

110TH CONGRESS
1ST SESSION

H. R. 718

To amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of the National Guard Bureau, and for other purposes.

IN THE HOUSE OF REPRESENTATIVES

JANUARY 30, 2007

Mr. TOM DAVIS of Virginia (for himself, Mr. TAYLOR, Mr. HAYES, and Mr. BUTTERFIELD) introduced the following bill; which was referred to the Committee on Armed Services

A BILL

To amend title 10, United States Code, to enhance the national defense through empowerment of the Chief of the National Guard Bureau and the enhancement of the functions of 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 Em-
5 powerment Act of 2007”.

1 **SEC. 2. EXPANDED AUTHORITY OF CHIEF OF THE NA-**
2 **TIONAL GUARD BUREAU AND EXPANDED**
3 **FUNCTIONS OF THE NATIONAL GUARD BU-**
4 **REAU.**

5 (a) EXPANDED AUTHORITY.—

6 (1) IN GENERAL.—Subsection (a) of section
7 10501 of title 10, United States Code, is amended
8 by striking “joint bureau of the Department of the
9 Army and the Department of the Air Force” and in-
10 sserting “joint activity of the Department of De-
11 fense”.

12 (2) PURPOSE.—Subsection (b) of such section
13 is amended by striking “between” and all that fol-
14 lows and inserting “between—

15 “(1)(A) the Secretary of Defense, the Joint
16 Chiefs of Staff, and the commanders of the combat-
17 ant commands of the United States, and (B) the
18 Department of the Army and the Department of the
19 Air Force; and

20 “(2) the several States.”.

21 (b) ENHANCEMENTS OF POSITION OF CHIEF OF NA-
22 TIONAL GUARD BUREAU.—

23 (1) ADVISORY FUNCTION ON NATIONAL GUARD
24 MATTERS.—Subsection (c) of section 10502 of title
25 10, United States Code, is amended by inserting “to

1 the Secretary of Defense, to the Chairman of the
2 Joint Chiefs of Staff,” after “principal adviser”.

3 (2) MEMBER OF JOINT CHIEFS OF STAFF.—(A)

4 Such section is further amended—

5 (i) by redesignating subsections (d) and (e)
6 as subsections (e) and (f), respectively; and

7 (ii) by inserting after subsection (c) the
8 following new subsection (d):

9 “(d) MEMBER OF JOINT CHIEFS OF STAFF.—The
10 Chief of the National Guard Bureau shall perform the du-
11 ties prescribed for him or her as a member of the Joint
12 Chiefs of Staff under section 151 of this title.”.

13 (B) Section 151(a) of such title is amended by
14 adding at the end the following new paragraph:

15 “(7) The Chief of the National Guard Bu-
16 reau.”.

17 (3) GRADE.—Subsection (e) of such section, as
18 redesignated by paragraph (2)(A)(i) of this sub-
19 section, is further amended by striking “lieutenant
20 general” and inserting “general”.

21 (4) ANNUAL REPORT TO CONGRESS ON VALI-
22 DATED REQUIREMENTS.—Section 10504 of such
23 title is amended by adding at the end the following
24 new subsection:

1 “(c) ANNUAL REPORT ON VALIDATED REQUIRE-
2 MENTS.—Not later than December 31 each year, the Chief
3 of the National Guard Bureau shall submit to Congress
4 a report on the following:

5 “(1) The requirements validated under section
6 10503a(b)(1) of this title during the preceding fiscal
7 year.

8 “(2) The requirements referred to in paragraph
9 (1) for which funding is to be requested in the next
10 budget for a fiscal year under section 10544 of this
11 title.

12 “(3) The requirements referred to in paragraph
13 (1) for which funding will not be requested in the
14 next budget for a fiscal year under section 10544 of
15 this title.”.

16 (c) ENHANCEMENT OF FUNCTIONS OF NATIONAL
17 GUARD BUREAU.—

18 (1) DEVELOPMENT OF CHARTER.—Section
19 10503 of title 10, United States Code, is amended—

20 (A) in the matter preceding paragraph (1),
21 by striking “The Secretary of the Army and the
22 Secretary of the Air Force shall jointly develop”
23 and inserting “The Secretary of Defense, in
24 consultation with the Secretary of the Army

1 and the Secretary of the Air Force, shall de-
2 velop”; and

3 (B) in paragraph (12), by striking “the
4 Secretaries” and inserting “the Secretary of
5 Defense”.

