

AN ACT

ENTITLED, An Act to clarify, repeal, update, and make style and form changes to certain statutes related to military and veterans affairs.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF SOUTH DAKOTA:

Section 1. That § 33-1-2 be amended to read as follows:

33-1-2. One adjutant general, in the grade of major general, shall be appointed and shall serve as provided by § 1-32-3. At the time of appointment, the adjutant general shall be a federally recognized commissioned officer of the South Dakota National Guard, with not less than ten years military service in the armed forces of this state or of the United States. The officer appointed to the position of adjutant general shall meet all of the requirements of the officer's respective service to be appointed and receive federal recognition as a general officer in that service, including any waivers that may be authorized and granted or delegated by the secretaries of the Army or Air Force, as appropriate.

Section 2. That § 33-1-3 be repealed.

Section 3. That § 33-1-6 be amended to read as follows:

33-1-6. The adjutant general shall distribute all orders from the Governor. The adjutant general is the organ of all written communication from the National Guard to the Governor and shall attend the Governor if required at review of the National Guard, or if ordered in the performance of military duty. The adjutant general shall present to the Governor all recommendations with reference to the Department of Military and Veterans Affairs and shall obey and issue orders given by the Governor in relation to the department and in all other military matters. The adjutant general may use the coat of arms of the state and the seal of the office, with the words added thereto, "State of South Dakota, the Adjutant General's Office." The adjutant general shall submit to the Governor copies of all charges properly preferred in writing against any officer or soldier of the National Guard, if desired

by the person preferring the charge, as well as all proceedings of all general courts-martial. The adjutant general shall biennially make a return in triplicate of all the National Guard of the state and shall deliver a copy of the return to the Governor on or before the first day of December of each even-numbered year.

Section 4. That § 33-1-10 be amended to read as follows:

33-1-10. Within the National Guard Division of the Department of Military and Veterans Affairs, there are separate sections for the Army National Guard and Air National Guard, with an assistant adjutant general in the grade of brigadier general as the head of each, under the general supervision and control of the adjutant general in the grade of major general. The qualifications of the assistant adjutants general for army and air are the same as those prescribed under applicable National Guard regulations for federal recognition in the grade of brigadier general and applicable Department of Army and Air Force and National Guard Bureau eligibility standards. At the time of appointment, the assistant adjutant generals shall be qualified or capable of meeting qualifications within a reasonable time and a federally recognized commissioned field grade officer of the South Dakota National Guard, with not less than eight years service in the National Guard of South Dakota.

Section 5. That § 33-1-10.1 be amended to read as follows:

33-1-10.1. Notwithstanding the provisions of § 33-1-14, there shall be appointed an assistant adjutant general for the Army National Guard and Air National Guard of the State of South Dakota, as authorized by § 33-1-10. The tour of duty of the assistants shall be as specified in the orders of the Governor with the consent of the Senate appointing the assistants, and may be for any period not to exceed two years. Assistant adjutants general are eligible for reappointment.

Section 6. That § 33-1-12 be amended to read as follows:

33-1-12. The adjutant general has general supervision and control of the Department of Military and Veterans Affairs subject to the orders and instructions of the Governor. The adjutant general may

have such staff assistants in the several divisions named in this chapter as the adjutant general recommends and the Governor deems necessary for economical administration.

Section 7. That § 33-1-15 be amended to read as follows:

33-1-15. The adjutant general shall appoint all officers and appointees of the Department of Military and Veterans Affairs, except the members of the Board of Military Affairs created by this chapter. The adjutant general may employ such clerical and other employees and assistants as the adjutant general deems necessary for the proper transaction of the business of the department, and fix their salaries except as otherwise provided by law.

Section 8. That § 33-1-16 be amended to read as follows:

33-1-16. Staff assistants in the Department of Military and Veterans Affairs shall be commissioned by the Governor and have such rank in the general staff of the National Guard as the Governor provides in the commission of each. Such staff officers are not entitled to any stated monthly or annual salary, but if employed on detailed duty by order of the commander in chief, they shall receive the usual compensation of their rank, unless otherwise directed by the Governor, and any traveling expenses authorized by § 3-9-2, audited by the adjutant general and approved by the Governor.

Section 9. That § 33-1-20 be repealed.

Section 10. That § 33-1-21 be amended to read as follows:

33-1-21. With the approval of the adjutant general all military and civilian employees of the Department of Military and Veterans Affairs shall observe the holidays designated by the federal government in lieu of the enumerated holidays in § 1-5-1.

Section 11. That § 33-2-1 be amended to read as follows:

33-2-1. The Governor is the commander in chief of the militia of the state, the organized portion of which is known as the South Dakota National Guard.

Section 12. That § 33-2-2 be amended to read as follows:

33-2-2. The militia of the state consists of all able-bodied qualified residents of the state, and those nonresidents who are accepted into service, who are within the age limits currently authorized by the Department of Defense for enlisted personnel in the active components of the United States armed forces. The militia is divided into two classes: the National Guard and the unorganized militia.

Section 13. That § 33-2-3 be amended to read as follows:

33-2-3. The following persons are exempt from military duty:

- (1) All persons in the armed forces or volunteer force of the United States and those who have been honorably discharged therefrom;
- (2) All persons who have served in the South Dakota National Guard for the term of six years and have been honorably discharged. Exempted persons specified in this section are liable to military duty in case of war, insurrection, or invasion, or imminent danger thereof.

Section 14. That § 33-2-4 be amended to read as follows:

33-2-4. The following persons are exempt from military duty:

- (1) Any member of any well recognized religious sect or organization, organized and existing before March 1, 1917, whose creed forbids its members from participating in war in any form, and whose religious convictions are against war or participation in war, in accordance with the creed of the religious organization; and
- (2) Any person who is exempted by the laws of the United States.

Section 15. That § 33-2-5 be repealed.

Section 16. That § 33-2-6 be amended to read as follows:

33-2-6. The Governor may order out from time to time, for actual service, as many of the militia as necessary to execute the laws, preserve order, suppress insurrection, repel invasion, and provide disaster relief assistance.

Section 17. That § 33-2-7 be amended to read as follows:

33-2-7. If any troops are in the field for the purposes mentioned in § 33-2-6, the senior ranking officer of the troops present shall take command. However, no person is eligible for a command in the militia of this state unless that person is a citizen of the United States.

Section 18. That § 33-3-1 be repealed.

Section 19. That § 33-3-2 be amended to read as follows:

33-3-2. The National Guard shall be organized, armed, and equipped as provided in this title and shall consist of the following:

- (1) The members of the regularly enlisted militia who are within the age limits authorized by the Department of Defense; and
- (2) All commissioned and warrant officers who are within the age limits authorized for such officers.

The adjutant general is a member of the National Guard but is exempt from the age requirements set forth in this title.

Section 20. That § 33-3-3 be amended to read as follows:

33-3-3. The military units of the National Guard shall be composed and organized, except as otherwise specifically provided, the same as the armed forces of the United States subject in time of peace to such general exceptions as may be authorized by the secretary of defense. No unit or organization of the South Dakota National Guard and no unit of any branch or arm of the service may be maintained in the state, except as authorized by the President of the United States and recognized by the secretary of defense.

Section 21. That § 33-3-4 be repealed.

Section 22. That § 33-3-5 be amended to read as follows:

33-3-5. The Governor may muster and present to the Department of Defense for recognition

organizations and units authorized by applicable federal law and regulations.

Section 23. That § 33-3-6 be amended to read as follows:

33-3-6. The Governor may, in case of war, insurrection, invasion, riot, or imminent danger, increase the National Guard force beyond the maximum established by law and may organize and muster the additional forces with proper officers, as the exigency of the service requires and the President authorizes.

Section 24. That § 33-3-7 be amended to read as follows:

33-3-7. If the President authorizes the recruiting and presentation for muster of a unit or organization of any arm of the service, the recruiting of the unit or organization shall be done in accordance with the rules promulgated by the Governor pursuant to chapter 1-26.

Section 25. That § 33-3-8 be amended to read as follows:

33-3-8. The Governor may determine and fix the location of the units and headquarters of the South Dakota National Guard. However, no organization of the National Guard whose members are entitled to and have received compensation under the provisions of any act of Congress may be disbanded without the consent of the President. The commissioned or enlisted strength of any such organization may not be reduced below the minimum prescribed for the organization by the President without the consent of the President.

Section 26. That § 33-3-9 be amended to read as follows:

33-3-9. The organization, armament, equipment, and discipline of the National Guard, except as specifically provided in this title, are the same as prescribed under the provisions of applicable federal law for the National Guard. To the extent that the provisions of federal law allow discretion, the Governor may issue orders governing the organization, armament, equipment, and discipline of the National Guard.

Section 27. That § 33-3-10 be amended to read as follows:

33-3-10. The discipline and training of the National Guard shall conform to the system prescribed in this chapter and in applicable federal law and regulation for the armed forces of the United States.

Section 28. That § 33-3-12 be amended to read as follows:

33-3-12. The South Dakota National Guard is subject to this title and all orders authorized by this title and rules promulgated pursuant to this title in accordance with the provisions of chapter 1-26. In all matters not specifically covered by this title or by such orders or rules, the National Guard is subject to the applicable regulations of the Department of Defense governing the organized militia and the National Guard, to the Uniform Code of Military Justice, and to the applicable regulations of the armed forces of the United States.

Section 29. That § 33-3-13 be amended to read as follows:

33-3-13. The adjutant general, by direction of the Governor, may cause members of the National Guard to perform any lawful military duty. The adjutant general is responsible to the Governor for the general efficiency of the National Guard and for the drill, instruction, inspection, small arms and artillery practice, movements, operations, and care of the troops.

Section 30. That § 33-3-21 be amended to read as follows:

33-3-21. The commanding officer of any parade or drill of the National Guard, and the officer in charge of any rendezvous or camp, may cause the area selected for that purpose to be marked and designated in such manner as not unnecessarily to obstruct travel on any public highway. If any person, during the occupation of the area for military purposes, enters the designated area without the permission of the officer, the person may be arrested and kept under guard by order of the officer until such reasonable time as necessary to procure the person's arrest by the civil authorities. Any such offender is also guilty of a Class 2 misdemeanor.

Section 31. That § 33-3-22 be amended to read as follows:

33-3-22. If any person intercepts, molests, insults, or abuses any officer or enlisted member of the National Guard while in the performance of the member's military duty, the person may be immediately arrested and kept confined, in the discretion of the commanding officer of the force engaged in such duty, until sunset of the same day on which the offense is committed, or for such reasonable time as may be necessary to procure the person's arrest by the civil authorities. Any such offender is also guilty of a Class 1 misdemeanor.

Section 32. That § 33-3-23 be amended to read as follows:

33-3-23. The Governor may order target practice as the allowance of ammunition will permit and shall offer suitable medals, badges, or trophies, to be inscribed and given in the name of the state, to the persons and organizations who, upon competition, show their superior attainments as marksmen. The provisions of this section shall be carried out under orders and regulations issued by the Governor.

Section 33. That § 33-3-27 be repealed.

