

MILITARY

CHAPTER 294

SENATE BILL NO. 2420

(Senator Cook)

(Approved by the Delayed Bills Committee)

NATIONAL GUARD AND MILITIA REFERENCES CHANGES

AN ACT to amend and reenact sections 37-01-01, 37-02-01, 37-02-02, and 37-08-01 of the North Dakota Century Code, relating to the militia.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-01 of the North Dakota Century Code is amended and reenacted as follows:

37-01-01. Definitions. In this title, unless the context or subject matter otherwise requires:

1. "Active militia" ~~consists of~~ means the organized and uniformed military forces of this state; ~~which must be~~ known as the "North Dakota national guard" and the reserve militia when called to active service.
2. "Active service" means ~~service on behalf of the state~~ active duty in case of public disaster, riot, tumult, breach of the peace, resistance of process, or the threat thereof, whenever called in aid of civil authorities, or under martial law, or at encampments, whether ordered by state or federal authorities, and includes the performance of any other duty requiring the entire time of the organization or person, except when called or drafted into the federal service by the president of the United States. ~~Such~~ The term includes service in case of, or to prevent, insurrection, riot, or invasion under the order of the commander in chief communicated through proper military channels.
3. "Battalion" ~~includes a "squadron" of cavalry, and of the air service as well as a battalion of infantry, artillery, engineers, and signal corps.~~
4. "Company" ~~includes a company of infantry, engineers, and signal corps, an air unit, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment.~~
5. "Defense department" ~~includes the department of army and the department of air force.~~
6. "In service of the United States" and "not in the service of the United States" ~~have the same meaning as such terms have as used in the~~

National Defense Act [Pub. L. 64-85; 39 Stat. 166], approved June 3, 1916, and in amendments thereto.

7. "Militia" means the forces provided for in the Constitution of North Dakota, and is divided into two classes designated as the active militia and the reserve militia.
8. "Military forces of this state" ~~consists of~~ means those persons subject to military duty individuals in the active militia as defined in the Constitution of North Dakota and those persons subject to duty in the national guard as defined in the National Defense Act of the United States of America.
4. "Militia" means a group of individuals defined in the Constitution of North Dakota.
9. 5. "National guard" means that part of the military ~~force~~ forces of this state which is organized, equipped, and federally recognized under the provisions of the National Defense Act, as amended, of the United States as the "national guard, air national guard, of the United States and the state of North Dakota". ~~‡~~ The term includes also the term "national guard of the state of North Dakota".
40. 6. "On duty" includes periods of drill and of such other training and service as may be required under state or federal law, regulation, or order.
44. 7. "Reserve militia" consists of all those ~~persons~~ individuals who are subject to service in the active militia, ~~but~~ and who are not serving in the national guard of this state.
8. "State active duty" means active service on behalf of the state under authority of the governor at the expense of the state.
9. "State defense force" means the group of individuals in the reserve militia in state active duty under chapter 37-12.1.

SECTION 2. AMENDMENT. Section 37-02-01 of the North Dakota Century Code is amended and reenacted as follows:

37-02-01. Militia - How constituted - Exceptions. All able-bodied male citizens, and all able-bodied ~~persons~~ males of foreign birth who have declared ~~their~~ an intention to become citizens, who are ~~more than~~ between the ages of eighteen, and ~~less than~~ less than forty-five, years of age, and who are residents of this state, and other volunteers allowed by law constitute the militia, unless exempted by the laws of the United States, or by the laws of this state.

SECTION 3. AMENDMENT. Section 37-02-02 of the North Dakota Century Code is amended and reenacted as follows:

37-02-02. North Dakota national guard - Composition. The North Dakota national guard consists of ~~the~~ regularly enlisted and enrolled ~~male citizens,~~ members within the age limits prescribed by ~~the National Defense Act of 1920, as it may be amended~~ federal law; organized, armed, and equipped as provided in this title, and of commissioned officers within the ages conforming to the rules and regulations promulgated by the department of the army and department of the air force as conditions precedent to federal recognition. ~~The governor may authorize the~~

appointment or enlistment of female citizens of the state in the medical corps, nurses corps, and other noncombatant branches and service of the national guard, and while so serving, they have the same status as male members of the national guard. Such national guard must be composed of such units as the defense department of the United States may allocate and designate, with the approval of the governor of this state.

SECTION 4. AMENDMENT. Section 37-08-01 of the North Dakota Century Code is amended and reenacted as follows:

37-08-01. National guard reserve - Organization. The national guard reserve is all individuals who are subject to service in the national guard and are not serving in the national guard of this state. Subject to such the rules and regulations as of the president may prescribe, a national guard reserve must be maintained in this state which shall consist consists of such organizations, officers, and enlisted men members as the president may prescribe, or and members thereof of the reserve may be assigned as reserves to an active organization of the national guard.

