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AUTHORIZING THE ESTABLISHMENT OF A NATIONAL
GUARD UNIT IN THE VIRGIN ISLANDS

SEPTEMBER 25, 1972.—Ordered to be printed

Mr. ROBERT C. BYRD (for Mr. BENTSEN) from the Committee on Armed Services, submitted the following

REPORT

[To accompany H.R. 3817]

The Committee on Armed Services, to which was referred the bill (H.R. 3817) to amend titles 10 and 32, United States Code, to authorize the establishment of a National Guard for the Virgin Islands, having considered the same, reports favorably thereon with an amendment and recommends that the bill as amended do pass.

EXPLANATION OF THE AMENDMENT

The amendment as approved by the Senate would preclude the Federal recognition of any officer of the Virgin Islands National Guard in a grade above colonel. In view of the limited population of the Virgin Islands and the small National Guard troop structure contemplated for the Virgin Islands, the committee was of the opinion that no federally recognized National Guard rank above colonel could be justified.

PURPOSE OF THE BILL

Under existing law the authority to organize National Guard units is limited to several States, the Commonwealth of Puerto Rico, the District of Columbia and the Canal Zone. There is now no authority for a National Guard in the Virgin Islands. This bill would grant such authority.

EXPLANATION OF THE BILL

This bill would provide authority for the establishment of a National Guard unit in the Virgin Islands.

If a National Guard unit were established in the Virgin Islands, it would be in the position to render immediate assistance in times of disaster. At present the Virgin Islands disaster resources are limited.

The islands themselves are separated by water and, in turn, are separated from their nearest source of aid (Puerto Rico) by approximately 100 miles of water.

Since the Virgin Islands lie in a so-called hurricane belt of the Atlantic and Caribbean, there is a continuing possibility of a national disaster. If the Governor of the Virgin Islands had a National Guard unit immediately available to him, it could aid in alleviating distress in restoring communications and other vital services.

In addition, although there have been no civil disorders of any magnitude in the Virgin Islands in the past, such disturbances have occurred on other islands in the Caribbean, which supply many of the labor force in the Virgin Islands, and the possibility of local disorders cannot entirely be disregarded.

The Virgin Islands police force, approximately 350 in strength, is distributed among the Islands of St. Thomas, St. Croix, and St. John. In the event of a major civil disturbance, the availability of National Guard would significantly reduce the need to call upon Federal authorities for assistance.

There are no military garrisons of any size in or adjacent to the Virgin Islands. Three U.S. Army Reserve military police units, an aggregate strength of 69 members, are stationed in the Virgin Islands. These units are not subject to be ordered to active duty by the Governor. If this bill is enacted the Virgin Island authorities propose to seek the allocation of Army National Guard units consisting of one company to be stationed at St. Thomas, one company to be stationed on St. Croix, and a combined battalion and State headquarters on one of these islands. The Department of Defense has provided this committee with the proposed troop structure as follows:

PROPOSED TROOP STRUCTURE—FOR VIRGIN ISLAND ARNG

Unit	Required	Authorized
State headquarters and headquarters detachment.....	30	30
Military police company.....	170	170
Do.....	170	170
28-piece band.....	29	29
Total.....	399	399

A recapitulation of the command headquarters would be in the following grades

Colonel	1	E-7	3
Lieutenant colonel.....	1	E-6	2
Major	3	E-5	4
Captain	4	E-4	6
Warrant officer.....	2		
E-9	1	Total	30
E-8	3		

The bill, if enacted, provides that participants in the National Guard unit to be established in the Virgin Islands would be entitled to pay and allowances under the appropriate sections of title 37, United States Code.

FISCAL DATA

The Secretary of the Army has assured this committee that enactment of this legislation as proposed will cause no increase in National

Guard strength authorizations or budgetary requirements of the Department of Defense. We are also informed that since current financial plans of the Department of Army do not specifically include support for a National Guard organization in the Virgin Islands, the implementation of the legislation would depend upon the availability of the necessary resources.

The committee has been provided estimates on first year and recurring annual costs and it is the committee's sincere hope that implementation can be accomplished for considerably less.

DEPARTMENTAL POSITION

The Department of the Army, on behalf of the Department of Defense, favors enactment of this legislation. A letter from the Secretary of Defense on similar legislation is set out below as part of this report.

