

SENATE, No. 171

STATE OF NEW JERSEY

INTRODUCED MARCH 6, 1950

By Mr. BODINE

Referred to Committee on Military and Naval Affairs

AN ACT concerning the militia of this State, amending sections 38:2-2, 38:3-1, 38:3-2, 38:3-3, 38:3-4, 38:3-5, 38:3-8, 38:3-9, 38:3-11, 38:3-16, 38:3-17, 38:3-18, 38:3-19, 38:3-21, 38:3-22, 38:3-23, 38:3-24, 38:4-5, 38:4-6, 38:4-8, 38:4-12, 38:4-14, 38:4-16, 38:4-17, 38:4-18, 38:4-19, 38:4-31 and 38:4-6 of the Revised Statutes, and repealing sections 38:3-12, 38:3-13, 38:3-14, 38:3-15, 38:3-20, 38:4-9, 38:4-10, 38:4-11 and 38:4-15 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State of New
2 Jersey:

1 1. Section 38:2-2 of the Revised Statutes is amended to read as follows:

2 38:2-2. Staff of Governor.

3 The staff of the Governor shall consist of:

4 a. Executive: The Chief of Staff [], who shall be selected by the Gov-
5 ernor from the general officers in the active military service of this State
6 and who shall serve in such capacity in addition to his other duties] of the
7 State Department of Defense.

8 [b. Administrative: The Adjutant-General and the Quartermaster-Gen-
9 eral.]

10 [c.] b. Personal: [Six] Personal aides-de-camp, appointed or detailed
11 by the Governor, whose term of office, unless sooner terminated, shall expire
12 with that of the Governor who shall have appointed or detailed them. [one

13 of whom may be appointed by the Governor with the rank of colonel, the
 14 other five shall be detailed from the commissioned officers of the national
 15 guard of rank below that of colonel or from the commissioned officers of the
 16 naval militia of rank below that of captain. Their detail shall operate as an
 17 assignment to duty as aides-de-camp, but shall not change their rank. Aides-
 18 de-camp shall not be relieved from assignment with their respective organiza-
 19 tions or from routine duty therewith when not actually performing duty as
 20 aides-de-camp.] Aides-de-camp so appointed shall be commissioned as such
 21 on the staff of the Governor.

1 2. Section 38:3-1 of the Revised Statutes is amended to read as follows:

2 38:3-1. The national guard shall consist of those organizations and units
 3 of the organized militia which are or hereafter may be authorized by the laws
 4 of the United States or the regulations issued thereunder for the national
 5 guard, to which organizations and units recognition shall have been extended
 6 by the Federal Government, and the Federally recognized general officers,
 7 officers, warrant officers and enlisted men, commissioned, warranted or en-
 8 listed therein and in the National Guard of the United States.

1 3. Section 38:3-2 of the Revised Statutes is amended to read as follows:

2 38:3-2. The army units of the national guard, except the State [staff, de-
 3 partments and] headquarters and headquarters detachment, shall be com-
 4 manded by the senior general officer of the line [in active service] of such
 5 army units, who shall be responsible for the administration, training, disci-
 6 pline, supply and general efficiency thereof.

7 The air force units of the national guard shall be commanded by the
 8 senior air force officer of the tactical units of such air force units, who shall
 9 be responsible for the administration, training, discipline, supply and gen-
 10 eral efficiency thereof.

1 4. Section 38:3-3 of the Revised Statutes is amended to read as follows:

2 38:3-3. The national guard, except the State [staff, departments and]
 3 headquarters and headquarters detachment and the air force units, to the ex-
 4 tent authorized by applicable Federal tables of organization, shall be organ-
 5 ized and maintained as one or more divisions. Those units of the national

6 guard, except the State **staff, departments and** headquarters and head-
 7 quarters detachment and the air force units, which by such tables of organ-
 8 ization shall not be included within the divisions, shall be attached thereto
 9 for administration, training, **and** discipline and supply.

1 5. Section 38:3-4 of the Revised Statutes is amended to read as follows:

2 38:3-4. **Headquarters.** The commanding general of the army units
 3 of the national guard shall establish and maintain a headquarters of such
 4 units. There shall be assigned from the active national guard, for duty with
 5 said headquarters, such officer and enlisted personnel as **the** such com-
 6 manding general shall deem necessary.

1 6. Section 38:3-5 of the Revised Statutes is amended to read as follows:

2 38:3-5. The discipline and training of the national guard shall conform
 3 to **the system prescribed for the regular army and the national guard** ap-
 4 plicable Federal regulations.

1 7. Section 38:3-8 of the Revised Statutes is amended to read as follows:

2 38:3-8. Commissioned officers and warrant officers shall be citizens of the
 3 United States between the ages of twenty-one and sixty-four years.

