



2025 South Dakota Legislature

Senate Bill 82

Introduced by: **Senator Pischke**

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-class or second-class municipality or any sheriff in this state, the Governor may
 9 order into active service all or any portion of the ~~national guard~~ South Dakota National
 10 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 U.S. Const., Art. I, § 8, cl. 11.

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, repelling an
 19 invasion, or suppressing an insurrection, unless the Congress of the United States has
 20 taken official action to explicitly call forth the South Dakota National Guard or any member
 21 thereof for the purposes enumerated in U.S. Const., Art. I, § 8, cl. 15 of the United States
 22 Constitution.