

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 356, As Amended

BY TRANSPORTATION AND DEFENSE COMMITTEE

AN ACT

RELATING TO THE MILITARY DIVISION; REPEALING SECTION 46-112, IDAHO CODE,
RELATING TO THE DUTIES OF THE ADJUTANT GENERAL; AND AMENDING CHAPTER
1, TITLE 46, IDAHO CODE, BY THE ADDITION OF A NEW SECTION 46-112, IDAHO
CODE, TO PROVIDE FOR THE DUTIES OF THE ADJUTANT GENERAL.

Be It Enacted by the Legislature of the State of Idaho:

SECTION 1. That Section [46-112](#), Idaho Code, be, and the same is hereby
repealed.

SECTION 2. That Chapter 1, Title 46, Idaho Code, be, and the same is
hereby amended by the addition thereto of a NEW SECTION, to be known and des-
ignated as Section 46-112, Idaho Code, and to read as follows:

46-112. DUTIES OF THE ADJUTANT GENERAL. (1) The adjutant general
shall serve as head of the Idaho military division. The governor, as com-
mander-in-chief, pursuant to his or her authority under section 4, article
IV, of the constitution of the state of Idaho, shall administer and control
the national guard, as that term is defined in section 46-103, Idaho Code.
The adjutant general is responsible to the governor for the execution and
publication of all orders relating to the militia, organization, activa-
tion, reactivation, inactivation, and allocation of units, recruiting of
personnel, public relations, discipline, 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 of all branches of the militia or agen-
cies within the Idaho military division. The adjutant general may belong to
the adjutants general association of the United States and to other organi-
zations 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 moneys of this state appropriated for that purpose.
Except for the authority expressly reserved for the governor under Idaho
law, the adjutant general is responsible for emergency management pursuant
to chapter 10, title 46, Idaho Code, and all emergency activities undertaken
pursuant to chapter 10, title 46, Idaho Code, are subject to the approval of
the adjutant general.

(2) The adjutant general, as the military chief of staff, will:

(a) Act as military advisor to the governor and perform, as the governor
prescribes, military duties not otherwise designated by law;

(b) Adopt methods of administration for the national guard that are
consistent with laws and regulations of the United States department of
defense or any subdivision of the United States department of defense;

(c) Supervise and direct the organization, regulation, instruction,
training, discipline, and other activities of the national guard;

1 (d) Attest and record all commissions issued by the governor and main-
2 tain a register of all commissioned personnel;

3 (e) Keep a record of all orders and regulations pertaining to the na-
4 tional guard and all other writings and papers relating to reports and
5 returns of units comprising the national guard and militia, and act as
6 custodian of all such orders, regulations, writings, papers, and re-
7 turns;

8 (f) Superintend the preparation of returns, plans and estimates re-
9 quired by this state, by the department of the army, air force, navy and
10 by the secretary of defense;

11 (g) Control the use of and care for, preserve and maintain all military
12 property belonging to or issued to this state and pay from moneys ap-
13 propriated by the state legislature, or allocated to the state from the
14 federal government for these purposes, the necessary expenses for labor
15 and material incurred in the repair of military property;

16 (h) Dispose of unserviceable military property belonging to this
17 state, in accordance with applicable federal and state laws and regula-
18 tions;

19 (i) Pay the members of the national guard when such members are to be
20 paid from state funds, and ensure that the members of the national guard
21 receive pay when such members are to be paid with funds allocated by the
22 federal government;

23 (j) Be custodian of the seal of the office of adjutant general and de-
24 liver the same to his successor, and authenticate with the seal of the
25 office of the adjutant general all orders and copies of orders issued by
26 the adjutant general's office. An authenticated copy has the same force
27 and effect as the original;

28 (k) Present to the governor before each regular session of the legis-
29 lature, or as otherwise required, an estimate of the financial require-
30 ments for state moneys for operation of the department and the national
31 guard during the next fiscal year, in accordance with section 67-3502,
32 Idaho Code;

33 (l) Coordinate and plan the execution of state activities pertaining to
34 the inauguration of the governor of the state of Idaho and other elected
35 state executive officers; and

