

SENATE JOINT RESOLUTION NO. 19

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY SENATOR DAVIS

Introduced: 4/7/09

Referred: State Affairs, Judiciary

A RESOLUTION

1 **Urging the President of the United States and the United States Secretary of Defense to**
2 **order the withdrawal of members of the Alaska National Guard from Iraq and to order**
3 **the members to return to Alaska; urging that the service of the Alaska National Guard**
4 **be limited to service within Alaska unless lawfully called into federal service; and urging**
5 **the attorney general to defend any decision to consent or not to consent to the**
6 **deployment of the Alaska National Guard to Iraq.**

7 **BE IT RESOLVED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

8 **WHEREAS** the war in Iraq has entered its sixth year, resulting in the deaths of over
9 4,000 American service men and women; and

10 **WHEREAS** the cost of the war now exceeds \$1,300,000,000,000, the equivalent of
11 \$16,500 for each American family of four, and the cost continues to rise; and

12 **WHEREAS** the Department of the Army first alerted and then deployed members of
13 the Alaska National Guard to Iraq; and

14 **WHEREAS** the planned deployment of Alaska National Guard forces represents a

1 significant percentage of the total strength of the Alaska National Guard and is the largest
2 deployment of Alaska National Guard personnel since World War II; and

3 **WHEREAS** Alaska residents have expressed concern that the loss of the Alaska
4 National Guard could impair the state's ability to respond to an emergency; and

5 **WHEREAS**, even if those adverse effects on the Alaska National Guard were absent,
6 and assuming, for the sake of argument, that the war was lawful when commenced, the
7 presence of Alaska National Guard members in Iraq is no longer lawful; and

8 **WHEREAS**, under art. I, sec. 8, Constitution of the United States, the United States
9 Congress may call "forth the militia to execute the laws of the Union, suppress insurrections,
10 and repel invasions"; and

11 **WHEREAS**, since 1933, federal law has provided that persons enlisting in a state
12 National Guard unit simultaneously enlist in the National Guard of the United States, part of
13 the United States Army; enlistees retain their status as state guard members unless and until
14 ordered to active federal duty and revert to state status on being relieved from federal service;
15 and

16 **WHEREAS**, under the United States Constitution, each state's National Guard unit is
17 controlled by the governor, but can be called up for federal duty by the President if the
18 President is acting under the United States Constitution and the laws of the United States; and

19 **WHEREAS** P.L. 93-148 (War Powers Resolution of 1973) specifically limits the
20 power of the President of the United States to wage war without the approval of the United
21 States Congress; and

22 **WHEREAS**, in October 2002, the United States Congress authorized military force
23 under P.L. 107-243 (Authorization for Use of Military Force Against Iraq Resolution of
24 2002), a law enacted in response to a presidential request under P.L. 93-148 (War Powers
25 Resolution of 1973); and P.L. 107-243 (Authorization for Use of Military Force Against Iraq
26 Resolution of 2002), which stated, in part, that "the President is authorized to use the Armed
27 Forces of the United States as he determines to be necessary and appropriate in order to (1)
28 defend the national security of the United States against the continuing threat posed by Iraq;
29 and (2) enforce all relevant United Nations Security Council Resolutions regarding Iraq"; and

30 **WHEREAS** P.L. 107-243 (Authorization for Use of Military Force Against Iraq
31 Resolution of 2002) contained neither a termination date nor a process or procedure to

1 determine when the authorization should terminate; and

2 **WHEREAS** the Armed Forces of the United States, including members of the Alaska
3 National Guard and guard members from other states, have long since addressed the purposes
4 recited under P.L. 107-243 (Authorization for Use of Military Force Against Iraq Resolution
5 of 2002), because Iraq does not pose a continuing threat to the national security of the United
6 States, and there is not an extant United Nations Security Council Resolution to be enforced;
7 and

8 **WHEREAS** the President of the United States may not maintain United States forces,
9 and in particular, members of the Alaska National Guard, in Iraq for a purpose other than the
10 purposes set out by the United States Congress in P.L. 107-243 (Authorization for Use of
11 Military Force Against Iraq Resolution of 2002), without a specific date for withdrawal of
12 United States forces from Iraq or a method or formula for determining the time for
13 withdrawal, and in the absence of Congressional legislation curing these omissions, the
14 President is required to order the withdrawal of troops within a reasonable time and in a
15 reasonable manner; however, the President has not taken that action; and

16 **WHEREAS**, other than P.L. 107-243 (Authorization for Use of Military Force
17 Against Iraq Resolution of 2002), there is no authority in the Constitution of the United States
18 or the laws of the United States for the continued presence of Alaska National Guard
19 members in Iraq; and

20 **WHEREAS** P.L. 107-243 (Authorization for Use of Military Force Against Iraq
21 Resolution of 2002) has expired, and further authorization has not been issued; and

22 **WHEREAS** the maintenance of members of the Alaska National Guard in Iraq
23 beyond the time and scope in P.L. 107-243 (Authorization for Use of Military Force Against
24 Iraq Resolution of 2002) has resulted in significant harm to members of the Alaska National
25 Guard and their families, including death and injury, loss of time together, and financial
26 hardship;

27 **BE IT RESOLVED** that the Alaska State Legislature respectfully requests the
28 President of the United States and the United States Secretary of Defense to withdraw all
29 Alaska National Guard troops from Iraq in the absence of a valid and existing congressional
30 mandate for that service; and be it

31 **FURTHER RESOLVED** that the Alaska State Legislature urges the President of the

1 United States to order the return of members of the Alaska National Guard to Alaska; and be
2 it

3 **FURTHER RESOLVED** that the Alaska State Legislature urges that the service of
4 the Alaska National Guard be limited to service within and on behalf of the State of Alaska,
5 unless called into federal service under a declaration of war or a legally enacted and valid
6 federal statute authorizing the use of military force; and be it

7 **FURTHER RESOLVED** that the Alaska State Legislature urges the attorney general
8 to appear in any state or federal court with jurisdiction over the deployment of the Alaska
9 National Guard to defend any decision to consent, or not to consent, to the deployment of the
10 Alaska National Guard to Iraq or to file an action on behalf of the State of Alaska with respect
11 to service by members of the Alaska National Guard in Iraq.

12 **COPIES** of this resolution shall be sent to the Honorable Barack Obama, President of
13 the United States; the Honorable Robert M. Gates, United States Secretary of Defense; the
14 Honorable Wayne Anthony Ross, Alaska Attorney General designee; and the Honorable Lisa
15 Murkowski and the Honorable Mark Begich, U.S. Senators, and the Honorable Don Young,
16 U.S. Representative, members of the Alaska delegation in Congress.