

1999 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1080

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1080

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 1-7-1999

Tape Number	Side A	Side B	Meter #
1	X		20.0 to Defective Tape/No Sound
Committee Clerk Signature <i>[Signature]</i>			

Minutes: Some of the individuals testifying submit written testimony. When noted please refer to it for more detailed information.

Representative Klein: Chairman of the GVA Committee opened the hearing on January 7, 1999.

Summary of the Bill: Relating to the power of the Governor to order out the National Guard.

Testimony in Favor:

Major General Keith Bjerke, Adjutant General North Dakota National Guard, testified before the committee in favor of the bill. He submitted a written testimony which he read in it's entirety (**please refer to his testimony**). This would allow us to take a proactive approach. The guard being on a national status vs. a state status.

Representative Thoreson: Is there a need for the word imminent danger?

Bjerke, If you have a better choice of word(s), that would be fine.

Representative Klein, How does this compare to other states?

Bjerke, Very well. I'll give you an example, in the case of the riots in LA, the guard was federalized and then they couldn't carry weapons. It's hard to work with law enforcement this way.

Representative Thoreson, Why do we need all the other words/language such as tumult, riot, breach of peace etc.?

Bjerke, I am not sure we do. It's in the code or part of the code.

Representative Klein, I would imagine it would be to cover a preventative area if it's to be enacted.

Representative Devlin, I have a disagreement. How's this going to affect situations down the road. Such as freedom of speech. I have a real concern in this area.

Bjerke, There isn't going to be any abuse of power if that's your concern.

Representative Kroeber, Is there a fiscal note needed for this?

Bjerke, If the Governor calls out the guard without a national declaration, it will cost the tax payers money.

Representative Klein, In the case of Grand Forks, There was a 90%-5%-5% split in the cost. Can't pre fund a disaster.

Representative Thoreson, Does the state have a emergency fund?

Bjerke, OMB has a fund. A category A is 100% funding from FEMA. Typically it's 75% federal and 25% state.

Representative Klein, Closed the hearing on HB 1080.

Committee Action:

Representative Cleary, Made a motion for a Do Pass. This was seconded by Representative Haas.

Page 3

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1080

Hearing Date 1-7-1999

Representative Devlin, I don't think we really need this bill.

Representative Metcalf, In my 42 years of guard experience, I have found them to be very frugal.

There has never been any abuse that I have seen.

Motion Passes: 14-1-0.

Representative Metcalf, Is the carrier for the bill.

1999 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1080

House Government and Veterans Affairs Committee

Conference Committee

Hearing Date 1-14-1999

Tape Number	Side A	Side B	Meter #
2		X	15.6 - 32.0
Committee Clerk Signature <i>J. McWalter</i>			

Minutes: Committee work, this is a bill that was held over from 1-7-1999.

Representative Klein, Opened the hearing on HB 1080.

Summary of the Bill: Relating to the power of the governor to order out the national guard.

Representative Metcalf, Walked the committee through the amendments that he submitted to the committee. Replace page 1, line 6 and page 1, line 8. The Adj. General told me this morning that this was the original intent in the first place.

Committee Action:

Representative Hawken, Made a motion on the amendment.

Representative Grande, Seconded the motion.

Motion Passes, Do Pass (vocal).

Representative Devlin, Do we need the word deterrent? I am just asking.

Representative Klein, I would think that it fits. If you see someone in a uniform, it acts as a deterrent. It's not just a presents, it may prevent someone from doing something.

Representative Haas, I am really confused. The amendment is not even germane to the original changes that were presented by the Adj. General. I can't see the connection.

Representative Klein, This puts the thing back to the way it was, except it adds this little statement to provide a deterrent at a ceremonial events.

Representative Devlin, Apparently power is not there to have the national guard be at the state of the state or whatever it is and pay them. This gives them that power provided it fits into their budget to pay them.

Representative Haas, Why didn't they tell us this in the first place.

