Reserve Officers Association of the United States
And
Reserve Enlisted Association

From Major General Andrew "Drew" Davis, USMC (ret.)
National Executive Director, ROA

for the

Senate Judiciary Committee
Subcommittee on Oversight Federal Rights, and Agency Actions

"Access to Justice for Those Who Serve"

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"Serving Citizen Warriors through Advocacy and Education since 1922."™

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The Reserve Officers Association of the United States (ROA) is a professional association of commissioned and warrant officers of our nation's seven uniformed services and their spouses. ROA was founded in 1922 during the drawdown years following the end of World War I. It was formed as a permanent institution dedicated to National Defense, with a goal to teach America about the dangers of unpreparedness. When chartered by Congress in 1950, the act established the objective of ROA to: "...support and promote the development and execution of a military policy for the United States that will provide adequate National Security."

The Association's 55,000 members include Reserve and Guard Soldiers, Sailors, Marines, Airmen, and Coast Guardsmen who frequently serve on Active Duty to meet critical needs of the uniformed services and their families. ROA's membership also includes commissioned officers from the U.S. Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

ROA is a member of The Military Coalition where it co-chairs the Guard and Reserve Committee. ROA is also a member of the National Military/Veterans Alliance and the Associations for America's Defense. Overall, ROA works with 75 military, veterans, and family support organizations.

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The Reserve Enlisted Association is an advocate for the enlisted men and women of the United States Military Reserve Components in support of National Security and Homeland Defense, with emphasis on the readiness, training, and quality of life issues affecting their welfare and that of their families and survivors. REA is the only joint Reserve association representing enlisted reservists – all ranks from all five branches of the military.

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DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers and Reserve Enlisted Associations are member-supported organizations. Neither ROA nor REA have received grants, subgrants, contracts, or subcontracts from the federal government in the past three years. All other activities and services of the associations are accomplished free of any direct federal funding.

EXECUTIVE SUMMARY

Improvements to increase employment supported by ROA and REA follow:

Employer Support:

- Continue to enact tax credits for health care and differential pay expenses for deployed Reserve Component employees.
- Provide tax credits to offset costs for temporary replacements of deployed Reserve Component employees.
- Support tax credits to employers who hire service members who supported contingency operations.

Employee Support:

- Permit delays or exemptions while mobilized of regularly scheduled mandatory continuing education and licensing /certification/promotion exams.
- Continue to support a law center dedicated to USERRA/SCRA problems of deployed Active and Reserve service members.

Uniformed Services Employment and Reemployment Rights Act (USERRA)/Servicemembers Civil Relief Act (SCRA):

- Improve SCRA to protect deployed members from creditors that willfully violate SCRA.
- Fix USERRA/SCRA to protect health care coverage of returning service members and family for continuation of prior group or individual insurance.
- Broaden the types of insurance that the service member is entitled to reinstate after returning from military service, such as protections for professional, dental, and disability coverage.
- Enact USERRA protections for employees who require regularly scheduled mandatory continuing education and licensing/certification and make necessary changes to USERRA to strengthen employment and reemployment protections.
- Amend SCRA to add a provision that the expiration dates of any license or certification issued by any state or federal agency (including driver's, nurses', contractor's licenses, etc.) shall be extended to a period of 90 days after release from active duty.
- Include protections on leases and contracts impacting mobilized small business owners, including the ability to terminate or suspend a contract or lease for services or goods.
- Exempt Reserve Component members from federal law enforcement retirement application age restrictions when deployment interferes in completing the application to buy back retirement eligibility.
- Encourage Federal agencies to abide by USERRA/SCRA standards.
- Ensure USERRA isn't superseded by binding arbitration agreements between employers and Reserve Component members.
- Make State employers waive 11th Amendment immunity with respect to USERRA claims, as a condition of receipt of federal assistance.
- Make the award of attorney fees mandatory rather than discretionary.

INTRODUCTION

On behalf of our members, the Reserve Officers and the Reserve Enlisted Associations thank the committee for the opportunity to submit testimony on access to justice for those who serve, and how this can be improved. ROA and REA applaud the ongoing efforts by Congress and this committee to address employment problems faced by so many veterans and service members.

