

103<sup>D</sup> CONGRESS  
1<sup>ST</sup> SESSION

# H. R. 3180

To amend title 10, United States Code, to provide a charter for the National Guard Bureau, and for other purposes.

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## IN THE HOUSE OF REPRESENTATIVES

SEPTEMBER 29, 1993

Mr. MONTGOMERY introduced the following bill; which was referred to the Committee on Armed Services

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## A BILL

To amend title 10, United States Code, to provide a charter for the National Guard Bureau, and for other purposes.

1 *Be it enacted by the Senate and House of Representa-*  
2 *tives of the United States of America in Congress assembled,*

3 **SECTION 1. SHORT TITLE.**

4 This Act may be cited as the “National Guard  
5 Amendments of 1993”.

6 **SEC. 2. REVISION OF NATIONAL GUARD BUREAU CHARTER.**

7 (a) IN GENERAL.—(1) Subtitle A of title 10, United  
8 States Code, is amended by inserting after chapter 11 the  
9 following new chapter:

**1 “CHAPTER 12—NATIONAL GUARD BUREAU**

“291. National Guard Bureau.

“292. Chief of the National Guard Bureau: appointment; principal adviser on National Guard matters; grade.

“293. Chief of the National Guard Bureau: functions; annual report.

“294. Vice Chief of the National Guard Bureau.

“295. Other senior National Guard Bureau officers.

“296. Assignment of officers: joint duty assignment.

“297. Definition.

**2 “§ 291. National Guard Bureau**

3 “(a) NATIONAL GUARD BUREAU.—There is in the  
4 Department of Defense the National Guard Bureau, which  
5 is a joint bureau of the Department of the Army and the  
6 Department of the Air Force.

7 “(b) PURPOSES.—The National Guard Bureau is the  
8 supervisory and operating agency of the Department of  
9 Defense for the Army National Guard of the United  
10 States and the Air National Guard of the United States.  
11 The Bureau is also the channel of communications be-  
12 tween (1) the Department of the Army, Department of  
13 the Air Force, and other components of the Department  
14 of Defense, and (2) the several States, on all matters per-  
15 taining to the National Guard, the Army National Guard  
16 of the United States, and the Air National Guard of the  
17 United States.

1 **“§ 292. Chief of the National Guard Bureau: appoint-**  
2 **ment; adviser on National Guard matters;**  
3 **grade**

4 “(a) APPOINTMENT.—There is a Chief of the Na-  
5 tional Guard Bureau, who is responsible for the organiza-  
6 tion and operations of the National Guard Bureau. The  
7 Chief of the National Guard Bureau is appointed by the  
8 President, by and with the advice and consent of the Sen-  
9 ate. Such appointment shall be made from officers of the  
10 Army National Guard of the United States or officers of  
11 the Air National Guard of the United States who—

12 “(1) are recommended for such appointment by  
13 their respective Governors or, in the case of the Dis-  
14 trict of Columbia, the commanding general of the  
15 District of Columbia National Guard;

16 “(2) have had at least 10 years of federally rec-  
17 ognized commissioned service in an active status in  
18 the National Guard; and

19 “(3) are in a grade above the grade of brigadier  
20 general.

21 “(b) TERM OF OFFICE.—An officer appointed as  
22 Chief of the National Guard Bureau serves for a term of  
23 four years, but may be removed for cause at any time.  
24 An officer may not hold that office after becoming 64  
25 years of age. An officer may be reappointed as Chief of  
26 the National Guard Bureau.

1           “(c) ADVISER ON NATIONAL GUARD MATTERS.—(1)  
2 The Chief of the National Guard Bureau is the principal  
3 adviser to the Secretary of the Army and the Chief of  
4 Staff of the Army, and to the Secretary of the Air Force  
5 and the Chief of Staff of the Air Force, on matters relat-  
6 ing to the Army National Guard of the United States and  
7 the Air National Guard of the United States.

8           “(2) The Chief of the National Guard Bureau is an  
9 adviser to the Secretary of Defense and the Chairman of  
10 the Joint Chiefs of Staff on matters relating to the Army  
11 National Guard of the United States and the Air National  
12 Guard of the United States.

