veterans. The success of the program has been documented by USDOL—65 percent of homeless veterans served through HVRP enter employment and 72 percent of those who enter employment retain employment for at least 90 days.

NASWA appreciates the opportunity to present its views and looks forward to working with the Subcommittee on these important issues.

Sincerely,

Thomas S. Whitaker
President and Deputy Chairman
North Carolina Employment Security Commission

Statement of Paralyzed Veterans of America

Chairwoman Herseth Sandlin, Ranking Member Boozman, Members of the Committee, Paralyzed Veterans of America (PVA) would like to thank you for the opportunity to present our views concerning pending legislation. PVA appreciates the effort and cooperation this Subcommittee demonstrates as they address the problems of today's veterans and the veterans of tomorrow.

H.R. 147, "Homeless Veterans Assistance Fund"

Paralyzed Veterans of America supports H.R. 147, a bill to amend the Internal Revenue Code to allow taxpayers to designate a portion of their income tax payment to provide assistance to homeless veterans. Homelessness continues to be a problem in our Nation. Unfortunately veterans, both men and women, make up a disproportionate percentage of this population. During a recent Joint Hearing of the House and Senate Committees on Veterans' Affairs, Congressman Bob Filner, Chairman of the House Committee on Veterans' Affairs, reported that one-half of America's homeless are veterans, with a large number of those being from the Vietnam era.

By designating \$3 to the Homeless Veterans Assistance Fund as allowed by this legislation, taxpayers can demonstrate their concern for homeless veterans. Unlike other government programs with a designated budget amount, this funding total will be difficult to predict or develop plans for its use. We would hope that funding not used in a fiscal year, would stay within that trust, and not be combined with other VA funds. This funding should not be used to supplant the VA's current successful domiciliary program, but instead be used by the VA or public sector to increase the options for homeless veterans.

H.R. 228, the “Visual Impairment and Orientation and Mobility Professionals Education Assistance Program”

Paralyzed Veterans of America supports H.R. 228, the “Visual Impairment and Orientation and Mobility Professionals Educational Assistance Program.” Currently there is a national shortage of health care workers with degrees or certificates in the fields of visual impairment and orientation and mobility. The VA is experiencing that same shortage. The current Iraq and Afghanistan conflicts are responsible for an unexpected number of servicemembers suffering vision loss, eye injuries and mobility problems. Representatives of the eye care industry have explained that some eye damage caused by being near an explosion may not be detected at the time of the incident, but many months later, after the veteran returns home.

These service connected vision problems and mobility problems from the current conflict will become the responsibility of the VA health care system. This legislation will provide up to \$45,000 maximum for tuition and fees for the individual to pursue this field of study and obtain a degree or certificate. This program could help with the shortage of health care professionals in this field of blind rehabilitation.

H.R. 297, the “Veterans Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009”

PVA supports H.R. 297, the “Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009.” This legislation would pay a small monthly stipend to a veteran that is enrolled in the Vocational Rehabilitation Program. This would help the veteran pay rent for housing or provide food for their family while attending vocational training. The veteran’s focus should be on their program to enhance their job skills and prepare to enter, or reenter, the workplace. This legislation will help veterans participating in the vocational rehabilitation program.

H.R. 466, the “Wounded Veteran Job Security Act”

PVA supports H.R. 466, the “Wounded Veteran Job Security Act.” For several decades PVA has been in the forefront of advocating for health care for veterans, paralyzed veterans, as well as Americans that have a disability that limits their activities of daily living. PVA’s advocacy efforts have included the protection of individuals seeking treatment for their injury, illness, or disability. Following the goals and principles of our organization, we would support this bill that would prohibit discrimination and acts of reprisal by an employer against veterans that receive treatment for their condition that was a result of, or aggravated by, service to this nation.

H.R. 929

PVA supports H.R. 929, a bill to require the Secretary of Veterans Affairs to carry out a program of job training in skills relevant to the job market for the qualified veteran. With the current unemployment rate at 8.1 percent, the highest in 25 years, a veteran with limited job skills because of their Military Occupational Specialty (MOS) is at a disadvantage in their search for employment. This bill will attempt to level the field for a veteran seeking to start a career that would require months, or up to 24 months of training. The intentions of the bill are good. Similar legislation was passed in the mid-1980s to help unemployed veterans, but unfortunately it was never funded. Many employment positions, such as operating computerized equipment, repairing machinery or equipment, or being a tool and die maker require months to learn. Some employers invest this time to properly train their new workers. The railroad industry is a nation wide employer needing several thousand new workers in the next 2 to 4 years. One representative from a regional railroad recently told the Department of Labor, Advisory Committee on Veterans, Employment, and Training and Employer Outreach (ACVETEO) that they would hire 2500 to 3000 employees in 2009 with a similar goal in future years. The railroad industry has been financially solid and knows they face a massive turnover as senior employees approach the retirement age. They traditionally spend years training workers, since these necessary job skills are not taught in college. For situations such as this, the program may give the veteran who wants to start a career in this industry an edge over other applicants by helping the employer defray some of that cost.

However, we must caution that programs such as this have potential for abuse. The VA and the Department of Labor (DOL) should determine if the amount of training and funding requested is appropriate for the position. Learning bench-

marks and goals would be indicated by a schedule of progress for the learning period. With many more veterans entering the work place in the future, this could help some learn the necessary job skills to support themselves and their families.

The legislation calls for a total of \$60 million for each year to carry out this program from 2009 through 2018. If the program is marketed properly through DOL and the VA, the dollar amount designated for this effort could be inadequate. The amount of \$60 million could be sufficient for the program during the first year. Employer awareness and understanding of the program would require a startup period. Perhaps as much as \$120 million could be used each year during the second and third year of the program. During the third year the program should be evaluated for its effectiveness. This is not the answer for all veterans seeking employment; however, it could help some learn important job skills as they return to civilian life.

H.R. 942

H.R. 942, a bill to direct the Secretary of Veterans Affairs to conduct a pilot project on the use of educational assistance under the programs of the VA to defray training costs associated with the purchase of a franchise enterprise. PVA has no position on this legislation. We realize that much training and preparation is required to own and operate a franchise business. Often there is cost associated with this training period. Perhaps the franchisor could help finance this cost, since the veteran is preparing to be their business partner for the coming years. If the franchise fails, and many new startup businesses do, or the veteran incurs a disability that will not allow them to continue with the physical demands of operating that franchise, again the veteran would need to find other employment. During the time the veteran plans to sell an unprofitable business, or after the veteran closes the business they may decide to attend a local community college or university while preparing for their next occupation. The veteran would still have available the GI Bill. We realize the importance of training and preparation when owning a business, but this may be an unnecessary departure from the purpose of the GI Bill.

