

HOUSE BILL REPORT

HJM 4017

As Passed House:

January 23, 2002

Brief Description: Opposing federalization of the National Guard.

Sponsors: By Representatives Haigh, Conway, Talcott, Schmidt, Carrell and Simpson.

Brief History:

Committee Activity:

Select Committee on Community Security: 1/22/02 [DP].

Floor Activity:

Passed House: 1/23/02, 96-0.

Brief Summary of Bill

- Requests Congress to accept governors' offer of National Guard forces under state command and control for purposes of augmenting lead federal agency personnel at the borders.

HOUSE COMMITTEE ON SELECT COMMITTEE ON COMMUNITY SECURITY

Majority Report: Do pass. Signed by 13 members: Representatives Hurst, Chair; Simpson, Vice Chair; Lisk, Ranking Minority Member; Ballasiotes, Barlean, Benson, Buck, Campbell, Jackley, Kessler, Morris, O'Brien and Schual-Berke.

Staff: Ilene Miller (786-7310) Caroleen Dineen (786-7156).

Background:

The National Guard celebrated its 165 birthday in 2001 and is the oldest component of the Armed Forces of the United States of America. The National Guard consists of both the Army National Guard and the Air National Guard components.

The National Guard allows for command and control of units by individual governors or by the President of the United States, depending upon the nature of the call to duty. The President reserves the right to mobilize the National Guard in federal status during national emergencies, and he serves as the commander-in-chief for units mobilized for federal active duty.

When National Guard units are not mobilized or under federal control, the governor of their respective state or territory serves as their commander-in-chief. The Adjutants' General of that state or territory are responsible for their training and readiness. Under Title 32 of the United States Code, governors may mobilize National Guard units for state active duty. These soldiers are considered to be in "Title 32 status." Examples of when the governor might call the National Guard into action include local or statewide emergencies, such as storms, drought, and civil disturbances.

National Guard soldiers deployed overseas in support of a federal mission would be under the control of the President of the United States. For example, soldiers that are part of Task Force Eagle in the Balkans, a NATO peacekeeping mission, are mobilized in federal active duty status. Soldiers are activated for federal active duty under Title 10 of the United States Code. These soldiers are considered to be in "Title 10 status."

National Guard soldiers may be mobilized in Title 32 status while helping out the federal government. For example, soldiers activated to augment security of airports after the September 11, 2001 attacks were in Title 32 status. Under Title 32 section 502 (f) of the United States Code, the National Guard can be placed in Title 32 status to assist the federal government "in the service of the United States." This allows governors to maintain command and control over their soldiers, and it places the soldiers in federal pay status.

The governors of the northern tier border states wrote to President Bush in November 2001 offering to provide prompt Title 32 National Guard augmentation for border security. A preliminary decision has been made to place the National Guard in Title 10 status.

Summary of Bill:

The Legislature requests that the federal government accept the governors' offer to provide augmentation for border security with National Guard units mobilized under Title 32 of the United States Code ("Title 32 status"). Title 32 status is requested to allow governors to maintain command and control over their soldiers and to place the soldiers in federal pay status.

The Legislature also requests that the National Guard remain in Title 32 status while augmenting the border. The Legislature emphasizes that placing the National Guard in Title 10 status would degrade the combat readiness of units from which guardsmen mobilize; would interfere with state force management; and would prevent soldiers from making accommodations, both personally and with their respective civilian employers.

Appropriation: None.

Fiscal Note: Not Requested.

Testimony For: Federalizing the National Guard would not only make them unavailable to the state for our use during state emergencies, but also would make them unavailable to us for a very lengthy time period. Federalizing the National Guard would also prevent National Guard soldiers from being able to make accommodations in their personal lives and with their civilian employers. It is an unprecedented action to turn over our borders to military forces. The National Guard can get the mission of augmenting the borders accomplished while still remaining available to the Governor should the need arise to maneuver the National Guard soldiers for state purposes.

Testimony Against: None.

Testified: Representative Dave Schmidt; Major General Tim Lowenberg, Washington Military Department; and Skip Drops, Northwest Chapter of Paralyzed Veterans of America.