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10-16-03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

SB 2134

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2134

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 01/23/02

Tape Number	Side A	Side B	Meter #
Tape 1	x		1275-3208
Tape 1	x		3340-3570
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens SB 2134. Senator Nelson absent.

Major General Mike Haugen, North Dakota National Guard, Adjutant General testifies in support of SB 2134. (Testimony attached)

Senator Dever : Brigadier is one star, Major is two stars, and general is 4 stars. In order to maintain the officer of Brigadier General you have to attend a year of war college.

Major General Haugen: the requirements are different for the Army and the Air. The Air you must go through war college. You can take it many different ways and you must take that to reach the rank of colonial. On the Army side must take war college to make General, not colonial and that can be done in a couple of different ways also. In residence for a year or a correspondence course for two years. On the Air side you may simple sign up and on the Army side you must apply for war college and the Army determines whether you get accepted or not. If you are as deeply involved as most are with jobs and families this is extremely difficult to get

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10-16-03
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Page 2
Senate Government and Veterans Affairs Committee
Bill/Resolution Number SB 2134
Hearing Date 01/23/03

through. It really limits people on the Army side. The Adjutant's General's office is trying to change that because if you have the time to go through this war college, you probably are not the best person for that job. We would like it to be a lot more similar to the Air side.

General Bjerke, Retired Adjutant General in favor of SB 2134 but I oppose the amendment. I feel they should be educationally required. I have seen those that are not. I would like to law to require what the federal government does and feel that if they want to be an Adjutant General they should make a pledge that they will attain that schooling. The reason the federal government comes to get the North Dakota soldiers first is because we have the best National Guard but, I feel they should be led by a federal recognized officer.

Senator Brown: How would you change the amendment?

General Bjerke: With stipulation that they will complete the educational requirement even after they are appointed Adjutant General.

Senator Wardner : What is the shortest period to get this done?

General Bjerke: I took as an independent correspondence and I did it in about 14 months.

Senator Krebsbach : If we were to leave the language but change it to state you must have obtained the rank of Lt. Colonial and shall obtain the educational requirement would you be satisfied.

General Bjerke: Yes, That would be fine. We have seen political generals and the lack of success that usually accompany them. I feel the ability to lead should come first.

Closed SB 2134

Tape 1 Side A Meter # 3340

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Senate Government and Veterans Affairs Committee

Bill/Resolution Number SB 2134

Hearing Date 01/23/03

Senator Krebsbach : Would you have any qualms about changing the amendment to "shall obtain" ?

Senator Fairfield : Would there be a difference if it were stated upon appointment?

Major General Haugen: That is correct, the problem that we saw if you get appointed and take the classes after that you would be gone for a minimum of at least a year, and with all the work to go along with that you would only get a maximum of an hour of sleep a night. I will concur with shall obtain after appointment if that is what the committee decides.

Closed SB 2134

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2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2134

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 01/30/03

Tape Number	Side A	Side B	Meter #
Tape 3	x		1870-2700
Committee Clerk Signature			

Minutes:

Senator Karen Krebsbach, Chairman re opens SB 2134

Senator Brown: I think our Adjutant General should have the educational requirements that the amendment want to take out.

Senator Krebsbach goes over amendment presented by Major General Haugen.

Senator Brown moves a Do Pass on original bill.

Senator Wardner 2nd

Discussion

Senator Brown Our troops get called up first. They should be federally recognized leadership.

6 Yes 0 No

Carrier: Senator Dever

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Date: 1/30/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. SB 2134

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken Do Pass

Motion Made By Brown Seconded By Wardner

[illegible]

Total (Yes) 6 No 0

Absent

Floor Assignment Dever

If the vote is on an amendment, briefly indicate intent:

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REPORT OF STANDING COMMITTEE (410)
January 30, 2003 4:11 p.m.

Module No: SR-18-1409
Carrier: Dever
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2134: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134
was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-18-1409

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2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

SB 2134

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Y. Herrera
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10-16-03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. SB 2134

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 3-06-03

Tape Number	Side A	Side B	Meter #
1	x		23-end
1		x	0-4.6
Committee Clerk Signature <i>Joey Rink</i>			

Minutes: Chairman Klein opened the hearing on SB 2134. All committee members were present.

Senator R. Brown appeared in favor of SB 2134. This bill is being brought to you to enhance the rank of the Adjutant General as recognized by the military.

