

MILITARY

CHAPTER 247

S. B. No. 121

(Holand)

SOLDIERS' HOME

AN ACT

To amend and reenact sections 37-15-06, 37-15-07, 37-15-15, and 37-15-17 of the North Dakota Century Code, relating to members of the board of trustees of the soldiers' home, the commandant of the soldiers' home, and estates of resident members of the soldiers' home.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Section 37-15-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-06. Compensation of Members of Board of Trustees of the Soldiers' Home.) Each member of the board of trustees of the soldiers' home shall receive ten dollars for each day in which he is engaged in the performance of his duties under the provisions of this chapter and his necessary expenses in connection therewith, except that the treasurer shall be compensated in such amount as may be determined by the board of trustees. No member of the board, except the treasurer, shall receive any compensation for more than thirty days in any one year.

§ 2. **Amendment.)** Section 37-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-07. Commandant of Soldiers' Home—Appointment—Qualifications — Salary — Serves at Pleasure of Board.) The board of trustees of the soldiers' home shall appoint as commandant of the home a person who holds an honorable discharge from the military or naval service of the United States of America and who served in the Spanish American War, World War I or World War II. The commandant shall serve at the pleasure of the board. He shall receive such salary as is provided in legislative appropriation from time to time, plus such compensation, not exceeding fifty dollars per month, as may be determined by the board of trustees for his services as secretary of the board.

§ 3. Amendment.) Section 37-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-17. Intestate Members Leaving Estates Valued in Excess of Three Hundred Dollars—Commandant to Administer.) If a member of the soldiers' home shall die leaving property in excess of three hundred dollars in value not disposed of by will, the commandant shall be entitled to letters of administration upon such estate. He shall make application to the proper court for letters of administration, qualify as administrator, and distribute and dispose of such estate as is provided by this code. If no valid claim shall be made to such estate by the heirs or the next of kin of the deceased member for a period of one year after the granting of letters of administration, the residue of the estate shall revert to this state for the benefit of the soldiers' home.

§ 4. Amendment.) Section 37-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-15. Disbursement of Moneys Derived for the Support and Maintenance of Soldiers' Home.) On the first day of July in each odd numbered year, the department of accounts and purchases shall pay to the treasurer of the soldiers' home fifty percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state for the support and maintenance of the home during the biennium beginning on that date and twenty-five percent of the soldiers' home fund on the first day of January in each even numbered year. The remaining twenty-five percent of the soldiers' home fund shall be paid to the treasurer of the soldiers' home by warrants prepared and issued by the department of accounts and purchases, and signed by the state auditor on the first day of the fourth quarter of the biennium. Upon requisition by the commandant of the soldiers' home, at any time during the biennium, the department of accounts and purchases shall, by warrants prepared by the department and signed by the state auditor, pay to the treasurer of the soldiers' home moneys accumulated in the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home. All moneys received by the soldiers' home shall be disbursed by the treasurer of the soldiers' home subject to the order of the board of trustees of the home and shall be used exclusively for the benefit of the home. No payments shall be made to the treasurer of the home until he has qualified as required by the laws of this state. During the fourth quarter of the biennium, moneys which accrue during said quarter to the United States aid

fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, and moneys which have accumulated in said funds and have not been requisitioned as above provided, shall be used for the support and maintenance of the soldiers' home as far as such funds are available and shall be supplemented, as necessity requires, by the twenty-five percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state and paid to the treasurer of the soldiers' home on the first day of the fourth quarter of the biennium. At the end of the biennium, moneys remaining unexpended in the soldiers' home fund shall be repaid by the treasurer of the soldiers' home to the state treasurer and shall be credited to the general fund of this state.

At the end of each quarter of the biennium the commandant of the soldiers' home shall make a report to the department of accounts and purchases duly certified upon oath, showing the amount of money received from the soldiers' fund, the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, respectively; the amount remaining unexpended from each fund; and the estimated amount which will be required for the support and maintenance of the home during the next succeeding six month period. At the end of each month the commandant shall submit a statement of expenditures to the department of accounts and purchases, duly certified upon oath, showing the amount paid to each person and firm, designating the type of service rendered and commodity purchased during the month. The department of accounts and purchases shall submit the monthly statement to the state auditing board for approval and should that board not approve the payments thereon listed or any of them, the payments herein provided to be made from the soldiers' home fund to the treasurer of the soldiers' home shall be made by the department of accounts and purchases only to the extent that the said payments exceed the unapproved items, until such corrections as the state auditing board may require are effected.