Representative Metcalf, The time element wasn't addressed and now it would be. In the years past such as the zip to zap thing in the 60's it goes back to the definition of imminent danger. There was no imminent danger, but they thought that there might be.

Representative Klemin, There are some fairly broad terms in this and it's how you interrupt it.

Representative Kliniske, Breach of peace and imminent danger??

Committee Action:

Representative Grande, Made a motion for a Do Pass on the amended bill.

Representative Thoreson, Seconded the motion.

Motion Passes: 15-0-0.

Representative Metcalf, Is the carrier for the bill.

Roll Call Vote #: 1 Date: 1-11-99

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1080

House GOVERNMENT AND VETERANS AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken MOTION FOR DO PASS

Motion Made By CLEARY Seconded By HAAS

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN		✓			
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 14 No 1

Absent 0

Floor Assignment METCALF

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

REPORT OF STANDING COMMITTEE (410)
January 7, 1999 1:06 p.m.

Module No: HR-03-0383
Carrier: Metcalf
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE

HB 1080: Government and Veterans Affairs Committee (Rep. Klein, Chairman)
recommends **DO PASS** (14 YEAS, 1 NAY, 0 ABSENT AND NOT VOTING). HB 1080
was placed on the Eleventh order on the calendar.

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1080

Page 1, line 6, replace "Governor may order our national guard for public safety or in case of insurrection or riot" with "Governor's authority to order out the national guard"

Page 1, line 8, remove the overstrike over "imminent danger thereof," and replace "a concern for the safety of the public" with "or to provide a deterrent presence at state ceremonial events"

Proposed Amendment

VR
1/15/99

~~HOUSE~~ AMENDMENTS TO HOUSE BILL NO. 1080 GVA 1-18-99

Page 1, line 6, overstrike "**Governor may**" and insert immediately thereafter "Governor's authority to", remove "for public safety or", and overstrike "**in case of**"

Page 1, line 7, overstrike "**insurrection or riot**"

Page 1, line 8, remove the overstrike over "~~imminent danger thereof,~~" and replace "a concern for the safety of the public" with "or to provide a deterrent presence at state ceremonial events"

Renumber accordingly

Date: 1-14-99

Roll Call Vote #: 1

1999 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1080

House GOVERNMENT AND VETERANS AFFAIRS Committee

- Subcommittee on _____
- or
- Conference Committee

Legislative Council Amendment Number _____

Action Taken DO PASS ON AMENDED BILL

Motion Made By GRANDE Seconded By THORESON

Representatives	Yes	No	Representatives	Yes	No
CHAIRMAN KLEIN	✓		REP. WINRICH	✓	
VICE-CHAIR KLINISKE	✓				
REP. BREKKE	✓				
REP. CLEARY	✓				
REP. DEVLIN	✓				
REP. FAIRFIELD	✓				
REP. GORDER	✓				
REP. GRANDE	✓				
REP. HAAS	✓				
REP. HAWKEN	✓				
REP. KLEMIN	✓				
REP. KROEBER	✓				
REP. METCALF	✓				
REP. THORESON	✓				

Total (Yes) 15 No 0

Absent 0

Floor Assignment METCALF

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

REPORT OF STANDING COMMITTEE

HB 1080: Government and Veterans Affairs Committee (Rep. Klein, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (15 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1080 was placed on the Sixth order on the calendar.

Page 1, line 6, overstrike "**Governor may**" and insert immediately thereafter "**Governor's authority to**", remove "**for public safety or**", and overstrike "**in case of**"

Page 1, line 7, overstrike "**insurrection or riot**"

Page 1, line 8, remove the overstrike over "~~imminent danger thereof,~~" and replace "a concern for the safety of the public" with "or to provide a deterrent presence at state ceremonial events"

Renumber accordingly

1999 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1080

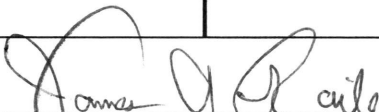
1999 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1080

