

SENATE BILL No. 370

By Committee on Federal and State Affairs

1-21

1 AN ACT concerning the Kansas national guard; creating the defend the
2 guard act; establishing when the national guard may be released into
3 active duty combat; prohibiting COVID-19 vaccination requirements
4 for national guard members.
5

6 *Be it enacted by the Legislature of the State of Kansas:*

7 Section 1. (a) The provisions of this section shall be known and may
8 be cited as the defend the guard act.

9 (b) The defend the guard act follows the principles that guided the
10 writers of our inspired constitution, embodied in the constitution of the
11 United States and the writings of the founders. Article I, section 8 of the
12 constitution of the United States vests in the congress the exclusive power
13 to declare war, and article 8 of the constitution of the state of Kansas
14 establishes our governor as the commander in chief of the state militia
15 while directing the Kansas legislature to provide for organizing, equipping
16 and disciplining the militia. By usurping the authority of Kansas officials
17 and by abdicating the war powers to the executive branch, the United
18 States congress has failed to follow the constitution of the United States
19 and the intent of the founders.

20 (c) Notwithstanding any other provisions of law, the Kansas national
21 guard, or any member thereof, shall not be released from the state into
22 active duty combat unless the United States congress has passed an official
23 declaration of war or has taken an official action pursuant to article I,
24 section 8, clause 15 of the constitution of the United States to explicitly
25 call forth the Kansas national guard, or any member thereof, for the
26 enumerated purposes to expressly execute the laws of the union, repel an
27 invasion or suppress an insurrection. The governor shall take all actions
28 necessary to comply with the requirements of this section.

29 (d) Notwithstanding any other provision of federal or state law or any
30 federal or state executive order, no member of the Kansas national guard
31 shall be compelled to receive nor shall be disciplined in any manner for
32 such member's refusal to receive any COVID-19 vaccination or other
33 medical treatment for the COVID-19 virus regardless of such member's
34 reason for such refusal.

35 (e) Nothing in this section limits or prohibits the governor from
36 consenting to the deployment of any Kansas national guard member on

1 defense support for civil authority missions within the United States and
2 territories of the United States under title 32 of the United States code.

3 (f) For the purposes of this section:

4 (1) "Active duty combat" means performing the following services in
5 the active federal military service of the United States:

6 (A) Participation in an armed conflict;

7 (B) performance of a hazardous service relating to an armed conflict
8 in a foreign state; or

9 (C) performance of a duty through an instrumentality of war.

10 (2) "Official declaration of war" means an official declaration of war
11 made by the United States congress pursuant to article I, section 8, clause
12 11 of the constitution of the United States.

13 Sec. 2. This act shall take effect and be in force from and after its
14 publication in the statute book.