Many outstanding citizen Soldiers, Sailors, Airmen, Marines, and Coast Guardsmen have put their civilian careers on hold while they served our country in harm's way. They shared the same risks with their counterparts in the Active Components on the battlefield, but did not always have assurance of a job when they returned home. While laws exists to provide reemployment and employment protection, many

Reserve and Guard members had to seek private representation, when the Department of Labor, or the Department of Justice failed to address their cases.

Just last week, we passed the 894,126 mark for the number of Reserve and Guard service members who have been activated since post-9/11 with nearly 40,500 still on active duty. More than 336,250 have been mobilized two or more times. The United States has created a new generation of combat veterans that come from its Reserve Components (RC). It is important, therefore, that we don't squander this valuable resource of experience nor ignore the protections that they are entitled to because of their selfless service to our country. Thirty percent of those who served in Iraq or Afghanistan were Reserve or Guard veterans, according to the Department of Labor.

The dual status of veteran and serving member complicates the employment of Guard and Reserve members returning from mobilization. They face returning to communities that don't have the same support structure that is available if they were near military bases. High numbers of them have been unable to find reemployment during this war and economic recession. Some Army National Guard units returned with unemployment levels above 35 percent.

The unemployment rates of veterans and Guard and Reserve members have been higher than the national average rate for veterans overall. The Bureau of Labor Statistics reports that in February 2014, unemployment has risen back to 16.6 percent of veterans between 18 to 24 years of age, and climbed to 18.8 percent of veterans between 25 to 29 years of age. The 18 to 24 year old group and the 25 to 29 year old group are made up in large part of the National Guard and Reserve members.

While non-affiliated veterans have a better employment rate than the national average at 6.3 percent, stealth discrimination continues to make employment and even reemployment harder for returning Reserve and Guard members, because they are veterans who continue to serve.

ROA and ROA fear that the unemployment rate is so high because employers are shying away from hiring potential employees who are serving in the Reserve Components, although such discrimination is clearly unlawful under section 4311 of USERRA. Three surveys show that between 60 to 70 percent of employers won't hire new employees who are affiliated with the Reserve and the Guard.

EMPLOYMENT

Employment Protections

Veterans and service members are provided protections through the National Committee for Employer Support of the Guard and Reserve (ESGR), the Uniformed Services Employment and Reemployment Rights Act (USERRA), and the Servicemembers Civil Relief Act (SCRA).

Notwithstanding the protections afforded veterans and service members, as well as antidiscrimination laws, it is not unusual for members to lose their jobs due to time spent away while deployed. Sometimes this is because the employers have gone out of business, but more often because it costs employers money, time, and effort to reintroduce the employee to the company, thus violating USERRA obligations.

Higher unemployment rates for younger Reserve and Guard members provide silent testimony to the stealth discrimination that remains. Faced with an operational Reserve model, many employers anticipate that Reserve Component members will continue to be called up once every five years. Smaller businesses

can ill-afford to lose key people and remain productive. They may congratulate an applicant on his or her military service, and then simply fail to follow-up.

USERRA's enforcement mechanism for States, political subdivisions of States, and private employers involves the U.S. Department of Labor (DoL) as well as the Department of Justice (DoJ). On paper, the Department of Labor (DOL) and Department of Defense (DoD) share responsibility for promoting a clear understanding of USERRA among employers and individuals concerning their respective rights and responsibilities under USERRA. DOL's Veterans' Employment and Training Service (VETS) and DOD's National Committee for Employer Support of the Guard and Reserve (ESGR) provide extensive public education, outreach, and compliance assistance with the goal of preventing violations caused by ignorance or misunderstanding of the law and ensuring that protected individuals understand their rights and know what assistance is available to help them secure those rights.

Both DoD's ESGR and DoL fall short at helping the number of Reserve and Guard members facing employment challenges. In the vast majority of USERRA cases filed in court, the plaintiff has been represented by private counsel or (worse) has proceeded pro se, and in only a very small minority of cases has DoJ acted as attorney for the plaintiff, as Congress intended.

ESGR: While the National Committee for Employer Support of the Guard and Reserve has done a commendable job in the past, ROA is concerned that it has shifted its focus from working to help the individual serving member to recognizing supportive employers. ESGR (Employer Support of the Guard and Reserve) is tasked with being the first bridge-gap to moderate the unemployment problem. With over 4,900 volunteers, ESGR fielded 21,521 USERRA inquiries and handled 2,793 cases in FY-2012, a 3 percent decline in inquiries. In FY 2012, ESGR volunteers communicated with161,440 employers and 482,916 service members, informing both groups on the responsibilities and rights under USERRA.