H.R. 950

PVA does not oppose H.R. 950. This bill would amend chapter 33 of title 38, USC, to increase educational assistance for certain veterans pursuing a program of education offered through distance learning organizations. The student pursuing their education while living in their hometown will still have the basic expenses of living, including food, rent, and utilities. This legislation would help the veteran during their training or education years without going further into debt.

Under the current provisions of the "GI Bill for the 21st century," the cost-of-living stipend is determined by the zip code of the institution. With the large disparity in the cost of living among communities, this support should be tied to the area the veteran incurs these costs, not the location or mailing address of the institution providing the program.

H.R. 1088

PVA supports H.R. 1088, the "Mandatory Veterans Specialists Training Act of 2009." This bill would provide for a 1-year period for the training of new disabled veterans outreach program specialists (DVOP) and local veterans' employment representatives (LVER). This training is provided by the National Veterans Training Institute, in Denver, Colorado, and is an excellent program taught by experienced trainers. Every State should be willing to take advantage of this program for their employment representatives.

Training is such an important component to the role of the DVOP and LVER positions, they should be required to take a refresher course, or recertification program for those representatives that has been performing this function for 3 or 4 years. The laws, policies and employment issues change periodically and these representatives must be knowledgeable of new changes as they work with the employers in their communities.


H.R. 1089, the "Veterans Employment Rights Realignment Act of 2009"

PVA supports H.R. 1089, a bill to provide for the enforcement through the Office of Special Counsel of the employment and unemployment rights of veterans and members of the Armed Forces employed by the Federal executive agencies. PVA supports the increased enforcement of the effort to insure that the veteran's preference in employment and reemployment is protected.

H.R. 1171, the “Homeless Veterans Reintegration Program Reauthorization Act of 2009”

PVA supports the Homeless Veterans Reintegration Program (HVRP) for Fiscal Year 2010 which would reauthorize the Homeless Veterans Reintegration Program within the Department of Labor, Veterans Employment and Training Service (VETS). This program offers grants to local nonprofit organizations that specialize in addressing the problems of the homeless veterans. It is the only Federal employment assistance program targeted to this special needs population. The program is responsible in recent years for placing in employment approximately 15,000 veterans per year with special needs. It has been evaluated by the Government Accountability Office (GAO) as one of the more successful programs conducted by the Department of Labor. PVA supports H.R. 1171, and hopes the program receives, from appropriations, the funding this Committee authorizes.

Paralyzed Veterans of America appreciates the opportunity to comment on this important legislation being considered by the Subcommittee. We look forward to working with you in the future as you further improve the opportunities for veterans. We would be happy to answer any questions you may have.



MATERIAL SUBMITTED FOR THE RECORD

Committee on Veterans' Affairs
 Subcommittee on Economic Opportunity
 Washington, DC.
 March 9, 2009

Mr. Bob Wallace
 Executive Director
 Veterans of Foreign Wars of the United States
 200 Maryland Avenue, SE
 Washington, DC 20002

Dear Mr. Wallace:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
 Chairwoman

**JUSTIN BROWN, LEGISLATIVE ASSOCIATE,
 NATIONAL LEGISLATIVE SERVICE,
 VETERANS OF FOREIGN WARS OF THE UNITED STATES
 RESPONSE TO QUESTIONS SUBMITTED BY
 CHAIRWOMAN HERSETH SANDLIN,
 COMMITTEE ON VETERANS' AFFAIRS,
 SUBCOMMITTEE ON ECONOMIC OPPORTUNITY,
 UNITED STATES HOUSE OF REPRESENTATIVES**

**WITH RESPECT TO THE HEARING ON MARCH 4, 2009 IN REGARDS TO
 H.R. 147, H.R. 228, H.R. 297, H.R. 466, H.R. 929, H.R. 942, H.R. 950, H.R. 1088,
 H.R. 1089, and H.R. 1171**

SUBMITTED ON APRIL 17TH, 2009

Question 1: In your written testimony you state that while you "are supportive of the intent of this legislation, it does not address the core issues facing VRE." What are the top 5 core issue problems facing VRE today?

Response:

1—The Delimiting Date for VR&E Needs to be Removed

Currently, the delimiting date for VR&E is set to 12 years after separation from the military, or 12 years following the date a servicemember learns of their rating for a service connected disability. This fails to take into account the fact that many service related injuries will not hinder the veteran to the point of needing help or rehabilitation until many years following the injury.

Eliminating VR&E's delimiting date would allow veterans to access the VR&E program on a needs basis for the entirety of their employable lives. Veterans would still have to be approved by VR&E as having an employment handicap resulting from their service connected disability and would still be subject to the total cap of services. However, dropping the arbitrary delimiting date would insure rehabilita-

tion for veterans should their service connected disability negatively progress over time.

2—VR&E’s Educational Stipend Needs Parity in Comparison to Chapter 33

With the passage of the new GI Bill, the discrepancy in benefits between Chapter 31 and Chapter 33 may have the latent consequence of incentivizing chapter 33 even though a disabled veteran needs access to the additional rehabilitation benefits chapter 31 provides. For this reason the VFW strongly urges Congress to create a Chapter 31 educational housing stipend that is in line with the Chapter 33’s housing allowance; which is E-5, with dependents, basic allowance for housing (BAH) determined by the zip code of the educational institution of interest. This would offer our disabled veterans the best all-around program and would return the VR&E program to offering the best available overall services to rehabilitating veterans.

3—For Many Disabled Veterans with Dependents VR&E Education Tracks are Insufficient

For many veterans with dependents the VR&E educational track provides insufficient support. Veterans with dependents are the second largest group seeking assistance from VR&E and they are often those with the most pressing needs to secure meaningful long-term employment. There are many seriously disabled veterans that are unable to pursue all of their career options or goals due to the limited resources provided to disabled veterans with children and spouses. We must not forget that these veterans are utilizing VR&E because of a disability they incurred in service to our country. Unfortunately, these heroes utilize VR&E’s employment track at a rate higher than disabled veterans without dependents. The VFW believes this is likely due to the fact that immediate employment, while possibly not the best long-term rehabilitation outlook, immediately provides higher resources to the family that cannot afford long-term educational rehabilitation.

The Veterans of Foreign Wars would like to see VR&E institute a program to help veterans with dependents while they receive training, rehabilitation and education. This could be achieved by establishing a sufficient allowance to assist with the cost-of-living and in some cases by providing childcare vouchers or stipends. Childcare is a substantial expense for many of these veterans. Without aid of some form, many disabled veterans will be unable to afford the costs associated with long-term educational rehabilitation.

By assisting these veterans with these expenses, we can increase the likelihood they will enjoy long-term success and an increased quality of life. This will lead to decreased usage of VA services and is a worthwhile proactive approach.