1 8. Section 38:3-9 of the Revised Statutes is amended to read as follows:

2 38:3-9. No person shall be commissioned or warranted unless he shall be
 3 appointed **or elected** as hereinafter provided, and selected from one of the
 4 following classes, and shall have subscribed to the oath of office provided for
 5 in section 38:3-10 of this Title:

6 a. Commissioned officers, warrant officers or enlisted men of the national
 7 guard;

8 b. Commissioned officers or warrant officers **active or retired, reserve**
 9 officers and or former commissioned officers or warrant officers of the
 10 **Army, Navy or Marine Corps** armed forces of the United States or of
 11 any of the reserve components thereof;

12 c. Enlisted men **and** or former enlisted men of the **Army, Navy and**
 13 Marine Corps who have received an honorable discharge therefrom armed
 14 forces of the United States or of any of the reserve components thereof;

15 d. Graduates of the [United States military or naval] service acade-
 16 mies of the armed forces of the United States; and

17 [Graduates of schools, colleges, universities, and officers' training camps
 18 where they have received military instruction under the supervision of an
 19 officer of the regular army, who certified their fitness for appointment as com-
 20 missioned officers; and]

21 e. Such civilians may be specially qualified for duty [for] in the pro-
 22 fessional or technical [branches] services or staff corps [and departments].

1 9. Section 38:3-11 of the Revised Statutes is amended to read as
 2 follows:

3 38:3-11. [The Adjutant-General, the Quartermaster-General and general
 4 officers of the line, above the grade of brigadier general, shall be nomi-
 5 nated by the Governor, and appointed by him, with the advice and consent
 6 of the Senate. During the time that the Senate is not in session the Gov-
 7 ernor may make such nominations and appointments subject to subsequent
 8 confirmation by the Senate. The Governor shall appoint all State staff and
 9 department-officers and all other militia officers whose appointment is not
 10 otherwise provided for in this subtitle. General officers of the line and com-
 11 manding officers of regiments, separate battalions and squadrons shall ap-
 12 point the staff officers of their divisions, brigades, regiments, separate bat-
 13 talions and squadrons, respectively.]

14 All commissioned or warrant officers shall be appointed and commis-
 15 sioned or warranted by the Governor as follows:

16 a. General officers shall be nominated and appointed by the Governor
 17 with the advice and consent of the Senate. During the time that the Senate
 18 is not in session the Governor may make such nominations and appointments
 19 subject to subsequent confirmation by the Senate;

20 b. Commissioned or warrant officers of the State headquarters and
 21 headquarters detachment shall be appointed upon the nomination of the
 22 Chief of Staff of the State Department of Defense;

23 e. Commanders of organizations shall be appointed upon the nomination
 24 of the next senior commander, approved by the intermediate commanders,
 25 and, in the case of commanders of the army units of the national guard by
 26 the commanding general of such army units, and in the case of commanders
 27 of the air force units of the national guard, by the commanding officer of
 28 such air force units;

29 d. Staff officers, commissioned or warrant, except those of the State
 30 headquarters and headquarters detachment, shall be appointed upon the
 31 nomination of the officer upon whose staff they shall serve, approved, in
 32 the case of staff officers of the army units of the national guard, by the
 33 commanding general of such army units, and in the case of staff officers of
 34 the air force units of the national guard, by the commanding officer of such
 35 air force units; and

36 e. All other commissioned or warrant officers of battalions or squadrons
 37 shall be appointed upon the nomination of the respective battalion or squad-
 38 ron commander, and all other commissioned or warrant officers of other units
 39 shall be appointed upon the nomination of the commander of the next higher
 40 echelon of command, and each such nomination shall be approved by the
 41 intermediate commanders, and, in the case of officers of the army units of
 42 the national guard, by the commanding general of such army units, and in
 43 the case of officers of the air force units of the national guard, by the com-
 44 manding officer of such air force units.

1 10. Section 38:3-16 of the Revised Statutes is amended to read as
 2 follows:

3 38:3-16. [Any person who shall have been duly appointed or elected
 4 and shall have passed the required examination shall be commissioned by
 5 the Governor. No person shall assume the status or perform the duties of
 6 an officer until he shall have been duly announced in orders issued by the
 7 Adjutant General. Commissions shall be issued to officers in the arm, corps
 8 or department of the service of which they are a part and not in any regi-
 9 ment or other unit.]

10 No commissioner or warrant officer shall be appointed in the national
 11 guard until he shall have successfully passed the prescribed examination
 12 conducted by a board of officers to determine his qualifications for Federal
 13 recognition as a national guard officer.

14 No person shall assume the status or perform the duties of a commis-
 15 sioned officer or a warrant officer until he shall have been duly announced
 16 in orders issued by the Chief of Staff of the State Department of Defense.

17 Commissions or warrants shall be issued in an arm or service and not
 18 in any regiment or other unit. No commission or warrant shall be issued to
 19 any person appointed a commissioned or warrant officer until he shall have
 20 been extended recognition by the Federal Government.

1 11. Section 38:3-17 of the Revised Statutes is amended to read as
 2 follows:

3 38:3-17. The acceptance of a commission or warrant in the national
 4 guard shall be deemed a resignation by the person accepting the same of
 5 all other commissions or warrants held by him in the military service of
 6 the State. **[Nothing in this section shall apply to or affect the status of**
 7 **persons holding commissions in the United States Officers' Reserve Corps**
 8 **or the acceptance and holding of brevet or advanced commissions.]**

9 The acceptance of a commission or warrant, or enlistment, in the armed
 10 forces of the United States, except the Army of the United States in time
 11 of war, or in any of the reserve components of the armed forces of the
 12 United States, except the National Guard of the United States, shall also
 13 be deemed a resignation by the officer accepting such commission or warrant,
 14 or so enlisting, of any commissions or warrants held by him in the military
 15 service of the State.