DEPARTMENT OF THE ARMY,
Washington, D.C., April 13, 1972.

HON. JOHN C. STENNIS,
Chairman, Committee on Armed Services,
U.S. Senate.

DEAR MR. CHAIRMAN: Reference is made to your request to the Secretary of Defense for the views of the Department of Defense on S. 2618, 92d Congress, a bill to amend titles 10 and 32, United States Code, to authorize the establishment of a National Guard for the Virgin Islands. The Department of the Army has been assigned responsibility for expressing the views of the Department of Defense on this bill.

The title of the bill states its purpose.

The Department of the Army on behalf of the Department of Defense has considered the bill.

Under existing law, the authority to organize and maintain National Guard units is limited to the several States, the Commonwealth of Puerto Rico, the Canal Zone, and the District of Columbia. There is no National Guard in the Canal Zone.

It would be desirable to have National Guard units available to the government of the Virgin Islands in case of natural disaster, and to provide military aid to civil authorities in the case of local disorder.

While the Virgin Islands have escaped the ravages of severe tropical storms in recent past, they lie in the so-called "Hurricane Belt" of the Atlantic and Caribbean, and such storms and other natural disasters might occur at almost any time.

Again, while they have experienced no civil disorders of any magnitude for many years, such disturbances have been occurring on other islands of the Caribbean which supply a considerable number of the alien and migrant laborers in the Virgin Islands, and the possibility of similar disorders in this area cannot be altogether eliminated.

The Virgin Islands police force, currently numbering about 350, is distributed among the islands of St. Thomas, St. Croix, and St. John. This is the only force immediately available to the Governor. It is, therefore, apparent that in the event of a natural disaster, or the threat or existence of civil disorder, the Governor would almost immediately have to request manpower and other assistance from Federal authorities.

There are no military garrisons of any size in or adjacent to the Virgin Islands. Three U.S. Army Reserve Military Police units, with an aggregate strength of 69 members, are stationed in the Virgin Islands. These units are not subject to being ordered to active duty by the Governor.

The Army Reserve units in the Virgin Islands have experienced no difficulty in maintaining their enlisted strength, and currently have both prior service and nonprior service applicants awaiting the opportunity to enlist.

The Governor and the legislature of the Virgin Islands have indicated a desire to organize a national guard. If the legislation is enacted, it is probable that authority would be requested to organize one Army National Guard company on St. Thomas, another on St. Croix, and a small combined battalion and State headquarters, on one of these islands, with an authorized strength of about 460. Little difficulty is anticipated in recruiting for the National Guard, or in obtaining whatever financial support might be required from the local government. Junior commissioned officers would probably have to be provided through officer candidate schools of the National Guard and Active Army.

The existence of such a force, available upon call by the local government, could be expected to reduce, if not eliminate, requests for Federal assistance in the kinds of emergencies that may be expected to arise. The presence of readily available units on the ground could also be expected to reduce the likelihood and the disruptive effect of civil disorders.

There is no current intention to establish Air National Guard units for the Virgin Islands.

In order to insure that members of the Virgin Islands National Guard will be entitled to pay and allowances under title 37, United States Code, it is recommended that the definitions in clauses (7) and (9) of section 101 of that title be amended by adding the Virgin Islands to the list of jurisdictions whose organized militias are included in the terms "Army National Guard" and "Air National Guard."

For the foregoing reasons, the Department of the Army on behalf of the Department of Defense recommends that H.R. 3817, 92d Congress which passed the House of Representatives on November 1, 1971, and contains the amendment recommended above, be favorably considered and enacted in place of S. 2618.

Enactment of the bill would cause no increase in National Guard strength authorizations or budgetary requirements of the Department of Defense. Since current financial plans of the Department of the Army do not specifically include support for a national guard unit in the Virgin Islands, implementation of the legislation will depend on the availability of necessary resources.

This report has been coordinated within the Department of Defense in accordance with procedures prescribed by the Secretary of Defense.

The Office of Management and Budget advises that, from the standpoint of the administration's program, there is no objection to the presentation of this report for the consideration of the committee.

Sincerely,

(Signed) ROBERT F. FROEHLKE,
Secretary of the Army.

CHANGES IN EXISTING LAW

In compliance with paragraph 4 of rule XXIX of the Standing Rules of the Senate, changes in existing law proposed to be made by the bill are shown as follows: New matter is printed in italic and existing law in which no change is proposed is shown in roman.

