

2015 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1104

2015 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Fort Union, State Capitol

HB 1104
1/9/2015
21790

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the operation of the ND National Guard.

Minutes:

Attachments #1-4

Chairman Kasper opened the hearing on HB 1104.

Brigadier General Alan Dohrmann, Office of the Adjutant General, appeared and presented testimony #1 attached. (1:40- 5:33)

Rep. Laning I assume you pay up to the highest. Is that correct?

Alan Dohrmann There is two parts to the statue. There is the tuition waiver, and each university that fits this program has to take a 25% waiver of their tuition. The reimbursement is tied except UND. Since UND has the second highest rate of tuition and fees in the state, every school except UND would get 100% reimbursement.

Chairman Kasper You mentioned the \$100 and \$50 on the domestic and foreign page. Is there a memo outlining that which you could provide the committee?

Alan Dohrmann We can provide our policy on that. I can get that to you yet today. The actual amounts are in statue. The only thing that has changed in that particular statue over the years is a couple of sessions ago, we removed the cap. Initially, there was a cap of a \$2,000 limit for foreign service and a \$1,000 limit for domestic service, but as you know, we have had many soldiers and airmen that have deployed multiple times and we didn't think it appropriate to not provide that adjusted compensation.

No opposition.

The hearing was closed.

Chairman Kasper We get bills like this in front of our GVA committee every session, and we try to work with our military forces here in ND as well as what the Federal law says. It is just a thing you have to do and if we don't, it is not real good policy on our part to do so.

Rep. Steiner made a motion for a DP.

Rep. Mooney seconded the motion.

A roll call vote was taken. 13 Yeas, 0 Nays, 1 Absent.

Rep. Wallman will be the carrier.

Alan Dohrmann also handed out attachment #2.

Attachments #3 and #4 from the Adjutant General's Office were given to the committee at a later date.

Date: 1-9-15
 Roll Call Vote #: _____

**2015 HOUSE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1104**

House Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Steiner Seconded By Mooney

Representatives	Yes	No	Representatives	Yes	No
Chairman Jim Kasper	X		Rep. Bill Amerman	X	
Vice Chair Karen Rohr	X		Rep. Gail Mooney	X	
Rep. Jason Dockter	X		Rep. Mary Schneider	X	
Rep. Mary C. Johnson			Rep. Kris Wallman	X	
Rep. Karen Karls	X				
Rep. Ben Koppelman	X				
Rep. Vernon Laning	X				
Rep. Scott Louser	X				
Rep. Jay Seibel	X				
Rep. Vicky Steiner	X				

Total (Yes) 13 No 0

Absent 1

Floor Assignment Wallman

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

REPORT OF STANDING COMMITTEE

HB 1104: Government and Veterans Affairs Committee (Rep. Kasper, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1104 was placed on the Eleventh order on the calendar.

2015 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1104

2015 SENATE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee
Missouri River Room, State Capitol

HB 1104
3/5/2015
Job # 24362

- Subcommittee
 Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to the operation of the North Dakota National Guard; and to declare an emergency.

Minutes:

Attachments 1

Chairman Dever: Opened the hearing on HB 1104.

Major Hagel, Legal Advisor, North Dakota National Guard: See Attachment #1 for testimony in support of the bill and to explain the bill.

(2:40)Chairman Dever: I attended Representative Fehr's promotion ceremony, and he mentioned his MRD as being next August, does this bill change that?

Major Hagel: It would not change it for him. That is based on when he enters and he is not a medical doctor. Chaplains are also impacted by this bill. It is for those hard to recruit positions; the dentists, doctors, chaplains etc. Those are positions that they can stay in a little longer and it is not as labor intensive. It allows us to keep them longer and to provide that service.

Chairman Dever: What is the age of his MRD? Would that be different than other members?

Major Hagel: It could be. It is fairly complicated. I have an MSD and it is based on when I got my commission and 28 years.

Chairman Dever: What is MSD?

Major Hagel: Mandatory Separation Date.

Senator Nelson: What is the difference?

Major Hagel: I am in the Air Force. MSD is Army. The compilation is 30 years of commission service or age 60 for a Colonel.

Senator Flakoll: Can you confirm on page 2, lines 12 and 13, where we are talking about the tuition and fees, non-programmatic fees, those fees would be the kind of fees that would be assessed to everyone more or less campus wide?

Major Hagel: We had fees added as part of the program two sessions ago and it is discretionary. We have been reimbursing fees but I believe it is program fees as well.

