

109TH CONGRESS
2D SESSION

S. 2658

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 SENATE OF THE UNITED STATES

APRIL 26, 2006

Mr. BOND (for himself and Mr. LEAHY) introduced the following bill; which was read twice and 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 Defense En-
5 hancement and National Guard Empowerment Act of
6 2006”.

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 for 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 THE
22 NATIONAL 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 advisor”.

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

4 Such section is further amended—

5 (i) by redesignating subsection (d) as sub-
6 section (e); 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 Adjutant
16 Generals 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 such title is amended to read as
 8 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 (e) TERMINATION OF POSITION OF ASSISTANT TO
 19 CHAIRMAN OF JOINT CHIEFS OF STAFF FOR NATIONAL
 20 GUARD MATTERS.—Section 901 of the National Defense
 21 Authorization Act for Fiscal Year 1998 (Public Law 105–

1 85; 111 Stat. 1853; 10 U.S.C. 155 note) is amended to
2 read as follows:

3 **“SEC. 901. ASSISTANT TO THE CHAIRMAN OF THE JOINT**
4 **CHIEFS OF STAFF FOR RESERVE MATTERS.**

5 “(a) IN GENERAL.—There is within the Joint Staff
6 the position of Assistant to the Chairman of the Joint
7 Chiefs of Staff for Reserve Matters.

8 “(b) SELECTION.—The Assistant to the Chairman of
9 the Joint Chiefs of Staff for Reserve Matters shall be se-
10 lected by the Chairman from officers of the Army Reserve,
11 the Navy Reserve, the Marine Corps Reserve, or the Air
12 Force Reserve who—

13 “(1) are recommended for such selection by the
14 Secretary of the military department concerned;

15 “(2) have had at least 10 years of commis-
16 sioned service in their reserve component; and

17 “(3) are in a grade above colonel or, in the case
18 the Navy Reserve, captain.

19 “(c) TERM OF OFFICE.—The Assistant to the Chair-
20 man of the Joint Chiefs of Staff for Reserve Matters
21 serves at the pleasure of the Chairman for a term of two
22 years and may be continued in that assignment in the
23 same manner, for one additional term. However, in a time
24 of war there is no limit on the number of terms.

1 “(d) GRADE.—The Assistant to the Chairman of the
 2 Joint Chiefs of Staff for Reserve Matters while so serving,
 3 holds the grade of major general or, in the case of the
 4 Navy Reserve, rear admiral. The officer serving in the po-
 5 sition shall be considered to be serving in a position exter-
 6 nal to that officer’s Armed Force for purposes of section
 7 721 of title 10, United States Code.

8 “(e) DUTIES.—The Assistant to the Chairman of the
 9 Joint Chiefs of Staff for Reserve Matters is an advisor
 10 to the Chairman on matters relating to the reserves and
 11 performs the duties prescribed for the position by the
 12 Chairman.

13 “(f) OTHER RESERVE COMPONENT REPRESENTA-
 14 TION ON JOINT STAFF.—The Secretary of Defense, in
 15 consultation with the Chairman of the Joint Chiefs of
 16 Staff, shall develop appropriate policy guidance to ensure
 17 that, to the maximum extent practicable, the level of re-
 18 serve component officer representation within the Joint
 19 Staff is commensurate with the significant role of the re-
 20 serve components within the Total Force.”.

21 **SEC. 3. PROMOTION OF ELIGIBLE RESERVE OFFICERS TO**
 22 **LIEUTENANT GENERAL AND VICE ADMIRAL**
 23 **GRADES ON THE ACTIVE-DUTY LIST.**

24 (a) SENSE OF CONGRESS.—It is the sense of Con-
 25 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. REQUIREMENT THAT POSITION OF DEPUTY COM-**
 21 **MANDER OF THE UNITED STATES NORTHERN**
 22 **COMMAND BE FILLED BY A QUALIFIED NA-**
 23 **TIONAL GUARD OFFICER.**

24 (a) IN GENERAL.—The position of Deputy Com-
 25 mander of the United States Northern Command shall be

1 filled by a qualified officer of the National Guard who is
2 eligible for promotion to the grade of lieutenant general.

3 (b) PURPOSE.—The purpose of the requirement in
4 subsection (a) is to ensure that information received from
5 the National Guard Bureau regarding the operation of the
6 National Guard of the several States is integrated into the
7 plans and operations of the United States Northern Com-
8 mand.

○