Approved March 15, 1961.

CHAPTER 248

H. B. No. 547

(Bye, Knudsen of LaMoure, Solberg)

(From LRC Study)

CIVIL DEFENSE

AN ACT

To amend and reenact chapter 37-17 of the North Dakota Century Code, relating to civil defense within the state, by creating a civil defense division to serve in event of major man-made disasters; to provide for a director thereof; to define the powers and duties of the director and the governor in relation thereto; to provide for the organization of civil defense organizations on the local levels within the state; to provide immunities from certain liabilities for civil defense workers; to create and enact section 37-12-14 and 37-17-16 of the North Dakota Century Code, relating to the authority of the governor to commission local civil defense directors as officers in the state guard; and declaring an emergency.

Be It Enacted by the Legislative Assembly of the State of North Dakota:

§ 1. **Amendment.)** Chapter 37-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17-01. Policy and Purpose.) Because of the existing and increasing possibility of the occurrence of disasters of unprecedented size and destructiveness resulting from enemy attack, sabotage or other hostile action, and in order to insure that preparations of this state will be adequate to deal with such disasters, and generally to provide for the common defense and to protect the public peace, health, and safety, and to preserve the lives and property of the people of the state, it is hereby found and declared to be necessary:

1. To create a state civil defense division, and to authorize the creation of local organizations for civil defense in the political subdivisions of the state;
2. To confer upon the governor and upon the executive heads or governing bodies of the political subdivisions of the state the emergency powers provided herein; and
3. To provide for the rendering of mutual aid among the political subdivisions of the state and with other states and to cooperate with the federal government with respect to the carrying out of civil defense functions.

It is further declared to be the purpose of this Act and the policy of the state that all civil defense functions of this state be coordinated to the maximum extent with the comparable

functions of the federal government including its various departments and agencies, of other states and localities, and of private agencies of every type, to the end that the most effective preparation and use may be made of the nation's manpower, resources, and facilities for dealing with any disaster that may occur.

37-17-02. Definitions.) As used in this Act:

1. "Civil defense" means the preparation for and the carrying out of all emergency functions, other than functions for which federal military forces are primarily responsible, to prevent, minimize and repair injury and damage resulting from disasters caused by enemy attack, sabotage or other hostile action. These functions shall include, but shall not be limited to, fire fighting services, police services, medical and health services, rescue, engineering, air raid warning services, communications, radiological, chemical and other special weapons defense, evacuation of persons from stricken areas, emergency welfare services, emergency transportation, existing or properly assigned functions of plant protection, temporary restoration of public utility services, and other functions related to civilian protection, together with all other activities necessary or incidental to the preparation for and carrying out of the foregoing functions;
2. "Mobile support unit" means an organization for civil defense created in accordance with the provisions of this Act by state or local authority to be dispatched by the governor to supplement local organizations for civil defense in a stricken area;
3. "Political subdivision" means counties, cities and villages of this state; and
4. "Civil defense worker" means any full or part-time paid, volunteer or auxiliary employee of this state, or other states, territories, possessions, or the District of Columbia, of the federal government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization or other authorized person performing civil defense services at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof.

37-17-03. State Civil Defense Division.) There is hereby created a division of civil defense with a director who shall be the head thereof. The director shall be appointed by the

governor. He shall hold office during the pleasure of the governor and his compensation shall be fixed by the governor within legislative appropriations.

The director may employ such technical, clerical, stenographic and other personnel and fix their compensation in conformity with state merit system regulations and may make such expenditures within the appropriation therefor, or from other funds made available to him for purposes of civil defense, as may be necessary to carry out the purposes of this Act.

