



Oklahoma



Connecticut

July 10, 2018

Honorable Patrick M. Shanahan  
Deputy Secretary of Defense  
1010 Defense Pentagon  
Washington, DC 20301-1010

Dear Secretary Shanahan:

As co-chairs of the Council of Governors we write to you to inform you of our intent to seek a legislative solution that would grant the President and the Secretary of Defense, upon request from a governor, the authority to authorize Title 32, section 502 (f) for National Guard members supporting the response to a large scale or complex major disaster.

We want to thank you and the Department for your continued support and work through the Council's State-Federal Catastrophic Disaster Response Working Group. The Council is committed to the broader review by the Working Group of the National Response Framework and the roles and responsibilities of states and the federal government. But, as we have stated over and over, our primary goal in engaging in this process was solving the problems governors experience accessing Title 32 502(f) for certain disaster responses. We sincerely appreciate the collaborative way in which you approached this issue and wish that extended to the staff inside the Department of Defense.

As you noted in your May 17, 2018, legal opinion concerning use of a 502 (f) (2) federal response after a Presidential Declaration of emergency or disaster, the Department cannot support a state-declared emergency or disaster response. We do note that we have not yet received a response to our May 22 letter asking for the General Counsel's evaluation of the use of a 502 (f) (2) in a federally-declared declaration. We noted that it is still not clear whether General Counsel evaluated the legality of the Federal Emergency Management Agency utilizing its Disaster Relief Fund to reimburse DoD for operational Title 32 costs associated when responding to a federal disaster.

Governors believe that a more streamlined and operationally effective model is attainable. In working with the federal government and reviewing the legal interpretation of your Department, the Council believes that the current authorities for the use of our National Guard are insufficient to meet the needs of responding to a catastrophic disaster and a legislative solution is required.

Governors believe that large scale and complex major disasters are a matter of national security, and therefore warrant the full support of the federal government.

Therefore, we have asked the House and Senate to include language in the Fiscal Year 2019 NDAA that would allow the President and the Secretary of Defense, with the approval of the governor, the ability to authorize National Guard under Title 32, 502 (f) in the event of a catastrophic, presidentially declared disaster. We believe this will help to further enhance the National Guard's

ability to support the response efforts and provide standardized protection and benefits for Department of Defense military personnel.

Should Congress grant this authority, we pledge to continue working with you and other relevant federal partners to establish this formal process, ensuring that the use of this authority remains limited in scale and minimizes the impact on overall military readiness.

And, again, we reaffirm the Council's commitment to the work of the State-Federal Catastrophic Disaster Response Working Group.

Thank you for your continued collaboration with the Council and for engaging with governors on matters of national security and homeland defense.

Sincerely,



Governor Mary Fallin  
Governor of Oklahoma  
Co-Chair, Council of Governors



Governor Dannel Malloy  
Governor of Connecticut  
Co-Chair, Council of Governors

cc:

Secretary of Defense

Secretary of Homeland Security

Chief, National Guard Bureau

Administrator, Federal Emergency Management Agency

White House

