

2023 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1069

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1069
1/12/2023

Relating to response to disasters or emergencies, and to expenses and pay of officer and enlisted members of the national guard.
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Meeting called to order by Chairmen Schauer at 8:31 AM.

Chairmen Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, Mary Schneider. All present.

Discussion Topics:

- Summer fires
- Spring flooding
- Competitive active duty wage
- State and local missions

Jackie Huber, the Deputy Adjutant General with the North Dakota National Guard, introduced HB 1069 with supportive testimony. #12975, 12976

Chris Martens, Attorney for National Guard, Spoke in support of HB 1069, and proposed an amendment to bill put on emergency clause and Language change in Section 1.

Chairman Schauer closed the hearing on HB 1069 at 8:57 AM.

Phillip Jacobs, Committee Clerk

2023 HOUSE STANDING COMMITTEE MINUTES

Government and Veterans Affairs Committee Pioneer Room, State Capitol

HB 1069
1/12/2023

Relating to response to disasters or emergencies, and to expenses and pay of officer and enlisted members of the national guard.
--

Meeting called to order by Chairman Schauer at 3:23 PM.

Chairman Austen Schauer, Vice Chairmen Bernie Satrom, Reps. Landon Bahl, Claire Cory, Jeff A. Hoverson, Jorin Johnson, Karen Karls, Scott Louser, Carrie McLeod, Karen M. Rohr, Vicky Steiner, Steve Vetter, Mary Schneider. All present.

Discussion Topics:

- Proposed amendment (23.8101.01001)
- Committee Action

Representative Vetter moved to amend HB 1069 (23.8101.01001)

Seconded by Representative Karls.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	AB
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries: 12-0-1.

Representative Vetter moved a DO PASS as amended on HB 1069.

Seconded by Representative Karls.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y

Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	AB
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries: 12-0-1.

Representative Karls moved to rerefer to Appropriations committee.

Seconded by Representative Steiner.

Roll Call Vote:

Representatives	Vote
Representative Austen Schauer	Y
Representative Bernie Satrom	Y
Representative Landon Bahl	Y
Representative Claire Cory	AB
Representative Jeff A. Hoverson	Y
Representative Jorin Johnson	Y
Representative Karen Karls	Y
Representative Scott Louser	Y
Representative Carrie McLeod	Y
Representative Karen M. Rohr	Y
Representative Mary Schneider	Y
Representative Vicky Steiner	Y
Representative Steve Vetter	Y

Motion carries: 12-0-1

Bill carrier: Representative Karls.

Chairman Schauer adjourned the meeting at 3:29 PM.

Phillip Jacobs, Committee Clerk By: Leah Kuball

JA 1/12/23

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1069

Page 1, line 6, after "guard" insert "; and to declare an emergency"

Page 1, line 11, remove "into active"

Page 1, line 12, replace "service" with "to state active duty"

Page 2, line 6, replace "members" with "member's"

Page 3, line 3, after "officer" insert "or enlisted member"

Page 3, line 4, after "officer" insert "or enlisted member"

Page 3, after line 25, insert:

"**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure."

Renumber accordingly

REPORT OF STANDING COMMITTEE

HB 1069: Government and Veterans Affairs Committee (Rep. Schauer, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** and **BE REREFERRED** to the **Appropriations Committee** (12 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING). HB 1069 was placed on the Sixth order on the calendar.

Page 1, line 6, after "guard" insert "; and to declare an emergency"

Page 1, line 11, remove "into active"

Page 1, line 12, replace "service" with "to state active duty"

Page 2, line 6, replace "members" with "member's"

Page 3, line 3, after "officer" insert "or enlisted member"

Page 3, line 4, after "officer" insert "or enlisted member"

Page 3, after line 25, insert:

"SECTION 4. EMERGENCY. This Act is declared to be an emergency measure."

Renumber accordingly

2023 SENATE AGRICULTURE AND VETERANS AFFAIRS

HB 1069

2023 SENATE STANDING COMMITTEE MINUTES

Agriculture and Veterans Affairs Committee Fort Union Room, State Capitol

HB 1069
3/3/2023

A bill relating to the pay and benefits received by national guard members; relating to expenses and pay of officer and enlisted members of the national guard; and to declare an emergency.

8:32 AM Chairman Luick called the hearing to order.

Members present: Chairman Luick, Vice Chairman Myrdal, Senator Lemm, Senator Weston. Members absent: Senator Hogan and Senator Weber.

