

**SENATE BILL NO. 2420**

Introduced by

Senator Cook

(Approved by the Delayed Bills Committee)

1 A BILL for an Act to amend and reenact sections 11-19.1-03, 29-01-01, 37-01-01, 37-01-02,  
2 37-01-03, 37-01-04, 37-01-04.1, 37-01-06, 37-01-07, 37-01-08, 37-01-09, 37-01-10,  
3 37-01-10.1, 37-01-11, 37-01-12, 37-01-13, 37-01-14, 37-01-16, 37-01-19, 37-01-20, 37-01-21,  
4 37-01-22, 37-01-23, 37-01-24, 37-01-25, 37-01-25.1, 37-01-26, 37-01-28, 37-01-30, 37-01-41,  
5 37-02-01, 37-02-02, 37-02-04, 37-02-07, 37-03-03, 37-03-04, 37-03-05, 37-03-06, 37-03-07,  
6 37-03-09, 37-03-11, 37-03-13, 37-04-01, 37-04-02, 37-04-03, 37-04-07, 37-04-08, 37-04-09,  
7 37-04-11, 37-04-12, 37-04-13, 37-04-14, 37-04-15, 37-04-16, 37-04-17, 37-04-18, 37-07-01,  
8 37-07-02, 37-07-03, 37-07-04, 37-07-05, 37-07-06, 37-08-01, 37-08-03, 37-08-04, 37-08-05,  
9 37-11-01, 37-11-02, 37-12.1-02, and 37-12.1-03 of the North Dakota Century Code, relating to  
10 the militia and the national guard.

**11 BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

12 **SECTION 1. AMENDMENT.** Section 11-19.1-03 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **11-19.1-03. Appointment of coroner, term, assistant.** The coroner ~~shall~~ must be  
15 appointed by the board of county commissioners for a term of two years. If ~~such~~ the office ~~shall~~  
16 ~~become~~ becomes vacant by death, resignation, expiration of the term of office, or otherwise, or  
17 when the coroner becomes permanently unable to perform the duties of office, the county  
18 commissioners shall appoint ~~a person with the qualifications as hereinafter set forth~~ an  
19 individual qualified under this chapter to fill ~~such~~ the vacancy, who shall give and take the oath  
20 of office as prescribed for coroners. If the duly appointed, qualified, and acting coroner is  
21 absent temporarily from the county, or when on duty with the armed services of the United  
22 States, or the ~~state militia~~ military forces of this state, or with the American red cross, or when  
23 unable to discharge the duties of office for any other reason, ~~such~~ the coroner may appoint a

1 ~~person~~ an individual with the qualifications of coroner to act in the coroner's absence, service,  
2 or disability, upon taking the prescribed oath for coroners.

3 **SECTION 2. AMENDMENT.** Section 29-01-01 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **29-01-01. How crimes prosecuted - Exceptions.** ~~Every~~ A public offense must be  
6 prosecuted by information or indictment unless it is one in which:

- 7 1. A proceeding is had for the removal of a civil officer of the state or an officer of  
8 some political subdivision ~~thereof of the state~~;
- 9 2. There is a breach of military discipline arising in the ~~militia~~ military forces of this  
10 state, when in actual service, and in the land and naval forces in time of war or  
11 public danger, or which this state may keep, with the consent of Congress, in time  
12 of peace;
- 13 3. The offense is a misdemeanor or an infraction; or
- 14 4. Trial may be had in municipal court.

15 **SECTION 3. AMENDMENT.** Section 37-01-01 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **37-01-01. Definitions.** In this title, unless the context or subject matter otherwise  
18 requires:

- 19 1. "Active duty" includes periods of drill and other training and service as may be  
20 required under state or federal law, regulation, or order.
- 21 2. "Active militia" ~~consists of~~ means the organized and uniformed military forces of  
22 this state, ~~which must be~~ known as the "North Dakota national guard" and the  
23 reserve militia when called to active service.
- 24 ~~2.~~ 3. "Active service" means ~~service on behalf of the state~~ active duty in case of public  
25 disaster, riot, tumult, breach of the peace, resistance of process, or the threat  
26 thereof, whenever called in aid of civil authorities, or under martial law, or at  
27 encampments, whether ordered by state or federal authorities, and includes the  
28 performance of any other duty requiring the entire time of the organization or  
29 person, except when called or drafted into the federal service by the president of  
30 the United States. ~~Such~~ The term includes service in case of, or to prevent,

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- 1           insurrection, riot, or invasion under the order of the commander in chief  
2           communicated through proper military channels.
- 3       ~~3.~~ "Battalion" includes a "squadron" of cavalry, and of the air service as well as a  
4       battalion of infantry, artillery, engineers, and signal corps.
- 5       4. "Company" includes a company of infantry, engineers, and signal corps, an air unit,  
6       a battery of field artillery, a troop of cavalry, or any similar organization in any  
7       branch of the military service authorized by federal law for this state, including a  
8       permanent detachment.
- 9       5. "Defense department" includes the department of army and the department of air  
10      force.
- 11      6. "In service of the United States" and "not in the service of the United States" have  
12      the same meaning as such terms have as used in the National Defense Act [Pub.  
13      L. 64-85; 39 Stat. 166], approved June 3, 1916, and in amendments thereto.
- 14      7. "Militia" means the forces provided for in the Constitution of North Dakota, and is  
15      divided into two classes designated as the active militia and the reserve militia.
- 16      ~~8.~~ 4. "Military forces of this state" ~~consists of~~ means those persons subject to military  
17      duty individuals in the active militia as defined in the Constitution of North Dakota  
18      and those persons subject to duty in the national guard as defined in the National  
19      Defense Act of the United States of America.
- 20      5. "Militia" means a group of individuals defined in the Constitution of North Dakota  
21      with a duty to be in active service.
- 22      ~~9.~~ 6. "National guard" means that part of the military ~~force~~ forces of this state which is  
23      organized, equipped, and federally recognized under the provisions of the National  
24      Defense Act, as amended, of the United States as the "national guard, air national  
25      guard, of the United States and the state of North Dakota". ~~It~~ The national guard  
26      consists of volunteers from the militia and other members allowed by law. The  
27      term includes also the term "national guard of the state of North Dakota".
- 28      10. "On duty" includes ~~periods of drill and of such other training and service as may be~~  
29      ~~required under state or federal law, regulation, or order.~~