1 12. Section 38:3-18 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:3-18. **[Commissions of officers shall be vacated upon resignation or**
 4 **pursuant to the sentence of a court-martial.]**

5 The commission or warrant of an officer shall be vacated only:

6 a. Upon the acceptance by the Governor of the resignation of such of-
7 ficer; or

8 b. By an order of the Chief of Staff of the State Department of
9 Defense,

10 (1) Discharging such officer because of his failure to maintain his
11 qualifications for Federal recognition, or

12 (2) Discharging such officer because of his absence from duty with-
13 out leave for more than three months, or

14 (3) Discharging such officer pursuant to the recommendation of a
15 board of examination, approved by the Governor, or

16 (4) Dismissing such officer pursuant to the sentence of a court-
17 martial, approved by the Governor.

1 13. Section 38:3-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:3-19. There shall be an unassigned list for commissioned officers and
4 warrant officers. A commissioned officer or a warrant officer may be trans-
5 ferred to the unassigned list:

6 a. Pending the acceptance of his resignation; or

7 **[b. If he shall have been absent from the State without leave for more**
8 **than three months;**

9 c. If he shall fail to maintain his qualifications for Federal recognition;
10 and

11 d. If he shall have been the subject of an unfavorable report rendered
12 by an efficiency board, and such report shall have been approved by the
13 Governor.]

14 b. Pending his retirement,

15 (1) Upon his own application, or

16 (2) By reason of withdrawal or termination of his Federal recog-
17 niton, or

18 (3) Pursuant to a recommendation of a board of examination ap-
 19 proved by the Governor.

1 14. Section 38:3-21 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:3-21. [No commission or warrant shall on or after May fifth, one
 4 thousand nine hundred and thirty-seven, be issued to any person appointed
 5 or elected a commissioned or warrant officer unless he shall first success-
 6 fully pass such tests as to his physical, moral and professional fitness as
 7 may be prescribed by the President of the United States or the Governor.]

8 The Governor, whenever he deems it to be for the good of the service,
 9 may order any commissioned officer or warrant officer to appear before a
 10 board of examination. The board of examination shall consist of three com-
 11 missioned officers, senior in rank to the officer whose fitness for service is
 12 under examination, and such board shall be vested with the powers of courts
 13 of inquiry, to examine into the moral character, capacity, and physical and
 14 professional fitness of such officer. The board may recommend the retention
 15 of the officer being examined, his retirement because of physical inability to
 16 perform active service, or his discharge and the vacating of his commission
 17 or warrant. The findings of the board shall become effective upon ap-
 18 proval by the Governor.

1 15. Section 38:3-22 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:3-22. [A commissioned] An officer may resign his commission or
 4 warrant, but such resignation shall not become effective until it shall have
 5 been accepted by the Governor.

1 16. Section 38:3-23 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:3-23. [Retirement; detail to active duty.] Any commissioned officer or
 4 warrant officer who shall have reached the age of sixty-four years, or whose
 5 Federal recognition shall have been withdrawn or terminated by reason of
 6 disability, or by reason of having passed the maximum age prescribed by

7 Federal regulations for his grade, shall be retired by the Governor. Any
 8 commissioned officer or warrant officer who shall have served for at least ten
 9 years in the military or naval forces of this State, either as a commissioned
 10 officer or as a warrant officer, or as both, upon application to the Governor,
 11 may be relieved from active service and retired.

12 The Governor may detail retired commissioned officers or warrant of-
 13 ficers to active duty, if they consent thereto; *provided*, that officers retired
 14 for age or disability shall not be detailed to command troops. In time of
 15 war or imminent danger thereof retired officers may be detailed by the Gov-
 16 ernor to perform any military duty assigned by him.

1 17. Section 38:3-24 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:3-24. Seniority of commissioned officers or warrant officers of like
 4 grade shall be determined by the total length of active service in that grade
 5 or in a higher grade. When the service of two or more officers of the same
 6 grade shall be equal, precedence shall be determined by length of active com-
 7 missioned or warrant service, and if length of active commissioned or war-
 8 rant service be the same, they shall take rank among themselves according to
 9 age. For the purposes of this section the term "active service" shall include
 10 active Federal service in any component of the armed forces of the United
 11 States, active service in the Federally-recognized national guard, or active
 12 service in a reserve component of the armed forces of the United States re-
 13 quiring performance of duty equivalent to that required to be performed in
 14 the active Federally-recognized national guard.

1 18. Section 38:4-5 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-5. Commissioned officers and warrant officers shall be citizens of the
 4 United States between the ages of twenty-one and sixty-four years.

