

COMMONWEALTH OF PENNSYLVANIA  
HOUSE OF REPRESENTATIVES

VETERANS AFFAIRS AND EMERGENCY PREPAREDNESS  
COMMITTEE HEARING

STATE CAPITOL  
HARRISBURG, PA

IRVIS OFFICE BUILDING  
ROOM G-50

WEDNESDAY, MARCH 7, 2012  
1:02 P.M.

PRESENTATION ON  
HB 1092 AND HB 1152  
CIVIL SERVICE LAW REFORMS

BEFORE:

HONORABLE STEPHEN BARRAR, MAJORITY CHAIRMAN  
HONORABLE KAREN BOBACK  
HONORABLE FRANK A. FARRY  
HONORABLE MARK M. GILLEN  
HONORABLE SCOTT E. HUTCHINSON  
HONORABLE THOMAS P. MURT  
HONORABLE CHRIS SAINATO, DEMOCRATIC CHAIRMAN  
HONORABLE BRYAN BARBIN  
HONORABLE TINA M. DAVIS  
HONORABLE MARIA P. DONATUCCI  
HONORABLE NEAL P. GOODMAN  
HONORABLE WILLIAM C. KORTZ II  
HONORABLE JAKE WHEATLEY

ALSO IN ATTENDANCE:

HONORABLE MARK LONGIETTI

\* \* \* \* \*

*Pennsylvania House of Representatives  
Commonwealth of Pennsylvania*

1 COMMITTEE STAFF PRESENT:

2 RICHARD T. O'LEARY  
3 MAJORITY EXECUTIVE DIRECTOR

4 SEAN E. HARRIS  
5 MAJORITY RESEARCH ANALYST

6 JENNIFER A. TYLER  
7 DEMOCRATIC EXECUTIVE DIRECTOR

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## P R O C E E D I N G S

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CHAIRMAN BARRAR: Good afternoon, everyone.

I'd like to call this meeting of the Veterans Affairs and Emergency Preparedness Committee to order.

And I would ask our Auditor General, Jack Wagner, if he would lead us in the Pledge of Allegiance.

AUDITOR GENERAL WAGNER: Yes, sir. Thank you, Mr. Chairman.

(The Pledge of Allegiance was recited.)

CHAIRMAN BARRAR: I'm going to go a little bit out of order here, and we have a little housekeeping business that we have.

I was going to ask Representative Farry if he would -- on Monday, March 12, at the call of the Chair, we're going to have a committee meeting to take up two resolutions, and they are both from Representative Farry, and I would ask him if he would tell us what they are and give us a quick explanation.

REPRESENTATIVE FARRY: Sure. Thank you, Chairman.

The first resolution actually relates to the F-35 Fighter Program. The F-35 has many suppliers in Pennsylvania. It's currently being funded out of Washington, D.C., right now,

1 but there are some questions as to whether or not they are  
2 going to continue funding it. So I was reached out to by some  
3 of the manufacturers from Bucks County that supply some of the  
4 components and was asked to move forward with the resolution to  
5 our Congress and U.S. Senators, asking them to continue the  
6 program.

7           The second resolution relates to legislation by  
8 Congressman Fitzpatrick recognizing Danny McIntosh, who is a  
9 paramedic that was killed in the line of duty in Bucks County  
10 2 years ago. The death benefits that the Federal Government  
11 allots for police and firefighters do not include EMS personnel  
12 who are non-municipal employees. So many of our communities  
13 are protected by nonprofit ambulance squads that are funded by  
14 the municipalities, but their employees and volunteers are not  
15 considered municipal employees.

16           Mr. McIntosh died in the line of duty, left behind a  
17 wife and two children. So I'm working with Congressman  
18 Fitzpatrick to help raise awareness, because our EMS community  
19 is not aware, a lot of our EMS community is not aware that they  
20 will not receive Federal death benefits if they die in the line  
21 of duty.

22           So Congressman Fitzpatrick has legislation in D.C.  
23 to fix this, and this is just being done to help drive  
24 awareness of this issue and to try and help the Congressman  
25 out.

1           CHAIRMAN BARRAR: Thank you, Representative. That  
2 meeting will be called at the call of the Chair on Monday.

3           The purpose of our hearing today: We're here today  
4 to examine our State civil service system as it pertains to our  
5 veteran community. This session, we have several bills before  
6 the General Assembly on the subject of civil service reforms.  
7 In essence, this bill, these bills, are geared toward enhancing  
8 our State veterans' preference laws and their implications.

9           In our initial correspondence with the panel before  
10 us today, we've asked for their input on these five legislative  
11 proposals and, furthermore, invited them to comment on the  
12 health of our State civil service system and our veterans'  
13 preference law.

14           With the many post-9/11 deployments of our military  
15 in support of Operations Enduring Freedom and Iraqi Freedom,  
16 Pennsylvania has an ever-increasing veteran community, composed  
17 of many young men and women looking for State and local  
18 government jobs. Therefore, the ground is indeed fertile for  
19 the General Assembly to examine our current veterans'  
20 preference law and practices for the betterment of our veteran  
21 community.

22           A sixth bill in the aforementioned package of bills  
23 was signed into law this year by Governor Corbett, and the  
24 prime sponsor of the bill was Representative Marsico. The  
25 bill has simply required that at least one member of the

1 Civil Service Commission be a member of the military, thereby  
2 allowing the veteran community to have a more direct voice on  
3 the important Civil Service Commission.

4 The Governor appointed this year Gen. John Stevens,  
5 who is now the chairman of the commission. And I see  
6 Mr. Stevens in the audience there, and I want to thank you for  
7 your service to our country.

8 We have an excellent panel of testifiers here before  
9 us today. I want to personally thank them for their  
10 participation here. Each panel is allotted 20 minutes for  
11 their presentation and a question-and-answer period.

12 And I would like to welcome our Auditor General,  
13 Gen. Jack Wagner, for being here today, and General, you may  
14 proceed when you are ready.

15 AUDITOR GENERAL WAGNER: Thank you, Mr. Chairman,  
16 Chairman Barrar, and Chairman Sainato and Members of the  
17 Veterans and Emergency Preparedness Committee.

18 Thank you for the opportunity to discuss potential  
19 changes to the State's Civil Service Law.

20 As Pennsylvania's independent fiscal watchdog, the  
21 Department of the Auditor General is responsible for making  
22 sure that tax dollars of hardworking Pennsylvanians are spent  
23 efficiently, effectively, and for their intended purpose.

24 The department audits government agencies and  
25 programs at the State and local level that receive State funds



1 or Federal funds that are passed through State government.

2 Pennsylvania, as you are aware, is home to one of  
3 the largest veterans' populations in the nation, with more than  
4 1.1 million Pennsylvania citizens who have proudly served our  
5 nation.

6 As a Vietnam veteran, I have made veterans' issues a  
7 priority throughout my life as a public official. I sat on the  
8 Veterans Affairs Committee during my 10 years as a Member of  
9 the State Senate, and as a Senator in 1995, I was part of a  
10 successful effort to save the 911th Airlift Wing in Moon  
11 Township, Allegheny County, when it was threatened with closure  
12 by the Base Realignment and Closure Commission.

13 As all of you are aware, there is an attempt to  
14 close the 911th again today, and it is great to see a  
15 bipartisan committee composed of some of you -- Federal, State,  
16 and local elected officials -- trying to save the base.

17 In addition, during my first year as Auditor  
18 General, I held six breakfast meetings with veterans across the  
19 State to hear their issues and issued a report that was then  
20 sent to Governor Rendell and the General Assembly.

21 One of the most important reports I have issued as  
22 Auditor General was a 2008 special performance audit of the  
23 State Civil Service Commission on the Veterans' Preference  
24 Program.

25 The gentleman sitting to my left is Randy Marchi.

1 Randy is my Bureau Director of State and Federal Audits within  
2 the Department of Auditor General. He has been with the  
3 Department of the Auditor General for over 30 years and brings  
4 tremendous expertise to the auditing process, he and his  
5 people.

6 In addition, Randy is a citizen-soldier. He is a  
7 Major General of the Pennsylvania National Guard and is the  
8 Commander of the 28th Division. He is passionate about people  
9 in the military and their families and also veterans and their  
10 families.

11 Pennsylvania's present law regarding veterans'  
12 preference requires State agencies to hire any veteran who  
13 possesses the requisite qualifications and whose name appears  
14 in the top three of any eligible list that is certified and  
15 provided by the Civil Service Commission.

16 The purpose of Pennsylvania's Veterans' Preference  
17 Program is to give veterans credit for the discipline and the  
18 experience represented by their military training and for the  
19 loyalty and public spirit demonstrated by their service to  
20 their country.

21 "Veterans' preference" refers to the additional  
22 benefits given to qualifying veterans. By authority of the  
23 Military Affairs Act of 1975 and the Civil Service Act,  
24 eligible veterans receive 10 additional points to their civil  
25 service test score and, as a result, have mandatory hiring

1 preference if the veteran has one of the three highest exam  
2 scores for the position. In addition, a hiring agency may give  
3 preference to any qualified veteran on a job list regardless of  
4 where his or her score falls on that list.

5 We began our special performance audit following a  
6 complaint I personally received from a military veteran who  
7 said that the Commonwealth had not been applying veterans'  
8 preference in its employment decisions or had been applying the  
9 preference in an unsatisfactory manner.

10 Our audit, which covered the period from July 1,  
11 2002, to June 30, 2006, and was released in November of 2008,  
12 found that the Civil Service Commission was lax in its  
13 administration and oversight of the Veterans' Preference  
14 Program.

15 Specifically, our auditors found that 25 State  
16 agencies filled at least -- and I repeat -- at least 569 civil  
17 service employment positions without considering eligible  
18 veterans looking for jobs whose test scores ranked among the  
19 top three highest for each position. State agencies filled  
20 two-thirds of the employment vacancies by discarding employment  
21 lists that included the names of qualified veterans and instead  
22 used employment lists that excluded veterans seeking jobs with  
23 the Commonwealth.

24 Our auditors found that at least 26 job positions  
25 were not filled with veterans because agencies requested

1 multiple employment lists for the same job position by changing  
2 the county work location and subsequently hired from a list  
3 that did not have a veteran within the top three highest  
4 scores. Auditors also found that agencies opted to generate  
5 employment lists that included veterans seeking employment when  
6 filling another 212 positions.

7           Members of the committee, the Civil Service  
8 Commission must require all agencies to fill positions from  
9 civil service employment lists that include qualified veterans  
10 seeking employment, unless agencies provide written  
11 justification in using other employment lists.

12           For a State agency to fill a vacant civil service  
13 position, it must first request employment lists from the State  
14 Civil Service Commission. The agency will then hire an  
15 applicant from one of the requested employment lists and cancel  
16 the other lists that are not used.

17           The Civil Service Commission indicated it has  
18 certain monitoring tools, including a post-audit process, of  
19 who was hired and an employment list review process. However,  
20 our auditors found deficiencies in the Civil Service  
21 Commission's monitoring efforts that needed improvement, and  
22 this was all indicated in our audit.

23           As part of administering the Veterans' Preference  
24 Program, the Civil Service Commission must ensure that adequate  
25 controls, including written procedures and supervisory review,

1 are in place so that application information is processed  
2 accurately and promptly and that the applicant's final scores  
3 are correctly determined and entered properly into the computer  
4 system.

5           Hiring qualified people is vital for the  
6 Commonwealth in order to provide essential programs and  
7 services to the citizens of Pennsylvania. The Veterans'  
8 Preference Program is an instrument to aid the Civil Service  
9 Commission in hiring qualified individuals, because veterans  
10 possess discipline and experience as a result of their military  
11 service.

12           I think that anyone who reads our audit that was  
13 released several years ago will likely conclude that the Civil  
14 Service Commission at that time did not do all it could to  
15 enforce the law and the spirit of the law.

16           We called on the Civil Service Commission to tighten  
17 its oversight to take advantage of this excellent program as an  
18 instrument to aid in hiring qualified individuals to do the  
19 work Pennsylvania citizens count on each and every day.

20           To improve the program's effectiveness for  
21 Pennsylvania taxpayers and veterans alike, our special  
22 performance audit made 19 recommendations at the time.  
23 Thirteen of those recommendations the commission implemented  
24 during or before the release of our audit. That was a good  
25 thing. However, several were not implemented at the time.

1           But most importantly, we recommended that the Civil  
2 Service Commission should do the following:

3           Number one, require all agencies to fill positions  
4 using lists that include veterans seeking employment with the  
5 Commonwealth, unless agencies provide written -- and I repeat  
6 -- written justification for the need to request and fill  
7 positions from other types of lists.

8           Now, we found out that there was not written  
9 justification. An example: If you need a civil engineer for  
10 a position and there is not a civil engineer, you can go to  
11 another list; there is not a qualified veteran. But what we  
12 found repeatedly in our audit is that there was not written  
13 justification to fill that position by going to another list.

