

RE: Defend the Guard Legislation

BLUF: “Defend the Guard” is a legislative movement which seeks to pass legislation in state assemblies limiting the use of the National Guard in Title 10 status only when Congress has issued a declaration of war. While the movement has not been successful in any state thus far, its influence is growing. The movement itself misunderstands the role of the Guard and any passage of Defend the Guard legislation would have a negative impact on the Guard’s role as the primary combat reserve of the U.S. Army/Air Force. **NGAUS does not support any current iterations of “Defend the Guard” legislation.**

This is Why:

- 1. The Defend the Guard movement fundamentally misunderstands the National Guard’s role as the primary combat reserve of the U.S. Army/Air Force.**
 - a. Most versions of this bill would prevent overseas annual training, military airlift, remotely piloted vehicle missions, etc. that require Guard personnel performing them in a federal status.
- 2. Any state that adopts Defend the Guard legislation would risk losing the federal units, equipment, and resources the Guard relies upon.**
 - a. The legislation would be seen by the federal government as unwillingness for a state to uphold its federal obligation required by the dual oaths taken by NG members.
- 3. Defend the Guard legislation serves as an argument for the Department of Defense to move National Guard infrastructure into the main Army and Air Force.**
 - a. For years, the National Guard has had to fight against the Pentagon’s incorrect argument that Guard units are not accessible. Defend the Guard legislation would give evidence and credence to that argument.
- 4. Passage of the Defend the Guard legislation would render the National Guard to little more than a state-centric security force.**
 - a. This legislation would turn back the clock on the National Guard to the pre-Dick Act era where there was no coordination or set standards for Guard units.
 - b. This would deteriorate the professionalism of Guard airmen and soldiers.
- 5. Defend the Guard legislation risks pitting states against one another.**
 - a. States which adopt Defend the Guard legislation would likely have their federal resources and funding reallocated to states that do not pass such legislation.
 - b. This would have a “Balkanizing” effect on the Guard community as a whole, thus weakening the National Guard’s voice on national security matters.
- 6. Defend the Guard legislation is unconstitutional.**
 - a. Few legal scholars believe Defend the Guard legislation would hold up in court. The President’s authority to call up National Guard units for federal service is well established.
 - b. Regardless, there would be irreconcilable damage done to the Guard as a whole should a constitutional court case be brought.