4—VR&E Performance Metrics Need to be Revised to Emphasize Long-term Success

Currently, VR&E measures the “rehabilitation rate” as the number of veterans with disabilities that achieve their VR&E goals and are declared rehabilitated compared to the number that discontinue or leave the program before achieving these goals. “Rehabilitated” within the employment track means that a veteran has been gainfully employed for a period of 60 days following any VR&E services they received. This form of performance measure could have the latent consequence of incentivizing short-term employment solutions over long-term strategies.

The VFW would like to see all VR&E performance metrics changed to reflect the employable future of the veteran. At any time if a veteran becomes unemployed, during his employable future, he would be counted as such. A veteran’s success in completing a rehabilitation program followed by his employment does not necessarily mean he has been rehabilitated for the course of his employable future. Changing the metrics to reflect a career long standing will incentivize long-term approaches to VR&E programs. If an injury is aggravated following rehabilitation then a servicemember may need additional rehabilitation to make him employable.

5—VR&E Needs to Reduce Time from Enrollment to Start of Services

The current VR&E program can take up to several months to begin a program of training. This occurs primarily because VR&E is required to validate that entitlement is present. In a recent conversation with VR&E’s central office, the VFW learned that it is extraordinarily rare that entitlement is not found for the VR&E program. If a veteran has proven eligibility for VR&E, the VFW believes entitlement

ought to be assumed thereby minimizing the veteran's time in gaining access to VR&E programs.

The Vocational Rehabilitation Counselor makes entitlement determinations on the basis of whether the veteran's employment problems have been caused by:

- The veteran's service connected disabilities;
- The veteran's non service-connected disabilities;
- Deficiencies in education and training;
- Negative attitudes about people with disabilities;
- The impact of alcoholism and/or drug abuse;
- Consistency with abilities, aptitudes, and interests;
- Other pertinent factors.

If entitlement were assumed, veterans would still have to be considered eligible. To be considered eligible for VR&E services, a veteran must:

- Have received, or will receive, a discharge under conditions other than dishonorable;
- Have served on or after September 16, 1940;
- Have a service-connected disability employment handicap rating of at least 20 percent or a serious employment handicap rating of 10 percent;
- Need vocational rehabilitation to overcome an employment handicap; and
- Submit a completed application for VR&E services on VA Form 28-1900.

Question 2: Is it your estimation that Chapter 22 Basic Allowance Housing (BAH) is more generous than what H.R. 297 proposes? If so, how big is the difference?

Response: The VFW is supportive of Chairman Filner's proposal that VR&E participants of the educational track receive the same stipend as veterans utilizing Chapter 33; which is, E-5 BAH with dependants based on the zip code of the institution of attendance.

Question 3: What is your recommendation to help VR&E retool their programs and focus on career skills?

Response: The VFW believes VR&E's delimiting date needs to be removed and performance metrics need to be changed to reflect the fact that disabilities can affect a veteran for the entirety of their employable future.

Question 4: You state that when SMOCTA funding was cut—participants found themselves searching for new jobs while lacking transferable certifications or training. What changes regarding transferable certifications would you suggest?

Response: Veterans that have exceeded the delimiting dates on educational and rehabilitation services have very few options available to them for rehabilitation and/or training. SMOCTA essentially directly subsidized the short-term solution of low-wage jobs. The VFW believes in utilizing proactive long-term solutions versus temporary expensive solutions in approaching veterans' employment issues. In basic, the VFW believes that a better solution can be created for unemployed veterans that will provide long-term results and benefits. Such a program should offer veterans a benefit that will prove valuable over time—i.e., certifications, degrees, transferable skills training, etc. Subsidizing jobs can have the latent consequence of saving the problem for another day—typically the day you stop subsidizing their employment.

Question 5: You state that VFW believes that the money in the MOST program would be better spent on a direct educational and training credit. Do you believe that Chapters 30 and the new Chapter 33 do not address those direct needs?

Response: They do, but to be eligible for MOST, as written, you cannot be eligible for any training or education services under Title 38. So the demographic of veterans differ and no one veteran can be eligible for both of these programs. Chapter 30 has a 10-year delimiting date and chapter 33 has a 15-year delimiting date.

Question 6: You state in your testimony that NVTI resources need to be increased. What should be the proper funding level for NVTI?

Response: NVTI, resources would need to be increased to implement the law proposed by Chairwoman Herseth-Sandlin as it would require all DVOP's/LVER's to be trained within 1 year. Particularly, because there would still be a backlog of untrained DVOP's/LVER's that would need to be addressed. NVTI projects that it will take one million additional dollars for 2 years, or two million dollars total, for NVTI to train all DVOP/LVER staff who started in their current position after 2006. This

includes training those who started in 2006, 2007, 2008, and 2009. This would allow NVTI to “catch up” with this group. This additional funding does not take into account the cost for participant travel. The travel costs for attending NVTI are paid directly by USDOL/VETS using non-NVTI contract funding. NVTI projects that the additional travel would be 700 thousand dollars for 2 years or \$1.4 million dollars total to bring these participants to the training. Therefore the VFW would recommend \$3,400,000 in additional funds over 2 years to catch up.

Following the catching up period, NVTI believes they could keep up with the 1 year requirement with a funding level of \$2.5–3.0 million dollars per year (not including travel).

Also, this figure fails to account for any untrained DVOP’s/LVER’s that were hired prior to 2006.

Question 7: Does VFW have any suggestions on how to improve the USERRA complaint process?

Response: The VFW is currently in strong support of Representative Artur Davis’s bill H.R. 1474, which would do the following to improve the USERRA program for servicemembers.

1. Waive state sovereign immunity under the 11th amendment with respect to the enforcement of USERRA.
2. Make any clause of any agreement between an employer and an employee that requires arbitration non-enforceable.
3. Increase the number of legal remedies available to USERRA claimants.
4. Require that attorney fees are paid to claimants who are successful in their claims.
5. Clarify the definition of successor in interest.
6. Clarify that USERRA prohibits wage discrimination against members of the armed forces.
7. Require injunctive relief when appropriate.

Committee on Veterans’ Affairs
Subcommittee on Economic Opportunity
Washington, DC.
March 9, 2009

Ms. Cheryl Beversdorf
President and Chief Executive Officer
National Coalition for Homeless Veterans
333½ Pennsylvania Avenue, SE
Washington, DC 20003–1148

Dear Ms. Beversdorf:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans’ Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

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Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225–2034. If you have any questions, please call (202) 226–4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Deliverable from the House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Legislative Hearing
March 4, 2009

Question 1: Is the funding level adequate for Homeless Veterans Reintegration Programs?

a. If no, what do you recommend?

Response: NCHV believes the Homeless Veterans Reintegration Program (HVRP) funding level is not adequate. The Veterans Housing Opportunity and Benefits Improvement Act of 2006 (P.L. 109-233) authorized the HVRP to be appropriated at \$50 million for each of fiscal years 2007 through 2009. H.R. 1171, passed by the House on March 30, reauthorizes HVRP for fiscal years 2010 through 2014.

