

# LEGISLATIVE HEARING ON H.R. 1941

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

—————  
AUGUST 2, 1995  
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Printed for the use of the Committee on Veterans' Affairs

**Serial No. 104-9**



U.S. GOVERNMENT PRINTING OFFICE

93-947 CC

WASHINGTON : 1995

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For sale by the U.S. Government Printing Office  
Superintendent of Documents, Congressional Sales Office, Washington, DC 20402

ISBN 0-16-052131-9

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# LEGISLATIVE HEARING ON H.R. 1941

WEDNESDAY, AUGUST 2, 1995

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

The subcommittee met, pursuant to call, at 9 a.m., in room 334, Cannon House Office Building, Hon. Steve Buyer (chairman of the subcommittee) presiding.

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

## OPENING STATEMENT OF CHAIRMAN BUYER

Mr. BUYER. Let's let the subcommittee come to order.

Before I open up, I would like to take the prerogative of the chair and that being to make a comment on a study, I guess, that was released yesterday from the Pentagon relative to the Gulf War illness from Dr. Joseph, the highest ranking medical individual over at the Pentagon.

I have not seen his study, nor did he extend the courtesy to send it to some of us who were involved in the issue, which is greatly disappointing to me. I think, based on the comments that I have seen in the press, and that is all I can go on at the moment, for Dr. Joseph to say that there is no Gulf War illness and to cite his study of 10,000 veterans without any real medical research is extraordinarily disappointing to me.

I see this really as a continued effort by Dr. Joseph and others in the Pentagon to discount the severity of the illnesses that have inflicted many of the Gulf War veterans. That is, again, extraordinarily disappointing because many of the veterans who suffered from ailments and it was brought out and pressed hard by my good friends Joe Kennedy and Lane Evans and Luis Gutierrez and some others.

For the Pentagon to continue to discount and play the same game that they played from the beginning is extraordinary. I will take the issue up personally with Dr. Joseph, but I think the one thing I will say is that for him to say that there is no single or unique illness relative to the Gulf War illness, he is correct. I have maintained all along that it is a multi-faceted illness. But for him to discount it in the way he has, the way he has continued, is very callous and insensitive to the veterans and their service to country.

And sometimes those of us on the veterans' side need to do wake-up calls over there to the Pentagon. They like to buy all of their

big ships and their planes and all of their toys and make sure they have their own sandboxes with their own set of toys. But when the veterans come home they forget, and perhaps discount, and that is unfortunate, but that is part of our job here on the veterans' side. And that is to do the wake-up calls to the Pentagon, and I think it is time to have a return shot or a wake-up call to the Pentagon which seems to want to retake ground which we have previously plowed.

I think they ignore a lot of the medical research that is ongoing. I think they also ignore the research—as a matter of fact, we had to go to Ross Perot to get research on the cocktail mix of inoculations. So for them to just say, well, we have done our own study and it really has no basis in medical research is extraordinary.

Let me move to today's business. Mr. Mascara, do you have any comments relative to my comments?

Mr. MASCARA. Well, I support your opening statement, and I think you are right on target, Mr. Chairman. I wish I had said that.

Mr. BUYER. Thank you.

Well, we got off to a good start.

Today we will review discussion drafts on technical changes for the Uniformed Services Employment and Reemployment Rights Act, extensions for several VA housing programs, improvements to Veterans' Employment and Training Service Program, and the transfer of the Office of Veterans' Affairs of the Small Business Administration to the Department of Veterans Affairs.

Let me emphasize that with the exception of H.R. 1941, we are here to talk about discussion drafts. It is my opinion that it is important to seek stakeholders' views on potential legislation, and I want to have the freest possible exchange of ideas.

The last time we met we discussed the need for technical changes in USERRA, and we have a bill that addresses many of the issues necessary to make the act a better tool for our servicemen and women.

As we touch briefly upon the changes within VETS, and I am delighted we will be able to discuss a number of these streamlining initiatives as well. The discussion draft of the VA housing extenders is very important, and in some of the programs sunset dates will be removed, making them permanent.

We are pleased that representatives of the Mortgage Bankers Association can be with us today to discuss the VA home loan programs, and finally a proposal to merge SBA's Office of Veterans' Affairs with the VA's Office of Small and Disadvantaged Business Utilization.

As for moving SBA Veterans' Office to the VA, I want everyone to understand that I am personally committed to seeing to it that veterans get fair treatment in pursuit of business opportunities. If, in fact, the status quo is not meeting the standards and the levels of services that veterans rightfully expect, definite measures must be undertaken to address their concerns.

Meshing the responsibilities and resources of the two offices is a natural extension of our commitment to expanding employment opportunities. I feel the development of a business entrepreneurial unit at the VA under strong leadership of the Secretary of Veterans

Affairs is a way to increase veterans' opportunities in the business world.

Some 20 percent of all of the country's small businesses are owned by veterans. Nearly four million veterans lend this country's business climate what they learned during their military service: a stable foundation upon which spirited men and women build businesses that employ other Americans.

While I know there are some in opposition to the move from the two government agencies involved, I feel strongly that such a move holds great promise and will be an improvement over the current set-up if the agencies cooperate.

We come here to discuss transfers of responsibilities from one agency to another, and we do so in search of program improvements, as well as cost savings and better government. That is what makes today's hearings so important. I hope to hear from each of the witnesses their suggestions on making the improvements to the system. I would hope we can have an open discussion of ideas in a positive way, and I am eager to hear what each of you have to offer, not just to say "no."

I know that VETS is going through a lengthy internal review of its organization, and that some of the suggestions today are a result of that review. I am looking forward to hearing how changes will benefit veterans.

In improving veterans' reemployment rights, USERRA was a long time in the making. USERRA is a product of years of negotiations and designed to protect veterans' ability to return to the work force following service, while at the same time not over-burdening employers.

H.R. 1941 makes technical changes to USERRA that will strengthen this important protection of veterans' employment rights. These changes are a result of both sides working with VETS for the strongest possible means of protection, and I thank the Ranking Full Committee Member, Sonny Montgomery, and his staff for their work on the legislation.

Does Maxine have any statements she wanted submitted for the record? All right. We will submit that for the record now, and I will be more than happy to recognize her when she comes in.

Congresswoman Jan Meyers, who is the Chairwoman of the Committee on Small Business has also asked to submit a statement for the record regarding the move of the SBA's Office of Veterans' Affairs to the VA. Without objection, I include her statement in the record, and I would note that Chairwoman Meyers supports the move of the Office of Veterans' Affairs to VA, but opposes placing VA's Office of Small Disadvantaged Business under the auspices of the VBA.

[The statement of Hon. Jan Meyers appears on p. 72.]

Mr. BUYER. I do not think that we will be at that issue, but I also have a statement for the record from Mr. LaFalce, the Ranking Member of the Small Business Committee, who opposes the move.

[The statement of Hon. John J. LaFalce appears on p. 74.]

Mr. BUYER. If the first panel would come forward. The first panel is composed of representatives of several veterans' service organizations. Mr. Ron Drach from the DAV; Mr. Bob Manhan from the

VFW; Emil Naschinski from The American Legion; and Bob Carbonneau from AMVETS; John Lopez from Association for Service Disabled Veterans.

We welcome each of you for your statements. We will be under the 5-minute rule. Each of you have written statements that will be entered into the record, and I am going to ask you to summarize, but beforehand I think Mr. Mascara has an opening statement.

#### **OPENING STATEMENT OF HON. FRANK MASCARA**

Mr. MASCARA. Thank you, Mr. Chairman.

I want to start this morning off by thanking you for holding this very important hearing.

As several of our witnesses will testify, a good number of our Nation's veterans also own and operate small businesses. These businesses are one of the primary engines of our economy, developing thousands of new jobs every year.

As a freshman member of this subcommittee, I am not an expert on the Veterans' Small Business Office as operated by either the Small Business Administration or the Department of Veterans Affairs. I have no steadfast opinion on whether the two should be merged or kept separate.

What I do know is that I am troubled by the testimony that will be presented this morning indicating that in recent times veterans have not received the attention and treatment they deserve from either office. Some of the problems obviously can be attributed to small staffs and reduced resources.

Whatever the subcommittee ultimately decides to do in this area, our priority must be to see that this situation is turned around. Our small business veterans deserve no less. I am convinced if we give them the proper recognition and financial assistance, we will reap benefits far beyond our investment.

I also was pleased to read that the veterans' organizations testifying today only have words of support for H.R. 1941, legislation I co-sponsored with our Ranking Democratic Member, Mr. Montgomery, Ms. Waters, Mr. Clyburn, and Mr. Evans.

As many of you already know, this legislation seeks to clarify the employment and reemployment rights of those who serve our country in the Armed Forces. I joined this effort because I believe that men and women who serve in the military, including reservists, must not be denied their rights to return to their place of employment.

I am hopeful we can act quickly on this bill and rectify the problems that have arisen in the past several years. I believe we must act so that those who serve their country in future conflicts can do so with assurance that they will have a job when they return.

Thank you, Mr. Chairman. I look forward to learning a great deal from witnesses in this morning's discussion.

Thank you very much.

Mr. BUYER. Thank you, sir.

I have also testimony from the Veterans' Business Council of California who asked that a statement be submitted for the record, and I have no objections. Hearing none, so ordered.

[The statement of Robert Sniffen and Marty Hiles, with attachment, appears on p. 76.]

Mr. BUYER. Let's start from left to right, and we'll begin with you, Mr. Lopez.

**STATEMENTS OF JOHN K. LOPEZ, CHAIRMAN, ASSOCIATION FOR SERVICE DISABLED VETERANS; ROBERT F. CARBONNEAU, LEGISLATIVE DIRECTOR, AMVETS; EMIL NASCHINSKI, ASSISTANT DIRECTOR, NATIONAL ECONOMIC COMMISSION, THE AMERICAN LEGION; BOB MANHAN, ASSISTANT DIRECTOR, NATIONAL LEGISLATIVE SERVICE, VETERANS OF FOREIGN WARS; AND RON DRACH, DIRECTOR OF EMPLOYMENT SERVICES, DISABLED AMERICAN VETERANS**

**STATEMENT OF JOHN K. LOPEZ**

Mr. LOPEZ. Good morning to the members of the committee, and thank you for this opportunity to express the concerns of those service disabled and prisoner of war veterans that are maintaining their rehabilitation by owning and operating businesses.

Although these service disabled businessmen continue to suffer because of service to our Nation, they are willingly and actively risking their disability compensation to fund enterprise activities that benefit them and others employed by their efforts. However, these attempts to maintain their rehabilitation and to assist others, are seriously impeded by government machinations.

Efforts to focus attention on the lack of support for service disabled veteran businesses has been camouflaged by selective reporting and the glossing over and subverting of response to the needs of service disabled veterans by integrating this information into the gross statistical forest that reports the experiences of all 27 million of America's veterans. The Congress has already established in the Americans with Disabilities Act that disabled persons of this Nation require reasonable accommodation to their social and economic disadvantage. That is especially true of veterans maimed and tortured while serving our country.

The courts and the U.S. Congress have always maintained that preference and special assistance is a legitimate entitlement for the service disabled veteran. It is not and never has been the prerogative of the administrative branch of government to determine the authority of the Congress or to restrict the gratitude of the American people to its service disabled veterans.

Service disabled veterans ask for nothing more than the real assistance given to other special groups. The additional assistance provided by SBA to the business community as a whole has unavoidably reached the general veteran population of 27 million persons, as a byproduct. But that assistance has not reached those with the greatest need, the service disabled veteran businessman.

We ask that this committee and the Congress focus on legitimate needs and establish a focal point to coordinate the unique requirements of the service disabled veteran business, and we ask the Congress to respond to the needs of the service disabled businessman by charging those who are responsible for serving this most needy and deserving of all populations and to direct immediate con-

centration of limited resources for assisting service disabled veterans in the U.S. Department of Veterans Affairs.

Thank you again for your attention. I would be pleased to answer any questions you may have.

[The prepared statement of Mr. Lopez appears on p. 93.]

### **STATEMENT OF BOB CARBONNEAU**

Mr. CARBONNEAU. Good morning, Mr. Chairman, members of the committee.

AMVETS is grateful to testify before you today.

After looking at the draft bill to combine the Office of Veterans' Affairs with the Small Business Administration and the VA's Office of Small and Disadvantaged Business Utilization, we have come to the conclusion that there is little reason to oppose such a move.

We were unable to identify any real, substantive argument as to why this merger should not take place. We were told the SBA recently reduced the staff of their Office of Veterans' Affairs from six to three FTEs. I am sure the \$800,000 fiscal year 1995 budget will not only be reduced because of the FTE savings, but will be squeezed even further next year.

AMVETS reviewed a list of accomplishments provided by the SBA. We find it hard to believe that in fiscal year 1994, that six people in the Office of Veterans' Affairs played a major role in the counseling of 130,202 veterans and the training of 57,786 veterans. I would suspect their resource partners were the major provider of these services. Those appear to be the Departments of Defense, Labor and the VA.

We recognize there will be an argument from some that the VA's Office of Small and Disadvantaged Business Utilization needs to continue as a stand-alone. The reasons can range from possible protests from women and minority groups to what we call turf issues. However, we must remember that over the last decade the number of women and minorities that have served in the military has increased dramatically. At the same time, the number of women and minority owned small businesses has also increased.

AMVETS believes that the merger will break the paradigm and bring a new energy and focus to the programs. We would expect aggressive outreach efforts to women and minority veterans who own small businesses.

Obviously the most important aspect of this merger would be the changing of the way current staff understands and accepts their new roles. Cross-training of personnel with a focus on customer service would, in our view, be essential.

The specifics of what is expected of this new office must also be clear. We would like to see this new office report directly to the Secretary.

On Veterans' Employment and Training Service, AMVETS has long supported the requirement that regional administrators for VETS be veterans. We also do not have a problem with repealing the residency requirement. If the major argument for residency is still that the individual selected would then know the States's economy, then I would say that argument is no longer valid. In today's markets we talk about global economies. Managers and administra-

tors must have a much broader understanding of the factors driving local, State, and Federal economies.

The private sector and, for that matter, other Federal agencies transfer people in and out of States. They view it as an opportunity to provide experience and career growth. It also provides greater flexibility within an organization.

In the late 1970s and early 1980s, the U.S. Postal Service had a residency requirement for all Postmaster positions. It was deemed a failure because it became a limiting factor in the numbers and quality of candidates applying for those positions.

Sections 4 and 5 of the discussion draft would allow the Assistant Secretary for VETS to develop guidelines for employment qualifications for the DVOPs and LVERs. AMVETS is not sure how this would work. I would venture to say that some States would have a serious problem with this proposal.

However, lacking input from the States, we will say at present we have no official opinion on this issue.

The pilot program, as outlined in Section 6, which would integrate and streamline the functions of the LVERs we support.

On USERRA, the technical corrections being offered are reasonable and acceptable to AMVETS.

Mr. Chairman, that concludes my statement.

[The prepared statement of Mr. Carbonneau appears on p. 98.]

Mr. BUYER. Thank you. Mr. Naschinski.

#### STATEMENT OF EMIL NASCHINSKI

Mr. NASCHINSKI. Chairman Buyer and distinguished members of the subcommittee, The American Legion is pleased to have this opportunity to share its views with you on the three bills that are currently being considered. Since you have our written statement before you, we will keep our oral remarks as brief as possible.

The first piece of legislation is a draft bill that calls for moving the Small Business Administration's Office of Veterans' Affairs to the Department of Veterans Affairs and combining it with that agency's Office of Small and Disadvantaged Business Utilization.

In our written statement we have outlined some of The American Legion's numerous grievances with the SBA. Mr. Chairman, we believe that it is luminously clear that something is drastically wrong with the way that the SBA has either dealt with, or not dealt, with this country's veteran-entrepreneurs.

While The American Legion salutes the subcommittee for its willingness to address the problem, we are not totally convinced that the provisions contained in the draft bill are the solution. We firmly believe that the subcommittee must be very clear about what it wants to achieve with respect to improving this country's assistance to veteran-owned small business.

Unfortunately, there are no easy solutions to the problem. Nonetheless, Mr. Chairman, if the subcommittee is sincerely interested in creating a meaningful program that will truly meet the needs of America's veteran-entrepreneurs, then you can count on the Legion's full cooperation and support.

The other point that we want to make regarding the draft bill concerns resources. For far too long SBA's Office of Veterans' Affairs has been forced to operate with inadequate resources. Unless

Congress is willing to provide the necessary resources for the new Veterans' Entrepreneurial Business Service, then moving the Office of Veterans' Affairs to VA will be a futile exercise.

With respect to the second draft bill, The American Legion is adamantly opposed to removing the expiration date for the negotiated interest rate. Under this system, the lender wins and the veteran-borrower loses. We respectfully recommend that the negotiated interest rate be allowed to sunset on December 31, 1995.

The last bill, H.R. 1941, provides for making certain clarifying and technical amendments to existing veterans' reemployment rights statutes. Mr. Chairman, The American Legion finds nothing in the bill that we can disagree with.

With the downsizing of the military, we are becoming increasingly dependent on this Nation's Reserve component for our national security. As a result, we believe that it is wise to protect our young men and women in uniform by insuring that if they are called to active duty, their jobs will be protected during their absence. The American Legion appreciates this subcommittee's interest in strengthening the existing VRR statutes.

Mr. Chairman, thank you again for allowing The American Legion to share its views on these three bills.

[The prepared statement of Mr. Naschinski appears on p. 102.]

Mr. BUYER. Thank you, sir. Mr. Manhan.

#### **STATEMENT OF BOB MANHAN**

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

It is a pleasure for the Veterans of Foreign Wars to participate this morning. We approach this legislative hearing based on the philosophy that veterans deserve a priority and preferential support in all employment services and top quality support if they wish to become small business entrepreneurs.

Having said that, the first legislative item the VFW will address is merging the VA Affairs Office of the Small Business Administration within the VA into an organization called the Veterans' Entrepreneurial Business Service or VEBS.

The VFW recognizes all of the shortfalls that have already been pointed out by my colleagues from The American Legion and AMVETS. However, the VFW does not concur with the proposed merging. We feel that as small as the VA affairs element is in SBA today, it has the single advantage of having some synergistic support that will be lost to it if that small slice goes over to VA.

Specifically, while remaining in the SBA as it is organized today, within the SBA itself there are many complementary services and programs and functions that deal with the philosophy of Small Business Administration the VA people can still draw on. The VA people have a long-term working relationship with an organization that goes by the acronym SCORE, Service Corps of Retired Executives, and in the SBA today, there is small business development centered programs.

If there is any criticism that should be levied at the Veterans' Affairs element at SBA, it is that historically Congress has not supported that element with resources, specifically personnel and monies. We agree that they must maintain a system of nationwide sup-

port for any veteran who does wish to enter into the small business arena.

The second legislative item deals with bill H.R. 1941. The VFW certainly concurs in the entire package.

The third legislative item is your draft bill, Mr. Chairman, to improve the Veterans' Employment and Training System, which is a subset of Department of Labor. We concur with all of the elements of that bill.

We listened to many of the discussions that preceded your draft bill on this subject. It was part of the Under Secretary or the Assistant Secretary of VETS to streamline his own agency. Our testimony says that the only exception we may have is that the VFW does not concur at this time with waiving the 2-year residency requirement for a state director of VETS.

On page 6 of our testimony, at the time I prepared this paper, we said we did not concur with the proposed pilot program for training. Since preparing the statement and this morning I have had a chance to revisit that topic. We certainly do concur with that element also, Mr. Chairman.

The fourth legislative item is your draft bill to extend permanently some basic provisions relating to the Home Loan Guaranty and Appraisal Program. These are all subsets of Sections 3703, 3707, and 3731 of title 38. The VFW does concur in making these programs permanent. We know that they would have all expired the last calendar day of this year.

The last and fifth legislative item is to change the expiration date of the Homeless Veterans' Comprehensive Service Program Act, which is Public Law 102-590. Historically it was designed to be a 3-year pilot program. The VFW does concur with your proposed action to make it a permanent program, and we are glad to see that Section 12 of the original law has not been changed, and that portion of the law says that if monies are to be appropriated for homeless veterans, they must be so designated. Therefore, there will be no shifting of allocations from the VA's health care and/or compensation and pension programs to support any homeless veteran effort if it were to be extended.

This summarizes our position. Thank you very much, Mr. Chairman.

[The prepared statement of Mr. Manhan appears on p. 106.]

Mr. BUYER. Thank you. Mr. Drach.

#### STATEMENT OF RON DRACH

Mr. DRACH. Good morning. Thank you, Mr. Chairman.

I am very happy to be here on behalf of the Disabled American Veterans to present some testimony on the issues before us today.

First off, on the issue of transferring the Office of Veterans' Affairs of SBA over to the VA, the DAV just came back from our national convention in Las Vegas last week and came away with no official position on transferring the SBA over there. As you may realize, the DAV feels more passionately about some transfers than we do about others, and we have no—

[Laughter.]

Mr. DRACH. We have no particular position at this time on this transfer.

However, we would like to caution that we are not sure whether transferring it would solve the problem. Currently there are no programs for veterans either in SBA or the VA for those who want to be entrepreneurs. We have a statute that provides for special consideration for veterans in SBA, but it has never been implemented. I am not sure that they have ever come up with an adequate definition of what special consideration even means.

So I think we need to look at programs within either structure. One of those programs should be direct loans. The other program should be set-asides.

Now, I know that there is a lot of controversy over set-asides, but I want to point out that set-asides for veterans would neither be gender based or race based. They would be for veterans. So the recent decision by the Supreme Court may or may not impact on that kind of a program. I really do not know, but I think it is something that is worth looking at.

But without those types of programs, we believe that veterans are going to continue to flounder out there with no real meaningful help from either SBA or VA, and we have had this kind of discussion for at least the last 15 years, trying to get SBA to define special consideration and really do something.

And as an aside, Mr. Chairman, the White House just recently completed its at least third White House Conference on Small Business that I am aware, 1980, 1986, and 1995. In 1980 veterans were included as an afterthought. We were called in about 3 months before the convening of the White House conference, and there was a speak breakout for veterans.

The 1986 White House conference, veterans were not there. The 1995 conference, we were called in about 6 months before the convening of the conference and said, "Here it is. You know, have at it, and if you can get your piece of the pie through the States, more power to you, but you know, we are not going to do anything special for you at the Federal level."

I just got the White House conference report, and I did not have a chance to look through it except in the index. Veterans are not mentioned at all. So we need to really focus in on some meaningful programs and dialogue on how veterans should and could be served under small business initiatives.

Another aside, Mr. Chairman. Currently, the VA about 15 years ago, I guess, took some steps to do some outreach, and it is outlined more in my testimony. I will not belabor it, but I think if some of the agencies did more outreach to encourage veteran-owned businesses to do business with the Federal Government, that would go a long way toward not creating new business, but creating new opportunities for those businesses owned by veterans.

Shifting over to USERRA, we certainly have no opposition to the technical amendments being offered to USERRA.

On the regional administrator positions under VETS, we have long held that the regional administrator position should be comparable in VETS to ETA, the Employment and Training Administration, and we have offered suggested language in our written testimony that would allow for the assignment of a regional administrator for VETS in every region that the Employment and Training Administration out-stations a regional administrator.

Without that, vets will not be at the table when the regional offices of ETA are determining who's going to get what piece of the pie out there.

The residency requirement, Mr. Chairman, is probably the most controversial and volatile issue on the table today. DAV has probably for at least 15 years supported changing that residency requirement, and we certainly have no opposition to the current language that would abolish it altogether.

However, knowing from personal experience the controversy on this issue and the heat that you may have already gotten or, I am sure, you will get against changing this, we are prepared to offer an alternative that would allow for the waiver of the 2-year residency requirement in lieu of 2 years' experience as an assistant state director.

Now, that, I think, addresses the immediate need that Mr. Taylor is faced with, and that is vacancies that he has no money to fill at the state director level. By promoting some of the assistant state directors, while there would be some money involved, it would not be nearly as much as hiring new state directors.

I also want to point out at our recently concluded convention, we adopted this resolution that is attached to our statement, and we had a female disabled veteran DVOP as a delegate to our convention who sat on the panel going over our resolutions, and when we got to this resolution, she made a comment that she was absolutely outraged that she was unable—she works in Pennsylvania as a DVOP—that she was not allowed to apply for the job, the vacancy of the state director in North Carolina, notwithstanding any qualifications she had, but because she did not live in North Carolina, and I think that is a real tragedy, Mr. Chairman.

That concludes my statement. We have some other items in the prepared statement, and we would be happy to answer any questions.

Thank you.

[The prepared statement of Mr. Drach, with attachments, appears on p. 110.]

Mr. BUYER. So, Mr. Drach, if I give you my support to move VETS to VA, you will give me your support for OVA to VA. Is that what you are telling me?

[Laughter.]

Mr. DRACH. I think we can work that out, sir.

Mr. BUYER. We can work a deal?

Mr. DRACH. I think we can work that out.

Mr. BUYER. All right. I think the general in the back is coughing.

[Laughter.]

Mr. BUYER. Excuse me. Clear your throat. I will get you some water.

Let me recognize Mr. Mascara first for any questions he may have, and we will be under the 5-minute rule.

Mr. MASCARA. I need someone to clarify how we are reducing the number of full-time employees who were reduced from six to three, and somehow we are servicing I think the numbers were 130,000 veterans in counseling and 57,000 in training. I mean how do we do that? Logistically how do we do that?

Mr. CARBONNEAU. I do not have a clue. It was information that I received from the SBA as far as how they reduced their staff this past year. Also included was a list of accomplishments. Maybe the question should be asked to representatives from the SBA who will be on another panel.

Mr. MASCARA. So we are going from six FTEs to three, and then we are merging these two agencies together and reducing the number that currently exists there. I mean I do not understand how that is going to work or how they are going to be able to even do the job.

Mr. CARBONNEAU. It is certainly not working now.

Mr. MASCARA. I probably should be asking myself that question, but I am a new Member here, and I am trying to learn along with everybody else how this works, and I listen to the testimony, and I am bewildered and perplexed how this whole thing works.

Yes, Mr. Lopez.

Mr. LOPEZ. Congressman, may I, please?

Mr. MASCARA. Sure.

Mr. LOPEZ. I think the idea is to put the two offices into the Department of Veterans Affairs where there are other naturally supportive services. In the case of service disabled veterans, there is a wide array of other services that support us as well. That means you have other staff who are very knowledgeable about the population they are supposed to be helping, and they will be automatically supporting because legislation already calls for that.

So you get more of an "economy" of professional assistance which is directed to the veteran, as opposed to trying to force them into the Small Business Administration where they are competing with other specialized interests, all demanding that their needs be met.

Mr. MASCARA. I just assume by your testimony there are not a lot of happy campers sitting out there even though we all, I think, agree that the two should be merged. I have heard some testimony there that we are really not happy, and what I am asking is how can we do it better.

Mr. LOPEZ. We share that with you. I think we all recognize that there is a serious problem, and it is a problem that we have been calling to the attention of the Congress for many years. We are struggling, too, as the Congress changes and struggles for some type of an answer.

We have unmet needs. We are the ones in the pain. What we are asking is can you figure out some way of taking that pain away.

Mr. MASCARA. Well, I would like to be a part of that.

Thanks, Mr. Chairman. Thank you, gentlemen.

Mr. BUYER. Mr. Mascara, you hit it on the head. It is how can we do it better. I think what we are seeking to do obviously is the fair treatment for veterans in the pursuit of business opportunities, and when we are taking down one from six to three, I mean, to me it is a logical question that we ask: can we bring it under the VA where there are a lot of support mechanisms?

But at the same time, there are Mr. Manhan's questions about dollars. We have a little more ability to move some dollars, and that is why to me it is a logical move, but I am not at all close minded.

Maxine, the Ranking Congresswoman, you may go next if you would like or do you want a moment?

Ms. WATERS. No, no, no.

I do not have any questions. My opening statement has been submitted for the record.

Mr. BUYER. Yes, ma'am.

Ms. WATERS. I am very interested in the legislation that is being discussed today because I have had some involvement in similar legislation in the past. So I will just listen to the next panel. If I have any questions, I will ask after that.

Mr. BUYER. Thank you, ma'am. Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

I do not have any questions of this panel. I certainly appreciate them being here. I apologize for coming in a little bit late because of a conference meeting, but I have already started to go through some of the material that you all submitted, and it has already answered some questions that I had.

I appreciate your work, Mr. Chairman, on H.R. 1941, and I look forward to working on this legislation as it moves through the process, and I appreciate your input, which again is very important to me and, I know, to the rest of the subcommittee.

Mr. BUYER. I want to become comfortable here with the VFW's position on the move of the offices. I have always been resistant when someone says, "Well, it will work if you just give us more money," and I want to make sure that that is not what I am going to walk out of this room with, that that is your position by saying, "Oh, Mr. Chairman, just leave it where it is. Just make sure that the money gets to it and it will work."

Mr. MANHAN. Thank you very much, Mr. Chairman, for giving me the opportunity to expand on what is really the VFW's position. It is not we need more money. That is usually the answer, I know. I use that 25 cent word "synergistic." What I meant by that, sir, is that if the veteran assistant element remains in the SBA and the SBA's function is their mission in life, helping people get money—loans to open up a small business—to advise them, counsel them on the marketing, how to do these things, we believe, the VFW's position, that to leave even the skeleton crew there is better so that they can draw on the wisdom of how one goes about becoming an entrepreneur rather than to just take the Veterans Affairs people, those earmarked to assist just veterans to become entrepreneurs, and move them into the Department of Veterans Affairs.

My very knowledgeable colleague from The American Legion, in responding to Mr. Mascara earlier, said that, the Department of Veterans Affairs has support people with support skills. The VFW's position is diametrically opposite of that. We are unaware of any talent or any skills presently available in the Department of Veterans Affairs that can specifically focus on entrepreneurship. The VA does other things extremely well, such as health care, and compensation and pension, but they have no small business skills.

Rather than move a small business element from SBA to DVA we believe it is better to let them stay in the office where they presently are.

Have I clarified our position, sir?

Mr. BUYER. I understand the concept of synergism and that which is intertwined. That is a very powerful word. I do not mean to quibble with you, but I am not sure it would actually apply to something like this, but let me ponder.

Mr. MANHAN. Yes, sir.

Mr. BUYER. Let me ponder, and I appreciate your testimony from this panel, and you may retire.

Does anyone else have anything else?

All right. Thank you, gentlemen.

Mr. O'TOOLE. The next witness is Mr. Bob O'Toole, the Senior Staff Vice President of the Mortgage Bankers Association, and if you have a statement, you may submit it for the record, and we will be under the 5-minute rule. You may summarize your testimony, please, sir.

**STATEMENT OF ROBERT M. O'TOOLE, SENIOR STAFF VICE PRESIDENT FOR RESIDENTIAL FINANCE/GOVERNMENT AGENCY RELATIONS, MORTGAGE BANKERS ASSOCIATION OF AMERICA, ACCOMPANIED BY BURTON WOOD, SENIOR STAFF VICE PRESIDENT, LEGISLATIVE DEPARTMENT**

Mr. O'TOOLE. Thank you very much, Mr. Chairman.

We do have a statement, and I will summarize our comments.

I am Robert O'Toole, Senior Staff Vice President for Residential Finance/Government Agency Relations of the Mortgage Bankers Association. With me at the table today is Burton Wood, Senior Staff Vice President for MBA's Legislative Department.

Mr. Chairman, we appreciate you and the other members of the panel giving MBA the opportunity to testify on various proposals in the draft legislation which make permanent various provisions of the VA Home Loan Guaranty Program, as well as other legislative matters.

MBA strongly supports those provisions of the extender bill that would make permanent the authority of the veteran home buyer to negotiate the interest rate on their particular home loan and the permanent extension of VA's adjustable rate mortgage program.

Anecdotal information from our members with almost 3 years of experience under these provisions indicates that the results are beneficial to veteran borrowers. These provisions work for the housing industry, work for veteran borrowers, and they should be made permanent.

MBA also supports the permanent extension of the Lender Appraisal Processing Program, but more importantly, Mr. Chairman, I would like to call your attention to another legislative issue that, if enacted, would greatly improve the loan program.

The VA by law is required to approve and to rotate the assignment of residential loan appraisers to VA home loans. We believe this requirement is obsolete and should be eliminated. The Financial Institutions' Reform, Recovery and Enforcement Act of 1989, FIRREA, established a nationwide requirement that all residential appraisers must meet State established appraisal standards for education and experience. This mitigates the need for the statutory restriction that is in the VA program.

The FHA program has implemented the FIRREA appraisal requirements. Both Fannie Mae and Freddie Mac rely on the State approval of real estate appraisers.

MBA believes very strongly that the elimination of the VA appraisal provisions will eliminate many of the loan application processing delays that currently arise under the VA program.

MBA, therefore, Mr. Chairman, urges the Congress and this committee to amend the act to permit lenders to select appraisers so long as they meet State appraisal certification requirements as established under FIRREA.

Mr. Chairman, our statement includes some comments about Soldiers and Sailors Civil Relief Act and the two-step mortgage, and I will let that statement speak for itself.

This concludes my oral statement, and I will be happy to answer any question from your or other members of the subcommittee.

[The prepared statement of Mr. O'Toole appears on p. 120.]

Mr. BUYER. Mr. Barr.

Mr. BARR. I have no questions.

Mr. BUYER. Mr. Mascara.

Mr. MASCARA. I have no questions.

Mr. BUYER. I do.

Mr. O'Toole, do you have any statistical numbers showing the savings to veteran borrowers under negotiated rates?

Mr. O'TOOLE. No, MBA does not. I reviewed the VA's testimony which gave some extensive information on whether veterans obtain the market rate, paid more or less in discounts. My review of that indicates that the program works very well.

Mr. Chairman, prior to my current position, I was with the VA for 24 years, the last 5 years of that as the Director of the Loan Guaranty Service, and during that 5-year period we had the administered rate. We changed that rate 17 times. The government does not do a good job of setting interest rates. For a lot of reasons we tend to lag market conditions, and that has a very detrimental effect on veteran borrowers when rates are moving in either direction.

The people in the process, home builders and sellers, do not like to pay large discounts, and when the administered rate lags behind current market conditions, investors and lenders must make that up with discounts, and that creates a disadvantage to veteran borrowers.

Mr. BUYER. How much is the lag time between the market rates and what the VA sets?

Mr. O'TOOLE. When the VA set the rate, depending upon how quickly markets would react, it would take us 3 or 4 weeks to respond to market conditions. There was one time when VA and FHA were setting rates at the same time when we had a situation where the veterans and FHA borrowers were asked to pay as much as 11 and 12 discount points just because the government was very slow in establishing that rate.

Mr. BUYER. Help me out with this one while I have got you. I remember back home picking up the newspaper, and you look at the mortgage rates, and as you go down and compare, you can probably on Friday pick it up and look around here. If you look at

VA compared to the other markets, VA's is higher even though it is supposed to be floating with the market. Why is that happening?

Whether it is out here or even in Indiana, and I am sure my colleagues have the same thing, why is that happening? Is it the point? Well, obviously I know it is some of the points.

Mr. O'TOOLE. Yes. Our experience is that that is not happening.

Mr. BUYER. That it is not happening?

Mr. O'TOOLE. That is right. Because of efficiencies in the secondary market and the ability of mortgage securities to trade on Wall Street, the market rate, the street rate for almost all loans is the same across the board, whether it is an FHA mortgage, a conventional loan that is being sold to Fannie Mae or Freddie Mac.

Mr. BUYER. I can tell you in Indiana when I look at those rates, there is a difference between a VA loan rate and the commercial market, but you are saying that you would not rely—

Mr. O'TOOLE. I have no explanation for that. That should not be the case. Those loans are being included into Ginnie Mae securities. Those securities are made up primarily of FHA mortgages. They are traded every day.

Mr. BUYER. Well, I will look at it.

Mr. O'TOOLE. Sure, and we will be happy to respond, absolutely.

Mr. BUYER. And hopefully that is just some peculiarity that I noticed, and it is not around the country, but I will look and make sure that it is happening.

Mr. O'TOOLE. Sure.