Approved April 11, 2003

Filed April 14, 2003

CHAPTER 295

HOUSE BILL NO. 1227

(Representatives R. Kelsch, Aarsvold, Hunskor)
(Senators Freborg, O'Connell)

KOREAN VETERAN HIGH SCHOOL DIPLOMAS

AN ACT to amend and reenact section 37-01-42 of the North Dakota Century Code, relating to honorary high school diplomas for Korean conflict veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-01-42 of the North Dakota Century Code is amended and reenacted as follows:

37-01-42. Honorary high school diplomas - Veterans of World War II and Korean and Vietnam conflicts.

1. Any World War II veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements; and
 - b. The veteran was honorably discharged from the United States armed forces.
2. Any Korean conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran was a member of the United States armed forces between June 25, 1950, and July 27, 1953; and
 - b. The veteran was honorably discharged from the United States armed forces.
3. Any Vietnam conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between February 28, 1961, and May 7, 1975; and
 - b. The veteran was honorably discharged from the United States armed forces.
4. In order to receive an honorary high school diploma, the veteran or a representative of the veteran shall complete an application on a form prescribed by the superintendent of public instruction. A county veterans' service officer shall certify the veteran's status as an honorably discharged veteran who served during the qualifying period to the superintendent of public instruction. The superintendent of public instruction shall forward the application to the school district in which the

veteran last attended school before induction. If the school district no longer exists, the application must be forwarded to the school district that has jurisdiction. If a school district decides not to issue a diploma under this program, the veteran may apply to the superintendent of public instruction for the diploma.

- ~~3.~~ 5. The school district and the superintendent of public instruction shall review and either approve or deny each application received.
4. 6. If a veteran who would have qualified for a diploma under this section is deceased, a family member of the veteran may apply for and, if approved, be awarded the veteran's honorary high school diploma.

Approved March 27, 2003

Filed March 28, 2003

CHAPTER 296**HOUSE BILL NO. 1151**

(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

MILITARY CIVIL RELIEF ACT

AN ACT to create and enact a new section to chapter 37-01 of the North Dakota Century Code, relating to rights of persons who are called into active state or federal military service; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-01 of the North Dakota Century Code is created and enacted as follows:

North Dakota military civil relief act. A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Soldiers and Sailors Civil Relief Act of 1940 [Pub. L. 102-12, 105 Stat. 34, 50 U.S.C. 501-548 and 560-593].

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 12, 2003

Filed March 12, 2003

CHAPTER 297

SENATE BILL NO. 2134 (Government and Veterans Affairs Committee) (At the request of the Adjutant General)

ADJUTANT GENERAL RANK AND APPOINTMENT

AN ACT to amend and reenact subdivision a of subsection 1 of section 37-02-06 and section 37-03-01 of the North Dakota Century Code, relating to the appointment of the adjutant general.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subdivision a of subsection 1 of section 37-02-06 of the North Dakota Century Code is amended and reenacted as follows:

- a. The adjutant general ~~who~~ is the chief of staff and ~~must hold the rank of brigadier general. However, if an officer having a total of twenty years or more commissioned service in the armed forces, the adjutant general must hold the rank of major general holds a~~ rank consistent with that individual's length of service and federal laws and regulations, but not to exceed the rank of lieutenant general.

SECTION 2. AMENDMENT. Section 37-03-01 of the North Dakota Century Code is amended and reenacted as follows:

37-03-01. Adjutant general - Appointment - Qualifications - Term - Salary - Office at capital - Removal. ~~The adjutant general must be appointed by the governor, and shall appoint the adjutant general. Each candidate for the office must have been a federally recognized commissioned officer of the national guard for a period of at least three years immediately preceding his the appointment. His, must have obtained the rank of lieutenant colonel or higher, and must have completed the educational requirements for appointment as a federally recognized general officer. The term of office is for six years and commences on July 1, 1944 2001, and on every sixth anniversary thereof. Any vacancy in such office may be filled by the governor, but an appointment to~~ The governor shall fill a vacancy may be made only for the an unexpired term. The salary of the adjutant general must be within the appropriation for salaries by the legislative assembly. He shall The adjutant general must have his an office at the state capital. The provisions of chapter 37-04 relating to the vacation of commissions, retirement, and discharge apply to the adjutant general.