The director, subject to the direction and control of the governor, shall be the executive head of the civil defense division and shall be responsible to the governor for carrying out the state civil defense program. He shall coordinate the activities of all organizations for civil defense within the state, and shall maintain liaison with and cooperate with other state and federal civil defense agencies and organizations, and shall have such additional authority, duties, and responsibilities authorized by this Act as may be prescribed by the governor.

37-17-04. Civil Defense Advisory Council.) The North Dakota civil defense advisory council shall consist of the governor as chairman, state auditor, state treasurer, secretary of state, attorney general, adjutant general, and such other persons as the governor may appoint. Persons so appointed by the governor shall serve at his pleasure. The governor may appoint a representative to serve in his stead at meetings of the council he is unable to attend, but powers conferred upon him by this chapter shall not be delegated. The council shall advise the governor and the director of civil defense on all matters pertaining to civil defense. Members of the council shall serve without compensation, but may be reimbursed for reasonable and necessary expenses incurred in the performance of their duties.

37-17-05. Civil Defense Powers of the Governor.) The governor shall have general direction and control of the civil defense division, and shall be responsible for the carrying out of the provisions of this Act, and in the event of disaster beyond local control, may assume direct operational control over all or any part of the civil defense functions within this state.

In performing his duties under this Act, the governor is authorized to cooperate with the federal government, with other states, and with private agencies in all matters pertaining to the civil defense of this state and of the nation.

In performing his duties under this Act and to effect its policy and purpose, the governor is further authorized and empowered:

1. To make, amend, and rescind the necessary orders, rules, and regulations to carry out the provisions of this Act within the limits of the authority conferred upon him herein;
2. To prepare a comprehensive plan and program for the civil defense of this state, such plan and program to be integrated into and coordinated with the civil defense plans of the federal government and of other states to the fullest possible extent, and to coordinate the preparation of plans and programs for civil defense by the political subdivisions of this state, such plans to be integrated into and coordinated with the civil defense plan and program of this state to the fullest possible extent;
3. In accordance with such plan and program for the civil defense of this state, to procure supplies and equipment, to institute training programs and to take all other preparatory steps including the partial or full mobilization of civil defense organizations in advance of actual disaster, to insure the furnishing of adequately trained and equipped forces of civil defense personnel in time of need provided, however, that neither the state nor any political subdivision may, in the course of accomplishing the objectives of this subsection, expend funds in excess of its share of the estimated cost of the material or service being procured;
4. To make such studies and surveys of the industries, resources, and facilities in this state as may be necessary to ascertain the capabilities of the state for civil defense, and to plan for the most efficient emergency use thereof;
5. On behalf of this state, to enter into mutual aid arrangements with other states and to coordinate mutual aid plans between political subdivisions of this state;
6. To delegate any administrative authority vested in him under this Act, and to provide for the sub-delegation of any such authority;
7. To appoint, in cooperation with local authorities, local area directors when practicable; and
8. To cooperate with the president and the heads of the armed forces, the office of civil and defense mobilization, and other appropriate federal officers and agencies, and with the officers and agencies of other states in matters pertaining to the civil defense of the state and nation including the mobilization of civil

defense forces, and conduct of tests and exercises; warnings and signals for drills or attacks and the mechanical devices to be used in connection therewith; shutting off water mains, gas mains, electric power connections and the suspension of all other utility services; the conduct of civilians and the movement and cessation of movement of pedestrians and vehicular traffic during, prior, and subsequent to drills or attack; and the evacuation and reception of the civilian population.

37-17-06. Emergency Powers.) The provisions of this section shall be operative only during the existence of a state of civil defense emergency. The existence of such emergency may be proclaimed by the governor or by concurrent resolution of the legislative assembly if the governor in such proclamation, or the legislative assembly in such resolution, finds that an attack upon the United States has occurred or is anticipated in the immediate future, and that the safety and welfare of the inhabitants of this state require an invocation of the provisions of this section. Any such emergency, whether proclaimed by the governor or by the legislative assembly, shall terminate upon the proclamation of the termination thereof by the governor, or the passage by the legislative assembly of a concurrent resolution terminating such emergency. During such period as such state of emergency exists or continues, the governor shall have and may exercise the following additional emergency powers:

1. To enforce all laws, rules, and regulations, relating to civil defense subject to constitutional restrictions and to assume direct operational control of any or all civil defense forces and helpers in the state;
2. To sell, lend, lease, give, transfer, or deliver publicly owned materials and perform services for civil defense purposes subject to constitutional restrictions on such terms and conditions as the governor shall prescribe and without regard to the limitations of any existing law, and to account to the state treasurer for any funds received for such property;
3. To provide for the evacuation of all or part of the population from any stricken or threatened area or areas within the state and to take such steps as are necessary for the receipt and care of such evacuees;
4. Subject to the provisions of the state Constitution, to remove from office any public officer having administrative responsibilities under this Act for willful failure to obey an order, rule or regulation adopted pursuant to this Act. Such removal shall be upon charges after

service upon such person of a copy of such charges and after giving him an opportunity to be heard in his defense. Pending the preparation and disposition of charges, the governor may suspend such person for a period not exceeding thirty days. A vacancy resulting from removal or suspension pursuant to this section shall be filled by the governor until it is filled as otherwise provided by law; and

5. To perform such other functions and duties as are necessary to carry out the purposes and provisions of this Act.

37-17-07. Mobile Support Units.) The governor or his duly designated representative is authorized to create and establish such number of mobile support units as may be necessary to reinforce civil defense organizations in stricken areas. He shall appoint a commander for each such unit who shall have primary responsibility for the organization, administration and operation of such unit. Mobile support units shall be called to duty upon orders of the governor and shall perform their functions in any part of the state, or, upon the conditions specified in this section, in other states.

Personnel of mobile support units while on duty, whether within or without the state, shall:

1. If they are employees of the state or a political subdivision, have the powers, duties, rights, privileges and immunities and receive the compensation incidental to their employment; or
2. If they are not employees of the state or a political subdivision thereof, be entitled to compensation by the state at ten dollars per day and to the same rights and immunities as are provided by law for the employees of this state.

All personnel of mobile support units shall, while on duty, be subject to the operational control of the authority in charge of civil defense activities in the area in which they are serving, and shall be reimbursed for all actual and necessary travel and subsistence expenses.

The state shall reimburse a political subdivision for the compensation paid and actual and necessary travel, subsistence and maintenance expenses of employees of such political subdivision while serving as members of a mobile support unit, and for all payments for death, disability or injury of such employees incurred in the course of such duty when not otherwise compensable under workmen's compensation laws, and for all losses of or damage to supplies and equipment of such political subdivision resulting from the operation of such

mobile support unit. Payments for the death, disability or injury of employees shall be in accordance with benefits as outlined in the North Dakota workmen's compensation laws and claims and payments will be administered by the workmen's compensation bureau for the state, contingent upon funds appropriated for this specific purpose by the legislative assembly or any federal agency established for this purpose.

37-17-08. Local Organization for Civil Defense.) Each political subdivision of this state is hereby authorized and directed to establish a local organization for civil defense in accordance with the state civil defense plan and program. Each local organization for civil defense shall have a director who shall be appointed by the executive officer or governing body of the political subdivision, and who shall have direct responsibility for the organization, administration and operation of such local organization for civil defense, subject to the direction and control of such executive officer or governing body. Each local organization for civil defense shall perform civil defense functions within the territorial limits as may be required pursuant to the provisions of section 37-17-09.

In carrying out the provisions of this Act each political subdivision, in which any disaster as described in section 37-17-01 occurs, shall have the power to enter into contracts and incur obligations necessary to combat such disaster, protecting the health and safety of persons and property, and providing emergency assistance to the victims of such disaster. Each political subdivision is authorized to exercise the powers vested under this section in the light of the exigencies of the extreme emergency situation without regard to time-consuming procedures and formalities prescribed by law, excepting mandatory constitutional requirements, pertaining to the performance of public work, entering into contracts, the incurring of obligations, the employment of temporary workers, the rental of equipment, and the purchase of supplies and materials.