14           Second, improve the post-audit process to include a  
15 comparison of the canceled employment list with the employment  
16 lists used to hire in order to ensure that veterans' preference  
17 is not circumvented.

18           Number three, develop policies, written policies,  
19 and procedures for processing veterans' preference forms,  
20 including date-stamping -- something vitally important -- and  
21 monitoring to ensure data is processed in a timely manner.

22           And number four, establish computer controls to  
23 eliminate agencies' capability to hire applicants by using  
24 canceled employment lists through the State computer system.

25           The one recommendation that I felt was most

1 important was requiring one of the members of the Civil Service  
2 Commission to be a veteran. At the time, I argued that having  
3 a veteran on the board would make sure that veterans'  
4 perspectives -- in other words, veterans' issues -- would  
5 always be considered, and it would reassure Pennsylvania's  
6 proud military veterans that their voices were being heard.

7 I commend the Members of this committee. I also  
8 commend Governor Corbett and the entire General Assembly for  
9 setting this requirement into law with the passage of Act 76 of  
10 2011. My hat is off to you.

11 As the unemployment rate for veterans returning from  
12 Iraq and Afghanistan remains stubbornly high, it is comforting  
13 to know that a fellow veteran will be on the commission to look  
14 out for the best interests of all veterans. As all of you  
15 know, that person is Maj. Gen. (Retired) John Stevens, who is  
16 in the audience today and will be testifying later.

17 With regard to the bills that are the focus of this  
18 hearing, I would like to express my support for all of them,  
19 because we should be doing all we can to help veterans obtain  
20 jobs through these tough economic times, and as a matter of  
21 fact, at all times. Today, the unemployment rate for veterans  
22 is 50-percent higher than the average population. There is a  
23 great need to put special attention on hiring veterans.

24 HB 985 is a much needed bill, because there could be  
25 veterans applying for jobs through the Civil Service Commission

1 who are not aware of veterans' preference, and requiring a  
2 statement about it on the commission's Website and promotional  
3 materials makes everyone aware that such a benefit exists. So  
4 we fully support HB 985.

5 HB 1090 would strengthen the law so that any  
6 qualified veteran who scores well enough on the civil service  
7 examination will be hired, because it would require that if a  
8 veteran is among the three highest ranking available candidates  
9 for a position, he or she must be hired. However, after  
10 further review, we believe there may be a potential weakness in  
11 the bill that could permit an agency to avoid hiring a  
12 qualified veteran if the hiring is done by a single list of  
13 multiple lists, and we'll explain that later. But we think  
14 that 1090 may need to be strengthened slightly.

15 HB 1092 is a valuable bill that provides additional  
16 assistance for veterans seeking employment through the Civil  
17 Service Commission. Now, the Office of Veteran Advocate will  
18 represent the interests of veterans before the Civil Service  
19 Commission and will ensure that veterans have a voice before  
20 the commission and, for that matter, any court, agency, or  
21 local government entity initiating proceedings affecting  
22 veterans.

23 HB 1152 codifies into law that veterans receive  
24 10 points on the civil service examination and veterans'  
25 preference for municipal jobs, which is something that should



1 already be commonplace but will now ensure veterans will  
2 receive the benefits they deserve when applying for jobs at the  
3 local level.

4           And finally, HB 1262 creates the Civil Service Board  
5 of Appeals to hear appeals from the final determination of  
6 actions by the Civil Service Commission. The creation of a  
7 board of appeals is significant because it will allow veterans  
8 and other candidates the opportunity to appeal the decisions  
9 that they feel are wrong.

10           In summary, I commend the committee for the  
11 legislation you have passed. I further commend you for the  
12 bills that are in front of you. And we support the five bills  
13 that I had mentioned and, Mr. Chairman, would be happy to  
14 answer any questions.

15           Thank you.

16           CHAIRMAN BARRAR: Thank you, General Wagner. I  
17 appreciate your testimony.

18           I can tell I'm not on my game today, because I kind  
19 of went out of order on a few things here. I would ask,  
20 starting with Representative Gillen down on the end, if the  
21 Members would stand and, well, you don't have to stand, but at  
22 least identify yourself. Thank you.

23           REPRESENTATIVE GILLEN: Representative Mark Gillen  
24 from southern Berks County's 128th Legislative District.

25           REPRESENTATIVE LONGIETTI: Good afternoon.

1           Representative Mark Longietti from the 7th District  
2 in Mercer County.

3           REPRESENTATIVE HUTCHINSON: Representative  
4 Scott Hutchinson, 64th District, Venango and a portion of  
5 Butler County.

6           REPRESENTATIVE BARBIN: Representative Bryan Barbin,  
7 71st District, Cambria County.

8           REPRESENTATIVE DONATUCCI: Representative  
9 Maria Donatucci from Philadelphia and Delaware Counties.

10          REPRESENTATIVE DAVIS: Good afternoon.

11          Tina Davis, lower Bucks County, 141st.

12          REPRESENTATIVE FARRY: Representative Frank Farry,  
13 142d District in Bucks County.

14          REPRESENTATIVE WHEATLEY: Representative  
15 Jake Wheatley, Allegheny County, 19th Legislative District.

16          MR. HARRIS: Sean Harris, majority Research Analyst.

17          MR. O'LEARY: Rick O'Leary, Executive Director to  
18 the majority Chairman.

19          REPRESENTATIVE SAINATO: Representative Chris  
20 Sainato. I'm the minority Chairman from Lawrence County and a  
21 small section of Beaver County.

22          MS. TYLER: Jen Tyler, Executive Director to the  
23 minority Chairman.

24          REPRESENTATIVE BOBACK: Representative Karen Boback,  
25 and I represent parts of Luzerne, Wyoming, and Columbia

1 Counties, House District 117.

2 REPRESENTATIVE MURT: Tom Murt, Philadelphia and  
3 Montgomery Counties.

4 REPRESENTATIVE KORTZ: Good afternoon.

5 Bill Kortz, Allegheny County, 38th District.

6 CHAIRMAN BARRAR: Thank you. Now at least you know  
7 who is asking you questions, right?

8 AUDITOR GENERAL WAGNER: Thank you.

9 CHAIRMAN BARRAR: I would start with, since I went  
10 out of order here, I would ask Chairman Sainato, who is the  
11 minority Chairman of the committee, if he would like to make  
12 some comments and start the questioning off.

13 REPRESENTATIVE SAINATO: Sure. Thank you, Chairman  
14 Barrar.

15 I would like to thank Auditor General Wagner for  
16 joining us this afternoon, as well as all the testifiers who  
17 are going to be with us.

18 I also would like to thank Chairman Barrar for  
19 holding this hearing. This is an issue that is important to  
20 all Members of the Veterans Affairs and Emergency Preparedness  
21 Committee.

22 The Veterans' Preference Program in Pennsylvania  
23 provides that veterans who pass the civil service exam receive  
24 10 additional points on their employment, as you had said,  
25 General Wagner.

1           And I, too, was appalled to hear some of the results  
2 of that audit you did years ago. And I think it's important,  
3 and this committee takes this issue very seriously, as we've  
4 shown for the past year and a half.

5           So I'm interested in hearing from everyone, and I  
6 would just like one question to you, General Wagner.

7           What tipped you off to this that there was a  
8 problem?

9           AUDITOR GENERAL WAGNER: Well, we received a  
10 complaint from an individual, and through further investigation  
11 we determined that this was not a singular problem with a  
12 singular person.

13           Consequently, our research people completed an  
14 analysis, and after further review with my Bureau Director and  
15 senior staff, we determined that a specific audit of the  
16 Veterans' Preference Program was justified.

17           And as a result, we initiated the audit, and the  
18 findings were startling in many ways -- to find out that State  
19 agencies were avoiding and directly using a list in an  
20 unjustified manner without any written justification to do so.  
21 Consequently, veterans that could have or should have been  
22 hired were not being hired.

23           REPRESENTATIVE SAINATO: All right. Thank you,  
24 General Wagner.

25           CHAIRMAN BARRAR: Representative Kortz.

1           REPRESENTATIVE KORTZ: Thank you, Mr. Chairman.

2           And thank you, General, for your testimony today and  
3 thank you for all the solid work you have done as our Auditor  
4 General.

5           Sir, are there any plans to go back at the 1-year  
6 timeframe and re-audit these agencies? Since there are so many  
7 agencies and it looks like they had so many lists and there was  
8 just complete disarray, are there any plans to go back in that  
9 1-year timeframe and take another look, a snapshot, at what  
10 they're doing?

11           AUDITOR GENERAL WAGNER: Well, we have followed up.  
12 I'm going to let Randy Marchi talk about that.

13           But in general, where we have the manpower to do so,  
14 we routinely follow up 1 year after an audit is completed to  
15 see if findings and recommendations have been implemented. And  
16 as I indicated in my testimony, we think a permanent, positive  
17 improvement of the Civil Service Commission is having a veteran  
18 sitting as one of the members of the commission who has  
19 empathy, knowledge, and understanding of what people in the  
20 military have contributed to the service of their country, and  
21 the fact that these laws are real and they need to be enforced.

22           And it's impossible for the Auditor General to be  
23 the daily overseer of each agency of State government. We do  
24 identify in our audits flaws that exist and make  
25 recommendations to all of you -- the General Assembly, the

1 public, and the Governor. But it is a permanent, positive  
2 improvement to have a veteran sitting as a member of the Civil  
3 Service Commission. And Randy, you may want to talk a little  
4 bit about some followup that we did.

5 MAJOR GENERAL MARCHI: In 2010, we did an inquiry  
6 with the Civil Service regarding the afore findings and 19  
7 recommendations, and they essentially responded, and out of the  
8 19 recommendations, they included support that they resolved 15  
9 of those. However, there was the first finding that was not  
10 resolved. They indicated that they disagreed with that  
11 particular finding, and that finding pertains to the lack of  
12 documentation and using the various lists that the agencies  
13 were using, which at times excluded the veterans' preference.

14 So again, out of 19 recommendations, they resolved  
15 15.

16 CHAIRMAN BARRAR: Okay. Thank you.

17 REPRESENTATIVE KORTZ: Thank you, Mr. Chairman.

18 CHAIRMAN BARRAR: If they're going from several  
19 lists, I mean, how are the lists manipulated to eliminate the  
20 veterans' preference on there, or the veteran with the  
21 preference?

22 MAJOR GENERAL MARCHI: The veteran who is seeking a  
23 position is on a particular list. At the time of the audit, it  
24 was Code 11. So that veteran with the preference is on the  
25 Code 11 list, along with all other employees who sat for the

1 examination.

2           There's a second list. At the time of the audit, it  
3 was a Code 12. That list would include the current employees  
4 of the hiring agency. So it would not include the veteran who  
5 was seeking a position; it would include the current employees  
6 of the hiring agency.

7           There's a third list. At the time, it was Code 14.  
8 It would include the current State employees of all the  
9 agencies. Again, it would exclude the veteran seeking a job.

10           So during the audit, as the General indicated, they  
11 were using lists that would not include the veteran seeking the  
12 position. They would be using a list of either current State  
13 employees of the hiring agency or the current State employees  
14 of all the agencies.

15           CHAIRMAN BARRAR: Thank you.

16           MAJOR GENERAL MARCHI: Sir, did that answer your  
17 question?

18           CHAIRMAN BARRAR: Yes.

19           Representative Kortz, I interrupted you and I  
20 apologize. Okay.

21           Representative Barbin.

22           REPRESENTATIVE BARBIN: A followup on the question  
23 that was asked by the Chairman.

24           If there was the ability under law at the time to  
25 have a veterans' list and then an agency list and then an

1 all-State employee list, can those lists, as we speak today,  
2 can those lists still be used for the purposes of determining  
3 who's going to be hired? Are there still agency lists that  
4 would preclude a current veteran from being hired, or is there  
5 an all-State employee list that would preclude a veteran from  
6 being hired?

7 AUDITOR GENERAL WAGNER: Well, I would -- number  
8 one, we haven't audited recently, and I think that would be an  
9 excellent question for the Civil Service Commission.

10 REPRESENTATIVE BARBIN: Okay. I thank you.

11 AUDITOR GENERAL WAGNER: Randy, do you want to add  
12 anything to that?

13 MAJOR GENERAL MARCHI: No, that's---

14 AUDITOR GENERAL WAGNER: Okay.

15 REPRESENTATIVE BARBIN: And, General, I want to  
16 thank you, because if you hadn't brought this issue to the  
17 attention of the Governor and the General Assembly, we wouldn't  
18 have been able to pass the bill last year.

19 AUDITOR GENERAL WAGNER: Thank you.

20 REPRESENTATIVE BARBIN: And I was looking at one  
21 other bill, and I would like your opinion on it. 1092 is the  
22 Veteran Advocate bill, and it says under that bill that we are  
23 going to avoid the same problem that we had with Civil Service;  
24 we are going to have a veterans' advocate, and you must be a  
25 veteran to be on that bill.