1 19. Section 38:4-6 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-6. No person shall be commissioned or warranted unless he shall
 4 be appointed [or elected] as hereinafter provided, and selected from one of
 5 the following classes, and shall have subscribed to the oath of office pro-
 6 vided for in section 38:4-7 of this Title:

7 a. Commissioned officers, warrant officers or enlisted men of the naval
 8 militia [or naval reserve force] ;

9 b. Commissioned officers or warrant officers [, active or retired, reserve
 10 officers and] or former commissioned officers or warrant officers of the
 11 [Army, Navy or Marine Corps] armed forces of the United States or of
 12 any of the reserve components thereof;

13 c. Enlisted men or former enlisted men of the [Army, Navy, and Marine
 14 Corps, and naval reserve force who have received an honorable discharge
 15 therefrom] armed forces of the United States or of any of the reserve
 16 components thereof;

17 d. Graduates of the [United States military or naval] service acade-
 18 mies of the armed forces of the United States; and

19 [Graduates of schools, colleges or universities and officers' training
 20 camps who have received military instruction under the supervision of an
 21 officer of the Army or Navy who certified their fitness for appointment as
 22 commissioned officers; and]

23 e. Such civilians as may be specially qualified for duty [for] in the
 24 professional or technical [branches] services or staff corps [and depart-
 25 ments].

1 20. Section 38:4-8 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-8. [Brigade commanders shall be elected by the officers of their re-
 4 spective brigades.

5 Battalion commanders and executive officers shall be elected by the of-
 6 ficers of their respective battalions.

7 Division officers shall be elected by the members of their respective
 8 divisions.

9 In case the electors of any officer shall refuse or neglect to make such
10 election, the Governor shall have the power to appoint such officer, and to
11 fill any vacancies caused by such a refusal or neglect.]

12 All commissioned or warrant officers shall be appointed and commis-
13 sioned or warranted by the Governor as follows:

14 e. Flag officers shall be nominated and appointed by the Governor with
15 the advice and consent of the Senate. During the time that the Senate is
16 not in session the Governor may make such nominations and appointments
17 subject to subsequent confirmation by the Senate;

18 b. Commanders of organizations shall be appointed upon the nomination
19 of the next senior commander, approved by the intermediate commanders
20 and by the commanding officer of the naval militia;

21 c. Staff officers, commissioned or warranted, shall be appointed upon the
22 nominations of the officer upon whose staff they shall serve, approved by the
23 commanding officer of the naval militia; and

24 d. All other commissioned or warrant officers of battalions shall be ap-
25 pointed upon the nomination of the commanders thereof, approved by the
26 intermediate commanders and by the commanding officer of the naval
27 militia.

1 21. Section 38:4-12 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:4-12. [Any person who shall have been duly appointed or elected
4 and who shall have passed the required examination, shall be commissioned
5 by the Governor. No person shall assume the status or perform the duties
6 of an officer until he shall have been duly announced in orders issued by the
7 Adjutant-General.]

8 No commissioned or warrant officer shall be appointed in the naval
9 militia until he shall have successfully passed the prescribed examination
10 conducted by a board of officers to determine his qualifications.

11 No person shall assume the status or perform the duties of a commis-
 12 sioned officer or a warrant officer until he shall have been duly announced in
 13 orders issued by the Chief of Staff of the State Department of Defense.

14 Commissions or warrants shall be issued in the naval militia but not in
 15 any brigade or battalion.

1 22. Section 38:4-14 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-14. **【Commissions of officers shall be vacated upon resignation, ab-**
 4 **sence from the State without leave for more than three months, or pursuant**
 5 **to the sentence of a court-martial.】**

6 The commission or warrant of an officer shall be vacated only:

7 a. Upon the acceptance by the Governor of the resignation of such officer;

8 or

9 b. By an order of the Chief of Staff of the State Department of Defense,

10 (1) Discharging such officer because of his failure to maintain pre-
 11 scribed qualifications, or

12 (2) Discharging such officer because of his absence from duty with-
 13 out leave for more than three months, or

14 (3) Discharging such officer pursuant to the recommendation of a
 15 board of examination, approved by the Governor, or

16 (4) Dismissing such officer pursuant to the sentence of a court-
 17 martial, approved by the Governor.

1 23. Section 38:4-16 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-16. **【No commission or warrant shall on or after May fifth, one thou-**
 4 **sand nine hundred and thirty-seven, be issued to any person appointed or**
 5 **elected a commissioned officer or warrant officer unless he shall first have**
 6 **passed such tests as to his physical, moral and professional fitness as may be**
 7 **prescribed by the president of the United States or the Governor.】**

8 The Governor, whenever he deems it to be for the good of the service,
 9 may order any commissioned officer or warrant officer to appear before a
 10 board of examination. The board of examination shall consist of three com-
 11 missioned officers, senior in rank to the officer whose fitness for service is
 12 under examination, and such board shall be vested with the powers of courts
 13 of inquiry, to examine into the moral character, capacity, and physical and
 14 professional fitness of such officer. The board may recommend the retention
 15 of the officer being examined, his retirement because of physical inability to
 16 perform active service, or his discharge and the vacating of his commission
 17 or warrant. The findings of the board shall become effective upon approval
 18 by the Governor.

1 24. Section 38:4-17 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-17. **[A commissioned]** An officer may resign his commission or
 4 warrant, but such resignation shall not become effective until it shall have
 5 been accepted by the Governor.

1 25. Section 38:4-18 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-18. **[There shall be a retired list for commissioned officers.]** Any
 4 commissioned officer or warrant officer who [has] shall have reached the age
 5 of sixty-four years shall be [placed upon the retired list] retired by the Gov-
 6 ernor. Any commissioned officer or warrant officer who shall have served for
 7 a period of ten years in the naval service of this State [may], either as a
 8 commissioned officer or as a warrant officer, or as both, upon application to
 9 the Governor, may be relieved from active service and [placed upon the re-
 10 tired list] retired.