If ESGR can't resolve differences between the employer and the Reservist, then the cases are sent to the Department of Labor for review, and the Department of Labor can't handle the number of requests as formal cases. Most successful reemployment lawsuits are being handled by private lawyers.

The Commission on the National Guard and Reserve made key recommendations including expansion of the ESGR to enable it to work new employment as well as reemployment opportunities, the creation of an employer advisory council, and regular surveys to determine employer interests and concerns over reemployment of Guard and Reserve members. Unfortunately, the budget recommendation is to reduce ESGR's budget.

Dept of Labor: If a service member believes his or her USERRA rights have been violated, he or she may file a complaint with the United States Department of Labor – Veterans Employment and Training Service (VETS). VETS will analyze the complaint, determine if a violation of USERRA has occurred and, if it has, try to negotiate a resolution of the situation with the employer. In FY 2012 alone, VETS presented USERRA information to more than 75,000 people

A Fiscal Year 2012 U.S. Department of Labor report found that nearly 37 percent of the complaints reviewed by its Veterans' Employment and Training Service under the Uniformed Services Employment

and Reemployment Rights Act contained allegations of discrimination on the basis of past, present, or future military service or status. An additional 27 percent of the complaints involved allegations of improper reinstatement into civilian jobs following military service. In all VETS reviewed 1,466 unique USERRA complaint cases in FY 2012, according to the report.

If unable to negotiate a resolution, VETS has no enforcement authority. The service member will then be informed that he or she may initiate a legal action against the employer, whether with or without an attorney. VETS typically will also ask the service member if he or she wants the matter forwarded to the Office of Special Counsel for cases involving when the Federal agencies are employers, or to the United States Attorney General for cases involving State, local or private sector employers. However, these officials typically decline to pursue the matter. The Department of Justice tends to pursue only the most high visibility cases. As most Reserve Force members work for small business or local governments they rarely have federal representation.

DOL involvement doesn't always help a Reservist. Evan Hart was a dentist who served in Iraq. After returning to work, Dr. Hart was notified by his boss on day-3 that he would be terminated in 60 days. That 60 days' notice became 30 days' notice when Hart protested. After Hart filed a USERRA complaint with the Department of Labor, the Department told Hart's employer that he could not be fired for 180 days. Management complied with that directive, and fired him after 180 days. Courts held that Hart didn't have a USERRA case for continued complaint.

Unfortunately, the number of cases supported by federal agencies doesn't reflect the needed support by Reserve and National Guard members. The federal emphasis has shifted from representation to education, which doesn't help individuals facing employment or re-employment problems.

ROA, with a one man office provides information to over 800 contacts each month. In 2013, 48.6 percent of the queries were USERRA related. Information about ROA's Law Center can be found later in this testimony.

USERRA EXAMPLES

Just this week, the Department of Justice filed a lawsuit today against Con-Way Freight Inc. alleging that the company violated the Uniformed Services Employment and Reemployment Rights Act (USERRA) by failing to promptly reassign a Navy Reservist, Dale Brown, to his former position as a driver with appropriate seniority once he notified the company that he had fully recovered from a temporary service-related medical disability.

In 2006, Brown was working at Con-Way's Rock Island, Ill. facility when he reported to active duty. While in Iraq, Brown suffered a serious shoulder injury in a truck accident during a night

mission and returned to Con-Way in 2009 following an honorable discharge. Con-Way placed him in a lower-paying position due to medical restrictions that prevented him from returning to his pre-service position.

In February, DOJ filed a lawsuit against the Missouri National Guard (MNG) alleging that the MNG violated the Uniformed Services Employment and Reemployment Rights Act (USERRA) by requiring its dual technician employees to resign from their civilian positions prior to active duty service in the U.S. Army Guard and Reserve. The MNG's resignation requirement denied the complaint the benefit of 15 days of annual, and paid annual military leave that she would have been entitled as a dual technician.