Senator Flakoll: You are referring to the highest in the system. When it comes to tuition and fees, you are looking at undergraduate, I am guessing and non-programmatic fees. You would not pay the full boar for medical school or something?

Major Hagel: That is correct.

Senator Flakoll: I have a conflict here because I am provost of Tri-College University which has a number of these students that would be participating in one of our good programs.

Major Hagel: Yes sir. It is just undergrad fees.

(7:50) Senator Nelson: In regards to the fees, you have special fees for different departments, are they program fees that are kind of tuition?

General Al Dohrmann, Deputy Adjutant General: They are just the general fees that apply to anyone that goes to one of the universities. Things like medical school, where you can have some fairly substantial fees, it will not cover that. It is all based on the availability of funds. We have been fortunate for the last several years that there is a federal Army tuition assistance program that most of our Army National Guard members can participate in; which has provided us enough state funding to offer both tuition and fees for our Air National Guard members and Army National Guard members that do not qualify for the federal program. (Lists the MRD rules on years of service or age)

Chairman Dever: The Adjutant General is appointed by the Governor. Can they go beyond that age then?

General Dohrmann: Under our state law, the Adjutant General is subject to the rules for appointment and dismissal of officers. There is authority with this bill for the Adjutant General to go to age 66 and currently that is the highest age authorized on the federal side. This bill is matching those two up.

Chairman Dever: In regards to current Adjutant General that would signify the end of his current appointment?

General Dohrmann: Yes.

Chairman Dever: Closed the hearing on HB 1104.

Senator Flakoll: Moved a Do Pass.

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Senator Poolman: Seconded.

A Roll Call Vote Was Taken: 7 yeas, 0 nays, 0 absent.

Motion Carried.

Senator Flakoll will carry the bill.

Date: 3/5
 Roll Call Vote #: 1

**2015 SENATE STANDING COMMITTEE
 ROLL CALL VOTES
 BILL/RESOLUTION NO. 1104**

Senate Government and Veterans Affairs Committee

Subcommittee

Amendment LC# or Description: _____

Recommendation: Adopt Amendment
 Do Pass Do Not Pass Without Committee Recommendation
 As Amended Rerefer to Appropriations
 Place on Consent Calendar
 Other Actions: Reconsider _____

Motion Made By Flakoll Seconded By Poolman

Senators	Yes	No	Senators	Yes	No
Chairman Dever	✓		Senator Marcellais	✓	
Vice Chairman Poolman	✓		Senator Nelson	✓	
Senator Cook	✓				
Senator Davison	✓				
Senator Flakoll	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Flakoll

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

REPORT OF STANDING COMMITTEE

HB 1104: Government and Veterans Affairs Committee (Sen. Dever, Chairman)
recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING).
HB 1104 was placed on the Fourteenth order on the calendar.

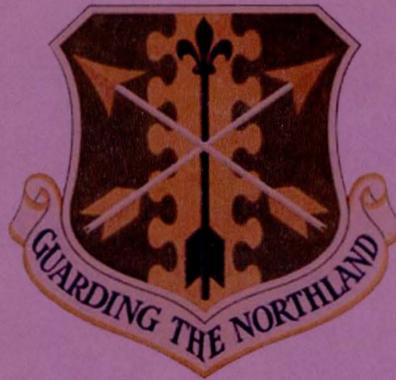
2015 TESTIMONY

HB 1104



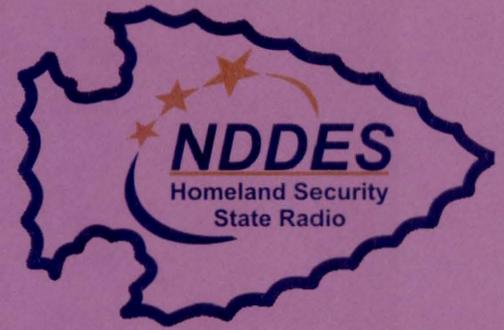
Army National Guard

"The Straight Arrows"



Air National Guard

"The Happy Hooligans"



*Department of
Emergency Services
Homeland Security &
State Radio*

1104 # #1

The
Office of the
Adjutant General

Testimony of
Brigadier General Alan Dohrmann
Deputy Adjutant General

before the

House Government and Veteran Affairs
Committee

January 9, 2015

HOUSE BILL 1104

P. 2

TESTIMONY OF
BRIGADIER GENERAL ALAN S. DOHRMANN
THE DEPUTY ADJUTANT GENERAL
BEFORE THE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE
9 JANUARY 2015
HOUSE BILL 1104

Good morning Mr. Chairman, I am Brigadier General Alan Dohrmann, The Deputy Adjutant General for the North Dakota National Guard. I am here today to testify in support of House Bill 1104. This bill contains a number of updates to Title 37 of the North Dakota Century Code.