TITLE 10, UNITED STATES CODE

ARMED FORCES

Subtitle A—General Military Law

PART I. ORGANIZATION AND GENERAL MILITARY POWERS

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CHAPTER 1.—DEFINITIONS

§ 101. Definitions

In addition to the definitions in sections 1–5 of title 1, the following definitions apply in this title:

* * * * *

(2) *Except as provided in section 101(1) of title 32 for laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, “Territory” means any Territory organized after this title is enacted, so long as it remains a Territory.*

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TITLE 32, UNITED STATES CODE

NATIONAL GUARD

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CHAPTER 1.—ORGANIZATION

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§ 101. Definitions

In addition to the definitions in section 1–5 of title 1, the following definitions apply in this title:

(1) “Territory” means any Territory organized after this title is enacted, so long as it remains a Territory. *However, for purposes of this title and other laws relating to the militia, the National Guard, the Army National Guard of the United States, and the Air National Guard of the United States, “Territory” includes the Virgin Islands.*

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CHAPTER 3. PERSONNEL

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§ 307. Federal recognition of officers: examination; certificate of eligibility

(a) To be eligible for Federal recognition as an officer of the National Guard, a person must—

(1) receive an appointment with a view to filling a vacancy in a federally recognized unit or organization of the National Guard;

(2) have the qualifications prescribed by the Secretary concerned for the grade, branch, position, and type of unit or organization involved; and

(3) except as provided in subsection (d) and (e) of this section and sections 8365 and 8366 of title 10, pass an examination for physical, moral, and professional fitness to be prescribed by the President, and subscribe to the oath of office prescribed by section 312 of this title.

(b) The examination prescribed by subsection (a)—

(1) shall be conducted, for the Army National Guard by a board of three commissioned officers designated by the Secretary of the Army from members of the Regular Army or the Army National Guard of the United States, or both, and for the Air National Guard, by a board of three commissioned officers designated by the Secretary of the Air Force from members of the Regular Air Force or the Air National Guard of the United States, or both; and

(2) may be held before original appointment or promotion.

(c) If such a board finds a person qualified, the Chief of the National Guard Bureau may issue to him a certificate of eligibility for Federal recognition for the office for which he was found qualified if he is originally appointed or promoted within two years to that office, he is entitled to Federal recognition without further examination, except as to physical condition.

(d) Subject to subsection (a) (1) and (2) and to such physical examination as may be prescribed, Federal recognition shall be extended to each officer of the Army Reserve who has qualified for appointment as an officer of the Army National Guard in his reserve grade. Similarly, Federal recognition shall be extended to each officer of the Air Force Reserve who has qualified for appointment as an officer of the Air National Guard. Federal recognition extended under this subsection is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

(e) Subject to subsection (a) (1) and (2), Federal recognition shall be extended to each officer of the Air Force Reserve who is appointed in a commissioned grade in the Air National Guard to fill a vacancy, if on the date on which he is appointed his reserve grade is the same as the grade in which he is appointed or his name is on a recommended list for promotion to that reserve grade.

(f) Federal recognition extended under subsection (d) or (e) is effective from the date of appointment in the Army National Guard or the Air National Guard, as the case may be.

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(g) *Federal recognition may not be extended in the case of any member of the National Guard of the Virgin Islands in any grade above colonel.*

TITLE 37, UNITED STATES CODE

PAY AND ALLOWANCES OF THE UNIFORMED SERVICES

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CHAPTER 1. DEFINITIONS

§ 101. Definitions

In addition to the definitions in sections 1–5 of title 1, for purposes of this title—

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(7) “Army National Guard” means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, the *Virgin Islands*, and the District of Columbia, active and inactive, that—

(A) is a land force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized;

(8) “Army National Guard of the United States” means the reserve component of the Army all of whose members are members of the Army National Guard;

(9) “Air National Guard” means that part of the organized militia of the several States, Puerto Rico, the Canal Zone, the *Virgin Island*, and the District of Columbia, active and inactive, that—

(A) is an air force;

(B) is trained, and has its officers appointed, under the sixteenth clause of section 8, article I, of the Constitution;

(C) is organized, armed, and equipped wholly or partly at Federal expense; and

(D) is federally recognized;

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