

103^D CONGRESS
2^D SESSION

H. R. 4149

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

IN THE HOUSE OF REPRESENTATIVES

MARCH 24, 1994

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

A BILL

To amend title 10, United States Code, to provide a charter for the National Guard Bureau, otherwise to improve the administration of the National Guard, 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 Bureau Act of 1994”.

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

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

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

“291. National Guard Bureau.

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

“293. Chief, National Guard Bureau: functions.

“294. Chief of National Guard Bureau: annual report.

“295. Vice Chief of the National Guard Bureau.

“296. Other senior National Guard Bureau officers.

“297. Assignment of officers: joint duty assignment.

“298. Definition.

6 **“§ 291. National Guard Bureau**

7 “(a) NATIONAL GUARD BUREAU.—There is in the
8 Department of Defense the National Guard Bureau, which
9 is a joint bureau of the Department of the Army and the
10 Department of the Air Force.

11 “(b) PURPOSES.—The National Guard Bureau is the
12 supervisory and operating agency within the Department
13 of Defense for the Army National Guard of the United
14 States and the Air National Guard of the United States.
15 The Bureau is also the channel of communications on all
16 matters pertaining to the National Guard, the Army Na-
17 tional Guard of the United States, and the Air National
18 Guard of the United States between (1) the Department
19 of the Army, Department of the Air Force, and other com-
20 ponents of the Department of Defense, and (2) the several
21 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 the Air Na-
11 tional 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 at the pleasure
23 of the President for a term of four years. An officer may
24 not hold that office after becoming 64 years of age. An
25 officer may be reappointed as Chief of the National Guard
26 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 National Guard, the Army National Guard of
7 the United States, and the Air National Guard of the
8 United States.

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

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

17 **“§ 293. Chief, National Guard Bureau: functions**

18 “Subject to the authority, direction, and control of
19 the Secretary of Defense, the Secretary of the Army, and
20 the Secretary of the Air Force, the Chief of the National
21 Guard Bureau is responsible for the following:

22 “(1) Allocating unit structure, strength author-
23 izations, and other resources to the Army National
24 Guard of the United States and the Air National
25 Guard of the United States.

1 “(2) Prescribing the training discipline and
2 training requirements for the Army National Guard
3 and the Air National Guard and the allocation of
4 Federal funds for the training of the Army National
5 Guard and the Air National Guard.

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

12 “(4) Monitoring and assisting the States in the
13 organization, maintenance, and operation of Na-
14 tional Guard units so as to provide well-trained and
15 well-equipped units capable of augmenting the active
16 forces in time of war or national emergency.

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

20 “(6) Supervising the acquisition and supply of,
21 and accountability of the States for, Federal prop-
22 erty issued to the National Guard through the prop-
23 erty and fiscal officers designated, detailed, or ap-
24 pointed under section 708 of title 32.

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

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

8 “(9) Supervising and administering the Active
9 Guard and Reserve program as it pertains to the
10 National Guard.

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

14 “(11) Facilitating and supporting the training
15 of members and units of the National Guard to meet
16 State requirements.

17 “(12) Performing such other functions as may
18 be prescribed by the Secretary of Defense, the Sec-
19 retary of the Army, or the Secretary of the Air
20 Force.

21 **“§ 294. Chief of National Guard Bureau: annual re-**
22 **port**

23 “(a) ANNUAL REPORT.—The Chief of the National
24 Guard Bureau shall submit to the Secretary of Defense
25 an annual report on the state of readiness of the National

1 Guard and the ability of the National Guard to meet its
2 missions. The report shall be prepared in conjunction with
3 the Secretary of the Army and the Secretary of the Air
4 Force and may be submitted in classified and unclassified
5 versions.

6 “(b) SUBMISSION OF REPORT TO CONGRESS.—The
7 Secretary of Defense shall transmit the annual report of
8 the Chief of the National Guard Bureau to Congress, to-
9 gether with such comments on the report as the Secretary
10 considers appropriate. The report shall be transmitted at
11 the same time each year that the annual report of the Sec-
12 retary under section 113(c) of this title is submitted to
13 Congress.

14 **“§ 295. Vice Chief of the National Guard Bureau**

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

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

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

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

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

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

12 “(B) The term of the Vice Chief of the National
13 Guard Bureau shall end upon the appointment of a Chief
14 of the National Guard Bureau who is a member of the
15 same armed force as the Vice Chief.

16 “(4) The Secretary of Defense may waive the restric-
17 tions in paragraph (2) and the provisions of paragraph
18 (3)(B) for a limited period of time to provide for the or-
19 derly transition of officers appointed to serve in the posi-
20 tions of Chief and Vice Chief of the National Guard
21 Bureau.