1     ~~44.~~ 7.     "Reserve militia" consists of all those ~~persons~~ individuals who are subject to  
2                   service in the active militia, ~~but~~ and who are not serving in the national guard of  
3                   this state.

4                   8.     "State active duty" means active duty on behalf of the state under authority of the  
5                   governor at the expense of the state.

6                   9.     "State defense force" means the group of individuals in the reserve militia in state  
7                   active duty under chapter 37-12.1.

8                   **SECTION 4. AMENDMENT.** Section 37-01-02 of the North Dakota Century Code is  
9                   amended and reenacted as follows:

10                  **37-01-02. Armed military force from another state entering this state for military**  
11 **duty prohibited - Exceptions.** ~~No~~ An armed military force from another state, territory, or  
12 district may not enter this state for the purpose of doing military duty ~~herein~~ without the  
13 permission of the governor, unless such force is a part of the United States ~~army~~ armed forces  
14 or is acting under the authority of the United States of America.

15                  **SECTION 5. AMENDMENT.** Section 37-01-03 of the North Dakota Century Code is  
16                  amended and reenacted as follows:

17                  **37-01-03. Articles of uniform code of military justice applicable in state -**  
18 **Regulations governing - Punishment for offenses while on duty.** The articles of uniform  
19 code of military justice governing the armed forces of the United States as codified in the  
20 Manual for Courts-Martial, United States, 1984 (1998 edition), ~~now in effect~~, are a part of this  
21 title so far as the same are applicable and not modified by any provision of this title. ~~A person~~  
22 An individual who commits an offense while on active duty may be tried by a court-martial  
23 lawfully appointed even after ~~such~~ the duty has terminated, and if found guilty, the accused  
24 must be punished according to the articles of uniform code of military justice and the rules and  
25 regulations governing the armed forces of the United States and within the limits prescribed in  
26 this title and by federal law for the courts-martial in the national guard. In any case in which the  
27 ~~person~~ individual alleged to have committed the offense could be charged either under the  
28 code of military justice or the civil law of this state, the officer whose duty it is to approve ~~such~~  
29 of the charge, in ~~his~~ that officer's discretion, may order the ~~person~~ individual charged or subject  
30 to being charged to be turned over to the civil authorities for trial. ~~Whenever~~ If reference is  
31 made to the articles of uniform code of military justice, to the military service, or to the armed

1 forces of the United States, ~~such the reference shall be deemed to include~~ includes the military  
2 service of this state. The intent of this title and of all laws of this state affecting the military  
3 forces is to conform to all acts and regulations of the United States affecting the same subjects,  
4 and all laws of this state ~~shall~~ must be construed to effect this purpose.

5 **SECTION 6. AMENDMENT.** Section 37-01-04 of the North Dakota Century Code is  
6 amended and reenacted as follows:

7 **37-01-04. Governor's authority to order out national guard - Reserve militia**  
8 **ordered out.** In case of insurrection, invasion, tumult, riot, breach of the peace, or imminent  
9 danger ~~thereof of the same~~, to provide a presence at state ceremonial events, ~~or~~ to provide  
10 assistance to political entities in search and rescue efforts, or to respond to a potential natural  
11 or environmental hazard or nuisance, the governor may order into ~~the state~~ active service of  
12 ~~this state~~ duty any part of the national guard that the governor may ~~deem~~ determine proper.  
13 When the national guard of this state, or a part ~~thereof of the national guard~~, is called forth  
14 under the Constitution of the United States and the laws of the United States, the governor ~~shall~~  
15 may order out for service the remaining troops or ~~such a part thereof of the remaining troops~~ as  
16 may be necessary. If the number of available troops is insufficient, the governor ~~shall~~ may  
17 order out ~~such~~ part of the reserve militia as the governor may deem necessary. Sections  
18 37-12.1-03 through 37-12.1-05 apply to the reserve militia in state active duty under this section  
19 or under section 37-01-06, as if the reserve militia were the state defense force.

