

# MILITARY

## CHAPTER 277

HOUSE BILL NO. 1134  
(Hildebrand, Hentges, Martinson)

### LEGION OF MERIT MEDAL

AN ACT to provide a new award for the North Dakota national guard.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. NORTH DAKOTA LEGION OF MERIT MEDAL - PRESENTED BY WHOM - QUALIFICATIONS - REGULATIONS GOVERNING.) The governor, in the name of the legislative assembly, may present a military medal known as the "North Dakota legion of merit" to any member or former member of the North Dakota national guard who, in the discharge of his military duty, has distinguished himself by outstanding service and twenty years of duty to the North Dakota national guard, his community, state, and nation. Such medal may also be awarded to a member or former member of the armed forces of the United States or of the national guard of another state who performs outstanding service for the guard of this state. The medal shall bear a suitable inscription and shall be of military design as prescribed by the adjutant general. The medal shall be awarded by the board of awards in the same manner as prescribed in section 37-01-10.

Approved March 21, 1973

## CHAPTER 278

HOUSE BILL NO. 1157  
(Committee on Veterans' Affairs)  
(At the request of the Adjutant General)

PURCHASE AND DISPOSAL OF  
MILITARY PROPERTY

AN ACT to amend and reenact sections 37-03-07 and 37-03-08 of the North Dakota Century Code, relating to the purchase and disposal of military property.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-03-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-03-07. MILITARY PROPERTY - ISSUANCE - PURCHASE.) The adjutant general shall issue, or cause to be issued, all military property. No military property shall be issued to persons or organizations other than those belonging to the national guard of this state or to such portions of the reserve militia as may be called out by the governor. Purchases of property shall be by the department of accounts and purchases or as otherwise provided by law. In case of insurrection, invasion, tumult, riot, or breaches of the peace, or of imminent danger thereof, or other exigency, the governor, upon the certificate of the commanding officer of the national guard, may suspend temporarily the operation of this section and direct the adjutant general to purchase in the open market such military property as may be required. The adjutant general shall report such action, with the reason therefor, and a statement of the property purchased and the prices paid therefor, to the legislative assembly at its next session.

SECTION 2. AMENDMENT.) Section 37-03-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-03-08. UNSUITABLE MILITARY PROPERTY - DISPOSAL.) All military property of this state found unsuitable after proper inspection shall be disposed of in the same manner as surplus property of the state.

Approved March 3, 1973

## CHAPTER 279

HOUSE BILL NO. 1135  
(L. Hausauer, Peterson, Hildebrand)

## MINIMUM PAY FOR ENLISTED GUARDSMEN

AN ACT to amend and reenact section 37-07-05 of the North Dakota Century Code, raising the minimum pay for certain enlisted national guardsmen on state active duty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Section 37-07-05 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-07-05. PAY AND ALLOWANCES OF ENLISTED MEN - DEDUCTIONS ALLOWED.) Each enlisted man of the national guard, when called into active service by the governor, shall receive pay at the rate provided for enlisted men of similar grade, rating, and term of enlistment in the national guard of the United States, except that such daily pay rate for each of the grades hereafter listed shall be increased by the percentage set forth after such grade as follows:

1. E-3	55%
2. E-4	45%
3. E-5	35%
4. E-6	25%
5. E-7	15%
6. E-8	10%

Each enlisted man shall also receive transportation, shelter, and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and all legal fines or forfeitures, may be deducted from the member's pay. Pay at an annual encampment shall be such as is allowed by federal law.

Approved March 15, 1973

## CHAPTER 280

HOUSE BILL NO. 1046  
(Jenkins, Berg, Ganser, Gronneberg,  
Lee, Meyer, Rivinius, Rundle)  
(From Legislative Council Study)

SOLDIERS' HOME MEMBERSHIP  
CONTRIBUTION FUND

AN ACT to create and enact section 37-15-14.1 of the North Dakota Century Code, relating to charging a membership contribution at the soldiers' home, to creation of a special fund consisting of membership contribution receipts, and stating the purposes of that fund; and to amend and reenact section 21-10-06 of the North Dakota Century Code, relating to the funds invested by the state investment board.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Section 37-15-14.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-15-14.1. MEMBERSHIP CONTRIBUTION FOR RESIDENTS OF  
HOME - CREATION OF SPECIAL FUND.)

