

2023 South Dakota Legislature

House Bill 1130**AMENDMENT 1130A
FOR THE INTRODUCED BILL**

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~~ **by the**
3 **federal government.**

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

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

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

11 No unit of the South Dakota National Guard or any member thereof may be
12 released from the state for active service participating in an armed conflict in a foreign
13 nation, performing a hazardous service related to an armed conflict in a foreign nation, or
14 performing a duty through an instrumentality of war unless the Congress of the United
15 States has issued a formal declaration establishing a state of war between the United
16 States and another nation pursuant to Article 1, § 8, clause 11 of the United States
17 Constitution.

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