20 **SECTION 7. AMENDMENT.** Section 37-01-04.1 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **37-01-04.1. National guard emergency - Costs - Application to emergency**  
23 **commission.** ~~Whenever~~ When the governor orders any portion of the national guard or any  
24 ~~portion thereof~~ military forces of this state into ~~the state~~ active service of the state duty in  
25 accordance with sections 37-01-04 and 37-01-06, the adjutant general shall determine and  
26 record the costs of the ~~national guard~~ military forces of this state in performing ~~such the~~  
27 service. ~~Immediately~~ Before if determined necessary by the adjutant general or immediately  
28 following the termination of ~~such state active service, or prior thereto if it is deemed necessary~~  
29 ~~by the adjutant general~~ duty, the adjutant general shall make application to the state emergency  
30 commission for a grant of funds from the contingency fund or other available funds in the state  
31 treasury in an amount equal to the costs of the ~~national guard~~ military forces of this state in

1 performing ~~such the~~ service. Notwithstanding other provisions of chapter 54-16, it must be  
2 conclusively presumed upon the receipt of ~~such the~~ application by the emergency commission  
3 from the adjutant general that an emergency exists, and ~~such the~~ commission shall ~~forthwith~~  
4 grant and direct the transfer to the credit of the national guard from the contingency fund or  
5 ~~such~~ other funds as may be available of an amount equal to that certified in ~~such the~~  
6 application by the adjutant general.

7 **SECTION 8. AMENDMENT.** Section 37-01-06 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **37-01-06. Seizure of property by governor to avert strike or lockout and to avert**  
10 **disaster or calamity.** The governor, as commander in chief of the military forces of this state,  
11 may take any measure necessary to prevent or avert any impending disaster or calamity ~~which~~  
12 ~~that~~ threatens to destroy life or property in this state, or which may entail loss of life or property,  
13 or result in great suffering or hardship among the people of this state. In the event of any strike  
14 or lockout, or threatened strike or lockout, of the employees of any coal mine or public utility  
15 which threatens to endanger the life and property of the people of this state, the governor may  
16 commandeer and take for use during ~~any-such the~~ emergency any ~~such~~ coal mine or public  
17 utility together with the machinery, equipment, and appurtenances of ~~any-such the~~ mine or  
18 utility which may be necessary to save life and property. The governor may employ all help  
19 necessary for the operation of ~~any-such the~~ coal mine or public utility and may make and enter  
20 into all contracts required for the operation ~~thereof~~ of the coal mine or public utility. ~~He~~ The  
21 governor may purchase any and all material necessary for operating ~~any-such the~~ coal mine or  
22 public utility and may sell and distribute the products or services ~~thereof~~ of the coal mine or  
23 public utility.

24 **SECTION 9. AMENDMENT.** Section 37-01-07 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **37-01-07. Facilities and services at disposal of governor upon taking over coal**  
27 **mine or public utility.** When the governor is required to take over and use any coal mine or  
28 public utility as provided in section 37-01-06, ~~he~~ the governor may:

- 29 1. Use any of the facilities or offices of this state.
- 30 2. Command the services of the military forces of this state ~~militia~~.

1           **SECTION 10. AMENDMENT.** Section 37-01-08 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-01-08. Proclamation of state of insurrection - Governor may proclaim.** If any  
4 portion of the ~~militia is~~ military forces of this state are employed in aid of the civil authority, the  
5 governor, if in ~~his~~ the governor's judgment the maintenance of law and order will be promoted  
6 ~~thereby~~, may declare by proclamation the county or city in which the troops are serving, or any  
7 specified portion ~~thereof~~ of the county or city, to be in a state of insurrection.

8           **SECTION 11. AMENDMENT.** Section 37-01-09 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10          **37-01-09. Service medals.** The commander in chief of the national guard of this state  
11 may issue an order providing suitable service medals or ribbons or marks of distinction for all  
12 officers and enlisted ~~men~~ members who have served in the ~~national guard~~ military forces of this  
13 state for an aggregate period of five, ten, fifteen, and twenty years, respectively, and for a like  
14 service ~~thereafter~~ after that time or for service on active duty with the armed forces of the  
15 United States. ~~Such~~ The service medals or ribbons may also be awarded to any member of the  
16 armed forces of the United States who shall serve in an active duty capacity with the North  
17 Dakota national guard for a period of two or more years.

18          **SECTION 12. AMENDMENT.** Section 37-01-10 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20          **37-01-10. Distinguished service medal - Presented by whom - Qualifications -**  
21 **Regulations governing.** The governor, in the name of the legislative assembly of this state,  
22 may present a military medal, known as the "distinguished service medal", to any member or  
23 former member of the ~~North Dakota national guard~~ military forces of this state who in the  
24 discharge of ~~his~~ military duties ~~has~~ is distinguished ~~himself~~ by extraordinary heroism or  
25 devotion to duty or to a member or former member of the armed forces of the United States or  
26 the national guard of another state who performs outstanding and extraordinary service for the  
27 national guard of this state. ~~Such~~ The medal must bear a suitable inscription and ribbon and  
28 must be of suitable military design. The award of a distinguished service medal must be made  
29 by a board of awards consisting of the adjutant general and senior officers of regiments or  
30 separate organizations of the national guard of this state. ~~Such~~ The board must be instituted by  
31 a general order of the adjutant general's office prescribing rules and regulations for its meetings

1 and method of procedure. ~~Not more than~~ Only one distinguished service medal may be  
2 awarded to any ~~one person~~ individual and ~~no medals~~ a medal may not be awarded or  
3 presented to ~~any person~~ an individual whose service subsequent to the recommendations for  
4 award has not been honorable. For each succeeding citation, ~~a person~~ an individual to whom a  
5 distinguished service medal has been awarded or presented previously is entitled to wear, as  
6 the adjutant general of the state may direct, a metal device attached to the ribbon of ~~such~~ the  
7 distinguished service medal. In the event of the death of ~~a person~~ an individual to whom a  
8 distinguished service medal has been awarded, the presentation must be made to the nearest  
9 of kin.