1. The administrative committee on veterans' affairs may establish a membership contribution to be paid by members of the home. The fee shall be based on the adjusted income of each member, but in no case shall it exceed forty-nine percent of the average daily per-member cost. The membership contribution shall 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 earned by a member through labor performed for the soldiers' home.

- b. Moneys received as service-connected compensation.
  - c. Moneys earned during authorized leaves or furloughs from the soldiers' home.
  - d. Moneys expended by the member for hospitalization due to illness or injury.
  - e. Moneys expended by the member for other medical care or treatment, or for required medicines.
  - f. 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 of this section shall be deposited in a special fund in the state treasury to be known as the "soldiers' home improvement fund". The fund shall be invested by the state investment board in the manner provided in chapter 21-10, and all income received, less amounts deducted pursuant to section 21-10-10, shall be deposited in, or reinvested for the benefit of, the soldiers' home improvement fund. Moneys in the soldiers' home improvement fund shall, subject to and following legislative appropriations, be expended only for expansion of present facilities of the home, for development of new facilities, for enrichment of living conditions, or for additional care for members of the home, as such expansion, development, enrichment, or additional care is deemed necessary by the administrative committee. All moneys expended from the soldiers' home improvement fund shall be paid out on vouchers prepared by the secretary of the administrative committee on veterans' affairs. The department of accounts and purchases shall prepare the warrant-checks.

SECTION 2. AMENDMENT.) Section 21-10-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06. FUNDS UNDER MANAGEMENT OF BOARD - ACCOUNTS.) The board shall be charged with the investment of the following funds:

1. State bonding fund;
2. Teachers' fund for retirement, in accordance with section 15-39.1-26;
3. State fire and tornado fund;
4. Workmen's compensation fund;
5. Highway patrolmen's retirement fund; and

6. Soldiers' home improvement fund, in accordance with section 37-15-14.1.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to the securities shall be taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

Approved March 26, 1973

## CHAPTER 281

HOUSE BILL NO. 1223  
(Atkinson, Martinson)

## NORTH DAKOTA DISASTER ACT

AN ACT to provide for a North Dakota Disaster Act, relating to the responsibility of the governor, creating a state division of disaster emergency services, and providing for coordination of activities relating to disaster prevention, preparedness, response and recovery; and to repeal chapter 37-17 of the North Dakota Century Code, relating to civil defense.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. TITLE.) This Act shall be cited as the North Dakota Disaster Act of 1973.

SECTION 2. PURPOSES.) The purposes of this Act are to:

1. Reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or man-made catastrophes, riots, or hostile military or paramilitary action;
2. Prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster;
3. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters;
4. Clarify the roles of the governor, state agencies, and local governments in prevention of, preparation for, and response to and recovery from disasters;
5. Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery;
6. Authorize and provide for coordination of activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate,

federal-state, and foreign activities in which the state and its political subdivisions may participate;

7. Provide a disaster management system embodying all aspects of pre-disaster preparedness and post-disaster response; and
8. Assist in prevention of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use.

SECTION 3. LIMITATIONS.) Nothing in this Act shall be construed to:

1. Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this Act or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety;
2. Interfere with dissemination of news or comment on public affairs; but any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster emergency;
3. Affect the jurisdiction or responsibilities of units of the armed forces of the United States or of this state, or of any personnel thereof, when on active duty; but state, local, and interjurisdictional disaster emergency plans shall place reliance upon the forces available for performance of functions related to disaster emergencies; or
4. Limit, modify, or abridge the authority of the governor to proclaim martial law, provide aid or assistance to civil authorities, or exercise any other powers vested in him under the Constitution, statutes, common law, or sovereign powers of this state independent of, or in conjunction with, any provisions of this Act.
5. Change or modify the responsibilities of the American National Red Cross as defined by the United States Congress in Public Law 4, approved January 5, 1905 (33 St. 599), and as amended thereto.

SECTION 4. DEFINITIONS.) As used in this Act:

1. "Disaster" means occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or man-made cause, including but not limited to fire, flood, earthquake, wind, storm, wave action, oil spill, or

other water contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action;

2. "Political subdivision" means any county, city, or other unit of local government; and
3. "Disaster and emergency 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 disaster emergency 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.

