

Testimony of  
**Governor Michael F. Easley**

April 24, 2007

STATEMENT OF GOVERNOR MICHAEL F. EASLEY  
STATE OF NORTH CAROLINA

Before the Senate Judiciary Committee On THE INSURRECTION ACT RIDER' AND STATE  
CONTROL OF THE NATIONAL GUARD  
Tuesday, April 24, 2007

Thank you Chairman Leahy and members of the Senate Judiciary Committee for the opportunity to speak to you today. I am here in two capacities.

First, I am here as the Governor of North Carolina, a state recognized as one of the most military friendly in the country.

Second, I am here in my capacity as the co-lead on National Guard issues for the National Governors' Association. I appreciate the opportunity to speak to you, wearing both these hats, to let you know how important the Guard is, not only to homeland security and homeland defense, but in the critical role these units play in emergency preparedness and disaster response efforts at the state level.

This role must be strengthened and that is why governors unanimously support repeal of portions of last year's National Defense Authorization Act that expanded presidential control of the National Guard without consultation with governors or Congress.

North Carolina is home to more than 101,000 active-duty military personnel at Fort Bragg, Pope Air Force Base, Camp Lejeune Marine Corps Base, Seymour Johnson Air Force Base, the U.S. Coast Guard Air Station at Elizabeth City and Marine Corps Air Stations at New River and Cherry Point. The active duty bases are supported by 17,000 civilians.

North Carolina has 164 Army and Air National Guard units, nearly 12,000 members strong, as well as another 10,234 Army, Navy, Air Force, Marine and Coast Guard reservists.

In North Carolina and in many other states, there is strong community support for our active, Guard and Reserve service members. And I am proud to say North Carolina is a model for other states in serving our National Guard families.

Our employers in North Carolina and across the country have been supportive of their employees serving the nation in the National Guard. In North Carolina, we pay our state employees the difference between their regular salary and their Guard salary if they are called into active federal duty.

This kind of support is not unique. Many businesses also do this and we are working on other ways to make it more attractive and affordable to get more employers to support the Guard and their employees who serve.

Since September 11, 2001, these 12,000 members of the N.C. National Guard have proven themselves at home and abroad. More than 10,000 of our North Carolina National Guard soldiers and airmen have been mobilized in Operations Iraqi Freedom, Enduring Freedom and Noble Eagle. During the same time period, more than 3,800 have been called to duty to support civil authorities responding to hurricanes, floods, ice storms and other disasters.

The National Guard units in the states are committed to the national defense and the role they play in keeping our country secure. They are equally committed, and, I believe all governors would agree, essential, in keeping our communities safe when called upon in response to natural and manmade disasters.

In North Carolina, during the ice storms that blanketed our state in 2002, 2003 and 2004, Guard personnel, in addition to their usual emergency response duties, went door-to-door in many of our rural communities to check on residents who were without power. They also worked during power outages to direct traffic, rescue stranded motorists and provide emergency power.

During Hurricane Isabel in 2003, our Guard troops were on duty when flood waters rose around the isolated coastal town of Harlowe. The Guard rescued more than 130 trapped residents.

When Hurricane Frances soaked the western areas of the state in September 2004, residents escaping flood waters, stranded in trees and on top of cars, were rescued by chopper crews from the 126th Aviation Regiment based in Salisbury.

Without the assistance of the Guard in these cases, clearly commanded by the governor, there would have been significant loss of life in North Carolina.

And that is why it is critical for Congress to repeal Section 1076 of the National Defense Authorization Act (Public Law 109-364).

This section was slipped, with little debate and no open discussion, into the National Defense Authorization Act. The section was added without regard to a call by the nation's governors for hearings on the consequences of this action.

There is unanimous support, and you know how hard that is to find among the nation's governors, to repeal these dangerous provisions. They unnecessarily expand the president's authority to federalize the National Guard during natural disasters and manmade disasters and encroach on our constitutional authority to protect the citizens of our states.

