CHAPTER 151

HOUSE BILL 2223

AN ACT

AMENDING SECTIONS 26-101, 26-102, 26-153, 26-156, 26-175, 26-179, 26-180 AND 26-181, ARIZONA REVISED STATUTES; RELATING TO THE NATIONAL GUARD.

(TEXT OF BILL BEGINS ON NEXT PAGE)
Be it enacted by the Legislature of the State of Arizona:

Section 1. Section 26-101, Arizona Revised Statutes, is amended to read:

**26-101. Department of emergency and military affairs; organization; adjutant general; qualifications**

A. The department of emergency and military affairs is established consisting of the division of emergency management and other divisions or offices as determined by the adjutant general pursuant to section 26-102, subsection C, paragraph 8.

B. The department shall consist of the adjutant general and such other officers, warrant officers, enlisted personnel and employees as deemed necessary.

C. The department shall be administered and controlled by the governor as commander-in-chief. The adjutant general shall be the director of the department.

D. The adjutant general shall be appointed by the governor pursuant to section 38-211 and shall serve at the pleasure of the governor. The person appointed shall be a citizen of the United States, have served two of the five years immediately preceding appointment in the National Guard in the state or territory where the person is an assigned member and establish their domicile in Arizona for residency purposes within ninety days after appointment. In appointing the adjutant general, the governor may give preference to a person who has served in the National Guard of this state. At the time of the appointment, the person appointed shall have qualifications required by the United States department of defense for the adjutant general and shall attain federal recognition in a grade not less than brigadier general not later than two years after the appointment. Failure to meet these qualifications, failure to retain federal recognition or attainment of the age provided by federal law relating to state adjutants general shall terminate the appointment.

E. The adjutant general shall receive compensation as determined pursuant to section 38-611 and shall devote full time to the office.

F. At the time of appointment, the adjutant general shall receive the state rank of major general and, at that time, shall become the ranking officer in the department of emergency and military affairs.

Sec. 2. Section 26-102, Arizona Revised Statutes, is amended to read:

**26-102. Powers and duties of the adjutant general**

A. The adjutant general shall serve as head of the department and, subject to the orders of the commander in chief, command the National Guard of this state. The governor as commander in chief shall administer and control the national guard, and the adjutant general is responsible to the governor for execution of all orders relating to the militia, organization, activation, reactivation, inactivation and allocation of organizing, activating, reactivating, inactivating and
ALLOCATING units, recruiting of personnel, public relations and discipline
DISCIPLINING and training of the national guard and those members of the
militia inducted into the service of this state as provided in this
chapter. The adjutant general shall act as military chief of staff to the
governor and chief AS THE COMMANDING GENERAL of all branches of the
militia. The adjutant general may belong to the national association and
other organizations for the betterment of the national guard, subscribe to
and obtain periodicals, literature and magazines of such other
organizations and pay dues and charges from monies of this state
appropriated for that purpose. Except for the authority expressly
reserved for the governor, the adjutant general is responsible for
emergency management, and all emergency activities are subject to the
approval of the adjutant general.