The bill does 4 things, first it raises the highest rank available by the Adjutant General to the Lieutenant General three star, if federal laws and regulations permit us, this is important because the Adjutant General needs to stand on equal footing when he goes to Washington, D.C. secondly the bill requires that an appointment to the position of Adjutant General must be at least a Lieutenant Colonel, and must have completed the education requirements for appointment for a federally recognized officer, third it applies to the Adjutant General the same rules that govern other officers within the National Guard or it removes gender specific findings. We feel that qualifications for this important position should always take precedence over political

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10-16-03
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Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number SB 2134

Hearing Date 3-06-03

appointment we feel pretty strongly that war college requirements should be a minimum to get the position.

Representative Sitte: can you tell us how one qualifies for the war college?

Senator Brown: by being an officer and an active member for 3 years it is a lengthy education requirement you can go full or part time.

Representative DeKrey: I'm here to lend my support to this bill, I think its really important to pass this bill the way it is written now, because of the educational requirements of this bill, the guard and the reserve through the years has changed, and we are not the support we were 4 or 5 years ago. It's important that we put it into statute on what the minimum qualifications of an officer are that could be appointed to the Adjutant General position because of the point that has already been made, when they go to Washington, D.C. they have to be on equal footing with the other officers there.

Al Doorman, Legal Council, Adjutant Generals Office, National Guard: I'm here on behalf of Major General Haugen who could not be here because his father had cancer surgery in Arizona. A lot that is in the written testimony that I'm presenting, has already been said by Senator Brown, and Representative DeKrey. (SEE ATTACHED TESTIMONY).

Keith Bjerke, Retired, Adjutant General: this was very much a issue in my appointment of Adjutant General, and we considered long and hard in the last session whether we should include this in the debate at the legislature, I sat down at length with both candidates for Governor, and explained the situation that it would be very advantageous for them to work from a roster of eligible Adjutant General appointees. We have seen other states that have chosen not to go this route, and have reached into the ranks and promoted someone that is not eligible for federal

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10-16-03
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Page 3
House Government and Veterans Affairs Committee
Bill/Resolution Number SB 2134
Hearing Date 3-06-03

recognition and made a very bad mistake, and have paid a price for that over and over again. The future of the Guard depends on, that Governor, making that choice, that will lead us into the future, and I strongly support this bill.

Representative Klein: has this always been a 6 year appointment?

Keith Bierke: in North Dakota, yes.

John Jacobson, North Dakota Veterans Coordinating Council: was present and in support of SB 2134.

Jim Coats, Legislative Sub-committee, Veterans Coordinating Council: appeared and was in support of SB 2134.

Representative Haas: made a **DO PASS** motion on SB 2134.

Representative Meier: **SECOND** the motion to DO PASS.

VOTE: 14-YES 0-NO 0-ABSENT.

Motion carried.

Representative Klemm: will carry the bill to the floor.

Meeting adjourned.

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10-16-03
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Roll Call Vote #:

Date: 3-06-03

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTE
SENATE BILL/RESOLUTION NO. SB 2134

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken

DO PASS

Motion Made By

Rep. Haas

Seconded By

Rep. Meier

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	X				
L.R. Klemin	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	X				
R.H. Wikenheiser	X				

Total (Yes) 14 No 0

Absent 0

Floor Assignment

Rep. Klemin

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Date

10-16-03

REPORT OF STANDING COMMITTEE (410)
March 6, 2003 11:10 a.m.

Module No: HR-40-4079
Carrier: Klemin
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
SB 2134: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)
recommends **DO PASS** (14 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). SB 2134
was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-40-4079

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10-16-03
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2003 TESTIMONY

SB 2134

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10-16-03
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TESTIMONY OF
MAJOR GENERAL MIKE HAUGEN, THE ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD
BEFORE THE

GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

January 23, 2003

9:15 a.m.

SENATE BILL 2134

Madam Chairman, Members of the Committee, good morning.

Before I start my testimony on the filed Bill. I would like to offer an amendment, which is attached to my written testimony at page 4. This amendment removes the education requirement for appointment as the Adjutant General. While it is desirable to have a federal recognized general officer as Adjutant General, the current education requirement for general officers severely limits the number of qualified Army National Guard candidates. Under current federally education requirements, we would only have 6 Army Guard and 18 Air Guard officers eligible for appointment. Removing this requirement will increase the qualified applicant pool from 6 to 68 in the Army Guard and 18 to 35 in the Air Guard. We believe that this is a more appropriate pool size for this important position.

This Bill, as filed and amended, addresses the minimum qualifications to be appointed as the Adjutant General, addresses the rank of the Adjutant General, and corrects gender specific language.