Senate Government and Veterans Affairs Committee

Conference Committee

Hearing Date March 4, 1999

Tape Number	Side A	Side B	Meter #
1	X		0-1800
Committee Clerk Signature 			

Minutes: CHAIRMAN KREBSBACH called the Senate Government and Veteran's Affairs Committee to order and instructed the clerk to take roll. The hearing was opened on HB 1080 which relates to the power of the governor to order out the national guard. Appearing before the committee was Representative Duane DeKrey, district 14, prime sponsor of the bill appeared before the committee to introduce the legislation. He indicated that HB 1080 is a national guard bill. This bill is already covered under statute but we want to clarify what we are currently doing is completely legal. We have two situations in the state right now. There has already been some predicted flooding up in the northeastern corner of the state for this spring and one of the things that the guard does for that is the maintenance people in our organization have built these canister like things that we mount on helicopters and we ice dust. What that is is they drop sand on the ice. The theory being that the sun on the sand will heat up and break up the ice sooner and get things moving and help to reduce or alleviate flooding. The other thing is that we have been

asked by the ag department to do some bugging or whatever you want to call it, that is put the leafy spurge bugs on. We've talked to private industry on both of these things, and they are not interested in doing it. It is a good activity for training for the guard. So, we would like to be able to do that. We knew that when we came into the session that these were the things we wanted to do and so wording was put into the statute that the guard could basically do whatever there was as kind of a public safety guide and in the house that was thought to be too broad that there are too many things that could be fit into there. It wasn't the present leadership or the present governor that we were worried about. In future years we thought that it might be abused. The house amended the bill to the form you have now. Then after we got to looking at it we really didn't think that the things we really wanted to do were covered in that amendment. We therefore decided to further amend the bill. A copy of that proposed amendment is before each of you. We also decided to add the emergency clause because if we area going to start ice dusting we're going to have to do that pretty quick and August 1 is not soon enough. We removed the word deterrent. We felt if the guard should be present somewhere in the state at any kind of ceremonial event it shouldn't just be for deterrent purposes. We would ask that you would adopt that amendment and that we can get this to the governor for his signature especially for the purpose of the ice dusting. SENATOR STENEHJEM offered some questions to Representative DeKrey concerning the bill. ADJUTANT GENERAL KEITH BJERKE appeared before the committee to present testimony on HB 1080. A copy of his written testimony is attached. SENATOR THANE noted that there was a difference in the amendments proposed by General Bjerke and those of Representative DeKrey. General Bjerke indicated that the actual amendment was as presented by Representative DeKrey. SENATOR THANE also asked the general to

comment on the ice dusting. GENERAL BJERKE indicated that this has been a consolidated effort of the EPA, the state health department, the corps of engineers, the Canadians had to sign off before we could do any of this. They ruled out everything but washed sand. SENATOR DEMERS inquired about leafy spurge. She wondered where they sprayed? Is it just on public lands or is it a combination of public/private or private and how do you make those decisions?

The general indicated that we are a cooperator in a managed research project that is conducted by NDSU. Our Camp Grafton south is a big body of land that has a lot of leafy spurge. This is state property and they are trying many different things. We have goats, sheep, that eat leafy spurge.

We have spread the parasites. They've spread the bugs on various hand delivery methods. There are other diseases that attack the plants, some rust spores that they have been out there working with. There's all kinds of things that the extension and experiment station are working on to try to come up with a natural predator for leafy spurge because spurge is just spreading like wildfire.

Now we do not go out and do individual farmers or shelter belts or those kinds of control things at all. We are restricted to public lands not private lands. What we are trying to do is just assist them with ways of doing their projects better. Hopefully we'll find the answer one day. There

was no further testimony in support of, in neutral position on, or opposition to HB 1080. The hearing was closed at this time. A motion for adoption of amendments version .0202 was made

by SENATOR THANE, seconded by SENATOR W. STENEHJEM. ROLL CALL VOTE indicated 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING. A MOTION FOR DO PASS AS AMENDED was made by SENATOR W. STENEHJEM, seconded by SENATOR DEMERS.