B. The adjutant general, as the military chief of staff, shall:
1. Act as military advisor to the governor and perform, as the
governor prescribes, military duties not otherwise designated by law.
2. Adopt methods of administration for the national guard that are
not inconsistent with laws and regulations of the United States department
of defense or any subdivision of the United States department of defense.
3. Supervise and direct the organization, regulation, instruction
and other activities of the national guard.
4. Attest and record all commissions issued by the governor and
maintain a register of all commissioned personnel.
5. Keep a record of all orders and regulations pertaining to the
national guard and all other writings and papers relating to reports and
returns of units comprising the national guard and militia.
6. Superintend the preparation of returns, plans and estimates
required by this state, by the department of the army, air force or navy
and by the United States secretary of defense.
7. Control the use of and care for, preserve and maintain all
military property belonging to or issued to this state and pay from monies
appropriated by the legislature for these purposes the necessary expenses
for labor and material incurred in the repair of REPAIRING military
property.
8. Dispose of unserviceable military property belonging to this
state, account for the proceeds and transmit the proceeds to the morale,
welfare and recreational fund established by section 26-153.
9. Authenticate with the seal of the office of the adjutant general
all orders and copies of orders issued by the adjutant general's
office. An authenticated copy has the same force and effect as the
original.
10. Present to the governor before each regular session of the
legislature, or as otherwise required, an estimate of the financial
requirements for state monies for operation of OPERATING the department
and the national guard during the next fiscal year.
C. The adjutant general, as head of the department, shall:
1. Be the administrator of the department.
2. Coordinate the functions of the divisions and offices of the department.
3. Subject to title 41, chapter 4, article 4 and, as applicable, article 5, appoint, suspend, demote, promote or dismiss employees of the department. The adjutant general may delegate this authority.
4. Appoint an auditor for the department to conduct periodic financial and compliance audits of each division and office in the department and perform other duties as prescribed by law. At least annually the auditor shall audit accounts that are open for more than twelve months. The auditor shall determine within the department compliance with purchase and bidding procedures prescribed by law.
5. Adopt, with the approval of the governor, rules necessary for the operation of the department and for organizing and governing the national guard and authorized employees. Rules that are adopted for the national guard and authorized employees pursuant to this paragraph shall be in force and effect when approved by the governor.
6. Establish and administer accounts for federal, state or other monies made available to carry out the functions of the department.
7. As deemed necessary, appoint to peace officer status members of the Arizona national guard who have been awarded a United States army military occupational specialty as military policeman or a United States air force specialty code as security policeman or who have served as a law enforcement officer in any branch of the United States armed forces or as a special agent of a military criminal investigative organization within the United States department of defense. Before appointment as peace officers, the individuals must successfully complete a course of study to be prescribed by the Arizona peace officer standards and training board. Individuals appointed as peace officers pursuant to this paragraph, when performing duties at facilities or on land operated or controlled by or under the jurisdiction of the adjutant general, have all the powers, privileges and immunities of peace officers provided by law. Individuals appointed as peace officers pursuant to this paragraph are not eligible to participate in funding provided by the peace officers' training fund established by section 41-1825 or in the public safety personnel retirement system.
8. Establish, abolish or reorganize the positions or organizational structure within the department, subject to legislative appropriation, if, in the adjutant general's judgment, the modification would make the operation of the department more efficient, effective or economical.
9. Establish an educational program for persons who have previously dropped out of high school and who are under twenty years of age but who are not adjudicated delinquent. The educational program shall be
designated "project challenge" and the program shall be conducted by the national guard of Arizona in a paramilitary environment. The goal of the educational program is to provide persons who are enrolled in the program with the knowledge and skills necessary to become productive citizens and to obtain a general equivalency diploma. In addition to monies appropriated for the program, the adjutant general may accept and spend monies from any other lawful public or private source.

10. Submit to the governor, the president of the senate and the speaker of the house of representatives annually by September 1 a report for the department for the preceding fiscal year including THAT INCLUDES:
   (a) The strength and condition of the national guard.
   (b) The business transactions of the department.
   (c) A detailed statement of expenditures for all military and civilian purposes.
   (d) The disposition of all military and civilian property on hand or issued.
   (e) A description of the activity in the camp Navajo fund established by section 26-152.
   (f) A detailed statement of the national guard postsecondary education reimbursement program pursuant to section 26-181, subsection D.

D. The adjutant general, with the approval of the governor, may:
1. Enter into contracts with individuals, this state, political subdivisions of this state or the federal government and its agencies for the purchase, acquisition, rent or lease of lands, buildings or military materiel and take title in the name of this state for the establishment and maintenance of armories, subject to legislative appropriation for these purposes.
2. Procure and contract for procurement of equipment and its issuance to members of the militia inducted into the service of this state.
3. Enter into agreements and plans with the state universities, the community colleges or any educational institution supported by federal or state monies for the promotion of the best interests of the national guard and military training of students of the institutions.
4. Lease property acquired under this chapter for any public purpose for a period of one year that is renewable.
5. Convey for any public purpose in the name of this state easements on real property acquired under this chapter.
6. Enter into contracts or agreements with the federal government that are deemed to be in the best interest of this state and the national guard.
7. Delegate the powers and duties prescribed in this section.
8. Adopt methods of security for the national guard reservations or facilities that are consistent with the laws, regulations or directives of the United States department of defense or any subdivision of the United States department of defense and the laws of this state.
Sec. 3. Section 26-153, Arizona Revised Statutes, is amended to read:

26-153. Morale, welfare and recreational fund; sources of monies; exemptions

A. The morale, welfare and recreational fund is established as a state fund for morale, welfare and recreational activities and support personnel for the national guard. Support personnel shall be employees of the fund and not of this state. The adjutant general shall administer the fund subject to approval of the governor. Monies shall be deposited, pursuant to sections 35-146 and 35-147, in the fund from the following sources:

1. Monies transferred by the director of the department of transportation pursuant to section 28-2415.
2. Monies deposited pursuant to section 26-102, subsection B, paragraph 8 or monies generated from recycling activities consistent with federal recycling policies.
3. GIFTS, DONATIONS AND CONTRIBUTIONS TO THE DEPARTMENT ACCEPTED BY THE ADJUTANT GENERAL.
4. Any other nonappropriated monies received by the national guard from state and federal revenue producing military activities relating to morale, welfare and recreation.

