

**STATE OF RHODE ISLAND
MILITARY STAFF - OFFICE OF THE ADJUTANT GENERAL**

Joint Force Headquarters, Camp Fogarty
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East Greenwich, RI 02818-1728



Daniel J. McKee
Governor
BG Andrew J. Chevalier
Director

February 12, 2025

The Honorable Members of the House Committee
on State Government and Elections
82 Smith Street
Providence, Rhode Island 02903

Re: Opposition to H5378, An Act Relating to Military Affairs and Defense – Organization and Command of Military and Naval Forces

Dear Chairperson Shanley and Members of the Committee:

I write to oppose H5378, an act that requires a Congressional declaration of war to activate the National Guard in a federal status. If adopted, this legislation would jeopardize the National Guard's standing as the primary combat reserve of the Army and Air Force and the federal funding that states receive to support it.

The proposals are generally based on boilerplate legislation written by the Tenth Amendment Center. This so-called "Defend the Guard" effort has been ongoing for over six years but, to date, no state has adopted it. The intent of the legislation is to deprive the governor of his or her ability to approve the federalization of National Guard units unless the federal mission falls within the missions set out in Article 1, Section 8, Clause 15 of the Constitution (the "Militia Clause"). But this legislation misses a larger point.

When the president activates the National Guard, he or she is not doing so under the Militia Clause, but under Article I, Section 8, Clause 12, which provides Congress the power to "raise and support armies." To state this another way, the federal government is not calling up a state militia, it is calling up a component of the federal reserve. This is why National Guard members take two oaths on joining the National Guard, one to the state and one to the federal government.

The National Guard's status as a federal reserve component is due to the National Defense Act of 1916. This federal statute created the dual nature of the modern National Guard as both a state militia and a part of the Reserve of the Armed Forces. The Act reorganized and federalized states' militias so that the federal government can mobilize the National Guard without state consent and over state objection in most instances. The benefit to the states is that, in return, we are provided significant federal funding for our training, facilities, and equipment.

For example, in Federal Fiscal Year 2024, the Rhode Island National Guard received \$155.3 million from the federal government. This represents 98% of the funding we receive.¹ In other words, for every \$1 the state spends on our organization, Rhode Island receives \$43 in federal dollars in return.

Passage of H5378 unnecessarily risks the loss of this federal funding for our Guard, jeopardizes the stationing of the units located here, and poses a clear danger to the National Guard's standing as the primary combat reserve and the Army and Air Force. Moreover, it demonstrates an unwillingness to uphold the federal obligation required of us by the dual oaths we take as National Guard members. I ask that you reject this legislation and protect Rhode Island's Home Team. Thank you for your consideration of this letter and your leadership on this important issue.

Respectfully submitted,



Andrew J. Chevalier
Brigadier General
The Adjutant General

Copy to:

Steve Sepe, Committee Clerk
The Honorable David Place
Nicole McCarty, Chief Legal Counsel,
Office of the Speaker of the House

¹ By contrast, the Rhode Island National Guard received \$3,650,802 in state funding for FY 2024, representing 2% of our overall budget.