

As Amended by House Committee

Session of 2023

HOUSE BILL No. 2230

By Committee on Veterans and Military

1-31

1 AN ACT concerning veterans and military; updating certain provisions
2 related to the Kansas army and air national guard; providing for the
3 appointment of a state judge advocate; amending K.S.A. 48-101, 48-
4 202, 48-205, **48-206**, 48-209, 48-211, 48-214, 48-216, 48-242, 48-243,
5 48-252c, 48-301, 48-509 and 48-516 and K.S.A. 2022 Supp. 48-204
6 and repealing the existing sections; also repealing K.S.A. 48-103, 48-
7 219, 48-221, 48-222, 48-223, **48-228**, 48-237 and 48-252.

8
9 *Be it enacted by the Legislature of the State of Kansas:*

10 New Section 1. (a) The adjutant general, with the approval of the
11 governor, shall appoint an officer of the state military forces as state judge
12 advocate, with the rank of colonel. To be eligible for such appointment, the
13 appointee shall meet the definition of judge advocate in K.S.A. 48-2101,
14 and amendments thereto.

15 (b) The adjutant general may appoint as many assistants to the state
16 judge advocate as the adjutant general considers necessary. The
17 appointees shall be designated assistant **state** judge advocates. To be
18 eligible for such appointment, appointees shall meet the definition of judge
19 advocate in K.S.A. 48-2101, and amendments thereto.

20 (c) The adjutant general, with the approval of the governor, may
21 promote a state judge advocate to the rank of brigadier general if the state
22 judge advocate has served ~~30~~ **20** years or more of combined service in the
23 Kansas national guard and the United States military forces and held the
24 rank of colonel for at least 10 years.

25 Sec. 2. K.S.A. 48-101 is hereby amended to read as follows: 48-101.
26 All persons subject to military duty under the constitution of this state and
27 not exempt therefrom by the provisions of this act, and such other persons
28 as shall voluntarily enroll themselves, shall be divided into three ~~(3)~~
29 classes, ~~to wit:~~ One consisting of the federally recognized national guard,
30 ~~which shall~~ *to be known as the "Kansas army and air national guard";* one
31 consisting of those able-bodied ~~male~~ citizens prescribed and contemplated
32 in article 8 of the constitution of ~~this~~ *the state of Kansas* not in the "Kansas
33 army and air national guard" ~~which shall~~ *to be known as "the militia";* and
34 one to consist of all those subject to military duty, but not included in the
35 "Kansas army and air national guard" or "the militia," to be known as the
36 "Kansas military reserve."

1 Sec. 3. K.S.A. 48-202 is hereby amended to read as follows: 48-202.
2 All staff officers of the Kansas national guard, including officers of the
3 pay, inspection, subsistence; and medical departments, ~~hereafter appointed~~
4 shall have had previous military experience; and shall hold their positions
5 until they ~~shall~~ have reached ~~the age of sixty-four~~ 64 years *of age*, unless
6 retired prior to that time by reason of resignation, disability; or for cause ~~to~~
7 ~~be determined by a court-martial legally convened for that purpose; and.~~
8 All vacancies among ~~said~~ *such* officers shall be filled by appointment from
9 the officers of the militia of Kansas. Nothing in this section shall be
10 construed or operate to limit the provisions of any federal law relative to
11 the qualifications for appointment of officers or the filling of vacancies.

12 Sec. 4. K.S.A. 2022 Supp. 48-204 is hereby amended to read as
13 follows: 48-204. (a) The adjutant general shall:

14 (1) Be in control of the military department of the state and
15 subordinate only to the governor in matters pertaining to the department;

16 (2) have general supervision over all the subordinate military
17 departments, ~~to include~~ *including* the department of the army national
18 guard and the department of the air national guard;

19 (3) perform such duties as pertain to the adjutant general's department
20 under the regulations and usage of the army of the United States;

21 (4) superintend the preparation of all returns and reports required by
22 the United States from the state;

23 (5) require a certificate of the military service to be furnished, in
24 accordance with K.S.A. 73-209, and amendments thereto, to any soldier
25 who has served in the army in any of the state military organizations; and

26 (6) audit and pass upon all claims of a military character against the
27 state, and no contract of a military nature against the state shall be valid or
28 paid until approved by the adjutant general.