#### SECTION 5. THE GOVERNOR AND DISASTER EMERGENCIES.)

1. The governor is responsible for meeting the dangers to the state and people presented by disasters.
2. Under this Act, the governor may issue executive orders, proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.
3. A disaster emergency shall be declared by executive order or proclamation of the governor if he finds a disaster has occurred or that this occurrence or the threat thereof is imminent. The state of disaster emergency shall continue until the governor finds that the threat or danger has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order or proclamation, but no state of disaster emergency may continue for longer than thirty days unless renewed by the governor. The legislature by concurrent resolution may terminate a state of disaster emergency at any time and thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster prevent or impede such dissemination, and it shall be promptly filed with the state office of disaster emergency services, the secretary of state, and the

county auditor of the county or counties affected.

4. An executive order or proclamation of a state of disaster emergency shall activate the disaster response and recovery aspects of the state, local, and interjurisdictional disaster emergency plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this Act or any other provision of law relating to disaster emergencies.
5. During the continuance of any state of disaster emergency declared by the governor, the governor is commander-in-chief of the disaster emergency services organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations, but nothing herein restricts his authority to do so by orders issued at the time of the disaster emergency.
6. In addition to any other powers conferred upon the governor by law, he may:
  - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations, of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the emergency;
  - b. Utilize all available resources of the state government as reasonably necessary to cope with the disaster emergency and of each political subdivision of the state;
  - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services;
  - d. Subject to any applicable requirements for compensation under section 12, commandeer or utilize any private property if he finds this necessary to cope with the disaster emergency;
  - e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he deems

this action necessary for the preservation of life or other disaster mitigation, response, or recovery;

- f. Prescribe routes, modes of transportation, and destinations in connection with evacuation;
- g. Control ingress and egress to and from a disaster area, the movement of persons within the area, and the occupancy of premises therein;
- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles; and
- i. Make provision for the availability and use of temporary emergency housing.

SECTION 6. STATE DIVISION OF DISASTER EMERGENCY SERVICES.)

- 1. A division of disaster emergency services is hereby established in the office of the adjutant general. The division shall have a director appointed by and to serve at the pleasure of the adjutant general and his compensation shall be fixed by the adjutant general within the legislative appropriations. The division shall have a planning officer and other professional technical, secretarial, and clerical employees as necessary for the performance of its functions. The director of the division shall fix the compensation of the staff in conformity with state merit system regulations and may make such expenditures within the appropriations therefor, or from other funds made available to him for purposes of disaster preparedness, as may be necessary to carry out the purposes of this chapter.
- 2. The division of disaster emergency services shall prepare and maintain a state disaster plan and keep it current, which plan may include:
  - a. Prevention and minimization of injury and damage caused by disaster;
  - b. Prompt and effective response to disaster;
  - c. Emergency relief;
  - d. Identification of areas particularly vulnerable to disasters;
  - e. Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semi-permanent structures, and other preventive and preparedness measures designed to eliminate or reduce disasters or their impact;

- f. Assistance to local officials in designing local emergency action plans;
  - g. Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster;
  - h. Preparation and distribution to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs;
  - i. Organization of manpower and chains of command;
  - j. Coordination of federal, state, and local disaster activities;
  - k. Coordination of the state disaster plan with the disaster plans of the federal government; and
  - l. Other necessary matters.
3. The division of disaster emergency services shall take an integral part in the development and revision of local and interjurisdictional disaster plans prepared under section 7. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies. These personnel shall consult with subdivisions and agencies on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster plans are intended to apply, and may suggest or require revisions.
4. In preparing and revising the state disaster plan, the division of disaster emergency services shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and interjurisdictional agencies, the division shall encourage them also to seek advice from these sources.
5. The state disaster plan or any part thereof may be incorporated in regulations of the division of disaster emergency services or executive orders which have the force and effect of law.
6. The division of disaster emergency services shall:
  - a. Determine requirements of the state and its