The role of the Guard to the states and nation is too important to have major policy decisions made without input from governors and full debate throughout the policy-making process.

The nation's governors unanimously opposed the inclusion of this section in the bill because managing the Guard within a state must rest with the governor. But more importantly, governors

have the responsibility for assuring the security and wellbeing of our residents. The Guard is a key part of that duty during disasters and other local emergencies.

The changes in the Act undermine governors' authority over the Guard, place the safety and welfare of citizens in jeopardy and should be repealed.

Unless activated in purely federal service, the National Guard is and should remain under state control with governors as commanders-in-chief. The dual mission of the Guard, a combat ready force that can be called on by the President and a first responder in domestic emergencies or disasters under the command and control of the governor, requires that federal law clearly delineate chains of command for each mission.

The changes made to the "Insurrection Act" by Section 1076 of the National Defense Authorization Act confuse the issue of who commands the Guard during a domestic emergency. By granting the President specific authority to use the Guard during a natural disaster or emergency without the consent of a governor, Section 1076 could result in confusion and an inability to respond to residents' needs. As currently written, it calls into question whether the governor or the President has primary responsibility during a domestic emergency.

In North Carolina, and I know in other states, our National Guard units train with local and state first responders on specific scenarios and in disaster preparedness exercises. These drills do not simply involve role-playing and response, but establish critical lines of communication and uniform operating procedures. Unwarranted injection of federal command would result in confusion and miscommunication.

A basic element of our system of government forbids the use of the military for domestic law enforcement except in the most extraordinary of circumstances and even then only with the knowledge of Congress. Use of the military for law enforcement has come only in the rarest of instances. Presidents Eisenhower and Kennedy nationalized the Guard to enforce Supreme Court civil rights decisions. In 1992 President George H.W. Bush nationalized the Guard to deal with rioting in Los Angeles following the Rodney King trial.

The Insurrection Act, prior to passage of the National Defense Authorization Act, served the nation well as an extraordinary remedy that allowed the President to take control of the Guard in the most rare and exceptional of cases. Despite the role of governors as commander-in-chief of the Guard in their states, Section 1076 of the National Defense Authorization Act was drafted without consultation with governors and without full discussion or debate regarding the ramifications of such a change on domestic emergency response.

Furthermore, I would be remiss if I did not take this opportunity to address National Guard training needs and equipment shortfalls. The availability and status of training and equipment for both state and federal missions is critical for a timely and effective National Guard response.

Governors commend the Army and the Air Force for their efforts to enhance training and better equip the National Guard in recognition of its vital contribution to our national defense. But here at home, many states and territories are suffering equipment shortages in critical mission areas

such as responding to natural disasters like hurricanes, fighting forest fires and other emergencies. Equipment is left on the battlefields of Iraq or other foreign missions.

Attention must be paid to Army National Guard units returning from active duty abroad. These units must be re-equipped to ensure they are ready for redeployment or response to domestic emergencies and other responsibilities.

Additionally, last month the Commission on the National Guard and Reserves released a report to the House and Senate Armed Services Committees. The report made note of the National Guard shortfalls in equipment and other resources along with facing challenges in recruiting. One of the Commission's 23 recommendations directly relates to our topic today, the changes to the Insurrection Act. That recommendation (Number 8) says that "the Department of Defense should develop protocols that allow Governors to direct the efforts of federal military assets responding to an emergency such as a natural disaster."

Governors have had this responsibility in the past and I see no reason why governors should not be in charge of all National Guard resources, including active military personnel and materials, so responses to natural disasters or emergency events are effectively coordinated. Indeed, I would say that state, local and federal agencies need to begin training together so that all military, active duty and National Guard, as well as local and state responders, will know what to expect and who is in charge.

As a lead for the National Governor's Association on National Guard matters I can assure you I have never seen governors as united on any issue as we are on this one. I urge Congress to repeal the provision in Section 1076 of the Act and open a dialogue with governors regarding how to best enhance the effectiveness of the Guard in responding to domestic disasters and emergencies.

I will be happy to respond to any of your questions.

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