

HOUSE BILL NO. HB0117

National guard.

Sponsored by: Representative(s) Illoway and Walsh and  
Senator(s) Hanes

A BILL

for

1 AN ACT relating to the Wyoming national guard; defining and  
2 clarifying terms; modifying assistant adjutants general and  
3 deputy military administrator positions and qualifications  
4 as specified; clarifying provisions pertaining to national  
5 guard officers, officer discharge and officer promotion;  
6 prescribing national guard enlistment oath and discharge  
7 procedures; clarifying guard member worker's compensation  
8 coverage; specifying state service applicable to academic  
9 disruption protection; and providing for an effective date.

10

11 *Be It Enacted by the Legislature of the State of Wyoming:*

12

13 **Section 1.** W.S. 19-7-101(a)(v), by creating new  
14 paragraphs (viii) through (xi) and by renumbering (viii) as  
15 (xii), 19-7-104(a) and (b), 19-9-102(a)(ii) and (b),  
16 19-9-210(b), 19-9-301(b), (c), (e) and (f), 19-9-302(a) and

1 (b) and by creating new subsections (d) through (f),  
2 19-9-403(b), 19-10-107 and 19-11-120(a) are amended to  
3 read:

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5 **19-7-101. Definitions.**

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7 (a) As used in this act:

8

9 (v) "Active state service" means service on  
10 behalf of the state wherever called upon in aid of civil  
11 authorities, under martial law, at encampments ordered by  
12 state authority or upon any other duty requiring the entire  
13 time of the organization or person, including state active  
14 duty and duty under title 32, United States Code, except  
15 when called or ordered into the federal service of the  
16 United States under title 10, United States Code;

17

18 (viii) "State active duty" means service on  
19 behalf of the state under the command of the governor  
20 excluding service while in status under title 32, United  
21 States Code, or while in federal service under title 10 of  
22 the United States Code;

23

1           (ix) "Enlisted member" means a member at  
2 military pay grades E-1 through E-9, as defined by federal  
3 rule and regulation;

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5           (x) "Membership" means an officer's or enlisted  
6 member's status when officially serving in the Wyoming  
7 national guard as a military member commencing with the  
8 date of initial appointment or enlistment, as applicable,  
9 extending through the date of discharge, and is not  
10 restricted or limited by service in any specified duty  
11 position;

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13           (xi) "Discharge" or "separate" means to separate  
14 a member from the organization;

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16           ~~(viii)~~(xii) "This act" means title 19.

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18           **19-7-104. Assistant adjutants general; deputy**  
19 **military administrator and fiscal officer; emergency**  
20 **management coordinator.**

21  
22           (a) The adjutant general shall appoint an assistant  
23 adjutant general for the army national guard and an  
24 assistant adjutant general for the air national guard.

1 Each assistant adjutant general shall serve in their  
2 respective duty positions at the pleasure of the adjutant  
3 general and may be removed from the position by the  
4 adjutant general as provided under W.S. 9-1-202(b)(i).

5 Each assistant adjutant general shall hold the rank of  
6 brigadier general and shall possess the qualifications set  
7 forth in W.S. 19-7-103(a)(i) through ~~(iv)~~ (iii). No person  
8 shall continue to serve as an assistant adjutant general  
9 after failing to qualify before a federal recognition board  
10 for promotion to the grade of brigadier general.

11  
12 (b) The adjutant general shall appoint a deputy  
13 military administrator for state military affairs, who  
14 shall serve in this position at the pleasure of the  
15 adjutant general and may be removed from this at-will  
16 position by the adjutant general under W.S. 9-1-202(b)(i).

17 Under the direction of the adjutant general, the deputy  
18 military administrator shall prepare such reports, returns  
19 and requisitions as may be required and is accountable and  
20 responsible for all state military property and stores not  
21 in the possession of organizations. He shall receive and  
22 issue to all organizations on approved requisitions such  
23 property and equipment as may be required and authorized by  
24 appropriate state officials for the organizations. The

1 annual compensation of the deputy military administrator  
2 shall be determined and fixed by the Wyoming personnel  
3 division. The duties of the deputy military administrator  
4 may be delegated to any officers of the Wyoming military  
5 department upon recommendation of the deputy military  
6 administrator and approval by the adjutant general.