B. Monies in the fund are from nonappropriated sources, are not subject to legislative appropriation and are exempt from the provisions of section 35-190 relating to lapsing of appropriations. The adjutant general may establish bank accounts for monies withdrawn from the fund to administer the operations of the morale, welfare and recreational programs.

C. On notice from the adjutant general, the state treasurer shall invest and divest monies in the fund as provided by section 35-313, and monies earned from investment shall be credited to the fund.

D. Expenditures of monies in the fund are subject to rules adopted by the department of emergency and military affairs and are exempt from the procurement code requirements of title 41, chapter 23.

Sec. 4. Section 26-156, Arizona Revised Statutes, is amended to read:

26-156. Pay of personnel

A. Officers and enlisted personnel of the national guard shall while on state ACTIVE duty by order of the governor or adjutant general receive the same pay and allowance, including longevity pay, as prescribed for respective grades in the armed forces of the United States. PERSONNEL ON STATE ACTIVE DUTY FOR MORE THAN THIRTY CONSECUTIVE DAYS SHALL RECEIVE THE SAME LEAVE ENTITLEMENTS PRESCRIBED FOR THE UNITED STATES ARMED FORCES.

B. Service for longevity pay shall include all time served in the national guard of the THIS state prior to June 3, 1916, and all time served in the armed forces and national guard of the United States and the
organized reserve. In addition, enlisted personnel shall receive a salary recommended by the adjutant general and approved by the governor.

Sec. 5. Section 26-175, Arizona Revised Statutes, is amended to read:

26-175. Active duty tours for volunteers during peace time
A. The adjutant general may, when he deems it necessary to the accomplishment of a mission of the national guard, call to active duty in peace time to perform special and designated services any officer or enlisted personnel of the national guard who volunteers for such service.
B. The officer or enlisted personnel shall receive full pay and allowances, including longevity pay, prescribed for an officer or enlisted personnel of the regular services of the same grade or rank. Personnel on state active duty for more than thirty consecutive days shall receive the same leave entitlements prescribed for the United States armed forces. Such personnel shall be paid from monies of the state appropriated for such purposes.

Sec. 6. Section 26-179, Arizona Revised Statutes, is amended to read:

26-179. Tuition and fees reimbursement; eligibility; exemption
A. Any qualified national guardsman, spouse of a national guardsman, legal dependent of a national guardsman or employee of the department of emergency and military affairs who has completed a semester as a full-time or part-time graduate or undergraduate student at a public or private postsecondary educational institution for which credit toward a degree or diploma is granted or a certificated vocational technical school in this state may apply for a tuition and fees reimbursement. The adjutant general shall annually adopt policies and procedures to allocate the appropriated monies in a manner consistent with the personnel needs of the Arizona national guard and the department, except that no right to reimbursement exists beyond the amounts appropriated by the legislature. The appropriations made in this section are exempt from the provisions of section 35-190 relating to lapsing of appropriations, except that all monies remaining unexpended or unencumbered ninety days after the close of that fiscal year revert to the state general fund.
B. To be eligible for tuition and fees reimbursement, a national guardsman shall meet all of the following:
1. Be a bona fide member of an Arizona army national guard unit or Arizona air national guard unit throughout each semester for which he applies for such reimbursement.
2. Have satisfactorily completed initial active duty service.
3. Have satisfactorily performed duty upon return from initial active duty training, including a minimum of ninety percent attendance on scheduled drill dates and at annual training with his parent unit.
4. Maintain an average academic grade of "C" or better for each semester.

5. Not be eligible for a certificate of eligibility and benefits under the veterans' readjustment benefits act of 1966 for the same period.

C. TO BE ELIGIBLE FOR TUITION AND FEES REIMBURSEMENT, A SPOUSE OR DEPENDENT OF A NATIONAL GUARDSMAN SHALL MEET ALL OF THE FOLLOWING:

1. BE THE LEGAL SPOUSE OR LEGAL DEPENDENT OF AN ARIZONA NATIONAL GUARDSMAN WHO MEETS THE CRITERIA UNDER SUBSECTION B, PARAGRAPHS 1, 2 AND 3 OF THIS SECTION.

2. BE REGISTERED AS THE LEGAL SPOUSE OR LEGAL DEPENDENT OF AN ARIZONA NATIONAL GUARDSMAN IN THE DEFENSE ENROLLMENT ELIGIBILITY REPORTING SYSTEM OR ITS SUCCESSOR SYSTEM.