Based on the program's success in terms of employment outcomes for one of the most difficult populations to serve and its cost effectiveness as compared to other employment placement programs, FY 2010 funding should be at the full \$50 million authorization level. An appropriation at this level would enable HVRP grantees to provide services to over 30,000 homeless veterans and take advantage of the unused capacity of homeless providers who apply each year but do not receive a grant.

The HVRP program has been very effective and efficient. Over the past few years the average percentage of HVRP program participants placed into jobs has rivaled or exceeded the placement rate for veterans overall. After inflation, the program's cost to place a homeless veteran in employment in 2006 (\$2500) was less than it was in 2000 (\$2,340).

HVRP programs fill a special need because they serve veterans who may be shunned by other programs and services because of problems such as severe post-traumatic stress disorder, long histories of substance abuse, serious psychosocial problems, legal issues, and those who are HIV-positive. HVRP grantees are required to demonstrate that their clients' needs in those areas are met and the objective of HVRP programs is to enable homeless veterans to secure and keep jobs that will allow them to re-enter mainstream society as productive citizens.

The Department of Labor estimates that almost 15,000 homeless veterans will be served through HVRP during FY 2008. This figure represents less than 9 percent of the overall homeless veteran population, which the Department of Veterans Affairs estimates at 154,000 at any one time. The FY 2009 appropriation level is \$26.3 million.

Question 2: Currently, are there some areas that are underserved by the Homeless Veterans Reintegration Programs? If so, which geographic areas should DOL seek to target and why?

Response: With each grant competition for the Department of Labor's (DOL) Homeless Veterans Reintegration Program, the agency turns down more than five out of six proposals received. This is due primarily to limited funding for the program, as well as the nature of its 3 year grant cycle.

HVRP urban grants are allocated to only the top 75 most populous metropolitan areas within the United States while all other non-metropolitan areas must compete for grants classified as non-urban grants. As a result, underserved geographical areas exist throughout all parts of the United States. Additional funding for the program would allow DOL to award grants that focus on special needs i.e. chronically homeless veterans, homeless veteran families, homeless women veterans, as well as grants to more faith-based and community-based organizations in geographic areas currently not served by the program, especially in areas where there is a disproportionate high number of unemployed veterans.

Question 3: What are the key elements that H.R. 147 must have regarding fund management?

Response: If enacted, H.R. 147 would create a Homeless Veterans Assistance Fund within the Treasury where the money received from taxpayers via a portion of their income tax payment would be used to provide assistance to homeless veterans.

Recommendations for management of the Homeless Veterans Assistance Fund are attached and address issues of eligible organizations, governance, grant application, review and determination policies, and general information.

Homeless Veterans Assistance Fund

*Recommendations of the National Coalition for Homeless Veterans
April 12, 2009*

The fund will provide assistance in the form of grants to community-based organizations (CBOs) and local government agencies that provide direct assistance to homeless veterans, and to organizations that provide technical assistance and support to those agencies and organizations.

• **Eligible Organizations:**

Priority 1: Community-Based Organizations—Private nonprofit community-based (CBO) and faith-based organizations (FBO) that provide direct assistance to homeless veterans and those who are at risk of becoming homeless, and their immediate families. Services provided must include:

1. transitional housing
2. food
3. clothing
4. primary and mental health services
5. case management
6. personal, family and financial counseling
7. employment preparation and placement services
8. transportation assistance
9. referrals for placement in permanent housing
10. followup counseling as indicated
11. Drop-In Resource Centers—to connect veterans in crisis who are at risk of becoming homeless with services available to help them
12. Participation in a registered community or VA Stand Down (Stand Down registries are maintained by the VA and NCHV).

Applicants would be required to demonstrate:

1. IRS 501(c)(3) status and Form 990 filings for a minimum of three years
2. Delivery of services to homeless veterans for a minimum of three years
3. Ability to provide full range of services—on site or through contracts with service providers within the grantee's service area
4. Ability to administer Federal grants with respect to compliance, fiscal responsibility, and reporting requirements
5. Successful outcomes—meeting or exceeding program goals, acceptable program evaluation methods
6. Administrative oversight costs do not exceed 10 percent of the grant award

Priority 2: Local Government Agencies—In areas underserved by the U.S. Department of Veterans Affairs and existing homeless veteran assistance providers, local (municipal and county) governments would be eligible for grants to fund direct services to homeless veterans. Services provided must include those listed in Priority 1 through contracts with service providers within the applicant's jurisdiction.

State Departments of Veterans Affairs (DVA) would be eligible to apply for grants to distribute in support of homeless veteran programs provided:

1. No less than 85 percent of funding would be distributed directly to service providers not included in other community-based or local government agency applications in their jurisdictions
2. State DVA subgrants would be distributed through a competitive application process and funds must be utilized to provide the services listed in Priority 1, with an allowable percentage for administrative oversight (up to 15 percent).

Applicants would be required to demonstrate:

1. Official local government designation of agency as Homeless Veteran Assistance Service Agency
2. Participation in Consolidated Plan, HUD Continuum of Care, and VA CHALLENGE committees
3. Contracts and Memorandums of Understanding (MOUs) with service providers to ensure delivery of full range of required services
4. Successful outcomes—meeting or exceeding program goals, acceptable evaluation methods—of service providers contracted to deliver required services
5. Ability to administer Federal grants with respect to compliance, fiscal responsibility, and reporting requirements
6. With the exception of State DVAs, administrative oversight costs do not exceed 10 percent of grant award

Priority 3: Local Veteran, Charitable, Civic, Fraternal and Service Organizations that provide support services to U.S. Department of Veterans Affairs and community-based grantees under this program to provide direct assistance to homeless veterans. Services eligible for funding would include:

1. food
2. clothing
3. personal, family and financial counseling
4. employment preparation and placement assistance
5. tools (uniform allowance) for employment placement
6. transportation assistance
7. child care assistance for single parents with dependent children
8. mentoring (to augment case management)
9. follow-up mentoring (to augment case management)

Applicants would be required to demonstrate:

1. Certified obligation to provide specific services to homeless or low-income veterans in support of community-based or local government agencies under this program (through contracts or memorandums of understanding)
2. Ability to deliver promised services through detailed business and financial plans, including operations and administrative costs, reflecting the needs of the agency the applicant is obligated to support
3. Ability to administer Federal grants with respect to compliance, fiscal responsibility, and reporting requirements
4. Administrative oversight costs do not exceed 5 percent of grant award

Priority 4: Technical Assistance—Up to 10 percent of funds distributed in each fiscal year under the Homeless Veterans Assistance Fund would be dedicated to organizations that provide technical assistance to applicants and grantees under this program. This may be effected by competitive grant or cooperative agreement contract processes for a minimum of 3 years to enhance program development and continuity.