The DoJ successfully sued the City of Milwaukee in 2010, claiming that the city violated USERRA when it did not provide a police officer with the opportunity to take a make-up examination for promotion to detective that he missed while on active duty military service, thereby denying him the seniority, status and compensation he would have received but for his active duty service in the military. The city later promoted the officer to detective after he passed the next scheduled examination, but the delay still resulted in his loss of pay, seniority and other benefits, including eligibility for future promotions. The settlement provided for retroactive promotion date in the rank of detective, $21,190 in back pay, retroactive seniority and other benefits.

In FY 2012, VETS referred 111 cases to the Justice Department's Civil Rights Division and 23 cases to the Office of Special Counsel.

DOJ filed nine USERRA complaints in FY 2012, 12 USERRA complaints in FY 2011, and five complaints in FY2010. DOJ peaked in FY 2009 working 22 complaints, compared to 12 in 2008, seven in 2007 and three in 2006. DOJ tends to be selective, pursuing highly visible actions, based either on the size of the plaintiff or the subject of the complaint.

Most Reserve and Guard members are hired by smaller companies. Over 35 percent of employees in America work for businesses with 100 employees or less, according to the Census Bureau. These small businesses violations most often fly below the Department of Justice's radar.

The USERRA case that was heard at the Supreme Court – Staub v. Proctor Hospital - was represented by private counsel. The Supreme Court ruled unanimously that an employer may be liable under the USERRA when the discriminatory actions of an intermediate supervisor who doesn't make firing decisions influence the firing decision maker. Vincent Staub, a member of the Army Reserve, sued his employer after his employment was terminated. He alleged that he was a victim of anti-military discrimination in violation of USERRA. Mr. Staub based his claim

on his supervisors' alleged anti-military bias, asserting that they influenced the manager who fired him, even though the manager claimed she didn't take such bias into account.

Subordinate discrimination at the middle manager level has been hard to prove, which was why the complainant sought private counsel. Vincent Staub claims he first went to DoL seeking assistance, but VETS denies it.

Sgt. Maj. Richard Erickson was fired in 2000 by the Postal Service for taking too much time off for National Guard duty – he was terminated for taking "excessive military leave." A federal board denied a Postal Service appeal and ordered the agency to restore his job and give him 14 years of back pay and other benefits that could total about $2 million. This case was handled by a private attorney, and it reflects the amount of time that a law firm can invest in a contingent fee arrangement case. USERRA cases are complex, which is why there is an aversion for private lawyers to accept such cases.

In 2009, a federal judge in the case of *Michael Serricchio v. Wachovia Securities L.L.C.*, New Haven, Connecticut, awarded Serricchio $291,000 in back pay and $389,000 in damages, plus fees and costs. The judge also ordered Wachovia to reinstate Serricchio as a financial advisor with the full package of employment benefits. The case was filed in 2005 after Mr. Serricchio had returned from active duty and he was represented by a private firm. What was unique about this case was that it determined that USERRA applies to employees who work on commission, and that a corporation that assumes ownership of another corporation, also inherits responsibilities. Wachovia had become part of Wells Fargo & Co.

USERRA CASES AGAINST STATES

It is particularly important that DoJ act as attorney in those cases where the defendant (employer) is a state, because in those cases there is literally no remedy if DOJ does not get involved. It has been held that USERRA is unconstitutional, under the 11th Amendment, insofar as it authorizes a private individual to bring suit, in his or her own name, in Federal District Court, against a state.

Congress solved the 11th Amendment problem by amending USERRA in 1998. Congress added the following sentence: "In the case of such an action [to enforce USERRA] against a State (as an employer), the action shall be brought in the name of the United States as the plaintiff in the action." 38 U.S.C. 4323(a)(1) (final sentence). Only DoJ can bring an action in the name of the United States. When the employer is a state, there can be no enforcement of USERRA unless DoJ brings the suit.

A compelling example of this problem is the case of Staff Sergeant Aldous Copeland, of the South Carolina Army National Guard.

Mr. Copeland was called to the colors and deployed to Afghanistan. He left his job at the South Carolina Department of Corrections (SCDC). After his deployment and release from active duty, he returned in January 2012 and requested reinstatement to work in April from the State of South Carolina. He met the USERRA eligibility criteria for reemployment (see appendix).