6 (2) ADDITIONAL GENERAL FUNCTIONS.—Such
7 section is further amended—

8 (A) by redesignating paragraph (12), as
9 amended by paragraph (1)(B) of this sub-
10 section, as paragraph (13); and

11 (B) by inserting after paragraph (11) the
12 following new paragraph (12):

13 “(12) Facilitating and coordinating with other
14 Federal agencies, and with the several States, the
15 use of National Guard personnel and resources for
16 and in contingency operations, military operations
17 other than war, natural disasters, support of civil
18 authorities, and other circumstances.”.

19 (3) MILITARY ASSISTANCE FOR CIVIL AUTHORI-
20 TIES.—Chapter 1011 of such title is further amend-
21 ed by inserting after section 10503 the following
22 new section:

1 **“§ 10503a. Functions of National Guard Bureau: mili-**
2 **tary assistance to civil authorities**

3 “(a) IDENTIFICATION OF ADDITIONAL NECESSARY
4 ASSISTANCE.—The Chief of the National Guard Bureau
5 shall—

6 “(1) identify gaps between Federal and State
7 capabilities to prepare for and respond to emer-
8 gencies; and

9 “(2) make recommendations to the Secretary of
10 Defense on programs and activities of the National
11 Guard for military assistance to civil authorities to
12 address such gaps.

13 “(b) SCOPE OF RESPONSIBILITIES.—In meeting the
14 requirements of subsection (a), the Chief of the National
15 Guard Bureau shall, in coordination with the adjutants
16 general of the States, have responsibilities as follows:

17 “(1) To validate the requirements of the several
18 States and Territories with respect to military as-
19 sistance to civil authorities.

20 “(2) To develop doctrine and training require-
21 ments relating to the provision of military assistance
22 to civil authorities.

23 “(3) To acquire equipment, materiel, and other
24 supplies and services for the provision of military as-
25 sistance to civil authorities.

1 “(4) To assist the Secretary of Defense in pre-
2 paring the budget required under section 10544 of
3 this title.

4 “(5) To administer amounts provided the Na-
5 tional Guard for the provision of military assistance
6 to civil authorities.

7 “(6) To carry out any other responsibility relat-
8 ing to the provision of military assistance to civil au-
9 thorities as the Secretary of Defense shall specify.

10 “(c) ASSISTANCE.—The Chairman of the Joint
11 Chiefs of Staff shall assist the Chief of the National Guard
12 Bureau in carrying out activities under this section.

13 “(d) CONSULTATION.—The Chief of the National
14 Guard Bureau shall carry out activities under this section
15 in consultation with the Secretary of the Army and the
16 Secretary of the Air Force.”.

17 (4) BUDGETING FOR TRAINING AND EQUIP-
18 MENT FOR MILITARY ASSISTANCE TO CIVIL AU-
19 THORITIES AND OTHER DOMESTIC MISSIONS.—
20 Chapter 1013 of title 10, United States Code, is
21 amended by adding at the end the following new sec-
22 tion:

1 **“§ 10544. National Guard training and equipment:**
2 **budget for military assistance to civil au-**
3 **thorities and for other domestic oper-**
4 **ations**

5 “(a) IN GENERAL.—The budget justification docu-
6 ments materials submitted to Congress in support of the
7 budget of the President for a fiscal year (as submitted
8 with the budget of the President under section 1105(a)
9 of title 31) shall specify separate amounts for training and
10 equipment for the National Guard for purposes of military
11 assistance to civil authorities and for other domestic oper-
12 ations during such fiscal year.

13 “(b) SCOPE OF FUNDING.—The amounts specified
14 under subsection (a) for a fiscal year shall be sufficient
15 for purposes as follows:

16 “(1) The development and implementation of
17 doctrine and training requirements applicable to the
18 assistance and operations described in subsection (a)
19 for such fiscal year.

20 “(2) The acquisition of equipment, materiel,
21 and other supplies and services necessary for the
22 provision of such assistance and such operations in
23 such fiscal year.”.

24 (5) LIMITATION ON INCREASE IN PERSONNEL
25 OF NATIONAL GUARD BUREAU.—The Secretary of
26 Defense shall, to the extent practicable, ensure that

1 no additional personnel are assigned to the National
 2 Guard Bureau in order to address administrative or
 3 other requirements arising out of the amendments
 4 made by this subsection.

5 (d) CONFORMING AND CLERICAL AMENDMENTS.—

6 (1) CONFORMING AMENDMENT.—The heading
 7 of section 10503 of title 10, United States Code, is
 8 amended to read as follows:

9 **“§ 10503. Functions of National Guard Bureau: char-**
 10 **ter”.**

11 (2) CLERICAL AMENDMENTS.—(A) The table of
 12 sections at the beginning of chapter 1011 of such
 13 title is amended by striking the item relating to sec-
 14 tion 10503 and inserting the following new items:

“10503. Functions of National Guard Bureau: charter.