7

8 **19-9-102. Organization of national guard; duty of**  
9 **governor.**

10

11 (a) The Wyoming national guard consists of the  
12 following officers and staff in addition to or in  
13 combination with such elements of the army and air forces  
14 of the national guard of the United States as are allocated  
15 to the state by the president, the secretary of defense or  
16 the secretary of army or air, and accepted by the state:

17

18 (ii) Two (2) assistant adjutants general  
19 appointed pursuant to W.S. ~~19-7-105(a)~~ 19-7-104(a);

20

21 (b) The national guard shall be organized into  
22 separate ~~departments~~ divisions for army and air with an  
23 officer not over the grade of brigadier general at the head  
24 of each ~~department~~ division who is subordinate to the

1 adjutant general ~~., who serves as~~ Each division head shall  
2 be an assistant adjutant general ~~and~~ who shall serve as the  
3 acting adjutant general, in order of rank, upon absence,  
4 incapacity or death of the adjutant general. The governor,  
5 by and with the advice of the adjutant general, shall make  
6 and publish such orders as necessary to conform the  
7 national guard of Wyoming in organization, armament and  
8 discipline to that prescribed for the regular army or air  
9 force of the United States, subject to ~~such~~ general  
10 exceptions ~~as~~ authorized by this act and by the laws of the  
11 United States. For this purpose, the governor may increase  
12 or decrease the number of officers, noncommissioned  
13 officers and personnel of any grade to the extent made  
14 necessary by changes authorized by department of defense  
15 orders or national guard regulations.

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17 **19-9-210. State active duty without pay.**

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19 (b) When serving on state active duty, without pay,  
20 members shall be deemed state employees for the purpose of  
21 being covered under the Wyoming Worker's Compensation Act  
22 and their state active ~~state service~~ duty shall be  
23 considered an extrahazardous occupation under W.S.  
24 27-14-108.

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**19-9-301. National guard officers generally.**

(b) All officers appointed in the national guard of Wyoming except the adjutant general and assistant adjutants general shall hold their ~~appointments~~ membership until they have reached ~~sixty-four (64)~~ seventy (70) years of age unless retired or discharged prior to that time. ~~by reason of resignation, disability, withdrawal of federal recognition, transfer to armed forces reserves or for cause to be determined by a courts-martial or administrative board legally convened for that purpose~~ No officer possesses a property interest in any duty position. The adjutant general is the discharge authority for all officers except the adjutant general, for which the governor shall be that authority. Any officer may be discharged from the Wyoming national guard according to procedures established by orders and regulations prescribed or promulgated by the adjutant general or according to federal law and regulation. An officer discharged from the United States air force or army reserves or who has his federal recognition withdrawn shall also be discharged from the Wyoming national guard effective as of the date of

1 discharge from the reserves or withdrawal of federal  
2 recognition.

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4 (c) Initial appointments and promotions ~~will~~ shall be  
5 made from the best qualified officers available for service  
6 in a unit or organization. ~~Recommendations for selection in~~  
7 ~~the grade of major or above will be approved by the~~  
8 ~~adjutant general and the senior officer in a command~~  
9 ~~position from the department in which the appointment or~~  
10 ~~promotion is to be made~~ The adjutant general shall for  
11 federal promotions and as required by federal regulation,  
12 submit recommendations personally or through a federal  
13 recognition board appointed by the adjutant general. For  
14 state promotion of officers, the adjutant general shall be  
15 the promotion authority.