Staff Sergeant Copeland was entitled to prompt reemployment in his civilian job, and under section 4317(b) of USERRA; he was also entitled to immediate reinstatement of his health insurance coverage, through his civilian job, with no waiting period and no exclusion of pre-existing conditions. SCDC failed to reinstate his health insurance coverage upon his reemployment, in a clear and egregious violation of USERRA.

Staff Sergeant Copeland did not realize that his health insurance coverage had not been reinstated until several months later, when he scheduled a routine check up with his doctor. The visit was canceled at the last minute when it was realized that the State had not reinstated his health insurance coverage, and he was uninsured.

When symptoms appeared for colon cancer, Mr. Copeland sought coverage and treatment by the United States Department of Veterans Affairs as this was the only option he was left. As a combat veteran, he scheduled a colonoscopy through the Department of Veterans Affairs (VA), but because of a backlog at the VA, several months went by before the colonoscopy could be performed.

When the colonoscopy was finally done, colon cancer was diagnosed. The delay in the medical procedure has deprived Staff Sergeant Copeland of the opportunity to get timely and effective treatment and has greatly diminished his quality of live, his life expectancy and increased his suffering. The delay in the medical procedure has caused unknown medical irreparable harm to Staff Sergeant Copeland, and he is forced to drive two (2) hours from home to receive chemotherapy treatments whereby he then must stay in a hotel to recover until he is healthy enough to drive the two (2) hours back home. His filed complaint is that this delay in diagnosis and treatment is directly attributable to South Carolina's failure to comply with USERRA.

Because of the 11th Amendment to the United States Constitution, Mr. Copeland cannot sue the State of South Carolina in federal court, so he filed suit in state court. SCDC's attorneys have claimed the State's Leave Without Pay ("LWP") Policy is not pre-empted by USERRA. The State's LWP Policy contradicts USERRA whereby the State is claims that because Aldous Copeland didn't *specifically* ask for his health insurance to be reinstated within thirty-one (31) days, he had to wait until January 2014 during open enrollment to re-apply.

The State has not denied that they violated USERRA, but they contend that "you cannot do anything about it because we have sovereign immunity."

Mr. Copeland is most ably represented by attorney John G. Reckenbeil of Spartanburg, South Carolina. Mr. Reckenbeil is present in the hearing room and available to answer any questions that you may have about this case.

SERVICE MEMBERS LAW CENTER

To better serve Reserve Force and active duty members and veterans on legal issues, the ROA established in the summer of 2009 the Service Members Law Center (SMLC) as a source of information on legal issues relating to military service.

The Law Center's goals include the following:

- Advise Active and Reserve members who have been subject to legal problems that relate to their military service.
- Develop a network of legal scholars, law school clinics and private practitioners interested in legal issues of direct importance to service members.
- Advance world-class continuing legal education on issues relating to the Uniformed Services Employment and Reemployment Rights Act (USERRA) and the Servicemembers Civil Relief Act (SCRA).
- Broaden the existing database of USERRA and SCRA research.
- In conjunction with bar associations, develop standards that will help to ensure that lawyers to whom service members are referred for legal services have the requisite expertise to represent them effectively.

Recruiting and retaining members of the armed services, especially those in the National Guard and Reserve, depends in part on assuring current and future Citizen Warriors that laws and regulations are in place to protect them effectively from discriminatory practices.

The Law Center is functioning at a modest but effective level. ROA is pursuing efforts to obtain private or public funding and to identify public and private entities willing to sustain this effort in order to expand this service to fuller capacity. This is especially needed following potential cuts to ESGR.

As part of the SMLC and under director Captain Samuel F. Wright, JAGC, USN (Ret.) the Law Center maintains the "Law Review" data base and indices contain over 1000 articles on USERRA and other military legal topics (available at www.servicemembers-lawcenter.org). On a monthly basis CAPT Wright receives about 750-800 calls from concerned service members, family members, attorneys and others. Almost half of these calls are about USERRA.

The Law Center's services include:

- Counseling**:** Review cases, and advise individuals and their lawyers as to lawfulness of actions taken against deployed active and reserve component members.
- Referral: Provide names of attorneys within a region who successfully taken up USERRA, SCRA and other military-related issues.
- Promote: Publish articles encouraging law firms and lawyers to represent service members in USERRA, SCRA and other military-related cases.
- Advise*:* File amicus curiae or "friend of the court" briefs on service member protection cases.

- Educate: Seminars to educate attorneys and give them a better understanding of USERRA, SCRA and other military-related issues.