- political subdivisions for food, clothing, and other necessities in event of an emergency;
- b. Procure, and pre-position supplies, medicines, materials, and equipment;
  - c. Promulgate standards and requirements for local and interjurisdictional disaster plans;
  - d. Periodically review local and interjurisdictional disaster plans;
  - e. Coordinate for support assistance to local units of government;
  - f. Establish and operate or assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies to establish and operate training programs and programs of public information;
  - g. Make surveys of industries, resources, and facilities, within the state, both public and private, as are necessary to carry out the purposes of this Act;
  - h. Plan and make arrangements for the availability and use of any private facilities, services, and property, and, if necessary and if in fact used, coordinate payment for use under terms and conditions agreed upon;
  - i. Establish a register of persons with types of training and skills important in emergency prevention, preparedness, response, and recovery;
  - j. Establish a register of mobile and construction equipment and temporary housing available for use in a disaster emergency;
  - k. Prepare, for issuance by the governor, executive orders, proclamations, and regulations as necessary or appropriate in coping with disasters;
  - l. Cooperate with the federal government and any public or private agency or entity in achieving any purpose of this Act and in implementing programs for disaster prevention, preparation, response, and recovery;
  - m. Be the state search and rescue coordinating agency, establish a register of search and rescue equipment and personnel in the state, and plan for its effective utilization in carrying out the search for and rescue of persons, at any time, when no violation of criminal laws exists; and

- n. Do other things necessary, incidental, or appropriate for the implementation of this Act.

SECTION 7. LOCAL AND INTERJURISDICTIONAL DISASTER AGENCIES AND SERVICES.)

1. All areas of the state shall be within the jurisdiction of and may be served by the division of disaster emergency services and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response.
2. Each county shall maintain a disaster agency or participate in a local or interjurisdictional disaster agency which, except as otherwise provided under this Act, has jurisdiction over and serves the entire county.
3. Each municipal corporation shall provide a disaster agency of its own, or it shall participate in a countywide or an interjurisdictional disaster agency. Each governing board of a municipal corporation shall make its determination on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration. The disaster agency of a county shall cooperate with the disaster agencies of municipalities situated within its borders but shall not have jurisdiction within a municipality having its own disaster agency. The division of disaster emergency services shall publish and keep current a list of municipalities desiring to have disaster agencies of their own.
4. Any provision of this Act or other law to the contrary notwithstanding, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one or more contiguous political subdivisions, if he finds that the political subdivision does not have a disaster agency of its own, or is not participating in an interjurisdictional disaster organization to provide disaster prevention, preparedness, response, or recovery services under other provisions of this Act.
5. The mayor of a city, chairman of the board of county commissioners, or other principal executive officer of each political subdivision in the state shall notify the division of disaster emergency services of the manner in which the political subdivision is providing or securing disaster planning and emergency services, identify the person who heads the agency from which the service is obtained, and furnish additional information relating thereto as the division requires.

6. Each local and interjurisdictional agency shall prepare and keep current a local or interjurisdictional disaster emergency plan for its area.
7. The local or interjurisdictional disaster agency, as the case may be, shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the emergency responsibilities of all local agencies and officials and of the disaster chain of command.

SECTION 8. ESTABLISHMENT OF INTERJURISDICTIONAL DISASTER PLANNING AND SERVICE AREAS.)

1. Whenever two or more adjoining counties would be better served by an interjurisdictional arrangement than by maintaining separate disaster agencies and services, the disaster emergency services division, with the agreement of the jurisdictions involved, may establish an interjurisdictional area adequate to plan for, prevent, or respond to disaster in that area and direct steps to be taken as necessary, including the creation of an interjurisdictional relationship, a joint disaster emergency plan, mutual aid, or an area organization for emergency planning and services. Establishment of interjurisdictional disaster planning and service areas as provided in this subsection shall be based on one or more factors related to the difficulty of maintaining an efficient and effective disaster prevention, preparedness, response, and recovery system on a single jurisdiction basis, such as:
  - a. Small or sparse population;
  - b. Limitations on public financial resources severe enough to make maintenance of a separate disaster agency and services unreasonably burdensome;
  - c. Unusual vulnerability to disaster as evidenced by a past history of disasters, topographical features, drainage characteristics, disaster potential, and presence of disaster-prone facilities or operations;
  - d. The interrelated character of the counties in a multicounty area; or
  - e. Other relevant conditions or circumstances.
2. If the governor finds that a vulnerable area lies only partly within this state and includes territory in another state or states or territory in a foreign jurisdiction and that it would be desirable to establish an interstate or international relationship, mutual aid, or an area organization for disaster,

he shall take steps to that end as desirable. If this action is taken with jurisdictions that have enacted the interstate disaster compact, any resulting agreement or agreements may be considered supplemental agreements pursuant to Article VI of that compact.