First, this Bill updates the appointment qualifications for Adjutants General. Under our current state law, the Governor could appoint any officer who has been a member of the National Guard for three years. This would allow an officer in the grade of First Lieutenant to be appointed. However, if the Governor were to appoint one of these junior officers, it would take up to 10 years for this individual to achieve the rank of a Major General. In addition to the minimum time in grade requirements, this officer would have to be promoted to Captain, Major, Lieutenant Colonel, Colonel and Brigadier General, as well as complete all required military education requirements. In contrast, to be appointed as an Assistant Adjutant General, you must have achieved at least the rank of Lieutenant Colonel. We believe that if this minimum standard is appropriate for subordinate positions, it is also appropriate for the Adjutant General. A survey of several states shows that the majority require candidates for Adjutant General to be at least field grade officers, which would be at least the rank of Major. It is important that the Adjutant

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General have the rank and experience required for the office. Setting this minimum standard will ensure only the most qualified are considered for appointment.

Second, this Bill increases the maximum rank for the Adjutant General to Lieutenant General and ties the Adjutant General's rank to federal law and regulation. Under federal regulations, the Adjutant General is capped at Major General. However, we never know what the future holds, and we believe that the Governor—if authorized under federal regulations—should be capable of promoting the Adjutant General to a higher rank. Over the past several years, the National Guard Bureau's directors of the Air and Army National Guard, have been promoted to the rank of Lieutenant General (three star). If a like promotion is authorized—nation-wide—for adjutants general, this Bill will put North Dakota in a position to promote the then-serving Adjutant General.

Third, this Bill also ties the Adjutant General's rank to federal regulation. Under current law, the Adjutant General's rank is based strictly on years of commissioned service. If the Adjutant General has less than 20 years of service, he or she would be a Brigadier General; over 20 years, he or she would be a Major General. This could lead to an Adjutant General wearing a rank not authorized under federal regulation. By tying the Adjutant General's rank to the Federal rules, we are simply applying the same rules that every other officer in the National Guard follows.

Finally, this Bill removes gender-specific language.

In summary, this Bill does three things. First, it sets a minimum rank to qualify for appointment as Adjutant General. Second, it raises the possible maximum, rank if initiated nation-wide by National Guard Bureau. Third, it applies to the Adjutant General the same rules for promotion that govern other officers within the National Guard.

I would be pleased to respond to any questions, Madam Chairman.

Rank at time Of Appointment	Years to Maj. Gen.	Remarks
Captain	10 years	Must complete Advance Course/Staff Officer Course
Major	9 years	Must complete Command and Gen. Staff Course
Lieutenant Colonel	5 years	
Colonel	2 year	Must complete War College

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PROPOSED AMENDMENTS TO SENATE BILL NO. 2134

Page 1, line 19, after "appointment," insert "and"

Page 1, line 20, remove "and must have completed the educational requirements for appointment as a federally recognized general officer"

Renumber accordingly

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10-16-03
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DEPARTMENT OF THE ARMY
OFFICE OF THE INSPECTOR GENERAL
1700 ARMY PENTAGON
WASHINGTON DC 20310-1700

25 APR 2000

SAIG-IN (20-1b)

MEMORANDUM FOR CHIEF, NATIONAL GUARD BUREAU,
1411 JEFFERSON DAVIS HIGHWAY, SUITE 12000,
ARLINGTON, VA 22202-3259

SUBJECT: Wear of State General Officer Appointments Higher than Federal
Recognition

1. The Department of the Army Inspector General has received several allegations concerning Army National Guard (ARNG) officers who held State general officer (GO) appointments, but lacked Federal recognition of those appointments. These officers wore the rank, insignia, and uniform of U.S. Army GOs. During the investigations of those allegations, we encountered a common perception that a State Adjutant General had the authority to authorize the wear of GO rank and insignia within the boundaries of his/her State. This led to an analysis of Federal law and Army and National Guard regulations concerning these issues (Encl 1). The Office of the Chief Counsel, National Guard Bureau, and the Office of The Judge Advocate General, Army, reviewed our analysis. Their comments are included in Encls 2 and 3.
2. Our analysis revealed that with two exceptions State appointments that are higher than federally recognized rank could not be worn on the U.S. Army uniform. State Adjutant Generals can wear their State appointments as long as it does not exceed their federally recognized rank by one grade or exceed the grade of major general. The other exception provides that a colonel (COL) awaiting promotion to brigadier general (BG) may be authorized to wear the State appointed grade of BG if he/she is federally recognized as a COL, is assigned to a GO position, and is confirmed by the Senate for promotion to BG.
3. Further, we found no basis in current Federal law, Army regulations, or National Guard regulations that indicated the restriction on the wear of State appointments higher than Federal recognition only applied outside the boundaries of states.
4. Finally, we recommend the National Guard Bureau provide clarifying guidance to State Adjutant Generals concerning the wear of State GO appointments higher than Federal recognition on the U.S. Army uniform.

