

1 TO THE HONORABLE SENATE:

2 The Committee on Government Operations to which was referred House  
3 Bill No. 530 entitled “An act relating to the qualifications and election of the  
4 Adjutant and Inspector General” respectfully reports that it has considered the  
5 same and recommends that the Senate propose to the House that the bill be  
6 amended by striking out all after the enacting clause and inserting in lieu  
7 thereof the following:

8 Sec. 1. 2 V.S.A. § 10 is amended to read:

9 § 10. ELECTION OF STATE AND JUDICIAL OFFICERS

10 (a) At 10 o’clock and 30 minutes, forenoon, on the seventh Thursday after  
11 their biennial meeting and organization, the Senate and House of  
12 Representatives shall meet in joint assembly and proceed therein to elect the  
13 State officers, except judicial officers, whose election by the Constitution and  
14 laws devolves in the first instance upon them in joint assembly, including the  
15 Sergeant at Arms, ~~the Adjutant and Inspector General~~, and the legislative  
16 trustees of the University of Vermont and State Agricultural College. In case  
17 election of all such officers shall not be made on that day, they shall meet in  
18 joint assembly at 10 o’clock and 30 minutes, forenoon, on each succeeding  
19 day, Saturdays and Sundays excepted, and proceed in such election, until all  
20 such officers are elected.

21 \* \* \*

1       Sec. 2. REDESIGNATION; ADDITION OF SUBCHAPTER

2           20 V.S.A. chapter 21, subchapter 1, which shall include 20 V.S.A. §§ 361–  
3       369, is added to read:

4                               Subchapter 1. General Provisions

5       Sec. 3. 20 V.S.A. chapter 21, subchapter 2 is added to read:

6           Subchapter 2. Adjutant and Inspector General Nominating Board

7       § 370. ADJUTANT AND INSPECTOR GENERAL NOMINATING

8           BOARD

9           (a) The Adjutant and Inspector General Nominating Board is created to  
10       nominate candidates for Adjutant and Inspector General.

11          (b)(1) The Board shall consist of nine members who shall be selected  
12       as follows:

13           (A) one member appointed by the Governor, who shall not be a  
14       current member of the Vermont National Guard;

15           (B) one member appointed by the Executive Director of the Vermont  
16       Office of Veterans Affairs, who shall be a veteran but shall not be a current  
17       member of the Vermont National Guard;

18           (C) one member appointed by the Chief Justice of the Vermont  
19       Supreme Court, who shall not be a current member of the Vermont National  
20       Guard;

1           (D) three members of the House, not all of whom shall be members  
2           of the same party, appointed by the Speaker of the House; and

3           (E) three members of the Senate, not all of whom shall be members  
4           of the same party, appointed by the Committee on Committees.

5           (2)(A) The members of the Board shall serve for terms of two years and  
6           may serve for not more than three consecutive terms.

7           (B)(i) All appointments shall be made between January 15 and  
8           February 15 of each odd-numbered year, except to fill a vacancy.

9           (ii) Any vacancy in the membership of the Board shall be filled by  
10          the appointing authority for the remainder of the term.

11          (C) Members shall serve until their successors are appointed.

12          (3) The members shall elect their own chair who shall serve for a term  
13          of two years.

14          (c) Legislative members of the Board shall be entitled to per diem  
15          compensation and reimbursement for expenses in accordance with 2 V.S.A.  
16          § 406. Members of the Board who are not otherwise compensated by their  
17          employer shall be entitled to per diem compensation and reimbursement for  
18          expenses in the same manner as board members are compensated under  
19          32 V.S.A. § 1010. The compensation and reimbursement for the Board  
20          members shall be paid from the legislative appropriation.

21          (d) A quorum of the Board shall consist of a majority of the members.

1       (e) The Board may use the staff and services of the Legislative Council to,  
2       in addition to other duties, obtain information regarding candidates for  
3       Adjutant and Inspector General by soliciting comments from members of the  
4       Vermont National Guard and the public.