3. If the other jurisdiction or jurisdictions with which the governor proposes to cooperate pursuant to subsection (2) hereof have not enacted that compact, he may negotiate special agreements with the jurisdiction or jurisdictions. Any agreement, if sufficient authority for the making thereof does not otherwise exist, becomes effective only after its text has been communicated to the legislative assembly and provided that neither house of the legislative assembly has disapproved it by adjournment of the next ensuing session competent to consider it or within thirty days of its submission, whichever is longer.

SECTION 9. AUTHORITY TO UTILIZE EXISTING SERVICES AND FACILITIES.) In carrying out the provisions of this chapter, 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 reasonable services and facilities to the governor and to the disaster emergency services organizations of the state upon request.

SECTION 10. LOCAL DISASTER EMERGENCIES.)

1. Unless so declared in accordance with the provisions of subsection 4 of section 5, a local disaster emergency may be declared only by the principal executive officer of a political subdivision. It shall not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the political subdivision. Any order or proclamation declaring, continuing, or terminating a local disaster emergency shall be given prompt and general publicity and shall be filed promptly with the county auditor.
2. The effect of a declaration of a local disaster emergency is to activate the response and recovery aspects of any and all applicable local or inter-jurisdictional disaster emergency plans and to authorize the furnishing of aid and assistance thereunder.

3. No interjurisdictional agency or official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions.

SECTION 11. DISASTER PREVENTION.)

1. In addition to disaster prevention measures as included in the state, local, and interjurisdictional disaster plans, the governor shall consider on a continuing basis steps that could be taken to prevent or reduce the harmful consequences of disasters. At his direction, and pursuant to any other authority and capability they have, state agencies, including but not limited to those charged with responsibilities in connection with flood plain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster prevention-related matters. The governor, from time to time, shall make recommendations to the legislative assembly, local governments, and other appropriate public and private entities as may facilitate measures for prevention or reduction of the harmful consequences of disasters.
2. The North Dakota water commission, in conjunction with the division of disaster emergency services, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or avoiding the dangers caused by this occurrence or the consequences thereof.
3. If the division of disaster emergency services believes on the basis of the studies or other competent evidence that an area is susceptible to a disaster of catastrophic proportions without adequate warning, that existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster, and that changes in zoning regulations, other land use regulations, or building requirements are needed in order to further the purposes of this section, it shall specify the essential changes to the governor. If the governor, upon review of the recommendation, finds after public hearing that the changes are essential, he shall so recommend to the agencies or local governments with jurisdiction over the area and subject matter. If no action or

insufficient action pursuant to his recommendations is taken within the time specified by the governor, he shall so inform the legislative assembly and request legislative action appropriate to mitigate the impact of disaster.

4. The governor, at the same time that he makes his recommendations pursuant to subsection (3), may suspend the standard or control which he finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the legislative assembly or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review in accordance with chapter 28-32, but shall not be subject to temporary stay pending litigation.

#### SECTION 12. COMPENSATION.)

1. Each person within this state shall conduct himself and keep and manage his affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disaster emergencies. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster emergency. This Act neither increases nor decreases these obligations but recognizes their existence under the Constitution and statutes of this state and the common law. Compensation for services or for the taking or use of property shall be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered his services or property without compensation.
2. No personal services may be compensated by the state or any subdivision or agency thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property shall be only if the property was commandeered or otherwise used in coping with a disaster emergency declared by the governor and its use or destruction was ordered by the governor or the governor's state disaster emergency coordinator.

4. Any person claiming compensation for the use, damage, loss, or destruction of property under this Act shall file a claim therefor with the state auditing board in the form and manner required by the board.
5. Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the state auditing board, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

SECTION 13. COMMUNICATIONS.) The division of disaster emergency services shall ascertain what means exist for rapid and efficient communications in times of disaster emergencies. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or state-federal telecommunications or other communications system or network. In studying the character and feasibility of any system or its several parts, the division shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The division shall make recommendations to the governor as appropriate.

