

2722 SW Topeka Blvd.
Topeka, KS 66611-1287



phone: 785-646-0001
fax: 785-646-0099
www.kansastag.gov

Major General Michael T. Venerdi
The Adjutant General and Director of
Emergency Management & Homeland Security

Laura Kelly, Governor

January 30, 2025

Committee on Federal and State Affairs
Kansas Senate
Chairman Mike Thompson
Attn: Angela Gantzer, Committee Assistant
State Capitol, Room 144-S
300 SW 10th Ave
Topeka, KS 66612

Dear Chairman Thompson and Members of the Committee,

The Adjutant General's Department respectfully submits the following testimony for the hearing on Senate Bill 38, the Defend the Guard Act, on January 30, 2025. I regret that I will be traveling and unable to personally testify; my legislative liaison, Lt. Col. Keith Marshall, and legal advisor Lt. Col. Jacob McElwee, will testify on my behalf.

As the Adjutant General it is my fundamental duty to provide the best military advice to policymakers and civilian leaders, ensuring that decisions impacting state and national security are informed, strategic and grounded in expertise. Under this duty I must inform you that Senate Bill 38, the Defend the Guard Act, is not in the best interest of the State of Kansas or its citizens. This bill places at risk more than \$270 million in annual funding for the Kansas National Guard. Under Title 32 United States Code, Congress established a dual framework for the National Guard by which states receive federal funding in return for the National Guard being made available to the federal government when called to active duty by the President, Secretary of Defense, or respective Service Secretary. In return, the states receive a military force under the authority of the Governor that is available to respond effectively to emergencies, disasters, security challenges, and other incidents. The federal government funds over 90% of this capability for the state.

If the federal government can no longer access the Kansas National Guard for federal missions, it will turn off that funding and move missions, equipment and personnel out from under the state's authority. The precedent for this action was established last month when Congress passed the 2025 National Defense Authorization Act. This law allows the Department of Defense to override the authority of Governors over the National Guard in their states, and it takes Air National Guard missions away from Alaska, California, Colorado, Florida, Hawaii, New York, and Ohio. Those units and missions will become part of the Active Duty Space Force. This move was opposed by all 55 governors of U.S. states and territories, and Congress allowed the Department of Defense to proceed despite that unprecedented opposition.

The Department of Defense requested this move because of questions surrounding how a newly-created service, the Space Force, could access National Guard units and personnel for federal missions. Instead of working through the challenges, the Department requested and was allowed by Congress to simply take these away from the National Guard and make them part of Active Duty. That is the same risk Kansas is facing with the Defend the Guard Act. The federal government has

set a clear precedent: when it cannot access the National Guard to its satisfaction, it can and will take the units, equipment and funding away from the National Guard and make it part of Active Duty.

It is not in the best interest of the State of Kansas to lose the capabilities of the Kansas National Guard that are funded by the Department of Defense. Without the National Guard, Kansas is without a crucial resource for disaster response and maintaining public safety during times of crisis such as natural disasters, civil unrest, or other emergencies. Without our force, Kansas would have to rely solely on federal assistance or overstretched local agencies, which would lead to delayed responses and inadequate support for affected communities. Additionally, the absence of the National Guard undermines the state's ability to contribute to national defense missions and weakens its capacity to protect critical infrastructure. The loss would erode public trust in the government's ability to provide safety and stability measures, leaving the state vulnerable to both immediate and long-term challenges.

Ultimately though, as my colleague will testify, we do not believe this bill would be enforceable. I'll leave that legal explanation up to him, but I will say even if it is not enforceable, messaging is important. It is not helpful to give the Department of Defense any signals from the State of Kansas that our forces are difficult to access for federal missions.

Finally, if there is a concern about the constitutionality of the President deploying military forces without a declaration of war by Congress, that is a federal issue that should be handled at a federal level, and not using the Kansas National Guard as a pawn. It endangers our relationship with the Department of Defense, our ability to work for the new missions we are seeking, and our ability to respond effectively for the citizens of Kansas.

Thank you for the opportunity to provide testimony on this matter. I urge you to oppose the passage of Senate Bill 38 and instead fully support the Kansas National Guard. You are always welcome to reach out to me if you need anything. You may also contact my legislative liaison, Lt. Col. Keith Marshall, at 785-646-0011 or keith.marshall.1@us.af.mil.

MICHAEL T. VENERDI
Major General, Kansas National Guard
The Adjutant General