Mr. BUYER. Does anyone have any further questions of this witness?

Okay. Thank you, Mr. O'Toole.

Mr. O'TOOLE. Thank you.

Mr. BUYER. I look forward to working with you.

Mr. Vogel, the Under Secretary of Veterans Affairs for Veterans Benefits. We also welcome Patricia Forbes, the Acting Associate Deputy Administrator for Economic Development of the Small Business Administration.

Would each of you introduce who is with you, please?

Mr. VOGEL. Good morning, Mr. Chairman.

Mr. BUYER. Good morning, Mr. Vogel.

Mr. VOGEL. I am pleased to be with you today to discuss the two draft bills forwarded for our review. With me this morning are Keith Pedigo, the Director of the VA's Loan Guaranty Service to my immediate right, and to his right Mr. Scott Denniston, the Director of the Office of Small and Disadvantaged Business Utilization in VA.

Mr. BUYER. Thank you.

Ms. Forbes.

Ms. FORBES. Yes, this is Leon Bechet. He is the head of our Office of Veterans' Affairs and has worked in the agency for many years, is a member of The American Legion, and has worked as head of that Office of Veterans' Affairs since 1989.

Mr. BUYER. It is good to have all of you with us.

Mr. Vogel, both of you have statements. You can submit them for the record. We will be under the 5-minute rule, and you may summarize your testimony.

Thank you.

**STATEMENTS OF HON. JOHN VOGEL, UNDER SECRETARY FOR BENEFITS, DEPARTMENT OF VETERANS AFFAIRS, ACCOMPANIED BY SCOTT PEDIGO, DIRECTOR, LOAN GUARANTY SERVICE, AND SCOTT DENNISTON, DIRECTOR, OFFICE OF SMALL AND DISADVANTAGED BUSINESS UTILIZATION; PATRICIA R. FORBES, ACTING ASSOCIATE DEPUTY ADMINISTRATOR FOR ECONOMIC DEVELOPMENT, SMALL BUSINESS ADMINISTRATION, ACCOMPANIED BY LEON BECHET, OFFICE OF VETERANS AFFAIRS**

**STATEMENT HON. JOHN VOGEL**

Mr. VOGEL. Thank you, Mr. Chairman.

Mr. Chairman, the first draft bill was would establish within the Veterans Benefits Administration of the Department of Veterans Affairs, a new organization known as the Veterans' Entrepreneurial Business Service and transfer the functions, powers, and the duties from the Small Business Administration to VBA. It would also transfer the VA's Office of Small and Disadvantaged Business Utilization to the Veterans Benefits Administration.

We are unable to support the draft bill, Mr. Chairman.

The VA shares the committee's concerns that veterans receive the preferences accorded them by law under the Small Business Act and other assistance in starting and managing a small business. VA, however, does not have the staffing, resources, or expertise to operate a large-scale small business assistance program. Such assistance is currently available through SBA.

VA does not believe moving the SBA Office of Veterans' Affairs to DVA would provide any meaningful benefit to veterans. As a practical matter, it is difficult to see how an office within VBA, far removed from the Small Business Administration, could be expected to be more helpful in enabling veterans to obtain assistance administered by SBA than an office within SBA could be.

VA does not support changing the current law which requires that the Office of Small and Disadvantaged Business Utilization report directly to the Secretary or Deputy Secretary. OSDDBU performs a number of functions related to procurement that are outside the jurisdiction of VBA. Placing that office within the Veterans Benefits Administration would make it less effective in dealing with other VA elements.

Before providing our views on the second draft bill which relates to the VA Housing and Loan Program and homeless services to veterans, I would like to take the opportunity to provide the subcommittee with a brief update on the current activity in the Loan Guaranty Program.

A combination of lower interest rates, the lowest interest rates in over 20 years, the most sweeping changes in the history of the VA Home Loan Program, and a massive letter campaign last year to inform veterans of the opportunity to refinance their higher interest rate VA loans to a lower interest rate made the 50th year of the VA Home Loan Program our largest ever. In fiscal year 1994, VA guaranteed over 602,000 home loans. Nearly half of those loans guaranteed were Interest Rate Reduction Refinancing Loans. Those refinancing loans saved veterans an average of \$123 per month, and also resulted in an estimated savings to VA of \$56 mil-

lion. Current loan volume has moderated as interest rates have stabilized. For the first 9 months of fiscal year 1995, we have guaranteed just under 200,000 loans, including more than 26,000 refinancing loans.

I am also pleased to report that the trend in defaults and foreclosures continues downward. We continue to emphasize our program to provide delinquent veteran borrowers with personal supplemental loan servicing. For the first three quarters of this fiscal year 1995, approximately 33 percent of foreclosures would have occurred had VA field stations not intervened on behalf of veterans. As a direct result of our effort, we estimate savings of over \$83 million in fiscal year 1994 and approximately \$69 million in fiscal year 1995 to date.

During the past 12 months, VA field stations have kept the national property inventory at close to its lowest level in 15 years, approximately 11,000 properties. Property sales since June of 1994 have returned nearly \$1.6 billion to VA.

I would now like to make some specific comments on the draft bill to make permanent certain provisions in title 38 which are set to expire this year. VA favors the draft bill, Mr. Chairman.

With regard to the Home Loan Program, the draft bill would repeal the sunset on the following five authorities: negotiated interest rates; adjustable rate mortgages; energy efficient mortgages; enhanced vendee loan sales; and lender review of appraisals.

VA's authority to guarantee adjustable rate mortgages expires September 30, 1995, and the other four provisions expire at the end of this calendar year.

For the past 2 years and 9 months, veterans, lenders, and home sellers have been able to negotiate the interest rate and whatever up-front cash, in the form of discount points, will be paid in exchange for a lower monthly payment on the loan. Veterans have also been able to negotiate who will pay the discount points. It is, therefore, possible to tailor the transaction to best meet the needs and circumstances of the parties involved. It is not realistic to believe that the government can set interest rates that adequately keep pace with the changes in the financial markets.

We have monitored the results of negotiated interest rates, and found that veterans have averaged paying an interest rate that is within one-quarter of one percentage point of the interest rate that would have been paid if VA were still setting the rate. VA believes that the negotiated rate works well, and we support making it permanent.

During fiscal year 1994, we guaranteed 62,816 adjustable-rate mortgages (ARMs), representing 11 percent of our volume. During the first 6 months of the current fiscal year, 16,700 VA ARMs were closed, which is about 21 percent of VA guaranteed loans closed during the year. During 1994, VA guaranteed—

Mr. BUYER. Would you repeat that for me, again?

Mr. VOGEL. I beg your pardon?

Mr. BUYER. Would you go back and repeat that for me? I am sorry.

Mr. BUYER. During fiscal year 1994, we guaranteed 62,816 adjustable rate mortgages, representing 11 percent of the loans we guaranteed in that year, Mr. Chairman.

Mr. BUYER. Thank you.

Mr. VOGEL. During the first 6 months of the current fiscal year, 16,700 ARMs were closed, which is about 21 percent of the guaranteed loans closed during that period of time.

The draft bill would make permanent VA's authority to guarantee the certificates sold to investors when VA vendee loans are securitized.

Prior to 1992, when VA sold vendee loans to a trust, VA provided a full faith and credit guaranty on these loans. We could not, however, directly guarantee the certificates issued by the trust. The lack of a direct certificate guaranty prevented VA from obtaining the best pricing for the loans.

Our most recent loan sale was held in June 1995. We sold loans with a principal balance of \$436.2 million. Our net proceeds from that sale were \$455.4 million. If we had not guaranteed the certificates, but only guaranteed the loans, we estimate VA would have received \$8 million less from the June sale. If this authority is made permanent, VA estimates the revenue generated from the loan sales will be approximately \$22 to \$25 million greater per year. Guaranteeing the certificates rather than the loans does not change VA's exposure to loss.

The final housing provision, that draft bill would make permanent, is the authority of certain lenders to review appraisals performed by VA-assigned fee appraisers. This procedure permits the lender to approve the loan without prior VA review both as to valuation and credit underwriting, and makes it possible for VA guaranteed loans to be processed and closed faster.

During the first 9 months of fiscal year 1995, 32 percent of the loans guaranteed were processed with a lender reviewing the appraisal. VA's review of the program shows it is sound and should be continued.

As a matter related to the housing provisions, VA notes that the law requires VA to provide annual reports to the Congress on several programs listed in my prepared statement. Since we believe the value of each of those provisions has been established, we would recommend that the requirements for these annual reports be repealed. We will continue, of course, to keep the Congress apprised of all aspects of the Loan Guaranty Program and will be happy to provide periodic information as part of your normal oversight process.

Mr. Chairman, I know of your strong and abiding interest in the rehabilitation of disabled veterans, and acknowledging and realizing that today's hearing does not fall directly on the subject matter on the Vocational Rehabilitation Program, I am happy to report that General Taylor, the Assistant Secretary of Labor for Veterans' Employment and Training, and I signed a memorandum of understanding which we have discussed at a previous hearing.

That MOU now signed will strengthen and clarify the roles of both the VA and the Department of Labor in achieving the goal of providing employment for disabled veterans in our rehabilitation program.

Mr. BUYER. That is one page?

Mr. VOGEL. One page, Mr. Chairman.

Mr. BUYER. All right.

Mr. VOGEL. We will put teeth into it, too, with the implementing instructions. You can bet on it.

Mr. Chairman, that concludes my statement. I would be pleased to answer any questions you or other members of the subcommittee may have.

[The prepared statement of Mr. Vogel appears on p. 127.]

Mr. BUYER. Thank you, Mr. Vogel.

Ms. Forbes.

#### STATEMENT OF PATRICIA R. FORBES

Ms. FORBES. Good morning, Mr. Chairman and members of the subcommittee.

Thank you for inviting the Small Business Administration here today to give our views on the discussion draft to consolidate SBA's Office of Veterans' Affairs with the Department of Veterans Affairs OSDBU Office.

As a daughter of a World War II Navy veteran who subsequently ran his own small business for 20 years, I appreciate the needs of veteran small business owners for access to capital, business education and training, and information about the business development assistance available to help them through various Federal and State programs.

My testimony today will include a brief background on SBA's Office of Veterans' Affairs and its effectiveness in meeting the entrepreneurial needs of veterans. I will also address two concerns raised by the draft bill: the loss of synergy between the Office of Veterans' Affairs and other SBA programs, and a possible dilution of the VA OSDBU's procurement responsibility and the associated problems that precedent could set.

SBA created its Office of Veterans' Affairs to comply with Public Law 93-237, which required that SBA give special consideration to veterans in all of its programs. The office is now the only Federal Government office dedicated exclusively to assisting veterans who are in business or who want to start businesses of their own.

Because it is part of SBA's Economic Development Division, the Office of Veterans' Affairs is able to engage SBA's unparalleled business development network to address the entrepreneurial needs of veterans. That network includes at least one SBA district office per State, over 900 small business development centers, over 13,000 SCORE volunteers, that is, Service Corps of Retired Executive volunteers, and over 7,000 commercial lenders.

There is a map attached to my long statement, and we have a replica of it here. This map shows just the SCORE sites nationwide. The map attached to my statement which you have before you, shows all of our other resource partners.

During its 13-year existence, the Office of Veterans' Affairs has aided in providing loans to veteran-owned businesses which created more than 267,000 jobs. Working through SBA's resource partners, and again, that is our SCORE volunteers, our small business development centers, and the commercial lenders, it is responsible for assistance in the form of training or counseling to yet another 46,000 veteran-owned businesses.

In 1994 alone, SBA and its private sector lending partners provided over \$1 billion of 7(a) loans to veterans. That's 15 percent of

SBA loan approvals for that year. Three quarters of the loan dollars went to Vietnam Era veterans.

In addition, SBA's Office of Veterans' Affairs funded two veteran entrepreneurship pilot projects involving long-term, in-depth training for prospective veteran business owners and led to the creation of veteran support groups that encourage mentoring of veterans who want to start their own businesses like successful veteran business owners.

The Office of Veterans' Affairs also reaches out to veterans affected by military downsizing. We estimate that half a million military personnel will be affected by base closings and downsizing. Obviously not all of these individuals are interested in or have the aptitude or capital to start businesses of their own, but for those who are interested, the Office of Veterans' Affairs is there to help them.

Today there are 27 million veterans in the United States. The Office of Veterans' Affairs estimates that nationwide there are about four million veteran-owned small businesses. A great number of those are aware of and have availed themselves of the programs offered by the SBA. Many attribute their success to SBA's assistance.

It is the combined effort of SBA's Office of Veterans' Affairs and the various SBA program offices working together than has resulted in these accomplishments. Moving the Office of Veterans' Affairs out of SBA would eliminate this synergy and would, we believe, result in a far less effective program for veteran entrepreneurs.

It is not clear how the VA's OSDBU staff can be expected to provide the wide array of business development assistance currently offered by SBA. Their focus is on helping small businesses obtain government contracts. If the Office of Veterans' Affairs were transferred, SBA would need to create a liaison role which could result in an overall net increase in spending and staff.

We believe maintaining the Veterans' Office at the SBA is a better alternative.

Equally important, combining the two distinct functions raises a concern that the OSDBU's effectiveness in carrying out the VA's substantial procurement responsibilities might be diluted.

Further, there is a possible conflict between the proposal's language and the Small Business Act. The proposal would place the VA's OSDBU office under the Under Secretary for Benefits. The Small Business Act requires that the OSDBU Director be responsible only to and report directly to the head of the agency or to the Deputy of the agency head.

Creating an exception for the VA raises the prospect that other agencies might wish to do the same, which would be inconsistent with the Small Business Act and would decrease the emphasis given small business procurement within the department. This is contrary to this administration's small business procurement policy.

The draft bill would create a unique mini preference for veterans in the 8(a) and Small Business Set-aside Programs. Doing so would be contrary to the purposes of the recently enacted Federal Acquisi-

tion Streamlining Act and the administration's efforts to simplify and streamline the Federal procurement system.

The SBA is deeply involved in the process of reinventing government. This process involves reducing spending while creating a more efficient and effective delivery mechanism for government services. We believe that SBA's Office of Veterans' Affairs has been a cost effective way to address the entrepreneurial needs of our Nation's veterans.

We appreciate the subcommittee's interest in enhancing the level of service we offer to veterans. We are currently working with the House Small Business Committee on SBA's reauthorization legislation and would be pleased to work with both you and that committee to insure that the Federal Government's business development assistance for veterans is provided in the most effective and efficient manner possible.

That concludes my remarks. I will be happy to answer any questions you may have.

[The prepared statement of Ms. Forbes, with attachment, appears on p. 134.]

Mr. BUYER. Ms. Waters.

Ms. WATERS. Thank you very much.

First, I would like to thank Mr. Vogel for his testimony. I am very pleased to hear about what is happening with the refinancing and the decrease in defaults. I think that is very positive, and you are to be commended for that.

I would like to ask Ms. Forbes. I missed something in her testimony, however. What did you say about the proposed legislation creating something with 8(a) set-aside?

Ms. FORBES. Right. Our interpretation of the discussion draft is that it would give preference to disabled veterans in all of the VA services referred to in that section of the bill. Earlier in that section, is where the 8(a) and small business set-aside authority rests. We would interpret that to give preference for disabled veterans in that section, but only for the Department of Veterans Affairs.

Ms. WATERS. So it would be like an affirmative action program?

Ms. FORBES. Yes.

Ms. WATERS. And that would be for 8(a) and what else?

Ms. FORBES. Section 15, which is the small business set-aside authority.

Ms. WATERS. I will take a closer look at that. Thank you very much.

Mr. BUYER. Mr. Barr.

Mr. BARR. Thank you, Mr. Chairman.

Ms. Forbes, on page 4 of your submitted remarks, you talk about 878 8(a) contracts. You say each applicant who is not a member of specified economically and socially disadvantaged group must demonstrate economic and social disadvantage in order to be eligible to participate.

Do you have a list of specified economically and socially disadvantaged groups?

Ms. FORBES. It is in the Small Business Act and in regulations. I do not have it with me, but I would be happy to provide it for the record.

Mr. BARR. Okay. I would appreciate it if you would. How lengthy is that list? Is it all inclusive or is it just a sample list?

Ms. FORBES. It is all inclusive for purposes of the 8(a) program, and then individuals can qualify on an individual basis whether or not they are within a group.

[The information follows:]



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



August 8, 1995

Honorable Bob Barr  
House of Representatives  
Washington, DC 20515

Dear Congressman Barr:

This letter is in response to your request during the August 2 Veterans' Affairs Subcommittee hearing and August 3 letter for information related to the groups designated as socially disadvantaged under the Small Business Administration's (SBA) 8(a) program.

Section 2(f)(1)(C) of the Small Business Act lists the groups Congress has found to be socially disadvantaged for purposes of the 8(a) program. Those groups include "Black Americans, Hispanic Americans, Native Americans, Indian Tribes, Asian Pacific Americans, Native Hawaiian Organizations, and other minorities."

In addition, Subcontinent Asian Americans were determined to be socially disadvantaged pursuant to procedures set out in Title 13, Code of Federal Regulations, Section 124.105(d).

Enclosed are copies of the relevant sections of the Small Business Act and the Code of Federal Regulations. Please let me know if I can be of any further assistance.

Sincerely,

A handwritten signature in cursive script, appearing to read "Patricia R. Forbes".

Patricia R. Forbes  
Acting Associate Deputy Administrator  
for Economic Development

Enclosures

cc: Rep. Steve Buyer  
Chairman, Subcommittee on Education, Training,  
Employment and Housing

## SMALL BUSINESS ACT

(e)<sup>9</sup> Further, it is the declared policy of the Congress that the Government should aid and assist victims of floods and other catastrophes, and small-business concerns which are displaced as a result of federally aided construction programs.<sup>10</sup>

(f) (1) With respect to the Administration's business development programs the Congress finds --

(A) that the opportunity for full participation in our free enterprise system by socially and economically disadvantaged persons is essential if we are to obtain social and economic equality for such persons and improve the functioning of our national economy;

(B) that many such persons are socially disadvantaged because of their identification as members of certain groups that have suffered the effects of discriminatory practices or similar invidious circumstances over which they have no control;

(C) that such groups include, but are not limited to, Black Americans, Hispanic Americans, Native Americans, Indian tribes,<sup>11</sup> Asian Pacific Americans,<sup>12</sup> Native Hawaiian Organizations,<sup>13</sup> and other minorities;

(D) that it is in the national interest to expeditiously ameliorate the conditions of socially and economically disadvantaged groups;

(E) that such conditions can be improved by providing the maximum practicable opportunity for the development of

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<sup>9</sup>Formerly § 2(b). Redesignated as § 2(c) by § 2(a)(1) of PL 93-386, approved Aug. 23, 1974 (88 Stat. 742). Redesignated as § 2(d) by § 112 (a) of PL 94-305, approved June 4, 1976 (90 Stat. 663). For redesignation as § 2(e) see footnote 3, *supra*.

<sup>10</sup>The last 15 words of this subsection (previously § 2(b)), added by § 305(b) of PL 87-70, the Housing Act of 1961, approved June 30, 1961 (75 Stat. 167). These words rendered moot by repeal of §§ 7(b)(3) through (9) by § 1913(a) of PL 97-35, approved Aug. 13, 1981 (95 Stat. 357).

<sup>11</sup>"Indian tribes" added by § 18015(a) of PL 99-272, approved April 7, 1986 (100 Stat. 370).

<sup>12</sup>"Asian Pacific Americans" added by § 118(a) of PL 96-302, approved July 2, 1980 (94 Stat. 833). Section 118(c)(1) of PL 96-302 further provides that this provision shall apply as if included in § 201 of PL 95-507, which added former § 2(e), now § 2(f), to the Small Business Act.

<sup>13</sup>Section 207(b) of PL 100-656, approved Nov. 15, 1988 (102 Stat. 3861), added "Native Hawaiian Organizations."

## § 124.105

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individual or applicant concern does not give the former actual control or the potential to control the applicant or 8(a) concern and such relationship is in the best interests of the 8(a) firm.

(5) Have an equity ownership interest of more than 10 percent in another 8(a) concern.

(d) Nondisadvantaged individuals or entities may be found to control or have the power to control in any of the following circumstances, which are illustrative only and not all inclusive:

(1) Nondisadvantaged individuals control the voting Board of Directors of the 8(a) concern, either directly through majority voting membership, or indirectly, if the by-laws allow nondisadvantaged individuals to block any action proposed by the disadvantaged individuals through negative control. For example, an equal number of disadvantaged and nondisadvantaged voting directors could create negative control.

(2) A nondisadvantaged individual, as an officer or member of the Board of Directors of the 8(a) concern, or through stock ownership, has the power to control day-to-day direction of the business affairs of the concern.

(3) The nondisadvantaged individual or entity provides critical financial or bonding support or licenses to the 8(a) concern which directly or indirectly allows the nondisadvantaged individual to gain control or direction of the 8(a) concern.

(4) A nondisadvantaged individual or entity exercises voting control of the Participant through a nominee(s).

(5) A nondisadvantaged individual or entity controls the corporation or the individual disadvantaged owners through loan arrangements.

(6) Other contractual relationships exist with nondisadvantaged individuals or entities, the terms of which would create control over the disadvantaged concern.

#### § 124.105 Social disadvantage.

(a) *General.* Socially disadvantaged individuals are those who have been subjected to racial or ethnic prejudice or cultural bias because of their identities as members of groups without regard to their individual qualities. The social disadvantage must stem from

circumstances beyond their control. For social disadvantage relating to Indian tribes and Alaska Native Corporations, see § 124.112(a).

(b) *Members of designated groups.* (1) In the absence of evidence to the contrary, the following individuals are presumed to be socially disadvantaged: Black Americans; Hispanic Americans; Native Americans (American Indians, Eskimos, Aleuts, or Native Hawaiians); Asian Pacific Americans (persons with origins from Burma, Thailand, Malaysia, Indonesia, Singapore, Brunei, Japan, China, Taiwan, Laos, Cambodia (Kampuchea), Vietnam, Korea, The Philippines, U.S. Trust Territory of the Pacific Islands (Republic of Palau), Republic of the Marshall Islands, Federated States of Micronesia, the Commonwealth of the Northern Mariana Islands, Guam, Samoa, Macao, Hong Kong, Fiji, Tonga, Kiribati, Tuvalu, or Nauru); Subcontinent Asian Americans (persons with origins from India, Pakistan, Bangladesh, Sri Lanka, Bhutan, the Maldives Islands or Nepal); and members of other groups designated from time to time by SBA according to procedures set forth at paragraph (d) of this section.

(2) An individual seeking socially disadvantaged status as a member of a designated group may be required to demonstrate that he/she holds himself/herself out and is identified as a member of a designated group if SBA has reason to question such individual's status as a group member.

(c) *Individuals not members of designated groups.* (1) An individual who is not a member of one of the above-named groups must establish his/her individual social disadvantage on the basis of clear and convincing evidence. A clear and convincing case of social disadvantage must include the following elements:

(1) The individual's social disadvantage must stem from his or her color, ethnic origin, gender, physical handicap, long-term residence in an environment isolated from the mainstream of American society, or other similar cause not common to small business persons who are not socially disadvantaged.

(ii) The individual must demonstrate that he or she has personally suffered

social disadvantage, not merely claim membership in a non-designated group which could be considered socially disadvantaged.

(iii) The individual's social disadvantage must be rooted in treatment which he or she has experienced in American society, not in other countries.

(iv) The individual's social disadvantage must be chronic and substantial, not fleeting or insignificant.

(v) The individual's social disadvantage must have negatively impacted on his or her entry into and/or advancement in the business world. SBA will entertain any relevant evidence in assessing this element of an applicant's case. SBA will particularly consider and place emphasis on the following experiences of the individual, where relevant:

(A) *Education.* SBA shall consider, as evidence of an individual's social disadvantage, denial of equal access to institutions of higher education; exclusion from social and professional association with students and teachers; denial of educational honors; social patterns or pressures which have discouraged the individual from pursuing a professional or business education; and other similar factors.

(B) *Employment.* SBA shall consider, as evidence of an individual's social disadvantage, discrimination in hiring; discrimination in promotions and other aspects of professional advancement; discrimination in pay and fringe benefits; discrimination in other terms and conditions of employment; retaliatory behavior by an employer; social patterns or pressures which have channelled the individual into nonprofessional or non-business fields; and other similar factors.

(C) *Business history.* SBA shall consider, as evidence of an individual's social disadvantage, unequal access to credit or capital; acquisition of credit or capital under unfavorable circumstances; discrimination in receipt (award and/or bid) of government contracts; discrimination by potential clients; exclusion from business or professional organizations; and other similar factors which have impeded the individual's business development.

(d) *Socially disadvantaged group inclusion—(1) General.* Upon an adequate preliminary showing to SBA by representatives of an identifiable group that the group has suffered chronic racial or ethnic prejudice or cultural bias, and upon the request of the representatives of the group that SBA do so, SBA shall publish in the FEDERAL REGISTER a notice of its receipt of a request that it consider a group not specifically named in paragraph (b)(1) of this section to have members which are socially disadvantaged because of their identification as members of the group for the purpose of eligibility for the §(a) program. The notice shall adequately identify the group making the request, and if a hearing is requested on the matter and such request is granted, the time, date and location at which such hearing is to be held. All information submitted to support a request should be addressed to the AA/MSB&COD.

(2) *Standards to be applied.* In determining whether a group has made an adequate preliminary showing that it has suffered chronic racial or ethnic prejudice or cultural bias for the purposes of this regulation, SBA shall determine:

(i) Whether the group has suffered the effects of prejudice, bias, or discriminatory practices;

(ii) Whether such conditions have resulted in economic deprivation for the group of the type which Congress has found exists for the groups named in the Small Business Act; and

(iii) Whether such conditions have produced impediments in the business world for members of the group over which they have no control and which are not common to all small business owners. If it is demonstrated to SBA by a particular group that it satisfies the above criteria, SBA will publish the notice described in paragraph (d)(1) of this section.

(3) *Procedure.* Once a notice is published under paragraph (d)(1) of this section, SBA shall adduce further information on the record of the proceeding which tends to support or refute the group's request. Such information may be submitted by any member of the public, including Government representatives and any member of the

## § 124.106

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private sector. Information may be submitted in written form, or orally at such hearings as SBA may hold on the matter.

(4) *Decision.* Once SBA has published a notice under paragraph (d)(1) of this section, it shall afford a period of not more than thirty (30) days for public comment concerning the petition for socially disadvantaged group status. If appropriate, SBA may hold hearings within such comment period. Thereafter, SBA shall consider all information received and shall render its final decision within 60 days of the close of the comment period. Such decisions shall be published as a notice in the FEDERAL REGISTER. Concurrent with the notice, SBA shall advise the petitioners of its final decision in writing. If appropriate, SBA shall amend this regulation accordingly.

## § 124.106 Economic disadvantage.

(a) *Economic disadvantage for the 8(a) program.* (1)(i) For purposes of the 8(a) program, economically disadvantaged individuals are socially disadvantaged individuals whose ability to compete in the free enterprise system has been impaired due to diminished capital and credit opportunities as compared to others in the same or similar line of business who are not socially disadvantaged, and such diminished opportunities have precluded or are likely to preclude such individuals from successfully competing in the open market. In determining economic disadvantage for purposes of 8(a) program eligibility, SBA shall compare the applicant concern's business and financial profile with profiles of businesses in the same or similar line of business which are not owned and controlled by socially and economically disadvantaged individuals.

(ii) This program is not intended to assist concerns owned and controlled by socially disadvantaged individuals who have accumulated substantial wealth, who have unlimited growth potential or who have not experienced or have overcome impediments to obtaining access to financing, markets and resources.

(iii) For economic disadvantage as it relates to tribally-owned concerns, see § 124.112(b)(2).

(2) *Factors to be considered.* In determining the degree of diminished credit and capital opportunities of a socially disadvantaged individual, SBA will consider factors relating both to the applicant concern and to the individual(s) claiming disadvantaged status. Factors fall into three general categories: The personal financial condition of the individual(s) claiming disadvantaged status, including that individual's access to credit and capital; the financial condition of the applicant concern; and the applicant concern's access to credit, capital and markets.

(1) *Personal financial condition of the individuals claiming disadvantaged status.* This criterion is designed to assess the relative degree of economic disadvantage of the individual, as well as the individual's potential to capitalize or otherwise provide financial support for the business. The specific factors to be considered include, but are not limited to: the individual's personal income for at least the past two years; total fair market value of all assets; and the individual's personal net worth. Subject to the exclusions set forth in paragraph (a)(2)(1)(B) of this section, an individual whose personal net worth exceeds \$250,000 will not be considered economically disadvantaged for purposes of 8(a) program entry. For personal net worth thresholds relating to continued 8(a) program eligibility, see § 124.111(a).

(A)(1) Except as provided in paragraph (a)(2)(1)(A)(2) of this section, when married, an individual upon whom eligibility is based shall submit a financial statement relating to his/her personal finances and a separate financial statement relating to his/her spouse's personal finances. A married applicant individual residing in any of the community property states or territories of the United States (e.g., Arizona, California, Idaho, Louisiana, Nevada, New Mexico, Puerto Rico Texas, Washington and Wisconsin) must clearly identify on his or her financial statement those assets which are his or her separate property and those which are community property. The spouse of such married applicant must similarly identify on his or her financial statement those assets which are his or her separate property and those which are

Mr. BARR. Okay, but you do not have that with you?

Ms. FORBES. I am sorry. I do not.

Mr. BARR. Okay. Can you give me some examples of some of the specified economically and socially disadvantaged groups?

Ms. FORBES. The economic disadvantage is not statutorily defined by groups. It is the social disadvantage that is defined by groups.

Mr. BARR. Okay. How then do you determine what an economically disadvantaged group is?

Ms. FORBES. There are regulations on that in our 8(a) program, and there is a whole division of people that look at submissions on individuals' economic disadvantage. If you were to qualify as being a member of one of the named groups for social disadvantage, then they would look at the economic disadvantage. If you do not qualify as being one of those groups, then they would look at social disadvantage based on submissions by the applicant, as well as economic disadvantage. There are two separate findings.

Mr. BARR. Okay. Could you give me some examples of socially disadvantaged groups for purposes of the 8(a) contracts?

Ms. FORBES. African Americans. I am sorry. I am not going to remember them all, but I think Asian Pacific Americans, Hispanic Americans. Those are three examples.

Mr. BARR. Okay. I would appreciate it if you could submit some additional data on that.

Ms. FORBES. Sure.

Mr. BARR. Either copies of the statute or regulations or your internal documentation that you use to determine what is an economically or socially disadvantaged group.

Ms. FORBES. Okay. The citation on it is 13 Code of Federal Regulations, Part 124. It is the whole part. I will be happy to submit it for the record.

Mr. BARR. Okay. I would appreciate it if you could just sent it. Certainly submit it to the record, Mr. Chairman, if that would be okay, but also send it directly to my office. I would like to take a look at it, please.

Ms. FORBES. Okay. I would be happy to.

Mr. BARR. Along with a letter.

On page 7 you talk about reinventing government, and I know about a year and a half ago the administration unveiled some reinventing government plan. Were the matters that we are talking about here today specifically addressed in the Vice President's proposals?

Ms. FORBES. I am sorry?

Mr. BARR. I remember there was a big to-do about reinventing government, and the Vice President, I remember he came over here one day and talked to our conference and had a huge stack of documents wrapped up in red tape or something, and he came out with what I thought was a paper on reinventing government.

Ms. FORBES. Are you talking about our specific Office of Veterans' Affairs, whether or not that is affected by reinventing government?

Mr. BARR. No, not affected by it. I am just curious if it was specifically addressed in the Vice President's proposals.

Ms. FORBES. To my knowledge, it was not.

Mr. BARR. Okay. Thank you.

Thank you, Mr. Chairman.

Mr. BUYER. Mr. Mascara.

Mr. MASCARA. Mr. Vogel, I note in your testimony you make mention of the number of VA guaranteed adjustable rate mortgages at over 62,000 with a face value of \$7.2 billion, and I note earlier in your testimony that by limiting interest rates that veterans may pay that oftentimes that leads to some veterans not obtaining mortgages. My question is: is there a ceiling or a maximum that the veteran would pay on an adjustable rate mortgage?

During these times when interest rates are low, it is not a problem, but as they escalate, my question is: is there a ceiling that veterans may pay as interest rates rise?

Mr. VOGEL. Mr. Mascara, the ceiling is 1 percent a year, no more than five in the life of the loan. It could be adjusted once a year at 1 percent and no more than 5 percent over the life of the loan. If it is a 30-year loan and it starts off at seven, it can go no higher than 12.

Mr. MASCARA. Is there any experience on interest rates rising and then going to the maximum amount over a period of time, whether that has caused defaults? And are veterans counseled when they apply for mortgages and given information between the difference of fixed rate and adjustable rate mortgages?

Mr. VOGEL. There is not a lot of experience on adjustable rate mortgages yet. We have not been doing it very long. The default rate would be very, very low, but because the rate is now negotiable between the veteran and the lender, with the seller being part of the equation, we do not directly involve ourselves in counseling as to the wisdom of 30-year fixed or ARMs or other such instruments. We are happy to do it upon request. We do it regularly in briefings, especially for separating service members, as we discuss with them the vast array of VA programs.

Perhaps Mr. Pedigo, the Director of Loan Guaranty Service, can be helpful to you, Mr. Mascara, in that line.

Mr. MASCARA. Thank you, Mr. Vogel.

Mr. PEDIGO. Yes. Thank you.

As Mr. Vogel stated, we do not individually counsel veterans who are about to obtain adjustable rate mortgages. However, there is a disclosure statement that the veteran must sign which points out in clear fashion the type of mortgage that the veteran is obtaining and alerts the veteran to the fact that the interest rate could increase if market rates go up in general.

So veterans are warned at the time that they get these mortgages of what the potential consequences could be, and as Mr. Vogel stated, we have not had enough experience with these mortgages to determine what the effect of increases will be on the veterans' ability to handle the payments.

Just recently we are seeing some of these adjustable rate mortgages that were made a year or two ago increase slightly as a result of the fact that short-term interest rates did not come down when long-term interest rates were coming down, within the last 6 months, and since these adjustable rate mortgages are indexed to the 1-year Treasury, which is a short-term rate, we have seen rates go up slightly, but certainly not enough to cause any concern.

Mr. MASCARA. So there is a disclosure by the bank to the veteran that the rates could go up and they could go up a maximum of 5 percent?

Mr. PEDIGO. That is correct.

Mr. MASCARA. Okay. Thank you, Mr. Pedigo.

Mr. PEDIGO. You're welcome.

Mr. MASCARA. Thank you, Mr. Chairman.

Mr. BUYER. Thank you, Mr. Mascara.

I recognize Chairman Hutchinson, the chairman of the Hospitals and Health Care Subcommittee. I appreciate your being here.

#### OPENING STATEMENT OF HON. TIM HUTCHINSON

Mr. HUTCHINSON. Thank you, Mr. Chairman.

And I want to compliment you and commend you for calling this hearing, and not only for calling the hearing, but for your leadership in veterans' efforts and your resolve in bringing about the kind of positive changes we need in the veterans' programs to insure that our veterans get the best possible service.

I want to address the proposal for a moment to move the Small Business Administration Office of Veterans' Affairs into the VA, and though I did not have the opportunity to hear all of the testimony, in reading the written testimony, it seems that the VA "shares this committee's concerns that veterans receive preference," and yet they do not support the moving of the SBA office into the VA.

So while sharing concern for veterans' business needs, rejecting this move without really, as far as I can see, offering any alternatives for improving the current system, and this is all too typical of what I think we run into in the whole veterans' service approach. I think that the response to the proposal is kind of disappointing, that there is a consensus that we need to improve the business situation of veterans. It is a way in which we can keep our veterans from being dependent upon the system for support.

I envision veterans using the opportunities presented by such a business authority to develop a standard of living and a level of personal satisfaction that is very difficult to replicate when they are just dependent upon the VA system.

I understand Representative Meyers and her committee supports a change and recognizes that the system needs reform, and so I am disappointed that the VA is not taking up the lead in the fight for that kind of reform.