10 **SECTION 13. AMENDMENT.** Section 37-01-10.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12 **37-01-10.1. North Dakota legion of merit medal - Presented by whom -**  
13 **Qualifications - Regulations governing.** The governor, in the name of the legislative  
14 assembly, may present a military medal known as the "North Dakota legion of merit" to any  
15 member or former member of the ~~North Dakota national guard~~ military forces of this state who,  
16 in the discharge of ~~his~~ military duty, ~~has~~ is distinguished ~~himself~~ by outstanding service and  
17 twenty years of duty to the ~~North Dakota national guard~~ military forces of this state, ~~his~~ the  
18 community, state, and nation. ~~Such~~ The medal may also be awarded to a member or former  
19 member of the armed forces of the United States or of the national guard of another state who  
20 performs outstanding service for the guard of this state. The medal must bear a suitable  
21 inscription and must be of military design as prescribed by the adjutant general. The medal  
22 must be awarded by the board of awards in the same manner as prescribed in section  
23 37-01-10.

24 **SECTION 14. AMENDMENT.** Section 37-01-11 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **37-01-11. Members of active militia military forces exempt from civil process.** ~~No~~  
27 ~~person-~~ An individual belonging to the ~~active militia~~ military forces of this state may not be  
28 arrested on any warrant, except for treason or felony, while going to, remaining at, or returning  
29 from any place which ~~he~~ that individual may be required to attend for ~~military~~ active duty.

30 **SECTION 15. AMENDMENT.** Section 37-01-12 of the North Dakota Century Code is  
31 amended and reenacted as follows:

1           **37-01-12. When members of ~~national guard or militia~~ military forces exempt from**  
2 **civil or criminal liability.** ~~Members of~~ An individual in the national guard or militia ordered into  
3 ~~the military forces of this state on active service of the state by any proper authority are~~ duty is  
4 not civilly nor criminally liable for any act or acts done by ~~them~~ that individual in the line of duty.  
5 ~~Members of~~ An individual in the national guard or militia military forces of this state ordered ~~into~~  
6 in state active ~~service of the state~~ must be duty is presumed to be acting in the line of duty  
7 except in the case of willful misconduct or gross negligence. When a suit or proceeding is  
8 commenced in any court against an officer of the ~~militia~~ military forces of this state for any act  
9 done by ~~such~~ the officer acting in his an official capacity in the discharge of any duty under the  
10 provisions of this title, or against any person acting under the authority or order of ~~any such~~ the  
11 officer or by virtue of any warrant issued by ~~any such~~ the officer pursuant to law, the defendant  
12 is entitled to legal representation provided by the attorney general, an assistant attorney  
13 general, or a judge advocate officer at no cost. The defendant in ~~such~~ the action may require  
14 the person prosecuting or instituting the suit or proceeding to file security for the payment of the  
15 costs that may be awarded to the defendant ~~therein~~. The defendant in ~~all such~~ these cases  
16 may make a general denial and give the special matter in evidence. If the action is dismissed  
17 or a verdict or judgment is rendered against the plaintiff, the defendant shall recover treble  
18 costs in the action.

19           **SECTION 16. AMENDMENT.** Section 37-01-13 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21           **37-01-13. Right of way of ~~national guard~~ military forces while on duty -**  
22 **Exceptions - Interference with - Penalty.** ~~Commanding officers~~ A commanding officer of any  
23 portion of the ~~national guard~~ military forces of this state parading or performing any ~~military~~  
24 active duty in any street or highway may require ~~any or all persons~~ an individual in ~~such~~ the  
25 street or highway to yield the right of way, except ~~that~~ the commanding officer may not interfere  
26 with the carriage of the United States mail, the legitimate functions of the police, and the  
27 progress and operations of hospital ambulances and fire departments ~~may not be interfered~~  
28 ~~with thereby~~. The adjutant general may provide for the issuance of special identification plates  
29 to be placed upon the privately owned vehicles of members of the ~~national guard~~ military forces  
30 of this state in order to properly identify vehicles operated by ~~such~~ these members. ~~All persons~~  
31 ~~who hinder~~ A person that hinders, delay delays, or obstruct obstructs any portion of the

1 ~~national guard wherever~~ military forces of this state when parading or performing any ~~military~~  
2 active duty are guilty of a class B misdemeanor.

3 **SECTION 17. AMENDMENT.** Section 37-01-14 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **37-01-14. Free passage through toll gates, bridges, and ferries.** ~~Any person~~ An  
6 individual belonging to the military forces of this state, going to or returning from any parade,  
7 encampment, drill, or meeting ~~which he~~ that the individual may be required by law to attend,  
8 ~~must be allowed to~~ pass free through all toll gates and over all toll bridges and ferries, with ~~his~~  
9 the individual's conveyance and with any military property of this state in ~~his~~ the individual's  
10 charge, if ~~he~~ the individual is in uniform or if ~~he~~ the individual presents an order for active duty  
11 or a certificate of membership in the national guard.

