



# Frontier Peace Advisors

*"Peace is the New Frontier"*  
www.frontierpeace.com

*Frontier Peace is a private membership association dedicated to advancing libertarian principles in the Kansas legislative process. All funding for Frontier Peace comes from paid memberships, open to anyone, in which each person pays the same, flat, very modest, annual fee.*

January 31, 2022  
Bob L. Corkins  
Chief FPA Lobbyist

Re: Support for SB 370  
Senate Federal & State Affairs Committee

Thank you, Honorable Chair and members of the Committee, for hearing today our "Defend the Guard" legislative proposal contained in SB 370. To learn the motivation behind this bill, today's news headlines and their saber-rattling tone regarding Ukraine or Taiwan, for example, are ample evidence. Everyone is wondering where the US is going to militarily intervene next.

Want to know the real reason why our troop pullout from Afghanistan was so poorly executed and belated, absorbing 20 years' worth of staggering casualties and materiel with negligible progress? It's because the full US commitment of a formal war declaration never happened. It hasn't happened in 80 years. Since 1942, all the global "police actions" we've been engaged in have fallen far short of the success of our last formally declared war.

This 80-year span has also witnessed the growing trend of greater reliance on State Guard units being not only integrated with our regular federal forces, but also deploying such state militia earlier and more readily into the worst theaters of combat around the world. And what respect does the Pentagon extend to the states that generate these invaluable civilian-soldier Guard units? The Defense Department bullishly pushes past each state's constitutional authority and control over its own Guard members. Strong case in point: mandatory COVID vaccination with no exceptions that respect state law.

I've attached here a synopsis of US war declarations (11 historically) and the lesser-authorizing congressional votes to "use military force" (also 11). I'll also gratefully note the financial assessment the Governor's Budget Office prepared for SB 370, citing input of the Adjutant General's office, concluding that SB 370 will not have any fiscal effect on Kansas. That is an enlightened conclusion, one refreshingly different from the many assumptions of alarm that Adjutants in other states have alleged against proposals like SB 370.

There is much more that I can share about the substance and history surrounding "Defend the Guard", and I'll certainly respond to all questions you have for me on this. However, for now, I'll defer to the testimony of other great proponents today to help them maximize their time before you.

Thank you for your time, consideration, and support for SB 370.

# # #

## BACKGROUND

### FEDERAL

- State Guard Units can be deployed in accord with either Title 32 or Title 10 of the US Code.
- Title 32 deployments regard intra-US troop usage for domestic uprisings, natural disaster relief, etc., and this DTG bill explicitly **changes nothing** about those Guard uses.
- Title 10 deployments are triggered by the US President and require:
  - executive order by the US Commander in Chief, but such orders are subject to requirements and limitations of the 1973 War Powers Act. To get passed that Act's restrictions requires either of the following:
    - a formal declaration of war passed by Congress; or
    - an Authorization to Use Military Force (AUMF) passed by Congress.
    - Both options have the effect of removing the time restraints of the War Powers Act
- The last time Congress formally declared war was during World War II; all US combat since then has been via AUMF or short-term Presidential orders.
  - Cong Research Service, 2014 Report: "Article I, Section 8, of the Constitution vests in Congress the power 'to declare War'. Pursuant to that power, Congress has enacted 11 declarations of war during the course of American history...the most recent being those that were adopted during World War II."
- Of all 8 war declarations that happened in the 20<sup>th</sup> century:
  - All declare that a "state of war exists" between US & other nation and that this circumstance was "thrust upon the US".
  - All say the President is "authorized and directed to employ the entire naval and military forces of the United States and the resources of the Government to carry on war...and to bring the conflict to a successful termination while all of the resources of the country are hereby pledged by the Congress of the United States"
- Formal war declarations automatically trigger many **standby statutory authorities** to the President regarding the military, foreign trade, transportation, communications, manufacturing, etc., while AUMFs automatically trigger none of this.

### KANSAS

- Kansas Constitution: Article 8 establishes our **governor** as the commander in chief of the state militia while **directing the Kansas legislature** to provide for organizing, equipping and disciplining the militia.
- §2. Organization. The legislature shall provide for organizing, equipping and disciplining the militia in such manner as it shall deem expedient, not incompatible with the laws of the United States.
- 7,500 Kansas Guard members today.
- From 2020 Highlights: [Intelligence, Surveillance and Reconnaissance Group] over 40,000 federal Title 10 man-days in support of Operations Inherent Resolve and Resolute Support.
- "Operation Inherent Resolve continues to work by, with and through regional partners to militarily defeat the Islamic State of Iraq and Syria (ISIS)."
- See, Kansas House Resolution No. 6011 (March 2021) that lists an extensive history of the Kansas Guard participation in conflicts beginning with the Civil War and continuing with combats around the globe through modern Operations such as Inherent Resolve.

🏠 > Military News

## National Guard Will Be Used 'More, Not Less' as Military Preps for Future War, General Says



U.S. Army Lt. Gen. Daniel Hokanson speaks to warrant officers during the 141st National Guard Association of the United States Conference and Exhibition in Denver, Sept. 1, 2019. (U.S. Air Force/Staff Sgt. Austin Harvill)

18 Jun 2021

Military.com | By [Steve Beynon](#)

After an unprecedented year of back-to-back domestic missions and combat [deployments](#), the National Guard's top general expects the Pentagon to lean even more heavily on the Guard moving forward.

"Given the uncertain future and budget priorities, we expect the Department of Defense to rely on the National Guard more, not less," General Daniel Hokanson, chief of the National Guard Bureau said in the force's annual posture statement this month. "Therefore, we must be ready to execute our three core missions; fighting America's wars, securing the homeland, and building enduring partnerships."