Ms. Forbes, it is my understanding that the dissatisfaction with the results of the Office of Veterans' Affairs in the SBA goes way back, and we have heard testimony from national veterans' groups and from veterans' organizations representing those who really lead in an entrepreneurial spirit of veterans who have expressed their dissatisfaction with the office, and that the contemplation of the kind of move that is being suggested now goes back to 1981, when that was discussed on the floor of the House.

I guess my question would be: where have the corrective measures been and what will the SBA do to improve the situation of the OVA is left at your administration?

It just seems to me that so often government in general, the Federal Government specifically, resists any kind of change, that the

defense is always of the status quo, and that the very ones we are trying to help and trying to serve and trying to benefit end up being the victims because of our unwillingness, because of whatever reason.

I hear some skepticism and some questions about what might happen if such a change was made, but I do not hear any positive alternatives as to what should be done to improve the situation.

Ms. FORBES. One of the things that the SBA has done over the past year and a half or so, not just for veterans but in all our other business education programs, is to merge the financing programs and the business education and training programs in order to integrate all of our programs. This has enabled the Office of Veterans' Affairs to have a broader impact than it had previously.

I would like to ask Leon Bechet, head of the office since 1989, to respond. He can give you a better history than I can on what sorts of measures have been taken.

Our loan numbers have increased to veterans, and while he is speaking I will find those numbers for you.

Mr. BECHET. First of all, Mr. Hutchinson, it is not a resistance to change simply because we want to resist change. It is a resistance to change because we are aware of the things that actually work.

Now, there are veterans who do receive assistance from the Small Business Administration who are satisfied. There are other veterans who are turned down when they apply for assistance, and they are turned down because they do not meet credit criteria or for other reasons. Because of this, there will always be some resistance to what we can actually do.

I certainly feel personally that we would like to reach out and help more and more veterans, and yet we are constrained. We are constrained by resources that are available and, in addition to constraint because of resources that are available, at times we try to work out partnerships that take time to put into effect.

I think the record will clearly show that there has been a tremendous increase in both the number of veterans who are assisted by our programs, as well as the dollars from SBA's limited budget that go to assist veterans who want to go into business.

The question was raised some time ago about how can a little office with three people do what we do. Well, we can only do it because there are a number of resource partners working with the Small Business Administration that we can tap for assistance in reaching out to the veterans we try to help.

Now, the problem is and the argument, the resistance, you might say, is not because we have some preconceived notion about how these services should be rendered, but it seems that the services would be better rendered by people with experience delivering the services that are being requested. Moving the office in another agency would require establishing partnerships or developing the expertise necessary to help the veterans we are trying to help.

Mr. HUTCHINSON. Well, I see the red light. I would only say that from the standpoint of a Congressman and your concern about resources that the future of limited resources is much more secure for the Veterans' Administration than it is for SBA, and that if our primary concern is going to be insuring that the veterans continue

to have that kind of support in their business endeavors, that it makes a lot more sense to have it in the Veterans' Administration.

Mr. Chairman, they have called an emergency meeting of the Deputy Whips on Labor HHS. So I am going to excuse myself, and I hope you will forgive me for that.

Mr. BUYER. That is fine. Actually, Mr. Hutchinson, your point, I think, is very well taken. Ms. Waters and I were just talking. You know, there are some here in the Congress who believe the elimination of Commerce could be a reality. Some even advocate the elimination of the SBA. What we are talking about is a very small operation here. So that is why, you know, when I hear the mention of synergism, you know, those are strong words about the dependence of an overall operation. We are not talking about here the Department of Commerce. All right? Let's put this into some degree of relativism.

But, on the other hand, when I look back, and, Ms. Forbes, let me throw this out, the Office of Veterans' Affairs, when it was created back in 1974, the SBA was to give special consideration to veterans, special consideration, and it defines it in there, but then the Advisory Committee on Veterans' Business Affairs has been dormant for many years, and I am going to ask you what happened to the Advisory Committee on Veterans' Business Affairs.

Ms. FORBES. If I might, I would just like to clarify. The Small Business Committee is split. The ranking member sent a letter, I believe, to this committee opposing the merger. So it is not uniformly supportive of the merger.

Mr. HUTCHINSON. But I think there is a general consensus that there is a problem, and whether there needs to be a consolidation or not, there surely needs to be reform, and I look forward to following the chairman's leadership as he tries to do that.

Mr. BUYER. All right. Thank you, Mr. Hutchinson.

Ms. FORBES. On our Advisory Councils, SBA has one National Advisory Council and several other Advisory Councils.

Mr. BUYER. Do you know when the last time they met?

Ms. FORBES. Excuse me?

Mr. BUYER. Do you know when the last time they met?

Ms. FORBES. They meet annually. The National Advisory Council meets annually. A number of the members of the advisory group are veterans and bring up veterans' issues. So you are correct that we do not have a separate advisory council for veterans' affairs, but it is incorporated in the national one, which is for all small businesses.

Mr. BUYER. Someone had mentioned the 1995 White House Conference on Small Business was held in June, and despite the immense number of veterans' businesses, the shrinking of OVA and the demands from veterans' business groups to be included, veterans' concerns were not placed on the agenda at the conference. Would you please explain why?

Mr. BECHET. Mr. Chairman, I cannot speak for why veterans were not added as an agenda to the White House conference because that was not within our control, but I can say that we furnished veterans' groups with listings by State of veteran business owners. We sent letters to a selected group. Our budget is limited, but we sent out letters to selective groups of veterans pointing out

the fact that the White House conference was coming up, it was something that should be of interest to veteran business owners. We mentioned to them that we were singling them out because we felt that they could get the word around in their communities and let the rest of the veteran business owners know that this was coming up, that there would be decisions made at the State level, and that we hoped that they would cooperate with us to get the word out.

As a matter of fact, the San Diego veterans group was given a listing of all the veterans in the State of California, and they indicated that they had a means of getting the letters out to them. We sent the information to them so that the veteran business owners could be apprised of the upcoming advisory council.

Both Administrator Lader and Administrator Bowles sent out press releases to veterans' magazines.

Mr. BUYER. Excuse me for a second, Mr. Bechet, but for the organizers of the conference itself, wasn't there any coordination within the department of the SBA for why you should or should not be on the agenda? Isn't that what outreach is about?

Mr. BECHET. That was a separate committee that was in charge of the White House conference. SBA really was not in charge of the White House conference.

Mr. BUYER. I understand that.

Mr. BECHET. So what we did was we tried to inform people of what was coming up and to advise them that this was something that should be of interest to veterans, and then, it was up to them.

Mr. BUYER. If you are to be the advocate for the veteran, why wouldn't you get the attention of those who were running the White House conference? I mean I am not going to accept your answer yet.

Mr. BECHET. There was a meeting that was held with the planners of the White House conference.

Mr. BUYER. And they rejected you?

Mr. BECHET. And the veterans' organizations that were represented here today.

Mr. BUYER. The White House Conference on Small Business rejected you and the veterans' organizations?

Mr. BECHET. I am not saying they rejected us. We met with them to talk about the involvement of veterans in the White House conference. As a matter of fact, sir—

Mr. BUYER. And tell me what happened.

Mr. BECHET (continuing). The President even appointed a number of veterans as representatives to the White House conference. I do not know exactly how many.

Mr. BUYER. Tell me what happened from your meeting.

Mr. BECHET. As a result of the meeting, I issued another press release with the then current Administrator, and then I coordinated with the veterans' organizations that were there so that they could get the word out to their members.

Mr. BUYER. Right. Tell me what follow-up. Why would the White House Conference on Small Business reject you?

Ms. FORBES. I think there is a misunderstanding on the agenda. The agenda is set by the various conference members. It is not set by the President or us or the people who are running the con-

ference administratively. So if veteran business owners participated, which they did, it was their actions that were either followed through or not followed through.

Mr. BUYER. Mr. Drach, do you have any comment?

Mr. DRACH. Would this be okay, Mr. Chairman?

Mr. BUYER. I can hear you. Well, okay. Come forward.

Mr. DRACH. Is this okay?

Mr. Chairman, as I recall, the statute that established the White House conference for 1995 identified groups that were to be included. Veterans were not in the statutory language to be included. SBA, through the White House conference staff, and I am not sure which came first, did contact the veterans' organizations and call us into a meeting about the convening of the White House conference. However, that was done only after it was brought to their attention that veterans were excluded by virtue of the statute and no outreach had been undertaken, as I recall.

So it was only after the veterans, and actually it was somebody from California who brought it to the attention of either SBA or the White House conference staff, which subsequently led to a meeting with us.

The down side, among other things, was that I do not remember the exact time frame, but either 19 States had already convened their State conferences or 19 States remained. I forget which number was which, and I may not have the number correct, but a lot of the States had already convened their State conferences whereby their delegates were to be elected and appointed and so forth and whatnot. So we were left with a relatively short time frame to try to do outreach to our membership, not through SBA or not through the White House staff, through our own organizational networks to contact our people in our States saying, you know, "You are going to have a State conference on small business coming up in March. Try to get on the agenda." And we got no support in terms of SBA or the White House conference going out to the State people saying, "Try to do outreach and include veterans' organizations or veteran advocates in the State conferences."

Mr. BUYER. You know, I have got a vote coming up. So I am going to recess and come back, but I met with one of the representatives who went to the White House council on the seniors issues, and once I was able to break that down, boil it down, and see the influence of politics and who set the agenda, it was rather disturbing to me, but perhaps it is no different than if a Republican were in the White House.

So you can say, yes, the States set some agendas, but when it gets out here, there is some strong influence of national agenda.

Let me take a recess to go vote, and I will be right back. Thank you.

[Recess.]

Mr. BUYER. I call the subcommittee back to order.

Ms. Forbes, in your testimony you indicated that "many others," I assume veterans, "are aware of and have availed themselves of programs offered by the SBA." What leads the SBA to conclude that many others have used your services when you say "many others"?

Ms. FORBES. Many veterans are aware of and have—

Mr. BUYER. What leads you to conclude that many others have used your services?

Ms. FORBES. Because of our numbers on the veterans, the numbers that are in my long statement. I am not sure I am following the question. Do you mean many others being many other veterans?

Mr. BUYER. Is your comment on that statistically driven?

Ms. FORBES. Yes.

Mr. BUYER. All right. Obviously one of my concerns and what I am narrowing to is obviously there is a relatively small office here, and to throw out some very large numbers, they are statistically driven numbers, and I am not sure it has much as it correlates to outreach.

So with that having been said, help me here. One thing, I think it is important and people should work at not hearing, but listening. So that is what I want to do here. I want to be a good listener.

So how do you conduct your outreach to veterans? Don't just give me statistics and numbers and say, "Here is what they are. This is what we do." All right? I am all ears.

Ms. FORBES. Okay.

Mr. BUYER. Because you are on a slippery slope with me, and see if you can recover. Okay?

Ms. FORBES. Yes. Well, I will ask Mr. Bechet, whose job it is to do the outreach for SBA, to respond to that question, if you do not mind.

Mr. BECHET. Mr. Chairman, we do not do all of this outreach ourselves. What we try to do is to utilize all of the various resources that are available inside of SBA, as well as resources that are available to us through the Department of Veterans Affairs, through the Department of Labor, through the Department of Defense to get the word out about what we are doing.

For example, as far as getting the word out to veterans who are being separated from the military, we work with the Department of Defense, and we have a chapter in their separation manual that is distributed to every military person who is being separated from the military.

Additionally, we meet regularly or at least annually with the veterans' service organizations, and we try to keep their offices updated on what programs we have available.

Mr. BUYER. When is the last time you officially met with the VSOs?

Mr. BECHET. I have not met with them formally in some time.

Mr. BUYER. What does that mean?

Mr. BECHET. Well, on an informal basis we talk to each other, I would say, at least once a month.

Mr. BUYER. Have you ever thought to have some outreach with the VSOs on forums to discuss the needs of veterans?

Mr. BECHET. Yes, we have.

Mr. BUYER. All right. So you have thought about it. Why haven't you done it?

Mr. BECHET. We have done it. We have done it not necessarily with the VSOs, but for instance, we go to the Economic Commission at the annual meeting of The American Legion. We have in the past been invited to make a presentation to the Economic Com-

mission, and we talk to them about developments in SBA's programs. We talk to them about what is going on, what is new in the SBA.

Our district office are the deliverers of SBA services. So basically the information that we give out and the contacts that we make are directed towards aiming the veteran who needs assistance to the local district office where that service is available to them.

Mr. BUYER. How long have you been employed at the SBA?

Mr. BECHET. I started working for SBA on September, if I am not mistaken, of 1965.

Mr. BUYER. If we transferred your office to the VA and you went with it, all of your experience would go with you, would it not?

Mr. BECHET. Yes, sir.

Mr. BUYER. Right.

Mr. BECHET. Yes.

Mr. BUYER. So some of those who discount and say, "Well, if you do that, you are breaking some form of synergism. We do not have"—I heard Mr. Vogel say we do not have the expertise over there.

Mr. Denniston, didn't you have some experience with the SBA?

Mr. DENNISTON. Yes, sir.

Mr. BUYER. Now, you have not forgotten anything, have you?

Mr. DENNISTON. I hope not.

Mr. BUYER. All right. So what I am saying here is even though we are going to pool some systems, when we do that we do have experience, do we not, gentlemen and ma'am? There is some experience out there, correct?

Mr. BECHET. Yes, there is.

Mr. BUYER. Yeah, all right. I want you to know this. I came here today. I guess we all come to things with our own opinions and preconceived notions, but like I said, I always want to be a very good listener, and I would say that I was hoping that you would convince me perhaps not to make the move. You have not done that for me today.

I would also let the record reflect that when I had discussions with General Taylor, I would think he would say that I have been a good listener because he is moving out, doing things that I think should be done. But I will be up front. I will continue to be the good listener, and if you have anything you would like to add for today or you want to give me a call, please do. But I have not been convinced that I should take the legislation and set it aside at the moment.

I appreciate your testimony and being here today. Thank you.

Mr. VOGEL. Thank you, Mr. Chairman.

Mr. BUYER. Our next panel, we have General Taylor in his capacity as the Assistant Secretary for Veterans' Employment and Training, who will be with us.

I would state, General, that you have been a welcome addition to the veterans' employment picture, and you have joined us frequently as we review and refine employment issues for veterans, and, General Taylor, we welcome you again to this committee once again.

Again, I will be under the 5-minute rule. It is ourselves, but we will try to refrain from that.

Thank you. If you have a statement, submit it for the record.

Mr. TAYLOR. Yes, it has already been submitted, sir.

Mr. BUYER. Thank you.

**STATEMENT OF HON. PRESTON TAYLOR, ASSISTANT SECRETARY FOR VETERANS' EMPLOYMENT AND TRAINING, DEPARTMENT OF LABOR**

Mr. TAYLOR. Mr. Chairman, thank you for holding this legislative hearing and providing me the opportunity to present the Veterans' Employment and Training Service comments on technical and clarifying amendments to the Uniformed Services Employment and Reemployment Rights Act, commonly known by its acronym USERRA.

I also appreciate the opportunity to comment on the committee's discussion draft regarding VETS. The draft proposal includes significant legislative provisions that VETS considers necessary for the realization of its reinvention efforts.

Mr. Chairman, in my written statement I address in some detail the provisions of H.R. 1941, a bill intended to clarify or make technical corrections to USERRA. The VETS supports the objectives of H.R. 1941.

The bill was derived from amendments recommended by Secretary Reich to Representative Montgomery. The only provision of H.R. 1941 that VETS does not support is the proposed amendment to Section 4303(2) of title 38, intended to clarify the definition of benefit and other similar words.

We believe that the proposed amendment is itself confusing and that the current law is sufficient.

For VETS' first annual report on USERRA, which is due in February of 1996, we shall look closely at the definition section for any ambiguity we believe needs clarifying.

At the subcommittee's June 29th hearing on what VETS has been doing to reorganize itself, I observed that the implementation of many of the recommendations by our reinvention committees would be contingent upon legislative action to change current statutory mandates. Your discussion draft appears to largely incorporate the significant elements of that reinvention plan.

I support most of the provisions and would be glad to work with you and your committee staff in fine tuning final legislation.

Authority to adjust VETS' regional configuration to its work load changes would allow us to be more efficient with reduced resources. The same would be true with an increased flexibility to assign and task personnel in accordance with work load needs at the State level.

Of importance, too, would be the elimination of the residency requirement for directors and assistant directors for Veterans' Employment and Training. The residency requirement not only inhibits VETS from managing its programs in a streamlined environment, but it presents an artificial barrier to upward mobility for qualified veterans who already have proven themselves with their service in VETS.

We also think that veterans would benefit from a pilot program to modify the LVER functions. Such a test would help determine whether a new service delivery system for employment and train-

ing services for veterans, implementing two distinct functions would provide a more effective use of funds and lead to an enhancement of employment and training programs for the benefit of our special customers.

Mr. Chairman, the only issue we take with your discussion draft involves the proposed mandate for VETS to develop employment qualifications guidelines for State employees hired through Federal grants administered by VETS. Such provisions would take away traditional prerogatives of the governors and State legislators regarding State civil service systems.

VETS annually informs States of the Federal expectations of State employee performance and uses competency based curricula for training State employees at our National Veterans Training Institute. The curricula are based on the knowledge, skills, and abilities determined to be necessary for the performance of prescribed functional responsibilities.

As part of the department's reinvention activities in connection with its one-stop career center initiative, VETS is directly involved with a team of Federal and State partners to identify and apply performance driven measures based on labor market outcomes over time. We hope that the net effect of such new performance measures will be that the States will focus on quality of service and customer satisfaction rather than only on the quantity of services they provide.

Frankly, Mr. Chairman, with the downsizing going on, we do not have necessary staff resources to invest in both the development of reasonable performance measures and on the development of qualification requirements. We think the performance approach will yield better results.

In closing, Mr. Chairman, I am pleased to report that on August 1, Mr. John Vogel, VA Under Secretary for Benefits, and I signed a memorandum of understanding that will allow our two agencies to better focus their resources on those disabled veterans who participate in the VA's Vocational Rehabilitation and Counseling Program. My agency soon will be issuing guidance to our State employment agency partners spelling out the procedures they must follow to insure that an increased emphasis is placed on serving VA vocational rehabilitation clients.

In addition, we shall include in our fiscal year 1996 grant agreement with the States a special provision requiring specific actions relative to insuring this increased emphasis and its implementing procedures are followed.

Mr. Chairman, at this time I would be happy to answer any questions you might have.

[The prepared statement of Mr. Taylor appears on p. 143.]

Mr. BUYER. Well, General Taylor, you know, I offered this deal to Mr. Drach. If we do not move SBA's OVA to VA, how about if we move it to VETS?

Mr. TAYLOR. Well, I heard that offer, sir, and I think that a couple of hearings ago we got into that. Since then I believe we have provided you and the members of your staff with many of our Department of Labor success stories regarding the number of jobs we are finding for veterans, the many thousands and thousands that

we are training at military bases, and the many hundreds of discrimination cases we are resolving.

We are going to move on and reinvent our agency, streamline it, and make it slimmer, better. We are going to try to find jobs for those graduates of the VA's vocational rehabilitation program.

Mr. BUYER. Well, Ms. Waters and I are giving you 1 year.

Mr. TAYLOR. Okay. That is fine. We are ready to accept that challenge.

Mr. BUYER. All right. I know you are.

How is it you can judge the quality of a grant proposal if you do not know the qualifications of the State employer or of the employee? Excuse me.

Mr. TAYLOR. Well, that is a good question. One of the things I wanted to know was just how are our DVOPs and LVERs doing out there in the country. They are doing well in regard to finding jobs, but what are their qualifications? What is the level of education of these people? I was quite curious, and so I asked my staff to gather the data I have here.

About 12 percent of our DVOPs have Master's degrees. Thirty-seven percent have Bachelor's. Thirty-five percent have Associate degrees. Now—

Mr. BUYER. Say that again.

Mr. TAYLOR. About 12 percent of the DVOPs in the country have Master's degrees, 37 percent have Bachelor's degrees, and 35 percent have Associate degrees.

Now, we also have our National Veterans Training Institute in Denver. A requirement for a newly hired State employee as a DVOP or LVER is that they must go out to our school house and be taught the basic skills through our core DVOP/LVER courses.

But in addition, the current law in title 38, requires that each State generate performance standards for DVOPs and LVERs. The Secretary of Labor has provided each State with a prototype set of performance standards. The prototype was developed in consultation with each State. So the prototype we have sent out to each State was the result of a coordination effort between the Federal Government and the States themselves.

So there is a prototype that exists today. However, we are, as I mentioned in my testimony, in the process of developing new performance measures that will be implemented primarily in the one-stop shops that I told you about during the oversight hearing last month. We expect to have those performance measures completed in the next 4 or 5 months. What I am recommending to my staff is that when the performance measures are completed—and this will supersede some performance standards—that we put a cover letter on top of the performance measures and send them to the governors. We would encourage their use in the form of guidance coming from the Federal Government, not a regulation, but guidance.

Governor, here is some guidance how we think you ought to write up your vacancy announcements in regard to qualifications when looking for people to fill these particular positions.

If you give us the power to write regulations to force the governors in regard to the way that they select employees, I think that would be counterproductive. I think that we can work with them

and provide them with guidance. I do not believe it would be a good idea to take the prerogative away from them.

Mr. BUYER. I am always pleased to hear someone from the administration talk about State's rights and moving more power back out to the States.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. That is exactly what we are trying to do, General Taylor. That is great.

Are you familiar with H.R. 1469, a bill introduced by Mr. Montgomery? The measure would amend the Internal Revenue Code to clarify tax treatment of certain contributions made pursuant to veterans' reemployment rights under Chapter 43, title 38 of the U.S. Code.

The bill was referred to the Committee on Ways and Means, and the Congress has not acted on the legislation. What impact do you think it is going to have?

Mr. TAYLOR. Well, I am familiar with that, Mr. Chairman. However, I did bring counsel with me, and her name is Susan Webman. With your permission, I would ask her to respond.

Mr. BUYER. That would be fine if she would step forward.

Ms. WEBMAN. Thank you, Mr. Chairman.

We are familiar with that legislation, and we have looked at it. We are in consultation with the Treasury Department and will be submitting our opinion on that at a later time.

At this point in time, we are not taking a position on that piece of legislation.

Mr. BUYER. You could have said that, General Taylor.

[Laughter.]

Mr. BUYER. You bring counsel to the table and say, "Well, we can't tell them."

Mr. TAYLOR. Mr. Chairman, I know the answers to a lot of your questions, but when I ask someone to come along with me, I want to give them the opportunity.

Mr. BUYER. Okay, all right.

[Laughter.]

Mr. BUYER. Now you feel as though you—that is great. That is great.

Have him buy lunch today.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. I do not have anything else. I appreciate your testimony.

Mr. TAYLOR. Yes, sir.

Mr. BUYER. And we will continue working with you, General.

Mr. TAYLOR. Yes, sir. We look forward to it.

Mr. BUYER. Thank you.

Mr. TAYLOR. Thank you.

[Whereupon, at 11:23 a.m., the subcommittee was adjourned.]

# A P P E N D I X

## [DISCUSSION DRAFT]

JULY 24, 1995

104TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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### IN THE HOUSE OF REPRESENTATIVES

Mr. BUYER introduced the following bill; which was referred to the Committee  
on \_\_\_\_\_

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## A BILL

To amend title 38, United States Code, to improve the veterans' employment and training system, and for other purposes.

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

3 **SECTION 1. REGIONAL OFFICES FOR VETERANS' EMPLOY-**  
4 **MENT AND TRAINING.**

5 Paragraph (1) of section 4102A(e) of title 38, United  
6 States Code, is amended to read as follows:

1           “(1) The Secretary of Labor is authorized to  
2           assign regional administrators for Veterans’ Employ-  
3           ment and Training in such regions, which may not  
4           be less than five, as the Secretary may determine  
5           are necessary for the effective administration of the  
6           Veterans’ Employment and Training Service. Each  
7           regional administrator first appointed after the date  
8           of the enactment of this subsection shall be a vet-  
9           eran.”.

10 **SEC. 2. SUPPORT PERSONNEL FOR DIRECTORS OF VETER-**  
11 **ANS’ EMPLOYMENT AND TRAINING.**

12           Subsection (a) of section 4103 of title 38, United  
13 States Code, is amended—

14           (1) in the first sentence, by striking “full-time  
15           Federal clerical support” and inserting “Federal  
16           clerical or other support personnel”; and

17           (2) in the third sentence, by striking “Full-time  
18           Federal clerical support personnel” and inserting  
19           “Federal clerical or other support personnel”.

20 **SEC. 3. DIRECTORS AND ASSISTANT DIRECTORS FOR VET-**  
21 **ERANS’ EMPLOYMENT AND TRAINING.**

22           Subsection (b)(1) of section 4103 of title 38, United  
23 States Code, is amended to read as follows:

24           “(b)(1) The Secretary may appoint any qualified vet-  
25 eran to the positions of Director for Veterans’ Employ-

1 ment and Training and Assistant Director for Veterans'  
2 Employment and Training for a State.”.

3 **SEC. 4. EMPLOYMENT QUALIFICATIONS FOR DISABLED**  
4 **VETERANS' OUTREACH PROGRAM SPECIAL-**  
5 **ISTS.**

6 Section 4103A(a) of title 38, United States Code, is  
7 amended by adding at the end the following:

8 “(3) The Assistant Secretary of Labor for Veterans’  
9 Employment and Training shall develop guidelines for em-  
10 ployment qualifications for specialists appointed pursuant  
11 to this subsection. Such guidelines shall be used by the  
12 Assistant Secretary in reviewing State funding requests  
13 for grants under this chapter.”.

14 **SEC. 5. EMPLOYMENT QUALIFICATIONS FOR LOCAL VETER-**  
15 **ANS' EMPLOYMENT REPRESENTATIVES.**

16 Section 4104(a) of title 38, United States Code, is  
17 amended by adding at the end the following:

18 “(5) The Assistant Secretary of Labor for Veterans’  
19 Employment and Training shall develop guidelines for em-  
20 ployment qualifications for local veterans’ employment  
21 representatives appointed pursuant to this subsection.  
22 Such guidelines shall be used by the Assistant Secretary  
23 in reviewing State funding requests for grants under this  
24 chapter.”.

1 **SEC. 6. PILOT PROGRAM TO INTEGRATE AND STREAMLINE**  
2 **FUNCTIONS OF LOCAL VETERANS' EMPLOY-**  
3 **MENT REPRESENTATIVES.**

4 (a) **AUTHORITY TO CONDUCT PILOT PROGRAM.**—In  
5 order to determine whether a new service delivery system  
6 for employment and training services for veterans, imple-  
7 menting two distinct staff functions, will provide a more  
8 effective use of funds and lead to an enhancement of veter-  
9 ans' employment and training programs, the Secretary of  
10 Labor is authorized to conduct a pilot program for veter-  
11 ans eligible for services under chapters 41 and 42 of title  
12 38, United States Code. The objectives of the pilot pro-  
13 gram are—

14 (1) to test the effectiveness of the veterans'  
15 case management system and veterans' employment  
16 and training services in program operation situa-  
17 tions;

18 (2) to assess the impact of such test on the per-  
19 formance of the State Employment Security Agen-  
20 cies;

21 (3) to assess the value added pursuant to such  
22 test in the delivery of these services to veterans; and

23 (4) to determine the number of positions re-  
24 quired if the two-function model tested under para-  
25 graph (1) were implemented nationwide.

1           (b) **AUTHORITIES UNDER CHAPTER 41.**—To imple-  
2 ment the pilot program, the Secretary is authorized to sus-  
3 pend or limit application of those provisions of chapter 41  
4 of such title that pertain to the Local Veterans' Employ-  
5 ment Representative Program in States designated by the  
6 Secretary under subsection (d), except that the Secretary  
7 may utilize the authority of chapter 41, as the Secretary  
8 may determine, in conjunction with the authority of this  
9 section, to carry out the pilot program.

10          (c) **TARGETED VETERANS.**—Within the pilot pro-  
11 gram, eligible veterans who are among groups most in  
12 need of intensive services, including disabled veterans, eco-  
13 nomically disadvantaged veterans, and veterans recently  
14 separated from active military, naval, or air service shall  
15 be given priority for service by local veterans' employment  
16 representatives. Priority for the provision of service shall  
17 be given first to disabled veterans and then to the other  
18 categories of veterans most in need of intensive services  
19 in accordance with priorities determined by the Secretary  
20 of Labor.

21          (d) **STATES DESIGNATED.**—The pilot program shall  
22 be limited to not more than five States to be designated  
23 by the Secretary of Labor.

24          (e) **REPORT TO CONGRESS.**—Not later than 120 days  
25 after the expiration of this section under subsection (h),

1 the Secretary of Labor shall submit to Congress and the  
2 Committees on Veterans' Affairs of the Senate and the  
3 House of Representatives, a report evaluating the results  
4 of the pilot program and make recommendations based on  
5 the evaluation, which may include legislative recommenda-  
6 tions.

7 (f) DEFINITIONS.—For the purposes of this section—

8 (1) the term “veteran” has the meaning given  
9 such term by section 101(2) of title 38, United  
10 States Code;

11 (2) the term “disabled veteran” has the mean-  
12 ing given such term by section 4211(3) of such title;

13 (3) the term “active military, naval, or air serv-  
14 ice” has the meaning given such term by section  
15 101(24) of such title; and

16 (4) the term “economically disadvantaged vet-  
17 eran” means a veteran who—

18 (A) receives, or is a member of a family  
19 which receives, public assistance payments  
20 under a Federal, State or local social or welfare  
21 program;

22 (B) has, or is a member of a family who  
23 has, a total income for the six months prior to  
24 application, which in relation to family size, was  
25 not in excess of the history of—

1 (i) the poverty level determined in ac-  
2 cordance with criteria established by the  
3 Office of Management and the Budget; or

4 (ii) 70 percent of the lower living  
5 standard income level;

6 (C) is receiving food stamps pursuant to  
7 the Food Stamp Act of 1977; or

8 (D) in cases permitted by regulations pro-  
9 mulgated by the Secretary under subsection (f),  
10 is a handicapped individual whose own income  
11 meets the requirement of subparagraph (B)(i)  
12 or (ii), but who is a member of a family whose  
13 income does not meet such requirements.

14 (f) REGULATIONS.—The Secretary of Labor is au-  
15 thorized to issue regulations to implement this program.

16 (g) AUTHORIZATION.—There is authorized to be ap-  
17 propriated for the pilot program, in the States designated  
18 by the Secretary of Labor pursuant to subsection (d), the  
19 amount allocated to such States under section  
20 4102A(b)(5) of title 38, United States Code, for fiscal  
21 years 1996, 1997, and 1998.

22 (h) EXPIRATION DATE.—Except as provided by sub-  
23 section (e), this section shall expire on October 1, 1998.

[DISCUSSION DRAFT]

JULY 20, 1995

104TH CONGRESS  
1ST SESSION

**H. R.** \_\_\_\_\_

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IN THE HOUSE OF REPRESENTATIVES

Mr. BUYER introduced the following bill, which was referred to the Committee  
on \_\_\_\_\_

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**A BILL**

To amend title 38, United States Code, to transfer the veterans small business program to the Department of Veterans Affairs, and for other purposes.

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

3       **SECTION 1. SHORT TITLE.**

4       This Act may be cited as the “Veterans’ Entre-  
5       preneurial Business Service Act of 1995”.

1 **SEC. 2. VETERANS' ENTREPRENEURIAL BUSINESS SERVICE.**

2 (a) **ESTABLISHMENT.**—(1) Chapter 77 of title 38,  
3 United States Code, is amended by adding after section  
4 7703 the following:

5 **“§ 7704. Veterans' Entrepreneurial Business Service**

6 “(a) There is in the Veterans Benefits Administration  
7 the Veterans' Entrepreneurial Business Service (hereafter  
8 in this section referred to as the ‘Service’).

9 “(b) The Service shall have a Director who shall be  
10 responsible to the Under Secretary for Benefits.

11 “(c)(1) The Secretary, acting through the Service,  
12 shall form a partnership with business leaders by estab-  
13 lishing a council whose goal is to expand veteran-owned  
14 business concerns and to conduct on-the-job training and  
15 leadership seminars concerning successful business con-  
16 cepts. The Secretary shall promote veteran-owned busi-  
17 ness concerns with the Federal Government and the pri-  
18 vate sector to the extent possible—

19 “(A) through memoranda of understanding  
20 with executive agencies; and

21 “(B) through working relationships with private  
22 sector associations.

23 “(2) Members of the council established pursuant to  
24 paragraph (1) who are not officers or employees of the  
25 Federal Government shall serve without pay but, in carry-  
26 ing out activities under this section while away from their

1 homes or regular places of business, shall be entitled to  
2 travel expenses (including per diem in lieu of subsistence)  
3 in accordance with sections 5702 and 5703 of title 5.

4 “(d) In addition to subsection (c), the Secretary, act-  
5 ing through the Service, shall—

6 “(1) be responsible for the implementation and  
7 execution of the functions and duties under sections  
8 8 and 15 of the Small Business Act which relate to  
9 the Department, including those of small business  
10 technical advisers;

11 “(2) assist veteran-owned business concerns to  
12 obtain payments, required late payment interest pen-  
13 alties, or information regarding payments due to  
14 such concerns from the Department or a contractor  
15 thereof, in conformity with chapter 39 of title 31, or  
16 any other protection for contractors or subcontractors  
17 (including suppliers) that is provided by law or  
18 included in the Federal Acquisition Regulation or  
19 any individual agency supplement to such Govern-  
20 mentwide regulation;

21 “(3) cooperate, and consult on a regular basis,  
22 with the Small Business Administration with respect  
23 to carrying out the functions and duties described in  
24 paragraph (1); and

1           “(4) make recommendations to Department  
2           contracting officers as to whether a particular con-  
3           tract requirement should be awarded pursuant to  
4           section 8(a) or 15(a) of the Small Business Act, and  
5           the failure of the contracting officer to accept any  
6           such recommendations shall be documented and in-  
7           cluded within the appropriate contract file.

8           “(e) The Secretary shall give priority in providing  
9           services under this section in the following order:

10           “(1) Veterans with service-connected disabili-  
11           ties.

12           “(2) All other veterans.

13           “(f) The establishment of the Service under this sec-  
14           tion shall satisfy the requirement of section 15(k) of the  
15           Small Business Act with respect to the establishment of  
16           an office in the Department.

17           “(g) For the purposes of this section, the Secretary  
18           shall specify in regulations the criteria to be met for a  
19           business concern to qualify as a veteran-owned business  
20           concern. Such regulations shall include requirements—

21           “(1) that at least 51 percent of a business con-  
22           cern must be owned by individuals who are veterans;  
23           and

24           “(2) that the management and daily business  
25           operations of the concern must be directed by one or

1 more of the veterans whose ownership interest is  
2 part of the majority ownership for the purposes of  
3 meeting the requirement in paragraph (1).”.

4 (2) The table of sections at the beginning of chapter  
5 77 of title 38, United States Code, is amended by inserting  
6 after the item relating to section 7703 the following:

“7704. Veterans’ Entrepreneurial Business Service.”.

7 (b) TRANSFER OF PERSONNEL AND FUNCTIONS.—

8 (1) For the purpose of carrying out section 7704 of title  
9 38, United States Code, there are transferred to the Sec-  
10 retary of Veterans Affairs all of the functions, powers, and  
11 duties vested in or delegated to—

12 (A) the Director of Office of Veterans Affairs of  
13 the Small Business Administration; and

14 (B) the Office of Small and Disadvantaged  
15 Business Utilization of the Department of Veterans  
16 Affairs.

17 (2)(A) So much of the personnel, positions, assets,  
18 liabilities, contracts, property, records, and unexpended  
19 balance of appropriations, authorizations, allocations, and  
20 other funds employed, held, used, arising from, available  
21 to or to be made available in connection with any functions  
22 or authority transferred by paragraph (1), are transferred  
23 to the Secretary to be available to the Director of the Vet-  
24 erans’ Entrepreneurial Business Service established under

1 such section 7704, except that no such unexpended bal-  
2 ances transferred shall be used for purposes other than  
3 those for which the appropriation was originally made.