11 The Governor may detail retired commissioned officers or warrant officers
 12 [from the retired list, with their consent,] to active duty, if they consent
 13 thereto; [and return them to such list in his discretion:] provided, that

14 officers retired for age or disability shall not be detailed to command [troops].
 15 In time of war or imminent danger thereof retired officers may be detailed
 16 by the Governor to perform any [military] naval duty assigned by him.

17 There shall be an unassigned list for commissioned officers and warrant
 18 officers. A commissioned officer or a warrant officer may be transferred to
 19 the unassigned list:

20 a. Pending the acceptance of his resignation; or

21 b. Pending his retirement, upon his own application or pursuant to a
 22 recommendation of a board of examination approved by the Governor.

1 26. Section 38:4-19 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-19. Seniority of commissioned officers or warrant officers of like
 4 grade shall be determined by the total length of active service in that grade
 5 or in a higher grade. When the service of two or more officers of the same
 6 grade shall be equal, precedence shall be determined by length of active com-
 7 missioned or warrant service, and if length of active commissioned or war-
 8 rant service be the same, they shall take rank among themselves according to
 9 age. For the purposes of this section the term "active service" shall include
 10 active Federal service in any component of the armed forces of the United
 11 States, active service in the organized naval militia, or active service in the
 12 organized naval reserve of the United States.

1 27. Section 38:4-31 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-31. There shall be an inactive naval militia. With the approval of
 4 the commanding officer of the naval militia, commissioned officers, warrant
 5 officers or enlisted men of the naval militia may be transferred to the in-
 6 active naval militia, and may be transferred from the inactive naval militia
 7 back to the naval militia.

1 28. Section 38:14-6 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:14-6. Any commissioned officer or warrant officer of **【duly commis-**
4 **sioned in】** the national guard, naval militia or New Jersey State guard or
5 any commissioned officer or warrant officer of the armed forces of the United
6 States detailed to duty as instructor with any component of the militia of this
7 State, may administer the oath of enlistment to enlisted men.

1 29. Sections 38:3-12, 38:3-13, 38:3-14, 38:3-15, 38:3-20, 38:4-9, 38:4-10,
2 38:4-11 and 38:4-15 of the Revised Statutes are repealed.

1 30. This act shall take effect immediately.

[OFFICIAL COPY REPRINT]

SENATE, No. 171

STATE OF NEW JERSEY

INTRODUCED MARCH 6, 1950

By Mr. BODINE

Referred to Committee on Military and Naval Affairs

AN ACT concerning the militia of this State, amending sections 38:2-2, 38:3-1, 38:3-2, 38:3-3, 38:3-4, 38:3-5, 38:3-8, 38:3-9, 38:3-11, 38:3-16, 38:3-17, 38:3-18, 38:3-19, 38:3-21, 38:3-22, 38:3-23, 38:3-24, 38:4-5, 38:4-6, 38:4-8, 38:4-12, 38:4-14, 38:4-16, 38:4-17, 38:4-18, 38:4-19, 38:4-31 and 38:14-6 of the Revised Statutes, and repealing sections 38:3-12, 38:3-13, 38:3-14, 38:3-15, 38:3-20, 38:4-9, 38:4-10, 38:4-11 and 38:4-15 of the Revised Statutes.

1 BE IT ENACTED by the Senate and General Assembly of the State of New
2 Jersey:

1 1. Section 38:2-2 of the Revised Statutes is amended to read as follows:

2 38:2-2. Staff of Governor.

3 The staff of the Governor shall consist of:

4 a. Executive: The Chief of Staff of the State Department of Defense.

5 b. Personal: Personal aides-de-camp, appointed or detailed by the
6 Governor, whose term of office, unless sooner terminated, shall expire with
7 that of the Governor who shall have appointed or detailed them. Aides-de-

8 camp so appointed shall be commissioned as such on the staff of the Governor.

1 2. Section 38:3-1 of the Revised Statutes is amended to read as follows:

2 38:3-1. The national guard shall consist of those organizations and units
3 of the organized militia which are or hereafter may be authorized by the laws
4 of the United States or the regulations issued thereunder for the national

5 guard, to which organizations and units recognition shall have been extended
6 by the Federal Government, and the Federally recognized general officers,
7 officers, warrant officers and enlisted men, commissioned, warranted or en-
8 listed therein and in the National Guard of the United States.

1 3. Section 38:3-2 of the Revised Statutes is amended to read as follows:

2 38:3-2. The army units of the national guard, except the State head-
3 quarters and headquarters detachment, shall be commanded by the senior
4 general officer of the line of such army units, who shall be responsible for
5-6 the administration, training, discipline, supply and general efficiency thereof.

7 The air force units of the national guard shall be commanded by the

8 senior air force officer of the tactical units of such air force units, who shall
9 be responsible for the administration, training, discipline, supply and gen-
10 eral efficiency thereof.