Approved March 20, 2003
Filed March 20, 2003

CHAPTER 298**SENATE BILL NO. 2132**
(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)**NATIONAL GUARD ARMORY MAINTENANCE AND
REPAIR BOARD REPEAL**

AN ACT to repeal section 37-10-03.5 of the North Dakota Century Code, relating to the national guard armory maintenance and repair board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. REPEAL. Section 37-10-03.5 of the North Dakota Century Code is repealed.

Approved March 12, 2003

Filed March 12, 2003

CHAPTER 299

SENATE BILL NO. 2344

(Senators Dever, Cook, Nelson)
(Representatives Amerman, Carlisle, M. Klein)

VETERANS

AN ACT to create and enact a new section to chapter 37-14 of the North Dakota Century Code, relating to the definition of veteran; and to amend and reenact sections 37-14-03.3, 37-14-04, 37-14-06, and 37-14-14 of the North Dakota Century Code, relating to references to veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-14 of the North Dakota Century Code is created and enacted as follows:

Definition of veteran. As used in this chapter, "veteran" means an individual who served in the armed forces of the United States on federal active duty for reasons other than training and who has been discharged under other than dishonorable conditions.

SECTION 2. AMENDMENT. Section 37-14-03.3 of the North Dakota Century Code is amended and reenacted as follows:

37-14-03.3. Revolving fund. The sum of seven hundred thousand dollars is a permanent revolving fund of the veterans' aid fund and may not revert to the general fund and must be used solely for the purpose of making loans to any veteran ~~as defined by section 37-01-40~~ and to a surviving spouse of a veteran if the spouse has not remarried. This section does not prohibit the department of veterans' affairs, in its discretion, from using any accrued interest ~~the fund accrues or has already earned or accrued~~ to collect loans if in the opinion of the department a person has the financial means to repay; and that person deliberately refuses to ~~do so~~ repay.

SECTION 3. AMENDMENT. Section 37-14-04 of the North Dakota Century Code is amended and reenacted as follows:

37-14-04. Veterans' aid fund - Purpose. The purpose of the veterans' aid fund is to make loans or advancements to any veteran ~~as defined by section 37-01-40~~ and to a surviving spouse of a veteran if the spouse has not remarried. A qualified applicant may be permitted to ~~make~~ receive more than one loan providing the applicant has satisfied payment requirements of a previous loan.

SECTION 4. AMENDMENT. Section 37-14-06 of the North Dakota Century Code is amended and reenacted as follows:

37-14-06. Department may provide aid. If the department of veterans' affairs is satisfied that an applicant is a veteran, ~~as defined by section 37-01-40~~, or the surviving spouse of a veteran and has not remarried, and that the applicant is a citizen and resident of this state, the department may loan to the applicant, or a guardian of the applicant, a sum from the veterans' aid fund not to exceed five thousand dollars.

SECTION 5. AMENDMENT. Section 37-14-14 of the North Dakota Century Code is amended and reenacted as follows:

37-14-14. Veterans' postwar trust fund. The veterans' postwar trust fund ~~shall be~~ is a permanent trust fund of the state of North Dakota and ~~shall consist~~ consists of moneys transferred or credited to the fund, pursuant to ~~the provisions of~~ this chapter and of other laws. Investment of the fund ~~shall be~~ is the responsibility of the state treasurer who shall ~~have full authority to~~ invest the fund only in those legal investments authorized by section 21-10-07. All income received from investments is to be utilized only for programs of benefit and service to veterans ~~as defined in~~ section 37-01-40, or their dependents, and ~~such~~ all income is ~~hereby~~ appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure ~~upon such~~ on these programs as authorized by law.

Approved March 26, 2003

Filed March 26, 2003

CHAPTER 300

HOUSE BILL NO. 1117

(Appropriations Committee)

(At the request of the Department of Veterans Affairs)

VETERANS' AID FUND USE

AN ACT to amend and reenact section 37-14-03.3 of the North Dakota Century Code, relating to use of moneys in the permanent revolving fund of the veterans' aid fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-14-03.3 of the North Dakota Century Code is amended and reenacted as follows:

37-14-03.3. Revolving fund. ~~The sum of seven hundred thousand dollars is a permanent revolving fund of the veterans' aid fund and may not revert to the general fund and must be used solely for the purpose of~~ The moneys in the permanent revolving fund of the veterans' aid fund are available for:

1. ~~making~~ Making loans to any veteran as defined by section 37-01-40 and to a surviving spouse of a veteran if the spouse has not remarried. ~~This section does not prohibit the department of veterans' affairs, in its discretion, from using any interest the fund accrues or has already earned or accrued to;~~
2. ~~collect~~ Collecting loans if in the opinion of the department a person has the financial means to repay, and that person deliberately refuses to do so; and
3. Paying administrative expenses related to the making and collection of loans made from the fund.