Section 34. That § 33-4-1 be amended to read as follows:

33-4-1. All officers of the National Guard shall be commissioned by the Governor, at the Governor's discretion, upon the recommendation of the adjutant general. However, no person may be commissioned as an officer unless the person has been examined and adjudged qualified to be an officer by an examining board. The composition, appointment, and examining procedure of the board and the nature and scope of the examinations shall be prescribed by federal law or regulation or by rules promulgated by the adjutant general pursuant to chapter 1-26, as the circumstance dictates. No person may be recognized as an officer unless the person has been duly commissioned and has taken the oath of office as prescribed in § 33-4-9.

Section 35. That § 33-4-2 be amended to read as follows:

33-4-2. Any commissioned officer of the National Guard shall be a citizen of the United States

and be either a qualified resident of this state or a nonresident who is accepted into service of the South Dakota National Guard. Any commissioned officer shall further meet the qualifications prescribed by federal law and the regulations of the Department of Defense. No person who has been expelled from or has received a less than honorable discharge from any branch of the armed forces of the United States or from any military organization of any state may be commissioned.

Section 36. That § 33-4-3 be repealed.

Section 37. That § 33-4-4 be repealed.

Section 38. That § 33-4-5 be amended to read as follows:

33-4-5. Except as specifically excluded by statute or military regulation, any person commissioned as an officer in the National Guard shall meet the requirements for federal recognition and appointment to the identical rank and position in the National Guard as is required for persons serving on active duty in the armed forces.

Section 39. That § 33-4-6 be repealed.

Section 40. That § 33-4-7 be repealed.

Section 41. That § 33-4-8 be amended to read as follows:

33-4-8. If the Governor desires to create a new organization of the National Guard, the Governor may appoint all the officers necessary to commence and complete the organization.

Section 42. That § 33-4-10 be amended to read as follows:

33-4-10. The Governor shall issue commissions to all officers of the National Guard appointed by the Governor. Every commission shall be signed by the Governor and attested by the adjutant general. Each officer so commissioned shall take and file with the adjutant general the oath of office prescribed in § 33-4-9.

Section 43. That § 33-4-11 be repealed.

Section 44. That § 33-4-12 be amended to read as follows:

33-4-12. The Governor may appoint and detail a board to be known as the Board of Examiners for the purpose of determining the fitness of officers of the National Guard and applicants for office, and for promotion of officers. The board shall promulgate rules pursuant to chapter 1-26 governing its procedure.

Section 45. That § 33-4-13 be repealed.

Section 46. That § 33-4-14 be repealed.

Section 47. That § 33-4-15 be repealed.

Section 48. That § 33-4-16 be repealed.

Section 49. That § 33-4-17 be repealed.

Section 50. That § 33-4-18 be repealed.

Section 51. That § 33-4-19 be amended to read as follows:

33-4-19. No state funds may be used for the purchase of uniforms or equipment of officers of the National Guard. However, such equipment may be issued by the quartermaster general upon the approval of the Governor.

Section 52. That § 33-5-1 be amended to read as follows:

33-5-1. Any person who is a citizen of the United States, or has declared the intention to become a citizen, who is within the age limits currently authorized by the Department of Defense for enlistment in the active components of the United States armed forces, may be enlisted in the South Dakota National Guard under the restrictions of this title. The qualifications and procedures for enlistment are the same as those prescribed for admission to the reserve components of the armed forces of the United States.

Section 53. That § 33-5-3 be repealed.

Section 54. That § 33-5-5 be repealed.

Section 55. That § 33-5-9 be repealed.

Section 56. That § 33-5-10 be amended to read as follows:

33-5-10. If a member of the National Guard changes primary residence within the state, the member may be transferred to a unit of the National Guard located at the place of the new primary residence. If there is no organization of the National Guard located within fifty miles of the member's new primary residence or if no unit vacancy exists in a National Guard unit located within fifty miles of the new primary residence, the member may be transferred to the inactive National Guard or individual ready reserve by order of the Governor.

Section 57. That § 33-5-11 be amended to read as follows:

33-5-11. In time of peace, no enlisted member of the National Guard may be discharged before the expiration of the member's period of enlistment, except:

- (1) By order of the President or secretary of defense;
- (2) By sentence of a general court-martial;
- (3) By direction of the Governor on account of disability, on account of sentence of imprisonment by civil court, on account of a bona fide permanent change of residence to another state or territory, or as provided for by regulations established by the secretary of defense;
- (4) In compliance with an order of one of the United States courts on writ of habeas corpus.

Section 58. That § 33-5-12 be repealed.

Section 59. That § 33-5-13 be repealed.

Section 60. That § 33-5-14 be repealed.

Section 61. That § 33-5-15 be repealed.

Section 62. That § 33-5-16 be repealed.

Section 63. That § 33-5-17 be amended to read as follows:

33-5-17. All discharges from the National Guard are subject to the provisions of this title, the

applicable provisions of federal law, and the rules promulgated by the adjutant general pursuant to chapter 1-26.

Section 64. That § 33-6-2 be amended to read as follows:

33-6-2. No person belonging to the military forces may be arrested on any civil process while going to, remaining at, or returning from any drill or annual training that the member is required to attend for duty.

Section 65. That § 33-6-3 be amended to read as follows:

33-6-3. Any National Guard unit or personnel performing any duty according to law have the right of way in any street or highway through which they may pass. However, the unit or personnel may not interfere with the legitimate functions of law enforcement personnel or with the progress and operations of fire and rescue, ambulance, and other emergency vehicles.

Section 66. That § 33-6-4 be amended to read as follows:

33-6-4. If a civil suit or civil proceedings are commenced in any court by any person against any member of the South Dakota National Guard for any act done by the member in an official capacity in the discharge of any duty under this title, or against any person lawfully acting under authority or order of the member, or by virtue of any warrant issued by the member pursuant to law, the judge advocate general, or some other officer designated by the Governor, shall appear for the member, and the plaintiff in the suit may be required to file security for the payment of the costs that may be incurred by the defendant in the suit or proceedings. If the plaintiff is nonsuited or if a verdict or judgment is rendered against the plaintiff, the defendant shall recover double costs and such attorney fees as the court allows. The fees shall in the first instance be paid by the state and refunded by the defendant upon collection of the judgment.

Section 67. That § 33-7-6 be amended to read as follows:

33-7-6. Any member of the National Guard performing state active duty shall be reimbursed for

all necessary expenses pursuant to § 3-9-2. For purposes of this section, necessary expenses include costs of transportation to and from a duty location as directed, subsistence, quarters, and uniform maintenance or replacement.

The adjutant general, on approval of the Governor, may authorize the use of state transportation assets at the adjutant general's disposal for the use of the National Guard on state active duty or to support military schools of instruction, investigations, boards of survey, inspections, annual conventions of the officers and enlisted association of the National Guard, or any other uses deemed necessary for military purposes.

Section 68. That § 33-7-7 be amended to read as follows:

33-7-7. Any member of the National Guard who is temporarily injured or who becomes temporarily ill while serving on state active duty shall receive medical care at the expense of the state until cleared to return to the member's regular employment by a medical review board appointed by the adjutant general. The injured or ill member shall remain on state active duty and shall receive full pay and allowances until released by the board.

Section 69. That § 33-7-8 be repealed.

Section 70. That § 33-7-9 be repealed.

Section 71. That § 33-7-10 be repealed.

Section 72. That § 33-8-2 be repealed.

Section 73. That § 33-8-3 be repealed.

Section 74. That § 33-8-4 be repealed.

Section 75. That § 33-8-5 be amended to read as follows:

33-8-5. Any person who intentionally, or through negligence, injures or destroys any uniform or other property provided for in § 33-8-1 and who refuses or neglects to make good such injury or loss, or who sells or disposes of the uniform or property, is guilty of a Class 2 misdemeanor.

Section 76. That § 33-8-8 be amended to read as follows:

33-8-8. Any person who wears or uses, except in the discharge of military duty or by special permission of the person's commanding officer, any uniform or other military property, commits a petty offense.

Section 77. That § 33-8-9 be repealed.

Section 78. That § 33-9-2 be amended to read as follows:

33-9-2. If the Governor is absent or cannot be immediately communicated with, any civil officer named in § 33-9-1 may, if the civil officer deems the occasion sufficiently urgent, apply electronically, telephonically, or in writing to the commanding officer of any unit of the National Guard, who may, upon approval by the adjutant general, if the danger is great and imminent, order out of the unit such South Dakota National Guard members as the commanding officer deems necessary to the assistance of the civil officer.

Section 79. That § 33-9-3 be amended to read as follows:

33-9-3. Any order pursuant to § 33-9-1 or 33-9-2 shall be delivered to the commanding officer and immediately communicated by the commanding officer to each subordinate officer. Each company commander receiving the order shall immediately communicate the substance of the order to each member of the company being called to duty. If any such member cannot be found, a notice in writing containing the substance of the order shall be left at the last and usual place of residence of the member with some person of suitable age and discretion, to whom its contents shall be explained.

Section 80. That § 33-9-4 be amended to read as follows:

33-9-4. If any company commander or commissioned officer of the National Guard who receives the order provided for in § 33-9-3 fails to give such notice or fails to appear at the time and place ordered, prepared for duty, the commander or officer shall be cashiered and shall be further punished

by fine and imprisonment as adjudged by a court martial or by other disciplinary action.

Section 81. That § 33-9-5 be amended to read as follows:

33-9-5. If any enlisted member of the National Guard, after being duly notified pursuant to § 33-9-3, refuses or neglects to appear at the time and place of rendezvous, properly prepared for duty, or fails to obey any order issued in such case, the member is deemed a deserter and is guilty of a Class 2 misdemeanor.

Section 82. That § 33-9-6 be amended to read as follows:

33-9-6. Physical incapacity to perform military service, dangerous sickness in the family of any officer or enlisted member referred to in §§ 33-9-4 and 33-9-5, or absence at the time the notice was served excuses the member from fault under §§ 33-9-4 and 33-9-5, if the absence was not intended to avoid such notice or service, and if the officer or member joins the unit for duty on the officer' or member's return, if the unit is still in service.

Section 83. That § 33-9-8 be amended to read as follows:

33-9-8. An armed force may be called out to respond to public disaster resulting from flood, conflagration, or tornado, or for the purpose of suppressing any tumult or riot, or for the purpose of dispersing any group of persons that is acting together by force with intent to commit any felony or to offer violence to persons or property, or that is acting with intent by force or violence to resist or oppose the execution of the laws of this state. Upon arrival at the place of such unlawful, riotous, or tumultuous assembly, the armed force shall obey any orders by the Governor for suppressing the riot or tumult or for dispersing and arresting all persons who are committing any such offenses. The armed force shall also obey any such orders from any judge of a court of record, or from the sheriff of the county, and also any further orders for such purposes from any two of the magistrates or other officers mentioned in this section.

Section 84. That § 33-9-9 be amended to read as follows:

33-9-9. If the efforts made pursuant to § 33-9-8 by, or at the direction of, any of the magistrates or officers mentioned in § 33-9-8 to disperse any unlawful, riotous, or tumultuous assembly, or to seize and secure the persons who have assembled and have refused to disperse, though the number remaining may be less than twelve, cause any such person or other persons present as spectators or otherwise to be killed or wounded, such magistrates and officers, and all persons acting by their order and under their direction, are held guiltless and fully justified in law. If any of such magistrates or officers or any persons acting by their order or under their direction are killed or wounded, any person who is unlawfully, riotously, and tumultuously assembled is answerable for the death or injury in a court of law.