4 (B) The Director of the Office of Management and  
5 Budget, in consultation with the Administrator of the  
6 Small Business Administration and the Secretary of Vet-  
7 erans Affairs, shall make such determinations as may be  
8 necessary with regard to the functions transferred by this  
9 subsection, assets, liabilities, contracts, property, records,  
10 and unexpended balances of appropriations, authoriza-  
11 tions, allocations, and other funds held, used, arising from,  
12 available to or to be made available in connection with the  
13 functions transferred by this section, that the Director  
14 considers necessary to accomplish the purposes of this sec-  
15 tion.

16 (3) With respect to any functions transferred by this  
17 Act and exercised after the effective date of this Act, ref-  
18 erence in any other Federal law to any officer or office  
19 the functions of which are so transferred shall be consid-  
20 ered to refer to the official to whom they were transferred.

21 (c) EFFECTIVE DATE.—The provisions of this section  
22 shall take effect 90 days after the date of the enactment  
23 of this Act.

**[DISCUSSION DRAFT]**

JULY 27, 1995

104TH CONGRESS  
1ST SESSION**H. R.** \_\_\_\_\_

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 IN THE HOUSE OF REPRESENTATIVES

Mr. BUYER introduced the following bill, which was referred to the Committee  
on \_\_\_\_\_

---

**A BILL**

To amend title 38, United States Code, to extend permanently certain housing programs, and for other purposes.

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

3       **SECTION 1. PERMANENT EXTENSION OF CERTAIN VETER-**  
4       **ANS HOUSING PROGRAMS.**

5       (a) NEGOTIATED INTEREST RATES.—Paragraph (4)  
6       of section 3703(c) of title 38, United States Code, is  
7       amended by striking out subparagraph (D).

1 (b) ADJUSTABLE RATE MORTGAGES.—Section  
2 3707(a) of such title is amended by striking out “dem-  
3 onstration project under this section during fiscal years  
4 1993, 1994, and 1995” and inserting in lieu thereof  
5 “project under this section”.

6 (c) ENERGY EFFICIENT MORTGAGES.—Section  
7 3710(d) if such title is amended—

8 (1) in paragraph (1), by striking out “to dem-  
9 onstrate the feasibility of guaranteeing” and insert-  
10 ing in lieu thereof “to guarantee”; and

11 (2) by striking out paragraph (7).

12 (d) ENHANCED LOAN ASSET SALE AUTHORITY.—  
13 Section 3720(h) of such title is amended—

14 (1) by striking out “(h)(1)” and inserting in  
15 lieu thereof “(h)”; and

16 (2) by striking out paragraph (2).

17 (e) AUTHORITY OF LENDERS OF AUTOMATICALLY  
18 GUARANTEED LOANS TO REVIEW APPRAISALS.—Section  
19 3731(f) of such title is amended—

20 (1) by striking out paragraph (3) and redesign-  
21 ating paragraphs (4) and (5) as paragraphs (3)  
22 and (4), respectively; and

23 (2) in paragraph (4), as redesignated by para-  
24 graph (1) of this subsection, by striking out “para-

1 graph (4)” and inserting in lieu thereof “paragraph  
2 (3)”.

3 (f) HOMELESS VETERANS COMPREHENSIVE SERVICE  
4 PROGRAMS ACT.—The Homeless Veterans Comprehensive  
5 Service Programs Act of 1992 is amended—

6 (1) in section 10, by striking out “of 1994,  
7 1995, and 1996” and inserting in lieu thereof “fiscal  
8 year”; and

9 (2) in section 12, by striking out “of the fiscal  
10 years 1993, 1994 and 1995” and inserting in lieu  
11 thereof “fiscal year”.

104TH CONGRESS  
1ST SESSION

# H. R. 1941

To amend title 38, United States Code, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

JUNE 28, 1995

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

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## A BILL

To amend title 38, United States Code, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, and for other purposes.

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

3 **SECTION 1. PURPOSES.**

4 Section 4301(a)(2) of title 38, United States Code,  
5 is amended by striking "under honorable conditions".

1 **SEC. 2. DEFINITIONS.**

2 Section 4303 of title 38, United States Code, is  
3 amended—

4 (1) in paragraph (2), by striking “work per-  
5 formed” and inserting “work not performed”; and

6 (2) in paragraph (16), by inserting “national”  
7 before “emergency”.

8 **SEC. 3. DISCRIMINATION AGAINST PERSONS WHO SERVE IN**  
9 **THE UNIFORMED SERVICES AND ACTS OF RE-**  
10 **PRISAL PROHIBITED.**

11 Section 4311 of title 38, United States Code, is  
12 amended by striking subsections (b) and (c) and inserting  
13 the following:

14 “(b) An employer may not discriminate in employ-  
15 ment against or take any adverse employment action  
16 against any person because such person (1) has taken an  
17 action to enforce a protection afforded any person under  
18 this chapter, (2) has testified or otherwise made a state-  
19 ment in or in connection with any proceeding under this  
20 chapter, (3) has assisted or otherwise participated in an  
21 investigation under this chapter, or (4) has exercised a  
22 right provided for in this chapter. The prohibition in this  
23 subsection shall apply with respect to a person regardless  
24 of whether that person has performed service in the uni-  
25 formed services.

1       “(e) An employer shall be considered to have engaged  
2 in actions prohibited—

3               “(1) under subsection (a), if the person’s mem-  
4       bership, application for membership, service, applica-  
5       tion for service, or obligation for service in the uni-  
6       formed services is a motivating factor in the employ-  
7       er’s action, unless the employer can prove that the  
8       action would have been taken in the absence of such  
9       membership, application for membership, service,  
10      application for service, or obligation for service; or

11              “(2) under subsection (b), if the person’s (A)  
12      action to enforce a protection afforded any person  
13      under this chapter, (B) testimony or making of a  
14      statement in or in connection with any proceeding  
15      under this chapter, (C) assistance or other participa-  
16      tion in an investigation under this chapter, or (D)  
17      exercise of a right provided for in this chapter, is a  
18      motivating factor in the employer’s action, unless  
19      the employer can prove that the action would have  
20      been taken in the absence of such person’s enforce-  
21      ment action, testimony, statement, assistance, partici-  
22      pation, or exercise of a right.

23              “(d) The prohibitions in subsections (a) and (b) shall  
24      apply to any position of employment, including a position  
25      that is described in section 4312(d)(1)(C).”.

1 **SEC. 4. REEMPLOYMENT RIGHTS OF PERSONS WHO SERVE**  
2 **IN THE UNIFORMED SERVICES.**

3 (a) INCLUSION OF PREPARATION AND TRAVEL TIME  
4 PRIOR TO SERVICE.—Section 4312(a) of title 38, United  
5 States Code, is amended by striking “who is absent from  
6 a position of employment” and inserting “whose absence  
7 from a position of employment is necessitated”.

8 (b) LIMITATION ON SERVICE EXEMPTION TO WAR OR  
9 NATIONAL EMERGENCY.—Section 4312(e)(4)(B) of such  
10 title is amended to read as follows:

11 “(B) ordered to or retained on active duty  
12 (other than for training) under any provision of  
13 law because of a war or because of a national  
14 emergency declared by the President or the  
15 Congress as determined by the Secretary con-  
16 cerned;”.

17 (c) BRIEF, NONRECURRENT PERIODS OF SERVICE.—  
18 Section 4312(d)(2)(C) of such title is amended by striking  
19 “is brief or for a nonrecurrent period and without a rea-  
20 sonable expectation” and inserting “is for a brief,  
21 nonrecurrent period and there is no reasonable expecta-  
22 tion”.

23 (d) CONFORMING AMENDMENTS TO REDES-  
24 IGNATIONS IN TITLE 10.—Section 4312(e) of such title  
25 is amended—

1 (1) in paragraph (3), by striking “section 270”  
2 and inserting “section 10147”; and

3 (2) in paragraph (4)—

4 (A) by striking “section 672(a), 672(g),  
5 673, 673b, 673e, or 688” in subparagraph (A)  
6 and inserting “section 688, 12301(a),  
7 12301(g), 12302, 12304, or 12305”;

8 (B) by striking “section 673b” in subpara-  
9 graph (C) and inserting “section 12304”; and

10 (C) by striking “section 3500 or 8500” in  
11 subparagraph (E) and inserting “section  
12 12406”.

13 **SEC. 5. REEMPLOYMENT POSITIONS.**

14 Section 4313(a)(4) of title 38, United States Code,  
15 is amended—

16 (1) by striking “uniform services” in clause  
17 (A)(ii) and inserting “uniformed services”; and

18 (2) by striking “of lesser status and pay which”  
19 and inserting “which is the nearest approximation to  
20 a position referred to first in clause (A)(i) and then  
21 in clause (A)(ii) which”.

22 **SEC. 6. HEALTH PLANS.**

23 Section 4317(a) of title 38, United States Code, is  
24 amended—

1 (1) by striking “(a)(1)(A) Subject to para-  
2 graphs (2) and (3), in” and inserting “(a)(1) In”;

3 (2) by redesignating clauses (i) and (ii) of para-  
4 graph (1) (as amended by paragraph (1) of this sec-  
5 tion) as subparagraphs (A) and (B), respectively;

6 (3) by redesignating subparagraph (B) as para-  
7 graph (2); and

8 (4) by redesignating subparagraph (C) as para-  
9 graph (3), and in that paragraph by redesignating  
10 clauses (i) and (ii) as subparagraphs (A) and (B),  
11 and by redesignating subclauses (I) and (II) as  
12 clauses (i) and (ii), respectively.

13 **SEC. 7. EMPLOYEE PENSION BENEFIT PLANS.**

14 The last sentence of section 4318(b)(2) of title 38,  
15 United States Code, is amended by striking “services,”  
16 and inserting “services, such payment period”.

17 **SEC. 8. ENFORCEMENT OF EMPLOYMENT OR REEMPLOY-  
18 MENT RIGHTS.**

19 (a) TECHNICAL AMENDMENT.—The second sentence  
20 of section 4322(d) of title 38, United States Code, is  
21 amended by inserting “attempt to” before “resolve”.

22 (b) NOTIFICATION.—Section 4322(e) of such title is  
23 amended—

24 (1) in the matter preceding paragraph (1), by  
25 striking “with respect to a complaint under sub-

1 section (d) are unsuccessful,” and inserting “with  
2 respect to any complaint filed under subsection (a)  
3 do not resolve the complaint,”; and

4 (2) in paragraph (2), by inserting “or the Of-  
5 fice of Personnel Management” after “Federal exec-  
6 utive agency”.

7 **SEC. 9. ENFORCEMENT OF RIGHTS WITH RESPECT TO A**  
8 **STATE OR PRIVATE EMPLOYER.**

9 Section 4323(a) of title 38, United States Code, is  
10 amended—

11 (1) in paragraph (1), by striking “of an unsuc-  
12 cessful effort to resolve a complaint”; and

13 (2) in paragraph (2)(A), by striking “regarding  
14 the complaint under section 4322(c)” and inserting  
15 “under section 4322(a)”.

16 **SEC. 10. ENFORCEMENT OF RIGHTS WITH RESPECT TO**  
17 **FEDERAL EXECUTIVE AGENCIES.**

18 (a) REFERRAL.—Section 4324(a)(1) of title 38, Unit-  
19 ed States Code, is amended by striking “of an unsucces-  
20 ful effort to resolve a complaint relating to a Federal exec-  
21 utive agency”.

22 (b) ALTERNATIVE SUBMISSION OF COMPLAINT.—  
23 Section 4324(b) of such title is amended—

1 (1) in the matter preceding paragraph (1), by  
2 inserting “or the Office of Personnel Management”  
3 after “Federal executive agency”; and

4 (2) in paragraph (1), by striking “regarding a  
5 complaint under section 4322(c)” and inserting  
6 “under section 4322(a)”.

7 (c) RELIEF.—Section 4324(c)(2) of such title is  
8 amended—

9 (1) by inserting “or the Office of Personnel  
10 Management” after “Federal executive agency”; and

11 (2) by striking “employee” and inserting “Of-  
12 fice”.

13 **SEC. 11. ENFORCEMENT OF RIGHTS WITH RESPECT TO**  
14 **CERTAIN FEDERAL AGENCIES.**

15 Section 4325(d)(1) of title 38, United States Code,  
16 is amended—

17 (1) by striking “, alternative employment in the  
18 Federal Government under this chapter,”; and

19 (2) by striking “employee” the last place it ap-  
20 pears and inserting “employees”.

21 **SEC. 12. CONDUCT OF INVESTIGATION; SUBPOENAS.**

22 Section 4326(a) of title 38, United States Code, is  
23 amended by inserting “have reasonable access to and the  
24 right to interview persons with information relevant to the  
25 investigation and shall” after “at all reasonable times,”.

1 **SEC. 13. TRANSITION RULES AND EFFECTIVE DATES.**

2 (a) REEMPLOYMENT.—Section 8(a) of the Uniformed  
3 Services Employment and Reemployment Rights Act of  
4 1994 (38 U.S.C. 4301 note) is amended—

5 (1) in paragraph (3), by adding at the end  
6 thereof the following: “Any service begun up to 60  
7 days after the date of enactment of this Act, which  
8 is served up to 60 days after the date of enactment  
9 of this Act pursuant to orders issued under section  
10 502(f) of chapter 5 of title 32, United States Code,  
11 shall be considered under chapter 43 of title 38,  
12 United States Code, as in effect on the day before  
13 such date of enactment. Any service pursuant to or-  
14 ders issued under section 502(f) of chapter 5 of title  
15 32, United States Code, served after 60 days after  
16 the date of enactment of this Act, regardless of  
17 when begun, shall be considered under the amend-  
18 ments made by this Act.”; and

19 (2) in paragraph (4), by striking “such period”  
20 and inserting “such 60-day period”.

21 (b) INSURANCE.—Section 8(c)(2) of such Act is  
22 amended by striking “person on active duty” and inserting  
23 “person serving a period of service in the uniformed serv-  
24 ices”.

1 **SEC. 14. EFFECTIVE DATES.**

2 (a) IN GENERAL.—Except as provided in subsection  
3 (b), the amendments made by this Act shall take effect  
4 as of October 13, 1994.

5 (b) REORGANIZED TITLE 10 REFERENCES.—The  
6 amendments made by section 4(d) shall take effect as of  
7 December 1, 1994.

**PREPARED STATEMENT OF CHAIRMAN BUYER**

AUGUST 2, 1995  
Hearing Script  
VETS/USERRA/SBA TRANSFER/  
HOUSING EXTENDERS

Good morning. The subcommittee will come to order.

Today, we will review discussion drafts on technical changes for the Uniformed Services Employment and Reemployment Rights Act [USERRA], extensions for several VA housing programs, improvements to the Veterans Employment and Training Service program and the transfer of the Office of Veterans Affairs at the Small Business Administration to the Department of Veterans Affairs. Let me emphasize that with the exception of HR 1941, we are here to talk about discussion drafts. It is my opinion, that it is important to seek stakeholders' views on potential legislation and I want to have the free-est possible exchange of ideas.

The last time we met, we discussed the need for technical changes in USERRA, and we have a bill that address many of the issues necessary to make the Act a better tool for our service men and women. We also touched briefly upon changes within VETS and I am delighted that we will be able to discuss a number of those streamlining initiatives as well.

The discussion draft of the VA housing extenders is very important, in that some of the programs' sunset dates will be removed, making them permanent. We are pleased that representatives of the Mortgage Bankers Association can be with us today to discuss VA home loan programs. And finally, a proposal to merge SBA's Office of Veterans Affairs at with VA's Office of Small and Disadvantaged Business Utilization.

As for moving SBA veterans office to VA, I want everyone to understand that I am personally committed to seeing to it that veterans get fair treatment in pursuit of business opportunities. If in fact the *status quo* is not meeting the standards and levels of services that veterans rightfully expect, definitive measures must be undertaken to address their concerns.

Meshing the responsibilities and resources of the two offices is a natural extension of our commitment to expanding employment opportunities. I feel the development of a business entrepreneurial unit at the VA--under the strong leadership of the Secretary of Veterans Affairs-- is a way to increase veterans' opportunities in the business world. Some 20 percent of all of this country's small business are owned by veterans. Nearly 4 million veterans lend to this country's business climate what they lent during their military service, a stable foundation upon which the spirited men and women build businesses that employ other Americans. While I know there is some opposition to the move from the two government agencies involved, I feel strongly that such a move holds great promise and will be an improvement over the current setup, if the agencies cooperate.

We come here to discuss transfers of responsibilities from one agency to another, and we do so in search of program improvements, as well as cost savings, and better government. That's what makes today's hearing important. I hope to hear from each of our witnesses their suggestions on making improvements to the system. I would hope we can have an open discussion of ideas in a positive way and I am eager to hear what each of you has to offer.

I know that VETS has been going through a lengthy internal review of its organization, and that some of the suggestions today are a result of that review. I'm looking forward to hearing how the changes will benefit veterans.

In improving the Veterans Reemployment Rights, USERRA was a long time in the making. USERRA is the product of years of negotiations and was designed to protect a veteran's ability to return to the workforce following service, while at the same time not overburdening employers.

HR 1941 makes technical changes to USERRA that will strengthen this important protection of veterans employment rights. These changes are a result of both sides working with VETS for the strongest possible means of protection and I thank the Ranking Member of the full committee, Sonny Montgomery and his staff for their work on this legislation.

Now I would like to recognize the distinguished ranking member of this subcommittee for any remarks she may have. Ms. Waters.

Thank you, Maxine.

Do any of the members have opening statements?

I would like to welcome all the witnesses who testify today. Without objection, their entire statements will be made part of the record, and I would ask that they be as brief as possible so that we may use the majority of the time to ask questions of the panels.

Congresswoman Jan Meyers, the Chair ow the Committee on small business has asked to submit a statement for the record regarding the move of SBA's Office of Vetans affairs to VA. Without objection, I will include it in the record. I would like to note, that Chairwoman Meyers supports the move.

Our first panel is composed of representative of several veterans service organizations. Mr. Ron Drach from the DAV, Mr. Bob Manhan from the Veterans of Foreign Wars, Emil Naschinski from the American Legion, Bob Carbonneau from AMVETS, John Lopez from the Association of Service Disabled Veterans.

Welcome. You are an important part of this hearing because you represent the eyes and ears of veterans -- our field reps as it were -- and are able to bring to us a discussion of the needs of your members. Each of your written statements will be entered into the record, and I would ask you to summarize so we can get to the questions. Would Mr. Drach begin?

Thank all of you for testifying today.

Our next panel is composed of John Vogel, Under Secretary of Veterans Affairs for Veterans Benefits, and is accompanied by Keith Pedigo & Scott Denniston. We also welcome Ms. Patricia R. Forbes, Acting Associate Deputy Administrator for Economic Development, Small Business Administration, Veterans, and Mr. Bob O'Toole, Senior Vice President of the Mortgage Bankers Association of America.

Again, your prepared statements will be made a part of the record, so I ask you to summarize.

Mr. Vogel, please proceed.

Thank you for your testimony.

Our next panel represents the Veterans Employment and Training Service. General Taylor, in his capacity as the Assistant Secretary for Veterans Employment and Training has only one guiding principle for his job -- that is to do what's best for the veteran. He has been a welcome addition to the veterans employment picture, and has joined us frequently as we

review and refine employment issues for veterans. General Taylor, welcome once again. It is a pleasure to have you here with us.

In closing this hearing, I would like to thank all the panelists for coming here today. Clearly, the discussion drafts under consideration are important, and the views received today will play an significant part in the shaping of legislation to enhance veterans services. We expect a Subcommittee mark-up on various pieces of legislation discussed here today on September 7.

Thank you all for coming. This hearing is adjourned.

**Congress of the United States**  
**House of Representatives**  
 104th Congress  
**Committee on Small Business**  
 2501 Rayburn House Office Building  
 Washington, DC 20515-0515

**STATEMENT OF CHAIRMAN JAN MEYERS, COMMITTEE ON SMALL BUSINESS**  
**BEFORE THE**  
**VETERANS' AFFAIRS COMMITTEE**  
**SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING**  
**U.S. HOUSE OF REPRESENTATIVES**  
**AUGUST 2, 1995**

Chairman Buyer, and members of the Subcommittee, thank you for inviting me to present testimony on the subject of the Small Business Administration's (SBA) Office of Veterans' Affairs. I appreciate the opportunity to discuss the important role of outreach to our nation's veterans to provide them with information on loan and business assistance programs, and I support relocating the SBA's Office of Veterans' Affairs to the Department of Veterans' Affairs. The veterans who so bravely served our nation deserve the best possible assistance in pursuing their dreams of business ownership. The best possible "homebase" for a program which informs veterans what help the federal government can provide, by way of access to capital and business management and technical assistance counseling, is the Agency to which veterans most frequently turn for help--and that is the VA.

Mr. Chairman, as you know, the Small Business Administration's Office of Veterans' Affairs is responsible for outreach to veterans to inform them of services provided by, or through, the Small Business Administration (SBA). To the best of my knowledge, this office has done a good job since its creation in 1982. The Office was created in concert with the adoption of P.L. 97-72 (November 3, 1981), which started a direct loan program for Vietnam-era and disabled veterans. As has often been done with new SBA loan programs, a separate technical assistance function was created for that specific program.

However, as a result of efforts to reduce costs to the taxpayer for programs to increase access to capital for small businesses, we have virtually eliminated direct loan programs in favor of guaranteed loans. In doing so, we can provide billions more in loans to all small business, included those owned by America's veterans. The Vietnam-era and Disabled Veterans direct loan program has not been funded since FY 1994. Therefore, the duties currently performed by the SBA Office of Veterans' Affairs are basically referral of current and potential veteran small

business owners to providers of guaranteed loans, and those who carry out business management and technical assistance, such as Small Business Development Centers. The SBA, in getting out of the direct loan business, has moved from a retail to a wholesale operation.

Consistent with the spirit of P.L. 93-237, the SBA should continue to give special consideration to our nation's veterans in all of its programs. However, the question before the Subcommittee today is where best to locate outreach services to communicate what is available to veteran entrepreneurs. While it is important for those charged with the responsibility of carrying out these activities to be knowledgeable of SBA programs, I believe it is equally important for this outreach to be located as close to the service population as possible. When a veteran wants information regarding government services available to him or her, for whatever purpose, I believe that veteran is likely to call the Department of Veterans Affairs (VA). It makes sense to have direct involvement by the VA in "marketing" SBA services to veterans, as the VA is closest to that population and their information network.

Certainly, if a transfer of the SBA OVA is made to the Department of Veterans' Affairs, close coordination with the SBA will be necessary to make this program work effectively. This coordination should be occurring now, between the SBA and the VA. However, the strong support of veterans' groups for moving the SBA Office of Veterans' Affairs to the VA, as evidence by their testimony today, indicates to me that this coordination could be much better.

Mr. Chairman, while I support relocating the SBA Office of Veterans' Affairs to the VA, I must express my strong opposition to placing the VA's Office of Small and Disadvantaged Business Utilization under the responsibility of the Under Secretary for Benefits. Section 15 (k) of the Small Business Act specifically provides that the Office of Small and Disadvantaged Business Utilization (SADBU) shall be responsible to, and report directly to the head of an agency or the deputy of an agency head. It is this high level of access that has allowed the SADBU to fulfill its statutory mission--to help small businesses provide the goods and services the VA needs. Moving the SADBU to report directly to the Under Secretary for Benefits could diminish the stature of the Office. Since the Office's creation, the Small Business Committee has zealously guarded the statutory position of the SADBU. I believe it is vital to keep the Office of Small and Disadvantaged Business Utilization a high profile office within government agencies to give all small businesses the attention they deserve in the federal procurement process.

Chairman Buyer, again, thank you for the opportunity to provide my views on your draft legislation, and I look forward to working with you to improve outreach efforts to veterans in their capacity as small business owners.

JAN MEYERS, KANSAS  
Chair

JOHN J. LAFALCE, NEW YORK

**Congress of the United States**  
**House of Representatives**  
104th Congress  
**Committee on Small Business**  
2501 Rayburn House Office Building  
Washington, DC 20515-6515

August 1, 1995

Honorable Stephen E. Buyer  
Chairman  
Committee on Veterans' Affairs  
Subcommittee on Education, Training,  
Employment and Housing  
337 Cannon  
Washington, D.C. 20515

Dear Mr. Chairman:

I am writing to express my strong opposition to moving the Office of Veterans Affairs from the Small Business Administration to the Department of Veterans Affairs, a proposal which your subcommittee will be discussing during a hearing on August 2, 1995.

While I am sure that your intention is to streamline and increase services to and opportunities for veterans, I firmly believe the opposite would be accomplished by such a move. The Small Business Administration specializes in services, programs and policies designed to help the small businessperson in a variety of ways -- counseling, conferences, loans, etc. -- at a variety of sites. Placement of the Office of Veterans Affairs at SBA ensures that veterans can take full advantage of these services and programs. Moreover, as long as they are integrated into the SBA, veterans affairs specialists are tied into business program and policy decisions at the agency, and the special needs of veterans are accounted for in overall planning and decisionmaking.

For example, SBA veterans affairs officers can ensure SBA-sponsored Small Business Development Centers (SBDC), located at hundreds of universities and colleges across the country, are equipped to assist veterans when local business events -- such as base closings -- have a special impact on them. Government contracting conferences put on by the SBA can include sessions specifically directed at veterans because SBA outreach officers can participate in the planning. In sum, assistance from SBA programs can be best leveraged by keeping all of the programs at

the SBA.

Small business owners do not have resources to spend time and money trying to locate services spread across several agencies. Indeed, that very complaint has resulted in a continuing effort by the government to centralize its small business assistance programs -- an effort that has met with the approval of the small business community. With SBA as a "one-stop shop," duplication and inefficiency are avoided, as is confusion among those the agency seeks to assist: veterans. Dispersal of small business programs among agencies is not the way to effect streamlined and efficient delivery of services.

The growth in the number of guaranteed SBA loans to veterans over the past few years -- from 3998 7(a) loans in FY 1993 to 5677 already in FY 1995 -- demonstrates that the program, where currently located, is successful in reaching out to veterans and being accessed by them. The Department of Veterans Affairs only has experience in housing loans, not business loans.

I appreciate your attention to these concerns and I urge you to consider them seriously.

With best wishes,

Sincerely,



JOHN J. LaFALCE  
Ranking Democratic Member

JJL/prh

**Testimony Of The  
Veterans Business Council  
of California**



**By**

**Robert Sniffen  
President Emeritus  
and  
Marty (M.H.) Hiles  
President/Chief Executive Officer**

**Before**

**The House Committee On Veterans Affairs  
Subcommittee On Employment, Training and  
Memorial Affairs  
U.S. House Of Representatives**

**August 2, 1995**

Mr. Chairman and members of The Subcommittee

First and Foremost; Thank you for granting us the opportunity to present our views on the issues, needs and concerns of this nation's 4 million Veteran Business Owners.

Most importantly; on behalf of these Veteran Business Owners; we extend gratitude to your Subcommittee for holding this hearing and your intent to improve business related services by transferring the functions and staff of the Small Business Administration's Office of Veterans Affairs to the Department of Veterans Affairs.

The Veterans Business Council of California is a non-profit 501(c)(3) organization dedicated to obtaining a share of the American Dream for those who have defended the concepts of Democracy, Capitalism and the economic opportunities of the Free Enterprise System so that all citizens may obtain prosperity.

There are 4 million Veteran Owned Businesses nationally, while some 400,000 veterans own and operate a business in our great and beautiful state of California. While relatively new as a formalized organization; the knowledge and expertise of our Executive Committee alone embodies some 50 years on the small business issues that have affected Veterans Business Owners over the past two decades.

In fact, Mr. Chairman, it was myself; Mr. Hiles and others who under the aegis of the then, Vietnam Veterans Foundation; brought about the first hearings ever held before the Congress on Veterans Small Business Issues in 1979-1980-1981.

Indeed; some six or more Congressional Committee hearings were held which took SBA to task for their failures and their Benign Neglect of veterans. SBA continually resisted and ignored the

provisions of P.L. 93-237 which was enacted in 1972 and called for "Special Consideration for Veterans in all SBA programs".

Continuing with a historical prospective; from 1972 to December 1975, absolutely nothing occurred on behalf of veterans. Then, Regulations were issued on "an emergency" basis defining Special Consideration, whereby they sat for another 3-5 years, before Congress ordered the SBA to implement the existing Regulations. While some improvements did occur; SBA's efforts has never, ever achieved the spirit or intent of P.L. 92-237.

As a result of the aforementioned hearings; the 97th Congress lead by the House Veterans Affairs Committee; enacted P.L. 97-72, (the Veterans Health Care Training and Small Business Act of 1981). Previous to the passage of P.L. 92-72 the full House Veterans Affairs approved legislative language that fully intended to transfer the same functions you are considering transferring today from the SBA to the, then, Veterans Administration. The VA and SBA offered similar arguments then, that they seem to be outlining before your Subcommittee today.

As the force behind the P.L.-72; with the support the major veterans organizations; it was our intent and the intent of your full committee; to make such a transfer. We all believed the transfer was immanent. Then, Congressman Neil Smith of the House Small Business Committee, worked out an unheard of compromise on the floor of the House that simply put, gave SBA one final chance to meet their responsibilities to veterans. P.L. 97-72 also authorized a 25 million revolving loan fund to provide Vietnam Veterans direct loans and three (3) million dollars in outreach monies for the SBA, Office of Veterans Affairs. The fact is that these funds were never appropriated by the President or the Congress. Any funds SBA utilized to meet the requirements of Congress under P.L. 97-72 came directly from SBA General Funds.

While the SBA will come before this committee, today, with impressive loan statistics given to veterans; it must be taken into account that these statistics do not reveal that they are loans that are counted three times. The initial application at SBA asks one to check a box if they are women, a minority and/or a veteran. The SBA loan statistics do not reflect this fact as loans given strictly to veterans based on being a veteran. These figures will also not reflect that the outreach effort of the SBA is in actuality much less effective than stated.

We believe, while others may disagree; counting something in all categories amounts to a false accounting system.

One more historical point; P.L. 97-72 (Section 1848) called for preference to certain disabled veterans as defined under 38 USC 51848. On this front, SBA according to their own 'loan' figures, has totally neglected any adherence to this congressional mandate.

Thus for the first decade; 1972 to 1981, SBA ignored the laws of Congress. Since 1981 to the present; Congress did not provide funding nor did any Administrator, since Administrator James Sanders take a leadership role to request or fight for funding to ever meet the demand for the much needed services of the veterans' small business Community... To the contrary, many SBA Administrators raided the SBA-VAO to meet other priorities at will and the practice continues.

It is this lack of leadership at the top of SBA over all these years that has resulted in the Elephant that is now in the SBA living room.

However feeble the current efforts of the SBA are as an agency with vast responsibilities; those veterans who have obtained SBA services owe this Congress on both sides of the aisle a great

debt of appreciation. We thank those Congressional persons who sought to give veterans the economic opportunities earned by way of military service.

One SBA person that is deserving of recognition is the current SBA-OVA Administrator, Mr. Leon Bechet, has stood guard duty for over twenty years just to keep their program alive. His transfer and empowerment along with his continued devotion can only excel in an agency dedicated specifically to veterans. We do salute him for a job well done... But it still is not enough...

In the meantime women and minority business owners have organized, demanded business assistance services and have continually passed legislation before the Small Business Committees of the Congress based on gender, race and affirmative action concepts. The results has been that these and other groups have enjoyed government assistance on a Federal government wide basis in procurement contracting; a million dollars for the National Women's Mentoring project; pre-qualified loans; Regional Directors; set asides throughout the Federal Agencies system, exporting and international trade coordinated throughout all Federal Agencies.

It is blatantly obvious that this current Administration has genuflected at the alter of multicultural groups and is especially attuned to the demands of the Women's groups. It is hoped that our society is not so politically correct to prevent veterans from pointing out that these groups gained in their mission to serve their particular constituency; often at the expense of Veterans Business Owners, who continue to suffer in the background.

For us, the final insult by the Clinton Administration is that the White House, completely and willfully, refused to place veterans issues on the Agenda of the White House Conference On

Small Business in spite of a year long campaign by our group and the requests of over twenty leading Congressional heavyweights on both sides of the aisle from both Houses. In fact Mark Shultz, Executive Director of the White House Conference on Small Business held June 1995, has stated, "while he had the power to do so, he, (Mr. Schultz) felt that putting veterans issues on the agenda would have been divisive to the women and minority issues and that veterans issues are not business issues.

When veterans as business owners representing some twenty one percent (21%) of the entire small business community are left off such an agenda, it is time for Congress to step in and mandate this, and any future Administration, to give veterans their rightful place at the front of the line, with disabled veterans at the very front of that line, before all others...Currently, veterans are at the very end of the government assistance program lines, and in many cases, are not even on the line. This is unacceptable! Veteran Business Owners have earned, but been denied their Rightful Group Recognition Status.

We believe today, as we believed some fifteen years ago, that SBA (organizationally, structurally, or otherwise) will never, ever serve the needs of Veteran Business Owners, equal to their needs.

Both the DVA and the SBA have in the past, and continue today to give, very old excuses as to why such a transfer should not take place, as called for in your very well thought out legislation.

Under this Administration, the DVA will buy at least \$200 million worth of products and services from women and minority-owned small businesses, an increase of 45 percent over previous years. This mandate amounts to nearly 10 percent of total annual

DVA procurements, which includes more than \$1 Billion for small businesses.

The DVA has no such mandates for veteran owned businesses, even in our own agency to service veterans. Please, ask the Administration to explain this one to Congress and particularly to the Veteran Business Owners who continues to receive only economic discrimination from this Administration!

Let us remember, that the Secretary of Veterans Affairs is a Cabinet level position, and, as such, can and must cross agency lines to best serve veterans. The very lack of leadership at the SBA over some twenty plus years, reveals the wisdom of Congress in elevating the head of the DVA to that Cabinet level status. We are sure, completely sure, that the Department of Veterans Affairs can and will provide the lead role to affect veterans needs and services across the broad spectrum of the entire Federal government.

While the "new" SBA has re-invented itself and claims it can do more with less - it is our firm conviction that finally, once and for all, that increased programs for veterans and improved services will indeed result from such a transfer. The less, has come from the SBA's Office of Veterans Affairs, with the Outreach Budget being slashed to \$440,000 for veterans, while other groups Outreach Budget have been increased at veterans expense. This is appalling!

In a recent interview/meeting with the current SBA Administrator, Phil Lader, when asked about his position on the SBA to DVA transfer, he stated that, as Administrator "he would do whatever is best for our veterans." Yet, at the same meeting, we were given previously prepared question and answer fact sheets that oppose such a move. Mr. Lader also stated he would take up

the challenge and "would be the best SBA Administrator for veterans since Administrator James Sanders."

Yet, his defense of the status quo, coupled with the fact that, while Mr. Lader is, in fact, an Army veteran, his Official Biography, omits any reference to his veteran status - leaves us unconvinced of his agency's newly found commitment. We have concluded that the Clinton Administration can ill afford to champion the veteran business cause for fear of offending Women Business Owners. They have blatantly refused to take any concrete actions on behalf of Veteran Business Owners, and meanwhile, have the audacity and gall to paint a glowing picture of support and dedication to Women Business Owners.

Now, you have requested our input on this long-festering issue:

We are aware that the Department of Veterans Affairs and SBA has once again submitted to this Committee, the same or similar responses as they did some fifteen year ago. You must not accept these claims! They are excuses for the past and current failures to act.

It is simple logic. The current Assistant Administrator of the SBA Office of Veterans Affairs, and his remaining two or three staff members will take their expertise, knowledge and functions to another agency just a few blocks across town; there they can formulate an outreach and training plan that will result in many more veterans receiving information and education from thousands of Veteran Benefits Counselors. These DVA Counselors currently interface with veterans on many such complex issues including insurance, medical benefits, vocational rehabilitation, home loans, death benefits, as well as pension and compensation. The issues of starting and expanding business entities is no more, or less complex than other issues handled by the DVA.

The loan functions, as well as repayments of loans should clearly remain at the SBA.