**Table I. Key Dates and Actions Related to Formal U.S. Declarations Of War**

<b>1812—Great Britain</b>	Madison asked June 1, 1812. House passed on June 4, 1812 (79-49). Senate passed on June 17, 1812 (19-13). President signed on <b>June 18, 1812</b> . Act of June 18, 1812, ch. 102, 2 Stat. 755. Terminated by Treaty of Ghent, which entered into force on February 17, 1815. 8 Stat. 218, Treaty Series 109.
<b>1846—Mexico</b>	Polk asked May 11, 1846. House passed on May 11, 1846 (174-14). Senate passed on May 12, 1846 (40-2). President signed on <b>May 13, 1846</b> . Act of May 13, 1846, ch. 16, 9 Stat. 9. Terminated by Treaty of Guadalupe Hidalgo, which entered into force on May 30, 1848. 9 Stat. 922, Treaty Series 207.
<b>1898—Spain</b>	McKinley asked April 25, 1898. Senate and House passed on April 25, 1898, by voice votes. McKinley signed on <b>April 25, 1898</b> . Act of April 25, 1898, ch. 189, 30 Stat. 364. The bill made the war date retroactive to April 21, 1898. Terminated by Treaty of Paris, which entered into force on April 11, 1899. 30 Stat. 1754, Treaty Series 343.
<b>1917—World War I (Germany)</b>	Wilson asked April 2, 1917. Senate passed on April 4, 1917 (82-6). House passed on April 6, 1917 (373-50). President signed on <b>April 6, 1917</b> . Act of April 6, 1917, ch. 1, 40 Stat. 1. Terminated by Act of July 2, 1921, ch. 40, 42 Stat. 105, which declared the state of war between the U.S. and Germany to be at an end. Formally recognized by the Treaty on Establishment of Friendly Relations, which entered into force November 11, 1921. 42 Stat. 1939, Treaty Series 658.
<b>1917—World War I (Austria-Hungary)</b>	Wilson asked December 4, 1917. House passed on December 7, 1917 (365-1). Senate passed on December 7, 1917 (74-0). President signed on <b>December 7, 1917</b> . Act of December 7, 1917, ch. 1, 40 Stat. 429. Terminated by Act of July 2, 1921, ch. 40, 42 Stat. 105, which declared the state of war between the U.S. and the two successor states and governments to the Austro-Hungarian monarchy—Austria and Hungary—to be at an end. Formally recognized by the Treaty on Establishment of Friendly Relations with Austria, which entered into force November 8, 1921 (42 Stat. 1939, Treaty Series 658) and the Treaty on Establishing Friendly Relations with Hungary, which entered into force December 17, 1921. 42 Stat. 1951, Treaty Series 660.
<b>1941—World War II (Japan)</b>	Roosevelt asked December 8, 1941. Senate passed on December 8, 1941 (82-0). House passed on December 8, 1941 (388-1). President signed on <b>December 8, 1941</b> . Act of December 8, 1941, ch. 561, 55 Stat. 795. Terminated by Treaty of Peace with Japan, which entered into force April 28, 1952. 3 UST 3169, TIAS 2490.
<b>1941—World War II (Germany)</b>	Roosevelt asked December 11, 1941. Senate passed on December 11, 1941 (88-0). House passed on December 11, 1941 (393-0). President signed on <b>December 11, 1941</b> . Act of December 11, 1941, ch. 564, 55 Stat. 796. Terminated by Act of October 19, 1951, ch. 519, 65 Stat. 451.
<b>1941—World War II (Italy)</b>	Roosevelt asked December 11, 1941. Senate passed on December 11, 1941 (90-0). House passed on December 11, 1941 (399-0). President signed on <b>December 11, 1941</b> . Act of December 11, 1941, ch. 565, 55 Stat. 796. Terminated by Treaty of Peace with Italy, which entered into force September 15, 1947. 4 UST 311, 61 Stat. 1245.
<b>1942—World War II (Bulgaria)</b>	Roosevelt asked June 2, 1942. House passed on June 3, 1942 (357-0). Senate passed on June 4, 1942 (73-0). President signed on <b>June 5, 1942</b> . Act of June 5, 1942, ch. 323, 56 Stat. 307. Terminated by Treaty of Peace with Bulgaria, which entered into force September 15, 1947. 4 UST 429, 61 Stat. 1915.
<b>1942—World War II (Hungary)</b>	Roosevelt asked June 2, 1942. House passed on June 3, 1942 (360-0). Senate passed on June 4, 1942 (73-0). President signed on <b>June 5, 1942</b> . Act of June 5, 1942, ch. 324, 56 Stat. 307. Terminated by Treaty of Peace with Hungary, which entered into force September 15, 1947. 4 UST 453, 61 Stat. 2065.
<b>1942—World War II (Rumania)</b>	Roosevelt asked June 2, 1942. House passed on June 3, 1942 (361-0). Senate passed on June 4, 1942 (73-0). President signed on <b>June 5, 1942</b> . Act of June 5, 1942, ch. 325, 56 Stat. 307. Terminated by Treaty of Peace with Rumania, which entered into force September 15, 1947. 4 UST 403, 61 Stat. 1757.

Key Statutory Authorizations for the Use of Military Force .....	5
France 1798 .....	5
Tripoli 1802 .....	6
Algeria 1815 .....	7
Suppression of Piracy 1819-1823 .....	7
Formosa 1955 .....	8
Middle East 1957 .....	8
Southeast Asia 1964 .....	9
Lebanon 1983 .....	10
Iraq 1991 .....	12
Terrorist Attacks against the United States (World Trade Center and the Pentagon)	
2001 .....	14
Authorization for Use of Force Against Iraq 2002 .....	16