Section 85. That § 33-9-10 be amended to read as follows:

33-9-10. The commanding officer and members of any of the military forces engaged in the suppression of an insurrection, the dispersion of a mob, or the enforcement of the laws, have the same immunity as law enforcement officers.

Section 86. That § 33-10-1 be amended to read as follows:

33-10-1. Except in organizations in the service of the United States, courts-martial in the National Guard are of three kinds: general courts-martial, special courts-martial, and summary courts-martial. Such courts are constituted the same and have cognizance of the same subjects and possess the same powers, except as to punishments, as similar courts provided for by the applicable laws and regulations governing the armed forces of the United States. The proceedings of courts-martial of the National Guard shall follow the forms and modes of procedure prescribed for such similar courts.

Section 87. That § 33-10-3 be amended to read as follows:

33-10-3. The commanding officer of any National Guard unit not in the service of the United States may convene special or summary courts-martial for the unit if the unit commander is required

to be an officer of the rank of at least lieutenant colonel and if the convening authority holds the rank of lieutenant colonel or higher. However, such courts-martial may in any case be convened by superior authority. Special or summary courts-martial may try any member of the National Guard not in the service of the United States, except a commissioned officer. The special or summary courts-martial have the same powers of punishment as do general courts-martial, except as limited by the Uniform Code of Military Justice in effect on January 1, 2007, and the South Dakota manual for courts-martial. No special court-martial may impose a dishonorable discharge. No summary court-martial may discharge or dismiss any member from the National Guard.

Section 88. That § 33-10-4 be amended to read as follows:

33-10-4. All courts-martial of the national guard, not in the service of the United States, including summary courts, may sentence to confinement in lieu of fines authorized to be imposed. No such sentence of confinement may exceed one day for each dollar of fine authorized.

Section 89. That § 33-10-5 be amended to read as follows:

33-10-5. The constitution and jurisdiction of courts-martial, the form and manner in which the proceedings of military courts are conducted and recorded, the forms of oaths and affirmations taken in the administration of military law by such courts, and the limits of punishment and the proceedings in revision are governed by the Uniform Code of Military Justice, 10 U.S.C. § 801 et seq., in effect on January 1, 2007, and the South Dakota manual for courts-martial.

Section 90. That § 33-10-6 be amended to read as follows:

33-10-6. The articles of the Uniform Code of Military Justice, in effect on January 1, 2007, and the manual for courts-martial of the United States, in effect on January 1, 2007, governing the armed forces of the United States, so far as they are compatible with the provisions of this chapter and the South Dakota manual for courts-martial, are adopted for the government of the National Guard and militia of this state.

Section 91. That § 33-10-7 be amended to read as follows:

33-10-7. Commanding officers of the National Guard may impose nonjudicial punishment as provided in the Uniform Code of Military Justice of the United States in effect on January 1, 2007, and the South Dakota manual for courts-martial.

Section 92. That § 33-10-10 be amended to read as follows:

33-10-10. The warrant authorized by § 33-10-9 shall be directed to the sheriff or any constable or marshal of the county, or the officer attending the court, and shall set forth the circumstances of the offense adjudged to have been committed. The warrant shall command the officer to whom it is directed to commit the offender to the county jail. The offender shall remain without bail and in close confinement for a limited time, not to exceed three days, and until the officer's fees for committing and the jailer's fees are paid. The sheriff shall obey the warrant and keep the person as directed, unless the person is discharged by a judge of a court of record in the same manner and under the same rules as in cases of imprisonment under process of contempt from a court of competent jurisdiction.

Section 93. That § 33-10-11 be amended to read as follows:

33-10-11. No sentence of dismissal from the service or dishonorable discharge, imposed by a National Guard court-martial, not in the service of the United States, may be executed until approved by the Governor.

Section 94. That § 33-10-12 be amended to read as follows:

33-10-12. A military court sitting in any county shall be attended by the county sheriff, or some suitable person designated by the sheriff, who shall be the marshal of the court and perform the usual duties of such marshals. The marshal shall execute any process lawfully issued by the court and perform all acts and duties by this chapter imposed on and authorized to be performed by any sheriff, marshal, or constable. The officer ordering the court shall furnish a copy of the order to the sheriff

of the county where the court is directed to meet. The order constitutes notice to the sheriff to appear or designate someone as marshal of the court.

Section 95. That § 33-10-14 be amended to read as follows:

33-10-14. Refusal or neglect by the sheriff or marshal to execute any warrant required in § 33-10-12 or to return and pay all the money collected as fines subjects the offending sheriff or marshal to double the amount of such fines and penalties. The conversion to personal use of moneys so collected by any sheriff or marshal is theft and shall be prosecuted as such in any court of the state having jurisdiction in such cases.

Section 96. That § 33-10-15 be amended to read as follows:

33-10-15. For the purpose of collecting fines imposed by courts-martial, the president of the court shall, within twenty days after the proceedings of the court have been approved, make a list of all persons fined, describing them distinctly and showing the fine imposed on each person and not paid. The president of the court shall then draw an official warrant, directed to the sheriff of the county or the marshal of the court, commanding the sheriff or marshal to levy a fine, together with the costs, on the goods and chattels of the delinquent as provided by chapter 15-19. The adjutant general shall deposit the fine in the special militia fund.

Section 97. That § 33-10-16 be amended to read as follows:

33-10-16. No action may be maintained against any member of a military court on account of the imposition of a fine or penalty, or for the execution of a sentence on any person, if the person has been returned as delinquent and duly summoned before the court, or has appeared before the court to answer the charge made against the person.

Section 98. That § 33-10-18 be amended to read as follows:

33-10-18. The commanding officer at any encampment, parade, drill, muster, annual training, or other rendezvous of the National Guard may order subordinates to perform any lawful military

duty. The commanding officer may place in arrest during the time of such meeting, and confine under guard, if necessary, any officer or enlisted member who disobeys the orders of a superior officer or in any way interrupts the training or exercises. The commanding officer may remove any other person who trespasses on the parade ground or armory, or in any way interrupts the orderly discharge of duty of any National Guard member.

Section 99. That § 33-11-1 be amended to read as follows:

33-11-1. The adjutant general shall provide suitable space, at a convenient location where any unit of the National Guard is stationed, with the necessary furnishings, equipment, and supplies for an armory, assembly, drill room, garages, and maintenance shops for the organization. The buildings and space are under the exclusive control of the unit's commanding officer. There shall be paid out of the military appropriation a sum deemed necessary on the contract made by the adjutant general for the rent and furnishing of the armory, garages, maintenance shops, or band quarters of each organization of the National Guard, to be paid by the state.

Section 100. That § 33-11-2 be amended to read as follows:

33-11-2. The Department of Military and Veterans Affairs shall erect or provide anywhere within the limits of this state, upon terms and conditions determined by the Board of Military Affairs created by § 33-1-17 as most advantageous to the state, armories and other facilities for the use of the National Guard. The armories and other facilities shall be used for drill, meeting, and rendezvous purposes by the unit occupying them and for such other public functions as the officers in charge of the armory or facility deem advisable and proper. The armories and other facilities, if not in use by the National Guard, shall also be open for meetings and functions of organizations of war veterans and their auxiliary organizations.

Section 101. That § 33-11-4 be amended to read as follows:

33-11-4. The buildings referred to in § 33-11-3 shall be suitable for use as armories or other

facilities by the National Guard. The buildings shall also be suitable for use by a cooperating public corporation or agency for the same purposes as a building that the corporation or agency is authorized by law to construct for its own exclusive use and shall be used for such purposes.

Section 102. That § 33-11-6 be amended to read as follows:

33-11-6. The Department of Military and Veterans Affairs may receive from counties, municipalities, or other sources, donations of land or contributions of money, buildings, or other property to aid in providing or erecting armories and other facilities throughout the state for the use of the National Guard. The property shall be held as other property for the use of the state.

Section 103. That § 33-11-7 be amended to read as follows:

33-11-7. Counties or municipalities may contribute land, money, buildings, or other property for the purposes of this chapter. Any first or second class municipality may levy a tax upon all property within the municipality subject to taxation to raise the necessary money for an armory building or other facility and site. However, no money may be donated or tax levied until the donation or levy is authorized by a vote of a majority of the electors in the municipality at an election called for that purpose.

Section 104. That § 33-11-8 be amended to read as follows:

33-11-8. The Department of Military and Veterans Affairs shall, upon donation of a proper site by any county or municipality, erect for the use of any unit of the National Guard, and other organizations and public functions as specified in § 33-11-2, an armory to be used for meeting, rendezvous, drill, and other purposes in compliance with this chapter.

Section 105. That § 33-11-9 be amended to read as follows:

33-11-9. The Department of Military and Veterans Affairs has charge of any armory erected or provided pursuant to § 33-11-8 and shall arrange for its occupancy and use under the direction and responsibility of the senior officer in command.

Section 106. That § 33-11-10 be amended to read as follows:

33-11-10. The Board of Military Affairs also constitutes a board for general management and care of armories. The board may promulgate rules pursuant to the provisions of chapter 1-26 for armory management and government and to provide for the guidance of the organization occupying them. The rules, in accordance with federal law and regulation, shall provide:

- (1) Standards and requirements for construction or lease of armory facilities and related furnishings of such facilities;
- (2) Standards and requirements for construction or lease of facilities, other than armories, and related furnishings as required by § 33-11-1;
- (3) Procedures to enter into cooperative agreements with other public agencies pursuant to § 33-11-3;
- (4) Procedures and standards to receive contributions of land, money, buildings, or other property pursuant to § 33-11-6; and
- (5) Standards and procedures governing revenue producing activities undertaken pursuant to § 33-11-12.

Section 107. That § 33-12-1 be amended to read as follows:

33-12-1. The adjutant general is also quartermaster general. The office of the quartermaster general shall be maintained at a place within the state as the Governor directs. If the office of the quartermaster general is maintained at a place other than that where the office of the adjutant general is established, the quartermaster general is entitled to reimbursement of expenses incurred in the performance of official duties at either location and to traveling expenses pursuant to § 3-9-2.

Section 108. That § 33-12-2 be amended to read as follows:

33-12-2. As quartermaster general, the adjutant general may require any duly appointed assistant, who shall be a member of the National Guard, to give a bond with sufficient surety, in an amount

the quartermaster general deems sufficient, to the state. The bond shall be conditioned for the faithful performance of duty and shall be approved by the quartermaster general, recorded in the Office of the Secretary of State, and filed with the state treasurer.

Section 109. That § 33-12-4 be amended to read as follows:

33-12-4. The adjutant general is the custodian of all flags and colors of South Dakota troops engaged in any war, and shall provide for their care and custody as the Governor directs. The adjutant general also has charge of all regimental flags and colors of the militia of the state when not in use.

Section 110. That § 33-12-5 be amended to read as follows:

33-12-5. The adjutant general has supervision of and is responsible for all the arms, ordnance, accouterments, equipment, and other military property that is issued to the state by the secretary of defense in compliance with law. The adjutant general shall prepare returns of such arms and other property of the United States at all times and in the manner requested by the secretary of defense.

Section 111. That § 33-12-6 be amended to read as follows:

33-12-6. The adjutant general shall issue military property as the Governor directs and under the Governor's direction shall make purchases for that purpose. Military property may only be issued to persons or organizations belonging to the organized militia.

