



## 2023 South Dakota Legislature

# House Bill 1130

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 outside of the state.**

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  
 8 second-class municipality or any sheriff in this state, the Governor may order into active  
 9 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 Article 1, § 8, clause 11 of the United States  
 16 Constitution.

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