CHAPTER 37-03
ADJUTANT GENERAL

37-03-01. Adjutant general - Appointment - Qualifications - Term - Salary - Office at capital - Removal.

The governor shall appoint the adjutant general. Each candidate for the office must have been a federally recognized commissioned officer of the national guard for a period of at least three years immediately preceding the appointment, must have obtained the rank of lieutenant colonel or higher, and must have completed the educational requirements for appointment as a federally recognized general officer. The term of office is for six years and commences on July 1, 2001, and on every sixth anniversary thereof. The governor shall fill a vacancy for an unexpired term. The salary of the adjutant general must be within the appropriation for salaries by the legislative assembly. The adjutant general must have an office at the state capital. The provisions of chapter 37-04 relating to the vacation of commissions, retirement, and discharge apply to the adjutant general.

37-03-02. Assistant adjutants general - Appointment - Qualifications - Duties.

An assistant adjutant general for army, an assistant adjutant general for air force, and other assistant adjutants general authorized by a table of organization prescribed by the laws or regulations of the United States may be appointed by the governor upon the recommendation of the adjutant general. Each assistant adjutant general must have had not less than five years' commissioned service in the North Dakota national guard immediately preceding the appointment and must have attained the rank of lieutenant colonel. Upon appointment, each assistant adjutant general must have the rank as is consistent with federal laws and regulations. The assistant adjutant general for army and the assistant adjutant general for air force have general supervision over the training of the troops and the administration of the affairs of their respective departments. An assistant adjutant general for the department of military records may be appointed by the governor upon recommendation of the adjutant general from among the active or retired officers of the North Dakota national guard. The assistant adjutant general for military records must have the rank as is consistent with experience and length of service.

37-03-03. Seal of adjutant general - Delivery to successor.

The adjutant general shall have a seal of office and such seal must be delivered by the adjutant general to the successor to that office.

37-03-04. Assistance and expense of office - Payment of accounts.

The adjutant general may have such necessary clerks, instructors, caretakers, employees, and laborers, within the limitations prescribed in appropriations made by the legislative assembly from time to time, as may be required. The adjutant general shall determine national guard membership requirements for employment. The expense of the adjutant general's department, including the salary of the adjutant general and of the assistant adjutant general, clerkhire, the cost of furniture, light, fuel, and postage, and other office expenses, must be paid from the general fund by warrants drawn by the state auditor on the state treasurer upon the order of the governor.

37-03-05. General duties of adjutant general.

The adjutant general is in active control of the military department of this state and shall:

1. Perform the duties pertaining to the adjutant general and other chiefs of staff departments under the regulations and customs of the United States army.
2. Superintend the preparation of all military returns and reports required by the United States from this state.
3. Keep a register of all the officers of the militia and national guard of this state.
4. Keep in the office of the adjutant general all records and papers required to be kept and filed in the office.

5. Cause to be prepared and issued all necessary blank books, blanks, forms, and notices required to carry into full effect this title. All such books and blanks are the property of this state.
6. Adopt any regulations relating to the preparation of reports and returns, and to the care and preservation of military property belonging to this state and to the United States, as in the adjutant general's opinion the conditions demand. The regulations are operative when promulgated in the form of general orders, circulars, or letters of instruction.
7. Render annually to the governor a statement in detail showing the acquisition and disposition of all clothing, ordnance, arms, ammunition, and other military property on hand or issued.
8. Keep in the office of the adjutant general a list of the retired officers of the organized militia, showing age, military experience, and training of each.
9. Perform all other duties prescribed for the adjutant general by law.

37-03-05.1. Biennial report.

The adjutant general may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04. If submitted, the report must include a detailed statement of all the expenditures for military purposes during the preceding two fiscal years.

37-03-06. Adjutant general responsible for military property in state - Requirements governing shipment - Reports.

The adjutant general is responsible for all arms, ordnance, accoutrements, equipment, and other military property which may be issued to this state by the secretary of defense in compliance with law. The adjutant general shall prepare a return of said arms and other property of the United States at the times and in the manner requested by the secretary of defense. Upon the order of the governor, the adjutant general shall turn into the ordnance department of the United States army the rifles, carbines, bayonets, bayonet scabbards, gun slings, belts, and such other necessary accoutrements and equipment, the property of the United States in possession of this state, which may be replaced from time to time by new arms and equipment sent by the United States in substitution therefor, and shall cause the same to be shipped under instructions from the secretary of defense to the designated arsenal or depot at the expense of the United States. When the national guard of this state is fully armed and equipped with standard service magazine arms and the standard equipment and accoutrements of the United States army, the adjutant general shall cause all the remaining arms and equipment, the property of the United States and in possession of this state, to be transferred and shipped as directed in this section.

37-03-07. Military property - Issuance - Purchase.