5       § 371. DECLARATION OF CANDIDACY FOR ADJUTANT AND  
6       INSPECTOR GENERAL; REQUIREMENTS

7       (a)(1) All candidates for Adjutant and Inspector General shall, on or before  
8       January 15 of each even-numbered year, declare their candidacy to the Board  
9       pursuant to procedures adopted by the Board and demonstrate that they meet  
10       the qualifications set forth in subsection (b) of this section as required pursuant  
11       to procedures adopted by the Board.

12       (2)(A) In the case of a vacancy occurring during a term, any candidates  
13       for Adjutant and Inspector General shall, not later than 90 days after the office  
14       of Adjutant and Inspector General becomes vacant, declare their candidacy to  
15       the Board pursuant to procedures adopted by the Board and demonstrate that  
16       they meet the qualifications set forth in subsection (b) of this section as  
17       required pursuant to procedures adopted by the Board.

18       (B) During a vacancy in the Office of Adjutant and Inspector  
19       General, the Deputy Adjutant General shall fulfill the Duties of the Office until  
20       a new Adjutant and Inspector General is appointed by the Governor.

1        (b) A candidate for Adjutant and Inspector General shall:

2            (1) be a resident of Vermont;

3            (2) have attained the rank of lieutenant colonel (O-5) or above;

4            (3) be a current member of the U.S. Army, the U.S. Air Force, the  
5        U.S. Army Reserve, the U.S. Air Force Reserve, the Army National Guard or  
6        the Air National Guard, or be eligible to return to active service in the Army  
7        National Guard or the Air National Guard; and

8            (4) be a graduate of a Senior Service College or currently enrolled in a  
9        Senior Service College.

10        (c) As used in this section, “resident of Vermont” means an individual who  
11        is domiciled in Vermont as evidenced by an intent to maintain a principal  
12        dwelling place in Vermont indefinitely and to return to Vermont if temporarily  
13        absent, coupled with an act or acts consistent with that intent.

14        § 372. PROCEDURES OF THE BOARD; CONFIDENTIALITY

15        (a) The Board shall endeavor to adopt all necessary forms and procedures  
16        for receiving and reviewing applications of candidates for Adjutant and  
17        Inspector General by September 30 of the first year of each biennial session.

18        (b) The Board’s procedures shall not be subject to rulemaking under  
19        3 V.S.A. §§ 836–844 and may be adopted and revised at the discretion of the  
20        Board.

1       (c) All candidates shall have the right to a reasonable time period to prepare  
2       and present to the Board a response to any testimony or written complaint  
3       adverse to their candidacy for Adjutant and Inspector General.

4       (d)(1) Except as otherwise provided by subdivision (2) of this subsection:

5               (A) the proceedings of the Board shall be confidential and exempt  
6       from the Vermont Open Meeting Law, 1 V.S.A. chapter 5, subchapter 2; and

7               (B) all records of the Board, including information related to  
8       candidates, shall be exempt from public inspection and copying under the  
9       Public Records Act and shall be kept confidential.

10       (2) The following shall be public:

11               (A) the Board's operating procedures;

12               (B) the Board's application procedures and any application or other  
13       forms used by the Board, provided they do not contain information about a  
14       candidate or confidential proceedings;

15               (C) proceedings of the Board that are not directly related to the  
16       consideration of candidates;

17               (D) the names of the candidates; and

18               (E) the list of well-qualified candidates submitted to the Governor by  
19       the Board.

1     § 373. DUTIES OF NOMINATING BOARD

2             (a) Evaluation. In determining whether a candidate for Adjutant and  
3     Inspector General should be submitted to the Governor for consideration, the  
4     Board shall do the following:

5             (1) Interview the candidate for Adjutant and Inspector General.

6             (2) Hold a hearing to receive information and hear testimony in relation  
7     to the candidates.

8             (3) Review comments received in relation to the candidate from  
9     members of the Vermont National Guard and the public. The Board may, in  
10    its discretion, conduct interviews or seek additional information related to  
11    comments received in relation to a candidate.