Discussion Topics:

- National Guard
- Committee action

8:32 AM Jackie Huber, Brigadier General, North Dakota National Guard testified in favor. #21883

8:46 AM Christopher Martens, Attorney, National Guard, testified in favor verbally.

8:49 AM Chairman Luick closed the hearing.

8:49 Senator Myrdal moved a DO PASS on HB 1069

8:49 Senator Weston seconded the motion.

Roll call vote:

Senators	Vote
Senator Larry Luick	Y
Senator Janne Myrdal	Y
Senator Kathy Hogan	A
Senator Randy D. Lemm	Y
Senator Mark F. Weber	A
Senator Kent Weston	Y

Motion passed 4-0-2

Senator Myrdal will carry the bill.

8:50 AM Chairman Luick adjourned the hearing.

Brenda Cook, Committee Clerk

REPORT OF STANDING COMMITTEE

HB 1069, as engrossed: Agriculture and Veterans Affairs Committee (Sen. Luick, Chairman) recommends **DO PASS** (4 YEAS, 0 NAYS, 2 ABSENT AND NOT VOTING). Engrossed HB 1069 was placed on the Fourteenth order on the calendar. This bill does not affect workforce development.

TESTIMONY

HB 1069

HB 1069 - SAD Pay
Fiscal Note

SAD Mission	# of Duty Days	# of Service Members	Actual Payroll Costs	Projected Payroll Costs	Differences	Funding Effects	Local Share	State Share	Increase to Locals/State	% Increase
COVID	878	108	\$ 170,263.98	\$ 227,071.21	\$ 56,807.23	FEMA Federal Funds Generally 75 (fed)/15 (locals)/10 (state)	8,521.08	5,680.72	\$ 14,201.81	33%
Train Derailment	11	11	3,198.09	3,658.69	460.60	Locals (Ward County/Fire District)				14%
Civil Unrest	367	125	67,256.44	89,093.55	21,837.11	City				32%
					\$ 79,104.94					
Revenue from locals - cannot consider federal funds as "revenue" per Legislative Council					22,297.71					

TESTIMONY OF
BRIGADIRE GENERAL JACKIE HUBER
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
HOUSE GOVERNMENT AND VETERANS AFFAIRS
12 JANUARY 2023
HOUSE BILL 1069

Good morning, Chairman Schauer, members of the committee, I am Jackie Huber, Deputy Adjutant General for the North Dakota National Guard (NDNG). I am here today to testify in support of House Bill 1069.

I am here today proposing a new chapter of Title 37 North Dakota Century Code, relating to expenses and pay of officer and enlisted members of the national guard. Our proposal consolidates two older sections and cleans up state law on how we pay members when on State Active Duty (SAD).

The amendments in Section 1 sub-section 1 authorize the Adjutant General to pay Soldiers and Airmen at the maximum years of service and at a minimum rank of Private First Class (E-3). Section 1, sub-section 5 amends authority of the Adjutant General to pay members incentive pay as authorized by federal law not to exceed the maximum monthly amount. Finally, Section 1, sub-section 6 authorizes pay for members on SAD beyond 14 days for necessary rest and recovery as deemed necessary to ensure the safety and readiness of the member while ensuring the mission is accomplished. These authorities will make ND comparable or slightly ahead of regional states for pay while taking care of members during lengthy missions.

In the summer of 2021 North Dakota Army National Guard experienced a situation that brought to light the issue we want to solve with HB 1069, SAD Pay and Incentive Equity. For most of that year many of the NDNG Black Hawk helicopters were in the Washington D.C. area for a federal mission. In the spring the remaining helicopters and crews were sufficient to support the fires near Medora. Later that summer, due to various circumstances we requested Emergency Management Assistance Compact (EMAC) support from the South Dakota National Guard for additional wildland fire missions in North Dakota. Two South Dakota aircraft and crews promptly arrived and supported North Dakota crews in getting fires under control.

The way EMAC agreements are currently set-up the requesting state pays the supporting state personnel based on the higher of the two states State Active Duty pay. In this case North Dakota paid the South Dakota crews over \$3,200 more than we paid the North Dakota crews for the same services.

The situation just described drove us to look further into how North Dakota compared to other states regarding State Active-Duty compensation. We were able to review pay tables from South Dakota, Iowa, Kansas and Idaho and review policy from Minnesota.

During our comparison we discovered that ND's pay was behind these states and identified methods that we could use to provide comparable pay to our service members.

A logical question would then be - How big of an impact would these changes have on the cost to the state, county, or community requesting National Guard assistance? The answer to that question is not straight forward but we attempted to describe it in the fiscal note.