1 I was looking at it closely; would you be in favor  
2 of also having that same qualification apply to the assistant  
3 veteran advocates and the clerical people that would be hired  
4 by that agency?

5 AUDITOR GENERAL WAGNER: Do you mean for them to be  
6 veterans?

7 REPRESENTATIVE BARBIN: Yes.

8 AUDITOR GENERAL WAGNER: Well, I think--- Do those  
9 positions fall under civil service?

10 REPRESENTATIVE BARBIN: I don't know. I can't tell  
11 by the bill. But what I'm worried about is this same issue.

12 AUDITOR GENERAL WAGNER: Okay.

13 REPRESENTATIVE BARBIN: The bill says that the  
14 Veteran Advocate has to be a veteran, but if you're going to  
15 have a special organization that is dealing with veterans---

16 AUDITOR GENERAL WAGNER: Okay. I think it's always  
17 healthy to try and hire a veteran.

18 REPRESENTATIVE BARBIN: Okay. And my last---

19 AUDITOR GENERAL WAGNER: Whether that be -- and keep  
20 in mind, and Randy Marchi can tell you better than I can, there  
21 are a lot of good, qualified veteran women available today.

22 The unemployment rate for veterans is somewhere in  
23 the 12-, 13-percent range. Obviously the general population is  
24 somewhere in the 7-, 8-percent range. There are people coming  
25 back from Iraq and Afghanistan that don't have jobs, that need

1 jobs. Yes, I think preference should be given to veterans.

2 REPRESENTATIVE BARBIN: Under the terms of this  
3 bill, there is also a statement that in addition to being an  
4 advocate before the Civil Service Commission, they can also,  
5 the Veteran Advocates can also represent, if they decide in  
6 their judgment the veteran's interest requires it, go to any  
7 other court proceedings or agency proceedings. And what I'm  
8 wondering is, we've had a lot of discussions about veterans  
9 court as an alternative way to try to make sure that a veteran  
10 is at least properly reviewed for the service that he made to  
11 the country.

12 What's your general position as to whether the  
13 Veteran Advocate should also have a role, in limited  
14 circumstance, in determining other court proceedings, not just  
15 Civil Service Commission? Is this a good idea also for the  
16 Veteran Advocate?

17 AUDITOR GENERAL WAGNER: Yeah. I'm not sure of the  
18 breadth of the legislation and how far it reaches. But if, in  
19 other words, if the position is not, if the individual and the  
20 people that are a part of that position are not overwhelmed and  
21 they can provide advice and counsel to veterans going in front  
22 of veterans court, sure.

23 It's a big Commonwealth and there are a lot of  
24 issues out there, but where possible, yes, I would be an  
25 advocate of that also.

1 REPRESENTATIVE BARBIN: Thank you.

2 Thank you, Mr. Chairman.

3 CHAIRMAN BARRAR: Representative Farry.

4 REPRESENTATIVE FARRY: Thank you, Mr. Chairman.

5 General, thank you for being here today and your  
6 efforts on this issue.

7 One question. I just want to clarify something. If  
8 a veteran is one of the top three scoring on the Code 11 list,  
9 the intent is for that veteran then to be hired as opposed to,  
10 you know, potentially another veteran that's, say, fourth or  
11 fifth on another list. Is that correct?

12 AUDITOR GENERAL WAGNER: Yes.

13 REPRESENTATIVE FARRY: Okay. I just wanted to  
14 confirm that.

15 All right. Thank you, sir.

16 AUDITOR GENERAL WAGNER: Sure.

17 CHAIRMAN BARRAR: I have one last question.

18 In your testimony here, you said, one of your  
19 statements was, in addition, a hiring agency may give  
20 preference to any qualified veteran on a job list regardless of  
21 where he or she scores and falls on that list. Is that done  
22 very often? I guess that's saying if you score number 10, they  
23 could still pick you out of that list and hire you. Is that --  
24 how would that work, or isn't it in conflict with the current  
25 law?

1           AUDITOR GENERAL WAGNER: Well, let me first ask  
2 Randy Marchi if we found that happening in our audit.

3           MAJOR GENERAL MARCHI: Very seldom, but it is in the  
4 law though.

5           CHAIRMAN BARRAR: So it doesn't conflict with the  
6 law then?

7           MAJOR GENERAL MARCHI: Yes, it does not. One could,  
8 according to the list, according to the law, select a veteran  
9 who may not be in the top three.

10          CHAIRMAN BARRAR: Based solely on---

11          MAJOR GENERAL MARCHI: The law.

12          CHAIRMAN BARRAR: ---the fact that they're a veteran  
13 and no other reason.

14          MAJOR GENERAL MARCHI: Right.

15          CHAIRMAN BARRAR: Okay; good. Because I thought  
16 maybe you were creating a conflict in that, so. Okay.

17          Any followup questions anybody?

18          General, I want to thank you, first of all, for your  
19 work on this report. This was very enlightening to us. You've  
20 really exposed a problem that I think most of us in the  
21 legislature felt was, you know, wasn't an issue. We just  
22 assumed it was being, you know, enforced, and we would have  
23 thought that the veterans' preference would have been held as a  
24 high priority in every agency in the State.

25          So we thank you for your work, and thank you for

1 taking the time out to come here to testify today. It means a  
2 lot to us. Thank you.

3 AUDITOR GENERAL WAGNER: Thank you, Mr. Chairman and  
4 Members of the committee.

5 CHAIRMAN BARRAR: Moving on to our next testifier.  
6 We have Mrs. Rebecca Burns. Mrs. Burns was very instrumental  
7 in the passage of our legislation to have a veteran serve on  
8 the Civil Service Commission.

9 Mrs. Burns, it is a pleasure to have you here with  
10 us today. You can have a seat. Okay; when you're ready.

11 Get comfortable; we're all friends here.

12 MRS. BURNS: Thank you.

13 CHAIRMAN BARRAR: It's good to have you here.

14 MRS. BURNS: Mr. Chairman and Members of the  
15 committee, I wish to thank you for inviting me to this hearing  
16 and for giving me the opportunity to bring to your attention  
17 some of the very serious concerns that I have about the State  
18 Civil Service Commission and its treatment of veterans.

19 There are innumerable examples that I could bring to  
20 your attention, including the commission's failure to address  
21 less obvious activities such as the way pay grades for vets,  
22 once employed, can be arbitrarily suppressed by HR offices.  
23 But for today's testimony, I will limit my comments to three  
24 basic issues: the rule of three, suitability, and due  
25 process.

1           Very troubling precedents have been set by the Civil  
2 Service Commission's misapplication of laws and regulations in  
3 *Burns v. The Pennsylvania Department of Transportation*. Those  
4 precedents, if allowed to stand, undermine the most basic  
5 foundations of the State's merit system.

6           The precedents that have been set permit any agency  
7 to refuse to interview a certified eligible veteran ranked  
8 within the rule of three and also permit agency human resource  
9 staff to use subjective criteria to weed out higher-ranking  
10 candidates under the guise of suitability.

11           Following are the highlights of this specific  
12 situation.

13           A family member was the highest-scoring veteran  
14 within the rule of three on the administration and management  
15 trainee certified eligible list.

16           The availability survey, which he returned  
17 expressing his interest in being considered for the position,  
18 stated that he would hear within 2 weeks and that interviews  
19 would be based on ranking.

20           Failing to hear anything further and after waiting  
21 for more than a month, he followed up by e-mail and telephone  
22 with PENNDOT in order to inquire as to when he would be  
23 scheduled for an interview.

24           He was told by an HR contact at PENNDOT that  
25 interviews had already been conducted and that the slot had

1 been filled. When he asked why he was not given an interview,  
2 she told him that the people interviewed were chosen based on  
3 résumés and not on their ranking on the civil service list.

4           During that telephone conversation, PENNDOT's  
5 contact put an HR analyst with the Civil Service Commission on  
6 the phone. My family member then asked that analyst the same  
7 question, which was, how could he have been bypassed for an  
8 interview since he was the veteran holding the highest score  
9 within the rule of three?

10           He was told by the civil service analyst that the  
11 rule of three had been applied and that the rule of three  
12 simply means that if a veteran scores in the top three on the  
13 list, then by proxy, every veteran on the list becomes eligible  
14 for the position and that any veteran can be hired regardless  
15 of rank on the list.

16           Getting nowhere with either person, he then penned a  
17 formal letter of inquiry to the SCSC executive director, whose  
18 written response supported the SCSC analyst's assertion that  
19 the only benefit to a veteran for being ranked within the rule  
20 of three is the ability to act as a proxy for lower-scoring  
21 vets, and further, that it is perfectly acceptable to use  
22 résumés instead of scores and rankings to select who is given  
23 an interview.

24           My family member subsequently filed an appeal with  
25 the State Civil Service Commission. A hearing was scheduled

1 and the issue was that "...the appointing authority filled an  
2 AMT position without offering...an opportunity to interview for  
3 the position, despite the fact that appellant is a veteran and  
4 was ranked highest on the employment certification from which  
5 the appointment was made...."

6 In the civil service ruling, you will find what can  
7 only be termed a "shocking and outrageous statement": The  
8 "...appellant would have the Commission interpret  
9 the...Management Directive...as requiring that the appointing  
10 authority must always interview veterans within the Rule of  
11 Three. We disagree with the appellant's interpretation."

12 Mr. Chairman and Committee Members, it doesn't get  
13 any more basic than the rule of three.

14 Please note, I have included applicable references  
15 in the written statement. I'm not going to read them.

16 Yet the Civil Service Commission in its infinite  
17 wisdom ruled that a veteran holding the highest score within  
18 the rule of three is not even entitled to an interview, and  
19 that precedent stands today.

20 My family member appealed being excluded from  
21 interview. He did not claim that he was entitled to the job.

22 In order to support their stance on veterans'  
23 preference as applied to the rule of three, the Commissioners  
24 proceeded to selectively and inappropriately impose language  
25 found in Law, Regulation and Directives.



1           The rabbit they pulled out of their hat to justify  
2 PENNDOT's conduct is a process known as suitability. The  
3 ruling says, "The management directive at issue also permits  
4 the appointing authority to interview all other veterans when  
5 the available veterans within the Rule of Three are not  
6 suitable; and it does not specify that the determination of  
7 suitability can be made only upon an actual interview."

8           Yet, each and every one of the citations set forth  
9 by Civil Service in this adjudication refers to suitability for  
10 appointment or promotion. Not one of their sources references  
11 "suitability" for an interview.

12           On this topic, a State Supreme Court decision  
13 clearly says, "The appointing authority may not impose  
14 additional threshold requirements on a veteran under the guise  
15 that it is setting forth the 'requisite qualifications'...."

16           As for suitability, Title 51, section 7105, is  
17 clear when it says in part that "The lack of academic or  
18 scholastic training or experience...which does not in fact  
19 incapacitate any such soldier shall not be deemed to disqualify  
20 him...."

21           It is section 95.1 of the rules where the groundwork  
22 for the suitability process is established. Management  
23 Directive 580.34, "Removal of Eligibles for Certification or  
24 Appointment in the Classified Service," is the appropriate  
25 related directive.

1           Suitability is a formal procedure with both  
2 notification and due process requirements. Management  
3 Directive 580.34: "OBJECTIVE. To explain policy,  
4 responsibilities, and procedures when requesting the removal of  
5 an eligible from a civil service certification or from  
6 consideration for a specific job title...."

7           The Civil Service Commissioners pulled out all stops  
8 to justify their application of suitability. To that end, they  
9 relied on the sworn testimony of the Chief of Section 1 of the  
10 Classification and Placement section of PENNDOT.

11           The ruling says, "The appointing authority presented  
12 credible testimony that it was seeking candidates for the AMT  
13 position who had experience as indicated in their resume  
14 related to the vacancy in question, namely experience in  
15 working in human resources, classification and placement."

16           Yet, a document in the Chief of Section 1's own  
17 handwriting was introduced showing that the candidate  
18 interviewed and selected for this slot had no HR experience.

19           That document also showed that of the nine veterans  
20 on the veterans' list, only one had some HR experience. Two of  
21 the three veterans selected by the PENNDOT Section Chief for  
22 interview had no HR experience, and one of the two with no HR  
23 experience was selected to fill the position.

24           There were actually 3 separate certified lists with  
25 a total of 17 names. Of those 17, only 2 candidates were

1 identified by the PENNDOT Section Chief as having HR experience  
2 and only 1 veteran as having some HR experience.

3           That PENNDOT document is part of the official  
4 record. Despite that fact, the decision says, "In this case  
5 the appointing authority considered merit-based criteria to  
6 determine which of the veterans on the civil service list would  
7 be suitable to be interviewed; to require otherwise in this  
8 case would have been inefficient and contrary to the scope and  
9 spirit of the Act."