1 4. Section 38:3-3 of the Revised Statutes is amended to read as follows:

2 38:3-3. The national guard, except the State headquarters and head-
3 quarters detachment and the air force units, to the extent authorized by
4 applicable Federal tables of organization, shall be organized and maintained
5 as one or more divisions. Those units of the national guard, except the
6 State headquarters and headquarters detachment and the air force units,
7 which by such tables of organization shall not be included within the divi-
8 sions, shall be attached thereto for administration, training, discipline and
9 supply.

1 5. Section 38:3-4 of the Revised Statutes is amended to read as follows:

2 38:3-4. The commanding general of the army units of the national guard
3 shall establish and maintain a headquarters of such units. There shall be
4 assigned from the active national guard, for duty with said headquarters,
5 such officer and enlisted personnel as such commanding general shall deem
6 necessary.

1 6. Section 38:3-5 of the Revised Statutes is amended to read as follows:

2 38:3-5. The discipline and training of the national guard shall conform
3 to applicable Federal regulations.

1 7. Section 38:3-8 of the Revised Statutes is amended to read as follows:
 2 38:3-8. Commissioned officers and warrant officers shall be citizens of the
 3 United States between the ages of twenty-one and sixty-four years.

1 8. Section 38:3-9 of the Revised Statutes is amended to read as follows:

2 38:3-9. No person shall be commissioned or warranted unless he shall be
 3 appointed as hereinafter provided, and selected from one of the following
 4 classes, and shall have subscribed to the oath of office provided for in section
 5 38:3-10 of this Title:

6 a. Commissioned officers, warrant officers or enlisted men of the national
 7 guard;

8 b. Commissioned officers or warrant officers or former commissioned
 9 officers or warrant officers of the armed forces of the United States or of
 10 any of the reserve components thereof;

11 c. Enlisted men or former enlisted men of the armed forces of the United
 12 States or of any of the reserve components thereof;

13 d. Graduates of the service academies of the armed forces of the United
 14 States; and

15 e. Such civilians as may be specially qualified for duty in the profes-
 16 sional or technical services or staff corps.

1 9. Section 38:3-11 of the Revised Statutes is amended to read as
 2 follows:

3-14 38:3-11. All commissioned or warrant officers shall be appointed and
 15 commissioned or warranted by the Governor as follows:

16 a. General officers shall be nominated and appointed by the Governor
 17 with the advice and consent of the Senate. During the time that the Senate
 18 is not in session the Governor may make such nominations and appointments
 19 subject to subsequent confirmation by the Senate;

20 b. Commissioned or warrant officers of the State headquarters and
 21 headquarters detachment shall be appointed upon the nomination of the
 22 Chief of Staff of the State Department of Defense;

23 c. Commanders of organizations shall be appointed upon the nomination
24 of the next senior commander, approved by the intermediate commanders,
25 and, in the case of commanders of the army units of the national guard by
26 the commanding general of such army units, and in the case of commanders
27 of the air force units of the national guard, by the commanding officer of
28 such air force units;

29 d. Staff officers, commissioned or warranted, except those of the State
30 headquarters and headquarters detachment, shall be appointed upon the
31 nomination of the officer upon whose staff they shall serve, approved, in
32 the case of staff officers of the army units of the national guard, by the
33 commanding general of such army units, and in the case of staff officers of
34 the air force units of the national guard, by the commanding officer of such
35 air force units; and

36 e. All other commissioned or warrant officers of battalions or squadrons
37 shall be appointed upon the nomination of the respective battalion or squad-
38 ron commander, and all other commissioned or warrant officers of other units
39 shall be appointed upon the nomination of the commander of the next higher
40 echelon of command, and each such nomination shall be approved by the
41 intermediate commanders, and, in the case of officers of the army units of
42 the national guard, by the commanding general of such army units, and in
43 the case of officers of the air force units of the national guard, by the com-
44 manding officer of such air force units.

1 10. Section 38:3-16 of the Revised Statutes is amended to read as
2 follows:

3-10 38:3-16. No commissioned or warrant officer shall be appointed in the
11 national guard until he shall have successfully passed the prescribed
12 examination conducted by a board of officers to determine his qualifications
13 for Federal recognition as a national guard officer.

14 No person shall assume the status or perform the duties of a commis-
15 sioned officer or a warrant officer until he shall have been duly announced
16 in orders issued by the Chief of Staff of the State Department of Defense.

17 Commissions or warrants shall be issued in an arm or service and not

18 in any regiment or other unit. No commission or warrant shall be issued to
 19 any person appointed a commissioned or warrant officer until he shall have
 20 been extended recognition by the Federal Government.

1 11. Section 38:3-17 of the Revised Statutes is amended to read as
 2 follows:

3 38:3-17. The acceptance of a commission or warrant in the national
 4 guard shall be deemed a resignation by the person accepting the same of
 5 all other commissions or warrants held by him in the military service of
 6-8 the State.

9 The acceptance of a commission or warrant, or enlistment, in the armed
 10 forces of the United States, except the Army of the United States in time
 11 of war, or in any of the reserve components of the armed forces of the
 12 United States, except the National Guard of the United States, shall also
 13 be deemed a resignation by the officer accepting such commission or warrant,
 14 or so enlisting, of any commissions or warrants held by him in the military
 15 service of the State.