12 **SECTION 18. AMENDMENT.** Section 37-01-16 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14 **37-01-16. Unlawful conversion of military property - Unlawful wearing of uniforms**  
15 **and devices indicating rank - Penalty.** ~~Any~~ A person ~~who shall~~ is guilty of an offense that is  
16 a class B misdemeanor if that person:

- 17 1. ~~Secretly sell~~ sells, dispose disposes of, ~~offer~~ offers for sale, ~~purchase~~ purchases,  
18 ~~retain~~ or retains after a demand made by a commissioned officer of the ~~national~~  
19 ~~guard~~ military forces of this state, or in any manner ~~pawn~~ or pledge any arms,  
20 uniforms, equipment, or other military property issued under the provisions of this  
21 title; or
- 22 2. ~~Wear~~ Wears any uniform or any device, strap, knot, or insignia of any design or  
23 character used as a designation of grade, rank, or office, prescribed by law, or by  
24 general regulation duly promulgated, for the use of the ~~national guard~~ military  
25 forces of this state, or any similar device, strap, knot, or insignia ~~similar thereto~~,  
26 unless ~~he is~~ a member of the ~~army or navy~~ armed forces of the United States or of  
27 the ~~national guard~~ military forces of this or any other state, a member of an  
28 association wholly composed of soldiers who have been honorably discharged  
29 from the service of the United States, or a member of the order of sons of  
30 veterans;

31 ~~is guilty of a class B misdemeanor.~~

1           **SECTION 19. AMENDMENT.** Section 37-01-19 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-01-19. Commanding officer may arrest trespassers and disturbers.** Upon any  
4 occasion of active duty, the commanding officer may place under arrest during the continuance  
5 of ~~such~~ that duty, any ~~person~~ individual who ~~shall~~:

- 6           1. ~~Trespass~~ Trespasses upon the campground, parade ground, armory, or other  
7 place devoted to ~~such~~ active duty;
- 8           2. ~~Interrupt~~ Interrupts or ~~molest~~ molests in any way or manner the orderly discharge  
9 of duty by those under arms; or
- 10          3. ~~Disturb~~ Disturbs or ~~prevent~~ prevents the passage of troops going to or returning  
11 from ~~such~~ active duty.

12           **SECTION 20. AMENDMENT.** Section 37-01-20 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **37-01-20. Penalty for resisting when state of insurrection exists.** In a place  
15 declared by proclamation of the governor to be in a state of insurrection, any person ~~who shall~~  
16 is guilty of an offense that is a class C felony if that person:

- 17          1. ~~Resist~~ Resists the execution of process;
- 18          2. ~~Aid~~ Aids the rescue or escape of another from lawful custody or confinement; or
- 19          3. ~~Resist~~ Resists a force ordered out by the governor to quell or suppress an  
20 insurrection;

21 ~~is guilty of a class C felony.~~

22           **SECTION 21. AMENDMENT.** Section 37-01-21 of the North Dakota Century Code is  
23 amended and reenacted as follows:

24           **37-01-21. Military parades by certain bodies prohibited - Exceptions -~~Penalty.~~ ~~No~~**  
25 ~~body of men~~ A group of individuals, other than the ~~regularly organized units of the national~~  
26 ~~guard and militia~~ military forces of this state and the troops of the United States, may not  
27 associate ~~themselves~~ together as a military ~~company~~ or organization or parade in public with  
28 firearms, and ~~no~~ a municipality may not raise or appropriate any money toward arming or  
29 equipping, uniforming or in any other way supporting, sustaining, or providing drillrooms or  
30 armories for, any ~~such body of men~~ group of the same. Associations wholly composed of  
31 soldiers honorably discharged from the service of the United States and members of the order

1 of sons of veterans may parade in public with firearms ~~on Decoration Day, upon the reception~~  
2 ~~of any regiment or company of soldiers returning from service, or for the purpose of escort duty~~  
3 ~~at the burial of deceased soldiers.~~ Students in educational institutions where military science is  
4 a prescribed part of the course of instruction, with the consent of the governor, may drill and  
5 parade with firearms in public under the superintendence of their teachers. This section does  
6 not prevent any organization authorized to do so by law from parading with firearms nor prevent  
7 parades by the national guard of other states. ~~Any person violating any provision of this section~~  
8 ~~is guilty of a class B misdemeanor.~~

9 **SECTION 22. AMENDMENT.** Section 37-01-22 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11 **37-01-22. Governor may make rules and regulations governing military forces in**  
12 **state - Limitations - Effect.** The governor may make ~~such~~ rules and regulations as ~~he may~~  
13 ~~deem~~ the governor deems expedient for the government of the military forces of this state, ~~but~~  
14 ~~such.~~ The rules and regulations must conform to the provisions of this title and, as nearly as  
15 practicable, to those governing the armed forces of the United States army. When  
16 promulgated, ~~such~~ these rules and regulations ~~have the same force and effect as the~~  
17 ~~provisions of this title and~~ may not be repealed, altered, amended, or added to except by the  
18 ~~commanding officer of the national guard~~ adjutant general with the approval of the governor.

19 **SECTION 23. AMENDMENT.** Section 37-01-23 of the North Dakota Century Code is  
20 amended and reenacted as follows:

21 **37-01-23. Custom and usage of the armed forces of the United States to govern**  
22 **national guard military forces.** All matters relating to the organization, discipline, and  
23 government of the ~~national guard~~ military forces of this state, not otherwise provided for in this  
24 title or in the general regulations, must be decided by the custom and usage of the armed  
25 forces of the United States.