Section 112. That § 33-12-7 be amended to read as follows:

33-12-7. The adjutant general shall upon order of the Governor turn in to the armed forces of the United States any weapons, equipment, and accouterments that are the property of the United States in possession of the state, and that are to be replaced by new weapons, equipment and accouterments sent by the United States. The adjutant general shall cause the weapons, equipment, and accouterments to be shipped under instructions from the secretary of defense to the designated arsenal or depot at the expense of the United States. If the South Dakota National Guard is fully

armed and equipped with standard weapons, equipment, and accouterments of the United States armed forces, the adjutant general shall cause any remaining weapons, equipment, and accouterments that are the property of the United States and in possession of the state, to be transferred and shipped, as directed in this section, under instructions from the secretary of defense.

Section 113. That § 33-12-8 be amended to read as follows:

33-12-8. Any military property of the state which, after a proper inspection, is found unsuitable for the use of the state shall, under direction of the Governor, be disposed of by the quartermaster general at public auction or private sale. The sale shall be advertised at least once each week for two successive weeks, in at least one legal newspaper published in the first or second class municipality or county where the sale is to take place, if so ordered by the Governor. The quartermaster general shall bid in the property or suspend the sale if, in the quartermaster general's opinion, better prices may or should be obtained. The quartermaster general shall periodically render to the Governor an accurate account of the sales so made and deposit the proceeds with the state treasurer to the credit of the special militia fund.

Section 114. That § 33-12-9 be amended to read as follows:

33-12-9. The commanding officer of any unit of the National Guard is the legal custodian of the money, property, and effects of the unit, whether the property is owned by the unit, or its members collectively, or has been issued to it or any of its officers, for its use, by the state or by the authority of the United States. The commanding officer may sue for the recovery and possession of any such property that is wrongfully withheld from the commanding officer's custody or the custody of the unit.

Section 115. That § 33-12-10 be amended to read as follows:

33-12-10. Every officer or other person having custody or control of the military property of the United States or of the state shall periodically make a return of the property on a form and to the

appropriate department as required by law.

Section 116. That § 33-12-11 be amended to read as follows:

33-12-11. If any National Guard officer responsible for state property resigns or is reassigned, dismissed, or discharged, the officer shall deliver the property in the officer's possession, for which only the officer is responsible, to the quartermaster general, or to some person duly appointed to receive the property.

Section 117. That § 33-12-12 be amended to read as follows:

33-12-12. In case of the death of any officer of the National Guard responsible for state property the next in command shall immediately take charge of the property and deliver it to the quartermaster general or some person appointed to receive the property.

Section 118. That § 33-12-13 be repealed.

Section 119. That § 33-12-14 be repealed.

Section 120. That § 33-12-15 be repealed.

Section 121. That § 33-12-16 be amended to read as follows:

33-12-16. All military supplies issued to any officer of the National Guard are at all times subject to inspection by any officer designated by the Governor for that purpose, who shall report the true condition of the supplies. The Governor may at any time require repairs to be made or defects or losses supplied.

Section 122. That § 33-12-17 be amended to read as follows:

33-12-17. The clothing, arms, military outfits, accouterments, and stores furnished by the State of South Dakota or the United States to the National Guard may not be sold, bartered, exchanged, pledged, or given away, and the possession of any such property by any person not a member of the National Guard is prima facie evidence of such sale, barter, exchange, pledge, or theft. The property may be seized and taken from any person not authorized to keep the property by any soldier, officer,

civil or military, of the state. The property shall then be delivered to any officer of the state authorized to receive the property.

Section 123. That § 33-12-18 be amended to read as follows:

33-12-18. Any property of the state that is lost, stolen, damaged, or destroyed in the military service shall be acted upon by a disinterested inspector or officer, detailed as such, who shall make full investigation and report all the facts and circumstances of the case. If any person is found or deemed responsible for the loss or damage of the property, beyond reasonable wear and tear of the service, the inspector shall assess and fix a reasonable value on the property lost, damaged, or destroyed, and the person shall pay the sum so assessed into the treasury of the state. If the person fails or neglects to reimburse the state, suit may be entered in the name of the state in any court of competent jurisdiction for the recovery of the value of the property.

Section 124. That § 33-12-19 be amended to read as follows:

33-12-19. The Governor may, at any time, convene a board of survey to condemn quartermaster and ordnance stores and supplies, or to appraise the loss sustained by the state from injury, want of repair, defects, or losses in any such quartermaster or ordnance stores issued to any officer of the National Guard. The board, after reasonable notice to the officer and hearing the officer's explanations or objections, shall appraise the property and make a report. The amount so appraised, if approved by the Governor, is conclusively deemed the amount of the officer's liability. The officer shall pay the amount into the state treasury, and the payments shall be deposited in a special fund known as the lost military property fund. The fund is available at all times for purchase by the quartermaster general, subject to the approval of the Governor, of any military property needed to replace that lost or destroyed.

Section 125. That § 33-12-20 be amended to read as follows:

33-12-20. The Governor shall cause suit to be brought whenever necessary to make good any

injury, want of repair, or loss of any quartermaster or ordnance stores or supplies or other state property. However, if any such stores or property belonging to the state are lost, destroyed, or damaged without the fault or neglect of the officer responsible for the stores or property, the officer and sureties may, by order of the Governor, on the report of a board of survey or other satisfactory proof, be relieved of all liability for the stores or property.

Section 126. That § 33-12-21 be amended to read as follows:

33-12-21. All property belonging to any organization of the National Guard is exempt from taxation or assessment for any purpose.

Section 127. That § 33-12-23 be amended to read as follows:

33-12-23. Any unauthorized person who enters any fort, magazine, arsenal, armory, arsenal yard, or encampment, and removes any arms, ammunition, military stores, or supplies belonging to the National Guard, and any unauthorized person who enters any such place with intent to remove such property, is guilty of a Class 4 felony.

Section 128. That § 33-12-24 be amended to read as follows:

33-12-24. No officer of the National Guard, except the adjutant general, may incur any expenses to be paid by the state, except expenses that are authorized by this title.

Section 129. That § 33-12-25 be amended to read as follows:

33-12-25. The adjutant general shall keep an accurate account of all expenditures necessarily made for the military service of the state. The account shall be paid on proper vouchers presented for the account and upon the approval of the adjutant general from the appropriations made by the Legislature for military purposes.

Section 130. That § 33-12-26 be amended to read as follows:

33-12-26. The adjutant general shall keep an accurate account of all expenses necessarily incurred, including pay of officers and enlisted men, subsistence and transportation of the National

Guard and of all military property of the state. The expenses shall be audited and paid in the same manner as other military accounts are audited and paid.

Section 131. That § 33-12-27 be amended to read as follows:

33-12-27. The adjutant general shall audit and pass upon all claims of military character against the state, and no military contract against the state is valid or may be paid until approved by the adjutant general, except such as are contracted by the Governor. In extreme emergencies, however, the commanding officer of any organization or detachment of the National Guard, ordered into active service of the state, may purchase necessities for the immediate use and care of the officer's command. A report of the purchases containing a statement of the articles purchased and the price shall be made as soon as possible through the proper channels to the adjutant general. Upon the adjutant general's approval of the report, the purchases shall be paid out of any funds in the state treasury not otherwise appropriated.

Section 132. That § 33-12-28 be amended to read as follows:

33-12-28. The provisions of chapters 5-18, 5-19 and 5-21, governing contracts by public corporations, apply to contracts and purchases by the adjutant general and the Department of Military and Veterans Affairs. However, in case of insurrection, invasion, tumult, riot, breach of the peace, imminent danger thereof, or other great emergency, the Governor may upon the certificate of the adjutant general temporarily suspend the operation of law and direct the quartermaster general to purchase in the open market any necessary military property or supplies. The adjutant general shall report to the Governor the amount of property and supplies purchased and the prices paid.

Section 133. That § 33-12-29 be amended to read as follows:

33-12-29. Funds appropriated by the Legislature for the maintenance of the National Guard shall be known as the general militia fund. Expenditures from the general militia fund may be made only upon vouchers certified by the adjutant general and approved by the Governor, upon warrants drawn

by the state auditor against the state treasury in the manner required by law.

Section 134. That § 33-12-31 be amended to read as follows:

33-12-31. The special militia fund is available for National Guard purposes only and is accumulative from year to year. Expenditures from this fund shall be made in the usual manner upon vouchers approved by the Governor, after proper certification by the adjutant general, by warrant drawn by the state auditor against the state treasury as provided by law. However, such expenditures do not come within any restrictions governing payment of expenses incurred in a previous year. The special militia fund may be used to discharge any just or lawful debt properly contracted for National Guard purposes, whether of the ensuing or previous fiscal years.

Section 135. That § 33-12-33 be amended to read as follows:

33-12-33. If any organization of the National Guard erects or purchases an armory or assembly room, the annual rent of the armory or assembly room as authorized by this title, or allowed by the Governor, shall be paid into the treasury of the organization.

Section 136. That § 33-13-7 be amended to read as follows:

33-13-7. Any civilian technician of the South Dakota Army or Air National Guard who is paid entirely from federal funds may authorize the federal disbursing officer to withhold sums of money from the pay of the employee and to pay the money to the State of South Dakota or to the person or organization designated by the employee for the purpose of paying the employee's contribution to a retirement, disability, or death benefit plan.

Section 137. That § 33-13-8 be amended to read as follows:

33-13-8. Any payment made to the State of South Dakota pursuant to § 33-13-7 is considered as state sponsorship, but the expenditure of any state funds in connection with activities authorized by § 33-13-7 is prohibited.

Section 138. That § 33-14-1 be amended to read as follows:

33-14-1. The Governor may organize and maintain within this state such military forces as the Governor deems necessary to protect life and property in this state. Such forces are additional to and distinct from the National Guard and are known as the South Dakota State Guard.

Section 139. That § 33-14-3 be amended to read as follows:

33-14-3. For the use of the South Dakota State Guard, the Governor may requisition from the Department of the Army any arms and equipment that are available. The Governor may make available to the South Dakota State Guard the facilities of state armories and their equipment and such other state premises and property as are available.

Section 140. That § 33-14-4 be amended to read as follows:

33-14-4. All appropriations made to the National Guard are deemed to have been appropriated to both the National Guard and the South Dakota State Guard.

Section 141. That § 33-14-6 be amended to read as follows:

33-14-6. The South Dakota State Guard is not required to serve outside the boundaries of this state except as provided by § 33-14-7.

Section 142. That § 33-14-7 be amended to read as follows:

33-14-7. Any organization, unit, or detachment of the South Dakota State Guard, upon order of the officer in immediate command of the organization, unit, or detachment, may continue in fresh pursuit of insurrectionists, saboteurs, enemies, or enemy forces beyond the borders of this state into another state until they are apprehended or captured by the organization, unit, or detachment or until the military or police forces of the other state or the forces of the United States have had a reasonable opportunity to take up the pursuit or to apprehend or capture such persons. However, no such pursuit beyond state borders may be undertaken unless the other state has given authority by law for such pursuit by the forces of this state. Any such person who is apprehended or captured in the other state by an organization, unit, or detachment of the forces of this state shall without unnecessary delay be

surrendered to the military or police forces of the state in which the person is taken or to the United States. However, such a surrender does not constitute a waiver by this state of its right to extradite or prosecute the person for any crime committed in this state.