Technical assistance under this program should provide:

1. Guidance to applicants on interpretation of and questions related to the grant notices of funding availability (NOFA)
2. Guidance on proposal development to strengthen competitiveness of grant applications
3. Information on Federal grant compliance, financial responsibility and reporting requirements
4. Information on resource development, program development and administration, and community collaborations to ensure program efficiencies and effectiveness.

Applicants should be able to demonstrate:

1. IRS 501(c)(3) designation and Form 990 filings for a minimum of 5 years*
2. Comprehensive knowledge of homeless veteran issues and the systems in place to help veterans who are homeless or at high risk of becoming homeless
3. Comprehensive knowledge of and experience working with the U.S. Department of Veterans Affairs and other Federal agencies that administer homeless veteran assistance programs
4. A minimum of 5 years working directly with community organizations, local government agencies and the U.S. Department of Veterans Affairs in developing and enhancing services provided to homeless veterans
5. Proven record of success in providing technical assistance to organizations that compete for Federal grants designed to support community-based homeless veteran assistance programs
6. Thorough understanding of Federal grant application, compliance, financial responsibility and reporting guidelines and regulations

• **Homeless Veterans Assistance Fund Governance**

Board of Trustees—A Congressional oversight board to review fund policies, practices and fiscal management bi-annually. Members would represent select House and Senate Committees with jurisdiction on veterans and tax issues. Board would be chaired by the representative of either the House or Senate Committee on

*This is important to safeguard against potential conflicts of interest and maximizing efficiencies at the expense of performance and/or accountability.

Veterans Affairs, and would file an annual report to Congress on activities and outcomes of the fund.

Board of Directors—Responsible for the program design; Fund management and operations; allocation and lawful distribution of funds; program assessment and performance; and recommendations on program enhancements. Board would meet quarterly, with authority to meet in additional sessions if necessary. Board would be reimbursed for reasonable travel, lodging and per diem costs to participate in meetings. Board chairman would prepare reports for Board of trustees and attend meetings. Board terms of 4 years, with a limit of two consecutive terms. Respective Federal agencies would nominate replacements for retiring members. Federal representatives do not have to be stationed at the agency national headquarters.

Permanent seats:

1. U.S. Department of Veterans Affairs Office of Homeless Programs
2. U.S. Department of Veterans Affairs, Residential Rehabilitative Services
3. U.S. Department of Labor-Veterans Employment and Training Service
4. U.S. Department of Housing and Urban Development, Office of Special Needs
5. U.S. Department of Health and Human Services, Health Care for the Homeless
6. Interagency Council on Homelessness
7. Community-Based Homeless Veteran Service Provider Representatives (3)
8. Veteran Service Organization Homeless Veteran Program Representatives (2)

Central Administrative Office Staff—Senior Grant Administrator, Assistant Administrator and Operations Staff would be responsible for daily operations of Central Office; communications with and monthly reports to Board of Directors; coordination of grant program activities and timelines; Fund and central office budgets and compliance; grant proposal review and rating process, reports to Directors on scoring and approval recommendations; quarterly review of financial reports (drawdowns and expenditures); and annual audit of program outcomes relative to applicant goals (Priority groups 1, 2 and 4).

Federal agencies with permanent seats on the fund Board of Directors would be required to provide a staff member to assist with grant application review and rating functions, and the agencies would be reimbursed for that personnel allocation.

• **Grant Application, Review and Determination Policies**

Grants to community-based organizations and government agencies from the Homeless Veterans Assistance Fund would be competitive and could be divided into two categories to minimize administrative burden and costs:

Priority 1, 2 and 4—NOFAs would be published in the *Federal Register* detailing program goals, objectives, requirements and application guidelines. Notice would include information on award ceilings, special funding priorities, allowable use of funds, and overview of application grading. Applicants would have 45 days to submit complete proposals. Application review, grading and ranking for final selection by region would be performed by Central Office staff with support from Federal agencies with permanent seats on the Board of Directors. Recommendation lists would be submitted by the Senior Grant Administrator to the Directors, based on available funds for distribution, rankings and regional distribution. Board would give final approval, request justifications and/or revisions, and issue final authority to Central Office to announce awards, conclude grant contracts, and allocate funds to grantee accounts utilizing the Federal Electronic/ACH Credit Payment Management System. Awards would be published in the *Federal Register*; VA, Labor and HUD Web sites; Homeless Veterans Assistance Fund Web site, and the technical assistance grantees' Web sites.

Priority 3—Since these grants are for organizations that are providing support services directly to organizations funded under the Homeless Veterans Assistance Fund, applicants would submit proposals for funding assistance directly to the organizations or agencies in Priority 1 and 2 as “subcontractors.” Eligible entities, allowable activities and application guidelines would be included as a subsection of the fund NOFA. The applicants in Priority 1 and 2 would, as part of their program budget plan, identify specific subcontractors and include a cost analysis on the services that would be provided through those contracts. Grant awards to organizations in Priority 1 and 2 would include funds obligated to specified, approved subcontractors. Priority 1 and 2 grantees would be required to conclude contracts before those funds can be expended, and would ensure distribution of funds as services are provided. Grantees would be required to report utilization of those funds according to their approved grant contracts.

General:

Funds distributed from the Homeless Veterans Assistance Fund must be used for the delivery of services to homeless veterans, technical assistance for organizations that wish to apply for inclusion in the program or are receiving grants through the program, and for administrative and operational costs of the program. Grants would be awarded for a 2-year period, with renewals for an additional 2-year period if grantee performance goals are met or exceeded and taxpayer contributions to the fund are deemed sufficient by the Board of Directors and Board of trustees.

Activities that would not be allowable under the fund would include general public education, promotional, conferences, fundraising, political and travel expenses other than those authorized and budgeted for the Board of Directors and Central Office staff.

Initially, no more than 50 percent of funds received through an Income Tax Checkoff program in a given tax year would be available for distribution the following tax year. Depending on the funds generated during the first 3 years of the program, revisions in the allowable uses of funds to include prevention strategies and increasing the availability of affordable housing for low-income and homeless veterans may be considered by the Board of Directors and referred to the Board of trustees for Congressional approval.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC
March 9, 2009

Mr. Dave Gorman
Executive Director
Disabled American Veterans
807 Maine Avenue, SW
Washington, DC 20024

Dear Mr. Gorman:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

**POST-HEARING QUESTIONS FOR JOHN L. WILSON
OF THE
DISABLED AMERICAN VETERANS
FROM THE COMMITTEE ON VETERANS'AFFAIRS
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
UNITED STATES HOUSE OF REPRESENTATIVES
MARCH 4, 2009 HEARING**

Question 1: In your testimony on H.R. 297, your recommendation is to authorize VRE (Chapter 31) participants to receive the subsistence allowance offered under the Post-9/11 G.I. Bill. In your opinion is this better for the veterans?