Further, the Veteran Assistance Officers (VAO), within the 110 SBA District Offices should remain in place, and participate in joint training efforts of both agencies to better provide services to veterans. The VAO is only a collateral duty within the SBA and is in addition to their regular job description.

As to the argument that moving the SBA Office of Veterans Affairs would result in moving resources further away from the loan source: we find this argument completely without merit; especially in view of the Internet and the Super Information Highway On-Line, technology readily available, with most federal agencies currently On-Line or soon to be On-Line.

There is only one conclusion that can be reached if the SBA to DVA transfer becomes reality. Improved services to veterans from their "home" agency which has had the expertise to administer 5,000 business loans to returning World War II Veterans. The DVA business expertise can surely be developed rather expediently today. Ironically, the SBA was originally created to assist the returning W.W.II veterans in administering the large number of veterans loans. As the loan program overwhelmed the DVA; vets loan responsibilities was sent to the SBA.

In face to face discussions with SBA and DVA officials, they "all" have indicated that such a transfer would be useless without additional funds being appropriated for continued outreach and training.

Chairperson Buyer, and Members of the Subcommittee, we share this crucial concern. Collectively, along with entire Congress, we should and must consider any new expenditures as an investment similar to the G.I. Bill, which ultimately returned eight dollars

(\$8.00) in taxes to the U.S. Treasury, for every one dollar (\$1.00) expended at the direction of Congress. The W.W.II veteran brought America Peace, then returned home and brought America Prosperity.

Peace manifested into prosperity will never be accomplished without the necessary "investment" resources. We do not support an indefinite financial lifetime commitment, but surely reasonable funding levels must accompany any expansion of efforts, as intended by your legislation. We are also aware that many government social programs are being reduced and/or eliminated in the current budget review process. Perhaps a reasonable amount of any savings can be extended on a three to five year basis, and reviewed by yearly Oversight Hearings to evaluate the success or failure by the DVA and the SBA to assist Veteran Business Owners.

We do not seek procurement set-asides, goals, timetables or any form of Affirmative Action for Veteran Owned Businesses. Any funds committed should be time-related, but should allow enough time within which these veteran businesses can obtain a level playing field.

Up to this point, Veteran Owned Businesses have been denied this equal playing field, as other groups have enjoyed government largess that effectively has resulted in economic discrimination to those who gave the most to ensure the continued existence of this great nation, and its Free Enterprise System.

Mr. Chairperson, it has been a long, hard and frustrating road to get to the point we are at today, as you are poised to come to a final determination in creating a new Veterans Entrepreneurial Service within the DVA. Over the past few years congress has sought to give primary responsibility for all other veterans' issues to be coordinated by our veterans agency. Why else do

they exist other than to serve the best interest of veterans, no matter the nature of the current needs.

Yes!! A thousand times, yes!! This transfer must occur now, or else it may be another fifteen years before such an opportunity will again arise...The problem will be that today's veteran will be too old to take advantage of any program, if such programs indeed, exist under the SBA at that time, provided there is an SBA in the future. Effectively, for veterans interest, it is now or never.

It is incumbent upon Secretary Jesse Brown, a person whom we all respect and admire, to meet this challenging issue with gusto and excitement, passion and the high impact efficiency of such a large scale organization. It is also incumbent upon the SBA not to obstruct such a transfer, and in fact, to seek methods of participating and collaborating with the DVA to improve services to Veteran Owned Businesses across the broad spectrum of the entire Federal Government. This will take place only if such a transfer occurs...The answer is that no one government agency can ever address the vast and varied needs of four million Veteran Business Owners who are largely denied access to their share of the American Dream...

Your final and favorable legislative conclusion must be that services delayed any longer, are in effect, services denied. The SBA to DVA transfer has all likelihood and promise of vastly improving services to these veterans, while allowing the SBA to once again thwart this transfer, will result in more of the same -- virtually no improvement from where we find ourselves today -- on the outside looking in at an SBA thoroughly dedicated to every other group, excepting veterans.

Mr. Chairman, nothing is more important that this seemingly simple transfer from the SBA to the DVA. Upon implementing this

transfer, any and everything is possible to improve services to veterans. Barring such a transfer, veterans' issues will drift and flounder without the "new thrust" intended by your legislative interest and action. Our experiences (and struggles) with the SBA over the past two decades is totally undermined if you do not enforce such a decision.

A final note, Mr. Chairman, it is our full intention to organize not only Veteran Business Owners here in California, but also on a national level. To that end, we are formally announcing for the first time publicly, the formation of The National Veterans Chamber of Commerce. It will be a non-profit group that will assist the DVA, the SBA, all Federal agencies, the United States Congress, and most importantly, assist fellow Veteran Business Owners through the "Veterans Helping Veterans" concept. It is a concept that has certainly worked in the past, it is working now and will work far into the future. It is clear that 4 million Veteran Business Owners, which are 21% of all small businesses nationally, are the last unorganized group of entrepreneurs, and our nation's most untapped and under-utilized resource of economic energy.

We hope you will join us on the Capitol steps, or in one of the great rooms of this Congress, in the very near future, when we officially unveil, what we fully intend will become a self-empowering organization based upon long-enduring membership of all veterans, who have more than earned their status, as business owners.

We, the Veterans Business Council of California, stand ready to assist in this noble effort to give veterans only what they deserve, and have earned by virtue of service to their county.

Please do not delay!! Make this transfer happen now as an initial commitment to the men and women of every ethnic

persuasion who have served and have earned their rights. While God conferred gender and racial status, veterans are "created" by government, and therefore, need a hand-up but not a handout to realize their full potential. Their fate and future is now before the Congress in the form of the legislative action you intend... Our Veterans deserve no less!!

"The positive economic and community involvement of veterans are major influencing factors that bond the spirit of American society as one patriotic family. The battlefield marked veterans as a citizen who will sacrifice themselves for others, and for things they believe in. It nurtured the recognition that sacrifice is a part of any community. This common sense perspective learned in war is needed in leadership. These leadership qualities that are critical to America's survival are qualities that contribute toward, and reinforce, the nation's economic, spiritual and moral fiber."

Economic and Community involvement by veterans provides a positive influence on American society that is immeasurable. Veteran's programs sponsored and supported by private and public assistance, help to reinforce what is good and right about America (caring for those who served). Assisting Veteran economic programs should be regarded as an investment America's future!

We do request that the attached documents become part of this hearing record.

We sincerely thank you for these forward moving and long overdue efforts, and stand ready to answer any questions you may have at this time.

## Commentary

# Slighting Small-Business Veterans

By Merry Hites

**W**hen some 2,000 delegates gathered 11-14 June in Washington, DC, to formulate a business policy agenda during the White House Conference On Small Business (WHCSB), veterans once again were ignored.

Thus despite a year-long campaign including a petition from veterans to VA Secretary Jesse Brown and President Clinton, calling on the president to assume his leadership role as commander-in-chief, and the support of leading members of Congress.

Six weeks before the first WHCSB was to begin in 1980, then-President Carter answered the major veterans organizations' clarion call by placing veterans business issues on the agenda.

However feeble the Small Business Administration's veteran-related programs may currently be, their creation was a direct result of that presidential leadership. The SBA's Veterans Affairs Office staff

*M.H. (Merry) Hites, a longtime veterans advocate specializing in small-business affairs, received a Purple Heart in 1969 while serving with the Marine Corps in Vietnam.*

has been whittled down by 75 percent over the past few years.

The law creating this year's conference mandates the examination of the status of women and minorities as business owners, yet excludes the issues, interests and concerns of veteran/business owners. The SBA reports that there were four million veteran-owned businesses nationally as of June 1983, and that they constitute 21 percent of the entire small business community.

Several leading veterans small business advocates simply say it is another case of benign neglect. One such individual, who is legally blind, became frustrated and had someone post a protest note on the press bulletin board explaining that his concerns were not addressed.

The Veterans Business Council of California, a leading national small business advocacy group, contends that other special-interest groups have enjoyed government largesse while veterans business issues have suffered in the background over the past two decades.

The organization, representing the interests of nearly 400,000 California business owners, contends

that veterans are the only group "created" by government, and therefore deserve priority claim to any current or future small business assistance efforts.

The fact that the current WHCSB staff and the Clinton administration's domestic policy staff have never responded to veteran organizations, or to congressional requests to give veterans a place on the agenda, is seen by some veterans as emblematic of a low status of veterans as business owners.

WHCSB Executive Director Mark Schultz was asked, in an open discussion, to explain the decision to exclude veterans from this year's conference.

"I was mandated by Congress and the president to study the status of women and minority business issues. Veterans business issues would have been divisive to the women and minority issues," he replied, adding that "veterans issues are not business issues."

The administration was asked to hold a special session at the 1985 conference so that issues of small-business owners who are veterans could be examined equally with those

of other groups. One veterans organization which called for a "breakout" session for veterans in fact was included in the 1980 conference.

There appears to be willful resistance to recognize veteran business owners as a legitimate and worthy subset of the small business community, according to some veterans. A group which historically defends the concepts of democracy, capitalism and the American free enterprise system must not be denied equal access, and must be given the opportunity to share in the American Dream of owning and operating one's own business.

Robert Staiffen, director of small-business programs for the National Vietnam Veterans Coalition, said, "It appears that veteran businesses will continue to suffer from blatant economic discrimination," while others get free passage to government business assistance opportunities, often at the expense of veteran business owners.

Veterans, the only group created by the government, also constitutes the only group which up to now has been denied equal access to the free enterprise system they fought to protect so that all may prosper. \*

**OPENING STATEMENT  
THE HONORABLE MAXINE WATERS  
Subcommittee on Education, Training, Employment and Housing  
August 2, 1995**

Mr. Chairman, I, too, want to welcome our witnesses this morning. We are considering important issues today, and I look forward to hearing the comments of those who will be testifying. Their observations and recommendations will be very helpful to us as we determine what final form the bills we are considering should take.

I am particularly pleased we are considering technical and clarifying amendments to the Uniformed Services Employment and Reemployment Rights Act of 1984 (PL 103-353). Mr. Montgomery and I have introduced legislation which would make several needed adjustments, and, the sooner these changes are in place, the better.

Additionally, I am very interested in Mr. Buyer's employment-related discussion draft and the draft making several housing programs permanent. The housing draft is very similar to H.R. 1632 which I introduced in May. Several changes that I think need to be made are included in these measures.

I have some questions regarding the Veterans' Entrepreneurial Business Service Act of 1995. I do, however, have an open mind regarding this measure and am anxious to hear the comments of our witnesses.

Again, I welcome all of you here.

Thank you, Mr. Chairman.

STATEMENT BY CONGRESSMAN FRANK MASCARA

SBA/VA HEARING

AUGUST 2, 1995

GOOD MORNING MR. CHAIRMAN. I WANT TO START OFF THIS MORNING BY THANKING YOU FOR HOLDING THIS HEARING ON SUCH AN IMPORTANT TOPIC.

AS SEVERAL OF OUR WITNESSES WILL TESTIFY, A GOOD NUMBER OF OUR NATION'S VETERANS ALSO OWN AND OPERATE SMALL BUSINESSES. THESE BUSINESSES ARE ONE OF THE PRIMARY ENGINES OF OUR ECONOMY, DEVELOPING THOUSANDS OF NEW JOBS EACH YEAR.

THESE VETERANS DESERVE AND NEED OUR HELP TO FIND THE CAPITAL REQUIRED TO BEGIN OR EXPAND THEIR BUSINESSES AND TO PROCURE THE GOVERNMENT CONTRACTS THAT WILL LET THEM PROSPER.

AS A FRESHMAN MEMBER OF THIS SUBCOMMITTEE, I AM NOT AN EXPERT ON THE VETERANS' SMALL BUSINESS OFFICES OPERATED BY EITHER THE SMALL BUSINESS ADMINISTRATION OR THE DEPARTMENT OF VETERANS AFFAIRS. I HAVE NO STEADFAST OPINION ON WHETHER THE TWO SHOULD BE MERGED OR KEPT SEPARATE.

WHAT I DO KNOW IS THAT I AM TROUBLED BY THE TESTIMONY THAT WILL BE PRESENTED THIS MORNING INDICATING THAT IN RECENT TIMES VETERANS HAVE NOT RECEIVED THE ATTENTION AND TREATMENT THEY DESERVE FROM THESE OFFICES. SOME OF THE PROBLEMS OBVIOUSLY CAN BE ATTRIBUTED TO SMALL STAFFS AND REDUCED RESOURCES.

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WHATEVER THE SUBCOMMITTEE ULTIMATELY DECIDES TO DO IN THIS AREA, OUR PRIORITY MUST BE TO SEE THAT THIS SITUATION IS TURNED AROUND.

OUR SMALL BUSINESS VETERANS DESERVE NO LESS. I AM CONVINCED IF WE GIVE THEM THE PROPER RECOGNITION AND FINANCIAL ASSISTANCE, WE WILL REAP BENEFITS FAR BEYOND OUR INVESTMENT.

I ALSO WAS PLEASED TO READ THAT THE VETERANS' ORGANIZATIONS TESTIFYING TODAY ONLY HAVE WORDS OF SUPPORT FOR H.R. 1941, LEGISLATION I COSPONSORED WITH OUR RANKING DEMOCRATIC MEMBER, MR. MONTGOMERY, MS. WATERS, MR. CLYBURN AND MR. EVANS.

AS MANY OF YOU ALREADY KNOW, THIS LEGISLATION SEEKS TO CLARIFY THE EMPLOYMENT AND REEMPLOYMENT RIGHTS OF THOSE WHO SERVE OUR COUNTRY IN THE ARMED SERVICES. I JOINED THIS EFFORT BECAUSE I BELIEVE THE MEN AND WOMEN WHO SERVE IN THE MILITARY, INCLUDING RESERVISTS, MUST NOT BE DENIED THEIR RIGHTS TO RETURN TO THEIR PLACE OF EMPLOYMENT.

I AM HOPEFUL WE CAN ACT QUICKLY ON THIS BILL AND RECTIFY THE PROBLEMS THAT HAVE ARISEN IN THE PAST SEVERAL YEARS. I BELIEVE WE MUST ACT SO THAT THOSE WHO SERVE THEIR COUNTRY IN FUTURE CONFLICTS CAN DO SO WITH ASSURANCE THEY WILL HAVE A JOB WHEN THEY RETURN.

THANK YOU MR. CHAIRMAN. I LOOK FORWARD TO LEARNING A GREAT DEAL FROM OUR WITNESSES AND THIS MORNING'S DISCUSSION.

THE END

TESTIMONY OF  
JOHN K. LOPEZ, CHAIRMAN  
ASSOCIATION FOR SERVICE DISABLED VETERANS  
TO  
THE UNITED STATES HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS AFFAIRS  
AUGUST 2, 1995 WASHINGTON D.C.

## BACKGROUND

Over 635,000 men and women have died in the wars of the United States of America, including 17,034 who died in prison camps and an estimated 10,414 persons that remain classified as missing in action. An additional 327,000 veterans have subsequently died from their service disabilities.

THE SURVIVING 27,000,000 VETERANS OF OUR NATION INCLUDES OVER 100,000 WHO WERE PRISONERS OF THE WARS AND 2,100,000 WHO WERE DISABLED IN SERVICE (SDV).

As the products of direct and deliberate actions of our government, these 2.2 million service disabled veterans are entitled to unique INDEMNIFICATION and the continuous support of their rehabilitation.

"Veterans have been obligated to drop their own affairs and take up the burdens of the nation, subjecting themselves to the mental and physical hazards as well as the economic and family detriments which are peculiar to military service and which do not exist in normal civil life."

"Our country has a long-standing policy of compensating veterans for their past contributions by providing them with numerous advantages. This policy has always been deemed to be legitimate."  
(Supreme Court Justice William H. Rehnquist in a decision reaffirming the special rights of veterans, May 23, 1983).

In one area of opportunity, access to participation in the nation's economic system through business ownership, the service disabled and prisoner of war veterans of the United States need substantial assistance.

## ISSUE

"Disabled workers were almost twice as likely to be self-employed as were members of the nondisabled population. Finding it difficult to secure gainful employment from others, persons with disabilities may elect to become self-employed. Disabled women were self-employed twice as often as were nondisabled women; 10.8% versus 5.3% among men, 16.6% of disabled persons as against 10.1% of nondisabled individuals were self-employed."  
U.S. Bureau of the Census—Presidents Committee for the Employment of the Disabled.

New medical advances in prosthetics, medications and care techniques have now made it possible for service disabled and prisoner of war veterans (SDV) to pursue their rehabilitation by being owners and managers of small businesses.

The State of California has established service disabled veteran small business goals in state contracts and procurements that are available to "certified" small businesses in Article 6 Chapter 6 Division 4 of the Military and Veterans Code and Section 10108.5 of the Public Contracts Code effective January 1, 1990. Additionally, the legislation requires that businesses bidding for State of California contracts demonstrate that they are "responsive" to service disabled veteran business enterprise goals. Bidders that fail to show a good faith effort will be bypassed for contract awards to be made to the next lowest "responsive" and responsible bidder.

However, that program is being impeded by federal administration regulation of state programs that do not conform to guidelines that exclude the Service Disabled and Prisoner of War Veteran (SDV).

## FINDINGS

The U.S. Defense Department, the federal agency that "created" the Service Disabled and Prisoner of War Veteran has absolved itself of responsibility for the aspirations of these SDV. It has diverted action on their behalf to the U.S. Department of Veterans Affairs (DVA). The DVA has declined to support and implement legislation assisting SDV to pursue self-employment in a small business (Veterans Benefits Act 38 USC 1517). The DVA has instead further referred that responsibility to the U.S. Small Business Administration (SBA). That agency has totally neglected the SDV.

Although the Americans with Disabilities Act (ADA) codifies that the disabled, as a group, are to be considered socially, economically, educationally and vocationally disadvantaged, federal agencies chose to ignore that intent of the U.S. Congress.

For example, at the federal level; of the 111,000 small business loans in the nationwide portfolio of the U.S. Small Business Administration (SBA) only 67 were to service disabled veterans, (1988). Also, SBA does not offer special contract procurement assistance and "exceptional" loan benefits to SDV as a group, although it does so for select ethnic and religious groups. Of 2900 participants in the 8(a) program 6 are service disabled veterans.

Sadly, a survey of nine (9) other federal agencies reveals that these organizations do not record the inquiry incidence or award share of procurement awards to service disabled and prisoner of war veteran owned businesses (SDVB) thereby precluding specific tabulated evidence of the lack of assistance to SDVB.

A sample inquiry of 350 SDV who are starting or expanding a small business in California reports that over 300 has "negative" and "discouraging" experiences when attempting to solicit federal, state and local government for consideration equal to that of certain ethnic groups and females

In program administration, the SBA has ignored advocacy for disabled veterans' programs while increasing other SBA programs and has requested that the U.S. Congress discontinue direct loans to the "handicapped" and "veterans". Given the established and legal right of private lenders to refuse loans to documented, obvious and extraordinary risks, such as service disabled veterans, that discontinuance would remove the last source of reasonable financial assistance to the SDV. It is clear that the support for rehabilitation assistance for the SDV operating a business, must be assigned to DVA.

#### ACTION NEEDED

The most effective and permanent resolution of the denial of support for the self-employment aspirations of SDV, is the acceptance by the U.S. Department of Veterans Affairs of their responsibilities to the SDV seeking to maintain their rehabilitation by expanding or establishing a business.

For example, the procurement policies of our government are defined by statute in a number of specific regulations such as the "Federal Acquisition Regulations" (FAR).

These regulations direct the pertinent government agency to provide a program of preferences and advantages to bidders for government procurements and contracts. These programs generally specify four (4) areas of preference:

- (1) Minority and Disadvantaged Small Business
- (2) Women Owned Small Business
- (3) Businesses in Labor Surplus Areas
- (4) Small Businesses

However, a review and survey of several federal agencies reveals that there is no provision made for one of the most basic of our nations social objectives, that is: providing assistance to our service disabled and prisoner of war veteran owned and operated small businesses (SDVB) in their bidding for government grants and procurements.

Neither the U.S. Department of Veterans Affairs, the U.S. Small Business Administration nor any other U.S. Government Agency recognizes SDVB as a category of business owner to be offered consideration equal to that given to certain ethnic groups and women in government procurement programs.

#### **THIS IS AN OVERSIGHT AND AN ABUSE, WITHOUT JUSTIFICATION**

The recently enacted Americans with Disabilities Act (ADA) clearly stated the finding of the U.S. Congress and the U.S. Administration that "disabled persons, as a group, are socially, economically, educationally, and vocationally disadvantaged". This is especially pertinent to those veterans maimed and tortured in service to this nation.

A veteran discharged from military service with a permanent and continuing disability meets the socioeconomic eligibility requirements for most of the government small business assistance programs. In fact, the

service disabled veteran owned and operated small business has an additional and unique characteristic that "other presumed socioeconomically disadvantaged" preference groups do not—the stigma of the "instability of disability".

Instability due to disability is a standard consideration by the financial and insurance industry to indicate a negative factor when considering the eligibility of an individual for economic assistance. In the establishment or operation of a small business it is considered by those authorities to be evidence of instability, questionable capability and a certain liability!

**IN EFFECT, AN HONORABLE ACT OF SACRIFICE IN WAR IS CONSIDERED THE BASIS FOR DISCRIMINATION IN THE WORLD OF BUSINESS.**

Contrary to government sponsored military enlistment advertisements, the service disabled veteran is not allowed to "BE ALL THAT YOU CAN BE".

However, it is not only the private business financial industry that is unresponsive to the needs of the service disabled veteran owned and operated small business. The massive bureaucracy and regulations of the federal procurement system also give no consideration to the aspirations of the service disabled veteran who wished to do more than "sell pencils or apples on a street corner".

It is appalling that veterans who have suffered permanent disability in the direct service to our country should have their rehabilitation ignored and obstructed when they seek to overcome that disability by participating in the enterprise system of this Nation. It is even more appalling when our governments' policies ignore their needs and aspirations.

We ask that the U.S. Congress take the national initiative by implementing the proper legislation needed to include service disabled veteran owned and operated small business (SDVB) in the most advantageous system of preferences utilized by United States government agencies in their procurement practices and policies.

We would call attention to some of the constructive actions that can be taken by the Congress and the Administration, when authorizing new legislation and regulations.

That is:

- (1) Legislation must be implemented that establishes a business assistance program as a mandatory and priority activity of the rehabilitation programs of the U.S. Department of Veterans Affairs. The beneficiaries should be defined as a small business, owned and operated by a veteran discharged from active service because of a service incurred disability or a veteran found to suffer from a service connected disability subsequent to discharge (SDVB).
- (2) The SDVB should be given the first priority in all of the United States Government procurement preferences systems and it should be so stated in the various codes of federal regulations and the executive orders to the various agencies.
- (3) Legislation must establish an appropriate review group that will have the authority to examine individual agency compliance, initiatives, activities and results respective to the intent to serve the service disabled and prisoner of war veteran owned and operated small business (SDVB).
- (4) Legislation must be directed by the USDVA, an agency that presumably can coordinate the aspirations of the SDVB with other treatment and benefits.

A review of federal agency "off the record" opinions indicated that without specifically worded legislation to do so, agencies WILL NOT implement policies to assist the SDVB.

Unlike other favored groups granted preference in the United States governments procurement programs, the service disabled veteran is not a circumstance of birth or geography. The Service Disabled veterans of the United States of America are the direct product of our government policies. Their needs and aspirations are the unequivocal responsibility of the Congress, the Administration and the People of the United States of America.

SUMMARY

A recent issue of DAV magazine published a letter from a young lady in China Spring, Texas, that reminds us how easily some people in our nation forget the sacrifices of America's 27 million veterans.

"I'm a 14-year old with a grandfather who fought for this country", the letter stated. "Today, he is barely paid compensation and the VA hospital that he goes to is so horrible, I can't even begin to put it into words."

"My grandpa is crippled, can barely walk, and some days can't even get out of bed. My guess is that in the future these veterans will be forgotten by Congress and then what will these vets do? They certainly can't survive on their own."

"It seems that what they did for their country was worth nothing."

"It's time for the people in charge to stop thinking about themselves and start worrying about the people who fought in the past to provide for the young people of today", she concluded.

This 14-year old is wise well beyond her years. There are thousands of similar stories about thousands of other grandpas who once proudly served our nation.

It is obvious that the governments of this nation cannot restore the maimed bodies of these service disabled veterans but it can assist them in their struggle to maintain their rehabilitation and to participate in that economic system for which they have so greatly sacrificed and in which the people of the United States consistently benefit.

If the government and the profiting institutions of the nation are unwilling to support participation in its economic system for those citizens that were maimed and tortured for its perpetuation, it is unlikely that the system will have the support of its future citizens.

The Service Disabled veterans continuing struggle maintain their rehabilitation and to overcome disability deserves the immediate and aggressive support of the United States Congress.

### Association for Service Disabled Veterans





**S**  
SERVING  
WITH  
PRIDE



STATEMENT OF  
ROBERT P. CARBONNEAU  
AMVETS NATIONAL LEGISLATIVE DIRECTOR

before the

SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND  
HOUSING  
of the  
COMMITTEE ON VETERANS' AFFAIRS

U.S. HOUSE OF REPRESENTATIVES

on

a Draft Bill relating to the VA and the Small Business Administration;  
Technical corrections to the Uniformed Services Employment  
and Reemployment Act (USERRA); and  
a Discussion Draft regarding VETS



Wednesday, August 2, 1995  
Room 334  
Cannon House Office Building

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Mr. Chairman and members of the committee, AMVETS is grateful for the opportunity to testify before you today.

#### SMALL BUSINESS ADMINISTRATION

After looking at the draft bill to combine the Office of Veterans' Affairs at the Small Business Administration (SBA) and the VA's Office of Small and Disadvantaged Business Utilization we have come to the conclusion that there is little reason to oppose such a move. We were unable to identify any real substantive argument as to why this merge should not take place.

We were told that SBA recently reduced the staff of their Office of Veterans' Affairs from 6 to 3 FTE's. I'm sure the \$800,000 Fiscal Year 1995 budget will not only be reduced because of the FTE savings but will be squeezed even further in Fiscal Year 1996.

AMVETS reviewed a list of accomplishments provided by the SBA. We find it hard to believe that in Fiscal Year 1994 that 6 people in their Office of Veterans' Affairs played a major role in the counseling of 130,202 veterans and the training of 57,786 veterans. I would suspect their "resource partners" were the major provider of these services which appear to be Departments of Defense, Labor, and VA.

We recognize there will be an argument from some that the VA's Office of Small and Disadvantaged Business Utilization needs to continue as a stand alone. The reasons can range from possible protests from women and minority groups to what we call "turf" issues. However, we must remember that over the last decade the number of women and minorities that have served in the military has increased dramatically. At the same time the number of women and minority owned small

business has also increased. AMVETS believes that the merger will break the paradigm and bring a new energy and focus to the programs. We would expect aggressive outreach efforts to women and minority veterans who own small businesses.

Obviously, the most important aspect of this merger would be the changing of the way current staff understands and accepts their new roles. Cross-training of personnel with a focus on customer service would, in our view, be essential. The specifics of what is expected of this new office must also be clear. We would like to see this new office report directly to the Secretary.

#### VETERANS EMPLOYMENT & TRAINING SERVICE

AMVETS has long supported the requirement that Regional Administrators for VETS be veterans.

We also do not have a problem with repealing the residency requirement. If the major argument for residency is still that the individual selected would then know the state's economy, then I would say that argument is no longer valid. In today's markets we talk about global economies. Managers and administrators must have a much broader understanding of the factors driving local, state, and federal economies.

The private sector, and for that matter other federal agencies, transfer people in and out of states. They view it as an opportunity to provide experience and career growth. It also provides greater flexibility within an organization. In the late seventies and early eighties the U.S. Postal Service had a residency requirement for

all Postmaster positions. It was deemed a failure because it became a limiting factor on the numbers and quality of candidates applying for those positions.

Sections 4 and 5 of the discussion draft would allow the Assistant Secretary for VETS to develop guidelines for employment qualifications for the Disabled Veterans' Outreach Programs Specialist and the Local Veterans Employment Representatives. AMVETS is not so sure how this would work. I would venture to say that some states would have a serious problem with this proposal. However, lacking input from the states we will say that at present we have no official opinion on this issue.

The pilot program as outlined in Section 6 which would integrate and streamline functions of Local Veterans Employment Representatives we support.

USERRA

The technical corrections being offered to the Uniformed Services Employment and Reemployment Rights Act are reasonable and acceptable to AMVETS.

Mr. Chairman, that concludes my statement.

**STATEMENT OF EMIL NASCHINSKI ASSISTANT DIRECTOR  
THE AMERICAN LEGION  
NATIONAL ECONOMIC COMMISSION  
BEFORE THE  
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT  
AND HOUSING  
COMMITTEE ON VETERAN'S AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVE  
AUGUST 2, 1995**

Mr. Chairman and distinguished members of the Subcommittee: The American Legion appreciates having this opportunity to comment on the draft bill which calls for moving the Small Business Administration's (SBA) Office of Veterans Affairs (OVA) to the Department of Veterans Affairs (VA) and combining it with VA's Office of Small and Disadvantaged Business Utilization (OSDBU). We are also pleased to have this opportunity to share our views on another draft bill, which would amend VA's Loan Guaranty Program and on H. R. 1941 which provides for making certain clarifying and technical amendments to existing veterans' reemployment rights (VRR) statutes.

Mr. Chairman, The American Legion believes small business is the backbone of this nation's economy. It has been one of the driving forces behind America's past economic growth. Currently, small business is the largest employer in the country with over 30 percent of all small businesses being owned and operated by veterans. Before commenting on the draft legislation before this Subcommittee, we would like to take just a moment to review the history of federal assistance to veteran-owned small businesses. The first such program dates back to 1944. In that year, Congress passed the Servicemen's Readjustment Act of 1944. Among other things, that monumental piece of legislation established a small business loan program for World War II veterans that was to be administered by VA. The program's first eight years were so successful that Congress later opened it to Korean War veterans.

In 1953 Congress passed legislation that created the SBA and provided for the transfer of the veterans' loan program to the new agency. Despite the 1974 passage of PL 93-237, which mandated the SBA to provide "special consideration to veterans of the Armed Forces of the United States and their survivors and dependents," little was done until 1980 to promote the SBA's veterans' programs.

Following enactment of PL 93-237, it was nearly two years before the regulations implementing "special consideration" were printed. Even then, nothing in the regulations established veterans as a special or priority agency concern.

Following oversight hearings that were held in the House and Senate in 1980, the SBA initiated steps toward implementation of the law. First, SBA appointed Veterans' Affairs

Officers in each of its district offices and gave them responsibility for providing "special consideration" to veteran-entrepreneurs. Second, SBA initiated an outreach campaign to ensure veterans were aware of their rights and to provide them with information and assistance. Over the next few years a genuine partnership was formed between the SBA's OVA and the veterans' service organizations (VSOs) as we worked together to develop a meaningful veterans' program.

In 1981, Congress established a task force consisting of representatives of SBA, VA, the VSOs and the Department of Labor. That task force was charged with the responsibility of thoroughly defining SBA's responsibilities to veterans and for making recommendations for future actions. In May of that year, the SBA's Administrator, James Saunders, issued a policy statement which detailed the agency's mission regarding veterans.

Over the next eight years, the SBA demonstrated a sincere commitment to veterans. Unfortunately, in 1989, when a new Administrator was appointed, SBA's support for OVA and its commitment to veterans evaporated. Because of that Administrator's interest in promoting other programs within the SBA, veterans were forgotten by the agency.

The next Administrator not only continued the policies of her predecessor, but also refused to reconstitute SBA's Veterans' Advisory Committee. As a result, 27 million veterans have not had a formal voice at the agency since June of 1992. We must also point out, Mr. Chairman, that every SBA Administrator since 1989 has refused to meet with representatives of the veterans' community to discuss our concerns. The American Legion finds the SBA's attitude towards veteran-entrepreneurs these past six years to be intolerable.

Under the leadership of the current Director of OVA, and in spite of a lack of support and resources, that office has made a valiant effort to fulfill its mission and continue an ongoing dialogue with the veterans' community. During SBA's recent reorganization, OVA's staff was reduced from six to three. As a result, that office will now be able to do little more than serve as an advisor to the Administrator.

We have also been informed that SBA's Regional Offices (ROs) are no longer required to have full-time Veterans' Affairs Officers. It is The American Legion's understanding that the SBA's Regional Directors will now appoint one person at each RO who will, among other things, assist veterans. We see these actions as another indication of SBA's lack of concern for veterans.

Mr. Chairman, The American Legion fully understands the need to reduce the size of government. However, we question the wisdom of cutting successful programs that can assist deserving Americans in finding and maintaining meaningful employment.

Today, more than ever before, entrepreneurship is taking on new meaning. With the downsizing of the military, the reinvention of government and cutbacks by many of our

national corporations, we believe this is precisely the time when Congress should expand programs such as OVA .

Attached to our written statement is a copy of Resolution #90 that was adopted last year at The American Legion's Seventy-sixth Annual National Convention. Based on the final resolve clause of that resolution, we would support the draft bill provided that the following concerns are addressed.

First, the bill calls for placing the proposed Veterans Entrepreneurial Business Service under VA's Veterans Benefits Administration (VBA), whereas the Director of OSDBU currently answers directly to the Secretary. We believe that putting the new service under VBA would be a mistake because it would reduce its authority within the agency. We further oppose this provision because it is in direct contradiction with section 15(k)(3) of the Small Business Act which states that each federal agency shall have an OSDBU and that the management of that office shall report directly to, the head of that agency.

Mr. Chairman, on March 3, 1995, OSDBU issued a news release regarding "Target 95". That initiative was designed to ensure that minority and women-owned small businesses receive more contracts for the goods and services purchased by VA.

Sadly, the news release did not indicate what VA's 1995 goals are regarding the promotion of business opportunities for veterans. While The American Legion is not opposed to VA's Target 95 goal, we believe it is ironic that VA is not aggressively seeking out veteran-owned small businesses and assisting them in participating in VA business opportunities.

Our second concern with the bill is that it does not explain what kind of resources will be made available to the new Veterans Entrepreneurial Business Service. In a letter to SBA's Congressional Liaison, this Subcommittee indicated that moving OVA to VA would be "cost-neutral." We assume that means that no additional resources would be forthcoming. If that is the case then we would be opposed to the move. Congress must be willing to commit the resources necessary to allow the new program to operate effectively and efficiently.

The American Legion is also concerned because the draft bill does not focus on the role of the new service. We believe that this Subcommittee must be very clear about what it wants to achieve and how it is going to get there. Of course, Mr. Chairman, The American Legion will be happy to work with the Subcommittee on creating a meaningful program that will truly meet the needs of this country's veteran-entrepreneurs.

With respect to the second draft bill, which would amend the VA's Loan Guaranty Program, The American Legion has no problem with making certain demonstration projects permanent with one exception. We are opposed to removing the expiration date for the Negotiated Interest Rate provision. Until changes were made at the request of the

mortgage industry, the interest rates for VA guaranteed loans were set and adjusted periodically by the Secretary. We wish to see a return to that system.

Lenders are making loans under the VA guaranty program at the market rate with no risk to themselves. In essence they are being paid for assuming a risk that does not exist. If the buyer defaults, the lender gets paid for the remainder of the loan by VA, or gets title to the property which can then be sold to satisfy the loan. The veteran pays more and the lender assumes no risk. That is a good deal for lenders but not for the veteran borrower.

The American Legion would recommend terminating this paragraph of Title 38 USC on December 31, 1995, when the program expires.

In regards to H.R. 1941, The American Legion fully supports this measure. The United States is becoming increasingly more dependent on this nation's reserve component for our national security. As a result, we believe that it is wise to protect our young men and women in uniform by ensuring that if they are called up for active duty, their jobs will be protected in their absence. The American Legion appreciates this Subcommittee's interest in strengthening the existing VRR statutes.

Mr. Chairman, thank you again for allowing us this opportunity to voice our views. We will be happy to answer any questions you may have.