ROLL CALL VOTE INDICATED 7 YEAS, 0 NAYS, 0 ABSENT OR NOT VOTING.

SENATOR KILZER will carry the bill.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1080

Page 1, line 8, remove "deterrent"

Page 1, line 9, after "events," insert "or to provide assistance to political entities in search and rescue efforts or to respond to a potential natural or environmental hazard or nuisance"

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1080

Page 1, line 2, after "guard" insert "; and to declare an emergency"

Page 1, line 8, remove "or" and remove "deterrent"

Page 1, line 9, after "events" insert ", or to provide assistance to political entities in search and rescue efforts or to respond to a potential natural or environmental hazard or nuisance"

Page 1, after line 15, insert:

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

Renumber accordingly

Date: 3/04/99
Roll Call Vote #: 1

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HIB 1080

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____
or
 Conference Committee

Legislative Council Amendment Number _____

Action Taken Adopt Amendments - 0200

Motion Made By Sen. Thane Seconded By Sen. Stenehjem

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

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

Date: 3/04/99
Roll Call Vote #: 2

1999 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. HB 1080

Senate GOVERNMENT AND VETERAN'S AFFAIRS Committee

Subcommittee on _____

or

Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass as Amended

Motion Made By Sen. Stenehjem Seconded By Sen. Demers

Senators	Yes	No	Senators	Yes	No
SENATOR KREBSBACH	✓				
SENATOR WARDNER	✓				
SENATOR KILZER	✓				
SENATOR STENEHJEM	✓				
SENATOR THANE	✓				
SENATOR DEMERS	✓				
SENATOR MUTZENBERGER	✓				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Kilzer

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

REPORT OF STANDING COMMITTEE

HB 1080, as engrossed: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman) recommends AMENDMENTS AS FOLLOWS and when so amended, recommends DO PASS (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1080 was placed on the Sixth order on the calendar.

Page 1, line 2, after "guard" insert "; and to declare an emergency"

Page 1, line 8, remove "or" and remove "deterrent"

Page 1, line 9, after "events" insert ", or to provide assistance to political entities in search and rescue efforts or to respond to a potential natural or environmental hazard or nuisance"

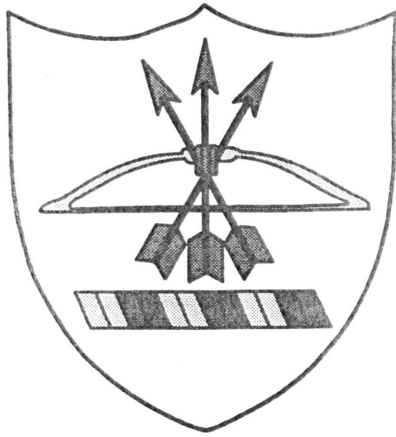
Page 1, after line 15, insert:

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

Re-number accordingly

1999 TESTIMONY

FB 1080



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
Major General Keith D. Bjerke
before the
Government and Veterans Affairs Committee
January 7, 1999

HOUSE BILL 1080

TESTIMONY OF
MAJ GEN KEITH D. BJERKE, THE ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

January 7, 1999

10:30 a.m.

HOUSE BILL 1080

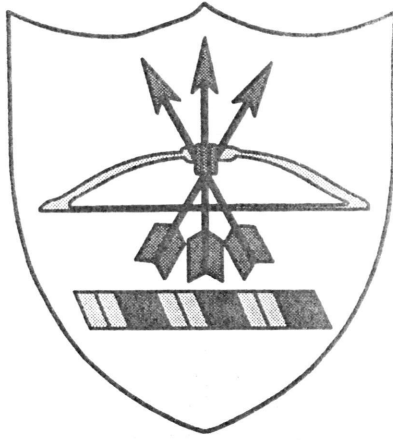
Mr. Chairman, Members of the Committee, Good Morning.

This Bill gives the Governor the authority to call out the National Guard to respond to a threat to the safety of our citizens.