In *State v. Julson*, the North Dakota Supreme Court held that while the state can incorporate federal law by reference, it can only adopt federal law in existence at the time of the enactment of the state law. Therefore, when there is a change to a referenced federal law, we need to update the State's law to reflect the most current federal law. Section 1 of this bill updates the "North Dakota military relief act" by incorporating by reference the federal Servicemember Civil Relief Act of 2014.

Section 2 updates N.D.C.C. §37-04-16, which mandates the retirement and discharge of National Guard officers when they reach 64 years of age. This mandatory retirement, in some instances, conflicts with federal law which allows certain officers, such as Adjutant Generals and medical professionals, who can serve to age 66 and 68 respectfully. This change would allow for state recognition to run parallel to federal recognition.

Section 3 amends the tuition grant program by tying reimbursement rates to the "university with the highest tuition" instead of the University of North Dakota (UND). While UND has historically had the highest combination of tuition and fees, in recent years North Dakota State University (NDSU) has surpassed UND. This results in a NDSU student paying money out of pocket, while students attending other state universities would receive 100% tuition assistance. Not knowing which university will have the highest tuition in the future, we are asking that we not tie tuition reimbursement to a particular school.

Sections 4 and 5 update the Veteran's Compensation law to provide authority for the program through 2017.

Finally, section 6 declares this an emergency to ensure that we can continue to pay adjusted compensation. Additionally, emergency authority would allow us to pay tuition reimbursement at the NDSU rate for Spring semester, 2015.

I ask for your support for HB 1104 and will stand for any questions you may have.

Comparison of UND vs. NDSU Tuition Waiver and Assistance

	NDSU	UND	
Tuition	6604	6388	
Tuition Waiver	-1651	-1597	
Subtotal:	4953	4791	
Fees	1215.72	1352.8	
Tuition & Fee	6168.72	6143.8	
Tuition Reimbursement	-6143.8	-6143.8	Based on UND Tuition & Fees
	24.92	0	

Attachment #1 to Testimony on
HB 1104

1-9-15
#2
1104

1104
#3
P. 2

DOCUMENTS TO INCLUDE WITH APPLICATION

- For NDNG members:
 - i) A copy of the original report of separation (DD214 member-4) (Do not submit original)
- 2) For all other applicants:
 - i) ND tax return for the year prior to deployment;
 - ii) Verification of the specific war zone entry/exit dates;
 - iii) Verification that deployment was in direct support of the global war on terror.

PAYMENT OF ADJUSTED COMPENSATION (VETERAN'S BONUS)

- 1) Each National Guard or Reserve Component resident veteran mobilized stateside (Title 10) is eligible for \$50 for each month or major fraction thereof for state-side duty or mobilization trainup.
- 2) Each National Guard, Reserve, or Active Component resident veteran of Foreign Service who was activated under Title 10 orders is eligible for
 - i) \$100 for each month or major fraction thereof if receiving hazardous duty pay, or
 - ii) \$50 per month or major portion thereof if not receiving hazardous duty pay.
- 3) If the veteran received a Purple Heart for Foreign Service, the veteran is entitled to a payment of \$2500 in lieu of the monthly payments.
- 4) If the veteran is deceased, the veteran's beneficiary is entitled to any payments to which the veteran would have been entitled.
- 5) In the case of a veteran who died as a result of active service during the period of service, the beneficiary is entitled to a payment of \$5000 in lieu of the monthly payments.
- 6) Applications for adjusted compensation may be filed with the adjutant general through 30 June 2013, or in the case of mobilization on 30 June 2013, not later than six months after the end of the mobilization period of service.

"RESIDENT" means a veteran who was a bona fide resident of the state of North Dakota at the time of mobilization or, in the case of an active component member, at the time of deployment. "Resident" also includes all mobilized members of the North Dakota National Guard.