Section 143. That § 33-14-8 be amended to read as follows:

33-14-8. No civil organization, society, club, post, order, fraternity, association, brotherhood, body, union, league, or other combination of persons or civil group may be enlisted in the South Dakota State Guard as an organization or unit.

Section 144. That § 33-14-9 be amended to read as follows:

33-14-9. No person may be commissioned or enlisted in the South Dakota State Guard who is not a citizen of the United States or who has been expelled or dishonorably discharged from any military or naval organization of this state, or of another state, or of the United States.

Section 145. That § 33-14-11 be amended to read as follows:

33-14-11. No person may be enlisted in the South Dakota State Guard for more than one year, but such enlistment may be renewed. The oath to be taken upon enlistment in the South Dakota State Guard shall be substantially in the form prescribed for enlisted members of the National Guard, substituting the words South Dakota State Guard where necessary.

Section 146. That § 33-14-14 be amended to read as follows:

33-14-14. If the South Dakota State Guard or any part of the South Dakota State Guard is ordered out for active service, the Uniform Code of Military Justice of the United States applicable to members of the South Dakota National Guard in relation to courts-martial, their jurisdiction, the limits of punishment, and the rules and regulations prescribed under the Uniform Code of Military Justice applicable to the South Dakota National Guard are in full force and effect with respect to the South Dakota State Guard.

Section 147. That § 33-14-15 be amended to read as follows:

33-14-15. Nothing in this chapter authorizes any part of the South Dakota State Guard to be called, ordered, or in any manner drafted as such into the military service of the United States. However, no person by reason of the person's enlistment or commission in any such forces may be exempted from military service under any law of the United States.

Section 148. That § 33-14-16 be amended to read as follows:

33-14-16. No officer or enlisted member of the South Dakota State Guard may be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from a place where the officer or member is ordered to attend for military duty. Every officer and enlisted member serving in the South Dakota State Guard is exempt from service upon any posse comitatus and from jury duty.

Section 149. That § 33-16-1 be amended to read as follows:

33-16-1. For the purposes of this chapter, a veteran is a person who has served in the armed forces of the United States during a time when the Congress has declared a state of war to exist, who is in such wartime service, or who is a veteran as defined by § 33-17-1, who was a legal resident of South Dakota at the time of entry into service or who, following discharge, has been a resident of this state for one year. However, a nonresident in this state is entitled to any benefits available in this state to a South Dakota resident under the same conditions.

Section 150. That § 33-16-5 be repealed.

Section 151. That § 33-16-11 be amended to read as follows:

33-16-11. The director of the Division of Veterans Affairs shall, with the approval of the Department of Military and Veterans Affairs, establish and maintain a sufficient office and field force to carry out the provisions of this chapter, including representation at the veterans administration facility in this state.

Section 152. That § 33-16-13 be amended to read as follows:

33-16-13. All employees of the Division of Veterans Affairs below the level of director shall be selected as provided by chapter 3-6A. However, all employees shall be veterans, if available. These employees shall perform duties assigned to them by the Department of Military and Veterans Affairs.

Section 153. That § 33-16-18 be amended to read as follows:

33-16-18. The Division of Veterans Affairs shall cooperate with all national, state, county, municipal, and private social agencies in securing to veterans and their dependents the benefits provided by national, state, and county laws, municipal ordinances, or public or private social agencies. To that end, the division may hold schools of instruction for county service officers, or call in for instruction individual county service officers if, in the judgment of the Department of Military and Veterans Affairs, the giving of such instructions or holding of such schools is in the best interest of the work of the division. The division may pay the actual necessary expenses of any such county service officer when attending such schools of instruction away from the officer's home county, out of the funds appropriated for the administration of the Division of Veterans Affairs. The expenses may be paid out only on duly itemized vouchers presented to the state auditor and approved by the director of the division.

Section 154. That § 33-16-19 be amended to read as follows:

33-16-19. The Division of Veterans Affairs may designate an employee to act as conservator for a minor or an incompetent person receiving moneys from the United States government if no other suitable person will so act, or to act as petitioner for commitment of veterans to mental institutions or for release from mental institutions.

Section 155. That § 33-16-21 be amended to read as follows:

33-16-21. The attorney general shall assign to the Division of Veterans Affairs an assistant attorney general who is, if available, an honorably discharged war veteran. The assistant attorney general shall serve the division for a period of time deemed necessary for the adequate protection

of the interests of veterans and of the state.

Section 156. That § 33-16-22 be amended to read as follows:

33-16-22. The Division of Veterans Affairs has access to the records of penal and charitable institutions and may investigate the status of veterans in such institutions. The division may report to the heads of such institutions and if necessary to the Governor any recommendations for the benefit of such veterans.

Section 157. That § 33-16-24 be amended to read as follows:

33-16-24. The board of county commissioners of each county in this state shall employ or join with another county or counties in employing a county veterans' service officer who, before such employment takes effect, is approved by the state director of veterans affairs. The county veteran's service officer's first appointment ends on the first Monday in January of the second year subsequent to the year of the appointment. The county veteran's service officer may be reappointed for terms of four years for each term. The appointment is subject to removal by the board or boards of county commissioners upon the recommendation of the state director of veterans affairs or for cause.

Section 158. That § 33-16-26 be amended to read as follows:

33-16-26. Each county veterans' service officer shall provide, within the county or counties employing the officer, local contact between fieldmen of the State Division of Veterans Affairs and persons in the armed service or those discharged from such service, and the dependents of such persons. The county veteran's service officer shall aid or assist volunteer service officers in securing evidence and perfecting claims; advise those in the armed service and veterans or their dependents of benefits available to them; and aid them in completing required forms and complying with regulations. The county veteran's service officer works under the supervision and direction of the State Division of Veterans Affairs.

Section 159. That § 33-16-28 be amended to read as follows:

33-16-28. A county veterans' service officer may be employed either part time or full time. The salary and necessary mileage and expense allowance of the officer shall be determined by the board or boards of county commissioners employing the officer. The officer shall be provided with office space, office fixtures, furnishings, and equipment, either in the courthouse or some other central and accessible place.

Section 160. That § 33-17-1 be amended to read as follows:

33-17-1. For the purposes of all statutes relating to rights, privileges, exemptions, and benefits (except a state bonus) of veterans and their orphans and other dependents, the term, veteran, means any person who:

- (1) Has performed qualifying military service as defined in § 33-17-2; and
- (2) Has been separated or discharged from the armed forces honorably or under honorable conditions or has been released to any reserve component of the armed forces of the United States.

Section 161. That § 33-17-2 be amended to read as follows:

33-17-2. As used in § 33-17-1, the term, qualifying military service, means:

- (1) Active duty in the armed forces of the United States for one day or more during the period from April 6, 1917, to November 11, 1918, inclusive;
- (2) Active duty for one day or more during the period from July 28, 1914, to November 11, 1918, inclusive, performed by a citizen of the United States in the armed forces of any nation that was allied with the United States during any part of the period from April 6, 1917, to November 11, 1918, inclusive;
- (3) Active duty in the armed forces of the United States for one day or more during the period from December 7, 1941, to December 31, 1946, inclusive;
- (4) Active duty for one day or more during the period from September 1, 1939, to

December 31, 1946, inclusive, performed by a citizen of the United States in the armed forces of any nation that was allied with the United States during any part of the period from December 7, 1941, to December 31, 1946, inclusive;

- (5) Active duty in the armed forces of the United States for one day or more during the period from June 25, 1950, to May 7, 1975, inclusive;
- (6) Active duty in the armed forces of the United States for one day or more during the period from August 2, 1990, until the end of hostilities as determined by the Legislature;
- (7) Active duty in the armed forces of the United States for one day or more in a military action for which the veteran earned an armed forces expeditionary medal or other United States campaign, expeditionary, or service medal awarded for participation outside the boundaries of the United States in combat operations against hostile forces; or
- (8) Active duty in the armed forces of the United States for one day or more if the veteran has established the existence of a service-connected disability.

Service on active duty by any reserve or national guard personnel for training may not be construed as service on active duty, unless the veterans' commission determines, by rules promulgated pursuant to chapter 1-26, that such training involved the person in direct participation in or direct support of combat operations against a hostile force.

Section 162. That § 33-17-2.1 be amended to read as follows:

33-17-2.1. To the extent and for the purposes for which veterans of World War I, World War II, or the Korean conflict, their orphans and other dependents, are or were entitled under existing law to certain rights, privileges, exemptions, and benefits, these rights, privileges, exemptions, and benefits, except a state bonus, are hereby extended to any person who has served on active duty with the Armed Forces of the United States from February 1, 1955, to April 1, 1973, inclusive, or from August 2, 1990, to a date to be determined by the Legislature. Such benefits are extended to any

person who has been discharged from such service honorably or under honorable conditions, or has been released to any reserve branch of the armed services of the United States, and to any active duty personnel whose service has qualified them for such benefits. Any reserve or National Guard personnel who have served on active duty for training are not construed to have served on active duty.

Section 163. That § 33-17-7 be amended to read as follows:

33-17-7. The Legislature finds that the care of the dependents of those in active service or of those who have died while in active service, and the postwar adjustment of all military personnel of the United States, are primarily and justly the obligations of the federal government. However, because of the possibility of delay in making arrangements to extend such care or to complete that readjustment, the veterans affairs division special revenue fund may be used for the purpose of extending emergency aid and assistance:

- (1) To the dependents of those who are in active service or who have died in active service, during the time when allotments, gratuity pay, arrears pay, insurance claims, widow or widower pensions, or any other claim or benefit of such dependents are being adjudicated or processed, or if financial relief is required for any emergency need;
- (2) To any veteran or veteran's dependents while any application for schooling or business rehabilitation, compensation, hospitalization, or any other benefit is being adjudicated or processed, or if financial relief is required for any emergency need.

Section 164. That § 33-17-8 be amended to read as follows:

33-17-8. Funds shall be advanced to any veteran or to the veteran's dependents under § 33-17-7 if emergency need has been established to the satisfaction of the director of the Division of Veterans Affairs, under rules promulgated pursuant to chapter 1-26 by the Veterans Commission, and upon agreement by the veteran or the veteran's dependents that the funds so loaned shall be repaid without

interest and are due two years from the date the money is loaned. The agreement shall be in a form prescribed by the Department of Military and Veterans Affairs, and money repaid shall be paid into the veterans affairs division special revenue fund under the control of the department. In no case may the sums loaned to any veteran, or to the aggregate of the veteran's dependents, exceed the sum of five hundred dollars.

Section 165. That § 33-17-12 be amended to read as follows:

33-17-12. Notwithstanding any other provisions of the laws of this state, any instrumentality of the armed forces of the United States, including voluntary unincorporated organizations of military personnel, located on exclusive federal areas, engaged in resale activities may procure articles of merchandise from wholesalers, distributors, or manufacturers located in this state. No excise tax of this state, direct or indirect, other than those on intoxicating liquor or wine, may be imposed upon the sale, use, delivery, or storage of articles of merchandise to any instrumentality of the armed forces of the United States, including voluntary unincorporated organizations of military personnel, located on exclusive federal areas, engaged in resale activities, except state excise taxes that are specifically authorized by acts of the Congress of the United States.