22 “(b) DUTIES.—The Vice Chief of the National Guard
23 Bureau performs such duties as may be prescribed by the
24 Chief of the National Guard Bureau.

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

4 “(d) FUNCTIONS AS ACTING CHIEF.—When there is
5 a vacancy in the office of the Chief of the National Guard
6 Bureau or in the absence or disability of the Chief, the
7 Vice Chief of the National Guard Bureau acts as Chief
8 and performs the duties of the Chief until a successor is
9 appointed or the absence or disability ceases.

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

23 **“§ 296. Other senior National Guard Bureau officers**

24 “(a) ADDITIONAL GENERAL OFFICERS.—(1) In addi-
25 tion to the Chief and Vice Chief of the National Guard

1 Bureau, there shall be assigned to the National Guard Bu-
2 reau—

3 “(A) two general officers selected by the Sec-
4 retary of the Army from officers of the Army Na-
5 tional Guard of the United States who have been
6 nominated by their respective Governors or, in the
7 case of the District of Columbia, the commanding
8 general of the District of Columbia National Guard,
9 the senior of whom while so serving shall hold the
10 grade of major general and serve as Director, Army
11 National Guard, with the other serving as Deputy
12 Director, Army National Guard; and

13 “(B) two general officers selected by the Sec-
14 retary of the Air Force from officers of the Air Na-
15 tional Guard of the United States who have been
16 nominated by their respective Governors or, in the
17 case of the District of Columbia, the commanding
18 general of the District of Columbia National Guard,
19 the senior of whom while so serving shall hold the
20 grade of major general and serve as Director, Air
21 National Guard, with the other serving as Deputy
22 Director, Air National Guard.

23 “(2) The officers so selected shall assist the Chief of
24 the National Guard Bureau in carrying out the functions

1 of the National Guard Bureau as they relate to their re-
2 spective branches.

3 “(b) OTHER OFFICERS.—There are in the National
4 Guard Bureau a legal counsel, a comptroller, and an in-
5 spector general, each of whom shall be appointed by the
6 Chief of the National Guard Bureau. They shall perform
7 such duties as the Chief may prescribe.

8 **“§ 297. Assignment of officers: joint duty assignment**

9 “Under such regulations as the Secretary of Defense
10 may prescribe, a duty assignment to the Office of the
11 Chief of the National Guard Bureau shall be considered
12 to be a joint duty assignment for the purposes of section
13 668 of this title.

14 **“§ 298. Definition**

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

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

“12. National Guard Bureau 291”.

22 (b) CONFORMING REPEAL.—(1) Section 3040 of title
23 10, United States Code, is repealed.

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

4 (c) CONFORMING AMENDMENT.—The text of section
 5 108 of title 32, United States Code, is amended to read
 6 as follows:

7 “If, within a time fixed by the President, a State fails
 8 to comply with a requirement of this title, or a regulation
 9 prescribed under this title, the National Guard of that
 10 State is barred, in whole or in part, as the President may
 11 prescribe, from receiving money or any other aid, benefit,
 12 or privilege authorized by law.”.

13 **SEC. 3. RESERVE GENERAL AND FLAG OFFICERS ON AC-**
 14 **TIVE DUTY.**

15 Section 526 of title 10, United States Code, is
 16 amended by adding at the end the following:

17 “(d)(1) Within the numbers authorized under sub-
 18 sections (a) and (b), there shall be Reserve general and
 19 flag officers serving in the National Guard Bureau, the
 20 Office of a Chief of a reserve component, or the head-
 21 quarters of a reserve component command 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.

1 “(2) Within the numbers authorized under sub-
2 sections (a) and (b), there shall be a Reserve general or
3 flag officer who is assigned as the Military Executive to
4 the Reserve Forces Policy Board and a Reserve general
5 or flag officer who is assigned as an Assistant to the
6 Chairman of the Joint Chiefs of Staff.

7 “(e) The limitation of this section does not apply to
8 a reserve general or flag officer who is on active duty for
9 training or who is on active duty under a call or order
10 specifying a period of less than 180 days.”.

11 **SEC. 4. DEFINITION OF ACTIVE GUARD AND RESERVE**
12 **DUTY.**

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

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

24 “(B) Such term does not include the following:

1 “(i) Duty performed as a member of the
2 Reserve Forces Policy Board provided for under
3 section 175 of this title.

4 “(ii) Duty performed as a property and fis-
5 cal officer under section 708 of title 32.

6 “(iii) Duty performed in connection with
7 drug interdiction and counter-drug activities
8 under section 112 of title 32.

9 “(iv) Duty performed as a general or flag
10 officer.

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

15 **SEC. 5. EFFECTIVE DATE.**

16 The amendments made by this Act shall take effect
17 at the end of the 90-day period beginning on the date of
18 the enactment of this Act.

○