Response: In the opinion of the DAV, this amendment is better for the veteran in that participants would receive the higher subsistence allowance offered under the Post-9/11 G.I. Bill (Chapter 33). Otherwise, veterans with service-connected disabilities must either choose the more lucrative G.I. Bill and sacrifice needed Vocational Rehabilitation and Education (VRE) services, or choose the VRE program because of service-connected disabilities thereby forcing them to forego the more lucrative program. Veterans with service-connected employment handicaps should not have to choose the lesser program because of their disabilities.

In the long term, this may be detrimental to their physical and mental health as well as their ability to retain employment. We believe this was not the intent of Congress. There is already precedent for such a bridge between legislative programs as seen under title 38, United States Code, section 3108 F, which governs the Montgomery G.I. Bill. Given this precedent, and the fact that such an amendment resolves an unnecessary but potentially significant stumbling block to some veterans not being able to receive the optimum vocational rehabilitation or education, we see this as a win for all.

Question 2: Is the Homeless Veterans Reintegration Program at the proper funding level?

Response: In the opinion of the DAV, the funding level should be such as to permit the Homeless Veterans' Reintegration Program (HVRP) to attain the maximum outreach. The current level of authorization of \$50 million, while not enough to reach the entire homeless population, is an increase from prior levels.

HVRP is the *only* Federal program that is dedicated to providing employment assistance to homeless veterans who may be denied by other programs and services because of severe problems such as post-traumatic stress disorder (PTSD), history of substance abuse, serious psychosocial concerns, and legal entanglements, to name only a few. Extensive, specialized, intensive assessment, referrals and counseling is required in virtually every case.

The program's success, as documented by Department of Labor (DOL), notes that 65 percent of homeless veterans served through HVRP enter employment and, of that number, 72 percent retain employment at the 90-day mark.

It has been estimated by the DOL that for fiscal year 2009, \$25.6 million in HVRP funding would provide employment and training assistance to approximately 15,330 homeless veterans and, of those, approximately 10,665 will be placed into employment (average cost per participant is \$1,670 and average cost per placement is \$2,407). These costs represent a small investment for a program that has been such a large success in moving veterans out of homelessness status and off of public programs. This increased funding for this vital program is a win for homeless veterans and a win for Congress.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC
March 9, 2009

Mr. John Sommer
Executive Director
American Legion
1608 K Street, NW
Washington, DC 20006

Dear Mr. Sommer:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

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Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

The American Legion
Washington, DC
April 17, 2009

Honorable Stephanie Herseth Sandlin, Chair
Subcommittee on Economic Opportunity
Committee on Veterans' Affairs
U.S. House of Representatives
335 Cannon House Office Building
Washington, DC 20515

Dear Chair Herseth Sandlin:

Thank you for allowing The American Legion to participate in the Subcommittee hearing on various legislation on March 4, 2009. I respectfully submit the following in response to your additional questions:

Question 1: The MOST bill, H.R. 929, is based on the SMOCTA bill which involved the VA, DoD, and DOL. Do you believe that the MOST bill should include the DOL?

Response: Yes, the MOST bill should maintain the inclusion of DOL. DOL has the expertise and network of employers to assist veterans in finding suitable and gainful employment. DOL participation will be vital to the success of the MOST bill, as it was with SMOCTA.

Question 2: Would The American Legion support the bill if employers were required to hire the veterans as part of a training program before they were allowed to participate in the MOST program? (Should an employer hire a veteran first, then participate in the program.)

Response: The American Legion strongly supports the MOST program and its ability to provide training and employment for vulnerable veterans. Currently, The American Legion does not have a position concerning this question.

Question 3: Should the H.R. 942 program be extended to spouses of 100 percent disabled veterans where the spouse is the bread winner for that family?

Response: Yes, the spouse should be able to participate in this benefit to assist in their family's need for financial stability. With the inclusion of the spouse to this training benefit, not only does it honor the veteran and the contribution of his/her spouse for their service to the country, but gives ample opportunity to live financially independent and achieve a high quality of life.

Question 4: Is the Homeless Veterans Reintegration Program serving veterans in all the correct geographic veterans' concentrations across the country?

Response: HVRP attempts to serve all the correct geographic veterans' concentrations across the county, but falls short due to funding. The Department of Labor, Veterans and Training Employment Service (DOL-VETS) takes into account geographic concentrations throughout the country with the grants it awards. However, since HVRP receives about half of the authorized \$50 million, serving veterans in these critical areas cannot be satisfied. Currently, only one in five applicants gets a grant. HVRP could serve our homeless veterans in these geographic concentrations better by being fully funded.

Question 5: In The American Legion's view is this program underfunded?

a. If so, what would be the correct funding level for this program?

Response: Yes, The American Legion views the HVRP program as being underfunded. The American Legion recommends that HVRP be funded at \$50 million for

FY 2010 for this highly successful grant program. Currently, the HVRP is funded at \$23 million.

Sincerely,

Mark Walker, Deputy Director
National Economic Commission

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC
March 9, 2009

Mr. Patrick Boulay
Senior Attorney
U.S. Office of Special Counsel
1730 M Street, NW
Suite 300
Washington, DC 20036-4505

Dear Mr. Boulay:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

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Sincerely,

Stephanie Herseth Sandlin
Chairwoman

**Deliverable from the House Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Legislative Hearing
March 4, 2009**

Question 1: Why is representation before the Merit System Protection Board critical?

Response: OSC representation of USERRA claims before the Merit Systems Protection Board (MSPB) is critical for several reasons.

First and foremost, it is the exclusive means of enforcing USERRA rights against Federal executive agencies. Because the Federal Government has not waived sovereign immunity for USERRA, claims against Federal executive agencies cannot be brought in U.S. District Courts. Thus, filing an action with the MSPB is the sole remedy for those seeking to compel Federal agencies to comply with USERRA and obtain the relief to which they are entitled. Only the MSPB can issue an order against a Federal executive agency to comply with USERRA, provide claimants with relief, and sanction a Federal agency for failing to do so.

Second, like OSC, the MSPB is uniquely suited to handle employment claims involving the Federal Government. The MSPB was established by the Civil Service Reform Act of 1978 to protect the merit system of Federal employment by adjudicating individual employee appeals and conducting studies of the merit system. The MSPB is far more familiar with the intricacies of the Federal personnel system and Federal personnel law than other adjudicative bodies. As a result, it can expeditiously adjudicate employment disputes between Federal agencies and Federal em-

ployees and applicants in a manner consistent with the letter and spirit of Federal employment laws, including USERRA.

