



DoD-State Liaison Office

**OFFICE OF THE DEPUTY ASSISTANT SECRETARY OF DEFENSE  
(MILITARY COMMUNITY AND FAMILY POLICY)**

**4000 DEFENSE PENTAGON  
WASHINGTON, D.C. 20301-4000**

**Senator Kevin Mullin  
Chair, Vermont Senate Economic Development, Housing and General Affairs  
Committee**

**March 24, 2016**

**Testimony of  
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Office of the Deputy Assistant Secretary of Defense, Military Community and  
Family Policy  
DoD-State Liaison Office**

**Support of: HB 805 – Employment Rights for the National Guard and  
Reserves**

Chairman Mullin and members of the Senate Economic Development, Housing and General Affairs Committee, on behalf of the Department of Defense, I would like to thank you for this opportunity to submit written testimony before your committee today regarding House Bill 805, a bill relating to employment rights for members of the National Guard and Reserves.

My name is COL(Ret) Harold Cooney and I am the Regional Liaison for the Northeast for the Department of Defense State Liaison Office, operating under the direction of Under Secretary of Defense for Personnel and Readiness, and the Deputy Assistant Secretary for Military Community and Family Policy. Our mission is to be a resource to state policymakers as they work to address quality of life issues of military families.

Employment protection during state-sponsored activation is an important quality of life issue for the Department. Although a new issue for us, research indicates that 20 states already do what we are seeking here, including Arkansas, California, Delaware, Idaho, Illinois, Kansas, Louisiana, Maine, Minnesota, Montana, Nebraska, North Carolina, Oregon, South Carolina, Texas, Utah, Virginia, Washington, Wisconsin and Wyoming. Nine (9) other states are currently considering legislation. We appreciate your consideration to join these other states on this initiative.

While National Guard members are subject to federal call-up by the President of the United States, they can also be called-up for state active duty by the Governor of

Vermont and other state Governors to respond to state emergencies such as fires, tornadoes, snow storms, floods, etc.

The federal law, the Uniformed Services Employment and Reemployment Rights Act (USERRA), protects members of the Army or Air National Guard when they are away from their civilian jobs for federal service under title 10 or title 32 of the United States Code.

However, USERRA does not apply when a National Guard member must leave their job for state active duty. If National Guard members are to have reemployment rights after state active duty, it must be by state law.

Vermont has such a law that applies to public and private employees but it is limited to members of the Vermont Army or Air National Guard. The reemployment of a member of the National Guard of another state who has a civilian job in Vermont is currently not protected and currently there is no private right of action by the National Guard member to seek restitution.

Vermont House Bill 805 addresses both parts of this issue.

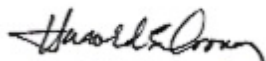
It would be beneficial to know how many Guard members working in Vermont, are living in and assigned to another state Guard. The Civilian Employer Information ((CEI) code used by the Employer Support for the Guard and Reserve (ESGR) program is self-reported data by the individual Guardsman that is maintained by the Defense Manpower Data Center (DMDC).

Unfortunately, because it is self-reported, the numbers are not reliable. I can reasonably estimate that there are several hundred who are potentially affected.

Vermont enjoys a great reputation among our military and their families. This action will add to that reputation of caring for those who serve our states and the nation.

We thank Representative Grad for sponsoring this measure. Thank you for taking up this issue and for your consideration.

Respectfully,



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