

STATEMENT OF  
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AND  
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BEFORE THE COMMISSION ON THE  
NATIONAL GUARD AND RESERVES  
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Chairman Punaro and distinguished members of the Commission, it is an honor to be here with you today to share a large employer's perspective on the support of our men and women active in America's Reserve forces. I am pleased that the Commission has taken on the challenge issued by Congress to examine how our Reserve Forces are used and how the increased utilization of those dedicated soldiers, sailors, airmen and Marines affects our total force and the civilian employers of our country. This is no small challenge in the dynamic battlefield on which we find ourselves today, and I applaud your dedication.

As your invitation requested, I would like to address the challenges that the airline industry faces today with the nation's shift from a "strategic" reserve force to an "operational" reserve that is intertwined with our active duty forces both on the battlefield in the Global War on Terror and here at home as support forces.

Let me begin today by offering you some insight into the proud history Delta Air Lines has with the military. Most airlines, I would dare say, employ a significantly larger percentage of both active and inactive reservists than other companies due to the unique skills required of our employees. For many years, Delta Air Lines maintained a proud – although not by any means intentional – heritage of hiring predominantly military pilots. These pilots brought a known skill set to our operation that allowed us to quickly judge their character as individuals and rest assured that their training was a known quantity. Likewise, our maintenance team is comprised of a significant number of military-trained men and women who also brought the assets of military training and service to our

operation. Throughout our company, we employ men and women who gained valuable skills in every branch of the military, and we are exceedingly proud of the service they gave to our country. Just as important, however, is our pride in being able to return those individuals retained in the Reserve Forces to the service of our country in a time of war. That ability, however, comes at a significant cost during a time that, as I am sure all of you are aware, has been exceedingly difficult for airline industry

As an indication of our support for National Guard and Reserve employees, Delta was nominated for the Secretary of Defense Employer Support of the Guard and Reserve (ESGR) Freedom Award in February 2007. The Georgia Committee for ESGR and the Delta Air Lines Military Liaison Board wrote: “Delta has truly been an outstanding employer of its National Guard and Reserve employees. The company has earned a well-deserved reputation as an exemplary supporter of its employees (who) serve in the Guard and Reserve, as well as the military community as a whole. Throughout the years, Delta Air Lines has demonstrated exceptional support and leadership in meeting and exceeding its obligations as outlined by USERRA and ESGR guidelines. In 2006, Delta was awarded the ‘5-Star’ award by the ESGR Chairman in recognition of its outstanding support of its Guard and Reserve military employees.”

In a May 23, 2006 letter to the Commission, Rear Admiral David A. Janes, USN (Retired), National Chairman, Employer Support of the Guard and Reserve and Chairman, Secretary of Defense Advisory Board for Employer Support of the Guard and

Reserve wrote in regard to the Uniformed Services Employment and Reemployment Rights Act:

*The Global War on Terror has required that the Guard and Reserve transform from a “strategic Reserve” to an “operational Reserve.” America’s employers, as a result, have become inextricably linked to our long term national security. Congress recognizes this and has attempted to provide financial relief to employers by introducing tax incentive in the law. Unfortunately, this will only provide partial remedy to a few Reservists’ employers, primarily large businesses, and has yet to pass.*

*...There are other costs that are associated with lengthy mobilizations that can be significant. For example, if the skills requirement is such that lengthy training is required, such as a police officer, temporary employees cannot qualify and shifts are covered by paying fellow employees overtime. This adds to the financial drain. This process also causes additional administrative costs to be borne by the employer. An in-depth analysis was articulated by the Congressional Budget Office Paper, “The Effect of Reserve Call-Ups on Civilian Employers” issued May 2005.*

Delta actively recruits potential employees who have military experience, and we currently have more than 450 employees and over 300 pilots currently activated and called upon to serve on active duty in the military. Approximately 1,000 of Delta’s nearly 7,000 line and management pilots are active military reservists, and at least 3,700

pilots and a total of over 5,700 employees of all skills at Delta have served in the military at some point during their lives.

Members of the Commission, we take pride in all that we have been able to provide our employees, but it is essential that we come to you for additional consideration as we continue to support the extended Global War on Terror. Delta Air Lines is not unique in the challenges we face, and I do not want to put words in the mouths of other airline management teams, but as I discuss issues in this presentation, I ask that you look at them not as Delta-specific but rather consider them industry concerns to the degree that I am able to speak on its behalf. We have worked closely with representatives from other airlines through our involvement in ESGR and Air Transport Association working groups, and a number of the comments I will make are taken from the input of individuals from those organizations. I will also confine my comments to the issues surrounding pilots because that is my area of expertise; however, to the degree that corporations incur benefit and replacement costs of all employees, my comments will apply to others as well; however, the impact of reserve duty and activation on pilots is significantly greater than that of most non-pilots because of unique scheduling, pay and benefit obligations.

