



Position: The Reserve Organization of America (ROA) urges Congress to support H.R.3943, the *Servicemember Employment Protection Act*.

Background: ROA strongly supports Public Law No. 103-353, the *Uniformed Services Employment and Reemployment Rights Act*. Since its 1994 enactment, USERRA has significantly enhanced national security by protecting dual-career paths for members of the Reserve and National Guard.

ROA recognizes the potential burden that USERRA places on America's employers and seeks to identify and support law and policy that supports the hiring and retention of reserve component members.

With the reserve components constituting some 40 percent of the total force, the integrity of USERRA is essential to our nation's military readiness.

Over time, certain USERRA protections have been circumvented and inadequately enforced, leaving legal voids that weaken its protections and must be corrected.

H.R.3943, the *Servicemember Employment Protection Act*, fills many of these voids by:

- Expanding access to injunctive relief by prohibiting courts from denying a motion for injunctive relief on the basis that an employee may be awarded "wages unearned" following an unlawful termination of employment.
- Enabling courts to increase the liquidated damages awarded to plaintiffs with the greater of \$50,000 or the amount of the actual damages.
- Incentivizing legitimate legal representation for claimants with cases pending before the U.S. Court of Appeals for the Federal Circuit by awarding attorney fees for USERRA cases heard by the Federal Circuit.
- Eliminating the current immunity shield provided to select intelligence agencies.
- Ensuring the time spent away from work for military duty is credited with the average of the efficiency or performance evaluations which the employee received for the three years before the absence.
- Extending eligible time away from civilian employment to include a medical appointment(s) necessitated by a wound, injury, or illness sustained in the line of duty.
- Requiring the secretary of labor to review the U.S. Department of Labor Veterans' Employment and Training Service internal Investigation Manual on a biennial basis and to make revisions as deemed appropriate.
- Compelling the Comptroller General of the U.S. to review the methods through which the secretary of labor processes actions for USERRA relief and submit a report that includes the findings of the review, an identification of the actions for relief under USERRA initiated during the covered period, the number of actions for relief erroneously dismissed, the number of actions referred to the Department of Justice, and an assessment of trends in such actions for relief.

To read ROA's testimony on the *Servicemember Employment Protection Act*, visit roa.org/page/testimony.

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