10           If the suitability rationale as upheld by the  
11 commission and applied to my family member is legitimate, then  
12 eight of the nine candidates on the veterans' list and six of  
13 the eight candidates on the remaining two lists should have  
14 also been deemed unsuitable for interview.

15           The Civil Service Commissioners had to know that  
16 section 601 of the State Civil Service Act, section 95.5a of  
17 the State Civil Service Rules, Management Directive 580.15, and  
18 the referenced State Supreme Court ruling lay out the basis and  
19 process for an appointing authority to request that the  
20 Executive Director of the Civil Service Commission establish a  
21 selective certification list of only those eligibles who  
22 "...meet specific job criteria or who possess special  
23 knowledge, skills and abilities essential to the performance of  
24 certain jobs."

25           In this situation, either such a list was not

1 requested by PENNDOT or the request was not authorized by Civil  
2 Service's Executive Director.

3           Across the board, misapplication of law, regulation,  
4 and policy is unacceptable. It makes one question just how  
5 pervasive and institutionalized this conduct has become. At a  
6 minimum, it raises concerns about the relationship between the  
7 Civil Service Commission and the agencies that it is mandated  
8 to police.

9           While still under oath, the PENNDOT Section Chief  
10 changed his testimony, saying that Burns was not selected for  
11 an interview because the Chief thought that Burns would be  
12 bored. Merit-related criteria? I think not.

13           As so eloquently said in the *Housing Authority*  
14 decision, "Finally, we note that allowing an employer to  
15 develop additional hiring criteria for civil service positions  
16 would defeat the principal purpose of the Civil Service Act by  
17 opening the door to the very abuses which civil service testing  
18 was designed to protect against. Hiring decisions rooted in  
19 patronage or nepotism could easily be concealed under the guise  
20 that a certain candidate was the only one who possessed the  
21 'requisite qualifications.' Unnecessary litigation would be  
22 fostered as the overlooked candidates challenge the propriety  
23 of the additional criteria used by the appointing authority."

24           Now to my final topic, due process, or rather the  
25 illusion of due process.

1 Here's a condensed version of how it works:

2 You have 20 calendar days to file an appeal.

3 Your appeal goes to the commission.

4 The commission meets to decide whether or not you  
5 will be granted a hearing.

6 Hearings are at the sole discretion of the  
7 commission.

8 The commission decides what type of hearing you will  
9 receive.

10 One or more Commissioners hold the hearing.

11 You may represent yourself or, at your own expense,  
12 hire an attorney to represent you.

13 You may not be represented by a nonlegal person.

14 The appointing authority will be represented by an  
15 attorney.

16 The Commissioners control all aspects of the  
17 hearing.

18 The Commissioners vote on the outcome.

19 The commission's decision is mailed to you.

20 In true due process, the appellant is advised of  
21 their rights to appeal -- not true in this case.

22 You have 15 calendar days from the mailing date to  
23 appeal an unfavorable decision.

24 Please note, decisions are sent by regular mail.

25 Any appeal goes back directly to the commission, the

1 same folks who ruled against you in the first place.

2 The commission has sole discretion to accept or deny  
3 your request for reconsideration.

4 Your request can be denied for no reason.

5 You have 30 calendar days from the mailing date of  
6 the original decision to appeal to Commonwealth Court.

7 Due process is supposed to be a fair and impartial  
8 review of the facts with an unbiased opportunity for a second  
9 opinion.

10 The civil service appeals process is long and  
11 expensive, and the deck most certainly is stacked on the side  
12 of the appointing authority. The Commissioners sit as judge,  
13 jury, and executioner with no checks and balances.

14 In summation:

15 Veterans' preference has no value to and can  
16 actually harm a veteran in the rule of three.

17 An appointing authority can completely disregard  
18 results of civil service tests.

19 Scores on tests have no value.

20 Rankings are disregarded.

21 Certified eligibles are deemed unsuitable for  
22 interview without benefit of due process.

23 Agencies use résumés and subjective criteria such as  
24 opinions to select whomever they wish to interview.

25 SCSC either misunderstands and/or selectively

1 misapplies its own laws, regulations, and directives.

2 Real due process is an illusion.

3 The burden for challenging unfair treatment is  
4 extraordinarily expensive, and the barriers to a challenge are  
5 many and extremely high.

6 So why continue to expend money for a State Civil  
7 Service Commission when the commission, by its lack of due  
8 diligence, renders irrelevant its own laws, rules, and  
9 directives?

10 Pennsylvania's veterans deserve fair treatment in  
11 employment. It's their right, and it's the law.

12 Thank you.

13 CHAIRMAN BARRAR: Thank you, Mrs. Burns.

14 Are there Members with questions? Anybody?

15 Representative Barbin.

16 REPRESENTATIVE BARBIN: Thank you, Mrs. Burns, for  
17 your testimony, and I think you have brought to the attention  
18 of the public, you know, what the problem and practice is with  
19 the commission.

20 When your person, in your individual circumstance,  
21 when they sent out the notice and you have 30 days to file an  
22 appeal -- to Commonwealth Court?

23 MRS. BURNS: Yes.

24 REPRESENTATIVE BARBIN: So it says that on the form?  
25 You have got---

1 MRS. BURNS: They don't send you anything, sir. We  
2 had to find it ourselves on the Internet.

3 REPRESENTATIVE BARBIN: So when you got your final  
4 decision -- you get a decision, and then you can ask for really  
5 reconsideration---

6 MRS. BURNS: Yes, sir.

7 REPRESENTATIVE BARBIN: ---from the same group that  
8 has just denied you.

9 MRS. BURNS: Yes, sir.

10 REPRESENTATIVE BARBIN: And that one you have to do  
11 within 15 days.

12 MRS. BURNS: Yes, sir.

13 REPRESENTATIVE BARBIN: And it's 15 days of the  
14 mailing date, even though all the rest of our appeals are  
15 30 days.

16 And then you get something from the Civil Service  
17 Commission that says you have got a right to appeal to  
18 Commonwealth Court---

19 MRS. BURNS: No.

20 REPRESENTATIVE BARBIN: You don't get anything?

21 MRS. BURNS: No.

22 REPRESENTATIVE BARBIN: So how do you know that  
23 they've denied your reconsideration motion?

24 MRS. BURNS: Eventually you get a letter saying "We  
25 decline to reconsider your appeal."



1           REPRESENTATIVE BARBIN: All right. So at that point  
2 you get a letter, and somebody has got to tell you you've only  
3 got 30 days to get to Commonwealth Court.

4           MRS. BURNS: But they don't do that, sir.

5           REPRESENTATIVE BARBIN: Okay.

6           MRS. BURNS: They did not in this case.

7           REPRESENTATIVE BARBIN: Did you appeal to  
8 Commonwealth Court?

9           MRS. BURNS: No, sir. It was too costly.

10          REPRESENTATIVE BARBIN: Okay. All right.

11                 And I think that's what the problem is. The tax, we  
12 have got a tax structure that is set up that if you go to the  
13 Board of Appeals, you get a Board of Finance and Revenue  
14 appeal, and then if you get a decision, it says, here's your  
15 mailing date; you got 30 days to file this with Commonwealth  
16 Court. But in your case, they didn't even give that to you.

17          MRS. BURNS: Yes, sir, and I'm not convinced that  
18 they routinely give it to anyone. I don't know. This was in  
19 operation, but we did not get it.

20          REPRESENTATIVE BARBIN: But you didn't get a  
21 document that was sent by certified mail or anything else that  
22 said if you wanted to appeal this, you've got to go into  
23 Commonwealth Court and you got to do it within 30 days?

24          MRS. BURNS: No, sir. It's in a pamphlet, which I  
25 cited in my references on their Website, and it tells you---

1           REPRESENTATIVE BARBIN: Well, you're entitled to at  
2 least as much due process as any other taxpayer. But thank you  
3 for your testimony.

4           MRS. BURNS: Yes, sir.

5           CHAIRMAN BARRAR: Thank you, Representative.

6           During this battle, who has been advising you? I  
7 mean, you have a heck of a testimony here with a lot of great  
8 information. Is it all you?

9           MRS. BURNS: Yes, sir.

10          CHAIRMAN BARRAR: Wow; incredible.

11          Any other questions from the Members?

12          Okay; that's all we have. Thank you.

13          MRS. BURNS: If I may make a comment, sir---

14          CHAIRMAN BARRAR: Certainly.

15          MRS. BURNS: ---on the comments of the Auditor  
16 General, when you talked about the Veteran Advocate. My  
17 question would be, if the veteran is an employee of the  
18 Commonwealth, are they going to be permitted to speak to the  
19 advocate?

20                 It is my experience, including currently, that if  
21 you seek advice on a question, you go to your HR office; they  
22 choose to answer or not. Should you go outside the HR office,  
23 you are called on the carpet and told you are not allowed to  
24 speak to outside entities, be they Civil Service, Office of  
25 Administration, et cetera.

1                   CHAIRMAN BARRAR: Yeah; that's something my  
2 Executive Director is telling us we would have to look into.

3                   MRS. BURNS: Okay.

4                   CHAIRMAN BARRAR: The whistleblower laws and how  
5 that all conflicts with each other. Okay?

6                   MRS. BURNS: Okay. Thank you.

7                   CHAIRMAN BARRAR: Thank you. Good question, though.

8                   Okay; we're ready for our next testifiers:

9 Mr. John Brenner, Chairman of the State Veterans Commission;  
10 and Mr. Kit Watson, State Adjutant for the Pennsylvania  
11 Department of American Legions.

12                   Come on up, gentlemen.

13                   Thank you. You can begin your testimony when ready.

14                   MR. BRENNER: Thank you, Mr. Chairman. Good to see  
15 you. We weren't too sure we were going to see you today.

16                   CHAIRMAN BARRAR: Yeah; I made it.

17                   MR. BRENNER: Good.

18                   Chairman Barrar, Chairman Sainato, and Committee  
19 Members, my name is John A. Brenner. I'm the Chairman of the  
20 State Veterans Commission. And with me is my friend and buddy,  
21 Kit Watson. He's the Secretary of the Pennsylvania War  
22 Veterans Council. We do thank you for this opportunity to  
23 speak to you. Thanks for the invite.

24                   Please let me preface our remarks with making you  
25 aware that our testimony here today is from representatives of

1 the Pennsylvania War Veterans Council and the Pennsylvania  
2 State Veterans Commission.

3           While we each have our individual views on these  
4 bills, we have not yet had adequate time to present these bills  
5 and their ramifications to either the council or the commission  
6 for their full support.

7           We did, however, fully support HB 378, introduced by  
8 Ron Marsico, requiring one member of the State Civil Service  
9 Commission to be a veteran of the Armed Forces. And the  
10 selection of John Stevens was a great choice, and we supported  
11 that and we look forward to his leadership, and we know that he  
12 will ensure veterans get a fair chance in competitive  
13 selection.

14           Our organizations also would like to applaud the  
15 efforts of Auditor General Jack Wagner for his report of 2008  
16 for bringing the veterans' preference issue into the forefront,  
17 showing that 25 State agencies filled at least 569 civil  
18 service employment positions without consideration of eligible  
19 veterans and their veterans' preference status.

20           And we also salute the Department of Military and  
21 Veterans Affairs, specifically Gen. Michael Gould and the  
22 Adjutant General, for ensuring that veterans receive specific  
23 preference in their hiring practices.

24           We would also like to take this opportunity to thank  
25 Representative Stephen Barrar for introducing HB 1092, which

1 would create that office of a Veteran Advocate in the Attorney  
2 General's Office. It is a positive step in addressing our  
3 veterans' employment needs and to have an avenue where problems  
4 and issues dealt with at this level will be a huge benefit to  
5 our veterans' population.

6 HB 1092 outlines the powers and the duties of the  
7 Veteran Advocate. We believe this to be a great tool outlining  
8 the scope of duties and create a strong authority to address  
9 those issues. Our hope is that this position will offer the  
10 veteran a nonpartisan advocate dedicated to the interests of  
11 veterans concerning employment issues.

12 As to HB 1152, we agree with the changes called for  
13 regarding Title 51 in addressing that the term "soldier" would  
14 be changed to read "veteran." We think that's positive.

15 We have also reviewed the following bills that have  
16 not yet been assigned to your committee, but we suspect they  
17 will be soon.

18 HB 1090 would further strengthen the Civil Service  
19 Act. We feel there needs to be more time allotted for us, the  
20 veterans' community, to review this bill in its entirety to  
21 make sure we consider the full scope of these proposed changes  
22 to the law.

23 HB 985, requiring veterans' preference notification  
24 to be posted on the Civil Service Commission's Website and on  
25 all Civil Service Commission announcements and advertisements

1 and all exam materials, and the proposal requiring notification  
2 that the State law requires an additional 10 points be added to  
3 the veteran's final exam score, is a bill that we believe would  
4 be fully supported by the veterans' community.