MAILING ADDRESS FOR ALL CORRESPONDANCE

Adjusted Compensation Division
PO Box 5511
Bismarck, ND 58506-5511
Phone: 701-333-3008

APPEALS

If you disagree with the determination of the adjusted compensation program manager, you may appeal the decision to the adjutant general. Within 30 days of the denial of benefits, send your request for an appeal along with any additional information to:

The Adjutant General
Attn: Office of the Staff Judge Advocate
PO Box 5511
Bismarck, ND 58506-5511

PRIVACY ACT

The Privacy Act of 1974 requires the following information be provided when individuals are requested to disclose their social security numbers. Disclosure of the social security number is voluntary and it is requested for identification purposes. While failure to disclose this information will not affect participation in this program, it may cause a delay in the processing of this application.

Jan 9, 2015
#4 H131104

**CHAPTER 37-28
MILITARY OPERATIONS ADJUSTED COMPENSATION**

37-28-01. Statement of public purpose.

In order to ease the financial hardships and personal and family sacrifice sustained by members of the North Dakota national guard, and North Dakota residents of the reserve, and active duty component who were mobilized after December 5, 1992, in support of military operations around the world it is the intent of the legislative assembly that additional compensation be provided to those resident veterans of North Dakota and payment of that compensation is declared to be a public purpose. It is the further intent of the legislative assembly to encourage those North Dakota resident veterans to continue their voluntary membership in the national guard, reserve component, and active military force.

37-28-02. Definitions.

As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
 - a. The surviving unremarried husband or wife as of the date of signing the application;
 - b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;
 - c. The surviving person standing in loco parentis; or
 - d. The surviving parent or parents.
3. "Domestic service" means service by a veteran during the period of service which is not foreign service.
4. "Foreign service" means service by a veteran after December 5, 1992, for which the veteran received an armed forces expeditionary medal or campaign badge or performed service overseas in direct support to the global war on terror.
5. "Honorable and faithful" means service evidenced by:
 - a. An honorable discharge, or its equivalent;
 - b. In the case of an officer, a certificate of service; and
 - c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.
6. "Period of service" means the period of time beginning December 5, 1992, and ending June 30, 2011.
7.
 - a. "Resident" means a veteran who was a bona fide resident of the state of North Dakota at the time of mobilization or, in the case of an active component member, at the time of deployment for which the member received an expeditionary medal or campaign badge, as determined under the rules of the adjutant general and the laws of this state. "Resident" includes all mobilized members of the North Dakota national guard.
 - b. "Veteran" means, for eligibility purposes, a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, as effective, in effect on October 28, 2004 and 10 U.S.C. 12302, in effect on December 31, 2011, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, or active component member awarded the expeditionary medal or campaign badge for service after December 5, 1992, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

37-28-03. Payment of adjusted compensation for domestic and foreign service.

Each national guard or reserve component resident veteran mobilized stateside is entitled to fifty dollars for each month or major fraction thereof for domestic service. Each national

guard, reserve, or active component resident veteran of foreign service who received the expeditionary medal or campaign badge is entitled to one hundred dollars for each month or major fraction thereof. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation related to the mobilization during which the purple heart was earned. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general through June 30, 2011, or in the case of a soldier mobilized on June 30, 2011, not later than six months after the end of the mobilization period of service.

37-28-04. Payment to beneficiary of veteran who died in active service.

In the case of a veteran who died as a result of active service during the period of service, the beneficiary of the veteran is entitled to a payment of five thousand dollars in lieu of any other compensation under this chapter.

37-28-05. Application.

Each veteran or veteran's beneficiary entitled to payment under this chapter shall make application to the adjutant general of the state of North Dakota upon a form prescribed by the adjutant general. If the veteran is incompetent or the veteran's beneficiary is incompetent or a minor, application may be made by the guardian of the veteran or beneficiary, and if there is no guardian, the person determined by the adjutant general to have assumed the major responsibility for the care of the veteran or beneficiary and to be a proper person to receive payment for the veteran or beneficiary may make the application. If a veteran is hospitalized in a state, county, or federal institution and no application has otherwise been approved by the adjutant general, the person in charge of such institution may make the application with the approval of the adjutant general. For purposes of this section, the word "minor" does not include the unremarried spouse of a veteran. Each application must be accompanied by a certified copy of honorable discharge or other evidence of honorable and faithful service. Each application must be subscribed and sworn to by the applicant in such manner as may be prescribed by the adjutant general. The adjutant general shall provide by rule for an endorsement of the evidence of honorable and faithful service if application for payment has been made.

37-28-06. Method of payment - Deduction of sums due veterans' aid fund.

