



2021 South Dakota Legislature

House Bill 1122

Introduced by: **Representative Aylward**

1 **An Act to require an official declaration of war before the National Guard may be**
 2 **deployed overseas.**

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

4 **Section 1.** That a NEW SECTION be added:

5 **33-3-3.1. Release of units--Declaration of war--Other official action.**

6 The South Dakota National Guard and any member thereof may not be released
 7 from the state into active duty combat unless the United States Congress has made an
 8 official declaration of war or has taken an official action pursuant to Article I, § 8, Clause
 9 15 of the United States Constitution, to explicitly call forth the South Dakota National
 10 Guard and any member thereof for the enumerated purposes to execute the laws of the
 11 Union, repel an invasion, or suppress an insurrection. The Governor shall take all actions
 12 necessary to comply with the requirements of this section. Active duty combat, as used in
 13 this section, means:

- 14 (1) Participation in an armed conflict;
 15 (2) Performance of a hazardous service related to an armed conflict in a foreign nation;
 16 or
 17 (3) Performance of a duty through an instrumentality of war.