STATEMENT OF  
BOB MANHAN, ASSISTANT DIRECTOR  
NATIONAL LEGISLATIVE SERVICE  
VETERANS OF FOREIGN WARS OF THE UNITED STATES  
BEFORE THE  
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING  
COMMITTEE ON VETERANS AFFAIRS  
UNITED STATES HOUSE OF REPRESENTATIVES  
WITH RESPECT TO  
**A NEW VETERANS ENTREPRENEURIAL BUSINESS SERVICE AT VA; TECHNICAL  
CORRECTIONS TO THE USERRA AND CONSIDERATION OF SEVERAL DRAFT BILLS**  
WASHINGTON, DC  
AUGUST 2, 1995  
MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

Thank you for inviting the Veterans of Foreign Wars of the United States (VFW) to participate in this important hearing. The VFW adheres to the principle that it is absolutely necessary that our nation continue to honor its obligation to give veterans priority and preferential employment services as well as top quality assistance in becoming small business entrepreneurs.

The remainder of this VFW statement is structured in the following order and provides rationale for the positions we take today regarding:

- draft bill to combine the Office of Veterans' Affairs at the Small Business Administration and the VA's Office of Small and Disadvantaged Business Utilization under a new Veterans Entrepreneurial Service at VA. We do not support this proposal.
- H.R. 1941, a bill to clarify the rights and responsibilities of members of the uniformed services, as well as those of the employer community, as stated in the Uniformed Services Employment and Reemployment Rights Act (USERRA). We support all suggested modifications.
- a draft bill to improve the veterans employment and training system. The VFW concurs with all proposed changes except to eliminate the residency requirement for State Director for Veterans Employment and Training.
- a draft bill to extend permanently some basic provisions relating to loan guaranty and insurance. The VFW has no objection to making this a permanent program;
- changing the expiration date of the Homeless Veterans Comprehensive Service Programs Act of 1992. Again the VFW has no objections.

**Veterans Entrepreneurial Business Service (VEBS)**

By way of background, nearly three years ago during very spirited hearings on the Reemployment Act before the House Veterans Affairs Committee, it was noted that the

1990 census revealed there are more than 4 million veteran-owned businesses in America. This revelation, coupled with the fact that small businesses in contrast to large businesses are the greatest creators of jobs in the economy today. Therefore, in the judgment of the VFW, this is all the more reason that attention needs to be given to small businesses in general and veteran-owned small businesses in particular.

Throughout the years, the VFW routinely receives letters and telephone calls from veterans who are small business owners and from veterans seeking to start-up a business. Approximately two-thirds of all our business related contacts are of a complaint nature. The complaints that we hear most deals with the problems of: (1) not enough government assistance for veterans who want to start their own business; (2) lack of access to capital; and (3) lack of access to federal contract markets.

Based on the problems we are hearing about, we do not feel that creation of VEBS within VA will significantly enhance creation and expansion of veteran owned businesses, nor solve any of the problems cited.

Our concerns are several:

The Department of Veterans Affairs' major focus and mission is health care services and delivery. While VA certainly has very capable staff and some expertise in small business assistance, we do not feel VA has the expertise nor a complement of business support services and programs at a level that would contribute to the success of the VEBS. On the other hand, the Office of Veterans Affairs at the Small Business Administration is surrounded by complementary services and programs. SBA has an incomparable level of expertise in direct loans and guaranties, it administers the Small Business Development Centers Program, and programs of management and technical assistance, and has a long-time working relationship with the Service Corps of Retired Executives (SCORE). In view of these facts, we continue to feel that the SBA, with a pro-small business focus and mission, is the best possible environment for any program of business assistance for veterans.

With respect to the provision that requires the Secretary of VA to promote veteran-run businesses through memoranda of understanding (MOU) and working relationships with private associations, this too is a function that can best be carried out by the SBA Office of Veterans Affairs with greater support from the SBA administrator.

Section 7704 (b)(1) of the draft which addresses the transfer of certain SBA and VA personnel appears to contravene legislation which established the Office of Small and Disadvantaged Business Utilization (OSDBU). It is our understanding that a key function of the OSDBU is to monitor agency contracting activity and to assist the Secretary in developing agency-wide contract performance goals. Clearly, in order to be effective in carrying out the OSDBU function, a director would need to have easy access to the Secretary, as is already provided under existing law.

This subcommittee should be aware, however, that the SBA office of Veterans' Affairs has never had the financial resources or the personnel to do the job it is expected to do in terms of operating a nation-wide program of assistance for veteran-owned businesses. In this regard, we urge the congress take immediate steps to put more resources into the Veterans Affairs office at the SBA.

**H.R. 1941. A bill introduced by Mr. Montgomery on June 28, 1995**

The purpose is to amend title 38, USC, to make clarifying and technical amendments to further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community. The VFW concurs with all suggested changes as proposed, as stated above.

**DRAFT BILL: to amend title 38, USC, to improve the veterans employment and training system.** This discussion draft is dated July 21, 1995, and is offered by the Subcommittee Chairman Mr. Buyers. We note that with few exceptions these proposals are consistent with previous reinvention recommendations made by the Assistant Secretary for Veterans Employment and Training (ASVET) with the objective of streamlining and improving that agency's operations.

As an aside, the VFW thanks you, Mr. Chairman, and all the members of this subcommittee for moving so quickly on such an important issue. Our section by section comments are:

**Regional offices for veterans employment and training**

The discussion draft proposes to amend section 4102A (e) of title 38, USC, to the extent that the Secretary of Labor would be authorized to assign Veterans Employment and Training Service (VETS) Regional Administrators in a manner that best supports effective operation of the agency. We interpret this amendment as giving the Secretary the added flexibility of reconfiguring geographic boundaries of regions as well. We favor this amendment, including the proviso establishing that each administrator appointed after enactment shall be a veteran.

**Elimination of residency requirement for state director for Veterans Employment and Training (SDVET)**

The proposal seeks to amend section 4103 (b) (1) of title 38, USC, by removing the current two year state residency requirement which applies in the appointment of state directors. Historically, we have opposed this change.

Our major concern is that SDVET positions are filled by experienced Local Veteran Employment Representatives (LVER), Disabled Veterans Outreach Program (DVOP) specialists, and local office managers. These individuals have great knowledge of their state's economic conditions, veterans' population, political leaders, and other institutions. If the state residency requirement is removed, it is likely that up to 16 small states would lose the opportunity to have a local veterans' expert fill any vacancy that might occur. With removal of the residency requirement, it is probable that all further SDVET vacancies will be filled by assistant directors from large states. It is this probability that we oppose.

We support that portion of the amendment that seeks to redesignate "full-time federal clerical support" to "federal clerical or other support personnel." During previous briefings, it has been explained and we concur, that the designation "federal clerical or other support personnel" is made reflective of the work incumbent personnel actually do. Also, the change in our opinion would give VETS added flexibility in developing career

tracks for clerical and support personnel. The proposed change, we believe, would be a great boost for the morale of clerical and support staff.

**Employment qualifications for Disabled Veterans' Outreach Program specialists (DVOPS) and Local Veterans Employment Representatives (LVERS).**

We support efforts to amend sections 4103 A(a) and 4104(a) of title 38, USC, for the purpose of giving the Assistant Secretary of Labor for Veterans Employment and Training the authority to develop guidelines for employment qualifications for the two types of veterans employment specialists noted. In view of the fact that each of the states currently determines its own employment qualifications for LVER and DVOP positions, there is great variation from one state to the next. We believe that development of a standard guidelines that all states could follow will enhance the quality and professionalism of the LVER and DVOP programs.

**Authority to conduct a pilot program**

The VFW has not been previously briefed on this concept nor any of the possible implications. Therefore, we do not feel we can for this reason offer any well thought out comments on section 5, entitled "Pilot Program To Integrate And Streamline Functions Of Local Veterans' Employment Representatives And Disabled Veterans' Outreach Program Specialists."

**Draft Bill to amend title 38, USC, to extend permanently certain housing programs, and for other purposes**

Chairman Buyer is the sponsor of this bill. In summary, the thrust is to remove the expiration date of December 31, 1995, in those sections of the code that deal with negotiated interest rates, energy efficient mortgages and the authority of lenders of automatically guaranteed loans to review appraisals. The VFW has no objection to make these all permanent programs.

**Homeless Veterans Comprehensive Service Program Act or P.L. 102-590**

This piece of legislation became law on November 10, 1992. This program was originally established as a pilot program to operate through September 30, 1995, to expand and improve the provision of benefits and services by VA to homeless veterans. The thrust of the Chairman's action here is to make the program permanent. In essence, this will require some \$48 million to be appropriated in FY 1996 specifically for homeless veterans. Just as long as money for this program does not diminish FY 1996 appropriations for health care and/or compensation programs the VFW has no strong objection to this proposed action.

This concludes the VFW's formal statement. I am prepared to answer any questions this committee may have. Thank you, Mr. Chairman.

STATEMENT OF  
RONALD W. DRACH  
NATIONAL EMPLOYMENT DIRECTOR  
DISABLED AMERICAN VETERANS  
BEFORE THE  
SUBCOMMITTEE ON EDUCATION  
TRAINING, EMPLOYMENT AND HOUSING  
OF THE  
COMMITTEE ON VETERANS AFFAIRS  
U.S. HOUSE OF REPRESENTATIVES  
AUGUST 2, 1995

MR. CHAIRMAN AND MEMBERS OF THE SUBCOMMITTEE:

On behalf of the more than 1.2 million members of the Disabled American Veterans (DAV) and its Women's Auxiliary, I want to take this opportunity to thank you for conducting this hearing today so that we may discuss various items to include small business opportunities for veterans.

SMALL BUSINESS ADMINISTRATION

Mr. Chairman, the DAV has long had an interest in ensuring veterans, especially disabled veterans, have adequate opportunities to start their own business and compete for federal contracts once established. We have, over the years, worked closely with officials of the Small Business Administration's (SBA's) Office of Veterans Affairs and the Department of Veterans Affairs' (VA's) Office of Small and Disadvantaged Business Utilization. DAV has also worked with other organizations on possible legislation that would establish special status in SBA activities for businesses owned by people with disabilities, including disabled veterans.

As you are aware, other than "special consideration" for veterans under current SBA law, there are no special provisions for veterans attempting to start their own businesses and perhaps more importantly, no special consideration is given to veteran owned businesses wanting to do business with the federal government. By contrast other targeted groups received "set asides" which are a percentage of federal contracts let by federal departments and agencies. We believe veteran-owned businesses deserve no less.

While we have no National Convention mandate dealing with the transfer of the veteran programs at SBA to the VA, we do, however, support legislation that would authorize direct loans to qualified disabled veterans and provide "set asides" for disabled veteran-owned businesses (see attached DAV Resolution No. 342). We have no objection to that concept being extended to all veteran-owned businesses or for those who wish to start their own business.

DAV believes that federal departments and agencies can take immediate steps to increase the number of veteran-owned businesses contracting with the federal government. They can accomplish this, Mr. Chairman, by conducting outreach and encouraging veteran-owned businesses to apply for contracts. This has been done successfully by the VA for a number of years. When former VA Administrator Harry Walters learned that there were no special provisions for veteran-owned businesses, he started an outreach program that has continued and resulted in more contracts being entered into with veteran-owned businesses. I am attaching a copy of a recent letter sent to the VA's Office of Small and Disadvantaged Business Utilization and their response. DAV is pleased to see the increased involvement of veteran-owned businesses.

(2)

In reviewing the Discussion Draft dated July 20, 1995, we were especially pleased to see Section 7704(e) would "...give priority in providing services under this section in the following order: (1) veterans with service-connected disabilities..." Mr. Chairman, as you would expect, the DAV certainly supports the concept that disabled veterans should have priority in all programs and services administered by the VA or other government agencies.

#### USERRA

Mr. Chairman, the DAV has no opposition to the technical corrections being offered to the Uniformed Services Employment and Reemployment Rights Act (USERRA).

#### VETERANS' EMPLOYMENT AND TRAINING SERVICE

Mr. Chairman, you also asked us to comment on a Discussion Draft dated July 24, 1995, which is intended "To amend Title 38, United States Code, to improve the veterans employment and training system, and for other purposes." Section 1 of that discussion draft amends Section 4102A(e) of Title 38, and authorizes the Secretary of Labor to "assign regional administrators for Veterans' Employment and Training in such regions as the Secretary may determine are necessary for the effective administration of the Veterans' Employment and Training Service (VETS). Each regional administrator first appointed after the date of this subsection shall be a veteran."

Mr. Chairman, current law requires the Secretary to "assign to each region for which the Secretary operates a regional office a representative of the Veterans' Employment and Training Service..." The DAV believes that wherever the Secretary of Labor operates a regional office for the Employment and Training Administration (ETA), a regional office for the VETS should also be established. We have no opposition to the reduction of the current numbers of Regional Administrators provided they coincide with the number for ETA. We believe it's imperative that ETA and VETS work closely together at the national level and regional level. If a regional office for VETS is nonexistent, then VETS will not "be at the table" when Regional Administrators of ETA are discussing programs and policies within that region. Veterans will be left out.

We urge you to amend your current draft to read as follows: "(1) the Secretary of Labor is authorized to assign Regional Administrators for Veterans' Employment and Training in such regions as the Secretary has established Regional Administrator positions in the Employment and Training Administration."

We support the requirement that Regional Administrators for VETS be veterans.

Mr. Chairman, Section 3 of the discussion draft amends Section 4103(b)(1) of Title 38, United States Code to allow the Secretary to appoint "...any qualified veteran to the positions of Director for Veterans' Employment and Training, and Assistant Director for Veterans' Employment and Training for a State." As you know, current law requires the individual who is appointed must be a bonafide resident of the state for at least two years. This proposal would repeal the so-called "residency requirement." The DAV has long supported the idea of repealing that residency requirement.

(3)

Mr. Chairman, arguments have been made that the residency requirement is needed because the individual selected would then know the state's economy. We believe that to be a specious argument and residing in the state for at least two years is not a bonafide job qualification. To our knowledge, this is the only position in the federal government which requires such a residency requirement.

The VA and other federal departments and agencies constantly transfer people in and out of a state without any regard to residency. A prime example is VA Regional Offices and Medical Centers. It is no more a bonafide job qualification to be a resident of the state for those two positions any more than it would be for a State or Assistant State Director for VETS. However, we know all too well the seriousness of this proposed change and have dealt with its complexity and volatility in the past.

In order to alleviate some of the concerns and offer a compromise, we recommend that you consider a waiver to current law that would allow a substitution of two years experience as an Assistant State Director in lieu of the current residency requirement. That proposal is contained in Resolution No. 343 unanimously adopted at our recently concluded National Convention last week. A copy of Resolution No. 343 is attached.

Mr. Chairman, we have no position on Section 4 and Section 5 of the draft discussion which would allow the Assistant Secretary for VETS to develop guidelines for employment qualification for both Disabled Veterans' Outreach Program Specialist and Local Veterans' Employment Representatives.

We have no objection to Section 6 which would provide a "pilot program to integrate and streamline functions of Local Veterans' Employment Representatives."

Section 6(f) outlines definitions for purposes of Section 6. Subsection (4) defines an economically disadvantaged veteran. We suggest you include language that would specifically exclude all VA benefits from income being considered in determining who is economically disadvantaged.

Mr. Chairman, that concludes our statement and I will be happy to answer any questions.

RESOLUTION NO. 342  
EMPLOYMENT

PROVIDE DIRECT LOANS AND  
"SET ASIDES" FOR DISABLED VETERANS

WHEREAS, many disabled veterans would like to start their own business but cannot obtain the needed loan; and

WHEREAS, many disabled veteran owned businesses would like to do business with the federal government; NOW

THEREFORE, BE IT RESOLVED that the Disabled American Veterans in National Convention assembled in Las Vegas, Nevada, July 23-27, 1995, supports legislation that would authorize direct loans be provided by the federal government to qualified disabled veterans; and

BE IT FURTHER RESOLVED that the federal government provide "Set Asides" for disabled veteran owned businesses that are the same as but separate and apart from the 8A set asides.

\* \* \*



B

*Motto: "If I cannot speak good of my comrade, I will not speak ill of him."*



## DISABLED AMERICAN VETERANS

NATIONAL SERVICE and LEGISLATIVE HEADQUARTERS  
807 MAINE AVENUE, S.W.  
WASHINGTON, D.C. 20024  
(202) 554-3501

April 19, 1995

Mr. Scott F. Denniston (005SB)  
Director  
Office of Small and Disadvantaged  
Business Utilization  
VA Central Office  
810 Vermont Avenue, N.W.  
Washington, D.C. 20420

Dear Mr. Denniston:

I recently read a news release where the Department of Veterans Affairs (VA) has taken aggressive steps to do more business with minority and women-owned enterprises.

Under current law, a certain amount of your contracts are "set aside" for disadvantaged businesses. While we have no objection to the VA doing business with such contractors, we question what is being done to increase the VA's procurement contracts with veteran and disabled veteran-owned businesses.

As you will remember, several years ago former Administrator Harry Walters initiated an aggressive public information and outreach program to veteran-owned businesses. I recall for a number of years thereafter there was a steady increase in VA contracts with such veteran-owned companies.

I would appreciate it if you could tell the Disabled American Veterans what the current status of that effort is and provide us with data for the last five years comparing the number of contracts entered into with minority owned businesses, women-owned businesses, veteran-owned businesses, and disabled-owned businesses. Thanks in advance for your anticipated cooperation.

Sincerely,

RONALD W. DRACH  
National Employment Director

RWD:mb

*all staff***Department of  
Veterans Affairs****Office of Public Affairs  
News Service**Washington, D.C. 20420  
(202) 273-5700**News Release****FOR IMMEDIATE RELEASE****VA HAS BIG PLANS FOR SMALL BUSINESS**

The Department of Veterans Affairs (VA) will spend more than a billion dollars with small businesses this year and is taking steps to make sure more of those dollars go to minority and women-owned enterprises.

Those efforts were outlined at a recent meeting with national representatives of the minority and women-owned small business communities called by VA's Office of Small and Disadvantaged Business Utilization (OSDBU).

Deputy Secretary of Veterans Affairs Hershel Gober noted at the meeting that VA's 1995 small business contract award goal had increased in all categories. "For these vendors, our goal is to increase procurements by more than 45 percent, to nine percent of our total procurements (approximately \$200 million). We also expect to significantly increase awards to women-owned small businesses and have established a goal of six percent of procurements to those firms."

"As we increase our contracts with minority and women-owned business," elaborated Scott Denniston, OSDBU director, "we are trying to broaden our scope as well and buy from those we haven't done business with before."

Each of VA's 172 medical centers has been tasked with doing business with at least one "new" small disadvantaged business this year. In addition, VA's "Target 95" program has targeted 38 VA medical centers for special assistance in attaining small business procurement goals. OSDBU staff will hold meetings with hospital acquisition staff, Small Business Administration officials and business trade representatives to explore local procurement environments, introduce VA buyers to local minority sellers and open lines of communication.

-more-



DEPARTMENT OF VETERANS AFFAIRS  
Office of Small and Disadvantaged Business Utilization  
Washington DC 20420

JUN 2 1995

In Reply Refer To:

Mr. Ronald W. Drach  
Disabled American Veterans  
National Employment Director  
807 Maine Avenue, S.W.  
Washington, DC 20024

Dear Mr. Drach:

Thank you for your letter expressing interest in U.S. Department of Veterans Affairs (VA) business opportunities for veteran-owned small businesses.

I am pleased to inform you that VA has an initiative, titled "Target 95," that does include veteran-owned small business acquisition goals. The news release that you read did not mention veterans because the meeting that led to the article focused on small disadvantaged and women-owned businesses. I invite Disabled American Veterans (DAV) to begin to work with VA towards a similar discussion regarding veteran-owned small businesses.

As you may know, VA has no authority to set-aside procurements for veteran-owned businesses. In fact, no "set" amount of contracts or dollars can be set aside for any business category. Under the authority of Section 8(a) of the Small Business Act of 1958 (as amended), VA can limit negotiations to only certified 8(a) firms in certain instances. This only allows VA to negotiate with these firms first (on designated 8(a) procurement actions); it does not guarantee an award will be made.

The Secretary of VA believes it is important to provide support to our veteran customers wherever possible. Thus, he established the veteran-owned small business goal of 8% of total procurement for Fiscal Year 1995 to illustrate this belief. Be assured, veteran-owned small business goals receive the same aggressive attention and support as the other acquisition goals.

I have enclosed information about VA accomplishments with women, minority and veteran-owned businesses for the years 1991 through 1994. I also included year-to-date information for 1995. This information shows the total dollar amount of contracts awarded during each year. The minority figures include 8(a) contract awards. The veteran figures include awards to disabled veteran-owned and Vietnam era veteran-owned businesses.

Page 2.  
Mr. Ronald W. Drach

As you can see, awards to veterans have increased steadily and noticeably since Secretary Brown assumed the role of leadership at VA. Also, you will notice that awards to veterans have exceeded women-owned businesses and kept pace with awards to minority-owned businesses.

Acquisition goals are challenging and require all concerned parties to expend an extra effort to help attain them. My office employs a Small Business Outreach Coordinator who is available for meetings and discussions on ways to help small business owners do business with VA. Please contact Robert Moore if you would like to explore ways in which DAV and VA can cooperate to assist small veteran-owned businesses in their efforts to do business with VA. He can be reached at (202) 565-8124.

Sincerely yours,



Scott F. Denniston

Enclosures

**YEARS 1991 TO 1995****TOTAL****PROCUREMENT (T/P)**  
(thousands)

<b>FY91</b>	<b>FY92</b>	<b>FY93</b>	<b>FY94</b>
\$3,484,466	\$3,740,667	\$3,919,013	\$4,114,752

**Minority-owned**

Total amount	\$130,936	\$125,917	\$198,359	\$263,645
Percent of T/P	3.76%	3.36%	5.06%	
	6.41%			

**Women-owned**

Total amount	\$67,487	\$82,585	\$90,999	\$155,894
Percent of T/P	1.87%	2.21%	2.32%	
	3.79%			

**Veteran-owned**

Total amount	\$41,416	\$129,150	\$210,900	\$237,120
Percent of T/P	1.19%	3.45%	5.38%	
	5.76%			

**YEAR-TO-DATE (1995)****Minority-owned**

Total amount	\$97,571
Percent of T/P	6.18%

**Women-owned**

Total amount	\$86,616
Percent of T/P	5.49%

**Veteran-owned**

Total amount	\$83,842
Percent of T/P	5.31%

RESOLUTION NO. 343  
EMPLOYMENT

TO AMEND THE RESIDENCY REQUIREMENTS FOR  
STATE DIRECTORS AND ASSISTANT STATE DIRECTORS  
OF THE VETERANS' EMPLOYMENT AND TRAINING SERVICE

WHEREAS, the Congress of the United States has enacted legislation providing for a Veterans' Employment and Training Service within the Department of Labor; and

WHEREAS, the Act provides that the State Director and the Assistant State Director of the Veterans' Employment and Training Service shall be a veteran, and at the time of appointment shall be a bona fide resident of that state for at least two years; and

WHEREAS, this provision prohibits promotional opportunities for Assistant State Directors to other states and restricts them to their own states; NOW

THEREFORE, BE IT RESOLVED that the Disabled American Veterans in National Convention assembled in Las Vegas, Nevada, July 23-27, 1995 go on record in support of a waiver to substitute two years' experience as an Assistant State Director in lieu of the current residency requirements, thereby allowing Assistant State Directors the opportunity to compete for State Director positions as they become vacant.

\* \* \*

**Mortgage Bankers  
Association of America**

1125 15th Street, N.W.  
Washington, D.C. 20005-2766  
Tel: (202) 861-6500

The National Association  
of Real Estate Finance

**STATEMENT OF**

**ROBERT M. O'TOOLE**



**SENIOR STAFF VICE PRESIDENT FOR**

**RESIDENTIAL FINANCE/GOVERNMENT AGENCY RELATIONS**

**MORTGAGE BANKERS ASSOCIATION OF AMERICA**

**WASHINGTON, DC**

**ON BEHALF OF THE**

**MORTGAGE BANKERS ASSOCIATION OF AMERICA**

**before the  
Subcommittee on Education, Training,  
Employment and Housing  
Committee on Veterans' Affairs  
United States House of Representatives**

**Hearings on  
Pending Veterans Legislation**

**August 2, 1995**

Mr. Chairman and Members of the Subcommittee, I am Robert M. O'Toole, Senior Staff Vice President for Residential Finance/Government Agency Relations for the Mortgage Bankers Association of America on whose behalf I am appearing before you today.<sup>1</sup> Accompanying me today are Michael J. Ferrell, MBA's Senior Staff Vice President and Legislative Counsel and Burton C. Wood, MBA's Senior Staff Vice President.

MBA appreciates the opportunity to testify on the various proposals in the draft legislation by Chairman Buyer making permanent various provisions of the VA Home Loan Guaranty program, as well as other veterans legislative issues.

This is the 51st anniversary of the "Serviceman's Readjustment Act," which created the VA Home Loan Guaranty Program. Under the program, the VA has guaranteed loans on nearly 15 million homes, totalling in excess of \$459 billion.

The mortgage banking industry is proud of the role it has played in making home ownership possible under the program for this country's veterans from World War II, as well as from the Korean, Vietnam, and Desert Storm conflicts. Mortgage bankers have consistently originated the

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<sup>1</sup>MBA is the national association representing exclusively the real estate finance industry. Headquartered in Washington, D.C., the association works to ensure the continued strength of the Nation's residential and commercial real estate markets; to expand homeownership prospects through increased affordability; and to extend access to affordable housing to all Americans. MBA promotes fair and ethical lending practices and fosters excellence and technical know-how among real estate finance professionals through a wide range of educational programs and technical publications. Its membership of over 2,700 companies includes all elements of real estate finance: mortgage companies; savings and loan associations; commercial banks; savings banks; life insurance companies; state housing finance agencies; and others in the mortgage lending field.

vast majority of the loans made under the program. In 1994, \$48 billion of VA loan originations were made, of which 85 percent or some \$42 billion were made by mortgage companies. We look forward to continuing this central role in the future.

#### **NEGOTIABLE INTEREST RATE AND ARM PROGRAM**

MBA strongly supports those provisions of the extender bill that would make permanent the authority of the veteran home buyer to negotiate the mortgage interest rate applicable to the veteran's loan, and the permanent extension of the VA Adjustable Rate Mortgage (ARM). Both of these provisions have been of great assistance in making available to veterans the widest possible financing opportunities. The negotiable rate provision and the ARM program were enacted on a demonstration basis in October 1992--the interest provision expires December 3, 1995, and the ARM program expires September 30, 1995.

Anecdotal information from our members with almost three years of experience under the provisions indicates that the results are greatly beneficial to veteran borrowers. We see no reason not to make these provisions permanent.

#### **LAPP PROGRAM**

MBA supports the permanent extension of the Lender Appraisal Processing Program (LAPP). By allowing the mortgage lender to process the appraisal, the VA is able to reduce costs, the veterans are able to obtain their loans faster, and the lender can provide better and more timely service.

\* \* \* \* \*

In addition to the provisions in the draft legislation on which we have commented, I would like to call your attention to some other legislative issues, that, if enacted, could greatly improve the loan program.

#### **LENDER SELECTION OF APPRAISERS**

Under the VA Home Loan Guaranty Program, the VA, by law, is required to approve and to rotate the assignment of residential loan appraisers to VA home loan cases. We believe this requirement is obsolete and should be eliminated. First, the mortgage lender and the veteran must deal with that assigned appraiser without regard to the quality of the appraiser's work or the appraiser's workload.

Second, the "Financial Institutions Reform, Recovery and Enforcement Act of 1989" (FIRREA) established a nationwide requirement that, by January 1, 1993, all residential appraisers must have met state-established appraisal standards with respect to education and experience. This mitigates against the need for the statutory restriction. Indeed, FHA has implemented appraiser selection procedures, as approved in the 1990 Housing Act, which rely on the FIRREA appraiser qualification provisions. FHA and the mortgage banking industry have been pleased with the results of the new procedures.

Third, the elimination of the VA appraisal provisions would eliminate many of the loan application processing delays that currently arise under the VA program whereby VA staff must

assign an appraiser for each case and continually update the list of approved appraisers. This would enable VA to use staff resources for other critical functions, and veterans would benefit from more expeditious processing of their loan applications.

MBA, therefore, urges Congress to amend the Act to permit lenders to select appraisers, so long as they meet state appraiser certification requirements, as established under FIRREA.

#### **"TWO STEP" MORTGAGES**

Congress has now authorized two mortgage guaranty products under the VA insurance program: the traditional fixed rate mortgage and the more recently approved one-year adjustable rate mortgage (ARM). The mortgage market has now developed a variety of "two step" mortgages that have lower initial rates than fixed rate mortgages and less frequent rate adjustments than one-year ARMs. The payment stays the same, for example, for the first five or seven years and is then adjusted to a market rate for the remainder of the term of the mortgage. The veteran homebuyer would be the clear beneficiary of this mortgage product, which is commonly available to conventional homebuyers. MBA recommends, therefore, that Congress give the VA authority to originate "two step" mortgages.

Finally, I would like to call your attention to the need to update the "Soldiers' and Sailors' Relief Act of 1940" (SSCRA).

**SOLDIERS' AND SAILORS' CIVIL RELIEF ACT**

SSCRA requires lenders to reduce the interest rate on loans of persons called to active military service to no higher than 6 percent.

In the 1940s, Congress enacted the Soldiers' and Sailors' Civil Relief Act (SSCRA). SSCRA requires lenders to reduce the interest rate on loans of persons called to active military service to no higher than 6 percent. A major provision of the Act provides that for any debt, including mortgages incurred prior to active duty, the interest rate on the loan may not exceed 6 percent per annum, unless in the opinion of the court, upon application by the lender, the borrower's ability to pay more than 6 percent is not materially affected by reason of military service. Another key provision prevents the foreclosure or seizure of property for nonpayment of any amount due while the person is on active duty or within three months thereafter.

At the time SSCRA was adopted, with its 6 percent cap on the interest rate that active duty service personnel could be charged, mortgage interest rates were 4.5 percent. The application of this outdated provision has already proved extremely costly to lenders. Its application in the future carries the potential for a severe disruption in the program to the real disadvantage to veteran homebuyers.

With respect to reservists called to active duty during Operation Desert Storm/Shield, both Fannie Mae and Freddie Mac absorbed the losses resulting from the application of the 6 percent cap to loans that backed their mortgage-backed securities.

However, Ginnie Mae refused to make these payments, claiming lack of statutory authority. As a result of Ginnie Mae's refusal, mortgage lenders suffered severe financial losses from the application of SSCRA's 1940 outdated interest provision to the vastly changed economic picture of the 1990s. Congress, in the 1992 Housing Act, specifically granted Ginnie Mae the authority to absorb these losses, although it did not require Ginnie Mae to do so.

MBA urges a modernization of the 1940 Act in the 104th Congress to adjust the interest rate to a more realistic level. In the event of another international situation involving the call-up of reservists prior to the modernization of the Act, MBA urges Ginnie Mae, as it is now authorized, to follow Fannie Mae's and Freddie Mac's lead in absorbing losses caused by any interest rate differential.

Mr. Chairman, that concludes my testimony. MBA appreciates the opportunity to testify today. I will be pleased to answer any questions or furnish any additional needed information.



**STATEMENT OF R. J. VOGEL**  
**UNDER SECRETARY FOR BENEFITS**  
**DEPARTMENT OF VETERANS AFFAIRS**  
**BEFORE THE**  
**SUBCOMMITTEE ON EDUCATION, TRAINING,**  
**EMPLOYMENT AND HOUSING**  
**COMMITTEE ON VETERANS' AFFAIRS**  
**HOUSE OF REPRESENTATIVES**

**AUGUST 2, 1995**

Mr. Chairman and Members of the Subcommittee:

I am pleased to appear before you today to discuss the two draft bills you forwarded for our review. With me this morning are Keith Pedigo, Director, Loan Guaranty Service and Scott Denniston, Director, Office of Small and Disadvantaged Business Utilization.

**DRAFT BILL RELATING TO VETERANS BUSINESSES**

The first draft bill would establish within the Veterans Benefits Administration (VBA) of the Department of Veterans Affairs a new organization known as the Veterans' Entrepreneurial Business Service, and transfer the functions, powers, and duties of the Office of Veterans Affairs of the Small Business Administration to the VBA. It would also transfer VA's Office of Small and Disadvantaged Business Utilization (known as OSDBU) to VBA.

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We are unable to support this draft bill.

VA shares this Committee's concerns that veterans receive the preference accorded them by law under the Small Business Act and other assistance in starting and managing a small business. VA, however, does not have the staffing, resources, or expertise to operate a large-scale small business assistance program. Such assistance is currently available through the Small Business Administration (SBA).

We understand that SBA established an Office of Veterans Affairs in 1982 to comply with the mandate in the law governing SBA that veterans be given special consideration. VA does not believe moving this small staff and very limited resources to VBA would provide any meaningful benefit to veterans. As a practical matter, it is difficult to see how an office within VBA, far removed from the line authority and staff functions within SBA, could be expected to be more helpful in enabling veterans to obtain assistance administered by SBA than an office within SBA could be.

Regarding OSDDBU, VA does not support changing the provision of current law which requires that it report directly to the Secretary or Deputy Secretary. OSDDBU reports to the Secretary and performs a number of functions related to procurement and small business that are outside the jurisdiction of VBA. Placing OSDDBU within VBA would make it less effective in dealing with other VA elements over which VBA has no jurisdiction.

#### HOUSING LOAN PROGRAM

Before providing our views on the second draft bill, which relates to the VA housing loan program and homeless services to veterans, I would like to take this opportunity to provide this Subcommittee with a brief update on the current activity of the Loan Guaranty Program.

A combination of the lowest interest rates in over 20 years, the most sweeping changes in the history of the VA home loan program, and a massive letter campaign in January and February of last year to inform veterans of the opportunity to refinance their VA loans to lower the interest rate, made its 50th year the biggest in the history of the VA home loan program. In Fiscal Year 1994, VA guaranteed 602,220 home loans, exceeding the previous high of 600,507 set in Fiscal Year 1956. Nearly half of the loans guaranteed were Interest Rate Reduction Refinancing Loans and approximately 100,000 of those were a direct result of our letter campaign. By refinancing their existing VA loans to new VA loans with lower interest rates, veterans saved an average of \$123 per month or \$14,760 over 10 years. These refinancings also result in estimated savings to VA of \$56 million in future foreclosure costs. Current loan volume has moderated as interest rates have stabilized. For the first

3.

9 months of Fiscal Year 1995 we have guaranteed over 197,000 loans including more than 26,000 refinancing loans.

I am also pleased to report that the trend in defaults and foreclosures continues downward. We continue to emphasize our program to provide delinquent veteran borrowers with personal supplemental loan servicing to assist them in retaining ownership of their homes, while mitigating VA's program losses through a reduced number of loan terminations and claim payments. Our index of Foreclosure Avoidance Through Servicing measures the extent to which foreclosures would have been greater had an alternative to foreclosure not occurred. For the first three quarters of Fiscal Year 1995, our index shows that approximately 33 percent more foreclosures would have occurred had VA field stations not intervened with loan holders on behalf of veterans or pursued alternatives to foreclosure with veterans. As a direct result of our efforts in assisting, veterans we estimate savings of over \$83 million in Fiscal Year 1994 and approximately \$69 million for the first three quarters of Fiscal Year 1995.

During the past 12 months, VA field stations have kept the national property inventory at close to its lowest level in 15 years (approximately 11,000 properties). This was accomplished despite a rise in mortgage interest rates in 1994 and despite a recession-driven increase in the California property inventory. In the last month, even the California VA offices have begun to achieve some inventory reduction. Property sales since June 1994 have returned nearly \$1.6 billion to VA.

#### DRAFT BILL MAKING AUTHORITIES PERMANENT

I will now offer specific comments on the draft bill to make permanent certain provisions of title 38, United States Code, which are set to expire this year. VA favors this draft bill.

With regard to the home loan program, the draft bill would repeal the sunset on the following five authorities:

- Negotiated interest rates;
- Adjustable-rate mortgages;
- Energy-efficient mortgages;
- Enhanced vendee loan sales; and
- Lender review of appraisals.