The Service Members Law Center is available at www.servicemembers-lawcenter.org .

Appendix
Background about USERRA

Perhaps the most important law, especially for RC service members, is the Uniformed Services Employment and Reemployment Rights Act (USERRA), which was enacted in 1994, as a long-overdue rewrite of the Veterans' Reemployment Rights Act (VRRA), which was originally enacted in 1940 as part of the Selective Training and Service Act, our nation's first peacetime conscription law.

Under USERRA, a person who leaves a civilian job for voluntary or involuntary military service, in the AC or the RC, is entitled to reemployment in the pre-service job if he or she meets five simple conditions:

a. Must have left the civilian job for the purpose of performing voluntary or involuntary service in the uniformed services—active duty, active duty for training, inactive duty training, initial active duty training, etc.
b. Must have given the employer prior oral or written notice.
c. Cumulative period or periods of uniformed service, relating to the employer relationship for which the person seeks reemployment, must not have exceeded five years. All involuntary service and some voluntary service are exempted from the computation of the individual's five-year limit.
d. Must have been released from the period of uniformed service without a disqualifying bad discharge from the military.
e. After release, must have made a timely application for reemployment with the pre-service employer.

A person who meets these simple conditions is entitled to prompt reinstatement in the position that he or she would have attained if continuously employed, which is usually but not always the position the person left. Upon reemployment, the person must be treated as if he or she had been continuously employed in the civilian job, for seniority and pension purposes. USERRA also makes it unlawful for an employer to deny a person initial employment (not hiring), retention in employment (firing), or a promotion or benefit of employment on the basis of the person's membership in a uniformed service, application to join a uniformed service, performance of service, or application or obligation to perform service.

USERRA applies to almost all employers in the United States, including the Federal Government, the states and their political subdivisions, and private employers, regardless of size. You only need one employee to be an employer for purposes of USERRA, although other federal laws (including Title VII of the Civil Rights Act of 1964) only apply to employers with 15 or more employees.

Among employers in the United States, only religious institutions (on First Amendment grounds), Native American tribes (on residual sovereignty grounds), and international organizations (World Bank, United Nations) and foreign embassies and consulates (on diplomatic immunity grounds) are exempt from USERRA enforcement.

USERRA applies all over the world to the U.S. Government and to U.S. companies. It protects:

1. Re-employment Upon Return from Active Duty

2. Initial employment hiring

3. When employment conflicts with Inactive Duty Training

4. Health Insurance Guarantee

5. Freedom From Discrimination and Retaliation

The federal reemployment statute has applied to the Federal Government and to private employers since 1940. In 1974, as part of the Vietnam Era Veterans Readjustment Assistance Act, Congress expanded the application of the law to include state and local governments. In 1974, the Senate Veterans' Affairs Committee explained the rationale for this expansion:

"The Department of Labor generally favors such an amendment to the law. It believes that school teachers, policemen, and other public employees returning from military service should not be denied reemployment rights provided for other veterans.

"The Military Selective Service Act of 1967 declares it to be the sense of Congress that States and their subdivisions extend to veterans the same reemployment rights as do the Federal Government or private industry under present law. The provision now relating to State and local governments, however, is not binding under the law and, as a consequence, many returning veterans have found that their jobs in State or local government no longer exist. Furthermore, because these stated reemployment rights are not mandatory upon State and local governments, these veterans lose all benefits which would have accrued to them had they not entered military service.

"This year [1974] it is expected that an estimated half million Vietnam veterans will be separated from military service. More than half of these young men were employed prior to their entering service. Under the Military Selective Service Act of 1967, those who held jobs with the Federal Government or private industry are assured that their job rights are protected. This is not the case with those veterans who previously held jobs as school teachers, policemen, firemen, and other State, county, and city employees.

"Although a number of States have enacted legislation providing reemployment rights to veterans, the coverage, the rights provided, and the availability of enforcement machinery all vary considerably from state to state. Also, some State and local jurisdictions have demonstrated a reluctance, and even an unwillingness, to reemploy the veteran. Or if they do, they seem unwilling to grant them seniority or other benefits which would have accrued to them had they not served their country in uniform." - Senate Report No. 93-907, 93rd Congress, Second Session, pages 109-110 (June 10, 1974).