June 20, 2020

The Honorable Jerry Moran  
Chairman  
Senate Committee on Veterans Affairs  
412 Russell Senator Office Building  
Washington, DC 20515

The Honorable Jon Tester  
Ranking Member  
Senate Committee on Veterans Affairs  
412 Russell Senate Office Building  
Washington, DC 20515

Dear Chairman Moran and Ranking Member Tester:

On behalf of the Reserve Organization of America, representing nearly 50,000 members and veterans of the National Guard and Reserve, we are writing to you on S. 2459, Justice for Servicemembers Act. This bill would affect more than 800,000 Guard and Reserve uniformed servicemembers who would be favorably affected by addressing the disadvantages of binding arbitration.

ROA opposes binding arbitration, insofar as it prevents a complainant's ability to have one's "day in court." Often in the case of service member employment and reemployment issues, the arbitrator is chosen by the employer and thus may reasonably be expected to entertain some bias in that direction.

The result can be a poor substitute for submitting one's case to a federal judge, confirmed by the Senate, to go before a jury of one's peers. Arbitrators apply and enforce substantive laws like USERRA without review in a court. The prospective employee is placed in a difficult position at the outset, often presented an employment contract with a binding arbitration clause; what is the job seeker to do? Employees who serve our country in the National Guard or Reserve should not be forced into mandatory arbitration based on "agreements" that they had to sign to get hired in the first place.

ROA supports protecting the employment rights of Guard and Reserve members. S. 2459 would amend Title 9 by adding Chapter 4, regarding arbitration agreements for the Uniformed Services Employment and Reemployment Rights Act (USERRA) and Servicemembers Civil Relief Act. However, if the proposed change to Title 9 is not acceptable, ROA encourages reconsideration be given to amending 38 U.S.C. 4302 and 4303 which was included in the National Defense Authorization Act for Fiscal Year 2020.

Thank you for your efforts on this issue, and support of our men and women in uniform. Please have your staff call ROA's legislative director, Kevin Hollinger at 202-646-7734, khollinger@roa.org, for any further support ROA can provide.

Sincerely,

[Signature]

Jeffrey E. Phillips  
Maj. Gen., U.S. Army (Ret.)  
Executive Director

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