13           “(d) GRADE.—The Chief of the National Guard Bu-  
14 reau shall be appointed to serve in a grade above major  
15 general.

16 **“§ 293. Chief, National Guard Bureau: functions; an-**  
17 **nual report**

18           “(a) FUNCTIONS.—Subject to the authority, direc-  
19 tion, and control of the Secretary of Defense, the Sec-  
20 retary of the Army, and the Secretary of the Air Force,  
21 the Chief of the National Guard Bureau is responsible for  
22 the following:

23                   “(1) Allocating unit structure, strength author-  
24                   izations, and other resources to the Army National

1 Guard of the United States and the Air National  
2 Guard of the United States.

3 “(2) Determining and directing the training re-  
4 quirements of the Army National Guard and the Air  
5 National Guard and the allocation of Federal funds  
6 for the training of the Army National Guard and the  
7 Air National Guard.

8 “(3) Ensuring that units and members of the  
9 Army National Guard and the Air National Guard  
10 are trained by the States in accordance with ap-  
11 proved programs and policies of, and guidance from,  
12 the Chief, the Secretary of the Army, and the Sec-  
13 retary of the Air Force.

14 “(4) Assisting the States in the organization,  
15 maintenance, and operation of National Guard units  
16 so as to provide well-trained and well-equipped units  
17 capable of augmenting the active forces in time of  
18 war or national emergency.

19 “(5) Planning and administering the budget for  
20 the Army National Guard of the United States and  
21 the Air National Guard of the United States.

22 “(6) Supervising the acquisition, supply, main-  
23 tenance, and accountability of Federal property is-  
24 sued to the National Guard through the property

1 and fiscal officers designated, detailed, or appointed  
2 under section 708 of title 32.

3 “(7) Granting and withdrawing, in accordance  
4 with applicable laws and regulations, Federal rec-  
5 ognition of (A) National Guard units, and (B) offi-  
6 cers of the National Guard.

7 “(8) Establishing policies and programs for the  
8 employment and use of National Guard technicians  
9 under section 709 of title 32.

10 “(9) Supervising and administering the Active  
11 Guard and Reserve program as it pertains to the  
12 Army National Guard and the Air National Guard.

13 “(10) Prescribing the forfeiture of Federal  
14 funds and other aid, benefit, or privilege pursuant to  
15 section 108 of title 32.

16 “(11) Issuing directives, regulations, and publi-  
17 cations consistent with approved policies of the  
18 Army and Air Force, as appropriate.

19 “(12) Facilitating and supporting the training  
20 of members and units of the National Guard to meet  
21 State requirements.

22 “(13) Appointing and administering civilian  
23 personnel necessary to perform the functions of the  
24 National Guard Bureau.

1           “(14) Performing such other functions as may  
2           be prescribed by the Secretary of Defense, the Sec-  
3           retary of the Army, or the Secretary of the Air  
4           Force.

5           “(b) ANNUAL REPORT.—Not later than 90 days after  
6           the end of each fiscal year, the Chief of the National  
7           Guard Bureau shall submit to Congress a report on the  
8           state of readiness of the National Guard and its ability  
9           to meet its missions. The report may be submitted in clas-  
10          sified and unclassified versions.

11          **“§ 294. Vice Chief of the National Guard Bureau**

12          “(a) APPOINTMENT.—(1) There is a Vice Chief of the  
13          National Guard Bureau, selected by the Secretary of De-  
14          fense from officers of the Army National Guard of the  
15          United States or the Air National Guard of the United  
16          States who—

17                  “(A) are recommended for such appointment by  
18                  their respective Governors or, in the case of the Dis-  
19                  trict of Columbia, the commanding general of the  
20                  District of Columbia National Guard;

21                  “(B) have had at least 10 years of federally rec-  
22                  ognized commissioned service in an active status in  
23                  the National Guard; and

24                  “(C) are in a grade above the grade of colonel.

1       “(2) The Chief and Vice Chief of the National Guard  
2 Bureau may not both be members of the Army or of the  
3 Air Force.