3. MAINTAIN AN AVERAGE ACADEMIC GRADE OF "C" OR BETTER FOR EACH SEMESTER.

D. TO BE ELIGIBLE FOR TUITION AND FEES REIMBURSEMENT, AN EMPLOYEE OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS SHALL MEET ALL OF THE FOLLOWING:

1. BE A BONA FIDE EMPLOYEE OF THE DEPARTMENT THROUGHOUT EACH SEMESTER FOR WHICH THE MEMBER APPLIES FOR REIMBURSEMENT.

2. HAVE A CURRENT JOB PERFORMANCE EVALUATION OF "MEETS EXPECTATIONS" OR ITS EQUIVALENT.

3. MAINTAIN AN AVERAGE ACADEMIC GRADE OF "C" OR BETTER FOR EACH SEMESTER.

4. MEET THE REQUIREMENTS PRESCRIBED BY THE DEPARTMENT OF ADMINISTRATION FOR TUITION REIMBURSEMENT FOR EDUCATION AND THE POLICIES AND PROCEDURES ADOPTED BY THE ADJUTANT GENERAL, INCLUDING ANY REQUIREMENT TO REMAIN EMPLOYED WITH THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS FOR A DEFINED PERIOD OF TIME OR BE REQUIRED TO RETURN ALL OR A PORTION OF THE AMOUNT OF TUITION AND FEES REIMBURSEMENT RECEIVED.

Sec. 7. Section 26-180, Arizona Revised Statutes, is amended to read:

26-180. Application for tuition and fees reimbursement; times
A. AN application for tuition and fees reimbursement shall be submitted to the office of the adjutant general.

B. WITHIN FIFTEEN NOT LATER THAN TWENTY-ONE days after registration for the beginning of each semester or term, the NATIONAL guardsman, SPOUSE OR DEPENDENT OF THE NATIONAL GUARDSMAN OR EMPLOYEE OF THE DEPARTMENT OF EMERGENCY AND MILITARY AFFAIRS shall submit an application for reimbursement, a certificate of enrollment AND a notarized statement that the certificate of enrollment and copies of receipts for tuition and fees for such THAT semester are the applicant's.

C. Within twenty-five days after completion of the semester, the guardsman APPLICANT shall submit his THE APPLICANT'S official grade reports.

D. PURSUANT TO SECTION 26-179, SUBSECTION A, THE ADJUTANT GENERAL SHALL FUND THE TUITION AND FEES REIMBURSEMENT FOR APPLICANTS IN ACCORDANCE
WITH THE POLICIES AND PROCEDURES ADOPTED TO SUPPORT THE PERSONNEL NEEDS OF
THE ARIZONA NATIONAL GUARD AND THE DEPARTMENT OF EMERGENCY AND MILITARY
AFFAIRS IN THE FOLLOWING ORDER:

1. ELIGIBLE MEMBERS OF THE ARIZONA NATIONAL GUARD.
2. ELIGIBLE SPOUSES AND DEPENDENTS OF MEMBERS OF THE ARIZONA
NATIONAL GUARD.
3. ELIGIBLE EMPLOYEES OF THE DEPARTMENT OF EMERGENCY AND MILITARY
AFFAIRS PURSUANT TO RULES ADOPTED BY THE DEPARTMENT OF ADMINISTRATION FOR
TUITION REIMBURSEMENT FOR EDUCATION.

Sec. 8. Section 26-181, Arizona Revised Statutes, is amended to read:

26-181. Evaluation of applications; payment of tuition and
fees reimbursement; report

A. Subsequent to submission of applicants submit their grade
reports, the adjutant general shall evaluate the applications for tuition
and fees reimbursement and make payment to those applicants the
adjutant general determines to be eligible.

B. Such reimbursement is subject to legislative appropriation and
shall not exceed:

1. The maximum amount charged for in-state tuition and fees at a
state university during that academic year.
2. The amount spent by the national guardsman for in-state tuition and fees.

C. Such reimbursement payment shall be made within forty-five
days from the date of receipt of the applicant's grade reports for
the semester for which reimbursement is to be paid.

D. The adjutant general shall report the following information as
provided by section 26-102, subsection C, paragraph 10:

1. The total number of national guardsmen who received
reimbursement payments pursuant to this section during the preceding
fiscal year.
2. The number of newly recruited national guardsmen who received
reimbursement payments pursuant to this section during the
preceding fiscal year.

3. The total number of spouses and dependents of national guardsmen
who received reimbursement payments pursuant to this section during the
preceding fiscal year.

4. The total number of employees of the Department of Emergency and
Military Affairs who received reimbursement payments pursuant to this
section during the preceding fiscal year.

5. The total amount of monies spent by the national
guard for reimbursement payments pursuant to this section during the
preceding fiscal year.