12            (4) Determine whether the candidate is well qualified for appointment  
13    by the Governor based on the candidate's application materials and interview,  
14    and any comments and related information received in relation to the  
15    candidate. The Board shall evaluate whether each candidate is well qualified  
16    based on:

17            (A) whether the candidate satisfies the qualifications set forth in  
18    subsection 371(b) of this chapter; and

19            (B) the candidate's leadership; integrity; and administrative and  
20    communication skills.

1        (b) Nomination. After interviewing and evaluating each of the candidates,  
2        the Board shall submit to the Governor a list of all well qualified candidates for  
3        Adjutant and Inspector General.

4        Sec. 4. 20 V.S.A. § 363 is amended to read:

5        § 363. OFFICERS GENERALLY

6        (a)(1) The General Assembly shall biennially elect On or before April 15 of  
7        the second year of each biennial session, the Governor shall appoint, with the  
8        advice and consent of the Senate and from a list of candidates submitted by the  
9        Adjutant and Inspector General Nominating Board, an Adjutant and Inspector  
10       General, who for a term of two years.

11       (2) An Adjutant and Inspector General appointed to fill a vacancy  
12       occurring during a term shall serve the remainder of the unexpired term.

13       (3)(A) The Adjutant and Inspector General shall, at all times during the  
14       term of office satisfy the requirements set forth in 20 V.S.A. § 371(b).

15       (b) The Adjutant and Inspector General shall also be Quartermaster  
16       General with the rank of a major general.

17       (c)(1) The Adjutant General may appoint a deputy Deputy with appropriate  
18       rank, the approval of the Governor. The Adjutant General may also appoint an  
19       Assistant Adjutant General for Army, an Assistant Adjutant General for Air, an  
20       Assistant Adjutant General for Joint Operations, a Sergeant Major, and a Chief  
21       Master Sergeant, without pay, with the approval of the Governor.

1           (2) The Adjutant and Inspector General may remove the appointed  
2 assistant adjutant generals and sergeants and shall be responsible for their acts.

3           (3) Upon appointment, each Assistant Adjutant General shall be a  
4 federally recognized officer of the National Guard of the rank of lieutenant  
5 colonel or above, and shall have a rank of colonel or brigadier general, and the  
6 Sergeant Major shall be a federally recognized noncommissioned officer of the  
7 National Guard of the rank of master sergeant or first sergeant or above, and  
8 the Chief Master Sergeant shall be a federally recognized noncommissioned  
9 officer of the rank of senior master sergeant or first sergeant.

10           (4) The Deputy, ~~Assistants~~ assistants, and ~~Sergeants~~ sergeants shall  
11 perform duties as the Adjutant and Inspector General ~~and Quartermaster~~  
12 ~~General~~ shall direct.

13           (d)(1) In the absence or disability of the ~~officer~~ Adjutant and Inspector  
14 General, the Deputy shall perform the duties of that office.

15           (2) In case a vacancy occurs in the office of Adjutant and Inspector  
16 General ~~and Quartermaster General~~, the Deputy shall assume and discharge the  
17 duties of the office until the vacancy is filled.

18           (e) ~~The appointments~~ Appointments made pursuant to subsections (a)  
19 and (c) of this section shall be in writing and recorded in the ~~office~~ Office of  
20 the Secretary of State.

1        (f) All other officers of the National Guard shall be chosen in accordance  
2 with rules adopted by the Governor consistent with the laws of this State and  
3 the United States.

4        Sec. 5. ADJUTANT AND INSPECTOR GENERAL; CURRENT TERM

5        Notwithstanding any provision of law to the contrary, the term of the  
6 Adjutant and Inspector General in office on the effective date of this act shall  
7 end on April 15, 2022.

8        Sec. 6. EFFECTIVE DATE

9        This act shall take effect on July 1, 2020.

10        and that after passage the title of the bill be amended to read: “An act  
11 relating to the qualifications and appointment of the Adjutant and Inspector  
12 General”

13

14

15

16

17        (Committee vote: \_\_\_\_\_)

18

\_\_\_\_\_

19

Senator \_\_\_\_\_

20

FOR THE COMMITTEE