

**REVENUE:** No revenue impact

**FISCAL:** No fiscal impact

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<b>Action:</b>	Without Recommendation as to Passage and Be Referred to the Committee on Rules
<b>Vote:</b>	8 - 0 - 0
<b>Yeas:</b>	Boone, Esquivel, Freeman, Komp, Matthews, Riley, Weidner, Cowan
<b>Nays:</b>	0
<b>Exc.:</b>	0
<b>Prepared By:</b>	David Molina, Administrator
<b>Meeting Dates:</b>	2/17

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**WHAT THE MEASURE DOES:** Urges Congress to enact legislation that restores powers of governors to withhold consent to federalization of their states' National Guard units. Provides exception in cases where a declaration of war has been adopted or the United States faces attack or invasion and the President has invoked powers authorized by act of Congress to address those circumstances.

**ISSUES DISCUSSED:**

- Purpose of moving measure to House Committee on Rules

**EFFECT OF COMMITTEE AMENDMENT:** No amendment.

**BACKGROUND:** The National Guard of the United States is a reserve military force composed of state National Guard (NG) members or units stationed in each of the 50 states and U.S. territories. They operate under their respective state governor or territorial adjutant general, and when federalized serve at the pleasure of the American President. The NG, the oldest component of the U.S. Armed Forces, traces its history back to the earliest English colonies in North America, and is one of the nation's longest-enduring institutions, celebrating its 370<sup>th</sup> birthday on December 13, 2006.

The NG may be called up for active duty by a governor or territorial adjutant general to help respond to domestic emergencies and disasters, such as those caused by hurricanes, floods, and earthquakes. During Hurricane Katrina, the NG responded to the largest domestic response mission in its history; within eight days 51,000 Army and Air NG members from every state and territory had been mobilized on state orders to respond to the disaster. The NG also plays a major role in national defense and security. Since September 11, 2001, the NG has evolved from a strategic ready reserve traditionally known for weekend inactive duty trainings, often referred to as weekend drills, into an operational force. Traditionally, the NG has been both a domestic state-level security force and a major federal component of U.S. combat power for overseas operations. Between September 2001 and November 30, 2007, a total of 254,894 NG members had been deployed to Iraq and Afghanistan, and more than half of the Oregon National Guard (ORNG) has deployed overseas, ranking it among the highest per capita in the nation. The ORNG is composed of 8,700 total citizen soldiers, including 6,500 soldiers and 2,200 airmen.

House Joint Memorial 5 urges Congress to revisit the 1986 Montgomery Amendment, a federal law that stripped governors of their right to stop the deployment of state guards to federal active duty outside the U.S. because of any objection to the location, purpose, type or schedule of such active duty. Secondly, the memorial urges Congress to enact legislation that restores the powers of the governors with respect to federalization. The 1986 law was enacted by Congress and signed by the President after the governors of California, Maine and Ohio refused NG deployments to Central America. The law was upheld in the U.S. Supreme Court, which ruled that Congress may authorize members of the NG to be ordered to active federal duty for purposes of training outside the United States, without either the consent of a governor or the declaration of a national emergency, and that if the federalization of the Guard would interfere with the State Guard's ability to address a local emergency, that circumstance would be a valid basis for a gubernatorial veto.

2/20/2009 9:40:00 AM

***This summary has not been adopted or officially endorsed by action of the committee.***