29 (b) The adjutant general is authorized to:

30 (1) Adopt regulations pertaining to the preparation and rendering of
31 reports and returns and to the care and preservation of public property as in
32 the adjutant general's opinion the conditions demand, ~~which and such~~
33 regulations shall be operative and in force when promulgated in the form
34 of general orders, circulars or circular letters;

35 (2) administer oaths in matters pertaining to the duties of the office as
36 relates to:

37 (A) Claims against the state;

38 (B) the organization of boards ~~of survey, courts-martial~~ and courts of
39 inquiry;

40 (C) affidavits covering loss of military property belonging to the state
41 or the United States;

42 (D) oaths of office of officers of the Kansas national guard;

43 (E) statements and reports required from officers pertaining to

1 property and money accountability and expenditures; and

2 (F) any other official military matters coming before the adjutant
3 general;

4 (3) adopt an appropriate seal for use in the office, to be affixed to all
5 oaths that the adjutant general administers under authority of law, and to
6 authenticate all certificates required of the adjutant general;

7 (4) appoint such officers as necessary as security officers for the
8 protection of all national guard property and equipment, owned by or
9 under the control of the Kansas national guard wherever located in the
10 state of Kansas, including when transported over public roads or located
11 on temporary national guard sites, and for the protection of persons and
12 property associated with the national guard; and

13 (5) appoint law enforcement officers to serve under the command of
14 the adjutant general.

15 (c) (1) Those members of the adjutant general's department who are
16 appointed as law enforcement officers must meet the requirements of the
17 Kansas law enforcement training act, K.S.A. 74-5601 through 74-5623,
18 and amendments thereto.

19 (2) A law enforcement officer engaged in the protective functions
20 specified in subsection (b)(4) shall possess and exercise all general law
21 enforcement powers, rights, privileges, protections and immunities in
22 every county where there is located any Kansas national guard property.
23 All persons arrested by a law enforcement officer may be turned over to
24 the appropriate local police or county sheriff in whose jurisdiction the
25 offense was committed to be processed in the same manner as other
26 persons turned over to such police or sheriff or may book such arrested
27 person at the jail in the jurisdiction of the arrest. Such law enforcement
28 officer shall complete any required reports, arrest affidavits and other
29 documents associated with the arrest. These reports shall be kept on file
30 with the office of the adjutant general, unless a memorandum of agreement
31 with the local law enforcement agency specifies otherwise.

32 (3) While on duty, security officers or law enforcement officers
33 appointed pursuant to subsection (b)(4) or (b)(5), as applicable, shall wear
34 and display publicly a badge of office.

35 Sec. 5. K.S.A. 48-205 is hereby amended to read as follows: 48-205.

36 ~~(a) The adjutant general shall have immediate charge of the state arsenal
37 under the supervision of the governor.~~

38 ~~(1) The adjutant general shall have charge and care of all state and
39 United States military property for which the state is responsible and shall
40 cause to be kept an accurate and careful account of all receipts and issues
41 of the same such property.~~

42 ~~(2) He or she The adjutant general shall require to be kept a careful
43 memorandum of all public property on hand in the state arsenal and in the~~

1 possession of the several organizations of the Kansas army and air national
2 guard, or Kansas state guard and will guard said *such* property against
3 injury and loss to the extent of his or her *the adjutant general's* ability;—

4 ~~(3) The adjutant general shall require every accountable and~~
5 ~~responsible officer of the Kansas army and air national guard, or Kansas~~
6 ~~state guard to account for every deficiency in public property in such~~
7 ~~officer's possession immediately after such deficiency is discovered.~~

8 ~~(b) The adjutant general may appoint two~~ **assign the number of**
9 ~~assistant adjutants general who may have the rank of brigadier general~~
10 ~~when they are assigned as head of the department of the army national~~
11 ~~guard or the department of the air national guard, and who shall have~~
12 ~~served at least five years as commissioned officers in the Kansas army or~~
13 ~~air national guard who shall be within the classified service of the Kansas~~
14 ~~civil service act.~~