Approved March 25, 2003

Filed March 25, 2003

CHAPTER 301

SENATE BILL NO. 2299

(Senators Andrist, Lyson, Nichols)
(Representatives Metcalf, Warnke)

VETERANS' HOME ADMINISTRATOR AND ADMISSIONS

AN ACT to amend and reenact sections 37-15-07, 37-15-10.1, and 37-18.1-03 of the North Dakota Century Code, relating to the administrator of the veterans' home and priorities for admission to the veterans' home; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-15-07 of the North Dakota Century Code is amended and reenacted as follows:

37-15-07. ~~Commandant~~ Administrator of veterans' home - Appointment - Qualifications - Term - Salary. The appointment, qualifications, term of office, and salary of the ~~commandant~~ administrator of the veterans' home must be as prescribed in section 37-18.1-03.

SECTION 2. AMENDMENT. Section 37-15-10.1 of the North Dakota Century Code is amended and reenacted as follows:

37-15-10.1. Priorities for admission to veterans' home. If the veterans' home is full and a waiting list for admission is necessary, further admission to the veterans' home must be according to the following listing of priorities, so long as the individual meets the admission requirements of sections ~~37-15-02~~ and ~~37-15-10~~:

1. ~~Veterans with service-connected disability.~~
2. ~~American ex-prisoners of war.~~
3. ~~Wartime veterans with nonservice-connected disability.~~
4. ~~Wartime veterans.~~
5. ~~Discharged North Dakota national guard members who became disabled in the line and discharge of duty.~~
6. ~~Veterans with nonservice-connected disability.~~
7. ~~Veterans.~~
8. ~~Spouses.~~
9. ~~Surviving spouses.~~

An individual whose priority is higher than another individual's must be admitted before that other individual priorities for admission to the facility appropriate to the

different levels of care that are provided by the veterans' home. The priorities for admission must be established by rule as provided under chapter 28-32.

SECTION 3. AMENDMENT. Section 37-18.1-03 of the North Dakota Century Code is amended and reenacted as follows:

37-18.1-03. Powers and duties of committee - Creation of subcommittees subcommittee and governing board. The committee is responsible for organization, policy, and general administration of all veterans' affairs in the state of North Dakota. It has the following powers and duties:

1. The chairman and secretary of the committee, acting jointly, shall appoint from the voting membership of the committee, two subcommittees: a subcommittee to be responsible for supervision and government of the veterans' home, and a subcommittee to be responsible for supervision and government of the department of veterans' affairs. Once appointed, a subcommittee member shall continue to serve as long as the member remains a voting member of the committee, unless removed from the subcommittee by the committee chairman and secretary, acting jointly. In no case may any one voting member serve on both subcommittees at the same time, and each nominating organization listed in section 37-18.1-01 must have at least one voting member nominated by it serving on each subcommittee. From the membership of each subcommittee, a chairman will be selected by majority vote to preside over it for the term of one year. No person may be permitted to serve as chairman of the committee and as chairman of a subcommittee simultaneously. A majority of the members of the subcommittee is required for a quorum, and a majority of the members present voting in favor thereof is required for any action a seven-member governing board for administration of the veterans' home, from within or outside the committee, subject to ratification of a majority vote of the committee, and shall establish term lengths for service on the governing board. The governing board has all ordinary powers required of a governing board, including the power to establish qualifications for and selection of an administrator and to establish an appropriate salary structure, subject to limitations of legislative appropriation. The administrator serves at the pleasure of the governing board.
2. The committee shall detail the specific powers and duties of each subcommittee relating to supervision, government, and implementation of programs or services provided by the veterans' home and the department of veterans' affairs. The chairman and secretary of the committee jointly shall appoint a subcommittee to be responsible for supervision and government of the department of veterans' affairs. Once appointed, a subcommittee member may continue to serve as long as the member remains a voting member of the committee, unless removed from the subcommittee by joint action of the committee chairman and secretary. A member of the subcommittee may not serve on the governing board of the veterans' home. Each nominating organization listed in section 37-18.1-01 must have at least one voting member nominated by the organization serving on the subcommittee. The subcommittee shall select by majority vote of the members a chairman to preside for the term of one year.