5 HB 1262 designs a clear path for appealing decisions  
6 made by the Civil Service Commission. And while much of this  
7 bill seems adequate to address the appeals process, we feel  
8 that it would be unnecessary if HB 1092 is passed and enacted.

9 While HB 1262 does not duplicate HB 1092, we feel  
10 that HB 1092 is the best solution overall, and we believe it  
11 would be readily accepted by the Pennsylvania War Council, the  
12 State Veterans Commission, and the veterans of our  
13 Commonwealth.

14 In summary, veterans in this Commonwealth have  
15 sacrificed much to ensure that we enjoy the freedom and the  
16 liberty to come before this body and share our opinions. These  
17 heroes, who have given so much in sweat, blood, and devotion to  
18 duty, deserve every recognition and every head start that we  
19 can offer them.

20 Veterans make great employees, and someone who has  
21 placed their life in jeopardy deserves every opportunity  
22 possible as they transition back into civilian life.

23 I would like to take this opportunity to thank you  
24 for ensuring that veterans will receive this special  
25 recognition. Thank you very much.

1           MR. WATSON: We collaborated on that. We've been  
2 putting this together over the last week, so.

3           CHAIRMAN BARRAR: Okay. Great; great.

4           Any questions from the Members? Anybody?

5           Representative.

6           REPRESENTATIVE BOBACK: Thank you, Mr. Chair. Just  
7 a comment.

8           In your testimony, sir, you talked about HB 1262,  
9 and of course 1090 being first and foremost. But please look  
10 at 1262 as what I consider an additional safety net, because I  
11 can't help but think had that been in process, then Mrs. Burns  
12 wouldn't have gone through, her family member would certainly  
13 not have gone through what in fact they did.

14          MR. BRENNER: Okay.

15          REPRESENTATIVE BOBACK: So with primary emphasis  
16 being put on HB 1092, of course; but again, I look at 1262 as  
17 an additional safety net.

18          MR. BRENNER: Very good, and we certainly would  
19 support that.

20          REPRESENTATIVE BOBACK: Thank you, sir.

21          MR. WATSON: And if I may, it will be brought up at  
22 both the War Council, at the next meeting, which is next month,  
23 and the Veterans Commission, too.

24          REPRESENTATIVE BOBACK: And thank you both for all  
25 you do on behalf of our veterans. Thank you.

1 MR. BRENNER: Thank you.

2 REPRESENTATIVE BOBACK: Thank you, Mr. Chair.

3 CHAIRMAN BARRAR: Thank you.

4 Representative Barbin.

5 REPRESENTATIVE BARBIN: Thank you, Mr. Chairman.

6 And thank you, Mr. Brenner. It's always nice to see  
7 you. You do a great job for the veterans.

8 What I'm wondering about -- I haven't heard the  
9 first couple of testimonies -- is, do you have a position on  
10 this rule of three or this suitability?

11 We've heard three things that have been used in the  
12 past to at least minimize the benefit of the veterans'  
13 preference. And this is just my perspective; I used to be one  
14 of the Commonwealth's lawyers, and we had a rule that said, if  
15 the statute doesn't say it, it doesn't matter what the  
16 Executive order says and it doesn't matter what the regulation  
17 says.

18 So if we're having a lot of confusion here that  
19 relates to some sort of management directive or a regulation  
20 that has passed, you know, the law has always been, if the  
21 statute didn't give the agency the right to do it, you don't  
22 have the right and it's not constitutional.

23 So what's your opinion as to, should we have three  
24 lists -- number one -- and should we have the rule of three and  
25 should we have suitability?



1           MR. BRENNER: Personally, I don't think I can give  
2 you the answer to that question, because I don't understand  
3 that much about the rule of three. But I think we need  
4 whatever is fairest and easiest to help our veterans get  
5 through this process, and that is your job to do that. We hope  
6 to take care of that.

7           REPRESENTATIVE BARBIN: All right. Well, thank you  
8 very much, and thank you for your testimony.

9           MR. WATSON: I believe having the three lists  
10 affords them an opportunity to manipulate those lists, as his  
11 previous testimony pointed out. You need a defining thing or  
12 you need somebody dedicated to say we're really going to give  
13 this a real shot and make it look and make it come to reality.  
14 And I believe a Veteran Advocate and I believe having a veteran  
15 on the State Veterans Commission or the Civil Service  
16 Commission will help.

17           CHAIRMAN BARRAR: I would think you would find very  
18 few Members on this side of the table who disagree with you.  
19 I'm pretty sure we're all in agreement with you on that.

20           So any other questions? Representative Kortz.

21           REPRESENTATIVE KORTZ: Thank you, Mr. Chairman. I  
22 just have a comment.

23           I want to thank you for your testimony, and I want  
24 to thank both you gentlemen for always being an advocate for  
25 the veterans in this State. Thank you very much.

1 MR. BRENNER: Thank you.

2 CHAIRMAN BARRAR: That's all we have for you. Thank  
3 you very much for being here today. We appreciate it.

4 Our last panelist on the agenda today is  
5 Gen. John E. Stevens, Chairman of the Pennsylvania Civil  
6 Service Commission; Mr. James W. Martin, Commissioner,  
7 Pennsylvania Civil Service Commission; and Ms. Odelfa Smith  
8 Preston, Pennsylvania Civil Service Commissioner.

9 We thank you for being here today, and if you would  
10 like to start your presentation whenever.

11 MR. STEVENS: Thank you, Mr. Chairman.

12 Chairman Barrar, Chairman Sainato, Members of the  
13 committee, thank you for the opportunity to appear before you  
14 today to discuss the legislative mission of the State Civil  
15 Service Commission and the introduction of HB 1092 and  
16 HB 1152.

17 My name is John Stevens. Due to the signing into  
18 law of HB 378 of 2011, I am honored to serve as the  
19 Commonwealth's first statutorily-required veteran member of the  
20 commission and publicly announced Veteran Advocate.

21 This hearing serves as a privilege and my first  
22 milestone for me to appear before you in my new role as  
23 Chairman of the commission. I'm honored to have been nominated  
24 by Governor Corbett and confirmed by the Pennsylvania Senate to  
25 serve in this important position.

1                   With me today are Commissioners James W. Martin and  
2 Odelfa Smith Preston; Mr. Jeffrey Wallace, Commission Executive  
3 Director; Mr. Michael Sullivan, Commission Deputy for  
4 Operations; Mr. Frederick Smith, Commission Chief Legal  
5 Counsel; and Mr. Jack McGettigan, Commission Legislative and  
6 Press Liaison.

7                   In the interests of time, let me first say that the  
8 commission appreciates and values the legislative goals of the  
9 proposed legislation and looks forward to working with you to  
10 promote and support the principles of veterans' preference and  
11 to address these goals to ultimately benefit the men and  
12 women of our Armed Forces who have honorably served our  
13 country.

14                   We have reviewed HBs 1092 and 1152 and preliminarily  
15 reviewed HBs 985, 1090, and 1262. We are pleased to announce  
16 our support for HB 1092 and HB 985 and look forward to working  
17 with the committee to discuss the legislative intent and impact  
18 of HBs 1152, 1090, and 1262 upon the Commonwealth Veterans'  
19 Preference Program, the provisions of the Military Affairs Act,  
20 and merit service.

21                   Thank you again for the opportunity to appear today  
22 and allowing us to discuss the proposed legislation and to  
23 clarify the role, mission, and responsibilities of the  
24 commission.

25                   We are pleased to answer any of your questions.

1 CHAIRMAN BARRAR: Thank you.

2 I guess the number one question is going to be, from  
3 probably most of the Members, is going to be on the  
4 suitability, I guess you call it suitability clause that was  
5 put into effect by the Governor's Executive order. Can you  
6 give us an update? Is that still in the process? Are you  
7 still using that as part of your, as you hire people, is it  
8 still in force?

9 MR. STEVENS: Mr. Chairman, my institutional  
10 knowledge after 8 weeks isn't deep enough to give you the kind  
11 of answer.

12 CHAIRMAN BARRAR: Okay.

13 MR. STEVENS: So I would like to defer to our  
14 Executive Director, Mr. Jeffrey Wallace.

15 MR. WALLACE: And actually, Chairman, I'm going to  
16 defer that to my Chief Counsel---

17 MR. SMITH: I felt it coming.

18 CHAIRMAN BARRAR: I feel like I just called the  
19 electric company, you know?

20 MR. WALLACE: ---who is intimately knowledgeable  
21 about that whole issue.

22 MR. SMITH: Yeah; we need to talk a little bit about  
23 that *Todd Burns* decision so you understand exactly what went on  
24 in that case.

25 I have a copy of it with me. I didn't bring copies

1 for the entire committee, but I would be glad to furnish copies  
2 for the entire committee if you're interested in looking at  
3 it.

4           What happened in Mr. Burns' case is, as he  
5 applied--- And oh, the suitability provision, yes, it's still  
6 there, but it has been there for many, many, many years. It's  
7 used by appointing authorities to, you know, sort of explain  
8 their selection. And so they use other criteria other than the  
9 test result in making a selection, and they can explain and  
10 they have to explain why the candidate they selected was more  
11 suitable for the position than the other candidates, and they  
12 have to use criteria set forth in that rule in order to satisfy  
13 us that their selection was based on merit and not on some  
14 whimsical standard, okay? So it's still out there. It's a  
15 rule.

16           But we didn't create this thing to run as it did in  
17 the *Todd Burns* case. It was what PENNDOT used to defend what  
18 they did. And so let me talk about what happened in *Todd*  
19 *Burns*.

20           The agency drew a list for an AMT position. They  
21 drew several lists. They decided to use one of the lists that  
22 contained the names of 10 veterans, including Mr. Burns, who  
23 was, within the rule of three, was the highest-scoring person  
24 on the list. They sent availability surveys out, as we require  
25 them to do. They decided to use this list exclusively.

1           Now, when an agency uses a list of this type,  
2 certainly they have to pay attention to the rule of three,  
3 which they did, and they knew Mr. Burns was there. But because  
4 the statute specifically provides that you can also select a  
5 qualified veteran from anywhere else on the list,  
6 notwithstanding that he didn't have the highest score, so long  
7 as he passed the exam, he or she passed the exam, what they do  
8 in most cases is they survey all of the veterans on the list,  
9 which they did in this case. Yet I think -- I would probably  
10 have to look at the decision, but let me just go off the top of  
11 my head -- it is either 10 or 11 qualified veterans responded  
12 to the survey and said they wanted the job; they were  
13 interested in the job.

14           So they looked over the résumés of these 10 or 11  
15 veterans, because they decided they didn't want to do 10 or 11  
16 interviews. So they looked at the résumés of the 10 or 11  
17 veterans, and they identified 3 veterans who had worked in HR.

18           Now, the position that they were hiring for was an  
19 HR position. The person was going to work on classifications  
20 exclusively. That's what the job was all about, and  
21 classifications is a technical field in HR deciding who is or  
22 who isn't most suitable to work, or how a job should be  
23 classified when it's created, or if it's changed over time  
24 and the classification should be changed, those sorts of  
25 things.

1           So they looked at the list; they found three  
2 veterans who had HR experience in their background, as  
3 accurately described by Mrs. Burns. Two had HR experience and  
4 one somewhat had HR experience. They invited those three  
5 veterans to interview. They found a suitable candidate among  
6 those three, and they hired that suitable candidate, who was a  
7 veteran, who was further down on the list, didn't have the  
8 highest score, wasn't in the rule of three, but he was a  
9 veteran. And as I mentioned, the statute says you can hire,  
10 notwithstanding that the veteran didn't have the highest score,  
11 you can hire a veteran from anywhere on the list.

12           So we audited that. We found nothing wrong with it.  
13 Veterans' preference was adhered to. A veteran was selected.

14           Now, Mr. Burns filed his appeal and challenged it,  
15 so the agency had to explain why they did what they did, and  
16 the explanation they gave is the explanation I just gave you.  
17 The commission said, well, now, is that a merit-related  
18 explanation for why they only hired three of the candidates,  
19 and we decided it was. If they were looking for HR experience,  
20 three had it, seven didn't. They interviewed the three who  
21 did. We felt that explained why they only did three  
22 interviews.

23           We were satisfied; they selected a vet. We found  
24 nothing wrong with what they had done, and that's the bottom  
25 line in that case.

1           CHAIRMAN BARRAR: But I think our concern for the  
2           suitability clause that we're discussing goes way beyond just  
3           the *Burns* case. I think it disrupts the whole intent of the  
4           law by saying, basically with the suitability clause in there,  
5           you can steer this any way you want. We have a test, we have  
6           an interview, and we have a veterans' preference, and basically  
7           from what we've seen and heard from the Auditor General, the  
8           suitability clause just allows you then to bypass all of that  
9           and go with who you think would be the best candidate, which  
10          then opens up a Pandora's box in there.

11          MR. SMITH: We're not opening a Pandora's box in the  
12          sense that you can bypass a veteran and go to a nonveteran.  
13          That could never, ever happen.

