

A-Engrossed
Senate Joint Memorial 11

Ordered by the Senate May 15
Including Senate Amendments dated May 15

Sponsored by COMMITTEE ON COMMERCE

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure.

[Urges Congress to pass legislation requiring that for every 100 personnel added to active duty component of Armed Forces of the United States, 33 shall be added to National Guard.]

Urges Congress to repeal provision of National Defense Authorization Act that allows President to impose federal control over National Guard without notice, consultation or consent of Governor under certain circumstances.

JOINT MEMORIAL

1
2 To the President of the United States and the Senate and the House of Representatives of the United
3 States of America, in Congress assembled:

4 We, your memorialists, the Seventy-fourth Legislative Assembly of the State of Oregon, in leg-
5 islative session assembled, respectfully represent as follows:

6 Whereas the Oregon National Guard has served Oregon well and faithfully since territorial
7 times; and

8 Whereas the approximately 8,500 men and women of Oregon's Air National Guard and Army
9 National Guard continue to serve our nation and our state at home and abroad; and

10 Whereas the National Guard supports civil authorities in a multitude of ways that are particular
11 to our local communities and region; and

12 Whereas Oregon National Guard units train with first responders locally and statewide on spe-
13 cific scenarios and in disaster preparedness exercises, establishing critical lines of communication
14 and uniform operating procedures for relief efforts during emergencies and disasters that may befall
15 the State of Oregon or any other state; and

16 Whereas state control of the National Guard in the event of emergencies is critical to the exe-
17 cution of the National Response Plan, the Oregon State Emergency Management Plan, the city and
18 county emergency plans and intrastate and interstate mutual aid arrangements such as the Emer-
19 gency Management Assistance Compact and the Pacific Northwest Emergency Management Ar-
20 rangement; and

21 Whereas the Insurrection Act, prior to the passage of the National Defense Authorization Act
22 (Public Law 109-364), served our nation well as an extraordinary remedy that allowed the President
23 to take control of the National Guard in the most rare and exceptional cases, such as the use of the
24 National Guard by Presidents Eisenhower and Kennedy to enforce Supreme Court civil rights deci-
25 sions; and

26 Whereas, unless activated for purely federal service, the National Guard is and should remain

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 under state control with Governors as commanders-in-chief; and

2 Whereas the dual mission of the National Guard, as a combat-ready force that can be called
3 upon by the President and as a first responder in domestic emergencies or disasters under the
4 command and control of the Governor, requires that federal law clearly delineates a chain of com-
5 mand for each mission; and

6 Whereas placing National Guard units under federal control without either the consent of the
7 Governors or any required consultation or consent of Congress could confuse the issue of who
8 commands the National Guard units during a domestic emergency and may result in an inability to
9 respond to citizens' needs in the event of a natural disaster or local emergency; and

10 Whereas changes made to the Insurrection Act by section 1076 of the National Defense Au-
11 thorization Act create uncertainty over the command of the National Guard in a domestic emer-
12 gency by authorizing the President to impose federal control over the National Guard without
13 notice, consultation or consent of Governors in the event of "a natural disaster, epidemic, or other
14 serious public emergency, terrorist attack or incident"; and

15 Whereas the uncertainty with respect to the command of the National Guard during a domestic
16 emergency could threaten the unity of local, state and federal efforts that is needed in times of do-
17 mestic peril and undermines the speed and efficiency with which the National Guard responds under
18 the Governor's control to emergencies in Oregon and in support of other states through state-to-
19 state mutual aid compacts such as the Emergency Management Assistance Compact; now, therefore,

20 **Be It Resolved by the Legislative Assembly of the State of Oregon:**

21 (1) The Congress of the United States is urged to repeal the provision in section 1076 of the
22 National Defense Authorization Act that authorizes the President of the United States to impose
23 federal control over the National Guard without notice, consultation or consent of the Governor in
24 the event of a natural disaster, epidemic or other serious public emergency, terrorist attack or in-
25 cident.

26 (2) A copy of this memorial shall be sent to the President of the United States, to the Senate
27 Majority Leader, to the Speaker of the House of Representatives and to each member of the Oregon
28 Congressional Delegation.

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