

United States Senate

March 20, 2020

The Honorable Mark T. Esper
Secretary of Defense
1000 Defense Pentagon
Washington, DC 20301

Dear Secretary Esper:

I write today to urge you to authorize the activation of the National Guard under Title 32 in order to provide the resources that our states need in order to respond to the novel coronavirus (COVID-19). This would assure pay, benefits, and protections for the men and women serving in our National Guard.

On March 13, President Trump declared a National Emergency under section 1601 of Title 50, United States Code. However, while the Administration promised federal support of the efforts of state and local governments, there was no federal support for state activation of National Guard units to support the emergency response. President Trump continues to call this an invisible enemy and has said this is a war to protect the American people. I agree and would like to see the federal government extend full benefits to the members of the National Guard fighting on the front lines keeping Americans safe and healthy.

Regarding recent reports that the Administration is considering mobilizing the National Guard to Title 10 status in response to COVID-19, I urge you to authorize the activation of the National Guard under Section 502(f), of Title 32, United States Code instead. This allows states to maintain control and manage the response at the local level, but with federal backing. To date, the National Guard members responding to this crisis have been activated on State Active Duty (SAD) orders, but those answering the call deserve full federal protection and benefits.

As of today, more than 3,200 National Guard members in 28 states and territories have been activated in response to declared federal, state, and local emergencies. This includes an increase of 1,200 call-ups in the last 24 hours alone. These are brave men and women answering the call during a time of emergency to support their state and local communities. In the coming days, weeks, and months, additional National Guard resources will be needed to help assist states in defeating this virus.

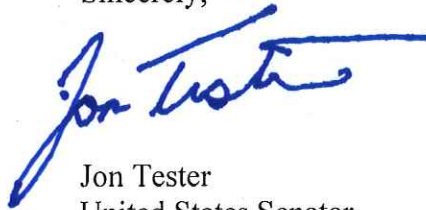
SAD orders are an effective way for Governors to quickly call up the National Guard to support emergencies, but it is not a long term solution. SAD does not offer federal support or benefits. Because these orders are entirely state-funded, it puts additional financial strain on states already strapped with the continuing crisis. Title 32 orders, authorized under section

502(f), allow Governors to maintain command and control, but the mission is funded by federal dollars. Additionally, those members called up will become eligible for the following benefits:

- TRICARE medical coverage
- Access to military hospital facilities
- Federal worker's compensation
- Death gratuities
- GI Bill eligibility
- Retirement points for service
- Servicemember Civil Relief Act protections

The Council of Governors and the National Guard Association of the United States both sent letters this week asking for Title 32 authorization for the National Guard because the SAD is not sustainable. While Congress is working hard on legislative fixes to extend health care and SCRA benefits to National Guard members called up on SAD orders, the federal government can help support this fight against COVID-19, by authorizing Title 32 and extending federal benefits to those answering the call in this time of crisis.

Sincerely,



Jon Tester
United States Senator