15 ~~(c) The office of one of the assistant adjutants general will be with the~~
16 ~~adjutant general, and the assistant shall assist the adjutant general in the~~
17 ~~performance of such duties as may be assigned to him or her *such*~~
18 ~~*assistant*, and the assistant may perform the duties of the adjutant general~~
19 ~~in the case of absence, inability, or by express direction of the latter~~
20 ~~*adjutant general*, and at such time the assistant will sign as "acting~~
21 ~~adjutant general."~~ He or she ~~The *adjutant general*~~ may appoint one special
22 assistant adjutant general, with the rank of colonel, who shall have served
23 at least five years as a commissioned officer with the Kansas national
24 guard and who shall be within the classified service of the Kansas civil
25 service act; and one judge advocate general, with the rank of colonel. The
26 adjutant general may, with the approval of the governor, promote a judge
27 advocate general who has served thirty (30) or more years of combined
28 service in the Kansas national guard and United States military forces,
29 with the rank of colonel for at least ten (10) years, to the rank of brigadier
30 general.

31 ~~(d) Subject to the approval of the governor, and, within the provisions~~
32 ~~of the civil service law and available appropriations, the adjutant general~~
33 ~~may appoint one finance and disbursing officer with the rank of colonel,~~
34 ~~who acts as disbursing officer for the state; and such other assistants and~~
35 ~~clerical employees as may be necessary to carry out properly the~~
36 ~~provisions of this act from the ground forces and air forces of this state~~
37 ~~who are authorized by national guard bureau rules and regulations.~~

38 **(b) The assistant adjutants general shall, if they qualify therefor,**
39 **hold military rank as may be authorized and approved for the**
40 **positions by the national guard bureau of the United States. The**
41 **assistant adjutants general, at the time of their appointment, shall**
42 **have served at least five years as commissioned officers in the Kansas**
43 **army or air national guard.**

1 (c) The assistant adjutants general shall serve at the pleasure of
2 the adjutant general and perform such duties as are assigned by the
3 adjutant general.

4 (d) The adjutant general shall designate one assistant adjutant
5 general as the senior assistant adjutant general who, during any
6 period when the adjutant general is absent, unable or by express
7 direction of the adjutant general, shall perform the duties of the
8 adjutant general as acting adjutant general.

9 Sec. 6. K.S.A. 48-206 is hereby amended to read as follows: 48-

10 206. ~~The finance and disbursing officer, shall perform such duties in~~
11 ~~connection with the Kansas national guard as usage and the regulations of~~
12 ~~the army of the United States assign to the finance and disbursing~~
13 ~~departments. He or she will, pursuant to the orders of the adjutant general,~~
14 ~~disburse the armory rent allowance for the several organizations of the~~
15 ~~Kansas national guard entitled to the same and the allowances made to the~~
16 ~~several headquarters for postage and contingent expenses, and such~~
17 ~~allowances as the legislature may make to the minor military departments~~
18 ~~of the state; he or she will disburse upon approved vouchers the~~
19 ~~appropriations for semiannual inspection of companies, for active service,~~
20 ~~for purchase of marksmanship badges, for schools for officers, and all~~
21 ~~other pay and allowances to which officers and enlisted persons of the~~
22 ~~Kansas national guard may be entitled to according to law. The state~~
23 ~~controller is authorized to draw the necessary warrants against the~~
24 ~~foregoing appropriations in favor of the finance and disbursing officer on~~
25 ~~presentation of an itemized voucher made in conformity with the laws of~~
26 ~~the state and approved by the governor and the adjutant general~~ (a) *There*
27 *shall be a United States property and disbursing officer appointed or*
28 *assigned as may be provided in federal regulations concerning the army*
29 *national guard and air national guard of the United States.*

30 (b) *The United States property and disbursing officer shall be*
31 *provided with adequate office facilities in Topeka or at the site of the*
32 *principal military warehouses or training grounds for the national guard*
33 *at the discretion of the adjutant general to best serve the needs of the*
34 *organized militia.*