1 12. Section 38:3-18 of the Revised Statutes is amended to read as fol-
 2 lows:

3-5 38:3-18. The commission or warrant of an officer shall be vacated only:

6 a. Upon the acceptance by the Governor of the resignation of such of-
 7 ficer; or

8 b. By an order of the Chief of Staff of the State Department of
 9 Defense,

10 (1) Discharging such officer because of his failure to maintain his
 11 qualifications for Federal recognition, or

12 (2) Discharging such officer because of his absence from duty with-
 13 out leave for more than three months, or

14 (3) Discharging such officer pursuant to the recommendation of a
 15 board of examination, approved by the Governor, or

16 (4) Dismissing such officer pursuant to the sentence of a court-
 17 martial, approved by the Governor.

1 13. Section 38:3-19 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:3-19. There shall be an unassigned list for commissioned officers and
4 warrant officers. A commissioned officer or a warrant officer may be trans-
5 ferred to the unassigned list:

6 a. Pending the acceptance of his resignation; or

7-14 b. Pending his retirement,

15 (1) Upon his own application, or

16 (2) By reason of withdrawal or termination of his Federal recog-
17 nition, or

18 (3) Pursuant to a recommendation of a board of examination ap-
19 proved by the Governor.

1 14. Section 38:3-21 of the Revised Statutes is amended to read as fol-
2 lows:

3-8 38:3-21. The Governor, whenever he deems it to be for the good of the
9 service, may order any commissioned officer or warrant officer to appear before
10 a board of examination. The board of examination shall consist of three com-
11 missioned officers, senior in rank to the officer whose fitness for service is
12 under examination, and such board shall be vested with the powers of courts
13 of inquiry, to examine into the moral character, capacity, and physical and
14 professional fitness of such officer. The board may recommend the retention
15 of the officer being examined, his retirement because of physical inability to
16 perform active service, or his discharge and the vacating of his commission
17 or warrant. The findings of the board shall become effective upon ap-
18 proval by the Governor.

1 15. Section 38:3-22 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:3-22. An officer may resign his commission or warrant, but such
4 resignation shall not become effective until it shall have been accepted by the
5 Governor.

1 16. Section 38:3-23 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:3-23. Any commissioned officer or warrant officer who shall have
4 reached the age of sixty-four years, or whose Federal recognition shall have
5 been withdrawn or terminated by reason of disability, or by reason of having
6 passed the maximum age prescribed by Federal regulations for his grade,
7 shall be retired by the Governor. Any commissioned officer or warrant officer
8 who shall have served for at least ten years in the military or naval forces
9 of this State, either as a commissioned officer or as a warrant officer, or
10 as both, upon application to the Governor, may be relieved from active service
11 and retired.

12 The Governor may detail retired commissioned officers or warrant of-
13 ficers to active duty, if they consent thereto; *provided*, that officers retired
14 for age or disability shall not be detailed to command troops. In time of
15 war or imminent danger thereof retired officers may be detailed by the Gov-
16 ernor to perform any military duty assigned by him.

1 17. Section 38:3-24 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:3-24. Seniority of commissioned officers or warrant officers of like
4 grade shall be determined by the total length of active service in that grade
5 or in a higher grade. When the service of two or more officers of the same
6 grade shall be equal, precedence shall be determined by length of active com-
7 missioned or warrant service, and if length of active commissioned or war-
8 rant service be the same, they shall take rank among themselves according to
9 age. For the purposes of this section the term "active service" shall include
10 active Federal service in any component of the armed forces of the United
11 States, active service in the Federally-recognized national guard, or active
12 service in a reserve component of the armed forces of the United States re-
13 quiring performance of duty equivalent to that required to be performed in
14 the active Federally-recognized national guard.

1 18. Section 38:4-5 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:4-5. Commissioned officers and warrant officers shall be citizens of the
4 United States between the ages of twenty-one and sixty-four years.

1 19. Section 38:4-6 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:4-6. No person shall be commissioned or warranted unless he shall
4 be appointed as hereinafter provided, and selected from one of the following
5 classes, and shall have subscribed to the oath of office provided for in section
6 38:4-7 of this Title:

7 a. Commissioned officers, warrant officers or enlisted men of the naval
8 militia;

9 b. Commissioned officers or warrant officers or former commissioned
10 officers or warrant officers of the armed forces of the United States or of
11 any of the reserve components thereof;

12 c. Enlisted men or former enlisted men of the armed forces of the United
13 States or of any of the reserve components thereof;

14 d. Graduates of the service academies of the armed forces of the United
15 States; and

16 e. Such civilians as may be specially qualified for duty in the profes-
17 sional or technical services or staff corps.

1 20. Section 38:4-8 of the Revised Statutes is amended to read as fol-
2 lows:

3-12 38:4-8. All commissioned or warrant officers shall be appointed and
15 commissioned or warranted by the Governor as follows:

14 a. Flag officers shall be nominated and appointed by the Governor with
15 the advice and consent of the Senate. During the time that the Senate is
16 not in session the Governor may make such nominations and appointments
17 subject to subsequent confirmation by the Senate;

18 b. Commanders of organizations shall be appointed upon the nomination
19 of the next senior commander, approved by the intermediate commanders
20 and by the commanding officer of the naval militia;

21 c. Staff officers, commissioned or warranted, shall be appointed upon the
 22 nomination of the officer upon whose staff they shall serve, approved by the
 23 commanding officer of the naval militia; and

24 d. All other commissioned or warrant officers of battalions shall be ap-
 25 pointed upon the nomination of the commanders thereof, approved by the
 26 intermediate commanders and by the commanding officer of the naval
 27 militia.