4       “(3)(A) Except as provided in subparagraph (B), an  
5 officer appointed as Vice Chief of the National Guard Bu-  
6 reau serves for a term of four years, but may be removed  
7 from office at any time for cause.

8       “(B) The term of the Vice Chief of the National  
9 Guard Bureau shall end upon the appointment of a Chief  
10 of the National Guard Bureau who is a member of the  
11 same armed force as the Vice Chief.

12       “(4) The Secretary of Defense may waive the restric-  
13 tions in paragraph (2) and the provisions of paragraph  
14 (3)(B) for a limited period of time to provide for the or-  
15 derly transition of officers appointed to serve in the posi-  
16 tions of Chief and Vice Chief.

17       “(b) DUTIES.—The Vice Chief of the National Guard  
18 Bureau performs such duties as may be prescribed by the  
19 Chief of the National Guard Bureau.

20       “(c) GRADE.—The Vice Chief of the National Guard  
21 Bureau shall be appointed to serve in a grade above briga-  
22 dier general.

23       “(d) FUNCTIONS AS ACTING CHIEF.—When there is  
24 a vacancy in the office of the Chief of the National Guard  
25 Bureau or in the absence or disability of the Chief, the

1 Vice Chief of the National Guard Bureau acts as Chief  
2 and performs the duties of the Chief until a successor is  
3 appointed or the absence or disability ceases.

4 “(e) SUCCESSION AFTER CHIEF AND VICE CHIEF.—  
5 When there is a vacancy in the offices of both Chief and  
6 Vice Chief of the National Guard Bureau or in the absence  
7 or disability of both the Chief and Vice Chief of the Na-  
8 tional Guard Bureau, or when there is a vacancy in one  
9 such office and in the absence or disability of the officer  
10 holding the other, the senior officer of the Army National  
11 Guard of the United States or the Air National Guard  
12 of the United States on duty with the National Guard Bu-  
13 reau shall perform the duties of the Chief until a successor  
14 to the Chief or Vice Chief is appointed or the absence or  
15 disability of the Chief or Vice Chief ceases, as the case  
16 may be.

17 **“§ 295. Other senior National Guard Bureau officers**

18 “(a) ADDITIONAL GENERAL OFFICERS.—(1) In addi-  
19 tion to the Chief and Vice Chief of the National Guard  
20 Bureau, there shall be assigned to the National Guard Bu-  
21 reau—

22 “(A) two general officers selected by the Sec-  
23 retary of the Army from officers of the Army Na-  
24 tional Guard of the United States who have been  
25 nominated by their respective Governors or, in the

1 case of the District of Columbia, the commanding  
2 general of the District of Columbia National Guard,  
3 the senior of whom while so serving shall hold the  
4 grade of major general; and

5 “(B) two general officers selected by the Sec-  
6 retary of the Air Force from officers of the Air Na-  
7 tional Guard of the United States who have been  
8 nominated by their respective Governors or, in the  
9 case of the District of Columbia, the commanding  
10 general of the District of Columbia National Guard,  
11 the senior of whom while so serving shall hold the  
12 grade of major general.

13 “(2) The officers so selected shall assist the Chief of  
14 the National Guard Bureau in carrying out the functions  
15 of the National Guard Bureau as they relate to their re-  
16 spective branches.

17 “(b) OTHER OFFICERS.—There are in the National  
18 Guard Bureau a general counsel, a comptroller, and an  
19 inspector general, each of whom shall be appointed by the  
20 Chief of the National Guard Bureau. They shall perform  
21 such duties as the Chief may prescribe.

22 **“§ 296. Assignment of officers: joint duty assignment**

23 “Under such regulations as the Secretary of Defense  
24 may prescribe, a duty assignment to the Office of the  
25 Chief of the National Guard Bureau shall be considered

1 a joint duty assignment for the purposes of section 668,  
2 of this title.”.

3 **“§ 297. Definition**

4 “In this chapter, the term ‘State’ includes the Dis-  
5 trict of Columbia, the Commonwealth of Puerto Rico, and  
6 Guam and the Virgin Islands.”.

