

Senator Daniel K. Akaka, Chairman

## OPENING STATEMENT

Senator Daniel K. Akaka  
Chairman  
Committee on Veterans' Affairs  
United States Senate

Oversight Hearing on Uniformed Services Employment and Reemployment Rights Act

October 31, 2007

Aloha and welcome to the Committee's oversight hearing on the Uniformed Services Employment and Reemployment Rights Act (USERRA). The Committee held a hearing on the employment issues relating to veterans and returning servicemembers on July 31. Today's hearing will focus on two very narrow aspects of this employment program.

As our troops are returning home from battle, many of them seek to return to the jobs that they held prior to their military service, particularly those serving in Guard and Reserve units. USERRA, which is set forth in chapter 43 of title 38, United States Code, provides these servicemembers with certain protections. USERRA also sets out certain responsibilities for employers, including to reemploy returning veterans in their previous jobs. This applies to virtually all jobs - including those in the federal sector. I must admit to being particularly upset at the volume of USERRA claims related to federal service. It is simply wrong that individuals who were sent to war by their government should, upon their return, be put in the position of having to do battle with that same government in order to regain their jobs and benefits.

Several years ago, Congress created a demonstration project in the Veterans Benefits Improvement Act of 2004, Public Law 108-454, under which the Office of the Special Counsel (OSC), rather than the Department of Labor's Veterans Employment and Training Service (VETS), was given the authority to receive and investigate certain federal sector USERRA claims. The demonstration project was to have run from February 8, 2005, through September, 30, 2007, but was recently extended until November 16, 2007, by the Continuing Resolution.

Public Law 108-454 required the Government Accountability Office (GAO) to report to the Congress on the operation and results of the demonstration project together with an assessment of the advisability of transferring the responsibility for all federal sector USERRA claims from VETS to OSC. The GAO report was received on July 20, 2007, and I will ask that it be included in its entirety in the proceedings of this hearing.

Unfortunately, it is not clear to me that results of the demonstration project and the GAO report provide sufficient evidence to permit this Committee to decide on the proper jurisdiction of these claims. I believe that a good case can be made for retaining jurisdiction by both VETS and OSC. Thus, this morning, we will be hearing from each of the parties who will have the opportunity to make their case to the Committee on who should have responsibility.

As a second focus, we will also hear testimony related to the Dole-Shalala Commission recommendation that the Family Medical Leave Act be amended to allow up to six months' leave for a family member of a servicemember who has a combat-related injury. Though the Commission's recommendation as formulated does not fall within the jurisdiction of our Committee, other proposals addressing the need to support the families of those who are recovering from combat injuries have been made that do, including an amendment offered by my good friend and distinguished colleague from Illinois, Senator Obama. His proposal involves offering up to 52 weeks of USERRA-type protection to these family members through the USERRA framework. We will be looking at the ramifications of these approaches this morning.

We will need to move through this hearing in a timely fashion so I ask that our witnesses adhere to the 5-minute rule for your oral presentation. Your full statements, of course, will be made a part of the Committee's record.

Again, welcome and I look forward to hearing from each of you this morning.