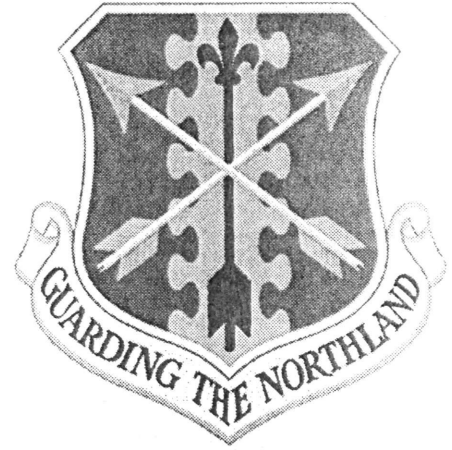
Under our current law, as codified in section 37-01-04 of the North Dakota Century Code, the Governor may only call out the National Guard in case of insurrection, invasion, tumult, riot, breach of peace, or imminent danger thereof. This statute puts our leaders in a reactive mode by making them wait until a threat to our citizens has occurred before mounting an appropriate response. Whether a threat to our security has occurred, or is about to occur, it is too late to mount an immediate response with the National Guard. This Bill addresses this problem by allowing the Governor to be proactive, rather than reactive. In turn, it would give the Adjutant General the authority to request funding from the Emergency Commission to cover the cost of calling out the Guard pursuant to section 37-01-04.1 of the Century Code.

House Bill 1080 gives the Governor the authority to deter a potential threat. In this age of increased domestic terrorism, such as the Oklahoma City bombing, and the increased likelihood of foreign terrorism, due to our Nation's activities in the Middle East, the need for this Bill is evident. While the threat of invasion or insurrection is low, the likelihood that we will encounter an act of terrorism, or need to respond to weapons of mass destruction, is high. We need to have the ability to deter these threats. This Bill provides the Governor with a valuable tool to deter threats to our citizens' safety and allows us to progress from reactive responding to proactive deterring.

I would be pleased to respond to any questions that you may have, Mr. Chairman.



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
Major General Keith D. Bjerke
before the
Government and Veterans Affairs Committee
March 4, 1999
HOUSE BILL 1080

TESTIMONY OF
MAJ GEN KEITH D. BJERKE, THE ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD
BEFORE THE
GOVERNMENT AND VETERAN AFFAIRS COMMITTEE

March 4, 1999

9:00 a.m.

HOUSE BILL 1080

Madam Chairman, Members of the Committee, good morning.

This Bill, in its current form, would allow the governor to be proactive in ordering the National Guard out in response to public concerns, rather than waiting for civil unrest to occur and then ordering out the National Guard.

Under current law there must be an insurrection, invasion, tumult, riot, or breach of peace, or imminent danger thereof, before the governor can order out the National Guard. The problem with the current law is that it does not allow the governor to be proactive in calling out the National Guard to deter a potential threat.

House Bill 1080 addresses this shortfall by allowing the governor to call out the National Guard not only to meet a serious threat, but also to deter a potential threat to the public. Specifically, it would allow for a partial activation of the National Guard to provide a presence at state ceremonial events, such as the start of the legislative session or the inauguration of the governor. These important activities of our government provide a lucrative "high profile" target for terrorists. Having uniformed National Guard members at these events sends a strong message to potential terrorists, both foreign and domestic, that we are serious about our State's security.

In its current form this Bill does not get us to where we need to be, it is a good start and addresses the threat posed by man against the state of North Dakota, but falls short of providing the support that is needed for our counties and cities. With the narrow language that the current bill contains, the governor would not be able to call out the National Guard to provide a public service, such as using National Guard helicopters to perform ice dusting to diminish the potential devastation of a spring flood, or assist local authorities in search and rescue even after loss of life has been presumed.

Incorporating the proposed amendment will give our leaders the tools they need to meet this shortfall. This Bill must provide our leaders and planners with the ability to both respond to threats posed by man, and provide needed assistance to our political subdivision and our state's citizens.

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