26 **SECTION 24. AMENDMENT.** Section 37-01-24 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **37-01-24. Jurisdiction of troops occupying a military district under martial law to**  
29 **pursue, arrest, and subpoena.** Troops occupying a military district established under martial  
30 law, if necessary, may pursue, arrest, and subpoena persons wanted in ~~said~~ the military district,  
31 anywhere within this state.

1           **SECTION 25. AMENDMENT.** Section 37-01-25 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-01-25. Officers and employees of state or political subdivisions in ~~national~~**  
4 **guard the military forces or federal service to retain status for period of active service.**

5 All officers and employees of this state or of a political subdivision ~~thereof~~ who:

- 6           1. ~~Are volunteer or are~~ members of the ~~national guard~~;
- 7           2. ~~Are members of~~ military forces of this state or the armed forces reserve of the  
8 United States of America; ~~or~~
- 9           3. ~~Shall be~~ are subject to call in or volunteer for the federal service by the president of  
10 the United States; ~~or~~
- 11           4. ~~Shall volunteer for such service,~~

12 when ordered by proper authority to active ~~noncivilian employment~~ duty, are entitled to a leave  
13 of absence from ~~such civil service~~ duty for the period of ~~such active service~~ duty without loss of  
14 status or efficiency rating. If ~~such persons~~ these individuals have been in the continuous  
15 employ of the state or political subdivision for ninety days immediately preceding the leave of  
16 absence, ~~they shall~~ these individuals must receive twenty workdays each calendar year without  
17 loss of pay. In addition, any leave of absence necessitated by a full or partial mobilization of the  
18 reserve and national guard forces of the United States of America, or emergency state active  
19 duty, must be without loss of pay for the first thirty days ~~thereof~~ less any other paid leave of  
20 absence ~~which~~ that may have been granted during the calendar year pursuant to this section.  
21 However, if leave is required for weekend, daily, or hourly periods of drill for military training on  
22 a day in which a public officer or employee is scheduled to perform the work of the state or of a  
23 political subdivision, the officer or employee must be given the option of time off with a  
24 concurrent loss of pay for the period missed or must be given an opportunity to reschedule the  
25 workperiod so that the reserve or national guard weekend, daily, or hourly drill or period of  
26 training occurs during time off from work without loss of status or efficiency rating.

27           **SECTION 26. AMENDMENT.** Section 37-01-25.1 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29           **37-01-25.1. Reinstatement to former position - Appeals - Penalty.** ~~Any person~~ An  
30 individual referred to in section 37-01-25, who within ninety days after receiving a discharge  
31 other than dishonorable from ~~such active noncivilian service~~ duty, and who is not physically or

1 otherwise incapacitated to perform the duties of the position formerly held by ~~him~~ that  
2 individual, applies for ~~such~~ the position held by ~~him~~ that individual at the time of entering ~~such~~  
3 active ~~service~~ duty, must be given ~~such~~ a position or one of like seniority, status, and pay, and  
4 is immune to discharge from ~~said~~ that position except for cause, as defined by the department  
5 of veterans' affairs, for a period of one year after entering upon the duties of ~~his~~ the civilian  
6 position. ~~Any such person~~ If that individual is not so reemployed or ~~who~~ is discharged within a  
7 period of one year without cause, that individual has the right of appeal to the department of  
8 veterans' affairs under ~~such~~ rules and regulations as the administrative committee on veterans'  
9 affairs may promulgate. If the department of veterans' affairs finds that ~~such person~~ the  
10 individual was not reemployed or was discharged within one year without cause, it may order  
11 any officer or other appointing power to comply with the provisions of this chapter. If ~~such~~  
12 ~~person~~ the individual at the time of entering ~~noncivilian~~ active service has been an officer or  
13 employee of the state ~~of North Dakota~~ or any political subdivision ~~or city thereof~~, having a merit  
14 or civil service system with an appeal board, ~~such~~ the appeal board has the same powers as  
15 are granted to the department of veterans' affairs in this section. In order to carry out the  
16 provisions of this chapter, the department of veterans' affairs ~~is hereby authorized to~~ may  
17 contract and pay for technical or other services with any board, council, or commission  
18 established by ~~such~~ state agencies, ~~departments, or divisions~~ to administer ~~such~~ these  
19 systems. Any person violating any of the provisions of this section is guilty of an infraction.

20 **SECTION 27. AMENDMENT.** Section 37-01-26 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22 **37-01-26. Pay of officers and enlisted ~~men~~ individuals assigned to special duty.**

23 Any commissioned officer assigned to special duty by the governor or under ~~his~~ the governor's  
24 authority must be paid duty pay for the time actually employed, ~~and his necessary traveling.~~  
25 The governor may pay necessary travel expenses and subsistence when such payment is  
26 ~~authorized by the governor.~~ Judge advocates must be paid ~~such~~ compensation as ~~shall be~~  
27 approved by the governor for services in bringing any suits provided for in this title, and in  
28 actions or proceedings by habeas corpus, certiorari, or otherwise. All staff officers must be paid  
29 duty pay for special service ordered by competent authority with the approval of the governor.  
30 Enlisted ~~men on~~ individuals in state active duty ~~under orders of the governor, but~~ and not at the  
31 time serving with troops, ~~shall~~ must receive the same rate of pay as is provided for the national

1 guard when called into state active service by the governor duty, and ~~their~~ actual traveling  
2 expenses and subsistence.