“10503a. Functions of National Guard Bureau: military assistance to civil au-
 thorities.”.

15 (B) The table of sections at the beginning of
 16 chapter 1013 of such title is amended by adding at
 17 the end the following new item:

“10544. National Guard training and equipment: budget for military assistance
 to civil authorities and for other domestic operations.”.

18 **SEC. 3. PROMOTION OF ELIGIBLE RESERVE OFFICERS TO**
 19 **LIEUTENANT GENERAL AND VICE ADMIRAL**
 20 **GRADES ON THE ACTIVE-DUTY LIST.**

21 (a) SENSE OF CONGRESS.—It is the sense of Con-
 22 gress that, whenever officers are considered for promotion

1 to the grade of lieutenant general, or vice admiral in the
2 case of the Navy, on the active duty list, officers of the
3 reserve components of the Armed Forces who are eligible
4 for promotion to such grade should be considered for pro-
5 motion to such grade.

6 (b) PROPOSAL.—The Secretary of Defense shall sub-
7 mit to Congress a proposal for mechanisms to achieve the
8 objective specified in subsection (a). The proposal shall in-
9 clude such recommendations for legislative or administra-
10 tive action as the Secretary considers appropriate in order
11 to achieve that objective.

12 (c) NOTICE ACCOMPANYING NOMINATIONS.—The
13 President shall include with each nomination of an officer
14 to the grade of lieutenant general, or vice admiral in the
15 case of the Navy, on the active-duty list that is submitted
16 to the Senate for consideration a certification that all re-
17 serve officers who were eligible for consideration for pro-
18 motion to such grade were considered in the making of
19 such nomination.

20 **SEC. 4. PROMOTION OF RESERVE OFFICERS TO LIEUTEN-**
21 **ANT GENERAL GRADE.**

22 (a) TREATMENT OF SERVICE AS ADJUTANT GEN-
23 ERAL AS JOINT DUTY EXPERIENCE.—

1 (1) DIRECTORS OF ARMY AND AIR NATIONAL
2 GUARD.—Section 10506(a)(3) of title 10, United
3 States Code, is amended—

4 (A) by redesignating subparagraphs (C),
5 (D), and (E) as subparagraphs (D), (E), and
6 (F), respectively; and

7 (B) by inserting after subparagraph (B)
8 the following new subparagraph (C):

9 “(C) Service of an officer as adjutant general shall
10 be treated as joint duty experience for purposes of sub-
11 paragraph (B)(ii).”.

12 (2) OTHER OFFICERS.—The service of an offi-
13 cer of the Armed Forces as adjutant general, or as
14 an officer (other than adjutant general) of the Na-
15 tional Guard of a State who performs the duties of
16 adjutant general under the laws of such State, shall
17 be treated as joint duty or joint duty experience for
18 purposes of any provisions of law required such duty
19 or experience as a condition of promotion.

20 (b) REPORTS ON PROMOTION OF RESERVE MAJOR
21 GENERALS TO LIEUTENANT GENERAL GRADE.—

22 (1) REVIEW REQUIRED.—The Secretary of the
23 Army and the Secretary of the Air Force shall each
24 conduct a review of the promotion practices of the
25 military department concerned in order to identify

1 and assess the practices of such military department
2 in the promotion of reserve officers from major gen-
3 eral grade to lieutenant general grade.

4 (2) REPORTS.—Not later than 60 days after
5 the date of the enactment of this Act, the Secretary
6 of the Army and the Secretary of the Air Force shall
7 each submit to the congressional defense committees
8 a report on the review conducted by such official
9 under paragraph (1). Each report shall set forth—

10 (A) the results of such review; and

11 (B) a description of the actions intended to
12 be taken by such official to encourage and fa-
13 cilitate the promotion of additional reserve offi-
14 cers from major general grade to lieutenant
15 general grade.

16 (3) CONGRESSIONAL DEFENSE COMMITTEES
17 DEFINED.—In this subsection, the term “congres-
18 sional defense committees” means—

19 (A) the Committees on Armed Services
20 and Appropriations of the Senate; and

21 (B) the Committees on Armed Services
22 and Appropriations of the House of Representa-
23 tives.