3. The committee shall appoint the ~~commandant of the veterans' home and the~~ commissioner of the department of veterans' affairs. ~~Individuals appointed to these positions~~ The commissioner must be a bona fide residents resident of the state, and must qualify as a veteran as defined in section 37-01-40. Their terms of office are for two years, commencing on July 1, 1971, and on every second anniversary thereof The commissioner serves at the pleasure of the committee. The committee shall determine the ~~salaries~~ salary paid to the ~~commandant of the veterans' home and the~~ commissioner of the department of veterans' affairs within the limits of legislative appropriation. The ~~commandant of the veterans' home and the~~ commissioner of veterans' affairs shall serve as the executive secretary for ~~their respective subcommittees~~ the subcommittee. The ~~commandant and the~~ commissioner ~~have~~ has no vote in the affairs of the ~~subcommittees~~ subcommittee.
4. The committee shall, under recommendation from ~~each of its subcommittees~~ the board or the subcommittee, present any matters needing attention and action to the appropriate board, commission, agency, or department of the state, and the North Dakota veterans' coordinating council.
5. The committee shall assure compliance with applicable federal and state laws in the administration of both the department of veterans' affairs and the North Dakota veterans' home and shall exercise its responsibilities in all things necessary to carry out the provisions of this chapter in regard to organization, policy, and general administration of the agencies served and involved in the conduct of veterans' affairs. The board governing the veterans' home and the subcommittee governing the department of veterans' affairs shall conduct an annual performance evaluation of the administrator and commissioner, respectively, with the evaluation presented to the committee. The board and subcommittee shall create and implement a strategic plan for the veterans' home and the department of veterans' affairs, respectively. The board and the subcommittee annually shall report as to the status of the respective strategic plan to the committee. After receiving a report, the committee shall submit the report to the governor.

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

Approved April 8, 2003
Filed April 9, 2003

CHAPTER 302

HOUSE BILL NO. 1095

(Appropriations Committee)

(At the request of the Office of Management and Budget)

VETERANS' HOME APPROPRIATION EXPENDITURE

AN ACT to amend and reenact section 37-15-14 of the North Dakota Century Code, relating to veterans' home general fund appropriation expenditures.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-15-14 of the North Dakota Century Code is amended and reenacted as follows:

37-15-14. Veterans' home operating fund - Moneys for the maintenance of the veterans' home to be deposited with state treasurer - General fund appropriation expenditures. A special fund, to be known as the veterans' home operating fund, must be maintained in the state treasury. Moneys arising from the interest received on money derived from the sale of lands appropriated for the support of the home and from the rental of such lands, moneys received from the United States for the support and maintenance of the home, and all other moneys, income, and collections of public funds arising from any other source or endeavor of the home, except as provided for in section 37-15-21, must be placed in the veterans' home operating fund for the use and maintenance of the veterans' home. ~~Moneys derived from the~~ The general fund appropriation made by the legislative assembly must be transferred periodically to the veterans' home operating fund upon order may be expended only when federal or other funds are not available and upon the approval of the director of the office of management and budget ~~whenever the operating fund's balance requires supplementation.~~

Approved March 25, 2003

Filed March 25, 2003

CHAPTER 303

HOUSE BILL NO. 1029

(Legislative Council)

(Budget Committee on Government Administration)

VETERANS' HOME MEMBERSHIP CONTRIBUTION

AN ACT to amend and reenact section 37-15-14.1 of the North Dakota Century Code, relating to the veterans' home membership contribution; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-15-14.1 of the North Dakota Century Code is amended and reenacted as follows:

37-15-14.1. Membership contribution for residents of veterans' home - ~~Creation of special~~ Special fund.

1. The administrative committee on veterans' affairs may establish a membership contribution to be paid by members of the veterans' home. The fee must be based on the adjusted income of each member, but ~~in no case~~ may it not exceed forty-nine percent of the average daily per-member cost. The membership contribution must be set under a formula determined by the administrative committee and designed to assure dignity and equity in the charge. The administrative committee may, ~~from time to time~~, reconsider its action establishing a membership contribution, amend or rescind the contribution charge, or reinstate a contribution charge previously rescinded. The commandant shall collect monthly any membership contribution levied.
2. As used in subsection 1, "adjusted income" means all moneys received from any source, including social security benefits, less amounts received or expended as follows:
 - ~~a. Moneys received as service-connected compensation.~~
 - ~~b. Moneys earned during authorized leaves or furloughs from the veterans' home.~~
 - ~~c. Moneys expended by the member for hospitalization due to illness or injury.~~
 - ~~d. Moneys expended by the member for other medical care or treatment, or for required medicines.~~
 - ~~e. Such other receipts or expenditures as the administrative committee may permit to be deducted in individual cases.~~
3. All moneys received as a result of charging the membership contribution authorized by subsection 1 must be deposited in the veterans' home operating fund.

SECTION 2. EMERGENCY. This Act is declared to be an emergency measure.

Approved March 19, 2003

Filed March 19, 2003