Section 166. That § 33-17-15.1 be amended to read as follows:

33-17-15.1. If any member of the South Dakota National Guard is ordered to active duty service by the Governor of the State of South Dakota or the President of the United States, the member has all protections afforded to persons serving on federal active duty by the Servicemembers Civil Relief Act of 2003, 54 Stat. 1178, 50 App. U.S.C.A. 501-548 and 560-591, as amended to January 1, 2007, and by the Uniformed Services Employment and Reemployment Rights Act, 108 Stat. 3149, 38 U.S.C.A. 4301 to 4333, as amended to January 1, 2007.

Section 167. That § 33-17-16 be amended to read as follows:

33-17-16. For the purposes of §§ 33-17-19 to 33-17-38, inclusive, terms mean:

- (1) "Armed forces," the United States Army, Air Force, Coast Guard, Marine Corps, Navy, and their components, including both men and women;
- (2) "Bonus," the benefits provided under §§ 33-17-16 to 33-17-38, inclusive;
- (3) "Commission," the Veterans' Commission created by § 33-16-4;
- (4) "Dependents of deceased veterans," or "dependents," any person standing in relation to a deceased veteran of: surviving spouse, child, mother, father, foster mother or father, regardless of whether or not the person was actually dependent upon the deceased veteran;
- (5) "Director," the director of veterans affairs appointed pursuant to § 1-46-9;
- (6) "Legal resident," a person who for a period of not less than six months immediately preceding entry into the armed forces of the United States as defined by subdivision (1) was a resident in good faith of the State of South Dakota;
- (7) "Veteran," any veteran as defined in § 33-17-1 who served in the armed forces during the period beginning January 1, 1993, to a date to be determined by the South Dakota Legislature.

Section 168. That § 33-17-20 be amended to read as follows:

33-17-20. A veterans bonus shall be paid to any veteran, or to the dependents of a deceased veteran, if the veteran was a legal resident of the State of South Dakota for at least six months immediately preceding entry into the armed forces of the United States, if the veteran is still in the armed forces or was separated or discharged from the armed forces honorably or under honorable conditions, and if the veteran either:

- (1) Served for at least thirty days on active duty in the armed forces of the United States and received or is eligible to receive the armed forces expeditionary medal, Kosovo campaign medal, global war on terrorism expeditionary medal, global war on terrorism service medal, Afghanistan campaign medal, Iraq campaign medal, or southwest Asia service

medal or other United States campaign or service medal awarded for participation outside the boundaries of the United States in combat operations against hostile forces for service in the armed forces from January 1, 1993, to a date to be determined by the South Dakota Legislature; or

- (2) Served for at least thirty days on active duty in the armed forces of the United States, a portion of which shall have been during the period from September 11, 2001, to a date to be determined by the South Dakota Legislature.

The act of performing military duty in the State of South Dakota at an assigned military station does not in itself constitute residency for bonus purposes. However, a veteran who does not meet the South Dakota residency requirements of this section, but who would otherwise qualify for a bonus pursuant to this section based on service in a unit of the South Dakota National Guard or a South Dakota-based unit of the armed forces reserve, is eligible for the bonus if the veteran is not eligible for a similar benefit from any other state.

Section 169. That § 33-17-21 be amended to read as follows:

33-17-21. National Guard or reserve personnel who put in periods of active duty for training in the federal forces may not be included among the beneficiaries of §§ 33-17-16 to 33-17-38, inclusive, unless they were called for further active duty. If they were called for further active duty they are eligible for the bonus for the time so served and for the time spent in active duty for training if that time was within the eligible period fixed in § 33-17-20. However, the commission may promulgate rules pursuant to chapter 1-26 to specify special circumstances under which service by National Guard or reserve personnel in a training or active duty status may qualify for the bonus if such service involved participation in or direct support of military operations or activities that would qualify for benefits under § 33-17-20.

Section 170. That § 33-17-22 be amended to read as follows:

33-17-22. Any bonus earned pursuant to § 33-17-20 that is based on qualifying service during the period September 11, 2001, to a date to be determined by the South Dakota Legislature, shall be paid at the rate of one hundred dollars for the first month and twenty dollars for each subsequent month of active duty in the armed forces during such period, to a maximum bonus of two hundred forty dollars. However, any person who qualifies for a bonus pursuant to § 33-17-20 and who has received or is eligible to receive, based on service in the armed forces from January 1, 1993, to a date to be determined by the South Dakota Legislature, the southwest Asia service medal, the armed forces expeditionary medal, Kosovo campaign medal, Afghanistan campaign medal, Iraq campaign medal, global war on terrorism expeditionary medal, global war on terrorism service medal, or other United States campaign or service medal awarded for participation outside the boundaries of the United States in combat operations against hostile forces, shall, for the time served in one or more such areas qualifying for any of the medals listed in this section, be paid one hundred fifty dollars for the first month and fifty dollars for each subsequent month of such service, up to a maximum bonus, together with any payments pursuant to this section for service not qualifying for any such medal, of five hundred dollars.

Section 171. That § 33-17-23 be amended to read as follows:

33-17-23. In computing a month of service under § 33-17-22, any period of service during a calendar month shall be computed as one full month in determining monthly totals.

Section 172. That § 33-17-24.1 be amended to read as follows:

33-17-24.1. Notwithstanding the provisions of § 33-17-22, if any veteran who qualifies for a bonus pursuant to § 33-17-20 is rated ten percent or more disabled for service connected disability or disabilities by the veterans administration as a result of wounds or injuries or illness incurred while on active duty in the areas or periods specified in § 33-17-20 regardless of the length of such service, the veteran's bonus shall be in the amount of five hundred dollars.

Section 173. That § 33-17-24.2 be amended to read as follows:

33-17-24.2. Any veteran qualified for the benefits authorized by § 33-17-24.1 who has previously filed a claim under §§ 33-17-16 to 33-17-38, inclusive, may amend the claim, or if the original claim was paid, initiate a new claim for the difference between that claimed or paid and the amount authorized by § 33-17-24.1.

Section 174. That § 33-17-25 be amended to read as follows:

33-17-25. No person is entitled to payment of a bonus if the person, while in the armed forces of the United States within any period set forth in § 33-17-20, refused on conscientious, political, or other grounds, to subject himself or herself to military discipline or who was separated from such service under conditions other than honorable and has not been subsequently restored officially to an honorable status. No person who is eligible to receive from another state of the United States a bonus or gratuity or compensation similar to that provided by §§ 33-17-16 to 33-17-38, inclusive, may receive any bonus provided by §§ 33-17-16 to 33-17-38, inclusive.

Section 175. That § 33-17-26 be amended to read as follows:

33-17-26. The South Dakota Legislature finds and declares the bonus provided under §§ 33-17-16 to 33-17-38, inclusive, shall be paid as soon as this state has adequate and sufficient funds to do so. There are hereby authorized such sums of money as are necessary to pay the bonus, and all administrative expenses of the commission in connection with payment of the bonus, to be appropriated by subsequent sessions of this Legislature or to be otherwise paid as provided by law.

Section 176. That § 33-17-27 be amended to read as follows:

33-17-27. If any bonus is payable under §§ 33-17-16 to 33-17-38, inclusive, to a minor who is a veteran, or a minor widow of such veteran, and who is under no legal disability other than minority, payment of the bonus shall be made to such person direct.

Section 177. That § 33-17-28 be amended to read as follows:

33-17-28. If any bonus is payable under §§ 33-17-16 to 33-17-38, inclusive, to a mental incompetent, the bonus shall be paid to the person who is constituted his or her committee, guardian, curator, or conservator, by the laws of the state of residence of the mental incompetent, or is otherwise legally vested with the care of the mental incompetent. However, if no such committee, guardian, curator, conservator, or other person exists, payment shall be made to the chief officer of any hospital or institution in which the mental incompetent is placed if the officer is authorized to accept moneys for the benefit of the mental incompetent. If no such committee, guardian, curator, or conservator exists, and if the mental incompetent is not in any such hospital or institution, payment shall be made to the person determined by the commission to have assumed the major responsibility for the care of the mental incompetent. Any payment under this section shall be held or used solely for the benefit of the mental incompetent.

Section 178. That § 33-17-29 be amended to read as follows:

33-17-29. In case of the death of any person after July 1, 1969, who would, if alive, be entitled to benefits under §§ 33-17-16 to 33-17-38, inclusive, the bonus shall be paid to the person's dependents, if any. If there is more than one dependent, payment shall be made in a proportion determined by the commission and in the order of preference as follows: wife or husband, children, mother, father, foster mother, and foster father.

Section 179. That § 33-17-30 be amended to read as follows:

33-17-30. The commission shall promulgate rules pursuant to chapter 1-26 to define and provide for eligibility criteria, administration and method of payment of the bonus created in §§ 33-17-16 to 33-17-38, inclusive.

Section 180. That § 33-17-31 be amended to read as follows:

33-17-31. The director shall prepare application forms and rules governing administration of §§ 33-17-16 to 33-17-38, inclusive, as the commission directs and authorizes under § 33-17-30. The

application forms and rules shall be completed and made available to eligible veterans when funds are available to the commission. Payment of all claims approved by the commission shall be made as funds are available and in the order determined by the commission.

Section 181. That § 33-17-32 be amended to read as follows:

33-17-32. All claims for compensation under §§ 33-17-16 to 33-17-38, inclusive, shall be presented to the commission on such forms as it may require no later than three years after the date to be determined by the South Dakota Legislature. If approved for payment by the commission, the director shall submit an authorized voucher to the state auditor, who shall issue the warrant for the amount of the approved claim to the person found by the commission to be entitled to the claim.

Section 182. That § 33-17-33 be amended to read as follows:

33-17-33. Any person who falsely applies for a veteran's bonus under the provisions of §§ 33-17-16 to 33-17-38, inclusive, is guilty of a Class 1 misdemeanor.

Section 183. That § 33-17-34 be amended to read as follows:

33-17-34. Any decision of the Veterans' Commission as to the payment or nonpayment of a bonus claim, or eligibility for the bonus, is final.

Section 184. That § 33-17-35 be amended to read as follows:

33-17-35. No right of payment of the bonus under §§ 33-17-16 to 33-17-38, inclusive, is subject to moneys or credit taxation, claims of creditors, garnishment, or assignment, nor may the right of payment be deemed an asset, legal or equitable, of the estate of a deceased veteran.

Section 185. That § 33-17-36 be amended to read as follows:

33-17-36. If any provisions of §§ 33-17-16 to 33-17-38, inclusive, or the application thereof to any person or circumstance or the validity or effectiveness of any one or more of the sources of payment provided are invalid, such invalidity or ineffectiveness does not affect the remaining provisions of §§ 33-17-16 to 33-17-38, inclusive.

Section 186. That § 33-17-37 be repealed.

Section 187. That § 33-17A-3 be amended to read as follows:

33-17A-3. The person whose commitment is sought shall be personally served with notice of the pending commitment proceeding in the manner as provided by the law of this state. Nothing in this chapter affects the person's right to appear and be heard in the proceedings.

Section 188. That § 33-17A-5 be amended to read as follows:

33-17A-5. Jurisdiction is retained in the committing or other appropriate court of this state at any time to inquire into the mental condition of the person committed, pursuant to § 33-17A-2, and to determine the necessity for continuance of the person's restraint, and all commitments pursuant to this chapter are so conditioned.

Section 189. That § 33-17A-7 be amended to read as follows:

33-17A-7. No person may be transferred to the United States Department of Veterans' Affairs or other agency of the United States if the person is confined pursuant to conviction of any felony or misdemeanor or if the person has been acquitted of the charge solely on the ground of mental illness, unless prior to transfer the court or other authority originally committing the person enters an order for the transfer after appropriate motion and hearing.