7 (2) The table of chapters at the beginning of subtitle  
8 A of title 10, United States Code, and at the beginning  
9 of part I of such subtitle, are each amended by inserting  
10 after the item relating to chapter 11 the following:

“12. National Guard Bureau ..... 291”.

11 (b) CONFORMING REPEAL.—(1) Section 3040 of title  
12 10, United States Code, is repealed.

13 (2) The table of sections at the beginning of chapter  
14 305 of such title is amended by striking out the item relat-  
15 ing to section 3040.

16 (c) OTHER CONFORMING AMENDMENTS.—(1) Sec-  
17 tions 3079 and 8079 of such title are each amended by  
18 inserting before the period at the end the following: “,  
19 under the guidance and supervision of the National Guard  
20 Bureau”.

21 (2) The text of section 108 of title 32, United States  
22 Code, is amended to read as follows:

23 “If, within a time fixed by the President, a State fails  
24 to comply with a requirement of this title, or a regulation  
25 prescribed under this title, the National Guard of that

1 State shall be barred in whole or in part, as the President  
 2 may prescribe, from receiving money or other aid, benefits,  
 3 or privileges authorized by law. The President shall ad-  
 4 minister this section through the Chief of the National  
 5 Guard Bureau.”.

6 **SEC. 3. RESERVE COMPONENT GENERAL AND FLAG OFFI-**  
 7 **CERS ON ACTIVE DUTY.**

8 (a) AUTHORIZED STRENGTH OF GENERAL AND FLAG  
 9 OFFICERS ON ACTIVE DUTY.—Section 526 of title 10,  
 10 United States Code, is amended by adding at the end the  
 11 following new subsection:

12 “(d) Reserve component general and flag officers  
 13 serving in the National Guard Bureau, the Office of a  
 14 Chief of a reserve component, or the headquarters of a  
 15 reserve component command are in addition to the num-  
 16 bers authorized for the armed forces under subsections (a)  
 17 and (b) in numbers as follows:

Army National Guard of the United States .....	4 general officers.
Army Reserve .....	4 general officers.
Naval Reserve .....	3 flag officers.
Marine Corps Reserve .....	1 general officer.
Air National Guard of the United States ....	4 general officers.
Air Force Reserve .....	3 general officers.
Two positions to be filled by a Guard or Reserve officer: Military Executive to the Reserve Forces Policy Board and Assistant to the Chairman of the Joint Chiefs of Staff .....	2 general or flag officers.

1 “(e) The limitation of this section does not apply to  
2 a reserve general or flag officer who is not on the active  
3 list.”.

4 (b) CONFORMING AMENDMENT.—Paragraphs (1)  
5 through (4) of section 526(a) of such title are amended  
6 to read as follows:

7 “(1) For the Army, 378 before October 1,  
8 1995, and 294 on and after that date.

9 “(2) For the Navy, 247 before October 1, 1995,  
10 and 213 on and after that date.

11 “(3) For the Air Force, 319 before October 1,  
12 1995, and 272 on and after that date.

13 “(4) For the Marine Corps, 67 before October  
14 1, 1995, and 60 on and after that date.”.

15 **SEC. 4. DEFINITION OF ACTIVE GUARD AND RESERVE**  
16 **DUTY.**

17 Section 101(d) of title 10, United States Code, is  
18 amended by adding at the end thereof the following:

19 “(7)(A) The term ‘active Guard and Reserve  
20 duty’ means active duty or full-time National Guard  
21 duty performed by a member of a reserve component  
22 or of the National Guard pursuant to an order to  
23 active duty or full-time National Guard duty for a  
24 period of more than 180 consecutive days for the  
25 purpose of organizing, administering, recruiting, in-

1 structing, or training the reserve components or the  
2 National Guard.

3 “(B) Such term does not include—

4 “(i) duty performed as a member of the  
5 Reserve Forces Policy Board provided for under  
6 section 175 of this title;

7 “(ii) duty performed as a property and fis-  
8 cal officer under section 708 of title 32; or

9 “(iii) service as a State director of the Se-  
10 lective Service System under section 10(b)(2) of  
11 the Military Selective Service Act (50 U.S.C.  
12 App. 460(b)(2)).”.

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