SECTION 14. MUTUAL AID.)

1. Political subdivisions not participating in inter-jurisdictional arrangements pursuant to this Act nevertheless shall be encouraged and assisted by the division of disaster emergency services to conclude suitable arrangements for furnishing mutual aid in coping with disasters. The arrangements shall include provision of aid by persons and units in public employ.
2. In passing upon local disaster plans, the disaster emergency services division shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.
3. It is a sufficient reason for the disaster emergency services division to consider an interjurisdictional agreement or arrangement pursuant to section 8 of this Act that the area involved and political subdivisions therein have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provision for mutual aid; but in considering the making of an interjurisdictional arrangement to accomplish the purpose of this section, the disaster emergency services division need not consider establishment and maintenance of an interjurisdictional agency or arrangement for any other disaster purposes.

SECTION 15. WEATHER MODIFICATION.) The division of disaster emergency services shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the division determines that precipitation that may result from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the division informs the officer or agency that the danger has passed.

SECTION 16. IMMUNITY AND EXEMPTION.) All functions hereunder and all other activities relating to disaster emergency services are hereby declared to be governmental functions. Neither the state nor any political subdivision or its departments and agencies, or any disaster emergency 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 any 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 chapter, 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 disaster emergency worker who shall, in the course of performing his duties, practice such professional, mechanical, or other skill during a disaster emergency.

SECTION 17. 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.

SECTION 18. 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 disaster emergency services organization.

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 disaster emergency services, the state, acting through the governor or disaster emergency services director or coordinator, 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.

SECTION 19. UTILIZATION OF EXISTING SERVICES AND FACILITIES.) In carrying out the provisions of this chapter, 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 disaster emergency services organizations of the state upon request.

SECTION 20. REPEAL.) Chapter 37-17 of the North Dakota Century Code is hereby repealed.

Approved March 24, 1973

## CHAPTER 282

SENATE BILL NO. 2113  
(Jones, Freed, Hoffner, J. Schultz)

## VETERANS' PREFERENCE

AN ACT to create and enact chapter 37-19.1 of the North Dakota Century Code, relating to preferences for veterans in gaining governmental employment, and providing means for enforcing those preferences; to amend and reenact section 37-15-08 of the North Dakota Century Code, relating to appointment of subordinate officers of the soldiers' home; and to repeal chapter 37-19 and section 37-01-31 of the North Dakota Century Code, relating to governmental employment preferences for veterans.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1.) Chapter 37-19.1 of the North Dakota Century Code is hereby created and enacted to read as follows:

37-19.1-01. DEFINITIONS.) As used in this chapter:

1. "Veteran" shall be as defined in subsection 1 of section 37-01-40.
2. "Political subdivision" means counties, cities, townships, and any other governmental entity created by state law which employs persons either temporarily or permanently.
3. "Agency" or "governmental agency" means all political subdivisions and any state agency, board, bureau, commission, department, officer, and any state institution or enterprise authorized to employ persons either temporarily or permanently.
4. "Disabled veteran" means a veteran who is found to be entitled to a service-connected disability rating as determined by the United States veterans' administration.
5. "Personnel system" means a personnel system based on merit principles.

37-19.1-02. PUBLIC EMPLOYMENT PREFERENCE TO VETERANS - RESIDENCY REQUIREMENTS.)

1. Veterans who are North Dakota residents shall be entitled

to preference, over all other applicants, in appointment or employment by governmental agencies, provided that such veteran is a United States citizen at the time of application for employment. Veterans qualified for preference shall not be disqualified from holding any position with an agency because of physical or mental disability, unless such disability renders them unable to properly perform the duties of the position applied for.