37-17-09. Mutual Aid Arrangements.) The director of each local organization for civil defense may, in collaboration with other public and private agencies within this state, develop or cause to be developed mutual aid arrangements for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted. Such arrangements shall be consistent with the state civil defense plan and program, and in time of emergency it shall be the duty of each local organization for civil defense to render assistance in accordance with the provisions of such mutual aid arrangements.

The director of each local organization for civil defense may, subject to the approval of the governor, enter into mutual

aid arrangements with civil defense agencies or organizations in other states for reciprocal civil defense aid and assistance in case of disaster too great to be dealt with unassisted.

37-17-10. Immunity and Exemption.) All functions hereunder and all other activities relating to civil defense are hereby declared to be governmental functions. Neither the state nor any political subdivision or their departments and agencies, or any civil defense worker complying with or reasonably attempting to comply with this Act, or any order, rule or regulation promulgated pursuant to the provisions of this Act, or pursuant to any ordinance relating to black-out or other precautionary measures enacted by any political subdivision of the state, except in case of willful misconduct, gross negligence, or bad faith, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which he would otherwise be entitled under this Act, or under the workmen's compensation law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.

Any requirement for a license to practice any professional, mechanical or other skill shall not apply to any authorized civil defense worker who shall, in the course of performing his duties as such, practice such professional, mechanical or other skill during a civil defense emergency.

37-17-11. No Private Liability.) Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of sheltering persons during an actual, impending, mock or practice attack shall, together with his successors in interest, if any, not be civilly liable for negligently causing the death of, or injury to, any person on or about such real estate or premises or for loss of, or damage to, the property of such person.

37-17-12. Appropriations and Authority to Accept Services, Gifts, Grants, and Loans.) Each political subdivision shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision for the payment of expenses of its local organization for civil defense.

Whenever the federal government or any agency or officer thereof or any person, firm or corporation shall offer to the state, or through the state to any political subdivision thereof, services, equipment, supplies, materials, or funds by way of

gift, grant or loan, for purposes of civil defense, the state, acting through the governor or civil defense director, or such political subdivision, acting through its executive officer or governing body, may accept such offer and may authorize any officer of the state or of the political subdivision, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

37-17-13. Utilization of Existing Services and Facilities.) In carrying out the provisions of this Act, the governor and the executive officers or governing bodies of the political subdivisions of the state are directed to utilize the services, equipment, supplies and facilities of existing departments, offices, and agencies of the state and of the political subdivisions thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are required and directed to cooperate with and extend such services and facilities to the governor and to the civil defense organizations of the state upon request.

37-17-14. Political Activity Prohibited.) No organization for civil defense established under the authority of this Act shall participate in any form of political activity, nor shall it be employed directly or indirectly for political purposes.

37-17-15. Civil Defense Personnel.) No person shall be employed or associated in any capacity in any civil defense organization established under this Act who advocates or has advocated a change by force or violence in the constitutional form of the government of the United States or in this state or the overthrow of any government in the United States by force or violence, or who has been convicted of or is under indictment or information charging any subversive act against the United States.

37-17-16. Natural Disasters.) Nothing herein provided shall prevent the governor from requesting and ordering the civil defense division from aiding in natural disasters.

§ 2.) Section 37-12-14 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-12-14. Local Civil Defense Directors May Be Commissioned.) The governor may at any time commission any director of civil defense for a county, city, or village as an officer in the state guard, and the rank of any director so commissioned shall be commensurate with the qualifications and experience of the director. The provisions of section 37-12-01, relating to conditions under which the state guard

may be organized and maintained shall in no way prevent a local civil defense director from being commissioned pursuant to the provisions of this section at any time. Any local civil defense director so commissioned shall receive no additional remuneration or emolument as a result of his holding a commission in the state guard, and any remuneration or emolument received by him in his capacity as local civil defense director shall be prescribed and paid by the political subdivision which he is serving. Any civil defense director commissioned in the state guard shall be authorized to command such state guard as may be directed by the governor.

§ 3. Emergency.) This Act is hereby declared to be an emergency measure and shall be in full force and effect from and after its passage and approval.

Approved March 14, 1961.