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17 (e) The moral character, capacity and general fitness  
18 for the service of any national guard officer may be  
19 determined at any time by an administrative board as  
20 provided by applicable law and regulations. Commissions of  
21 officers of the national guard may be vacated upon  
22 resignation or absence without leave for three (3) months  
23 upon the recommendation of an administrative board or  
24 pursuant to sentence of a courts-martial. ~~Any officer~~



1 ~~permanently leaving the state shall resign his commission~~  
2 ~~upon request of the adjutant general or may apply to be~~  
3 ~~placed upon the inactive list. Officers rendered surplus by~~  
4 ~~the disbandment of their organization shall be disposed of~~  
5 ~~as provided by federal law and regulations. Upon their own~~  
6 ~~application, officers may be placed on the inactive list as~~  
7 ~~authorized by federal law or regulations.~~

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9 (f) The compensation of all officers when on duty by  
10 order of the governor shall be the same as paid to officers  
11 of like grade in the regular armed forces of the United  
12 States including longevity pay and allowances for federal  
13 and national guard service.

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15 **19-9-302. Enlistments; oath; term; reenlistments and**  
16 **extensions; discharge.**

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18 (a) After the forming of an organization, r recruits  
19 may be enlisted into the organization. They shall sign  
20 their names to an enlistment contract to be furnished by  
21 the adjutant general for that purpose and signing is legal  
22 enlistment. Every commissioned officer ~~is empowered to~~ and  
23 every noncommissioned officer at military pay grade E-9 as

1 defined by federal rule and regulation, may administer the  
2 oath required on enlistment.

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4 (b) Every enlisted member shall serve for a term of  
5 years prescribed by department of defense orders or  
6 national guard regulations unless he is properly  
7 discharged. ~~Upon expiration of the service of any enlisted  
8 man, the commanding officer of his organization shall  
9 prepare a discharge as provided for in department of  
10 defense orders or national guard regulations.~~

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12 (d) Upon expiration of the service of any enlisted  
13 member or upon his discharge under United States department  
14 of defense or national guard regulation, the commanding  
15 officer of his organization shall prepare a discharge  
16 certificate as provided by federal or national guard  
17 regulation.

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19 (e) The adjutant general is the discharge authority  
20 for all enlisted members. An enlisted member may be  
21 discharged from the Wyoming national guard according to  
22 regulations adopted by the adjutant general or by federal  
23 law and regulation.

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1       (f) An enlisted member discharged from the United  
2 States air force or army reserves shall be discharged from  
3 the Wyoming national guard effective as of the date of  
4 discharge from the reserves.

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6       **19-9-403. Pay and allowances of officers and enlisted**  
7 **men in active state service and state active duty; worker's**  
8 **compensation coverage for national guard members; no**  
9 **pension denied by reason of service.**

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11       (b) Members of the Wyoming national guard while in  
12 state active ~~state service~~ duty by order or voluntarily at  
13 the request of the governor shall be deemed state employees  
14 for purpose of being covered under the Wyoming Worker's  
15 Compensation Act and their state active ~~state service~~ duty  
16 shall be considered as an extrahazardous occupation under  
17 W.S. 27-14-108.

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19       **19-10-107. Worker's compensation.**

20  
21 In the event of disability or death resulting from an  
22 injury while in state active ~~service~~ duty under orders of  
23 the governor, members of the Wyoming state guard are  
24 entitled to the same benefits provided for employees under

1 the provisions of the Wyoming Worker's Compensation Act.  
2 Benefits shall be paid out of the general fund of Wyoming  
3 upon certification by the state council of defense.

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5 **19-11-120. Academic penalties prohibited.**

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7 (a) No student member of any uniformed service of the  
8 United States shall have his education, including but not  
9 limited to colleges and universities, vocational or  
10 technical or trade schools or secondary educational  
11 institutions, unnecessarily disrupted because of his  
12 service in the uniformed services. No undue penalties  
13 shall be assessed because of his service in the uniformed  
14 services. No student shall forfeit, and shall be entitled  
15 to reimbursement for, any fees or education expenses if  
16 such student is ordered into active state service for a  
17 period of more than thirty (30) consecutive days or active  
18 federal service pursuant to a presidential call or  
19 mobilization.

20

21 **Section 2.** W.S. 19-7-101(a)(vi) and 19-9-301(d) and  
22 (j) are repealed.

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1       **Section 3.** This act is effective July 1, 2003.

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(END