35 (c) *Such United States property and disbursing officer shall secure,*
36 *receive, disburse, issue and account for all United States funds, arms,*
37 *uniforms, equipment and supplies as requested by the governor for use by*
38 *the organized militia. The property and disbursing officer shall maintain*
39 *complete and accurate records, in the manner prescribed by federal*
40 *regulations, of all funds and property granted or loaned to the state for*
41 *use by the organized militia, and such records shall constitute the official*
42 *records of the federally owned military property for which the state shall*
43 *be responsible to the United States. The property and disbursing officer*

1 *shall perform such additional duties and exercise such powers and*
2 *authority as may be vested in such officer by federal regulations, or as*
3 *may be assigned by the adjutant general. Such officer shall be provided*
4 *assistants and clerical, stenographic, shop, technical and warehouse*
5 *personnel as may be necessary to properly discharge such officer's duties.*

6 (d) *Personnel and other employees of the property and disbursing*
7 *officer shall receive such salaries as the adjutant general determines,*
8 *except that state funds shall be used for salaries or other expenses of the*
9 *office of the United States property and disbursing officer only when*
10 *federal funds are not available.*

11 (e) *Expenditures from the appropriations described in this section*
12 *shall be made in accordance with appropriation acts upon warrants of the*
13 *director of accounts and reports pursuant to vouchers approved by the*
14 *governor and the adjutant general, or designees thereof.*

15 ~~Sec. 6.~~ 7. K.S.A. 48-209 is hereby amended to read as follows: 48-
16 209. All officers of the Kansas army and air national guard in the line and
17 in all of the departments and corps, shall hold their positions until they
18 have reached ~~the age of sixty-four~~ (64) years of age unless the ~~same~~
19 ~~officer shall have~~ ~~was been~~ terminated according to federal law. Upon the
20 recommendation of the adjutant general, the governor may order any
21 person on the state retired list to active service of the state for the purpose
22 of serving on military ~~courts or~~ boards or performing staff duty in or with
23 the active militia and in time of emergency to perform any military duty in
24 or with the active militia. In any such case, the person so ordered shall
25 rank in ~~his or her~~ grade from the date of such order. Pay and allowances
26 while on active service of the state shall be as provided for in K.S.A. 48-
27 225, ~~or any~~ and amendments thereto, except that time spent on the state
28 retired list shall not be credited in the computation of seniority or pay.

29 ~~Sec. 7.~~ 8. K.S.A. 48-211 is hereby amended to read as follows: 48-
30 211. (a) Enlisted personnel of the Kansas army and air national guard who
31 are unable, on account of permanent physical disability, to perform the
32 duties required ~~of them~~ shall be discharged from the military service of the
33 state under such regulations ~~as shall be~~ promulgated by the military board.
34 All commissioned officers, warrant officers, and noncommissioned
35 officers who have reached ~~the age of~~ 64 years of age and those who are
36 found to be permanently disabled through no fault of their own shall be
37 retired from active service and placed on the retired list; ~~and~~. Those who
38 have served 10 years, honorably, in the military service of the United
39 States or in any state or territory thereof and shall make application for the
40 same may be placed upon the retired list.

41 (b) All members of the Kansas army and air national guard shall be
42 exempt from jury duty during ~~the annual training muster and camp~~
43 ~~instruction~~, during the time the member is ordered by the governor to

1 perform active state service under K.S.A. 48-238 or 48-241, *and*
2 *amendments thereto*, or during the time the member is ordered to perform
3 active state service under K.S.A. 48-242, *and amendments thereto*.

4 Sec.-8- 9. K.S.A. 48-214 is hereby amended to read as follows: 48-
5 214. (a) There shall be a Kansas military board consisting of the adjutant
6 general, who shall be recorder, the *state* judge advocate-general, the three
7 senior commanders of the Kansas army national guard and the senior
8 commander of the Kansas air national guard; There may be three
9 additional members appointed at the discretion of the governor.

10 (b) The military board shall constitute an advisory board to the
11 commander in chief on military matters and ~~said~~ *such* board is hereby
12 authorized and empowered to prepare the necessary rules, provisions and
13 regulations, together with such amendments and changes as may be
14 required ~~and made from time to time~~, and when approved by the
15 commander in chief shall be in full force and effect from the date of their
16 publication in general orders; ~~and~~.