3 **SECTION 28. AMENDMENT.** Section 37-01-28 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5 **37-01-28. Failure of member of the militia military forces to appear - Penalty.**  
6 ~~Every member of~~ An individual in the militia military forces of this state who is ordered ~~out of~~  
7 ~~ordered on duty~~, who volunteers, or who is drafted under the provisions of this title on or for  
8 state active duty, who does not appear at the time and place designated by ~~his~~ a commanding  
9 officer, the adjutant general, or the mustering officer, and who does not produce a sworn  
10 certificate of physical disability from a physician in good standing showing ~~his~~ an inability to  
11 appear, must be taken as a deserter and dealt with as prescribed in the uniform code of military  
12 justice ~~of the United States~~.

13 **SECTION 29. AMENDMENT.** Section 37-01-30 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **37-01-30. Incurring of expenses by officers of militia military forces - Auditing**  
16 **and payment of accounts.** ~~No~~ An officer of the militia military forces of this state may not  
17 incur any expense whatsoever to be paid by this state, except ~~such~~ as is authorized in this title,  
18 without first obtaining the authority of the governor. In extreme emergencies, however, the  
19 commanding officer of any organization or detachment of the national guard may make  
20 purchases of ~~such~~ necessities as are absolutely required for the immediate use and care of ~~his~~  
21 the officer's command. A report of ~~such~~ this action containing a statement of the articles  
22 purchased and the price ~~thereof~~ of the articles must be made ~~forthwith~~ as soon as practicable  
23 through the channel of the adjutant general. The commander in chief ~~shall be~~ is the auditor of  
24 all accounts for property purchased by the adjutant general, and the copies of the orders or  
25 contracts under which ~~such~~ these purchases are made must be filed in the office of the  
26 paymaster general. All other military accounts payable by the state must be audited by the  
27 adjutant general. Military accounts ~~thus~~ audited must be paid ~~by the paymaster general of the~~  
28 ~~state~~ from the proper appropriation made by the legislative assembly.

29 **SECTION 30. AMENDMENT.** Section 37-01-41 of the North Dakota Century Code is  
30 amended and reenacted as follows:

31 **37-01-41. Claims against the national guard military forces.**

- 1           1. Any individual injured by an activity of the ~~North Dakota national guard~~ military  
2           forces of this state may submit a claim to the adjutant general. As used in this  
3           section, "claim" means a monetary demand upon the state for personal injury or  
4           property damage arising from activities of the ~~national guard~~ military forces of this  
5           state while on state active duty.
- 6           2. The adjutant general may approve a claim for less than two thousand five hundred  
7           dollars. If the claim is approved by the adjutant general, ~~he~~ the adjutant general  
8           shall apply to the emergency commission for an amount from the contingency fund  
9           sufficient to pay the claim. It must be conclusively presumed upon the receipt of  
10          such application by the emergency commission that an emergency exists, and the  
11          commission shall direct the transfer of the requested amount to the adjutant  
12          general from the contingency fund. The adjutant general, upon receipt of the  
13          transfer from the contingency fund, shall pay the claim.
- 14          3. The adjutant general shall forward any claim exceeding two thousand five hundred  
15          dollars to the emergency commission with ~~his~~ the adjutant general's  
16          recommendation. If the claim is approved by the emergency commission, it must  
17          be conclusively presumed that an emergency exists, and the commission shall  
18          direct the transfer of the approved amount to the adjutant general from the  
19          contingency fund. The adjutant general, upon receipt of the transfer from the  
20          contingency fund, shall pay the claim.
- 21          4. Decisions of the adjutant general or the emergency commission partially or totally  
22          denying a claim may not be appealed to any court of this state.
- 23          5. Claims may not be submitted to the legislative assembly unless the claim has been  
24          partially or totally denied by the adjutant general or the emergency commission.

25           **SECTION 31. AMENDMENT.** Section 37-02-01 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **37-02-01. Militia - How constituted - Exceptions.** All able-bodied male citizens, and  
28 all able-bodied ~~persons~~ males of foreign birth who have declared ~~their~~ an intention to become  
29 citizens, who are more than eighteen, and less than forty-five, years of age, and who are  
30 residents of this state, constitute the militia, unless exempted by the laws of the United States,  
31 or by the laws of this state.

1           **SECTION 32. AMENDMENT.** Section 37-02-02 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-02-02. North Dakota national guard - Composition.** The North Dakota national  
4 guard consists of ~~the~~ some of the militia and others that are regularly enlisted and enrolled  
5 ~~male citizens members,~~ within the age limits prescribed by the National Defense Act of 1920,  
6 as it may be amended; organized, armed, and equipped as provided in this title, and of  
7 commissioned officers within the ages conforming to the rules and regulations promulgated by  
8 the department of the army and department of the air force as conditions precedent to federal  
9 recognition. ~~The governor may authorize the appointment or enlistment of female citizens of~~  
10 ~~the state in the medical corps, nurses corps, and other noncombatant branches and service of~~  
11 ~~the national guard, and while so serving, they have the same status as male members of the~~  
12 ~~national guard. Such national guard must be composed of such units as the defense~~  
13 ~~department of the United States may allocate and designate, with the approval of the governor~~  
14 ~~of this state.~~