2. When a veteran shall apply for appointment or employment under subsection 1, the officer, board, or person whose duty it is to appoint or employ a person to fill the available position shall, except where the veteran has been qualified for the position applied for under a personnel system, investigate the qualifications of the veteran. If the veteran is found to be physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall appoint or employ him.
3. A disabled veteran shall be entitled to a preference superior to that given other veterans under this section, which preference shall be accorded in the manner provided in this section.
4. Notwithstanding the preference provisions in subsections 1, 2, and 3, public employment preference for veterans by agencies or governmental agencies, as defined herein, which now have, or which may hereafter have, an established personnel system under which it maintains a register of persons eligible for employment and from which it certifies a prescribed number of names to that particular agency or governmental agency, shall be governed by the following:
  - a. No distinction or discrimination shall be made in the administration of the examination because the applicant may be a veteran.
  - b. Upon completion of the examination with a passing grade, the applicant shall be informed of a veteran's rights to employment preference as hereinafter provided.
  - c. The applicant shall be required to furnish proof of his status as a veteran and, if disabled, proof of his disability, as defined herein.
  - d. Upon receipt of proof required in subsection c, the examiner shall add five points for a nondisabled veteran and ten points for a disabled veteran to the examination grade of the applicant, and the total shall be the veteran's examination grade.
  - e. Upon request for the prescribed number of eligible persons from the eligibility registry, such number of

eligible persons shall be certified from the top number of eligible persons and with such certified list of eligible persons there shall also be submitted a statement as to which of those so certified are veterans, disabled veterans, or nonveterans.

- f. In the event the certified list of eligible persons includes either veterans or disabled veterans, the appointing or employing authority of that particular agency or governmental agency shall make a selection for the available position as follows:

- (1) A disabled veteran, without regard to his examination grade, shall first be entitled to the position and, in the absence of justifiable cause, documented in writing, for not making such selection, shall be so appointed or employed. If such list includes two or more disabled veterans, then the one with the highest examination grade shall first be entitled to the position and, in the absence of justifiable cause, documented in writing, for not making such selection, shall be so appointed or employed;
- (2) When such certified list of eligible persons does not include one or more disabled veterans and consists only of veterans, then the one with the highest examination grade shall first be entitled to the position and, in the absence of justifiable cause, documented in writing, shall be so appointed or employed; and
- (3) When such certified list of eligible persons includes nonveterans and veterans, but not disabled veterans, then the one with the highest examination grade, whether a nonveteran or a veteran, shall first be entitled to the position and, in the absence of justifiable cause, shall be so appointed or employed; and if the one with the highest examination grade is a veteran and is not appointed or employed, there must be justifiable cause documented in writing for not making such appointment or employment.

5. The provisions of this section shall not apply when the position to be filled is that of a superintendent of schools, teacher, or the chief deputy or private secretary of an elected or appointed official. Temporary committees and individual or group appointments made by the governor or legislative assembly shall also be excepted from the provisions of this section.

37-19.1-03. PREFERENCES TO BE GRANTED VETERANS' SPOUSES.)

1. The unremarried spouse of a veteran who died while in

service, or later died from a service-connected cause or causes, shall be entitled, if he is otherwise qualified, to the appointment or employment preference given to a veteran under section 37-19.1-02 in the manner provided therein.

2. The spouse of a disabled veteran, who is disabled due to a service-connected cause or causes, shall, if the disabled veteran is unable to exercise his right to a veteran's employment preference due to his disability, be entitled, if he is otherwise qualified, to the appointment or employment preference given to a veteran under section 37-19.1-02 in the manner provided therein.

37-19.1-04. REFUSAL TO GIVE PREFERENCE - RETALIATORY ACTION OR REMOVAL - REMEDIES - PROCEDURES.)

1. If a veteran, or a qualified veteran's spouse, is not given the preference provided in sections 37-19.1-02 or 37-19.1-03, he may, within fifteen days after he has been refused employment, demand a hearing before a board composed as provided in subsection 3 of this section. The demand shall be in writing and shall be delivered to the employing agency by certified mail with return receipt requested. If the board finds in favor of the veteran or spouse, they shall be entitled to immediate employment in the position for which he had originally made application, or an equivalent position.
2. Any veteran who has exercised his right to an employment preference under this chapter, and who, within one year after exercise of that right:
  - a. Is discharged;
  - b. Has had his compensation reduced; or
  - c. Is otherwise subject to action by the employing agency designed to cause the veteran to resign or quit his employment,

shall be entitled to a hearing if he believes that the employing agency took any of the above-described action due to the veteran's exercise of his employment preference, the hearing shall be held before a board composed as provided in subsection 3 of this section. If the board finds that the employing agency took any of the actions described in subdivisions a, b, or c due to the veteran's exercise of his right to an employment preference, the board shall order the employing agency to cease and desist from such action or to reinstate the veteran. The demand for a hearing under this subsection shall be in writing addressed to the employing agency. The

demand shall be made by certified mail with return receipt requested within fifteen days after discharge or any other action taken by the employing agency about which the veteran may be aggrieved.