14          In this case, because they had 10 veterans to  
15          interview and they didn't want to do 10 interviews, they used  
16          the clause to decide which ones were going to be interviewed.

17          I'm going to say something that might shock this  
18          committee a little bit, but you don't even have to interview  
19          candidates off the cert list. That's not a requirement. I  
20          mean, you could simply get the cert list, look at the scores,  
21          pick the highest-scoring candidate, and hire that person, offer  
22          them a job without doing an interview. It's not a requirement.

23          In this case, they didn't want to do 10 or 11  
24          interviews, so they sorted the veterans out using the  
25          suitability criteria. Could they have done that and sorted a



1 veteran out and interviewed a nonveteran? Absolutely not. We  
2 would have rejected that certification instantly.

3 They were only able to use it in this case because  
4 they had already made the decision that they were going to hire  
5 a veteran, and there were 10 candidates, and they had to choose  
6 which ones to interview and which one to select.

7 CHAIRMAN BARRAR: Thank you.

8 Representative Farry.

9 REPRESENTATIVE FARRY: Thank you. Just a followup.

10 The rule of three, is that a "may" or a "must" hire  
11 if there's a veteran in the top three?

12 MR. WALLACE: Well, it's a -- under the rule of  
13 three, if there's a veteran within the rule of three and there  
14 is one veteran and two nonveterans, the requirement is that the  
15 agency must fill the position with that veteran, unless they  
16 look at internal agency applicants and look to promote an  
17 internal applicant into the position.

18 Now, if there are other veterans on the list, under  
19 the current law, an agency can pull a list of veterans only,  
20 for example, and interview all of those veterans, or as Fred  
21 was describing, narrow the pool and select a veteran within  
22 that group.

23 REPRESENTATIVE FARRY: That seems to be in conflict  
24 with the *Housing Authority of the County of Chester* case where  
25 the court wrote that "Furthermore, we note that the legislature

1 has imposed a categorical requirement that appointing  
2 authorities make their appointment only from among the top  
3 three scoring candidates on the civil service list...If the  
4 legislature believed that the appointing authority could use  
5 other qualities besides examination performance to assess  
6 whether a candidate possessed the 'requisite qualifications,'  
7 then it would have been absurd for the legislature to require  
8 that a candidate be appointed from among the top three scoring  
9 candidates on the civil service list...."

10 MR. SMITH: Actually, I was the one who argued that  
11 case for the veteran in the Supreme Court.

12 Over at the commission, we were defending the fact  
13 that we rejected their selection because they selected a  
14 non-vet. You have to remember, that case is a veteran versus a  
15 nonveteran case, okay? So the issue was, if there's a veteran  
16 within the rule of three, are you allowed to select a  
17 nonveteran, and the answer is no. If there's a veteran within  
18 the rule of three, it is a mandatory selection, no question  
19 about it.

20 The only alternative to selecting a veteran within  
21 the rule of three off the same list is to get another veteran  
22 from the list somewhere else. You can go below the rule of  
23 three and select another veteran, but that's because of the  
24 third provision in the Veterans' Preference Act which permits  
25 that to happen, clause C.

1           REPRESENTATIVE FARRY: Okay. Thank you. And one  
2 other question, if I may.

3           CHAIRMAN BARRAR: Sure.

4           REPRESENTATIVE FARRY: It's on a bit of a different  
5 subject, but HB 985, I believe it is--- Excuse me; I'm sorry.

6           Yeah; in HB 985, Representative Gillen's bill, is  
7 there any reason, I mean, that doesn't need to be codified by  
8 law. The commission could take steps to promote the veterans'  
9 preference on their Website and promotional materials and the  
10 like. Are there any efforts on behalf of the commission at  
11 this point in time to move forward with those items without us  
12 codifying it by law?

13           MR. WALLACE: While we support that bill -- but I do  
14 need to point out to you, that's currently being done. We do  
15 have information directly on our main Website -- and it is  
16 prominently displayed -- on veterans' preference. There is  
17 information on there in terms of how veterans' preference is  
18 applied. It is included in all of our promotional materials.  
19 It is included in our application materials as well. So the  
20 information is there, but this law would codify it and we  
21 support that.

22           REPRESENTATIVE FARRY: Okay.

23           CHAIRMAN BARRAR: Is it on the application? When I  
24 fill out the application for a job, it's also---

25           MR. WALLACE: Yes.

1           CHAIRMAN BARRAR: All that information is on the  
2 application?

3           MR. WALLACE: Absolutely.

4           CHAIRMAN BARRAR: Okay.

5           Representative Farry?

6           REPRESENTATIVE FARRY: No; that's it.

7           CHAIRMAN BARRAR: Okay. Thank you.

8           Representative Barbin.

9           REPRESENTATIVE BARBIN: Thank you, Mr. Chairman.

10          And thank you, commission members, for being here to  
11 testify.

12          I'm listening to this and I'm still really confused,  
13 and I have just heard your Executive Director say that on the  
14 application itself, it has whatever the explanation is of what  
15 a veterans' preference is.

16          Now, to me, the goal of civil service was to say,  
17 we're going to try to take all of these extra considerations  
18 out of it when we have a job to post, and if you have the  
19 qualifications for that job as it is stated on an application,  
20 then you apply, we'll look at that, and then if you're a  
21 veteran, you get a preference.

22          So for me and for everybody else who is out there  
23 wondering what Pennsylvania's veterans' preference really is --  
24 condensed -- is it the right to have an interview, or is it an  
25 actual preference that says, because of your veterans service,

1 you'll get the job if you are within 10 points of the total  
2 number? What is it, because I don't understand it still.

3 MR. STEVENS: Let me give you my interpretation  
4 after--- I don't want to look like the electric company as we  
5 go forward here.

6 CHAIRMAN BARRAR: Thank you, John.

7 MR. STEVENS: As I'm learning, veterans' preference  
8 means that if you take a test -- and there are circumstances in  
9 which there is no test. Now, you can imagine for some  
10 higher-level positions, more cognitive skills, you know,  
11 personal skills, things that may come out in analyzing a résumé  
12 or in an interview would probably carry greater weight than a  
13 test score. Test scores usually are covering basic knowledges  
14 about a field, and they typically are going to be used for any  
15 of the entry-level positions or those that are very much  
16 rule-bound -- you get CPA exams or things for nursing licensure  
17 and so on.

18 The consequence of an absolute veterans' preference  
19 would mean that anytime there is a veteran who applies for the  
20 job and appears on the list, that veteran would then get the  
21 position. I think that the issue that comes up with the  
22 suitability, though, is that if you have ties, then how do you  
23 break the ties?

24 I think as our Chief Counsel said, in the case of  
25 *Burns*, there were 10 veterans on that list. And so you look at

1 this; you got one piece of information called a score, you look  
2 at the résumés, you do an interview, you look at the  
3 background. The HR background matches up with the knowledge,  
4 skills, and abilities that are in the job posting, and the  
5 agency makes the determination.

6 So if you go back to this issue of what the  
7 veterans' preference is, it would be 10 points on an exam, and  
8 if they appear within the rule of three, then that's where  
9 veterans' preference would kick in.

10 REPRESENTATIVE BARBIN: All right. But to me, that  
11 says that we have a very, very limited veterans' preference.  
12 The only person who gets a preference under that is somebody  
13 who's applying for an entry-level position or a position that  
14 has no other qualifications other than the score itself. And  
15 what I'm wondering is, if that's the case, then don't we need  
16 to revise the law to say, we want to have a veterans'  
17 preference that says no matter what your job that you're  
18 applying for, you should have a preference if you're a veteran.

19 I'm not worried about veteran to veteran; you choose  
20 among the veterans. But if we really have a 13-percent  
21 unemployment rate, and we have got all of the National  
22 Guardsmen that are coming back from Afghanistan and we are  
23 saying that we are going to give them a fair deal, don't we  
24 have to have a preference that applies across the board, and  
25 shouldn't we be in the position of having, whatever the

1 qualifications are, they ought to be at the beginning, they  
2 ought to be stated on whatever the application is, and why  
3 should we have these suitability issues? Why should we have  
4 the rule of three?

5           If you've interviewed for a job, and you're a  
6 veteran, and the job says "This is all the qualifications you  
7 have," you read it, you go through the application, you fill  
8 out your application, why should there be any other discussion  
9 or ability to say, well, no, we're going to go this way; we're  
10 going to take a county list, or we're going to take an  
11 all-State employees list, or we're going to take an agency --  
12 why should we have any of that if what we're really trying to  
13 do is to say, you take the civil service test, you get a shot  
14 at these jobs, and if you're a veteran, you get an extra  
15 10 points. Why should we have all of these additional rules?

16           MR. STEVENS: Well, that's a broad question. Let me  
17 see if I can address all of it.

18           REPRESENTATIVE BARBIN: It is a broad question.  
19 I'll take any answer.

20           MR. STEVENS: No; and I appreciate, you know, you  
21 speak with a passion, and I share that as well. What I see is  
22 that if we were to take an entry-level position with minimum  
23 job qualifications, as you might find in most entry-level  
24 positions, and we get the DD214, or discharge papers, the  
25 veteran is now codified on an employment list with the V, it's

1 very clear who that is -- and that application, that  
2 eligibility list is large. I just looked at one recently for  
3 another State agency that includes 2,472 names. Those are  
4 people who passed the test.

5           If you look at the rule of three -- and I'll just  
6 take a guess at this; I didn't check it for the veterans'  
7 status, but I would imagine of a list that large, there are  
8 going to be a number of veterans. If there are veterans in the  
9 rule of three, and that rule of three I don't see as anything  
10 magic. It could be a rule of 2, it could be a rule of 12,  
11 because if there's a veteran in it, that veteran, being in that  
12 rule of three, then gets veterans' preference. So that kicks  
13 in.

14           The other piece of this is this idea that a veteran  
15 anywhere on the list can be chosen for the job. So in terms of  
16 veterans' preference, I think the protections are there. My  
17 understanding as to why these agencies would choose different  
18 lists is to see the breadth of a candidate pool. I know in  
19 some cases an agency may have a position in one county, but  
20 they'll look at adjacent counties. They'll look at the  
21 applicant pool. But in those cases, the same criteria would  
22 apply: they look at the scores; the veteran would be codified.

23           Does that shed any light on this?

24           REPRESENTATIVE BARBIN: It does, but I guess what  
25 the problem is, the Auditor General pointed out that there were



1 569 people that were veterans that, on their face, they should  
2 have been hired -- okay? -- but they weren't, and the reason  
3 that it appears to be that they weren't is because either there  
4 was some sort of suitability limitation or there was a, you  
5 know, county limitation or something. We don't know why those  
6 people weren't hired. All we're trying to say is, why weren't  
7 they hired, and how do we know today, you're now on  
8 representing veterans, and I commend you for, you know, taking  
9 over, but how do we know for sure that what happened in the  
10 prior audit isn't happening today?

11 MR. STEVENS: Let me, Mr. Wallace was onboard when  
12 the audit was accomplished, and I think he could shed some  
13 light on this.

14 MR. WALLACE: Well, the 569 that was referenced in  
15 that report, in each of those cases, the agency elected to hire  
16 from within, so to speak. It was either a promotion of an  
17 internal applicant into those positions; they did not use the  
18 list process to fill the position.

19 REPRESENTATIVE BARBIN: All right. That's the  
20 answer; that's the answer. But I want to follow up on it.

21 If that's the answer, then I'm not satisfied in the  
22 rule. What do we need to do to change that rule? Because I  
23 understand that there's some benefit in promoting from within,  
24 but it's a matter of priorities. The legislature has said our  
25 priority is to give the veterans a preference. So if we allow

1 the agency to decide to avoid that preference by saying we have  
2 a higher priority to promote from within, what we've really  
3 done is to say the veterans' preference doesn't matter anytime  
4 an agency decides that it's to their advantage to hire from  
5 within. Well, they're always going to do that.

6 MR. SMITH: Well, not always, because eventually  
7 they run out of options.

8 The point is, when you hire from within, as soon as  
9 you promoted somebody or moved somebody from within to a new  
10 position in the agency, you have created a new vacancy. Then  
11 you have to fill that vacancy.

12 REPRESENTATIVE BARBIN: We're not filling them,  
13 though.

14 MR. SMITH: Well---

15 REPRESENTATIVE BARBIN: We haven't been filling them  
16 for 5 years.

17 MR. SMITH: When this report was done in 2008, it  
18 was prior to this problem. These 569 positions that were  
19 filled, now, you remember the example they gave to this  
20 committee of what happened here. They had three lists to work  
21 from; they said an 11, a 12, and a 14. Do you recall that  
22 testimony by Randy? He said 11 is an employment list. That  
23 means they are all people who don't currently work for the  
24 Commonwealth. Well, not necessarily; there could be  
25 Commonwealth employees on that list as well. But they are new

1 hires, by and large, for the vast majority of the people on the  
2 employment list for new hires. If veterans are on that list,  
3 they have veterans' preference. They are going to be  
4 identified. Their scores are going to be flagged and the  
5 points are going to be added, and if they're within the rule of  
6 three, they're a mandatory appointment.

