

TESTIMONY
OF
CRAIG W. DUEHRING
PRINCIPAL DEPUTY ASSISTANT SECRETARY OF DEFENSE
RESERVE AFFAIRS

BEFORE THE
SUBCOMMITTEE ON ECONOMIC OPPORTUNITY
COMMITTEE ON VETERANS' AFFAIRS
HOUSE OF REPRESENTATIVES

HIRE VETERANS ACT OF 2004
HR 419

HOMELESS VETERANS REINTEGRATION PROGRAM
REAUTHORIZATION ACT OF 2005
DRAFT BILL

SERVICEMEMBERS HEALTH INSURANCE PROTECTION ACT OF 2005
DRAFT BILL

SERVICEMEMBERS TAXATION PROTECTION ACT OF 2005
DRAFT BILL

2:00 PM
MAY 4, 2005

ROOM 334
CANNON HOUSE OFFICE BUILDING

Craig W. Duehring

Principal Deputy Assistant Secretary of Defense for Reserve Affairs

Mr. Duehring is the Principal Deputy Assistant Secretary of Defense for Reserve Affairs. He also performs the duties of acting Assistant Secretary of Defense for Reserve Affairs in the absence of the ASD/RA. He was selected effective July 23, 2001.

As the Principal Deputy, Mr. Duehring serves as the senior deputy to the Assistant Secretary of Defense for Reserve Affairs in policy development and overall supervision of the National Guard and Reserve forces of the armed forces of the United States. He is the chief staff advisor to the assistant secretary for all functional areas and responsibilities assigned to the office.



Previously, Duehring served on the Bush-Cheney Transition Team and the Department of Defense Transition Team. He was the executive director of the Patrick Henry Center for Individual Liberty, a non-profit 501 (c)(3) educational and charitable foundation located in Fairfax, Virginia. Duehring was the endorsed Republican candidate for the Minnesota 2nd Congressional District in 1998. He is a 28-year military veteran, retiring as a colonel in the U.S. Air Force in February 1996. His final military assignment was as the U.S. Air Attaché to the Republic of Indonesia.

He is a decorated combat pilot, completing over 800 missions during the Vietnam War as a Forward Air Controller. Duehring has flown more than a dozen types of aircraft, amassing over 1,200 hours in the A-10 Thunderbolt II. His military awards and decorations include the Silver Star, the Defense Superior Service Medal, two Distinguished Flying Crosses, three Meritorious Service Medals, 27 Air Medals, two Air Force Commendation Medals, the Vietnamese Cross of Gallantry (individual award), and the Vietnamese Staff Service Honor Medal (1st Class). Duehring is also a recipient of the Air Force's highest individual award for leadership in the senior officer category, the Lance P. Sijan (SIGH-john) Award.

Duehring holds a bachelor of science in History and Sociology from Minnesota State University at Mankato, and a master of science in Counseling and Guidance from Troy State University.

He is a native of Mankato, Minnesota.

Mr. Chairman and members of the Subcommittee, thank you for giving me the opportunity to come before you this afternoon to discuss several proposed improvements to the Servicemembers' Civil Relief Act (SCRA) and the Uniformed Services Employment and Reemployment Rights Act (USERRA).

The Department of Defense supports enactment of the Servicemembers' Health Insurance Protection Act of 2005 and the Servicemembers' Taxation Protection Act of 2005, both of which would amend several provisions of the SCRA to reflect our experience with the SCRA during its first seventeen months. The proposed amendments in both draft bills address problems that have been encountered by servicemembers and brought to the attention of the Department through the legal assistance programs of the Military Services. Legal assistance attorneys play a key role in ensuring that servicemembers are able to fully exercise the rights and protections afforded by the SCRA, and we have been attentive to their experiences during the first year under the new law.

The Servicemembers' Taxation Protection Act of 2005 would amend section 511(c) of the SCRA (50 U.S.C. App. § 571(c)) to make clear that a tax jurisdiction may not impose a use, excise, or similar tax on the personal property of a nonresident servicemember when the laws of the tax jurisdiction fail to provide a credit against such sales, use, excise, or similar taxes previously paid on the same personal property to another tax jurisdiction. This technical correction is needed to protect servicemembers

from double taxation, which is possible under the current wording of section 511, as interpreted by the Supreme Court (Sullivan v. United States, 395 U.S. 169 (1969)) when it considered identical language in the previous Soldiers' and Sailors' Civil Relief Act. This problem was most notable when we had significant forces assigned to military installations in the Commonwealth of Puerto Rico, but it also exists in other state and local jurisdictions.

The Servicemembers' Health Insurance Protection Act of 2005 addresses problems we have noted in the SCRA and in USERRA, both relating to health insurance. Section 2 of that Act would amend section 704 of the SCRA (50 U.S.C. App. § 594) to prevent unfair rate increases in a returning servicemember's health insurance. The SCRA and USERRA both guarantee to a servicemember who is returning to civilian life the right to reinstate civilian health insurance policies he or she may have had before departing for military service. The SCRA is silent, however, as to the rate at which such reinstated coverage is available. Section 2 of the Servicemembers' Health Insurance Protection Act would require reinstated coverage to be made available at either the same rate as pre-service coverage, or at a rate no higher than general increases charged by the carrier for similar health insurance. This prevents the carrier from offering reinstated coverage at a rate so high as to discourage a returning servicemember from using the reinstated coverage. I would note that section 703 of the SCRA (50 U.S.C. App. § 593) provides exactly this type of protection for doctors, dentists, and other health care professionals, with respect to professional liability insurance. Section 2 of the draft bill

would provide servicemember patients the same cost guarantees that their doctors now enjoy under the SCRA.

Section 3 of the Servicemembers' Health Insurance Protection Act of 2005 offers a technical correction to address two groups of servicemembers who fall into gaps in coverage provided by the Uniformed Services Employment and Reemployment Rights Act's (USERRA's) right to immediate reinstatement of health coverage. First, some reservists who are notified or alerted that they may be called to active duty choose to terminate their employer-sponsored health coverage early (before entering military service) and enroll in the military TRICARE plan immediately upon notification. Since such reservists technically have no employer-sponsored health coverage when they actually leave to perform military duty, they are not entitled to immediate reinstatement when they return from military service. Second, other reservists who are notified or alerted that they may be called to active duty are not ultimately brought onto active duty. Under existing law, such reservists who terminate employer-sponsored health coverage are not entitled to elect immediate reinstatement, since they actually do not go onto active duty. (The right of immediate reinstatement is predicated on serving on military duty for some length of time.) Section 3 of the bill corrects these gaps in coverage and makes clear that both of these groups of reservists are entitled to immediate reinstatement in employer-sponsored health plans under 38 U.S.C. § 4317. Immediate reinstatement under § 4317 is important because it prevents gaps in coverage and the potential exclusions for so-called "pre-existing" conditions that such gaps in coverage may create.

The Department of Defense defers to the Department of Labor with regard to HR 419, the Hire Veterans Act of 2004, and to the Departments of Labor and Veterans' Affairs with regard to the Homeless Veterans Reintegration Program Reauthorization Act of 2005.

I would again like to thank the Committee and its staff for all of your efforts on behalf of our servicemembers. The Department of Defense appreciates this opportunity to discuss these important matters with you.