HB 527

Require official action to release Montana National Guard to active-duty combat

- **Montana could lose its national guard.** The Montana National Guard is a primary Ready Reserve component of the U.S. Armed forces. If the Department of Defense cannot rely on the Montana National Guard to deploy overseas in support of lawful military operations it could pull the Montana National Guard's federal recognition, funding, equipment, and infrastructure, leading to the loss of thousands of jobs and over $175 million in income. The Montana National Guard will be unable to respond to floods, fires, and other emergencies. Montana cannot unilaterally force Congress to change the way it funds and authorizes war through this illegal bill. Singling out the Montana National Guard as an anti-federal government pawn has no impact on the Army Reserve in Montana, the Air Force Reserve in Montana, or active-duty forces at Malmstrom Air Force Base.

- **The U.S. Constitution does not allow governors to refuse consent to the use of the militia.** The President is the commander in chief of the militia of the several states when called into the actual service of the United States (Art. II, § 2, c. 1). States only have authority to appoint officers and train the militia according to the discipline prescribed by Congress (Art. I, § 8, c. 16). Congress sets the terms upon which the militia is called into federal service (Art I, § 8, c. 16). *Governors only get input because Congress allows it and only on terms which Congress has set, as in 10 USC § 12301*.

- **The National Guard is federally funded so that the federal government has the National Guard available for federal military priorities.** Default status for the National Guard is called Title 32 status, in reference to Title 32 of the United States Code which sets the terms on which National Guard forces train for war while under the command of a state governor. National Guard forces and officers must be "federally recognized" to receive federal funds. The state can call the National Guard into state service at state expense. The federal government can also call the National Guard into federal service. *If the federal government does not get the benefit of training our National Guard and having it ready for missions, it will not pay for it.*

- **HB 527 does nothing to limit Congress' military activities.** Since 1788, Congress has engaged in combat activities overseas without formal declarations of war, which have been reserved only for conflicts of the highest intensity and whole of nation effort. The first war the U.S. fought after the Constitution was ratified was an undeclared naval war with France in 1798, which was authorized through a series of statues instead of a declaration of war. In 1800 the U.S. Supreme Court held in Bas v. Tingy that there are declared wars and undeclared wars and that Congress is permitted to authorize a war without a formal declaration. This decision occurred only 12 years after the U.S. Constitution was ratified. *HB 527 misses its target.*