7 But they also get a Code 12 and a Code 14 list. And  
8 if you remember when he described those lists, they were 100  
9 percent made up of people who already worked for the  
10 Commonwealth. And in the Code 12 list, they are looking if  
11 they are employees of their own agency, and in the Code 14  
12 list, they are looking at State employees from all agencies.  
13 Okay?

14 And they have a right to do this; I mean, because  
15 the Civil Service Act creates a variety of ways to fill  
16 positions, including lateral transfers from one position to  
17 another. I mean, this is one of the perks of employment after  
18 you get into the classified service -- your ability to move  
19 about in the service; improve your situation. Maybe you even  
20 take initially, using veterans' preference perhaps, a job you  
21 really don't want long term, but that gets you into the system  
22 and then allows you to show your stuff, get a good employment  
23 history behind you, and then maybe move laterally into the  
24 career path you really would rather prefer to have gotten in  
25 the first place.

1           This is a tremendous advantage to the Commonwealth.  
2   As one employer, these people get in and they can move about.  
3   And it's normal for an employer to deal with the devil they  
4   know instead of the devil they don't know. So when they are  
5   looking at employees who already work for the Commonwealth,  
6   they can look at their personnel files, even if it's from  
7   another agency. They can look at their work history, their  
8   leave-use record, their performance evaluations. And then if  
9   they choose these people, as I've said, they know what they're  
10   getting. A, that's good for the agency; B, they have created  
11   another vacancy somewhere else. Eventually, and I realize we  
12   are in a bad job market right now, but it's not always going to  
13   be this way and it has not always been this way. When the  
14   legislation was enacted, it wasn't this way.

15           But when they move to another position, you create  
16   a vacancy somewhere else, and then that vacancy has to be  
17   filled. And eventually, eventually the agency runs out of  
18   options and has to go outside and bring in, and when they do,  
19   veterans' preference 100-percent applies to the selections they  
20   make.

21           So the process works. There are thousands of  
22   positions being filled every year. These 569 weren't filled by  
23   veterans; they chose to fill from within. That created 569  
24   other vacancies.

25           Now, I can't sit here and tell you all 569 were

1 filled, but most of them were, I can assure you of that. And  
2 then if they were filled from within, then another vacancy was  
3 created. But eventually you get to a point where you have to  
4 go outside your own agency to hire someone, and that's when  
5 veterans' -- and isn't that how it should work? I mean, should  
6 a veteran, because he's a veteran, come in at a higher-level  
7 position in the State or should he have to start out like  
8 everybody else does, basically at an entry-level position,  
9 prove his merit, and then move up?

10 I would suggest to you that's the very reason the  
11 Supreme Court -- and you're all aware of this -- has for many,  
12 many years said it is unconstitutional to apply veterans'  
13 preference to promotions in the classified service, because you  
14 have to earn the right to be promoted by showing what you can  
15 do after you're into the system.

16 But it should apply to entry-level positions, and I  
17 can assure you on behalf of the commission that it 100 percent  
18 does. We are very diligent about making sure that that is the  
19 case.

20 MR. WALLACE: And I would like to add another  
21 critical point to what Chief Counsel Fred Smith said, is on the  
22 Code 12 and Code 14 lists, because they include current  
23 Commonwealth employees, on those lists would be veterans also  
24 who would have come in through the entry-level process as a  
25 veteran but, through the normal process, are looking to be

1 promoted into higher-level positions. So that would also  
2 include veterans as well.

3 MR. SMITH: Yeah; but because they are internal  
4 lists and they already work for the Commonwealth, they are not  
5 identified as veterans on the list. That doesn't mean they're  
6 not veterans.

7 There are many veterans on those lists, and if you  
8 went to a system where you required agencies to 100 percent  
9 hire off the street, as I put it, or from outside the system,  
10 you would actually be penalizing the veterans who have already  
11 found work within the classified service who are trying to move  
12 around and improve their own careers, because those lists  
13 definitely give them an advantage in getting in a lateral or a  
14 promotion, because, you know, they already work there and the  
15 lists are shorter and they're competing with less people and  
16 they don't have to deal, you know, with veterans' preference  
17 that you have to deal with on new employment lists.

18 I understand all of that. But there are many, many  
19 veterans on those lists. There is just no way to say who they  
20 are because they're not identified, because there's no need to  
21 identify them. They're competing equally with everybody else  
22 for the jobs.

23 MR. WALLACE: And out of the 55,000 covered  
24 State-merit-system-covered employees, about 25 percent of those  
25 are veterans.

1           REPRESENTATIVE BARBIN: Then I guess my question is  
2 this: We can disagree about what the Commonwealth's highest  
3 priority can be. You can say that the priority is higher for  
4 agencies to be able to know what the person's background is,  
5 and I can say when we have so many people that are coming back  
6 that have actually provided a greater service than most of the  
7 people that are applying, there should be some benefit for  
8 that, okay?

9           What I wonder, though, is, is there a way under the  
10 current law to say whoever we hire for any job, unless it's  
11 specifically posted up front, we are not going to allow  
12 agencies to use their own list unless they can justify that to  
13 the commission itself, or we are not going to allow an agency  
14 to use a State employees' list.

15           I mean, I can at least understand the theory of an  
16 agency list: We want to promote somebody in our agency because  
17 we have got to continue to work with them. That one's  
18 understandable. But the whole idea of this, we're going to  
19 have another list that's just State employees that don't have  
20 anything to do with the agency work that is being involved, and  
21 not requiring it to do it up front, it just doesn't make any  
22 sense.

23           If you have a qualification need, you have got a  
24 qualification need. What can we do to make this law work  
25 better for veterans?

1           MR. STEVENS: At least in part let me give you a  
2           circumstance, if we're looking at the broad statewide list.

3           If you are looking for people who have a functional  
4           specialty that would be common, close to being common across  
5           38 State agencies -- human resource specialists might be one --  
6           there you are looking across the State and you're going to find  
7           people who have that background, and if they're in the system,  
8           they're going to have a verifiable employment record. All the  
9           performance evaluations are there. If there's discipline,  
10          you'll see the entire thing. And then you can sort it on  
11          proximity to where the worksite might be, and eventually you  
12          come down to a slate of candidates, and that's who you would  
13          select.

14          These are promotion opportunities, and as  
15          Chief Counsel Smith said, under the current Supreme Court  
16          ruling, in a promotion, you can't use veterans' preference. It  
17          doesn't exist for a veteran in that case. So if a veteran has  
18          come into the system, gotten the entry-level job, has advanced  
19          through his or her own merit, and then sees a position open in  
20          the career field that's in another agency, maybe in another  
21          location, they have the opportunity to be considered for that.  
22          But they compete just as everybody else. There's no veterans'  
23          preference for them at that stage.

24          I mean, what I'm finding so far is that some of this  
25          is like squeezing the balloon, that you squeeze it here to



1 advantage the veteran that you have in front of you, and when  
2 you did that, there are nine of them over there that didn't get  
3 that job. The jobs are scarce; there are only so many to go  
4 around, and that's where these suitability criteria come in.

5 I believe, from my limited experience in joining  
6 with counsel and with my fellow Commissioners, in reviewing the  
7 appeals that come before us, that there is a great deal of care  
8 and attention. If there is any error, it's on the side of  
9 having the appellant get the hearing. It's like the tie goes  
10 to the runner. That is one of the ways we do it.

11 And we also pay attention to the veterans' coding on  
12 these lists. But again, it only applies in certain  
13 circumstances. Otherwise, we are looking at a situation in the  
14 extreme that would say, all applicants who can demonstrate that  
15 they are veterans, with a DD214 or the discharge papers, the  
16 Civil Service Commission will make the choice and that's who  
17 you'll get. That way, we're not going to rely on the  
18 discretion of an agency. We would do that. At some point, we  
19 would probably have to do it on the basis of a lottery.

20 REPRESENTATIVE BARBIN: Well, why shouldn't we have  
21 that rule? Why shouldn't there be a rule that says, if we have  
22 a job opening in Pennsylvania, if you don't have a certificate,  
23 you don't have to be a chemist, you don't have to be a doctor,  
24 you don't have to be a lawyer, but if there isn't a  
25 special-degree requirement, why shouldn't we have a rule that

1 says there will be no suitability?

2 MR. STEVENS: In my judgment, that would be a rule  
3 for the General Assembly to say sure.

4 REPRESENTATIVE BARBIN: Well, that's what I'm  
5 asking.

6 Should we have, should we draft legislation that  
7 says, since we know all these guys are coming back, should we  
8 draft legislation that just says, right now, we need to have a  
9 straight, you know, very clearcut answer, no suitability,  
10 unless you apply for an exception from the Civil Service  
11 Commission?

12 We just get rid of that as a question. We get rid  
13 of those appeals and we just say, if it's not a matter of  
14 having a special degree, it's civil service, and you get  
15 10 points because you're a veteran.

16 MR. STEVENS: Sure.

17 MR. SMITH: I think there's some confusion here,  
18 with all due respect, Representative Barbin.

19 Suitability was only used to explain why they didn't  
20 interview 10 qualified candidates. They could never use  
21 suitability to determine that a candidate was unqualified.  
22 It's not possible. If they're hiring and using the rule of  
23 three and they have a veteran and it's a mandatory appointment,  
24 they cannot make a determination on their own that he's not  
25 suitable for the position. That's impossible. We don't allow

1 that.

2 REPRESENTATIVE BARBIN: Okay, but suitability  
3 includes the list. The list is, it's suitable only if you're  
4 an agency employee. That's suitability. So if they're allowed  
5 to use any one of the three lists, then they have made a  
6 suitability decision, because they said, we want somebody from  
7 within. That's the problem right now.

8 What I'm saying is, is it something that we should  
9 be considering right now, because all these people are coming  
10 back, to say we're not going to have those other lists? We're  
11 basically going to have a civil service test, and if you have  
12 special requirements, you have got to put that up front, and  
13 you either have the requirement or you don't, but anybody who's  
14 on there otherwise is going to be hired with the benefit of  
15 being a veteran.

16 MR. STEVENS: I would say that this has to be a  
17 General Assembly decision.

18 You know, the thing that I've learned here in my  
19 short tenure, and I've seen it in other organizations where I  
20 worked, certainly the Army has this, it's very much a  
21 rules-bound enterprise, and so when those rules are enforced,  
22 there's always going to be situations where someone who thought  
23 they might have been qualified didn't get a job because there's  
24 only one -- there's only one promotion opportunity; there's  
25 only one entry-level job.

1 I realize the situation now with DOD cutting back  
2 dramatically, and I think in Pennsylvania we're going to see  
3 substantial numbers of people cascading out of the active  
4 force, as all branches of service seem to be cutting back.

5 We also have still on the troop deployment list two  
6 major elements of the Pennsylvania National Guard that will be  
7 deploying unless our commitments overseas are canceled before  
8 they lift off and go in country.

9 So those are the people, in my judgment, who are the  
10 target for this veterans' preference. And I understand what  
11 you are saying, but I look at my role as the Commissioner and I  
12 think my sworn duty is to uphold what's in that statute and not  
13 begin to make judgments on my own about what I think may or may  
14 not apply in a specific situation.

15 Thank you, sir.

16 MR. SMITH: Thank you, sir.

17 CHAIRMAN BARRAR: Thank you, Representative.  
18 Representative Kortz.

19 REPRESENTATIVE KORTZ: Thank you, Mr. Chairman.

20 And thank you, Chairman Stevens, for your testimony  
21 today.

22 Sir, I have a question for you. You've heard  
23 Mrs. Burns' testimony prior to you. Obviously the appeals  
24 process is an issue. Are there any plans to try to modify the  
25 appeals process, make it more user-friendly, if you will?

1           MR. STEVENS: Well, I certainly think we can take a  
2 look at the appeals process. I know that, from my limited  
3 experience when I reviewed cases, and the Commissioners get  
4 these and independently make a judgment and then come together  
5 to see what that final outcome is. The criteria that we've  
6 used, is there anything new coming in the appeal, or is it a  
7 restatement or an exact copy of what the commission heard in  
8 the original case? And so that would weigh heavy on whether or  
9 not we're going to hear the same thing over again.

10           In those instances where there's nothing new, then  
11 the appeal would probably be denied. If they're presenting  
12 something that even on the face of it looks like this is a new  
13 wrinkle that may have influenced the outcome, then they're  
14 going to get another opportunity to do this.

15           REPRESENTATIVE KORTZ: Sure, I understand you're  
16 looking for new credible evidence, but I'm talking about the  
17 timeframes. It seems like there's a very narrow timeframe.  
18 You don't know if you're getting a letter or not. There were  
19 some specifics in her testimony very pointed to the commission  
20 that it's heavily skewed towards the commission and against the  
21 person applying.