Upon submission of satisfactory proof that the applicant is entitled to payment under this chapter, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and forward a voucher for the payment to the office of management and budget, which shall cause the warrant-check to be issued for the amount of the claim. Payment must be made from funds appropriated by the legislative assembly. If the veteran or the applicant for payment under this chapter is indebted to the veterans' aid fund of the state of North Dakota, the adjutant general shall determine the amount of such indebtedness and certify such determination to the office of management and budget together with the record of payment due. Within the limits of the payment due, the amount of such indebtedness must be paid to the veterans' aid fund and the applicant must be paid any remainder to which the veteran is entitled.

37-28-07. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted.

Payments under this chapter are exempt from all state and local taxes, including taxes determined under section 57-38-30.3, and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-26-05.

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37-28-08. Duty of adjutant general - Finality of decisions - Questions of residence subject to court review.

The adjutant general shall administer this chapter. The adjutant general shall prepare and distribute application blanks and investigate all claims and applications filed. If the adjutant general is satisfied of the proof of a claim and application, the adjutant general shall approve and direct payment of the claim. The adjutant general may adopt any rules necessary to the efficient administration of this chapter. The necessary books, papers, records, cases, and equipment used in the administration of this chapter become a part of the permanent records of the office of the adjutant general. The adjutant general may determine any claim in any case if doubt arises as to the eligibility of an applicant to receive payment and the decision of the adjutant general in such case is final, except on questions of residence which are subject to review by a court of competent jurisdiction. The adjutant general shall authorize payment for prisoners of war upon their release and return.

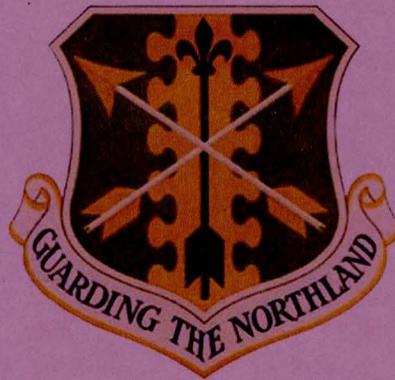
37-28-09. Penalty for false statement.

Any person who willfully makes a false statement in the application for benefits under section 37-28-05 is guilty of a class A misdemeanor.



Army National Guard

"The Straight Arrows"



Air National Guard

"The Happy Hooligans"



*Department of
Emergency Services
Homeland Security &
State Radio*

*The
Office of the
Adjutant General*

*Testimony of
Major Michelle Hagel*

before the

*Senate Government and Veteran Affairs
Committee*

March 5, 2015

HOUSE BILL 1104

TESTIMONY OF
MAJOR MICHELLE HAGEL
BEFORE THE SENATE
GOVERNMENT AND VETERAN AFFAIRS COMMITTEE
5 MARCH 2015
HOUSE BILL 1104

Good morning Mr. Chairman, I am Major Michelle Hagel, the legal advisor for the North Dakota National Guard. I am here today to testify in support of House Bill 1104. This bill contains a number of updates to Title 37 of the North Dakota Century Code.

In *State v. Julson*, the North Dakota Supreme Court held that while the state may incorporate federal law by reference, it may only adopt federal law in existence at the time of the enactment of the state law. Therefore, when there is a change to a referenced federal law, we must come back to update the State's law to reflect the most current federal law. Section 1 of this bill updates the "North Dakota military relief act" by reference the federal Servicemember Civil Relief Act of 2014.

Section 2 updates N.D.C.C. §37-04-16, which mandates the retirement and discharge of National Guard officers when they reach 64 years of age. This mandatory retirement, in some instances, conflicts with federal law which allows certain officers, such as Adjutant Generals and medical professionals, who may serve to age 66 and 68, respectfully. This change would allow for state recognition to run parallel to federal recognition.

Section 3 amends the tuition grant program by tying reimbursement rates to the "university with the highest tuition" instead of the University of North Dakota (UND). While UND has historically had the highest combination of tuition and fees, North Dakota State University (NDSU) has surpassed UND. The result is a NDSU student paying money out of pocket, while students attending other state universities would receive 100% tuition assistance. Not knowing which university will have the highest tuition in the future, we are asking that we not tie tuition reimbursement to a particular school.

Section 4 and 5 updates the Veteran's Compensation law to provide authority for the program through 2017.

Finally, section 6 declares this an emergency to ensure that we may continue to pay adjusted compensation. Additionally, emergency authority would allow us to pay tuition reimbursement at the NDSU rate for the 2015 spring semester.

I ask for your support for this bill and will stand for any questions you may have.