



Defend the Guard



- 1. I truly appreciate all the support you have shown to the Montana National Guard. We have worked tirelessly over the years, especially since 9/11, and both sides of the aisle have come together to build a very strong national guard. Due to these efforts, along with both federal and state funding, the Montana National Guard has increased manning, readiness, and received modernized equipment and facilities. Defend the guard legislation places the availability of the Montana National Guard in question. If this legislation passes, we are at a very high risk of losing force structure, manning, training areas and equipment.**
- 2. Defend the guard legislation attempts to require a Congressional declaration of war prior to a governor releasing the National Guard for an overseas combat deployment. Proponents of this type of legislation believe that it is unlawful or a violation of the U.S Constitution to deploy combat forces without an actual declaration of war. The U.S. Supreme Court has already ruled over 100 years ago that war can be fought without an actual declaration of war. See Bas v. Tingy, 4 U.S. 37 (1880).**
- 3. Equipment provided to the states that is used for emergencies and disasters could be moved to other states that have not passed defend the guard legislation. A loss of military equipment would negatively impact our ability to respond to fires, floods, and blizzards.**
- 4. We could lose up to \$240 million, and the newly awarded C-130J program, worth \$1B could go to another state. Montana could also lose jobs. The Montana National Guard employs both full and part-time employees throughout the state of Montana, with an annual payroll of \$170 million.**
- 5. 32 U.S.C § 108 provides that if “a State fails to comply with a requirement of this title, or a regulation prescribed under this title, the [National Guard](#) of that State is barred, in whole or in part, as the President may prescribe, from receiving money or any other aid, benefit, or privilege authorized by law.” A failure to deploy when called forth by the President of the United States during a time of national crisis would lead to a defunding of the guard.**
- 6. If defend the guard legislation is adopted, the Department of Defense could move reserve Army and Air combat force structure, which is almost wholly in the National Guard, to the Army and Air Force Reserves. This change would have a significant and negative impact on a Governor’s power.**
- 7. Defend the guard legislation is unlawful. Members of the Montana National Guard hold membership in the state militia and federal military, and the National Guard is a reserve component of the U.S. Armed Forces. Because our members are also in the federal military, they can be called forward onto active duty to deploy for combat operations without their consent or the consent of the Governor. See 10 USC 12201(a).**