

## **CHAPTER 37-02 ORGANIZATION OF MILITIA**

### **37-02-01. Militia - How constituted - Exceptions.**

All able-bodied male citizens and all able-bodied males of foreign birth who have declared an intention to become citizens, who are between the ages of eighteen and forty-five years and who are residents of this state, and other volunteers allowed by law constitute the militia unless exempted by the laws of the United States or by the laws of this state.

### **37-02-02. North Dakota national guard - Composition.**

The North Dakota national guard consists of regularly enlisted and enrolled members within the age limits prescribed by federal law; organized, armed, and equipped as provided in this title and of commissioned officers within the ages conforming to the rules and regulations promulgated by the department of the army and department of the air force as conditions precedent to federal recognition.

### **37-02-03. How strength and organization of national guard units prescribed.**

The strength and organization of units of the national guard must be prescribed by regulations and orders of the defense department of the United States promulgated from time to time by proper authority.

### **37-02-04. Governor to be commander in chief of militia - Inability of governor to act.**

The military establishment of this state consists of a department of the army, a department of the air force, and a department of military records. The governor of this state, by virtue of that office, is commander in chief of the military establishment except as to such portions thereof as at times may be in the service of the United States. The adjutant general as chief of staff in the name of the governor shall transmit orders to staff officers and commanders of subordinate units. Whenever the governor is unable to perform the duties of commander in chief, the adjutant general is in command.

### **37-02-05. Attorney general to be legal adviser of governor and adjutant general.**

The attorney general of this state is the legal adviser of the governor and of the adjutant general.

### **37-02-06. Staff of governor.**

1. The staff of the governor consists of:
  - a. The adjutant general is the chief of staff and holds a rank consistent with that individual's length of service and federal laws and regulations, but not to exceed the rank of lieutenant general.
  - b. An assistant adjutant general for army who must hold a rank consistent with that individual's length of service and federal laws and regulations, but not to exceed the rank of brigadier general.
  - c. An assistant adjutant general for air force who must hold a rank consistent with that individual's length of service and federal laws and regulations, but not to exceed the rank of brigadier general.
  - d. Other assistant adjutants general authorized by a table of organization prescribed by the laws or regulations of the United States or laws of this state who must hold a rank consistent with length of service and federal laws and regulations, but not to exceed the rank of brigadier general.
2. The governor shall deputize one of the assistant adjutant generals to serve as deputy adjutant general. The deputy has all the powers and duties of the adjutant general, except in instances where authority has been restricted by the adjutant general, and shall serve as acting adjutant general in case of the absence or inability of the adjutant general.

**37-02-07. Composition of state staff corps and detachment - Vacancies.**

The number and grade of officers and enlisted men in the state staff corps and detachment must be as prescribed by federal law and regulations, but in case of war, invasion, insurrection, or riot, or imminent danger thereof, the governor may increase such force temporarily to meet such emergency. All appointed officers of the state staff corps and detachment must have had previous military experience and shall hold their positions until they have reached the age of sixty-four years unless retired prior to that time by reason of resignation, disability, or for cause to be determined by an efficiency board or a court-martial legally convened for that purpose, as the exigencies of the case may warrant. Vacancies among said officers must be filled by appointment from the officers of the national guard or from other classes eligible under federal law or regulation.