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Testimony of Brigadier General Diane Dunn, the Adjutant General and Commissioner, Department of Defense, Veterans, and Emergency Management BEFORE THE JOINT STANDING COMMITTEE ON VETERANS AND LEGAL AFFAIRS

February 12, 2025

L.D. 265, "An Act to Prohibit the Maine National Guard from Combat Deployment Absent an Act of the United States Congress"

Senator Hickman, Representative Supica, and honorable members of the Veterans and Legal Affairs Committee. I am Diane Dunn, Commissioner for the Department of Defense, Veterans and Emergency Management (DVEM) and the Adjutant General. I am here to testify in opposition to LD 265, "An Act to Prohibit the Maine National Guard from Combat Deployment Absent an Act of the United States Congress."

First, I'd like to note that our Maine National Guard (MENG) service members tend to join our all-voluntary force for a variety of reasons, such as opportunity and sense of duty, with the understanding that they are subject to orders to deploy in support of federal missions – and they willingly sign up for that responsibility in service to our great country. I am proud to have taken that oath to serve decades ago – and to continue to swear in new servicemembers with the desire to do the same.

While I appreciate the good intention behind the legislators who brought forward this bill, I am concerned that it will not have their desired effect, and its passage would be counterproductive to our shared interests for the state of Maine and its people. I'd like to address three primary issues: federal powers, Supreme Court (SCOTUS) precedent, and funding.

While LD 265 aims to give greater state control to how and when the Maine National Guard (MENG) is deployed, Congress is the only body that can pass laws to affect overseas contingency operations. MENG members are part of a dual enlistment system: we take both state and federal oaths of office; hold both state and federal status; and are members of both the armed forces of our state as well the National Guard of the United States (NGUS). Under current federal law, the federal government has the ability to activate National Guard members for federal service without obtaining the Governor's consent to do so. In the 1990 case of *Perpich v. Department of Defense*, 496 U.S. 334, SCOTUS unanimously decided to uphold the constitutionality of the dual enlistment system and Congress' supremacy over the states in matters of defense.

Regarding funding, the MENG receives the majority of our operating budget and equipment from the federal government, which results in a strong return on investment for the State of Maine. The federal government provides such funding since the MENG's primary focus is to support the federal mission to fight and win our nation's wars and defend the homeland. However, that funding, organizing, and equipping of our federally recognized units also readies them for use within the state for local emergencies, such as our Blackhawk helicopters used to rescue injured hikers from Katahdin several times a year or the Lakota helicopter used to assist Maine Wardens locate two lost men near the Sunkahaze and Blackhorse stream in December. Passing this legislation may signal to the federal government that we are an unreliable partner and risk the allocation of equipment, funding, and manning allocations to other states, thus undercutting valuable capability for the state of Maine.

Our MENG servicemembers face a choice when deciding to serve in the armed forces, as they may elect to join in an Active Duty, Reserve, or National Guard capacity. MENG's advantage is that servicemembers can deploy on federal missions – while proudly living and serving here in the State of Maine. I ask that you consider the consequences of this bill and oppose it. My team and I will be available for the work session to address your specific questions.

Thank you for your consideration.