4.

VA's authority to guarantee adjustable-rate mortgages expires September 30, 1995. The other four provisions expire December 31, 1995.

Prior to the enactment of Public Law 102-547 on October 28, 1992, VA set the maximum interest rate veterans could pay on VA guaranteed home loans. Veterans were also prohibited from paying discount points. Immediately following the enactment of that law, the Secretary exercised the election permitted by section 10(a) of Public Law 102-547 and permitted interest rates and discount points on VA guaranteed loans to be negotiated and veterans to pay discount points.

For the past 2 years and 9 months, veterans, lenders, and home sellers have been able to negotiate the interest rate and whether up-front cash in the form of discount points will be paid in exchange for a lower monthly payment on the loan. Veterans have also been able to negotiate as to who will pay the discount points. It is, therefore, possible to tailor the transaction to best meet the needs and circumstances of the parties involved. Conditions in the financial markets effectively determine the yield lenders must obtain on housing loans. It is not realistic to believe the Government can set interest rates that adequately keep pace with changes in the financial markets. By limiting the interest rates veterans may pay, and prohibiting their payment of discount points in most cases as the law required VA to do prior to October 1992, VA may have actually prevented some veterans from obtaining VA financing.

We have monitored the results of negotiated interest rates. We have found that veterans have averaged paying an interest rate that is within 1/4 of 1 percentage point of the interest rate that would have been paid if VA were still setting the rate. During the past fiscal year, there were no discount points paid on 57.5 percent of loans (other than refinancing loans), the seller paid the points 20.5 percent of the time, veterans paid the points on 18 percent of the loans, and veterans and sellers shared payment of the points on 4 percent of the loans.

VA believes the negotiated rate has worked well, and supports making it permanent.

Public Law 102-547 also authorized VA to establish a pilot program on adjustable-rate mortgages. The interest rate on these loans may change once a year to reflect changes in the market. The increase or decrease is limited to 1 percentage point a year, with a maximum increase over the life of the loan of 5 percentage points. The initial interest rate on an adjustable-rate mortgage is generally lower than the rate being offered on a fixed-rate loan.

During Fiscal Year 1994, VA guaranteed 62,816 adjustable-rate mortgages with a face amount of approximately \$7.2 billion. This represents 11 percent of the

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loans VA guaranteed that year. During the first 6 months of the current fiscal year, 16,700 VA adjustable-rate loans were closed with a face amount of approximately \$1.8 billion. About 21 percent of VA guaranteed loans closed during this period had an adjustable rate.

Public Law 103-446 amended the law to permit veterans with adjustable-rate mortgages to obtain a VA interest rate refinancing loan to convert the adjustable-rate loan to a fixed rate. Thus, an adjustable-rate mortgage offers some veterans an attractive alternative during times of high interest rates, and provides the option to lock in a fixed rate when interest rates decline. We believe VA should continue to offer veterans this option.

In addition, Public Law 102-547 authorized a demonstration program of VA guaranteeing loans for acquiring a home which include an additional amount for the cost of making energy-efficient improvements to the dwelling.

During Fiscal Year 1994, VA guaranteed 995 energy-efficient mortgages. The average additional amount for energy-efficient improvements was \$2,995. These improvements included solar heating and cooling systems on 177 homes, replacement of a major system on 339 homes, and the addition of a new energy-efficient feature on 136 homes. During the first 6 months of the current fiscal year, 539 energy-efficient mortgages have been guaranteed, with an average energy cost of \$3,466 added to the VA loan.

The draft bill would also make permanent VA's authority to guarantee the certificates sold to investors when VA vendee loans are securitized.

When VA acquires properties following the foreclosure of guaranteed loans, we resell them for the best price obtainable. Usually, this entails VA financing of the sale. The resulting loans are known as "vendee loans." Then, to eliminate the need for future VA servicing and to convert long-term receivables into cash assets, VA sells the vendee loans. The Department currently has underway a study of the costs versus benefits of its vendee loan policy.

Since June 1988, vendee loans have been pooled and securitized, usually in three sales per year with an annual volume of about \$1.2 billion. The securitization vehicle is a special purpose trust, which issues multiple-class pass-through certificates and elects to be taxed as a Real Estate Mortgage Investment Conduit (REMIC).

Prior to the enactment of Public Law 102-291 on May 20, 1992, VA provided a full faith and credit guaranty on vendee loans sold to a trust. Until then, however, VA

6.

could not directly guarantee the certificates. The lack of a direct certificate guaranty prevented VA from obtaining the best pricing for the securitized loans.

The most recent loan sale was held in June 1995. VA sold loans with a principal balance of \$436.2 million in loans. VA's net proceeds from that sale were \$455.4 million. If VA had not guaranteed the certificates, but only guaranteed the loans to the trust, we estimate VA would have received \$8 million less from the June sale. If this authority is made permanent, VA estimates the revenue generated by the loan sales will be approximately \$22 to \$25 million greater per year. Guaranteeing the certificates rather than the loans does not significantly change VA's exposure to loss.

The final housing provision the draft bill would make permanent is the authority of certain lenders to review appraisals performed by VA assigned fee appraisers. Under this procedure, lenders, approved by VA, review the appraisal report and determine the reasonable value of the property. This permits the lender to approve the loan without prior VA review both as to valuation and credit underwriting and makes it possible for VA guaranteed loans to be processed and closed faster.

During the first 9 months of Fiscal Year 1995, 32 percent of the loans guaranteed were processed with the lender reviewing the appraisal. VA's review of this program shows it is sound and should be continued.

As a final matter relating to the housing provisions, VA notes that the legislation authorizing negotiated interest rates, adjustable-rate mortgages, energy-efficient mortgages, and lender review of appraisals requires VA to provide annual reports to the Congress on each of these programs. Since we believe the value of each of these provisions has been established, we would recommend that the requirements for these annual reports be repealed. VA will, of course, continue to monitor these as well as the other aspects of the Loan Guaranty program, and will be providing this Committee periodic information about these functions as part of the normal oversight process. We urge, however, that the required annual reports be eliminated.

#### PROVISIONS RELATING TO HOMELESS VETERANS

The draft bill would also make permanent VA's authority, enacted as part of the Homeless Veterans Comprehensive Service Programs Act of 1992, Public Law 102-590, to provide grants to public and nonprofit entities to assist them in providing supportive housing and services to homeless veterans, and by making permanent VA's authority to operate a pilot program to assist homeless veterans. Both of these programs will expire on September 30, 1995. The original authority for these programs made their implementation contingent upon the provision of appropriations. Funds were provided for the first time in Fiscal Year 1994, and we expect all of the

7.

initial round of grant recipients to complete renovation and other work needed to make the programs operational by early next year. Consequently, it is too early to evaluate the therapeutic and cost-effectiveness of the pilots. We strongly support the continuation of these programs through September 30, 1998, by which time we will be able to recommend to the Committee whether they should be extended indefinitely. However, we recommend the grant program be revised to permit the use of grant funds for acquisition of up to 20 vans each fiscal year. We also believe the Act should be amended to permit the recapture of grant funds when grant recipients fail to use property acquired with a grant for assisting homeless veterans.

This concludes my statement, Mr. Chairman. I will be pleased to respond to any questions you or any of the members of the Subcommittee may have.



U.S. SMALL BUSINESS ADMINISTRATION  
WASHINGTON, D.C. 20416



TESTIMONY OF  
PATRICIA R. FORBES  
ACTING ASSOCIATE DEPUTY ADMINISTRATOR  
FOR ECONOMIC DEVELOPMENT  
SMALL BUSINESS ADMINISTRATION

before the

HOUSE COMMITTEE ON VETERANS' AFFAIRS  
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING

HEARING ON A VETERANS' ENTREPRENEURIAL BUSINESS SERVICE

AUGUST 2, 1995

Mr. Chairman, thank you for inviting the Small Business Administration (SBA) here today to give our views on the discussion draft of a bill to consolidate of the SBA's Office of Veterans Affairs (OVA) and the Department of Veterans' Affairs' (VA) Office of Small and Disadvantaged Business Utilization (OSDBU) under a new Veterans' Entrepreneurial Business Service in the Department of Veterans' Affairs. With me is Leon Bechet, Associate Administrator of the Office of Veteran's Affairs.

The SBA's mission is to help businesses get established, stay in business and grow. Administrator Lader has spoken to the Congress describing SBA in terms of the four primary functions it provides to the Nation's entrepreneurs to accomplish this mission:

- 1) providing access to capital;
- 2) advocating on behalf of small business;
- 3) providing disaster relief; and
- 4) business education and training.

The economic development functions are delivered through a public/private partnership -- using taxpayer dollars to leverage private resources in its finance, investment, and bonding programs as well as its business and education training assistance. Attached to this statement is a chart illustrating

SBA's services delivery network. Many of the nation's veterans are served each year through SBA's programs.

Today's SBA uses an integrated approach to economic development. We've brought together under our Office of Economic Development all the Agency's financing assistance and business education programs because, based on experience, we know that these programs work best when they work together. The Office of Veterans Affairs is an important part of the Office of Economic Development.

The SBA's capital and business education programs complement and enhance each other as well as those of other government and private entities. To that end we've been working hard to let our loan portfolio firms know about our business education resources. Similarly, we are educating businesses through our counseling and training programs about SBA's financial assistance products and about proper financial management techniques. We have found it necessary to become more proactive to ensure that these programs reach firms that will have the highest economic development impact and to better serve historically underserved areas such as inner cities and rural America.

Small business owners or aspiring business owners look to the federal government not only for capital, but for information, education, counseling and training. Often, these business

development services are critical to accessing capital or spell the difference between the success and the failure of a business.

In 1982, the SBA created its Office of Veterans Affairs (OVA) to comply with the Public Law 93-237 which requires that SBA give special consideration to veterans in all of its programs. This office of three people is the only federal government office dedicated exclusively to assisting veterans who are in business or who want to start businesses of their own. Because of its location in SBA's Office of Economic Development, SBA's OVA is able to utilize SBA's network to address the entrepreneurial needs of veterans.

In fiscal year 1994, SBA's OVA budget included \$442,000 for salaries and expenses and \$400,000 for outreach. Fiscal year 1995 figures were \$415,000 for salaries and expenses and \$445,000 for outreach. Consistent with SBA's commitment to do more with less, OVA's fiscal year 1996 request totals \$724,000. Based on OVA's 1994 budget, the office helped produce the following results:

- \$1.07 billion (15% of total loans) in 7(a) loans. (Vietnam-era vets received \$730 million.)
- \$85 million in Certified Development Company (504) loans.
- over 13% of microloans (about half of those to Vietnam era vets).

- \$176 million in contracts to firms utilizing SBA's surety bond guaranty.  
(The SBA's surety bond guaranty program helps many small business contractors are otherwise unable to obtain work because of bonding requirements.)
- 878 8(a) contracts totaling \$729.7 million.  
(By statute, veteran status alone is not enough to qualify for the 8(a) program. Each applicant who is not a member of a specified economically and socially disadvantaged group must demonstrate economic and social disadvantage in order to be eligible to participate.)
- The Small Business Development Centers (SBDC) and the Service Corps of Retired Executives (SCORE), provided business training for 47,331 veterans, and an additional 266,370 veterans received business counseling.
- In conjunction with Department of Veterans Affairs, conducted seven business opportunity conferences for over 1200 veteran-owned businesses in areas affected by defense cutbacks.
- OVA funded two pilot veteran entrepreneurship projects. These projects involved long-term, in-depth training for veterans wanting to start their own businesses. This training, typically not available otherwise, has led to the creation of veteran support groups that match successful local veteran business owners with prospective veteran business owners.

An example of OVA's outreach effort is the use of the Department of Labor's Veterans Employment Training Service network, consisting of 1,680 Local Veterans Employment Representatives and 1,967 Disabled Veterans Outreach Program Specialists to promote SBA's programs. In addition, OVA wrote a chapter for the Department of Defense's Transition Assistance Program Manual which is used for military personnel separating from the Uniformed Services. This training has reached over 400,000 military personnel.

We estimate that a half-million military personnel will be affected by base closings and downsizing. Obviously, not all of these individuals are interested in or have the aptitude or capital to start businesses of their own, but for those who are, the OVA is there to help them.

The OVA has aided in the creation of more than 267,000 jobs during its 13 year existence. It has done this through the creation of or assistance to some 31,000 veteran-owned small businesses. Working through the SBA's resource partners, it is responsible for assistance, in the form of training or counseling to yet another 46,000 veteran-owned businesses.

Today, there are 27 million veterans in the United States. OVA estimates that of the approximately 20.5 million small businesses in the United States, four million are veteran-owned.

Although a portion of these businesses have received no government assistance, a great number are aware of and have availed themselves of the programs offered by the SBA. Many attribute their success to SBA's assistance. It is the combined effort of the SBA's OVA and the various SBA program offices working together that has resulted in these accomplishments. Moving the OVA out of SBA would eliminate this synergy and would -- we believe -- result in a far less effective program for veteran entrepreneurs.

In addition to the loss of synergy, we are concerned that the OSDBU staff, who perform essentially an internal administrative function, might be ill-equipped to provide business development assistance. Combining the two distinct functions raises a concern that the OSDBU's effectiveness in carrying out the VA's substantial procurement responsibilities might be diluted. Further, ensuring continued delivery of assistance to veterans would require at least a liaison role at SBA, which could result in an overall net increase in spending and staff. We believe maintaining the veterans office at the SBA is a better alternative.

We also are concerned with a possible conflict between the proposal's language and the Small Business Act. The proposal would place the VA's Office of Small and Disadvantaged Business Utilization under the Under Secretary for Benefits. The Small

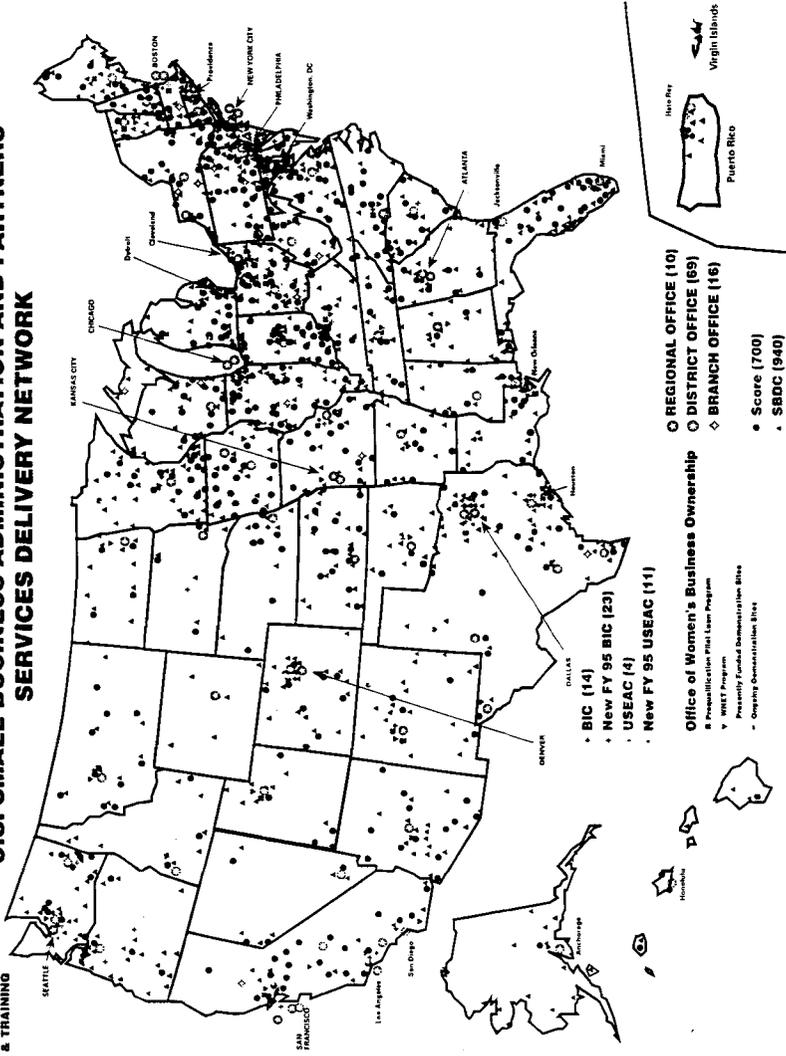
Business Act requires that the OSDBU Director be responsible only to, and report directly to, the head of the agency or to the deputy of the agency head. Creating an exception for the VA raises the prospect that other agencies might wish to do the same. Doing so would be inconsistent with the Administration's efforts to simplify and streamline the federal procurement system.

The SBA is deeply involved in the process of reinventing government. This process involves reducing spending while creating a more efficient and effective delivery mechanism for government services. Our analysis found that the SBA's OVA has been an inexpensive and effective way to address the entrepreneurial needs of our nation's veterans. We feel that a transfer of SBA's Office of Veterans Affairs to the Department of Veterans Affairs, as suggested by the discussion draft bill, would have an adverse impact on delivery of entrepreneurial services to veterans.

That concludes my remarks. I will be glad to answer any questions.

# U.S. SMALL BUSINESS ADMINISTRATION AND PARTNERS SERVICES DELIVERY NETWORK

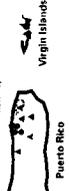
EDUCATION  
& TRAINING



- BIC (14)
- New FY 95 BIC (23)
- USEAC (4)
- New FY 95 USEAC (11)

- REGIONAL OFFICE (10)
- DISTRICT OFFICE (69)
- ◇ BRANCH OFFICE (16)
- Score (700)
- SBDC (940)

- Office of Women's Business Ownership
- Prospective Pilot Loan Program
  - ▼ WSET Program
  - Presently Funded Demonstration Sites
  - Ongoing Demonstration Sites



STATEMENT OF PRESTON M. TAYLOR JR.  
ASSISTANT SECRETARY OF LABOR  
FOR VETERANS EMPLOYMENT AND TRAINING  
BEFORE THE SUBCOMMITTEE ON EDUCATION, TRAINING,  
EMPLOYMENT AND HOUSING  
HOUSE COMMITTEE ON VETERANS' AFFAIRS  
AUGUST 2, 1995

Mr. Chairman and Members of the Subcommittee:

Thank you for holding this legislative hearing and providing me the opportunity to present the Veterans' Employment and Training Service comments on technical and clarifying amendments to the Uniformed Services Employment and Reemployment Rights Act -- commonly known by its acronym USERRA. We also appreciate the opportunity to comment on the Committee's Discussion Draft regarding VETS. The draft proposal includes significant legislative provisions that VETS considers necessary for the realization of its reinvention objectives.

*Uniformed Services Employment and Reemployment Rights Act*

USERRA was years in the making, with careful review along the way by many interested parties. However, it seems that no matter how much attention is paid to drafting, implementation always surfaces a number of previously unnoticed items in need of legislative adjustment.

At the June 29th hearing, I noted that VETS -- at the request of Representative G.V. (Sonny) Montgomery -- had worked with Departments of Defense and Transportation, the Office of Personnel Management, and the Office of Management and Budget in developing proposed amendments to USERRA. H.R. 1941, introduced by Mr. Montgomery, Ms. Waters, Mr. Clyburn, Mr. Mascara, and Mr. Evans, was derived from those recommendations as provided by Secretary Robert Reich to Mr. Montgomery on May 25, 1995. The Clinton Administration supports the objectives of H.R. 1941 and

looks forward to working with the Committee on this important bill.

H.R. 1941 would further clarify the employment and reemployment rights and responsibilities of members of the uniformed services, as well as those of the employer community, in the following ways.

First, H.R. 1941 would amend section 4301(a)(2) of title 38, United States Code, by striking the words "under honorable conditions". As currently structured, section 4301(a)(2) -- by referencing prompt reemployment if uniformed service was completed under "honorable conditions" -- does not accurately reflect the totality of the character of service requirement of section 4304, which establishes the events that terminate entitlement to rights under chapter 43. The proposed deletion would avoid a potential conflict in the two sections.

Second, H.R. 1941 would amend section 4303(2), which defines "benefit", "benefit of employment", and "rights and benefits" by striking the words "work performed" and replacing them with the words "work not performed". If this amendment is adopted, the term "benefit of employment" would include any advantage, profit, privilege, gain, status, account, or interest that would accrue by reason of an employment contract, other than wages for work not performed. By specifically excluding only "wages for work not performed", this amendment suggests that the opposite -- wages for work performed -- might be a benefit of employment. However, wages have never been considered a benefit of employment to which a servicemember absent from civilian employment is entitled. In our view, the current law is sufficient.

For further clarification, it is our understanding that in the drafting of the current law there was no intention to exclude

wages from the anti-discrimination provisions of section 4311 nor the escalator provisions of section 4316(a).

To the degree that there may be some ambiguity regarding the current law definitions, I note that the Secretary of Labor is required by section 4332 of title 38 to send Congress no later than February 1, a report that, among other things, would recommend legislative actions considered necessary. I can assure you that we shall look closely at this issue as part of our annual review.

Third, H.R. 1941 would amend section 4303(16) by inserting the word "national" before the word "emergency". This change clarifies the circumstances under which the President could designate groups of persons to have rights under chapter 43 of title 38.

Fourth, H.R. 1941 would amend section 4311, entitled "Discrimination against persons who serve in the uniformed services and acts of reprisal prohibited", by reordering the current language to clarify that the standards and burden of proof set out in this section apply to both the anti-discrimination provisions and the anti-reprisal provisions. The amendment would further clarify that the anti-discrimination and anti-reprisal provisions of this section are applicable to "brief, nonrecurrent" positions described in section 4312(d)(1)(C).

Fifth, H.R. 1941 would amend section 4312(a) to clarify that protection under chapter 43 covers not only the period of uniformed service but also the period prior to actually entering service, to the extent that that time is necessary to prepare for entering uniformed service or for traveling to the site where the uniformed service is performed.

Sixth, H.R. 1941 would amend section 4312(c)(4)(B) to clarify the exemption from the cumulative period that an individual can serve and still be protected under chapter 43, when he or she is called to or retained in service to support -- either directly or indirectly -- a war or national emergency declared by the President or Congress. The proposed amendment is consistent with congressional intent. It would retain the broader interpretation of the current statute but would not provide a service exemption for those individuals whose service is totally unrelated to the war or national emergency. The current statute exempts service performed by all servicemembers who are on active duty -- other than for training -- without regard for the purpose of their service. For example, Executive Order 12722 invoked a national emergency on August 2, 1990, for the Persian Gulf crises, and the Executive Order is still in effect. An exemption that would cover service after the cessation of hostilities in the Middle East does not appear to be consistent with several cited examples connecting exempted uniformed service with a crisis situation. The proposed amendment would insure that those whose service is totally unrelated to the war or national emergency would not receive the service exemption.

Seventh, H.R. 1941 would amend section 4312(d)(2)(C) to provide conformity with section 4312(d)(1)(C) in describing the type of position excluded from protection by chapter 43.

Eighth, H.R. 1941 would amend section 4312(c) to change references to sections in title 10, United States Code. This is made necessary by the renumbering of title 10 sections in the Defense Authorization Act for Fiscal Year 1995.

Ninth, H.R. 1941 would amend section 4313(a)(4) to replace "uniform service" with "uniformed service". This corrects a typographical error. H.R. 1941 also would replace the words "of

lesser status and pay which" with the words "which is the nearest approximation to a position referred to first in clause (A)(i) and then in clause (A)(ii) which". This would prevent the current chapter from providing lesser benefits than were provided under the predecessor veterans' reemployment rights law.

Tenth, H.R. 1941 would amend section 4317(a) to provide conformity of numbering throughout chapter 43 and remove references to nonexistent paragraphs.

Eleventh, H.R. 1941 would amend section 4318(b)(2) to clarify a potential misreading of the section. As written, the phrase "not to exceed five years" could be misinterpreted as referencing time in the uniformed services, when the congressional intent was to limit to five years the time during which missed payments could be made into an employee pension benefit plan.

Twelfth, H.R. 1941 would amend section 4322 to clarify the mission of the Department of Labor in the case-resolution process. It also would clarify that USERRA continues case processing procedures that existed under the previous veterans' reemployment rights law, whereby any case -- including those the Department found to be non-meritorious -- was referred to the U.S. Attorney if the claimant requested referral. Additionally, the proposed amendment would distinguish the Office of Personnel Management from other Federal executive agencies in section 4322(e)(2), and emphasize the special role assigned to OPM in providing assistance to Federal employees under chapter 43.

Thirteenth, H.R. 1941 would amend section 4323(a) to remove superfluous language and correct a cross-reference to section 4322.

Fourteenth, H.R. 1941 would amend section 4324(a)(1) to be consistent with the amendment to section 4323(a) in that it would remove the same superfluous language. The proposed amendments to section 4324(b) and (c) would recognize the special role assigned to OPM, correct a cross-reference to section 4322, and properly place the burden to provide relief under chapter 43.

Fifteenth, H.R. 1941 would amend section 4325(d)(1) to clarify the role of the Secretary of Labor in providing advice to employees of certain Federal agencies.

Sixteenth, H.R. 1941 would amend section 4326 to clarify the Secretary of Labor's right of access to witnesses during investigations under chapter 43. The current law does not specifically grant investigators reasonable access and the right to interview individuals but does specifically grant access to documents. The current law's failure to provide access to individuals could be raised by employers as precluding that access. Similar language granting investigators the right to question individuals appears in the Fair Labor Standards Act and the Employee Retirement Income Security Act, both of which also are administered by the Department of Labor.

Seventeenth, H.R. 1941 would amend section 8(a)(3) of USERRA to protect persons on Active Guard Reserve tours of duty from being summarily denied protection when the previous law would have protected them, without tampering with the transition period itself. The proposed amendment to section 8(c)(2) of USERRA would ensure that any person in the uniformed services, not just those on active duty as of the date of enactment, would be able to elect health-care coverage under section 4317 of title 38.

*Discussion Draft Regarding VETS*

Mr. Chairman, I would like now to turn your attention to the Discussion Draft you developed regarding implementation of VETS' reinvention ideas.

At the Subcommittee's June 29th oversight hearing on, among other things, what VETS has been doing to reorganize itself, I described a number of recommendations by our reinvention committee designed to increase efficiency and maintain or increase services with reduced staff levels. I noted it was important that the process be highly visible, open and inviting, with frequent opportunities for people to have a voice in the evolution of change being considered. I also noted that our partners and the staff of this Committee had been kept fully informed of our progress at every step of the way. In my opening statement, I observed that implementation of many of the recommendations from VETS' ad hoc committees would be contingent upon legislative action to change current statutory mandates.

The Discussion Draft submitted for review by VETS, Mr. Chairman, appears to largely incorporate the significant elements of VETS' reinvention plan. I support most of the provisions in your Discussion Draft and would be glad to work with you and your Committee staff in fine tuning the provisions. It is important that we identify the issues and develop a contemporary legislative framework for a VETS organization and major service delivery system that will result in improved service to our customers.

Section 1 of the Discussion Draft would amend section 4102A(e) of title 38 to authorize the Secretary of Labor to assign Regional Administrators for Veterans' Employment and Training in such regions, which may not be less than five, as the Secretary may determine are necessary for the effective administration of the Veterans' Employment and Training Service.

The draft would require that each Regional Administrator first appointed after the date of the enactment be a veteran. The section also would substitute the words "Regional Administrator" for the words "Regional Secretary" to correct an error made in a previous enactment.

Current law requires the Secretary of Labor to assign to each region for which the Secretary operates a regional office a representative of VETS to serve the region as its Regional Administrator. This provision has been interpreted as precluding VETS from operating fewer than ten regions, and thus has prevented VETS from adjusting its regional configuration to its workload changes. Although current law does not require that Regional Administrators be veterans, as it does for Directors and Assistant Directors for Veterans' Employment and Training, all current Regional Administrators are veterans.

I know that in the 1980's, VETS operated successfully with only seven regional offices, which suggests that the mandate for ten regional offices is unnecessary for effective customer service.

Section 2 of the Discussion Draft would amend section 4103 of title 38 by striking the words "full-time Federal clerical support" and substituting "Federal clerical or other support personnel". Section 2 of the Discussion Draft is similar to one of the first internal reinvention recommendations that I accepted and briefed your staff and the veterans organizations on some time ago. In my June 29th testimony I describe restructuring and realigning functions within the VETS organization. The clerical function was one of the things I had in mind.

The current law mandates that "full-time clerical support" be assigned to each State Director. The designation of "clerical" restricts the functions that can be assigned to the

personnel in those positions. Further, evolving technologies and operational practices change the nature and extent of the support required to effectively operate a state-level office. While most offices continue to have a need for purely clerical support, many, increasingly, are capable of effective operation without the utilization of a full-time "clerical" assistant. Efficiency and economy recommend that, to the extent feasible, offices utilize less staff and staff that are more broadly qualified, and graded accordingly.

Additionally, as I mentioned in my June 29th testimony, the present inability to alter these "clerical" positions constitutes a barrier to the development in VETS of a career ladder to enable junior-level personnel, most of whom are women, to ascend to more senior, professional levels, regardless of their talents and growing abilities.

VETS must have the flexibility to assign and task personnel in accordance with workload needs, at this level as at others.

Section 3 of the Discussion Draft would amend section 4103(b) of title 38 to eliminate the requirement that Directors and Assistant Directors for Veterans' Employment and Training, at the time of their appointment, be a bona fide resident of the State for at least two years.

Mr. Chairman, when you asked me at the June 29th hearing whether I foresaw a change in the residency requirement, I noted that its elimination had been one of the reinvention recommendations, but that I was deferring my decision until I had had a chance to further evaluate the applicable law. I have, since the hearing, given the matter a great deal of thought and study. My position now is that the residency requirement for Directors and Assistant Directors should be eliminated. I support section 3 of the Committee's Discussion Draft.

The removal of the residency requirement would enhance VETS' ability to effectively manage its programs in a streamlined environment. The current law does provide for a waiver. If the Secretary of Labor determines that there is no qualified veteran available who meets the residency requirement, the Secretary may appoint as the Director or Assistant Director any qualified veteran. As you can imagine, it would be extremely difficult to assert that a State contains no one who is at least minimally qualified for the position. Consequently, residency is virtually an ironclad requirement. No such waivers have ever been sought or granted.

As I noted in my June 29th testimony, VETS has embarked on a long-range downsizing plan that would stage a 12 percent reduction in strength by fiscal year 1999. In fact, we have been so successful -- through the careful management of vacancies created by normal attrition and Agency buyouts -- that we are actually very close to the target staffing level now.

Unfortunately, Mr. Chairman, attrition does not always yield vacancies in the places you need them most. If an agency is not careful, it can find its workload and resources not matching. The end result of such an imbalance is that the people who need services will not get them. In some locations, an agency may even find itself with more staff than it has work. VETS is now examining the distribution of our workload and resources so that better matches of the two can be made should the residency requirement be eliminated.

Because VETS is a small agency -- and getting smaller -- with widely dispersed offices, deployment of personnel to meet workload demands is always difficult at best. Difficulties are magnified when managers are deprived of the ability to move qualified, experienced personnel from one position to another in response to needs. The residency requirement also is an

artificial barrier to upward mobility for VETS staff. Individuals are deprived of opportunity for career growth. It is not an efficient use of personnel resources to have an Assistant Director in a small State capable of much greater responsibility but unable to be utilized in a position of greater capacity in a neighboring State.

Sections 4 and 5 of the Discussion Draft would mandate that the Assistant Secretary of Labor for Veterans' Employment and Training develop employment qualification guidelines for disabled veterans' outreach program specialists -- referred to as DVOPs -- and local veterans' employment representatives -- referred to as LVERs, respectively.

Mr. Chairman, these provisions were not part of VETS' reinvention recommendations and would need to be developed in coordination with our partners, the State employment agencies. DVOPs and LVERs are all State employees, hired through a Federal grant administered by VETS. For VETS to develop employment qualifications for specialists who are State employees would require the recognition of the rules and regulations governing each State personnel system. There is wide diversity between the personnel systems of States, their union collective bargaining agreements, their classification systems, and their pay and benefits programs.

Sections 4103A and 4104 of title 38 clearly establish the functions that DVOPs and LVERs, respectively, must perform for the purpose of providing services to eligible veterans in accordance with specified priorities.

Section 4104A of title 38 mandates that each State employment agency develop and apply standards for the performance of both DVOPs and LVERs, and requires that the Secretary of Labor, after consultation with State employment agencies or their

representative, provide to the agencies a prototype of performance standards for use by the agencies in the development of their required performance standards for DVOPs and LVERs. VETS has provided such a prototype.

Mr. Chairman, there is a lot of truth in the old maxim, "you can lead a horse to water, but you can't make him drink." As well intended as your proposal for employment qualification guidelines is, I am concerned that it would result in unproductive Federal-State disputes over personnel selection prerogatives without tangible improvement in customer service.

In support of your fundamental premise regarding grantee qualifications, I would note that several years ago VETS identified the basic competencies as well as the knowledge, skills, and abilities that DVOPs and LVERs should possess to perform their functional responsibilities. We, too, believe that these competencies and their associated knowledge, skills and abilities should be appropriately and consistently recognized by each State in the job description of DVOPs and LVERs. We have used those precepts as the basis for the various competency-based training curricula offered at the National Veterans Training Institute. As we evolve into the one-stop world, we shall reassess the knowledge, skills, and abilities that the DVOPs and LVERs will need and build them into the NVTI curriculum. Training is an area that VETS can affect directly; whereas, the Agency has little say on the State personnel systems. VETS can provide a uniform course of training that DVOPs and LVERs would be required to take. We think that good performance standards which DVOPs and LVERs have to meet and high quality training of service providers will ensure good customer service.

Section 6 of the Discussion Draft would authorize the Secretary of Labor to establish a pilot program to replace the LVER program, currently authorized under section 4104 of title

38. The Secretary could designate not more than five states to participate in the pilot. The pilot would help determine whether a new service delivery system for employment and training services for veterans, implementing two distinct functions, would provide a more effective use of funds and lead to an enhancement of veterans' employment and training programs.

The LVER/DVOP Steering Committee, as part of VETS' reinvention activity, recommended that the duties and responsibilities of the LVERs and the DVOPs be divided into three dedicated veterans' staff positions. The three recommended positions were: (1) veterans' employment and training representative, (2) veterans' case manager, and (3) veterans' outreach services specialist. I described this reinvention recommendation in my June 29th testimony.

I agree with your Discussion Draft proposal to pilot only the LVER position at this time. To pilot changes in both the LVER and DVOP programs might cause confusion. Since the primary purpose of the DVOP is outreach, it seems unnecessary to significantly change that program. It is clear that under the existing DVOP position, VETS can utilize staff as veterans' outreach services specialists -- the third of the three functional positions identified by the Steering Committee. This position reflects the original intent of the DVOP position -- to maximize outreach service and be in outside functions. DVOPs would be able to increase their participation with the VA vocational rehabilitation program, provide transition assistance program coverage, provide individual job development and group job solicitation activities, and assist employers in tailoring on-the-job training programs.

The pilot program to modify the LVER functions would allow VETS the time and latitude to effectively test an important premise of our DVOP/LVER Steering Committee. The premise is

that, realistically, the majority of veterans seeking jobs have marketable skills and do not require intensive, individualized services. However, in a system with diminishing staff resources, veterans who do need individualized attention will probably not receive the services they need unless the veterans' specialists' time is reserved for them. It is important to note that disabled veterans would continue to receive priority service under the program.

This limitation of veterans' entitlement to one-on-one services by the veterans' specialists would be a safeguard to protect the rights of veterans most in need of intensive services to receive the services they need. I can assure you that, if this provision is enacted, some of the pilots will be conducted in one-stop States, to ensure that the model works effectively in a one-stop environment.