22           MR. WALLACE: And I'm going to ask Chief Counsel  
23 Smith to walk you through the process quickly.

24           REPRESENTATIVE KORTZ: We don't need to hear the  
25 whole process; I just want to know if you'll take a look at it

1 and see if you want to modify it, because I don't want to drag  
2 out the timeframe of the meeting.

3 MR. SMITH: Yes, sir.

4 REPRESENTATIVE KORTZ: I'd appreciate if you would  
5 do that.

6 One last followup, if I may, Mr. Chairman. Sorry to  
7 come back to it, but I can't help myself. This suitability  
8 clause, the definition of the suitability clause. I assume  
9 it's, you know, suitable qualifications, skill set, experience,  
10 capability. For example, if you were looking for a lawyer and  
11 the person doesn't have a law degree, obviously they're  
12 disqualified. Talk to me about the definition of this  
13 suitability clause.

14 MR. SMITH: Actually, it's not in a management  
15 directive; it's a commission rule. It is rule 97.16, 4 PA Code  
16 97.16. We had upped it years ago. I guess the best way for me  
17 to respond to your question is just to read it.

18 It says, "Appointing authorities may conduct  
19 interviews or otherwise assess relative suitability for  
20 appointment of certified eligibles, but the assessments must be  
21 based on job-related criteria and be conducted in accordance  
22 with standards established by the Director." That's it.  
23 That's the entire thing.

24 And as I indicated previously, it says "Appointing  
25 authorities may conduct interviews or otherwise assess..." and

1 I indicated to you previously they're not required to hold  
2 interviews. They simply can select a candidate, provided they  
3 follow all the applicable rules and can defend their decision  
4 based on merit criteria without doing interviews at all, and  
5 that's all the suitability clause is.

6 To me, I think much too much is being made of it. I  
7 don't think it can ever--- It can never be used to disqualify  
8 a candidate. We put a candidate on the list, we say they're  
9 qualified; the only way that candidate can be removed from the  
10 list is to come back to the commission with what's called a  
11 list-removal request, and there's a whole process that is gone  
12 through where the Commissioners themselves decide those on a  
13 case-by-case basis. We do about 150 of those a year.

14 No agency can do that on their own, and the  
15 suitability criterion is simply saying that if you didn't  
16 interview the candidates, then you have to be able to tell us  
17 what criterion you did use to decide who you were going to  
18 hire, and that better be merit related and you better be able  
19 to justify it, and that's what the suitability clause that  
20 we've been referring to is. It is rule 4, 97.16; 4 PA Code  
21 97.16.

22 REPRESENTATIVE KORTZ: So it in fact is a rule?  
23 It's not a regulation?

24 MR. SMITH: It's a rule which -- I call it a rule.  
25 It's a regulation, yes.

1 REPRESENTATIVE KORTZ: It's a regulation.

2 MR. SMITH: Yes, sir.

3 REPRESENTATIVE KORTZ: Okay. Thank you.

4 CHAIRMAN BARRAR: Representative Boback.

5 REPRESENTATIVE BOBACK: Thank you, Mr. Chair.

6 This is a point of clarification. So what you're  
7 saying is that when Mr. Burns took his test, he was the highest  
8 ranking on a rule of three, and then that kicked in the idea  
9 that, yes, a veteran was the highest of three, so now we hire a  
10 veteran.

11 MR. SMITH: Correct.

12 REPRESENTATIVE BOBACK: Okay. And then that allowed  
13 you to go through more specific qualifications.

14 So the next question is, does every civil service  
15 exam, does it need to be accompanied by a résumé vitae?

16 MR. SMITH: No.

17 REPRESENTATIVE BOBACK: No.

18 MR. SMITH: The résumés would have been provided by  
19 the candidates in response to what we call an availability  
20 survey. They send out a list and they say, are you interested  
21 in the job? And they have to respond "yes, not at this time,"  
22 or "yes, we are," and they can ask them to provide a résumé  
23 along with their response.

24 REPRESENTATIVE BOBACK: And they don't have to, but  
25 they may.



1 MR. SMITH: They may.

2 REPRESENTATIVE BOBACK: All right. So with  
3 Mr. Burns, I mean, when you were looking, again, at the  
4 qualifications for this position, I think it was an AMT with  
5 PENNDOT?

6 MR. SMITH: Yes.

7 REPRESENTATIVE BOBACK: Can you tell me, what is an  
8 AMT?

9 MR. WALLACE: Administration management trainee.

10 MR. SMITH: Correct.

11 REPRESENTATIVE BOBACK: Administration  
12 Management---

13 MR. WALLACE: Trainee.

14 REPRESENTATIVE BOBACK: Trainee.

15 MR. WALLACE: It's an entry-level job.

16 REPRESENTATIVE BOBACK: Okay. So then because he  
17 was vying for this and you opened it up looking at résumés,  
18 looking at vitae, and you found that there were three other  
19 veterans who it was felt that they had more experience in the  
20 field than Mr. Burns?

21 MR. SMITH: They had some experience in HR. That  
22 was the testimony. It was undisputed.

23 REPRESENTATIVE BOBACK: They had some experience,  
24 but more experience than, you're saying, than Mr. Burns?

25 MR. SMITH: He had no background in HR.

1 REPRESENTATIVE BOBACK: All right. So---

2 MR. SMITH: According to the testimony, and he did  
3 not dispute that at the hearing himself.

4 REPRESENTATIVE BOBACK: Okay. So that if  
5 Representative Murt and I were vying for a position, both  
6 veterans, I score the highest, he scores maybe 20 points below  
7 me -- and this is with the 10 percentage points added in,  
8 right?

9 MR. WALLACE: That's correct.

10 MR. SMITH: Yeah; you both have it.

11 REPRESENTATIVE BOBACK: We both have it, but I have  
12 more than he does.

13 MR. SMITH: Correct.

14 REPRESENTATIVE BOBACK: But then when you look at  
15 his vitae and you're looking for a teaching position and he has  
16 a teaching certificate or he has background in nursery school,  
17 whatever, so you determine that even though I scored higher,  
18 he not only scored as a veteran but he has the expertise in  
19 that area, so he would most likely be the one to get the  
20 job.

21 MR. SMITH: That might be what the criteria is they  
22 used to break a tie, as Commissioner Stevens described it.  
23 Yes.

24 REPRESENTATIVE BOBACK: Okay. All right.

25 MR. SMITH: And that's how it works.

1           Now, in this case, and I really don't want to drag  
2 things out here for you, but I want you to understand this,  
3 they had a veteran in the rule of three, so they knew that they  
4 had to hire a veteran. So they surveyed all the veterans.  
5 That's standard practice. It's what usually happens. And when  
6 they had the candidate pool of all the veterans, then they  
7 looked at the résumés to decide who they wanted to interview.  
8 And then after they did three interviews, they decided who they  
9 wanted to pick.

10           The rule of three is not just three people actually;  
11 the rule of three is the three highest-scoring people. So if  
12 you had a list where 10 people had a tie score and they were at  
13 the top of the list, there would be 10 people within the rule  
14 of three, for example. So it can definitely be more than three  
15 people, and that's what it was in this case.

16           REPRESENTATIVE BOBACK: Last question, if I may.

17           What if it wasn't a veteran? What if Mr. Burns  
18 wasn't a veteran? Like in the top three there were no  
19 veterans; does that mean then you wouldn't need to hire a  
20 veteran?

21           MR. SMITH: No, it means you wouldn't need to hire a  
22 veteran; you could hire only the people that are within the  
23 rule of three, because that's what the Civil Service Act  
24 provides.

25           REPRESENTATIVE BOBACK: I see.

1 MR. SMITH: But at the same time, you could also  
2 hire veterans from elsewhere on the list, and if you didn't  
3 like any of the people within the top three, you could then  
4 hire a veteran from further down the list. That would be up to  
5 you.

6 But it wouldn't be required. That's the option.  
7 When you go below the rule of three to interview a veteran,  
8 it's an optional preference, not mandatory like it would be if  
9 the veteran was in the rule of three.

10 REPRESENTATIVE BOBACK: Thank you. Thank you for  
11 clarifying that for me.

12 Thank you, Mr. Chair.

13 CHAIRMAN BARRAR: Thank you.

14 Representative Gillen for the last question.

15 REPRESENTATIVE GILLEN: My questions have been  
16 answered.

17 Thank you, Mr. Chair. My question was  
18 covered.

19 CHAIRMAN BARRAR: Oh; okay. Thank you.

20 Representative Murt.

21 REPRESENTATIVE MURT: Mr. Chairman, I wanted to wait  
22 until the end because I happen to be a veteran, served in  
23 combat with the 4th Infantry Division, 2003 and '04 in Iraq. I  
24 still have a great deal of contact with the men and women with  
25 whom I served in Tikrit, Iraq.

1           There's nothing more important than jobs.  
2 Collectively speaking, I think that their concern over  
3 employment is more important than their concern over health  
4 care and job training and so forth. This is really  
5 important.

6           And it's really painful, because a lot of the men  
7 and women with whom I served are from the Williamsport area,  
8 and many of them have deployed voluntarily the second and the  
9 third time because they could not find employment; they could  
10 not find a job.

11           So this is a very, very critically important issue  
12 as it relates to our veterans, and I think it's very good that  
13 we're vetting this issue and helping our veterans in  
14 Pennsylvania and embracing this legislation that is going to  
15 make things better for our veterans.

16           Thank you, Mr. Chairman.

17           CHAIRMAN BARRAR: Thank you.

18           I want to thank our testifiers for being here today,  
19 and if there's any way that the Members of this committee can  
20 be of service to you as you look for a way to modernize and  
21 make the system more efficient, if you need our help, we stand  
22 ready to help you in any way possible.

23           MR. STEVENS: Thank you, sir. If I might?

24           CHAIRMAN BARRAR: Yes, sir.

25           MR. STEVENS: If I might address real quickly

1 Representative Murt's comments. This is getting off the Civil  
2 Service Act. But I'll give you an example of things that have  
3 happened since the 3d of January when I was sworn in.

4 I have met with the Pennsylvania Veterans  
5 Commission. That's a quarterly meeting. To the gentlemen who  
6 presented before on that, we are engaged. I have worked with  
7 the Adjutant General; in fact, he's a personal friend of mine.  
8 That relationship is strong.

9 Next week, I'll be meeting with Deputy Adjutant  
10 General Gould on a larger issue that goes beyond the civil  
11 service employment that begins to address a comprehensive way  
12 for the Department of Military and Veterans Affairs to reach  
13 out to veterans, and it probably, I hope, will address the  
14 kinds of issues you talked about. Unfortunately, that's a  
15 labor-market issue to a large extent. But those are the things  
16 that are out there.

17 I know the commission has got two veterans fairs  
18 coming up -- one in Philadelphia, I believe it is May 8; and  
19 one in Pittsburgh on the 20th of April -- and I will be there  
20 representing the Civil Service Commission along with our  
21 regional officers and dealing with the veterans' preference  
22 issue and employment with the Commonwealth.

23 So we're getting some traction here, but it gets  
24 away from the things like a test and the rule of three and so  
25 on. So it's kind of the overarching picture.

1 Thank you very much. I appreciate your---

2 CHAIRMAN BARRAR: You're welcome. And that's  
3 exactly what we wanted to hear, is the fact that this will  
4 become a real, not just a preference but a priority, hiring  
5 veterans with the Civil Service Commission.

6 Just one more second?

7 Chairman Sainato, any comments?

8 CHAIRMAN SAINATO: Just briefly, I do want to thank  
9 all of you, all of our testifiers, because this is a learning  
10 experience. I think it's a learning experience for many of our  
11 Members on the committee, because we have many first-term  
12 Members, including myself, and, you know, this whole process, I  
13 think, you know, we want to continue to work with you.

14 And I share Chairman Barrar's concern as well. I  
15 mean, veterans are critical. They serve their country and they  
16 should be treated fairly and equitably. So I think with  
17 continuing dialogue and the ability to make sure it's done  
18 properly and fairly -- and we have to get qualified people,  
19 too, that work, you know, for the State. I mean, that's  
20 important as well. So I think you have to weigh all the  
21 options in and make sure people are treated fairly.

22 So that's really all I have to say, but I think it  
23 was very helpful to me and I'm sure many of our Members out  
24 there.

25 CHAIRMAN BARRAR: Thank you, Mr. Chairman.

1                   I want to thank the Members for their questions and  
2 attendance and the testifiers for being here today.

3                   This meeting stands adjourned.

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5                   (The hearing concluded at 2:51 p.m.)  
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I hereby certify that the foregoing proceedings are  
a true and accurate transcription produced from audio on the  
said proceedings and that this is a correct transcript of the  
same.

Debra B. Miller  
Committee Hearing Coordinator/  
Legislative Reporter  
Notary Public

Penny Wolfe  
Transcriptionist