36 (m) Establish and administer, as in his or her judgment may be neces-
37 sary and proper for military purposes, morale, welfare, and recreation
38 programs or facilities for the benefit of the members of the Idaho mil-
39 itary division and their lawful dependents. The adjutant general may
40 promulgate rules to govern the operation of morale, welfare, and recre-
41 ation programs or facilities. All proceeds derived from the operation
42 of morale, welfare, and recreation programs or facilities within the
43 state shall, after payment of operating expenses, notwithstanding any
44 provision of Idaho law to the contrary, be used exclusively to benefit
45 any morale, welfare, and recreation programs or facilities established
46 pursuant to this section. Any sales of goods on a state reservation,
47 state training facility, or state military installation under the ju-
48 risdiction of the adjutant general are exempt from payment of state
49 sales taxes.

50 (3) The adjutant general, as head of the Idaho military division, will:

1 (a) Be the administrator of the division;

2 (b) Coordinate the functions of the division and offices of the divi-
3 sion;

4 (c) Subject to Idaho law, appoint, suspend, demote, promote or dismiss
5 employees of the division. The adjutant general may delegate this au-
6 thority;

7 (d) Appoint an auditor for the division to conduct periodic financial
8 and compliance audits of each office in the division and perform such
9 other duties as prescribed by law. At least annually, the auditor shall
10 audit accounts that are open for more than twelve (12) months. The au-
11 ditor shall determine within the division compliance with purchase and
12 bidding procedures prescribed by law;

13 (e) Adopt, with the approval of the governor, rules necessary for the
14 operation of the Idaho military division;

15 (f) Establish and administer accounts for federal, state or other mon-
16 eys made available to carry out the functions of the division;

17 (g) Establish, abolish or reorganize the positions or organizational
18 structure within the Idaho military division, subject to legislative
19 appropriation, if, in the adjutant general's judgment, the modifica-
20 tion would make the operation of the division more efficient, effective
21 or economical;

22 (h) Administer the Idaho youth challenge program in accordance with
23 section 46-805, Idaho Code. In addition to moneys appropriated for the
24 program, the adjutant general may accept and spend moneys from any other
25 lawful public or private source; and

26 (i) Submit to the governor, the president of the senate and the speaker
27 of the house of representatives annually by July 1 a report for the
28 Idaho military division for the preceding fiscal year, including: the
29 strength and condition of the national guard; the business transactions
30 of the division; a detailed statement of expenditures for all military
31 and civilian purposes; the disposition of all military and civilian
32 property on hand or issued; a description of the activity of the Idaho
33 youth challenge program; and a detailed statement of the national guard
34 tuition incentive payments program pursuant to section 46-314, Idaho
35 Code. The adjutant general will also submit any such similar returns
36 and reports as may be required by federal laws and regulations.

37 (4) The adjutant general, subject only to applicable limitations pre-
38 scribed under state law or rule, may:

39 (a) Enter into contracts with individuals, this state, political sub-
40 divisions of this state or the federal government and its agencies for
41 the purchase, acquisition, rental or lease of lands, buildings or mili-
42 tary material and take title in the name of this state for the establish-
43 ment and maintenance of armories, subject to legislative appropriation
44 for these purposes;

45 (b) Procure and contract for procurement of equipment and its issuance
46 to members of the militia inducted into the service of this state;

47 (c) Enter into agreements and plans with the state universities, com-
48 munity colleges or any educational institution supported by federal or
49 state moneys for promotion of the best interests of the national guard
50 and military training of students of the institutions;

- 1 (d) Lease property acquired under this chapter for any public purpose
2 for a period of one (1) year, which period is renewable;
- 3 (e) Convey for any public purpose in the name of this state easements on
4 real property acquired under this chapter;
- 5 (f) Enter into contracts or agreements with the federal government that
6 are deemed to be in the best interest of this state and the national
7 guard;
- 8 (g) Delegate the powers and duties in this section; and
- 9 (h) Adopt methods of security for national guard personnel and for na-
10 tional guard reservations or facilities that are consistent with the
11 laws, regulations or directives of the United States department of de-
12 fense and the laws of this state.