1 **SEC. 5. REQUIREMENT THAT POSITION OF DEPUTY COM-**
2 **MANDER OF THE UNITED STATES NORTHERN**
3 **COMMAND BE FILLED BY A QUALIFIED NA-**
4 **TIONAL GUARD OFFICER.**

5 (a) IN GENERAL.—The position of Deputy Com-
6 mander of the United States Northern Command shall be
7 filled by a qualified officer of the National Guard who is
8 eligible for promotion to the grade of lieutenant general.

9 (b) PURPOSE.—The purpose of the requirement in
10 subsection (a) is to ensure that information received from
11 the National Guard Bureau regarding the operation of the
12 National Guard of the several States is integrated into the
13 plans and operations of the United States Northern Com-
14 mand.

15 **SEC. 6. REQUIREMENT FOR SECRETARY OF DEFENSE TO**
16 **PREPARE ANNUAL PLAN FOR RESPONSE TO**
17 **NATURAL DISASTERS AND TERRORIST**
18 **EVENTS.**

19 (a) REQUIREMENT FOR ANNUAL PLAN.—Not later
20 than March 1, 2007, and each March 1 thereafter, the
21 Secretary of Defense, in consultation with the commander
22 of the United States Northern Command and the Chief
23 of the National Guard Bureau, shall prepare and submit
24 to Congress a plan for coordinating the use of the Na-
25 tional Guard and members of the Armed Forces on active
26 duty when responding to natural disasters, acts of ter-

1 rorism, and other man-made disasters as identified in the
2 national planning scenarios described in subsection (e).

3 (b) INFORMATION TO BE PROVIDED TO SEC-
4 RETARY.—To assist the Secretary of Defense in preparing
5 the plan, the National Guard Bureau, pursuant to its pur-
6 pose as channel of communications as set forth in section
7 10501(b) of title 10, United States Code, shall provide to
8 the Secretary information gathered from Governors, adju-
9 tants general of States, and other State civil authorities
10 responsible for homeland preparation and response to nat-
11 ural and man-made disasters.

12 (c) TWO VERSIONS.—The plan shall set forth two
13 versions of response, one using only members of the Na-
14 tional Guard, and one using both members of the National
15 Guard and members of the regular components of the
16 Armed Forces.

17 (d) MATTERS COVERED.—The plan shall cover, at a
18 minimum, the following:

19 (1) Protocols for the Department of Defense,
20 the National Guard Bureau, and the Governors of
21 the several States to carry out operations in coordi-
22 nation with each other and to ensure that Governors
23 and local communities are properly informed and re-
24 main in control in their respective States and com-
25 munities.

1 (2) An identification of operational procedures,
2 command structures, and lines of communication to
3 ensure a coordinated, efficient response to contin-
4 gencies.

5 (3) An identification of the training and equip-
6 ment needed for both National Guard personnel and
7 members of the Armed Forces on active duty to pro-
8 vide military assistance to civil authorities and for
9 other domestic operations to respond to hazards
10 identified in the national planning scenarios.

11 (e) NATIONAL PLANNING SCENARIOS.—The plan
12 shall provide for response to the following hazards:

13 (1) Nuclear detonation, biological attack, bio-
14 logical disease outbreak/pandemic flu, the plague,
15 chemical attack-blister agent, chemical attack-toxic
16 industrial chemicals, chemical attack-nerve agent,
17 chemical attack-chlorine tank explosion, major hurri-
18 cane, major earthquake, radiological attack-radio-
19 logical dispersal device, explosives attack-bombing
20 using improvised explosive device, biological attack-
21 food contamination, biological attack-foreign animal
22 disease and cyber attack.

23 (2) Any other hazards identified in a national
24 planning scenario developed by the Homeland Secu-
25 rity Council.

1 **SEC. 7. ADDITIONAL REPORTING REQUIREMENTS RELAT-**
2 **ING TO NATIONAL GUARD EQUIPMENT.**

3 Section 10541 of title 10, United States Code, is
4 amended by adding at the end the following new sub-
5 section:

6 “(d) Each report under this section concerning equip-
7 ment of the National Guard shall also include the fol-
8 lowing:

9 “(1) A statement of the accuracy of the projec-
10 tions required by subsection (b)(5)(D) contained in
11 earlier reports under this section, and an expla-
12 nation, if the projection was not met, of why the
13 projection was not met.

14 “(2) A certification from the Chief of the Na-
15 tional Guard Bureau setting forth an inventory for
16 the preceding fiscal year of each item of equip-
17 ment—

18 “(A) for which funds were appropriated;

19 “(B) which was due to be procured for the
20 National Guard during that fiscal year; and

21 “(C) which has not been received by a Na-
22 tional Guard unit as of the close of that fiscal
23 year.”.

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