1 21. Section 38:4-12 of the Revised Statutes is amended to read as fol-
 2 lows:

3-8 38:4-12. No commissioned or warrant officer shall be appointed in the
 9 naval militia until he shall have successfully passed the prescribed examina-
 10 tion conducted by a board of officers to determine his qualifications.

11 No person shall assume the status or perform the duties of a commis-
 12 sioned officer or a warrant officer until he shall have been duly announced in
 13 orders issued by the Chief of Staff of the State Department of Defense.

14 Commissions or warrants shall be issued in the naval militia but not in
 15 any brigade or battalion.

1 22. Section 38:4-14 of the Revised Statutes is amended to read as fol-
 2 lows:

3-6 38:4-14. The commission or warrant of an officer shall be vacated only:

7 a. Upon the acceptance by the Governor of the resignation of such officer;
 8 or

9 b. By an order of the Chief of Staff of the State Department of Defense,

10 (1) Discharging such officer because of his failure to maintain pre-
 11 scribed qualifications, or

12 (2) Discharging such officer because of his absence from duty with-
 13 out leave for more than three months, or

14 (3) Discharging such officer pursuant to the recommendation of a
 15 board of examination, approved by the Governor, or

16 (4) Dismissing such officer pursuant to the sentence of a court-
 17 martial, approved by the Governor.

1 23. Section 38:4-16 of the Revised Statutes is amended to read as fol-
2 lows:

3-8 38:4-16. The Governor, whenever he deems it to be for the good of the
9 service, may order any commissioned officer or warrant officer to appear before
10 a board of examination. The board of examination shall consist of three com-
11 missioned officers, senior in rank to the officer whose fitness for service is
12 under examination, and such board shall be vested with the powers of courts
13 of inquiry, to examine into the moral character, capacity, and physical and
14 professional fitness of such officer. The board may recommend the retention
15 of the officer being examined, his retirement because of physical inability to
16 perform active service, or his discharge and the vacating of his commission
17 or warrant. The findings of the board shall become effective upon approval
18 by the Governor.

1 24. Section 38:4-17 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:4-17. An officer may resign his commission or warrant, but such
4 resignation shall not become effective until it shall have been accepted by the
5 Governor.

1 25. Section 38:4-18 of the Revised Statutes is amended to read as fol-
2 lows:

3 38:4-18. Any commissioned officer or warrant officer who shall have
4 reached the age of sixty-four years shall be retired by the Governor. Any
5 commissioned officer or warrant officer who shall have served for a period of
6 ten years in the naval service of this State, either as a commissioned officer
7 or as a warrant officer, or as both, upon application to the Governor, may be
8 relieved from active service and retired.

9 The Governor may detail retired commissioned officers or warrant officers
10 to active duty, if they consent thereto; *provided*, that officers retired for age
11 or disability shall not be detailed to command. In time of war or imminent
12 danger thereof retired officers may be detailed by the Governor to perform
13-16 any naval duty assigned by him.

17 There shall be an unassigned list for commissioned officers and warrant
 18 officers. A commissioned officer or a warrant officer may be transferred to
 19 the unassigned list:

20 a. Pending the acceptance of his resignation; or

21 b. Pending his retirement, upon his own application or pursuant to a
 22 recommendation of a board of examination approved by the Governor.

1 26. Section 38:4-19 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-19. Seniority of commissioned officers or warrant officers of like
 4 grade shall be determined by the total length of active service in that grade
 5 or in a higher grade. When the service of two or more officers of the same
 6 grade shall be equal, precedence shall be determined by length of active com-
 7 missioned or warrant service, and if length of active commissioned or war-
 8 rant service be the same, they shall take rank among themselves according to
 9 age. For the purposes of this section the term "active service" shall include
 10 active Federal service in any component of the armed forces of the United
 11 States, active service in the organized naval militia, or active service in the
 12 organized naval reserve of the United States.

1 27. Section 38:4-31 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:4-31. There shall be an inactive naval militia. With the approval of
 4 the commanding officer of the naval militia, commissioned officers, warrant
 5 officers or enlisted men of the naval militia may be transferred to the in-
 6 active naval militia, and may be transferred from the inactive naval militia
 7 back to the naval militia.

1 28. Section 38:14-6 of the Revised Statutes is amended to read as fol-
 2 lows:

3 38:14-6. Any commissioned officer or warrant officer of the national guard,
 4 naval militia or New Jersey State guard or any commissioned officer or war-
 5 rant officer of the armed forces of the United States detailed to duty as in-

6 structor with any component of the militia of this State, may administer the
7 oath of enlistment to enlisted men.

1 29. Sections 38:3-12, 38:3-13, 38:3-14, 38:3-15, 38:3-20, 38:4-9, 38:4-10,
2 38:4-11 and 38:4-15 of the Revised Statutes are repealed.

1 30. This act shall take effect immediately.