17 (c) It shall be the duty of ~~said~~ *the* board, subject to the approval of the
18 commander in chief, to make such changes in the military organization or
19 organizations of the state from time to time as ~~they~~ *the board* deems for
20 the best interests of the service; ~~Provided~~. Such changes are in accordance
21 with the laws governing the regular army and regular air force of the
22 United States and the regulations issued by the secretary of defense,
23 department of the army and the department of the air force of the United
24 States.

25 Sec.-9- 10. K.S.A. 48-216 is hereby amended to read as follows: 48-
26 216. ~~Every commissioned officer of the Kansas national guard shall~~
27 ~~provide himself or herself with a suitable uniform, arms and equipments~~
28 ~~within sixty days from date of the commission; but every~~
29 ~~noncommissioned officer, musician and private shall be furnished with a~~
30 ~~uniform, arms and equipments free of expense, as hereinafter provided.~~ (a)
31 The uniforms of the Kansas national guard shall conform as nearly as
32 practicable to the ~~undress~~ uniform adopted for the ~~army~~ *applicable armed*
33 *service* of the United States, and the governor shall make requisition on the
34 secretary of ~~war~~ *defense* against the allotment to the state of Kansas by the
35 general government to provide arms and equipment for the militia; ~~from~~
36 ~~time to time~~, as uniforms may be required for the purposes provided in this
37 act; ~~and~~.

38 (b) The military board shall prescribe the rules and regulations under
39 which ~~said~~ uniforms and equipment shall be issued to and used by the
40 Kansas national guard.

41 Sec.-10- 11. K.S.A. 48-242 is hereby amended to read as follows: 48-
42 242. (a) In case of any breach of the peace, tumult, riot, resistance to
43 process in this state, public disaster or imminent danger thereof, it shall be

1 lawful for the sheriff of any county or the mayor of any city to call upon
2 the commander in chief, or in ~~his or her~~ *the commander in chief's* absence,
3 upon the adjutant general, for aid;

4 (b) ~~said~~ *Such request for aid to shall* be in writing ~~or by telegraph~~; and
5 it shall be the duty of the commander in chief or the adjutant general, if in
6 that officer's judgment the circumstances demand military aid, to order
7 into the active service of the state the available militia in such numbers and
8 organizations as the conditions require. The commanding officer of such
9 militia will report to the sheriff or mayor asking aid, ~~and~~ will cooperate
10 with ~~him or her~~ *the sheriff or mayor* and the civil authorities; and will
11 render all assistance in ~~his or her~~ *the commanding officer's* power to
12 preserve the peace and execute the laws of the state.

13 (c) The commanding officer of such militia called into active service
14 shall handle and maneuver the command in accordance with ~~his or her~~ *the*
15 *commanding officer's* own judgment; and if the commanding officer has
16 reason to believe that the civil authorities are not acting judiciously; or are
17 not sincerely endeavoring to preserve the peace or execute the laws, the
18 commanding officer shall at once report the fact to the commander in
19 chief; ~~by telegraph if possible~~; and hold ~~himself or herself~~ in readiness to
20 carry out such instructions as ~~he or she~~ *the commanding officer* may
21 receive in response.

22 Sec. ~~H.~~ **12.** K.S.A. 48-243 is hereby amended to read as follows: 48-
23 243. The commanding officer of a military organization ordered into active
24 service shall faithfully perform the duties required ~~of him or her~~, and such
25 officer shall not hinder or prevent the civil authorities in a faithful
26 performance of their duties, nor shall any officer or enlisted person neglect
27 or refuse to obey the orders of the commanding officer issued in line of
28 duty. ~~Should any commissioned officer so offend, the officer shall be~~
29 ~~subject to trial by court-martial, and shall be liable to a fine of not more~~
30 ~~than one hundred dollars, or imprisonment in the county jail for a period~~
31 ~~not exceeding six months, and may be dishonorably discharged from the~~
32 ~~service; should an enlisted person so offend, he or she shall be liable to a~~
33 ~~fine of not less than ten nor more than fifty dollars, or imprisonment in the~~
34 ~~county jail for a period not exceeding three months, as may be fixed by the~~
35 ~~military court, and may be dishonorably discharged from the service.~~

