



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**

Senate Standing Committee on Federal and State Affairs
on HB 2155
Testimony
by Martin Dempsey
March 17, 2015

Honorable Chair Ostmeyer and committee members, thank you for the opportunity to provide information and ask for your support for House Bill 2155 sponsored by Representative Phillips.

My name is Martin Dempsey; I am the Department of Defense (DoD) Regional State Liaison for the Midwest States. I work for the Deputy Assistant Secretary of Defense for Military Community and Family Policy. It is a pleasure to be here today.

Employment protection during state-sponsored activation is an important quality of life issue for the Department. Although new for us, research indicates that 12 other states already do what we are seeking here, including AR, DE, ID, IL, LA, ME, MN, TX, OR, UT, WA, and WI. Seven states are currently considering legislation at this time. We really appreciate your consideration to joining 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 KS and other state Governors to respond to state emergencies such as fires, tornadoes and floods etc.

A federal law called 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.

Kansas has such a law that applies to public and private employees but it is explicitly limited to members of the Kansas Army or Air National Guard. The reemployment of a member of the National Guard of another state who has a civilian job in Kansas is currently not protected.

KS HB 2155 will correct this current deficiency by including members of the National Guard of any other states.

Does this situation really happen in Kansas? Yes it does! There is a Civilian Employer Information ((CEI) code used by the Employer Support for the Guard and Reserve (ESGR)

Improving the Lives of Military Members and their Families



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program based on information self-reported by the individual Guardsman that is maintained by the Defense Manpower Data Center (DMDC).

We are able to identify that there are around 2145 Guardsman who self-reported where they work. While the majority of these are in the KS Guard, almost 13% (around 285) of those that self-reported serve for various states TAGs. The majority of these (around 232) are assigned to one of the four states that border KS. This bill will help ensure that they will have reemployment rights to their KS job after completing any state active duty

This bill will also provide an effective enforcement mechanism through private right of action in the event the Guard member believes their KS employer has denied their right for reemployment after state service while assigned to the KS TAG or another state TAG.

This bill will help ensure those who serve their nation for all 50 states when called up by the President - regardless of where they originate - will have reemployment rights to their KS public and private sector civilian job after completing the various critical duties they're known for when called by a governor for state active duty.

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

I stand ready for questions.

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