The proposed pilot would establish a two-function/position system. The proposed LVER pilot would be staffed with one of two distinct positions with unique responsibilities. The new positions would be renamed as Veterans' Representative and Case Manager. The assignment and allocation of these positions would be determined by the State in consultation with the Director for Veterans' Employment and Training. This would allow for adequate staffing in each of the pilot States based on their individual needs. This flexibility also would ensure local needs and program designs -- that is, one-stop centers -- are adequately addressed. It would allow for the targeting of resources to those groups of veterans who demonstrate the greatest need and the greatest barriers to employment. This also would establish limitations which will maximize services to targeted veteran groups. The success of this staffing equation would do much to move the LVER program into the new employment and training universe of the one-stop career center system. VETS will coordinate closely the development and implementation of this

pilot program with the Department's Employment and Training Administration, which has authority for most workforce development programs.

*Summary*

In summary, I support this Subcommittee's efforts to clarify USERRA through the technical amendments proposed in H.R. 1941

and I offer the assistance of my staff in perfecting the Discussion Draft along the lines of my testimony. I would be happy to answer any questions you might have.

*STATEMENT OF*

# **VIETNAM VETERANS OF AMERICA**

*Submitted by*

*William F. Crandell  
Deputy Director,  
Government Relations*

*Before the  
House Veterans Affairs' Committee*

*Subcommittee on  
Education, Training, Employment and Housing*

*on the  
Proposed Veterans Entrepreneurial Business Service  
Within the  
Department of Veterans Affairs*

*and*

*VETS Residency Requirement*

*August 2, 1995*

## INTRODUCTION

Mr. Chairman and members of the Committee, Vietnam Veterans of America (VVA) appreciates the opportunity to present its views on the residency requirement for senior field officials of the Department of Labor (DOL) Veterans' Employment and Training Service (VETS) and the proposed Veterans Entrepreneurial Business Service within the Department of Veterans Affairs (VA).

### **The VETS Residency Requirement**

VVA has never been fond of the requirement that senior VETS field officers – the Directors of Veterans' Employment and Training (DVET) and Assistant Directors of Veterans' Employment and Training (ADVET) – have resided in the state in which they would serve for two years prior to the appointment. It has been a political device that has not furthered the chances of these officials being the most qualified men and women within VETS, and has placed a lid over promotions which has damaged morale within the organization.

We supported Assistant Secretary Preston Taylor in his decision to put a recommendation to scrap the residency requirement on hold because we were confident that he would make the right decision when the time came. That time is now. The current tough budget will require VETS to redeploy and perhaps reduce personnel. Nothing would typify government at its most irrational more than maintaining a residency rule that could require the laying off of skilled field leaders who live in the wrong locality while forcing the hiring of new staff to fill the void. VVA fully supports retiring the residency requirement immediately.

### **The Proposed Veterans Entrepreneurial Business Service**

Vietnam Veterans of America is interested in the recently-advanced idea of creating a Veterans Entrepreneurial Business Service within VA to promote veteran-run businesses. Over the course of the last 14 years, VVA has pressed for more effective Small Business Administration (SBA) programs to assist Vietnam era veterans. These efforts have resulted, at times, in some small gains only to have these gains reversed by succeeding SBA Administrators or SBA policy changes initiated by the Executive Branch. During the early 1980s, for example, significant progress was being made in the development of SBA programs for veterans, but these were essentially side-tracked in 1985 when the policy of the Executive Branch was to eliminate SBA altogether. Other examples of circumstance thwarting the strides made at SBA include Executive Branch policies to remove the federal government from the nation's credit markets, essentially reducing the SBA's authority to make or guarantee small business loans. Moreover, a statute enacted in the 1970s requiring

"special consideration" for veterans has never been defined by the agency. Absent a definition, no "special consideration" that could be measured in any definitive fashion has ever been provided, despite the passing of two decades.

At its 1993 National Convention, Vietnam Veterans of America adopted a resolution seeking "legislation and administrative action to fortify SBA's ability to lend small business assistance to veterans in a meaningful way." Nothing has come of that effort. SBA has always had ignored Congressional mandates to provide special consideration to veterans, and has been a hostile home for its Office of Veterans Affairs.

If Congress were to transfer the functions of the moribund SBA Office of Veterans Affairs to the VA, it must take a number of steps to make it work. The requisite initiatives to accomplish a legitimate small business program for veterans are as follows:

1. The discussion draft circulated for this hearing provides that the "Secretary shall give priority in providing services under this section" to service-disabled veterans, and then to all other veterans. Congress must legislate a definition that avoids the vagueness of the current requirement that SBA provide "special consideration" for veterans, and Congress must require its implementation.
2. Cooperation among veterans service organizations (VSOs) and business groups to effect public and private sector partnership programs to assist veterans interested in small business is essential. Past success urges the redevelopment of Veterans Business Resource Councils around the nation to offer guidance and counseling to veterans who either already are or are about to become small businesspersons.
3. Programmatic emphasis by the VA on small business guidance, planning and training are keys to the success of the Service. Veterans must be offered assistance through outreach to veteran entrepreneurs, regional seminars for veterans on government procurement practices, and guidance to small businesses owned by veterans.
4. The direct and guaranteed loans which veterans were supposed to have obtained through SBA have not been appropriated in recent years. The discussion draft keeps that function at SBA, which makes sense. Reducing the legal minimum for an SBA loan from \$25,000 to \$10,000 to serve more new businesses is realistic, if a portion is mandated to be set aside for veterans.

There is a real need for a solid program that will encourage veterans to start small businesses. Few such program proposals have been seriously considered. VVA would support a program that means business, and we have no interest at all in one that merely looks good on paper and accomplishes nothing. The program design and implementation are critical.

We do not base our support for veteran-run small business on the thanks of a grateful nation. Investment dollars – which is what small business programs are – cannot be doled out as rewards for courageous service. Instead, they must go to good investments, and we believe veterans in small business are just that.

Veterans constitute a vital resource that this country has – for the most part – tapped only in wartime. Too often government and business leaders have thought of veterans only as the pathetic wreckage of war. A more realistic assessment would view veterans as those who, out of a dedication to things larger than themselves, went to the back of the career line.

Even so, most veterans have adjusted well to civilian life, and many have prospered. Why shouldn't they? The military teaches far more than a set of specific combat or technical skills. Veterans are men and women who understand teamwork, discipline, setting objectives and meeting them. They are seasoned at operating under pressure, at finding ways to do what needs doing even when they don't get much support. A veteran has a masters degree in organization, and a double degree in hard work. If you want to find a self-starter, find a veteran. We make great entrepreneurs and great employees.

If legislation to create a VA Veterans Entrepreneurial Business Service is adopted, we intend to offer a number of suggestions based on our long experience with SBA on how things ought to be done. Let us suggest here one idea that will help promote related veterans services.

Our experience with veterans is that they like to help other veterans. Nowhere have we seen this any more true than in employment. The best reason for government to support the creation and survival of small businesses is that they provide jobs.

The greatest failing of the nation's labor exchange provided by the state employment services agencies is that they reach so few employers. To a great extent, capable workers stay away from the Job Service because they can't find good jobs there, and employers stay away because the best workers do. It is a vicious circle.

One way out of the circle would be to imbed within the Veterans Entrepreneurial Business Service a mechanism for linking the Veterans Employment and Training Services with veteran entrepreneurs and other employers. The language of the discussion draft would require the Secretary to promote veteran-run businesses with both the Federal government and the private sector through memoranda of understanding with executive agencies such as VETS and through working relationships with private sector associations. The veterans service organizations (VSOs) could play a role in bringing veteran entrepreneurs into such associations.

CONCLUSION

Vietnam Veterans of America believes in veterans. If we didn't, we'd all be in some other line of work. The idea of a veterans small business program excites us, because it offers veterans a chance to serve our country once again. Veterans are our least-utilized national resource, one we cannot afford to waste. Use us!

Mr. Chairman, this concludes our testimony.

**STATEMENT OF  
THE NATIONAL ASSOCIATION OF REALTORS®  
BEFORE THE  
U.S. HOUSE OF REPRESENTATIVES  
COMMITTEE ON VETERANS AFFAIRS  
SUBCOMMITTEE ON EDUCATION, TRAINING, EMPLOYMENT AND HOUSING**

**AUGUST 2, 1995**

INTRODUCTION

Mr. Chairman and members of the Subcommittee, the NATIONAL ASSOCIATION OF REALTORS® appreciates the opportunity to present our written views on pending legislation concerning the VA Home Loan Guaranty Program. The NATIONAL ASSOCIATION OF REALTORS® is comprised of nearly 750,000 members who represent a wide variety of housing industry professionals committed to the development and preservation of the nation's housing stock and making it available to the widest range of potential homebuyers. The NATIONAL ASSOCIATION OF REALTORS® is a strong supporter of, and major participant in, the VA Home Loan Guaranty Program and we wholeheartedly welcome the opportunity to work with you and members of the Subcommittee to ensure housing availability and accessibility for the men and women who serve our country.

The NATIONAL ASSOCIATION OF REALTORS® applauds the continuing commitment of the Subcommittee to ensure that the Home Loan Guaranty Program fulfills its objective of helping veterans buy and remain in their homes and we commend you for your leadership in making significant improvements that enhance the program that enable many veterans to realize the American dream of owning a home. The VA Home Loan Guaranty Program is an important route for homeownership for our veterans and the NATIONAL ASSOCIATION OF REALTORS® applauds the efforts of the Subcommittee to maintain a productive and beneficial national housing program.

Our statement will focus on pending legislation making permanent several program provisions under Public Law 102-547 that are due to expire in 1995. At the outset, Mr. Chairman, the NATIONAL ASSOCIATION OF REALTORS® wholeheartedly supports legislation that makes permanent the important program modifications approved by the Subcommittee under its landmark law. During consideration of P.L.102-547, the NATIONAL ASSOCIATION OF REALTORS® worked closely with the Subcommittee to fashion modifications that reinvigorated VA's share of the housing market in all segments of the country and bolstered the financial condition of the DVA Guaranty and Indemnity Fund. Implemented as demonstration provisions, the program modifications under P.L. 102-547 have generated significant interest and activity and warrant adoption as permanent features of the VA home loan program.

1. Adjustable Rate Mortgage (ARM) Program

The NATIONAL ASSOCIATION OF REALTORS® welcomed the provision establishing an ARM product for our nation's veterans because it increased the veteran's opportunities for homeownership and facilitated the different borrowing needs of veteran borrowers. We especially appreciated the Subcommittee's leadership in encouraging the DVA to model its product after the FHA ARM, the most popular adjustable rate product on the market today because of its advantageous consumer features.

In June 1994 the NATIONAL ASSOCIATION OF REALTORS® conducted a survey of 1,178 local Boards of REALTORS®, State Associations of REALTORS®, and Large Agencies/Lenders to determine an evaluation of the program modifications including the VA ARM program. Approximately 50 percent of the survey respondents sold homes to veterans or reservists using a VA ARM. More importantly, 33 percent of the respondents believed that the VA ARM product was directly instrumental in the home purchase with approximately 21 percent believing that over half the purchasers would not have been able to buy a home if the VA ARM product were not available.

As anticipated, the VA ARM program has afforded veterans a beneficial alternative source for mortgage financing to achieve homeownership and it is demonstrating increasing popularity within the mortgage finance industry. In Fiscal Year 1994 the Department of Veterans Affairs has determined that its ARM product comprised 11 percent of its negotiated rate loans, demonstrating substantial growth since FY1993 when ARMs comprised only 2 percent of loans guaranteed by the DVA. The NATIONAL ASSOCIATION OF REALTORS® believes this growth will continue as more and more veterans learn of the financing advantages of the VA home loan guaranty program.

2. DVA Negotiated Interest Rate

The NATIONAL ASSOCIATION OF REALTORS® welcomed the decision of the Subcommittee to change from an administered to a negotiated interest rate placing the veteran on a level playing field with other home purchasers. The change -- a major turning point in the history of VA financing and a major revision to VA's long-standing basic home loan policy -- is allowing the borrower to negotiate with lenders and sellers for the most favorable rate and terms available.

Again, in response to our survey, approximately 43 percent of the respondents knew of veterans or reservists who were able to purchase a home by negotiating their mortgage interest rate with a lender. Further, the respondents commented that negotiated interest rates is an invaluable feature for both the veteran buyer and seller particularly in areas of the country where the seller is not accustomed to paying points.

The latter point is an important factor because the NATIONAL ASSOCIATION OF REALTORS® has consistently maintained that the administered rate was disadvantageous to the potential veteran home buyer because it limited the veteran's choices of housing availability and inadvertently restricted the veteran from using his or her entitlement.

The NATIONAL ASSOCIATION OF REALTORS® believes it is important to note that, since adoption of negotiated rates, VA loans are more accessible to veterans. Equally important, the DVA has determined that in FY1994 the Department guaranteed 155,206 home loans to first-time homebuyers with negotiated interest rates, representing 26 percent of all negotiated rate loans guaranteed by the DVA during the fiscal year. The NATIONAL ASSOCIATION OF REALTORS® believes this is a tremendous accomplishment that confirms negotiated interest rates expand homeownership opportunities.

### 3. Lender's Appraisal Processing Program (LAPP)

In 1987, Congress passed the "Veterans Home Loan Program Improvements and Property Rehabilitation Act of 1987" (P.L. 100-198) establishing the Lender's Appraisal Processing Program (LAPP) allowing lenders to directly review appraisal reports and determine the value of a property bought with a VA-guaranteed loan. The intent of the legislation was to improve servicing to benefit the veteran homebuyer. The program was patterned after the successful FHA direct endorsement program and it became fully operational in FY1990 by the DVA.

While the LAPP experienced a slow start, DVA's aggressive promotion of the program has resulted in a steady increase of lender participation that is improving the efficiency and flexibility in the loan appraisal and approval processes. Yet, LAPP remains a temporary component of the home loan program despite providing speedier loan closings benefitting the veteran home buyer. The NATIONAL ASSOCIATION OF REALTORS® believes LAPP should be extended permanently as a principal feature of the VA Home Loan Guaranty Program.

### 4. Energy Efficient Mortgages

The NATIONAL ASSOCIATION OF REALTORS® believes the positive cash flow created by energy efficient improvements translates into savings on utility bills for the consumer outweighing an added monthly finance expense. We believe the VA's energy efficient mortgage program is an important benefit for both the borrower and the lender. By lowering utility expenses, homeowners would have additional funds to meet their housing obligations -- lessening the potential likelihood of mortgage default. The NATIONAL ASSOCIATION OF REALTORS® believes this program provides an additional option and flexibility for the veteran and, as such, we support its extension as a permanent component of the VA Home Loan Program.

CONCLUSION

In closing, Mr. Chairman, the NATIONAL ASSOCIATION OF REALTORS® thanks you and the Subcommittee for the opportunity to present written testimony on pending legislation enhancing the VA Home Loan Guaranty Program. We applaud the Subcommittee for its work promoting homeownership for our nation's veterans, and we share your commitment to the preservation and effective operation of the program.

## WRITTEN COMMITTEE QUESTIONS AND THEIR RESPONSES

**QUESTIONS SUBMITTED BY  
 HONORABLE STEVE BUYER  
 CHAIRMAN, SUBCOMMITTEE ON EDUCATION, TRAINING,  
 EMPLOYMENT AND HOUSING  
 COMMITTEE ON VETERANS' AFFAIRS  
 U.S. HOUSE OF REPRESENTATIVES**

HEARING ON H.R. 1941

AUGUST 2, 1995

**HOUSING QUESTION FOR VA**

**QUESTION 1:** Now that we've discussed the rationale for making permanent a number of housing provisions, the VA now asks that the corresponding requirement for Congressional reporting be discontinued. Often, successful programs are kept that way when interested parties continue to monitor such programs on a regular basis.

- How many hour and dollar resources are involved in the preparation of such reports?

**ANSWER:** The annual reports required under the provisions of Public Law 102-547 pertaining to VA negotiated rate loans, adjustable rate mortgages, energy efficient mortgages, and the lender appraisal program involve about 450 hours of preparation at a cost of approximately \$20,000. This breaks down to an average cost of \$44 per hour, which is made up of \$24 per hour pure salary plus a factor of .85 for benefits and other costs of employment. The \$24 per hour salary is an average for the people who contribute to the reporting process; data processing personnel to extract the raw data out of the system, technician(s) to convert the data into a usable format and perform the analysis, and numerous levels of management and their designees to review the report. The technician(s)' part comprises approximately 350 hours. The other parties' work comprises approximately 50 hours each.

- Expand if you would as to why such reporting mandates should be rescinded?

**ANSWER:** The type of information contained in these reports is normally provided to Congress outside of the reports in connection with annual oversight hearings, allowing Congress to monitor the programs involved. The preparers of the information for the oversight hearings have wider latitude as to format. Therefore, comparable data presentation and analysis can be put together using fewer resources.

Some of the data currently required by Congress for the reports is extremely burdensome to compile or simply not available, resulting in an analysis that may be inconclusive. Also, two plus years of data has demonstrated the success of some of the provisions, making further reporting in such detail unnecessary. These concerns apply to the following areas:

Comparison of VA, FHA, and Conventional interest rates. Actual FHA rates are not tracked. FHA provides us with a sheet of secondary market quotes from a survey of lenders as its best estimate of actual rates. This detracts from the accuracy of our comparison.

To compare the rates from these three groups, we must convert the interest rate and points into an effective rate. Since the data to be converted is frequently in odd increments, the effective rate must be arrived at through interpolation for each month of the fiscal year, a burdensome process. The latter is the case with data available on both VA and Conventional rates.

For both FY 1993 and FY 1994, our analysis showed VA negotiated interest rates remained within 1/4% of average FHA and Conventional rates. There are no indications

that VA rates are, or will become, out of line with the market. Lenders have continued to demonstrate a willingness to make these loans at rates competitive with other mortgage products.

Comparison of VA Negotiated Rates with Rates the Secretary Would Have Established. Identifying the rates the Secretary would have established, in a form that can be compared with negotiated rates and points (combined into the effective rate), is a burdensome process. It involves taking daily secondary market quotes, converting them into interest rates with points, and averaging those into monthly rates and points. Furthermore, the results are entirely hypothetical. In reality, there would be many veterans who could not obtain loans with rates established by the Secretary since, under that system, the seller was required to pay any points involved, and many sellers were unwilling to do so.

For both FY 1993 and FY 1994, our analysis showed negotiated rates to be within 1/4% of rates the Secretary would have established. Since the rates the Secretary would have established are based on the market, and the current negotiated rates are offered by lenders according to competition in the market, there is no reason to believe these two types of rates will ever vary significantly.

Difference in Interest Portion Paid on Claims Following Foreclosure Between Negotiated Rate Loans Versus Loans Bearing Rate Secretary Would Have Established. Besides the difficulty of identifying the rates the Secretary would have established (as described above) this involves the further burdensome tasks of isolating the interest portion of foreclosure claims, and recalculating such portion under a different interest rate scenario. Considering the number and complexity of the tasks involved in reaching this product, a large margin for error exists. The results are therefore inconclusive.

- Would the preparation of a report every two years reduce the work hours necessary to keep Congress adequately informed of VA housing programs?

**ANSWER:** A combination of reporting every two years, and giving VA greater flexibility in choosing the data and analysis presented would ease the burden substantially.

**QUESTION 2:** It seems apparent that the insertion of the OVA into this network presents an opportunity to utilize a vast network with which to reach veterans with the knowledge of obtaining small business assistance. Would you respond to that?

**ANSWER:** OVA has, in the past, provided excellent information on benefits available to veterans through the SBA. This included information on financial, management, technical and procurement assistance through SBAs field structure. This information could certainly be made available through VBAs outreach network. This network does not however have the requisite expertise to assist veterans in their small business endeavors. Veterans would be referred to other resources for specific assistance.

**QUESTION 3:** VA testimony states that it does not "have the staffing, resource or expertise to operate a large scale business assistance program." It's my understanding that the current OSDBU director, Mr. Denniston, is a former long-time SBA employee. Combined with the expertise and experience to be gained from the employees currently at the OVA;

Don't you then, have the experience necessary to understand the needs of veterans in small business and to challenge your employees to promote veterans business?

**ANSWER:** There is no question that we in VA understand the unique challenges facing veterans, and especially disabled veterans wishing to establish small businesses or keep businesses growing. We also can certainly challenge our employees to promote veteran businesses. What we cannot do is provide veterans with the financial, management and

technical assistance necessary to become successful. Statutory authority for these programs rest with SBA.

It is our experience in talking with hundreds of veteran small business owners and prospective veteran small business owners that the great road block to establishing a successful small business is access to capital and credit, generally due to limited or no collateral. VA lacks statutory authority to make business loans. SBA has such authority. OVA currently assists veterans in the SBA loan application process and understanding and overcoming obstacles to approval. We question how this would better be carried out at VA.

**QUESTION 4:** Isn't VA supposed to be the agency for veterans programs? If so, why doesn't VA take on the challenge of assisting veterans small business?

**ANSWER:** VA is the agency for veterans programs, and we do very well those veteran programs which we have the expertise and resources necessary to run. VA can very effectively advocate for veteran small businesses, but without the authority to deliver assistance necessary to assist veterans we would be extremely limited in our success. Veterans would become frustrated because if VA had a business development office veterans would expect direct benefits, not advocacy.

The legislation does not address resources. Rather, the legislation appears to assume that, through the proposed transfer, VA would have additional resources necessary to augment the SBA OVA staff. This simply is not true. We are concerned about heightening the expectations of veterans that VA now has authority to provide financial, management, technical and procurement assistance. When veterans learn that isn't the case and they must go elsewhere the image of VA will surely suffer unnecessarily.

**THE SMALL BUSINESS ADMINISTRATION'S OFFICE OF VETERANS AFFAIRS QUESTION (Note: Directed to VA)**

**QUESTION:** Describe briefly if you would in terms of numbers if you can, the outreach network available through VA, including benefits counselors, voc rehab specialists, etc.

**ANSWER:** VBA provides information and assistance to veterans in a number of ways. The traditional outreach methods include toll-free telephone service, personal benefits counseling, and correspondence. There are 75 VBA regional and satellite offices where information and assistance in preparing and presenting claims is available to veterans and other beneficiaries. VBA also provides information and assistance at a majority of VHA's 173 medical centers, as well as itinerant services at various other locations throughout the U.S.(e.g., major military separation centers).

There are a little more than 1,000 veterans benefits counselors nationwide whose primary function is to provide information and advice to veterans, as well as help them to fill out forms needed to obtain VA benefits. These counselors also refer veterans to other agencies or organizations who offer benefits or other special services to veterans.

There are a number of other occupations within VBA where the employees participate in outreach to a smaller extent, such as field examiners, counseling psychologists, vocational rehabilitation specialists, and estate analysts.

## Questions from Cong. Buyer

1. Thank you for your candor about the SBA move. The American Legion has touched upon a number of my concerns, namely the seeming lack of concern for Veterans' programs by the SBA over the past number of years--the cutting of staff, the elimination of direct loans, the lack of focus in general on veterans. You've also offered your organization's services to assist in creating a meaningful program.

a. Has the Legion offered such a plan addressing the needs and concerns of veterans that would reestablish preeminence of veterans at the business table?

Answer: Yes. Attached to this document is a copy of Resolution 147, adopted by the 77th Annual National Convention of The American Legion. It speaks to the need to increase and improve assistance to America's veteran-entrepreneurs. The proposed transfer of the SBA Office of Veterans' Affairs would accomplish this task. In addition, we have looked closely at another plan which would transfer the Office of Veterans' Affairs to the Veterans' Employment and Training Service. This alternative offers some positive aspects. First, the Assistant Secretary of Labor for Veterans Employment has indicated the possibility of support for such a move. Second, training at the National Veterans Training Institute would be available.

b. (If yes) Have you been able to share these with the SBA administrator in the last five years?

Answer: We have shared very little with the SBA Administrator over the past seven years. No administrator since the Reagan Administration has had much interest in veterans' issues with respect to small business.

2. If the move to VA is a way to develop a comprehensive business service, developed with the assistance of VSOs, how would the Legion react to such a challenge?

Answer: The American Legion is equipped and ready to publicize, through its several communications media, the availability of loans, business counseling and any other programs among our 3 million members.

3. The Legion is opposed to the Negotiated Interest Rate provision.

Would you expand further as to why the organization feels that the program is not a fair one?

Answer: The Negotiated Interest Rate provision has amounted to no more than the degradation of a benefit to veterans seeking home loan guarantees. Under the current program, the only benefits to veterans is the no-down-payment provision. Under the former program, a lower interest rate and a provision forbidding the payment of more than one discount point were also benefits. Veteran borrowers now pay what is essentially a market interest rate and the same number of points as any other borrower. Thus, a substantial portion of the benefit has been lost.

Lenders face risk from two sources when making a mortgage loan. The first is market risk, or the possibility that the market rate will climb substantially leaving them holding a lower yielding loan. The second risk is the possibility that a borrower will default on a loan leaving the lender with the necessity of foreclosure on the property, which may be worth less than the amount of the existing mortgage. All lenders whether or not they participate in the Home Loan Guaranty Program face market risk. Those lenders facing risk of default by veteran borrowers are protected to a very large extent by the guaranty program with the VA paying the lender the guaranty. Lenders, with protection from

losses due to foreclosure due to the guaranty, should be able to offer a substantially reduced interest rate. They have not done so. A Department of Veterans Affairs witness at the August 2 hearing testified that negotiated interest rates under the pilot program were within 25% of market rates. Lenders have been lending at what amount to market rates with no risk of loss due to foreclosure.

Lenders have also complained of the mass of paperwork associated with VA guaranteed loans and with the fact that it took too long for the VA to adjust interest rates under the old program. Both of these problems are easily cured. Loan approval authority for VA guaranteed loans has already been granted to lenders, which should substantially reduce the paperwork requirements. As to the lag time in interest rates, if the VA were to tie the loan guarantee interest rate to some reasonable indicator of the cost of funds, the VA loan guarantee rate would be set automatically, with no need for quarterly or even monthly adjustments. In our examination of this issue, the three year Treasury Bill rate seems to be such a reasonable example. Another might be the Mortgage Bankers Association average lending rate, minus a couple of points.

The American Legion would like to see the benefit of a home loan guarantee restored to what it was before this pilot program was enacted. We do not support making the program permanent or extending it beyond December 31, 1995 when it is scheduled to expire.

**4. Would the Legion care to comment on:  
the Pilot Program for VETS  
or  
the removal of residency requirements for DVETS?**

Answer: Attached to this document are Resolutions 70 and 146, passed by the 77th Annual National Convention of The American Legion. Our official stand on the Reinvention of VETS is contained therein.

The American Legion does not have an official position on the residency requirement.

QUESTIONS -- Panel 2  
The Honorable Maxine Waters  
August 2, 1995

**1. The Legion has suggested that the draft bill which would transfer SBA's veterans' small business program to the VA needs to further clarify the role of the proposed new service in the VA.**

First, I'd appreciate it if the Legion would expand on this suggestion and be more specific. Next, how do the rest of you feel about this? Do you agree more clarification is needed? If so, what language would you suggest?

Answer: Before The American Legion can give its support to combining the Small Business Administration's (SBA) Office of Veterans Affairs (OVA) with the Department of Veterans Affairs' (VA) Office of Small and Disadvantaged Business Utilization (OSDBU), we must have answers to the following questions:

1) How would combining OVA and OSDBU improve the entrepreneurial services that America is, or is not, currently providing to her veterans?

2) How would the two offices interface? Would they operate independently to achieve separate missions, or would they work together to promote a common program?

3) All federal agencies are required to have OSDBUs that, among other things, are designed to ensure that minority and women-owned small businesses receive more contracts for the goods

and services purchased by government. While The American Legion does not oppose that policy, we wonder what affect it will have on the proposed Veterans Entrepreneurial Business Service's (VEBS) ability to achieve its mission of promoting small business opportunities for veterans.

4) As The American Legion pointed out in its testimony, additional resources may be needed so that VEBS can achieve its mission of promoting small business opportunities both inside and outside the VA. Will Congress be willing to commit resources if necessary? In our opinion, simply moving OVA to VA will not improve this country's services to its veteran-entrepreneurs.

2. The Legion objects in its testimony to making the negotiated interest rate provision permanent. Mr. Naschinski, do you have hard evidence that veterans have suffered under this provision?

Answer: This is not a question of veterans suffering under this pilot program. It is a question of lenders reaping the financial benefits of making loans at reduced risk while charging what is essentially a market interest rate. It is also about the degradation of a benefit which was better in the past than it is now. Under this pilot program, the ONLY benefit available to a veteran seeking a loan under the VA home loan guaranty program is the no-down-payment provision.

The American Legion does not support either making this program permanent or an extension beyond December 31, 1995, when it expires.

Has anyone else on the panel seen evidence that this provision has cause problems?

3. In its testimony, the VFW states that the primary mission of the VA is health care. While I agree that health care is an important VA mission, those young men and women going to school under the Montgomery GI Bill, those training under the vocational rehabilitation program, and those who have bought their homes with a VA home loan would take issue with your conclusion.

On another point, Mr. Manhan, you state that the SBA veterans' program should not be moved to the VA. Under that circumstance, what specific actions should we take, and what specific actions should the SBA take to ensure that their veterans' program is meaningful and effective?

Would the rest of the panel also suggest what actions should be taken by SBA to strengthen the veterans program in the event that the Veterans' Office is not moved?

Answer: The Small Business Administration should be mandated to fund and staff the Office of Veterans' Affairs at a level which is at least three times what it currently is.

4. AMVETS notes that there is no substantive argument not to move the SBA program to the VA. Mr. Carbonneau, what specific, positive changes would result from this shift? What does in mean to say the move "will break the paradigm and bring a new energy focus to the programs"?

5. In his statement, our DAV witness recommends that a waiver be granted to the current State Director residency requirement for those who have two years experience as an Assistant State Director.

I think this recommendation has merit. What does the rest of the panel think of this idea?

Answer: The American Legion has no position on the residency requirement for State Directors of Veterans Employment.

6. Mr. Lopez, I am unfamiliar with what your refer to as "the stigma of the instability of disability." I would appreciate it if you would further explain this bias.

Does it extend to all disabled individuals or just disabled veterans? How is it manifested by the financial and insurance industries?

VFW RESPONSES TO QUESTIONS POSED BY CHAIRMAN BUYER  
FROM AUGUST 2, 1995, HEARING  
SUBCOMMITTEE ON EDUCATION, TRAINING,  
EMPLOYMENT & HOUSING

**QUESTION NUMBER 1**

**The VFW testified to receiving a number of complaints over the years about the SBA program. Testimony was heard that the House Committee on Small Business had plans to move OVA to VA. Funding is a concern, naturally. You are not yet in support of the move of the veterans office in SBA to the VA.**

- **What then, might the VFW suggest to improve the level of service of small business expertise for your constituency?**

**RESPONSE:**

The VFW strongly believes that the Office of Veterans Affairs (OVA) within the Small Business Administration is well positioned in order for its program of assistance to veterans to perform well.

From a standpoint of consistency and efficiency it makes good sense to have OVA located within the SBA Central Office where it has easy access to related agency programs and services such as the Service Corps of Retired Executives (SCORE), Small Business Development Center (SBDC) program, direct and guaranteed loans, etc. These services and programs share the SBA mission and are current resources partners to the Office of Veterans Affairs.

Having said that, we firmly believe that the responsibilities of the Office of Veterans Affairs need to be further defined. In other words, what specifically is the Office of Veterans Affairs expected to do realistically? Currently, SBA's veterans policy is based on "special consideration." The "special consideration" policy that agency follows is based on a 1982 policy statement issued by the Administrator at that time.

The concept of "special consideration" is often misunderstood. Unfortunately, some veterans have interpreted this policy as providing entitlement to an SBA loan and, of course, this is not the case. Consequently, we believe that efforts to further define OVA responsibilities should necessarily begin with clarifying the "special consideration" policy. My additional suggestions for improving the level of services for veterans are stated below in no particular order of priority. They are to:

- Reestablish the Advisory Committee on Veterans Business Affairs. This committee has been dormant for over two years. In past years this committee fostered good communication between veterans service organizations and the SBA Administrator. Veterans service organizations were able to present to SBA officials, the various business related concerns that had been voiced by veterans who had benefited from agency services and programs or who were seeking to participate in same. We viewed the Advisory committee which met on a quarterly basis as being quite beneficial. We urge that language be added to the draft bill reestablishing the Advisory Committee.
- Include veterans issues in agency sponsored research. The SBA Office of Advocacy routinely conducts original research on a range of issues that are of interest to small business concerns. We believe that such research can be very beneficial to OVA, established veteran owned businesses, as well as those veterans contemplating starting their own business.

Attachment 1

- Performance rating of SBA district directors should among other factors reflect the effectiveness of agency programs being administered. The office of Veterans Affairs does not have a dedicated staff of its own and consequently must rely on the district director in the field to assign the OVA function to an appropriate SBA staff member. Whichever staff member receives the OVA assignment must perform that function along with other duties and responsibilities. In reality, district directors treat some SBA programs with the highest priority and others almost as an after-thought. We believe that consistency and effectiveness in the administration of the OVA program can be enhanced through better accountability in the field. For accountability purposes, it falls within the purview of the highest ranking official in a particular office to ensure that all agency programs are administered effectively and in a manner consistent with established law and policy.
- SBA Small Business Development Center (SBDC) program should include provisions for addressing specific veterans needs. The SBDC program which operates from college and university campuses is well positioned to do more to assist veteran start-ups and others. Indeed, part of what the SBDCs do is design and teach business development and assistance courses that enhance business operation skills and knowledge. Within this context, we suggest that SBDC be strongly encouraged to develop a series of courses around specific veteran needs

#### **QUESTION NUMBER 2**

**The VFW stated its opposition to the lifting of the residency requirements of the State DVET.**

- **Can you comment further on why the VFW opposes it?**
- **Would the VFW recommend similar residency requirements for other federal agencies which have state offices?**

#### **RESPONSE:**

Delegates to the VFW National Convention passed resolution No. 656 at our recently complete national convention on August 24, 1995. This resolution requires that the VFW go on record in support of legislation eliminating the state residency requirement. This position supercedes our remarks on the state residency requirement issue before the Subcommittee on August 2, 1995.

VFW RESPONSES TO QUESTIONS POSED BY  
 REPRESENTATIVE MAXINE WATERS  
 FROM AUGUST 2, 1995, HEARING  
 SUBCOMMITTEE ON EDUCATION, TRAINING,  
 EMPLOYMENT & HOUSING

**QUESTION NUMBER 3**

**In its testimony, the VFW states that the primary mission of the VA is health care. While I agree that health care is an important VA mission, those young men and women going to school under the Montgomery GI Bill, those training under the vocational rehabilitation program, and those who have bought their homes with a VA home loan would take issue with your conclusion.**

**On another point, Mr. Manhan, you state that the SBA veterans' program should not be moved to the VA. Under that circumstance, what specific actions should we take, and what specific actions should the SBA take to ensure that their veterans' program is meaningful and effective?**

**RESPONSE:**

I certainly agree that the VA does provide many more services to our nation's veterans that are just as important as their health care programs. It was not my intention to slight any group of VA employees or any group of recipients.

To improve the SBA's Office of Veterans Affairs (OVA) the VFW strongly recommends that OVA be repositioned within the SBA Central Office. This will have the advantage of giving OVA more immediate and easier access to related agency programs and services. I have such activities in mind as the Service Corps of Retired Executives (SCORE), the Small Business Development Center (SBDC) program and SBA's direct and guaranteed loans information.

Another suggestion is to reestablish the Advisory Committee on Veterans Business Affairs. This committee has not met for more than two years. Its primary purpose is to exchange ideas between the several veterans service organizations and the SBA.

In conclusion, the VFW believes these actions, taken together, will allow OVA to fulfill its mission to provide veterans advice and assistance on how to better prepare for the complex world of the small business entrepreneur.

**QUESTION NUMBER 5**

**In his statement, our DAV witness recommends that a waiver be granted to the current State Director residency requirement for those who have two years experience as an Assistant State Director.**

**I think this recommendation has merit. What does the rest of the panel think of this idea?**

**RESPONSE:**

While the VFW position calls for elimination of the state residency requirement, we agree that granting of a waiver has merit. The waiver would cure a major weakness of the present law which does not allow an assistant state director with many years experience to apply for vacancies in other states. The current law unintentionally rewards newly appointed state directors with journeyman's pay that often exceeds the pay of many assistant state directors who are often more experienced.

Attachment 2

