



2024 South Dakota Legislature

House Bill 1191

Introduced by: **Representative Aylward**

1 **An Act to require an official declaration of war or other Congressional action before**
 2 **the South Dakota National Guard may be deployed by the federal government.**

3 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

4 **Section 1. That § 33-9-1 be AMENDED:**

5 **33-9-1.** In case of war, insurrection, rebellion, riot, invasion, resistance to the
 6 execution of the law of this state or of the United States, or in the event of public disaster
 7 or upon application of any marshal of the United States, or the mayor of any ~~first or second~~
 8 ~~class first- or second-class~~ municipality or any sheriff in this state, the Governor may order
 9 into active service all or any portion of the national guard.

10 No unit of the South Dakota National Guard or any member thereof may be
 11 released from the state for active service participating in an armed conflict in a foreign
 12 nation, performing a hazardous service related to an armed conflict in a foreign nation, or
 13 performing a duty through an instrumentality of war unless the Congress of the United
 14 States has issued a formal declaration establishing a state of war between the United
 15 States and another nation pursuant to U.S. Const., Art. I, § 8, cl. 11.

16 No unit of the South Dakota National Guard or any member thereof may be
 17 released from the state for active service executing the laws of the Union, repelling an
 18 invasion, or suppressing an insurrection unless the Congress of the United States has
 19 taken official action to explicitly call forth the South Dakota National Guard or any member
 20 thereof for the purposes enumerated in U.S. Const., Art. I, § 8, cl. 15 of the United States
 21 Constitution.