The adjutant general shall issue, or cause to be issued, all military property. No military property may be issued to persons or organizations other than those belonging to the national guard of this state or to such portions of the reserve militia as may be called out by the governor. Purchases of property must be by the office of management and budget or as otherwise provided by law. In case of insurrection, invasion, tumult, riot, or breaches of the peace, or of imminent danger thereof, or other exigency, the governor, upon the certificate of the commanding officer of the national guard, may suspend temporarily the operation of this section and direct the adjutant general to purchase in the open market such military property as may be required. The adjutant general shall report such action, with the reason therefor, and a statement of the property purchased and the prices paid therefor, to the legislative assembly at its next session.

37-03-08. Unsuitable military property - Disposal.

All military property of this state found unsuitable after proper inspection must be disposed of by the adjutant general, by sealed bid or at public auction, after advertisement of the same has been published once each week for three consecutive weeks in the official newspaper of

the county where the sale is to take place, or it may be sold at private sale when ordered by the governor. In the case of scrap material, it may be sold to established scrap dealers at current prices. The adjutant general shall suspend the sale whenever, in the adjutant general's opinion, better prices may or should be obtained. The adjutant general shall deposit all sale revenues in the state treasury and it must be credited to the national guard improvement fund established by section 37-03-13, which is not subject to the provisions of section 54-44.1-11.

37-03-09. Funds for national guard - Plan of proposed field service to be submitted before receiving.

In order that the national guard may receive the benefit of the funds provided by the Congress of the United States, the adjutant general shall submit a plan of proposed field or camp service of instruction prepared by the commanding officer of the national guard for the ensuing year. Such plan must contain an estimate of the funds required for payment, subsistence, and transportation of that portion of the national guard participating therein. The estimate must contain the details and must be made out in the form required by instructions from the secretary of defense.

37-03-10. Adjutant general to request names of officers at educational institutions qualified to act as officers.

Repealed by S.L. 1953, ch. 223, § 9.

37-03-11. Compilation of military law by adjutant general - Distribution - Textbooks and reports issued.

The adjutant general, when necessary, shall cause the military law, the general regulations of this state, and the articles of uniform code of military justice of the United States, to be printed, indexed, and bound in proper and compact form at the expense of the state and shall distribute one copy thereof to each unit or separate headquarters and to each commissioned officer of this state. The adjutant general shall issue to each commissioned officer and headquarters, one copy of each necessary textbook and of such annual reports concerning the militia as the governor may direct.

37-03-12. Adjutant general to compile and distribute record of men and women in military service.

Repealed by S.L. 2001, ch. 233, § 2.

37-03-13. Adjutant general to control military installations - Maintenance fund - Insurance.

The adjutant general of the state of North Dakota has full control of Camp Gilbert C. Grafton, Ramsey County, Fraine Barracks, Burleigh County, national guard air base facilities constituting a portion of Hector Airfield in Cass County, all in North Dakota and such other real property, installations, and facilities that may be acquired or leased by this state or the office of the adjutant general for military purposes. All moneys received from the sale of timber, stone, agricultural products, or other material taken from the properties and the proceeds of any leases or subleases thereof and other proceeds from the sale of military property must be paid into the state treasury, and kept as a separate fund and are hereby appropriated for the improvement of the properties for military uses and must be paid out upon proper vouchers approved by the adjutant general in accordance with the act of Congress granting the lands, installations, or facilities to the state of North Dakota or as otherwise authorized by law.

The adjutant general, after consultation with the insurance commissioner, shall insure with the state fire and tornado fund in accordance with chapter 26.1-22 such buildings, installations, and facilities or their contents or portions thereof as the adjutant general determines to be in the best interests of the state. The adjutant general may not insure buildings or property that are subject to replacement by the United States.

37-03-14. North Dakota veterans' cemetery - Administration.

The adjutant general shall establish and operate the North Dakota veterans' cemetery, which the adjutant general shall locate within or adjacent to Fort Abraham Lincoln state park. The adjutant general may accept and expend private and federal funds to establish and operate the veterans' cemetery. All moneys received from private or federal sources must be paid to the state treasurer for deposit into the veterans' cemetery maintenance fund. The adjutant general, with the approval of the governor, may enter into an agreement with the director of the parks and recreation department for the maintenance of the cemetery. The adjutant general shall provide lots in the state veterans' cemetery for the interment of deceased members of the national guard, other reserve components, and veterans, and their spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support. The adjutant general may adopt, amend, or rescind any rules under chapter 28-32 as deemed necessary to implement and administer this section.

37-03-15. Training facility designated.

The training facility located at Camp Grafton (South) is to remain a part of the overall Camp Grafton training complex but is designated as the Major General C. Emerson Murry regional live fire and maneuver training center.

37-03-16. Adjutant general - Provision of funding - Source.

The adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council, from the operating expenses line item in the appropriation bill for the adjutant general, as approved by the legislative assembly.

37-03-17. North Dakota adjutant general and disaster response coin - Presented by whom - Qualifications.

The adjutant general may present an adjutant general coin to deserving individuals who have distinguished themselves through exceptional service to the mission of the North Dakota national guard or department of emergency services. The adjutant general may present a disaster response coin to deserving individuals who have distinguished themselves through exceptional service during times of disaster or emergency in the state.