Any person transferred as provided in §§ 33-17A-2 to 33-17A-7, inclusive, is deemed to be committed to the United States Department of Veterans' Affairs or other agency of the United States pursuant to the original commitment.

Section 190. That § 33-17A-8 be amended to read as follows:

33-17A-8. The judgment or order of commitment by a court of competent jurisdiction of another state or of the District of Columbia, committing a person to the United States Department of Veterans' Affairs, or other agency of the United States government for care or treatment has the same force and effect as to the committed person while in this state as in the jurisdiction in which is

situated the court entering the judgment or making the order. The courts of the committing state, or of the District of Columbia, retain jurisdiction of the person so committed for the purpose of inquiring into the mental condition of the person, and of determining the necessity for continuance of the person's restraint as provided in § 33-17A-5 with respect to persons committed by the courts of this state. Consent is hereby given to the application of the law of the committing state or district in respect to the authority of the chief officer of any facility of the United States Department of Veterans' Affairs, or of any institution operated in this state by any other agency of the United States to retain custody, or transfer, parole, or discharge the committed person.

Section 191. That § 33-17A-11 be amended to read as follows:

33-17A-11. Not less than fourteen days before hearing on the matter, notice in writing of the time and place of the hearing shall be given by mail (unless waived in writing) to the office of the United States Department of Veterans' Affairs having jurisdiction over the area in which the suit or any such proceeding is pending.

Section 192. That § 33-17A-19 be amended to read as follows:

33-17A-19. If a petition is filed for the appointment of a conservator for a mentally incompetent ward, a certificate of the secretary of veterans' affairs that the person has been rated incompetent by the United States Department of Veterans' Affairs on examination in accordance with the laws and regulations governing the United States Department of Veterans' Affairs and that the appointment of a conservator is a condition precedent to the payment of any moneys due to the ward by the United States Department of Veterans' Affairs is prima facie evidence of the necessity for the appointment.

Section 193. That § 33-17A-21 be amended to read as follows:

33-17A-21. If a bond is tendered by a conservator with personal sureties, there shall be at least two such sureties. Each surety shall file with the court a certificate under oath which describes the property owned, both real and personal, and states that the surety is worth the sum named in the bond

as the penalty on the bond over and above all of the surety's debts and liabilities and the aggregate of other bonds on which the surety is principal or surety and exclusive of property exempt from execution. The court may require additional security or may require a corporate surety bond, the premium on the bond to be paid from the ward's estate.

Section 194. That § 33-17A-22 be amended to read as follows:

33-17A-22. No person other than a bank or trust company may be guardian or conservator of more than five wards at one time, unless all the wards are members of one family. Upon presentation of a petition by an attorney of the United States Department of Veterans' Affairs or other interested person, alleging that a guardian or conservator is acting in fiduciary capacity for more than five wards as provided in this section and requesting the guardian's or conservator's discharge for that reason, the court, upon proof substantiating the petition, shall immediately require a final report or accounting from the guardian or conservator. The court shall discharge the guardian or conservator from guardianships or conservatorships in excess of five and immediately appoint a successor.

Section 195. That § 33-17A-23 be amended to read as follows:

33-17A-23. Each conservator shall invest the surplus funds of the conservator's ward's estate in securities or property authorized under the laws of this state but only upon prior order of the court. However, the funds may be invested, without prior court authorization, in federally insured interest-bearing accounts, in direct unconditional interest-bearing obligations of this state or of the United States, and in obligations the interest and principal of which are unconditionally guaranteed by the United States. A signed duplicate or certified copy of the petition for authority to invest shall be furnished to the proper office of the United States Department of Veterans' Affairs, and notice of hearing on the petition shall be given to the office as provided in the case of hearing on a conservator's account.

Section 196. That § 33-17A-24 be amended to read as follows:

33-17A-24. The court may authorize the purchase of the entire fee simple title to real estate in this state in which the conservator has no interest, but only as a home for the ward, or to protect the ward's interest, or (if the ward is not a minor) as a home for the ward's dependent family. No purchase of real estate may be made except upon the entry of an order of the court after hearing upon verified petition. A copy of the petition shall be furnished to the proper office of the United States Department of Veterans' Affairs and notice of hearing on the petition shall be given to the office as provided in the case of hearing on a conservator's account.

Section 197. That § 33-17A-26 be amended to read as follows:

33-17A-26. Sections 33-17A-24 and 33-17A-25 do not limit the right of the conservator on behalf of the conservator's ward to bid and to purchase real estate at a sale of real estate pursuant to decree of foreclosure of lien held by or for the ward, or at a trustee's sale, to protect the ward's right in the property so foreclosed or sold. Sections 33-17A-24 and 33-17A-25 do not limit the right of the conservator, if necessary to protect the ward's interest and upon prior order of the court in which the conservatorship is pending, to agree with cotenants of the ward for a partition in kind, or to purchase from the cotenants the entire undivided interests held by them, or to bid and purchase the interests at a sale under a partition decree, or to compromise adverse claims of title to the ward's realty.

Section 198. That § 33-17A-28 be amended to read as follows:

33-17A-28. Each conservator is allowed the amount of the conservator's reasonable expenses incurred in the execution of the conservator's trust. The conservator may receive such compensation for his or her services as the court in which the conservator's accounts are settled deems just and reasonable.

Section 199. That § 33-17A-29 be amended to read as follows:

33-17A-29. Any conservator who receives or has received on account of the conservator's ward

any moneys or other things of value from the United States Department of Veterans' Affairs shall file with the court annually, on the anniversary date of the appointment, in addition to any other accounts required by the court, a full, true, and accurate account under oath of all moneys or other things of value so received by the conservator. The account shall indicate all earnings, interest, or profits derived from the money or other things of value, all property acquired with the money or other things of value, and all disbursements from the money or other things of value. The account shall indicate the balance of the money or other things of value in the conservator's hands at the date of the account and how invested.

Section 200. That § 33-17A-30 be amended to read as follows:

33-17A-30. The conservator, at the time of filing any account, shall exhibit all securities or investments held by the conservator to an officer of the bank or other depository in which the securities or investments are held for safekeeping or to an authorized representative of the corporation which is surety on the conservator's bond, or to the judge or clerk of a court of record in this state, or, upon request of the conservator or other interested party, to any other reputable person designated by the court. The person to whom the securities or investments were exhibited shall certify in writing that he or she has examined the securities or investments and identified them with those described in the account and shall note any omissions or discrepancies. If the depository is the conservator, the certifying officer may not be the officer verifying the account. The conservator may exhibit the securities or investments to the judge of the court, who shall endorse on the account and on a copy of the account a certificate that the securities or investments shown in the account as held by the conservator were each in fact exhibited to the judge and that those exhibited to the judge were the same as those shown in the account, and noting any omission or discrepancy. That certificate and the certificate of an official of the bank in which are deposited any funds for which the conservator is accountable, showing the amount on deposit, shall be prepared and signed in

duplicate and one of each shall be filed by the conservator with the conservator's account.

Section 201. That § 33-17A-31 be amended to read as follows:

33-17A-31. If the conservator is accountable for property derived from sources other than the United States Department of Veterans' Affairs, the conservator is accountable as required under the applicable law of this state pertaining to the property of minors or protected persons who are not beneficiaries of the United States Department of Veterans' Affairs. With respect to the property derived from other sources, the conservator is entitled to the compensation provided by the applicable law. The account for other property may be combined with the account filed in accordance with § 33-17A-29.

Section 202. That § 33-17A-33 be amended to read as follows:

33-17A-33. If any conservator fails to file with the court any account as required by this chapter, or by an order of the court, when the account is due or within thirty days after citation issues as provided by law, or if the conservator fails to furnish the United States Department of Veterans' Affairs a true copy of any account, petition, or pleading as required by this chapter, such failure may, in the discretion of the court, be grounds for the conservator's removal.

Section 203. That § 33-17A-35 be amended to read as follows:

33-17A-35. In addition to any other provisions of law relating to judicial restoration and discharge of a conservator, a certificate by the United States Department of Veterans' Affairs showing that a minor ward has attained majority, or that an incompetent ward has been rated competent by the United States Department of Veterans' Affairs upon examination in accordance with law, is prima facie evidence that the ward has attained majority or has recovered his or her competency.

Section 204. That § 33-17A-36 be amended to read as follows:

33-17A-36. Upon hearing after notice as provided by this chapter and the determination by the

court that the ward has attained majority or has recovered his or her competency, an order shall be entered to that effect, and the conservator shall file a final account.

Section 205. That § 33-17A-37 be amended to read as follows:

33-17A-37. Upon hearing after notice to the former ward and to the United States Department of Veterans' Affairs as in case of other accounts, upon approval of the final account, and upon delivery to the ward of the assets due the ward from the conservator, the conservator shall be discharged and the conservator's sureties released.

Section 206. That § 33-17A-41 be amended to read as follows:

33-17A-41. If a conservator is appointed for a veteran as defined in § 33-17-1 or for a person now or formerly in the service of the United States as a soldier, sailor, marine, nurse, or other similar capacity, or for the veteran's or person's dependents and beneficiaries under the "War Risk Insurance Act" or "World War Veterans' Act," as amended to January 1, 2007, and if the appointment is found necessary to enable the ward to receive benefits under such acts, the provisions of §§ 33-17A-42 to 33-17A-45, inclusive, apply.

Section 207. That § 33-17A-43 be amended to read as follows:

33-17A-43. No probate fees may be charged if the appointment referred to in § 33-17A-41 is for the purpose of recovering compensation, insurance, pension, or other gratuity payable to the ward under the laws of the United States.

Section 208. That § 33-18-1.2 be amended to read as follows:

33-18-1.2. No judicial or administrative suit, action, or other proceeding lawfully commenced before July 1, 1989, by or against any agency or any officer of the state, in the officer's official capacity or in relation to the discharge of the officer's official duties, is abated or affected by any reorganization under the provisions of this chapter. The court may allow the suit, action, or other proceeding to be maintained by or against the successor of any agency or any officer affected by this

chapter.

Section 209. That § 33-18-2 be amended to read as follows:

33-18-2. The Department of Military and Veterans Affairs shall provide for the enforcement of all applicable federal regulations to enable this state to receive aid that is extended by the United States government to states that maintain institutions of the character of the State Veterans' Home. The department, with the advice of the Veterans' Commission, shall prescribe the method of the local management of the home and shall promulgate rules pursuant to chapter 1-26 for the maintenance of order and discipline and the preservation of the health and comfort of the members of the home. Any violation of the rules is punishable by suspension or expulsion in the judgment of the secretary of military and veterans affairs upon the charges filed by the superintendent of the home.

Section 210. That § 33-18-7 be amended to read as follows:

33-18-7. The superintendent of the State Veterans' Home may temporarily suspend and expel any member of the home for the violation of the rules promulgated pursuant to § 33-18-2 pending a final hearing before the secretary of military and veterans affairs if the superintendent deems it for the best interest of the institution. The temporary suspension and expulsion is in effect until the final hearing by the secretary of military and veterans affairs upon the charges filed by the superintendent. Notice of the final hearing together with a copy of the charges filed, shall be served on the offender personally at least three days before the date of the final hearing.