Encls

MICHAEL W. ACKERMAN
Lieutenant General, USA
The Inspector General

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WRITTEN TESTIMONY OF
MAJOR GENERAL MICHAEL HAUGEN
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

March 6, 2003

8:30 a.m.

SENATE BILL 2134

Mr. Chairman, Members of the Committee, good morning.

This Bill addresses the minimum qualifications to be appointed as the Adjutant General; it addresses the rank of the Adjutant General; and corrects gender specific language.

First, this Bill updates the appointment qualifications for Adjutants General. Under our current state law, the Governor could appoint any officer who has been a member of the National Guard for three years. This would allow an officer in the grade of First Lieutenant to be appointed. However, if the Governor were to appoint one of these junior officers, it would take up to 10 years for this individual to achieve the rank of a Major General. (See attached graph) In addition to the minimum time in grade requirements, this officer would have to be promoted to Captain, Major, Lieutenant Colonel, Colonel and Brigadier General, as well as complete all required military education requirements. In contrast, to be appointed as an Assistant Adjutant General, a candidate must have achieved at least the rank of Lieutenant Colonel, and, under federal rules, complete War College or an equivalent course of study. We believe that if this minimum standard is appropriate for subordinate positions, it is also appropriate for the Adjutant General. A survey of several states shows that the majority require candidates for Adjutant General to be at least field grade officers, which would be at least the rank of Major. Of these states, 9 require candidates to be at least Lieutenant Colonel, and 11 require the candidates to achieve the rank of Colonel. It is important that the Adjutant General have the rank and experience required for the office. Setting this minimum standard will ensure only the most qualified are considered for appointment.

As already stated, this new appointment standard will require candidates to have completed the education requirements for appointment as a general officer. This may be a controversial component of this Bill due to the fact that it further limits the pool of qualified candidates, especially from the Army National Guard. Currently, there are only 6 Army National Guard, and 18 Air National Guard officers who have completed the education requirements—War College or equivalent—for appointment as a General Officer. The low

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Army numbers are due, in part, to the fact that Army officers must be selected for these courses by a Department of Army board for both resident courses (1 year in-residence), or the correspondence course (2 years). Both courses are graduate level programs of instruction that lead to a Master Degree in Military Science. On the other hand, Air Guard officers may sign-up, without first passing a Board, for the Air War College seminar program, which can be completed in one year. While this disparate applicant pool concerns us, the fact remains that to become a Major General you must complete the education requirements, and we believe that it is extremely important to have a federally recognized general officer serving as Adjutant General.¹ In this day in age, Adjutants General need to be on par with the active-duty counterparts. This Bill will help insure this happens in the state of North Dakota.

Second, this Bill increases the maximum rank for the Adjutant General to Lieutenant General and ties the Adjutant General's rank to federal law and regulation. Under federal regulations, the Adjutant General is capped at Major General. However, we never know what the future holds, and we believe that the Governor—if authorized under federal regulations—should be capable of promoting the Adjutant General to a higher rank. Over the past several years, the National Guard Bureau's directors of the Air and Army National Guard, have been promoted to the rank of Lieutenant General (three star). If a like promotion is authorized—nation-wide—for adjutants general, this Bill will put North Dakota in a position to promote the then-serving Adjutant General.

Third, this Bill also ties the Adjutant General's rank to federal regulation. Under current law, the Adjutant General's rank is based strictly on years of commissioned service. If the Adjutant General has less than 20 years of service, he or she would be a Brigadier General; over 20 years, he or she would be a Major General. This could lead to an Adjutant General wearing a rank not authorized under federal regulation. By tying the Adjutant General's rank to the Federal rules, we are simply applying the same rules that every other officer in the National Guard follows. [See attached Inspector General's opinion]

Finally, this Bill removes gender-specific language.

In summary, this Bill does three things. First, it sets a minimum rank to qualify for appointment as Adjutant General. Second, it raises the possible maximum, rank if initiated nation-wide by National Guard Bureau. Third, it applies to the Adjutant General the same rules for promotion that govern other officers within the National Guard.

I would be pleased to respond to any questions, Mr. Chairman.

¹ Under Federal law and regulation, an Adjutant General in the rank of Colonel may wear the uniform of a brigadier General, but will not receive federal recognition.