36 Sec. ~~12.~~ **13.** K.S.A. 48-252c is hereby amended to read as follows:
37 48-252c. Application for such authority shall be made by the commanding
38 officer of the military unit or national guard unit to the Kansas highway
39 patrol superintendent or the division captain in the division where the
40 military vehicles or convoy will operate. Such application shall:

41 (a) Identify the military unit or national guard unit whose vehicles
42 will be using the state roads and highways;

43 (b) state the name and rank of the commanding officer ~~of the said~~

1 *such* military unit or national guard unit;

2 (c) set forth the route over which ~~the said~~ *such* military vehicles or
3 convoys will pass;

4 (d) state the anticipated number of vehicles in the convoy; *and*

5 (e) state the ~~date(s)~~ *dates* and ~~time(s)~~ *times* the vehicles or convoy
6 expects to use such route.

7 ~~Sec. 13.~~ **14.** K.S.A. 48-301 is hereby amended to read as follows: 48-
8 301. (a) The Kansas military board is hereby empowered and directed to
9 erect or provide, anywhere within the limits of this state; *and* upon such
10 terms and conditions as shall be decided upon by the Kansas military
11 board as most advantageous to the state, armories for the use of the Kansas
12 army or air national guard. Each such armory shall be used for drill,
13 meeting and rendezvous purposes by the unit of the national guard
14 occupying such armory; and such other public functions ~~which that~~ the
15 officers in charge of such armory may deem advisable and proper. ~~Such~~
16 ~~armories shall also be opened for meetings and functions of the Grand~~
17 ~~Army of the Republic, the Spanish-American War Veterans and their~~
18 ~~auxiliary organizations.~~

19 (b) Subject to the provisions of K.S.A. 48-324, and amendments
20 thereto, the adjutant general, with the advice of the Kansas military board,
21 shall adopt rules and regulations establishing a uniform policy governing
22 rental charges for use of armories for other than national guard purposes in
23 order to recover the costs incurred for such use.

24 ~~Sec. 14.~~ **15.** K.S.A. 48-509 is hereby amended to read as follows: 48-
25 509. No person shall be commissioned or enlisted in such forces who is
26 ~~not a citizen of the United States~~ *qualified for commissioning or*
27 *enlistment as established by part II, title 10 of the United States code* or
28 ~~who has been dishonorably discharged~~ *received a punitive discharge* from
29 any military or naval organization of this state, ~~or of another state; or of~~ the
30 United States.

31 ~~Sec. 15.~~ **16.** K.S.A. 48-516 is hereby amended to read as follows: 48-
32 516. Members of the Kansas state guard after July 1, 1943, who are
33 actually present and participate in regular weekly drills provided for by
34 law or regulations, for not less than ~~one and one-half~~ *1 1/2* hours, shall
35 receive the following schedule of pay: For each of no more than five such
36 weekly periods in any one month; private, sixty cents; private first class,
37 seventy cents; corporal, eighty cents; sergeant, ninety-five cents; staff
38 sergeant and first sergeant, one dollar; second lieutenant, one dollar and
39 twenty-five cents; first lieutenant, one dollar and fifty cents; captain, two
40 dollars and fifty cents. The rate of pay for a technician fifth grade will be
41 the same as that of a corporal; the rate of pay for a technician fourth grade
42 and a technician third grade will be the same as that of a sergeant
43 *appropriate compensation as established by policy, guidance or*

1 *regulation.*

2 ~~Sec. 16.~~ **17.** K.S.A. 48-101, 48-103, 48-202, 48-205, **48-206**, 48-209,
3 48-211, 48-214, 48-216, 48-219, 48-221, 48-222, 48-223, **48-228**, 48-237,
4 48-242, 48-243, 48-252, 48-252c, 48-301, 48-509 and 48-516 and K.S.A.
5 2022 Supp. 48-204 are hereby repealed.

6 ~~Sec. 17.~~ **18.** This act shall take effect and be in force from and after
7 its publication in the statute book.