USERRA rightly protects those who are called upon to serve their country and then return to their civilian employers. In its current form, however, it provides a blank check for an employee to leave at a moment's notice. This provides some unique challenges to the airline industry as it pertains to pilots. For those of you who are not familiar with the

requirements of pilot scheduling, the FAA sets strict limits on flight time under Federal Aviation Regulations (FAR) for hours flown in a 24 hour, 7 day, 30 day and annual period. Because of this, pilots are most often scheduled for multiple-day trips followed by required time off for rest and then scheduled for another multiple-day trip. These trips total, on average, approximately 80 hours of flying and over 200 hours “time away from base” per month. When a pilot is granted military leave – even for short periods – he or she is required to “drop” an entire trip and have another pilot cover that trip. As a result, airlines are required to carry additional employees as our own “reserves” to sustain the operation. At Delta, we generally carry one additional pilot for every 3 military reserve pilots on the property. At this time, we estimate we are employing an additional 90 pilots to make up for short-term military leave obligations at a cost of approximately \$12.5 million per year. This cost is exclusive of benefit costs for the military pilot and his family.

To that point, Delta Air Lines has taken the honorable position of continuing health care and pass travel benefits for the families of our military reservists called to active duty in support of the Global War on Terror even though there is no requirement to do so because we concluded that the support of our employees and their families does not end while they are protecting our freedom. This cost is approximately 15-20% of their assumed salary.

With the current environment of extended deployments, you can see that due to training and scheduling necessities, airlines are required to virtually replace military pilots on

extended military leave until their return from active duty and thus incur an even greater cost burden. The unique environment of a unionized pilot force adds an additional burden by precluding airlines from hiring “temporary” pilots, as Rear Admiral Janes mentioned, to fill the gap. This forces us to maintain additional employees until their retirement. Also, due to the mandates of USERRA and our retirement plan, Delta is required to impute income equal to 11% of the military reservist’s assumed salary to fund their defined contribution retirement plan. In the ultra-competitive airline industry, there is little ability to pass those additional costs on to the consumer, which forces corporations to assume the full burden and struggle to find ways to manage other controllable costs to survive.

In late 2001, then Assistant Secretary of the Air Force (Reserve Affairs) Michael L. Dominguez signed a Memorandum for the Air Force Chief of Staff that basically gave the military and Reservists carte blanche to return to active duty for extended periods. Whereas current deployment rotations target 1 year of active duty and 5 years off, this memorandum allows Reservists to essentially return to active duty and remain there until retirement, while at the same time, these active Reservists are earning retirement from their civilian employers. Essentially, Reservists are double-dipping under this scenario and with little effort, can return to their civilian employer to claim their imputed retirement. As an example of the possible abuse under this scenario, current USERRA law allows for an employee to go on extended military leave with no intent to return to the airline. That employee could then report to the airline for one day before resigning and request the balance of his defined contribution retirement plan. For a Delta 767 First

Officer, a 5-year military leave under the above scenario would generate approximately \$45,000 in imputed retirement income.

### **Recommendations for Possible Relief**

Both large and small employers would benefit from changes to USERRA law.

- 1) Effectively, there are no more “one weekend per month and two weeks per summer” Reservists. Extended activations of Reserve employees create a huge financial strain on the airlines, and there is little room for airlines in the current economic environment to absorb those costs. The costs of extended benefits and imputed retirement income are multi-million dollar burdens on the airlines, and Congress and the Senate need to re-introduce legislation that would offer tax credits to corporations to aid in absorbing those costs. This would be a benefit to both large and small employers alike in that incremental costs can be offset by tax breaks. It would also serve as an incentive for employers to offer benefits “above and beyond” those required by USERRA.
- 2) The current situation allows Reservists a formal channel through the Department of Labor to address complaints. Employers, however, have no formal resource. There are groups, such as Employer Support of the Guard and Reserve (ESGR) that are excellent advocates, but they are not empowered to force action.
- 3) USERRA was not written with the concept of “operational reserve.” It needs to be balanced with respect to the employer. Under the current law, military Reservists have the ability to notify a company at the last minute of both short and

long-term military leave requests. This precludes airlines from planning for these requests and forces them to add and maintain additional pilots for each Reservist. Employers need the ability to plan for military leaves and have an avenue to address suspected abuse of the system (i.e. – pilots placing military leave on their schedules to avoid working over holidays or to extend vacations). Also, requirements on employers to pay indefinite benefits are onerous especially with the introduction of exemptions to the cumulative 5-year active duty limit.

Members of the Commission, let me thank you once again for the opportunity to speak with you today. In summary, USERRA law was designed for the strategic reserve and not for the current operational reserve. More frequent and longer utilization of the Reserve Forces have resulted in additional costs to employers. We want to continue to offer not just USERRA mandated support for our men and women in uniform but also the additional support they need and deserve. The current structure, however, makes that increasingly difficult, and airlines are particularly hard hit due to the nature of our business. Today's economic environment adds to the difficulty as well, and we need to urge Congress to find ways to provide financial relief. Thank you again for allowing me to speak with you today, and I will be happy to answer any questions that you may have.