Moreover, having one adjudicative body handle all Federal employee USERRA claims ensures that the law is applied consistently. When Federal district courts adjudicate USERRA claims, it is inevitable that different courts will apply USERRA dissimilarly and sometimes in a conflicting manner. By having the MSPB hear all Federal employee USERRA complaints, however, a consistent body of law is developed. This allows employees and agencies to better understand USERRA's requirements, and leads to fairer and more expeditious outcomes. Finally, appeals from the MSPB are adjudicated by the U.S. Court of Appeals for the Federal Circuit. The Federal Circuit has expertise in USERRA and other Federal personnel laws that other Federal appellate courts do not. Therefore, decisions on appeal by Federal employees or agencies will also be more consistent and more likely to correctly interpret USERRA than if such appeals were decided by different appellate courts.

Third, it is unlikely that many claimants would or could successfully enforce their USERRA rights before the MSPB without OSC representation. Not only is such representation free of cost to the claimant, but OSC has particular expertise in prosecuting cases, including USERRA cases, before the MSPB that no other government agency or private attorney can offer. Without the option of seeking OSC representation, many potentially meritorious claims would likely not be pursued due to the time and cost associated with litigation, especially if claimants must retain private counsel. And even if Federal employees pursue their claims without OSC representation, it is more likely that these lawsuits will be unsuccessful due to a lack of knowledge and expertise by claimants and private counsel.

Moreover, OSC has demonstrated a willingness and ability to successfully "push the envelope" by pursuing and obtaining relief in cases considered unwinnable by others or where the law is ambiguous. In short, it would be difficult, if not impossible, to fulfill Congress's goal that the Federal Government serve as a "model employer" under USERRA without OSC representation before the MSPB.

Fourth, OSC believes its credible threat of litigation before the MSPB is essential to its success in enforcing USERRA. Because litigation is costly, time-consuming, uncertain, and can generate negative publicity, it provides agencies with a strong incentive to settle cases before an action is filed with the MSPB. In OSC's experience, once educated about USERRA's requirements and presented with evidence of a violation, most Federal agencies agree to take the appropriate corrective action on behalf of the claimant. However, it is unlikely that such a high rate of voluntary compliance would occur without the threat of MSPB litigation. Moreover, in cases where an agency refuses to take the requested action, OSC has the means of obtaining compliance with the law through its authority to file cases before the MSPB. This authority must be contrasted with the Department of Labor (DOL)'s limited authority to attempt to resolve cases without a credible threat of adjudicative action. DOL cannot compel compliance with USERRA because it cannot file claims before the MSPB—only OSC has this authority.

H.R. 1089, which proposes to give OSC authority to prosecute and investigate Federal USERRA complaints, would likely increase and expedite voluntary compliance with USERRA by Federal agencies because it eliminates the need for such complaints to first go through DOL. Under the current system, there is no threat of MSPB litigation when complaints are before DOL, giving agencies less incentive to settle. In addition, claimants with meritorious claims may decide not to request referral of their complaints to OSC after DOL investigation and attempted resolution, either because they become discouraged, are not aware of their right to referral, etc. Thus, agencies can "take a chance" that a complaint will be settled for less than the claimant is entitled to or will not be forwarded to OSC for possible prosecution.

In contrast, if OSC directly received all Federal USERRA complaints, the threat of litigation would be imminent, encouraging Federal agencies to voluntarily resolve meritorious claims, and do so more quickly (as they often did under the USERRA Demonstration Project). In addition, OSC would not need to re-investigate complaints that DOL has tried to resolve to determine whether to provide representation before the MSPB, as is often required under existing law. Finally, claimants would not have pressure to accept less than the full relief to which they are entitled because they wish to resolve the matter without drawing out the process any further. Thus, under H.R. 1089, Federal USERRA claimants would be able to obtain appropriate relief more quickly, as evidenced during the USERRA Demonstration Project, where OSC achieved an exceptionally high 25 percent corrective action rate for all complaints it directly received.

In summary, the MSPB is the exclusive means of enforcing USERRA claims against Federal executive agencies, and is uniquely suited to adjudicating such

claims in a consistent manner. Similarly, OSC is uniquely suited to prosecuting USERRA claims before the MSPB. Unlike private counsel, OSC is focused on presenting cases before the MSPB, and has the requisite expertise to do so. Further, OSC is willing and able to “push the envelope” to ensure that the Federal Government serve as a “model employer” under USERRA. In fact, OSC often obtains settlements from Federal executive agencies that DOL cannot, simply because the threat of litigation becomes imminent *only* when OSC becomes involved. Under H.R. 1089, Federal USERRA claimants would receive the benefit of having OSC involved in their claims at the earliest possible time, thereby making the promise of corrective action quicker and more certain.

Committee on Veterans' Affairs
Subcommittee on Economic Opportunity
Washington, DC
March 9, 2009

The Honorable Eric K. Shinseki
Secretary
U.S. Department of Veterans Affairs
810 Vermont Avenue, NW
Washington, DC 20420

Dear Secretary Shinseki:

I am sending questions for the record in reference to a hearing from our House Committee on Veterans' Affairs Subcommittee on Economic Opportunity *Legislative Hearing* on March 4, 2009. Please answer the enclosed hearing questions by no later than Friday, April 17, 2009.

In an effort to reduce printing costs, the Committee on Veterans' Affairs, in cooperation with the Joint Committee on Printing, is implementing some formatting changes for material for all Full Committee and Subcommittee hearings. Therefore, it would be appreciated if you could provide your answers consecutively on letter size paper, single-spaced. In addition, please restate the question in its entirety before the answer.

Due to the delay in receiving mail, please provide your response to Ms. Orfa Torres by fax at (202) 225-2034. If you have any questions, please call (202) 226-4150.

Sincerely,

Stephanie Herseth Sandlin
Chairwoman

Questions for the Record
The Honorable Stephanie Herseth Sandlin, Chairwoman,
Subcommittee on Economic Opportunity,
House Committee on Veterans' Affairs
March 4, 2009
Pending Legislation

Question 1: What is the U.S. Department of Veterans of Affairs position on H.R. 228 and H.R. 297?

Response: The Department of Veterans Affairs (VA) provided the Committee with a views letter on May 26, 2009. A copy of that response is included as a complete reply to this question.

Question 2: You state that H.R. 929 would be challenging to implement. How can the implementation be streamlined?