3. The hearing board for grievances arising under subsections 1 or 2 of this section shall consist of one person chosen by the veteran, one person chosen by the employing agency, and one person chosen by the foregoing two persons. In the event that the two persons appointed by the parties do not appoint a third person within five days after the appointment of the two, a district judge for that judicial district shall make the appointment after receiving a written request to do so from one or both of the other appointees, or from the veteran. In the event that the employing agency does not appoint a person to the board within five days after the appointment by the veteran, a district judge for that judicial district shall make the appointment after receiving written request to do so from the veteran. The board shall meet and hold the hearing within ten days after the selection of the final member. At the hearing, both parties may be represented by counsel, and the employing agency shall have the burden of proving that any action which it is shown by the veteran to have taken was not taken because of the veteran's exercise of his right to an employment preference. Hearing board members shall not be compensated, nor shall their expenses be paid, from public funds.
4. Any party aggrieved by the finding and order of the board may appeal to the district court in the manner provided for in section 28-32-15, provided that notice of appeal need only be served on the other party, and the appellant need not execute an undertaking. The decision of the district court on appeal shall be final. Appeals under this subsection shall be heard without a jury.

SECTION 2. AMENDMENT.) Section 37-15-08 of the 1971 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-08. SUBORDINATE OFFICERS - APPOINTMENT - PREFERENCE TO VETERANS - COMPENSATION - REMOVAL.) The commandant of the soldiers' home shall appoint all necessary subordinate officers of the home. In the appointment of such officers, the preference afforded by the provisions of chapter 37-19.1 shall be given to those persons who qualify therefor. The compensation of all subordinate officers shall be fixed by the commandant, subject to legislative appropriation, and any such officer may be removed by the commandant for inefficiency or misconduct.

SECTION 3. REPEAL.) Chapter 37-19 and section 37-01-31 of the North Dakota Century Code are hereby repealed.

Approved March 30, 1973

## CHAPTER 283

HOUSE BILL NO. 1520  
(Rundle)

## ELIGIBILITY FOR VIETNAM BONUS

AN ACT to amend and reenact subsection 1 of section 37-25-02 and sections 37-25-03 and 37-25-10 of the North Dakota Century Code, establishing an ending date to periods of service which give rise to credits or eligibility for Vietnam veterans' adjusted compensation; providing for maximum adjusted compensation payments; and declaring an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF THE  
STATE OF NORTH DAKOTA:

SECTION 1. AMENDMENT.) Subsection 1 of section 37-25-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

1. "Period of service" means the period of time beginning August 5, 1964, and ending on a date prescribed by the President or the Congress for the cessation of hostilities in Vietnam, but no later than January 28, 1973.

SECTION 2. AMENDMENT.) Section 37-25-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-25-03. PAYMENT OF ADJUSTED COMPENSATION FOR DOMESTIC AND FOREIGN SERVICE - MAXIMUM PAYMENT.) Each veteran shall be paid for domestic service twelve dollars and fifty cents for each month or major fraction thereof, and shall be paid for foreign service seventeen dollars and fifty cents for each month or major fraction thereof. If the veteran be deceased, payments shall be made to the beneficiary. Applications for adjusted compensation may be filed with the adjutant general after the date of October 1, 1971. No adjusted compensation payment made to any person under this chapter shall exceed sixteen hundred dollars or the largest payment made prior to the effective date of this Act, whichever is greater.

SECTION 3. AMENDMENT.) Section 37-25-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-25-10. TIME LIMIT FOR FILING OR RECEIVING APPLICATIONS.) No application for benefits under the provisions of this chapter shall be filed or received after three years from the date

prescribed by the President or the Congress for the cessation of hostilities in Vietnam, or from January 28, 1973, whichever date is earlier. However, in the cases of those veterans who are prisoners of war or missing in action on or after January 28, 1973, the deadline for receipt of application shall be three years from the date upon which they first set foot on American soil following January 28, 1973.

SECTION 4. 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 21, 1973