It depends on the duration of the emergency and how many members are required to respond. If you separate the 2009 and 2011 floods that would likely receive a disaster declaration providing cost share, 75% federal, 25% state. A typical State Active-Duty mission is less than three days and requires 10-15 personnel, like the train derailment fire response near Minot in the Spring of 2022. As we compared our current pay to our proposed pay for this event the difference is roughly \$460. For larger, longer events the difference can grow to the tens of thousands of dollars but in the cases of the flood events mentioned or a comparable event the state has a 25% cost share.

In conclusion, we have identified the need to adequately compensate our members for the services they provide during state and local missions, the hazards endured while providing those services, and the disruption to their lives, mostly college and civilian employment.

I ask for your support of HB 1069 and will stand by for any questions that you may have.

TESTIMONY OF
BRIGADIRE GENERAL JACKIE HUBER
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
SENATE AGRICULTURE AND VETERANS AFFAIRS
03 MARCH 2023
HOUSE BILL 1069

Good morning, Chairman Luick, members of the committee, I am Jackie Huber, Deputy Adjutant General for the North Dakota National Guard (NDNG). I am here today to testify in support of House Bill 1069.

House Bill 1069 does a number of things, first it proposes a new chapter of Title 37 of the North Dakota Century Code, concerning the expenses and pay of officer and enlisted members of the national guard. Second, it consolidates two older sections of law. Finally, it updates state law on how we pay members when on State Active Duty (SAD).

This bill does not impact the pay and benefits of any full-time employee of the National Guard or the Office of the Adjutant General. These changes only impact the pay and benefits of National Guard members called into state active duty by the Governor. These are the National Guard members being activated to respond to floods, fires, and civil disturbances, and right now they are responding for less pay than their counterparts in surrounding states.

In the Spring of 2021 North Dakota Army National Guard experienced a situation that brought to light the issue we want to solve with HB 1069, SAD Pay and Incentive Equity. For most of that year, all but two of the NDNG Black Hawk helicopters were in the Washington D.C. area for a federal mission. On April 1, 2021, our two remaining Blackhawks were sufficient to fight the fire near Medora and saved the town. However, the fires we experienced a month later in the badlands and near the town of Mandaree, exceeded the capacity of the Blackhawks we had in the state. We requested Emergency Management Assistance Compact (EMAC) support from the South Dakota National Guard for two Blackhawks to fight the fire near Mandaree. The two aircraft and crews promptly arrived and were able to get fires under control.

EMAC agreements require the requesting state pay the supporting state personnel based on the supporting state's State Active Duty pay scale. Since South Dakota provides their national guard members higher pay, North Dakota paid the four-person South Dakota crews over \$3,200 more than we paid the North Dakota crews for the same services.

It was this situation that caused us to look further into how North Dakota compared to other states regarding SAD compensation. We reviewed pay from South Dakota, Iowa, Kansas, Idaho and Minnesota. During our comparison we discovered that North

Dakota's pay was behind these states and identified methods that we could use to provide comparable pay to our service members.

The duration of the emergency and number of National Guard members called up to respond are the major factors in cost. A typical State Active-Duty mission is a few days and requires a couple dozen personnel. For example, the train derailment fire response near Minot in the Spring of 2022. When we compared our current pay to our proposed pay for this event the difference was \$460. For larger, longer events the costs can be higher, but as the scope of an event grows so does the likelihood of a federal disaster declaration, which typically triggers a federal cost share. For example, the 2009 and 2011 flood events resulted in a federal disaster declaration providing for a cost share of 90% by the federal government.

The recommended changes in this bill are based on authorities being used in other states. Section 1, sub-section 1, provides the authority to pay the maximum amount that a National Guard member of same grade would be authorized if activated by the federal government. This section also provides that no National Guard member will receive SAD pay at a rate below that of a member in the grade of E-3. Section 1, sub-section 5, updates the authority of The Adjutant General to pay members incentive pay comparable to that authorized by federal law. Finally, Section 1, sub-section 6, authorizes pay for members on SAD beyond fourteen days for necessary rest and recovery as deemed necessary to ensure the safety and readiness of the member while ensuring the mission is accomplished. These authorities will make North Dakota comparable to other states in the region for pay and benefits when members serve in a State Active-Duty status.

Our proposed changes and updates to Title 37 are critical to provide equitable pay for our national guard members and are justified by the hazards endured while answering the state's call to service as well as the disruption caused to their personal lives.

I ask for your support of HB 1069 and will stand by for any questions.