Response: While VA supports the principle of expanding occupational opportunities for Veterans, implementing H.R. 929 as currently drafted would be a challenge. For example, unlike existing GI Bill programs, the training programs for the Military occupational specialty transition (MOST) program must be approved by State Approving Agencies (SAA) prior to placement of eligible Veterans and before payments can be made. For employers who do not have existing approved programs, the SAAs would have to evaluate the training program under the criteria for on-

the-job training programs in chapter 36 of title 38, United States Code. MOST would also require VA to determine if the training program was appropriate for participation by an eligible individual. To meet the intent of the program VA would have to seek out employers, SAAs would need to pre-approve programs, and then VA would need to match individuals to jobs based on their skill sets. Under current GI Bill programs, the beneficiary finds employment and requests to use VA benefits for the training program. The employer then seeks approval for the training program when the Veteran is hired or after the Veteran is hired. The issue of having a significant difference between the time the SAA approves the training and when a veteran's eligibility is determined makes implementation challenging.

To address the challenges VA recommends obtaining input from the Department of Labor (DOL) and leveraging programs they offer to serve unemployed Veterans. In addition, the bill makes the program effective the date of enactment and requires VA to develop the regulations necessary to carry out the program. As such, VA's ability to pay claims associated with the MOST program would be delayed until regulations were published for public comment and then re-published as final regulations.

Question 3: How big would the impact be on VA to conduct oversight to ensure compliance with H.R. 942?

Response: Conducting oversight to ensure compliance with H.R. 942 would challenge Education Service resources that are already fully committed to existing programs and implementation of the Post-9/11 GI Bill. As an entirely new program, VA would be required to conduct oversight of entities that provide training associated with the purchase of a franchise. The impact would be similar if SAAs provided the oversight, it would require the diversion of resources from current oversight activities unless additional funding is provided. Administration of the program would be delayed until regulations were published for public comment and then re-published as final regulations.

U.S. Department of Veterans Affairs
The Secretary of Veterans Affairs
Washington, DC
May 26, 2009

The Honorable Bob Filner
Chairman
Committee on Veterans' Affairs
U.S. House of Representatives
Washington, DC 20515

Dear Mr. Chairman:

As requested by the Honorable Stephanie Herseth Sandlin, below are the views of the Department of Veterans Affairs (VA) on two bills, H.R. 228, to "direct the Secretary of Veterans Affairs to establish a scholarship program to provide financial assistance for students seeking a degree or certificate in the areas of visual impairment and orientation and mobility," and H.R. 297, the "Veteran Vocational Rehabilitation and Employment Subsistence Allowance Improvement Act of 2009."

H.R. 228

H.R. 228 would establish a new scholarship program for individuals who are accepted for enrollment, or currently enrolled, in a program of study leading to a degree(s) or certificate(s) in visual impairment or orientation and mobility. In exchange for the scholarship assistance, the participants would incur service obligations with the Department. The bill would limit to \$15,000 the total amount of assistance that a participant who is a full-time student could receive during an academic year. It would establish a maximum cap of \$45,000 on the total assistance that VA could provide to any participant. H.R. 228 would also require the Secretary to establish terms of participation for the program, including the length of a participant's period of obligated service. Participants who fail to meet their service obligations would be subject to repayment terms, as specified in the bill.

VA appreciates the importance of Blind Rehabilitation Services, as evident by its investment of \$50 million to enhance its nationwide continuum of rehabilitative care for Veterans and active duty military personnel with visual impairments. VHA is the first health care system to completely integrate such services for patients with visual impairments into comprehensive health care benefits. This continuum of care

will establish 55 new outpatient clinics targeting those who are beginning to experience functional loss from visual impairment. New programs also include: 22 new Intermediate Low Vision Clinics; 22 new Advanced Ambulatory Low Vision Clinics; and 11 new Outpatient Hoptel Blind Rehabilitation Clinics. The goal of this initiative is to provide rehabilitation services that keep visually impaired Veterans and active duty personnel functioning as independently as possible, and integrated with their families and communities.

The Department is committed to ensuring that appropriate staffing of blind rehabilitation outpatient specialists and visual impairment professionals is maintained to support VA Blind Rehabilitation Services and this expanded continuum of care. However, because VA's existing scholarship program already enables us to meet our need for professionals in these occupations and many others, we do not support this bill. The Veterans Health Administration (VHA) analyzes data concerning recruitment and retention of health care disciplines annually. The results of this analysis are published each year in the Succession and Workforce Development Plan. This plan provides a detailed, evidence-based analysis that identifies the categories of health professions which could, or should be, targeted with recruitment or retention incentives, including scholarship programs. As part of succession-planning efforts, VHA has funded technical career field interns in the blind rehabilitation occupation. In 2007, nine interns were funded, in 2008, 20 interns and again in 2009, 20 interns will be funded. We feel continued support in the technical career field program will meet the needs within the Department. We do not believe creation of an entirely separate scholarship program for this limited group of individuals would be cost effective.

It is also important to note that under the bill, participants would be treated far more leniently than participants in VA's existing scholarship program in the event they breach their service obligations. Participants in VA's Education Incentive Scholarship Program (EISP) incur treble damages for breach of their service obligation, whereas H.R. 228 would provide for repayment of "an amount equal to the unearned portion of [the educational] assistance." We do not believe disparate penalties for the same action are justified. The EISP statutory framework also establishes other categories of liability depending on the type of breach committed by the participant, e.g., failure to accept the scholarship money, failure to complete the program or to obtain licensure. This bill does not address all of the other scenarios covered under the EISP.

We estimate the total cost of implementing H.R. 228 to be \$521,000 in fiscal year (FY) 2009, \$2.72 million over 5 years, and \$5.7 million over a 10-year period.

H.R. 297

H.R. 297 would provide for an increase in the amount of subsistence allowance payable to Veterans participating in programs of vocational rehabilitation under chapter 31 of title 38, United States Code, and expand availability of subsistence allowances for veterans using employment services under that chapter.

We support, in principle, efforts to facilitate successful completion of vocational rehabilitation programs under chapter 31, and we recognize that increasing the amounts of subsistence allowance provided to Veterans participating in training and employment services will encourage more veterans to continue their rehabilitation programs.

Increased rates of subsistence allowance would allow Veterans to pursue rehabilitation on a full-time basis, leading to entry into employment in a shorter period of time.

However, we are unable to support H.R. 297 at this time. Recent changes to VA education benefits, including the new Post-9/11 GI Bill, may affect chapter 31 participation and completion rates. In addition, as recommended by the Dole-Shalala Commission on Wounded Warriors, VA is currently completing a review of its compensation program that has implications for the vocational rehabilitation program. This changing landscape of comprehensive benefits prevents VA from adequately evaluating the subsistence allowance increase proposed in H.R. 297. The Department plans to evaluate its total benefit package and recommend necessary improvements as part of the FY 2011 Budget.

We estimate that enactment of H.R. 297 would result in benefits costs of \$212.3 million for FY 2010 and \$771.4 million over 10 years.

The Office of Management and Budget advises that there is no objection to the submission of this letter from the standpoint of the Administration.

Sincerely,

Eric K. Shinseki