Section 211. That § 33-18-8 be amended to read as follows:

33-18-8. The superintendent of the State Veterans' Home shall recommend to the secretary of military and veterans affairs such measures as the superintendent deems necessary for the government of the home.

Section 212. That § 33-18-10 be amended to read as follows:

33-18-10. Any member of the State Veterans' Home who receives a pension, compensation, or

gratuity from the United States government or sufficient funds from any source of more than fifty dollars a month above contributions toward the care of any dependents, shall contribute to the member's maintenance, care, or support while a member of the home. The contributions shall be determined by the secretary of military and veterans affairs and may not exceed the cost of support of members at the home as determined by the secretary of military and veterans affairs. Payment of these amounts shall be made first to the fullest extent possible from sources of income other than pensions or compensation paid by the Veterans Administration.

Section 213. That § 33-18-11 be amended to read as follows:

33-18-11. If a member of the State Veterans' Home accumulates more than ten thousand dollars in cash assets while a resident at the state home, the member shall pay a monthly charge determined by the secretary of military and veterans affairs.

Section 214. That § 33-18-13 be amended to read as follows:

33-18-13. If any member of the State Veterans' Home dies without legal dependents, the member's property shall be distributed to the South Dakota State Veterans' Home as sole heir for the sole use and benefit of the home. The member may, by will, dispose of the member's estate subject to the preferred claim provided in §§ 33-18-14 to 33-18-17, inclusive. A spouse residing at the home is considered as a legal dependent for the purpose of this section.

Section 215. That § 33-18-14 be amended to read as follows:

33-18-14. If a member of the State Veterans' Home dies, leaving at the home cash or other personal property of value, the superintendent of the home may turn over the cash, property, or its proceeds to the Department of Military and Veterans Affairs for the sole use and benefit of the home, without administration. The cash, property, and proceeds are subject to refund within three years to any creditor, legal dependent, or heir, if the deceased member left a will, and if the creditor, legal dependent, or heir establishes a right to the cash, property, or proceeds or any portion of the cash,

property, or proceeds. The attorney general, upon being satisfied that a claim out of the cash, property, or proceeds is legal and valid, may certify the claim to the secretary of military and veterans affairs, and the secretary of military and veterans affairs shall satisfy the claim.

Section 216. That § 33-18-15 be amended to read as follows:

33-18-15. If an estate is left by a deceased member of the State Veterans' Home leaving no surviving spouse or dependent, the state home shall file a claim against the estate of the deceased member in the amount of the full maintenance charge for each month the member was in the home, retroactive from the date of admission with proper credits allowed to the estate of the deceased member for any payments made by the member. However, the credits may not include any allowances of the state government. Any such money received from the deceased member shall go to a capital fund of the state home for repairs, equipment, improvements, or construction.

Section 217. That § 33-18-16 be amended to read as follows:

33-18-16. If a deceased member of the State Veterans' Home leaves a spouse, or other dependent, the member's estate is payable to the spouse, or other dependent. Upon the death of the spouse or other dependent, the state home shall file a claim against the estate of the deceased spouse or other dependent for any claim against the estate of both the deceased husband and wife as provided in § 33-18-15. The claim is a preferred claim against the estates.

Section 218. That § 33-18-20 be amended to read as follows:

33-18-20. Any member of the State Veterans' Home who receives a pension or compensation and who has a dependent spouse or minor child shall deposit with the superintendent immediately on receipt of the pension or compensation check one-half of the amount. The amount deposited with the superintendent shall be sent at once to the spouse if the spouse is dependent upon the spouse's own labor or others for support, or, if there is no spouse, to the conservator of the minor children if dependent upon others for support. The superintendent, if satisfied that the member's spouse has

deserted the member, or is of bad character, or is not dependent upon others for support, may pay the money deposited as provided in this section to the guardian or conservator of the dependent minor children.

Section 219. That § 33-18-23 be amended to read as follows:

33-18-23. The spouse of any veteran who is eligible to become a member of the State Veterans' Home, may be admitted with the veteran if they have been married and living together for at least one year before application for admission and if their combined income does not exceed four hundred dollars per year above the maximum income limitation allowable for pension benefits as determined by the Veterans Administration. Or, a spouse may be admitted if the veteran, otherwise eligible to admission, is institutionalized for physical or mental disability, if the spouse has been married to the veteran spouse for at least one year. The nonveteran spouse is subject to the same house rules and rules as to furlough and discharge as the veteran spouse. Membership status is not affected by the death of a spouse or by marriage between members of the home.

Section 220. That § 33-18-30 be amended to read as follows:

33-18-30. No person may be received or retained in the State Veterans' Home who is mentally ill, is an inebriate, or is addicted to the use of drugs.

Section 221. That § 33-18-31 be amended to read as follows:

33-18-31. If a member of the State Veterans' Home is discharged from the home, or voluntarily leaves the home, or is adjudged mentally ill after admittance, the member's residence is that of the county in which the member was residing at the time of the member's admittance to the home.

Section 222. That § 33-18-32 be amended to read as follows:

33-18-32. Each member of the State Veterans' Home is deemed a resident of the county in which the member was residing at the time of admittance to the home and does not lose his or her residence or the right to vote in the county.

Section 223. That § 33-19-1 be amended to read as follows:

33-19-1. Upon notice to the county veterans' service officer or field officer of the Division of Veterans Affairs of the death within the county of a person entitled to burial benefits under this chapter, or at the officer's own initiative in a proper case, the veterans' service officer or field officer shall implement the provisions of this chapter in reference to the burial of the deceased.

Section 224. That § 33-19-2 be amended to read as follows:

33-19-2. Any veteran as defined by § 33-17-1, or the veteran's spouse, shall be buried at the expense of this state if:

- (1) The veteran was a citizen of the United States and a resident of South Dakota for one year preceding the veteran's entrance into military service or preceding the veteran's death;
- (2) The veteran's estate or the estate of the veteran's spouse, whether living or deceased, or the immediate family or relatives of the veteran or the veteran's spouse are unable to defray the expenses of the veteran's or the veteran's spouse's funeral; and
- (3) The surviving spouse or relatives of the deceased veteran furnish an affidavit acceptable to the county veterans' service officer or field officer of the Division of Veterans Affairs that the estate of the decedent or of his or her surviving spouse is not sufficient to defray the funeral expenses.

Section 225. That § 33-19-3 be amended to read as follows:

33-19-3. The state shall pay for burial and funeral expenses, including cost of burial lot, a sum not exceeding one hundred dollars. No payment or reimbursement for burial and funeral expenses may be allowed unless a claim for the payment or reimbursement is filed or presented to the Division of Veterans Affairs within one year after the date of the burial.

Section 226. That § 33-19-4 be repealed.

Section 227. That § 33-19-6 be amended to read as follows:

33-19-6. All expenses incurred under the provisions of §§ 33-19-2 to 33-19-5, inclusive, shall be approved, allowed, and certified, in quadruplicate, by the county veterans' service officer or field officer of the Division of Veterans Affairs upon forms provided by the Division of Veterans Affairs. The county veteran's service officer or field officer shall retain one copy of the forms and shall immediately forward three copies of the forms to the Division of Veterans Affairs. The division shall certify and forward the forms to the state auditor.

Upon receipt of the certified forms, the state auditor shall draw a warrant on the state treasurer in favor of the person or persons entitled to the payment for the amount specified on the forms.

Section 228. That § 33-19-8 be amended to read as follows:

33-19-8. Any county may appropriate money with which to purchase lots or plots of ground in any cemetery or burial ground for the burial of any veteran as defined by § 33-17-1, or the veteran's spouse, if the veteran or the veteran's spouse had a legal residence within the county at the time of his or her death.

Section 229. That § 33-19-9 be amended to read as follows:

33-19-9. Each board of county commissioners of each county of this state may, as soon as the money has been appropriated, purchase not more than ten burial plots and provide for the perpetual care of the plots. The cost of the plots with perpetual care may not exceed seventy-five dollars per plot.

The title to the burial plots is vested in the State of South Dakota, and permits for burial in the plots shall be issued by the county auditor of the respective county.

Section 230. That § 33-19-10 be amended to read as follows:

33-19-10. Any county may pay burial expense of persons described in § 33-19-8 not in excess of one hundred dollars for any such burial if the person dies in the county or has legal residence in the county at the time of death and if the relatives or friends of the deceased furnish affidavits

acceptable to a circuit judge for the county that the estate of the decedent is not sufficient to defray the funeral expense.

Section 231. That § 13-55-8 be amended to read as follows:

13-55-8. Any person desiring to use the benefits of § 13-55-6 shall apply to the Board of Regents. The Board of Regents shall determine whether the applicant is entitled to the benefits. The Board of Regents may promulgate rules pursuant to chapter 1-26 to accomplish the purposes of §§ 13-55-6 to 13-55-9, inclusive.

Section 232. That § 13-55-9 be amended to read as follows:

13-55-9. If the Board of Regents determines that any person applying under § 13-55-8 is entitled to free tuition in any state educational institution under the control and management of the Board of Regents, the board shall issue its certificate in duplicate that the person is entitled to free tuition in such an educational institution. One of the duplicate certificates shall be delivered to the educational institution with which the person desires to matriculate and the other duplicate certificate shall be delivered to the person applying for the benefits of § 13-55-6. The action of the Board of Regents is final.

Section 233. That § 13-55-10 be amended to read as follows:

13-55-10. Any resident of this state who is less than twenty-five years of age and whose parent or spouse dies or has died or sustains or has sustained a total and permanent disability resulting from duty as a member of the South Dakota National Guard, while on state active duty or any authorized training duty, is entitled to tuition without cost and may attend any course or courses of study in any state educational institution under the control and management of the Board of Regents.

The application and receipt of the benefits of this section are governed by the provisions of §§ 13-55-6 to 13-55-9, inclusive.

Section 234. That § 21-48-24 be amended to read as follows:

21-48-24. The affidavit provided for in subdivision 21-48-23(2) may be made and filed for record for the purpose of complying with the provisions of the Servicemembers Civil Relief Act of 2003, 54 Stat. 1178, 50 App. U.S.C.A. 501-48 and 560-591, as amended to January 1, 2007, and if required, for the purpose of showing compliance with the Federal Tax Lien Act, as amended to January 1, 2007. The affidavit may be made and filed for record at any time after the mortgage foreclosure sale, whether the sale was heretofore or is hereafter made.

Section 235. The code counsel shall change the term, national guard, to National Guard, wherever the term appears in title 33. The changes required by this section shall be implemented when the volume of the South Dakota Codified Laws containing title 33 is republished.

An Act to clarify, repeal, update, and make style and form changes to certain statutes related to military and veterans affairs.

=====

I certify that the attached Act
originated in the

HOUSE as Bill No. 1003

Chief Clerk
=====

Speaker of the House

Attest:

Chief Clerk

President of the Senate

Attest:

Secretary of the Senate

House Bill No. 1003
File No. _____
Chapter No. _____

=====

Received at this Executive Office
this _____ day of _____ ,

20____ at _____ M.

By _____
for the Governor
=====

The attached Act is hereby
approved this _____ day of
_____, A.D., 20____

Governor
=====

STATE OF SOUTH DAKOTA,
ss.
Office of the Secretary of State

Filed _____, 20____
at _____ o'clock __ M.

Secretary of State

By _____
Asst. Secretary of State