



# **Reserve Officers Association of the United States**

**Testimony for the**

**House Veterans' Affairs Committee  
Subcommittee on Economic Opportunity**

**Legislative Hearing**

**June 29, 2017**

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

**Reserve Officers Association  
1 Constitution Avenue N.E.  
Washington, DC 20002-5618  
(202) 646-7700**

The Reserve Officers Association of the United States (ROA) is a professional association of commissioned, non-commissioned and warrant officers of our nation's seven uniformed services. ROA was founded in 1922 by General of the Armies John "Black Jack" Pershing 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 inform America regarding the dangers of unpreparedness. Under ROA's 1950 congressional charter, our purpose is to promote the development and execution of policies that will provide adequate national defense. We do so by developing and offering expertise on the use and resourcing of America's Reserve Components.

The association's 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. ROA's membership also includes commissioned officers from the United States Public Health Service and the National Oceanic and Atmospheric Administration who often are first responders during national disasters and help prepare for homeland security.

President:

Col. James R. Sweeney II, USMC (Ret.) 202-646-7706

Executive Director:

Maj. Gen. Jeffrey E. Phillips, USAR (Ret.) 202-646-7726

Legislative Director:

Lt. Col. Susan Lukas, U.S. Air Force Reserve (Ret.) 202-646-7713

#### DISCLOSURE OF FEDERAL GRANTS OR CONTRACTS

The Reserve Officers Association is a member-supported organization. ROA has not received grants, contracts, or subcontracts from the federal government in the current or previous two fiscal years by the witness or by ROA. All other activities and services of the associations are accomplished free of any direct federal funding. Additionally, ROA has not made payments to or contracted with a foreign government in the current and preceding two calendar years.

## STATEMENT

ROA appreciates the opportunity to provide testimony on several of the proposed bills.

**H.R. 282, Military Residency Choice Act**, to authorize spouses of servicemembers to elect to use the same residences as the servicemembers.

While this proposed legislation would affect more Active Component spouses than it would Reserve Component spouses, the proposed legislation has and should be passed into law.

**H.R. 1690, Department of Veterans Affairs Bonus Transparency Act**, to submit an annual report to specified congressional committees on the performance awards and bonuses presented to Regional Office Directors of the VA, Directors of Medical Centers of the VA, Directors of Veterans Integrated Service Networks, and any other individual employed in a senior executive position.

ROA appreciates that Chairman Roe has provided oversight of the Department of Veterans Affairs Senior Executive Service since 2007 with a hearing to ensure VA's process works for SES bonuses.

The proposed legislation supports this oversight by directing an annual report on performance awards and bonuses. This is important because bonuses can be as high as 10 percent of the aggregate payroll for career executives, a significant amount of money. According to various sources, awards of more than \$142 million were given in 2014 and more than \$177 million in 2015 were paid to SES and non-executive employees. There are more than 300 senior executives at VA out of approximately 7,000 government-wide.

Awarding bonuses is not problematic if they are based on VA's own guidance from VA HANDBOOK 5027/1, which establishes a program whereby executives must demonstrate ". . . a high level of individual and/or organizational performance." ROA is hopeful that an annual report that reviews who receives SES bonuses will identify trends associated with the award of bonuses; however we believe the report should also identify by job title and location those senior executives who did not receive a bonus. Trend identification in the non-award of bonuses can be as helpful as examination of winners and the factors influencing those awards.

**H.R. 2631; "Justice for Servicemembers Act,"** This bill amends the Uniformed Services Employment Rights Act of 1994 to: (1) consider procedural protections or provisions under such Act concerning employment and reemployment rights of members of the uniformed services to be a right or benefit subject to the protection of such Act, and (2) make any agreement to arbitrate a claim under such provisions unenforceable unless all parties consent to arbitration after a complaint on the specific claim has been filed in court or with the Merit Systems Protection Board and all parties knowingly and voluntarily consent to have that particular claim subjected to arbitration.

Currently, the courts have interpreted that employed uniformed members are not afforded procedural right protections under USERRA under binding arbitration clauses. Specifically, the courts' decisions in separate federal districts, indicate that legislative intent as determined from the committee reports, cannot establish procedural right protections in the area of employment and reemployment under USERRA. The courts' past decisions demonstrate that only substantive right protections can be interpreted through the language of the Act.

However, the original intent of the legislature was to provide both substantive and procedural right protections under USERRA. Vague language contained in the Act caused courts to deprive uniformed members of the procedural right protections that Congress intended to grant. Section 4302 makes it clear that USERRA is a floor and not a ceiling on the rights of servicemembers as a person who is serving or has served.

It is hard to accept that consent is voluntary when a person agrees to binding arbitration upon employment: most people take jobs because they need to pay the rent and put food on the table. It is perhaps unsurprising that they may overlook the "future risk" of arbitration for the "present need" of income. Binding arbitration holds hostage the ability to provide food and housing for individuals and their families.

**H.R. XXXX**, to make appraisals based on inspections performed by third parties for housing and small businesses.

While this may seem like a minor change to Title 38, Chapter 37, it has major ramifications to veterans. Recently ROA's legislative director made an offer on a home, but it was not accepted because the homeowners wanted a quick closing and they believed a home loan would take too long to process. That is, in fact, not true because of changes the Department of Veterans' Affairs has made with appraisals. The legislative director ultimately made an offer and closed with a VA home loan in 19 days.

ROA recognizes it can, however, take longer for a VA appraisal in markets other than the Washington, D.C., metropolitan area due to the number of inspectors available to serve a large number of individuals needing an appraisal. This bill would help the department accomplish appraisals in a timely fashion during high peak periods of home buying or in smaller markets that have fewer inspectors.

## **CONCLUSION**

The Reserve Components bring essential capabilities to the total force. Adequately resourced, as they have since the Guard's advent in the 17<sup>th</sup> century, Citizen-Soldiers provide our nation a unique and affordable augmentation of its military capability. We appreciate the committee considering legislation that positively affects the National Guard and Reserve, as well as, family members who support their efforts.