15           **SECTION 33. AMENDMENT.** Section 37-02-04 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **37-02-04. Governor to be commander in chief of militia military forces - Inability**  
18 **of governor to act.** ~~The military establishment of this state consists of a department of the~~  
19 ~~army, a department of the air force, and a department of military records. The governor of this~~  
20 ~~state, by virtue of his office, is commander in chief of the military establishment forces of this~~  
21 ~~state except as to such portions thereof as at times may be when the military forces are in the~~  
22 ~~service of the United States. The adjutant general as chief of staff in the name of the governor~~  
23 ~~shall transmit orders to staff officers and commanders of subordinate units. ~~Whenever~~ If the~~  
24 ~~governor is unable to perform the duties of commander in chief, the adjutant general is in~~  
25 ~~command.~~

26           **SECTION 34. AMENDMENT.** Section 37-02-07 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28           **37-02-07. Composition of state staff corps and detachment - Vacancies.** The  
29 number and grade of officers and enlisted men in the state staff corps and detachment must be  
30 as prescribed by federal law and regulations, ~~but~~ In imminent danger of or in case of war,  
31 ~~invasion, insurrection, or riot, or imminent danger thereof, the governor may increase such this~~

1 force temporarily to meet ~~such~~ the emergency. All appointed officers of the state staff corps  
2 and detachment must have had previous military experience and shall hold their positions until  
3 they have reached the age of sixty-four years unless retired prior to that time by reason of  
4 resignation, disability, or for cause to be determined by an efficiency board or a court-martial  
5 legally convened for that purpose, as the exigencies of the case may warrant. Vacancies  
6 among ~~said~~ these officers must be filled by appointment from the officers of the national guard  
7 or from other classes eligible under federal law or regulation.

8 **SECTION 35. AMENDMENT.** Section 37-03-03 of the North Dakota Century Code is  
9 amended and reenacted as follows:

10 **37-03-03. Seal of adjutant general - Delivery to successor.** The adjutant general  
11 shall have a seal of ~~his~~ office, and ~~such~~ the adjutant general shall deliver the seal ~~must be~~  
12 ~~delivered by him~~ to his the adjutant general's successor.

13 **SECTION 36. AMENDMENT.** Section 37-03-04 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **37-03-04. Assistance and expense of office - Payment of accounts.** The adjutant  
16 general may have ~~such~~ necessary clerks, instructors, caretakers, employees, and laborers,  
17 within the limitations prescribed ~~in~~ by legislative appropriations ~~made by the legislative~~  
18 ~~assembly from time to time, as may be required.~~ The adjutant general shall determine national  
19 guard membership requirements for employment. The expense of the adjutant general's  
20 department, including the salary of the adjutant general and of the assistant adjutant general,  
21 clerkhire, the cost of furniture, light, fuel, and postage, and other office expenses, must be paid  
22 from the general fund by warrants drawn by the state auditor on the state treasurer upon the  
23 order of the governor.

24 **SECTION 37. AMENDMENT.** Section 37-03-05 of the North Dakota Century Code is  
25 amended and reenacted as follows:

26 **37-03-05. General duties of adjutant general.** The adjutant general is in active  
27 control of the military ~~department~~ of this state and shall:

- 28 1. Perform the duties pertaining to the adjutant general and other chiefs of staff  
29 departments under the regulations and customs of the United States ~~army~~.
- 30 2. Superintend the preparation of all military returns and reports required by the  
31 United States from this state.

- 1           3.    Keep a register of all the officers of the ~~militia and national guard~~ military forces of  
2           this state.
- 3           4.    Keep in the office of the adjutant general all records and papers required to be kept  
4           and filed in the office.
- 5           5.    Cause to be prepared and issued all necessary blank books, blanks, forms, and  
6           notices required to carry into full effect this title. All ~~such~~ books and blanks are the  
7           property of this state.
- 8           6.    Adopt any regulations relating to the preparation of reports and returns, and to the  
9           care and preservation of military property belonging to this state and to the United  
10          States, as in the adjutant general's opinion the conditions demand. The  
11          regulations are operative when promulgated in the form of general orders,  
12          circulars, or letters of instruction.
- 13          7.    Render annually to the governor a statement in detail showing the acquisition and  
14          disposition of all clothing, ordnance, arms, ammunition, and other military property  
15          on hand or issued.
- 16          8.    Keep in the office of the adjutant general a list of the retired officers of the  
17          ~~organized militia~~ military forces of this state, showing age, military experience, and  
18          training of each.
- 19          9.    Perform all other duties prescribed for the adjutant general by law.

20           **SECTION 38. AMENDMENT.** Section 37-03-06 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22           **37-03-06. Adjutant general responsible for military property in state -**

23 **Requirements governing shipment - Reports.** The adjutant general is responsible for all  
24 arms, ordnance, accoutrements, equipment, and other military property which may be issued to  
25 this state by the secretary of defense in compliance with law. The adjutant general shall  
26 prepare a return of ~~said~~ these arms and other property of the United States at the times and in  
27 the manner requested by the secretary of defense. Upon the order of the governor, the  
28 adjutant general shall turn into the ordnance department of the United States army the rifles,  
29 carbines, bayonets, bayonet scabbards, gun slings, belts, and ~~such~~ other necessary  
30 accoutrements and equipment, the property of the United States in possession of this state,  
31 which may be replaced from time to time by new arms and equipment sent by the United States

1 in substitution ~~therefor~~, and shall cause the same to be shipped under instructions from the  
2 secretary of defense to the designated arsenal or depot at the expense of the United States.  
3 When the national guard of this state is fully armed and equipped with standard service  
4 magazine arms and the standard equipment and accoutrements of the United States army, the  
5 adjutant general shall cause all the remaining arms and equipment, the property of the United  
6 States and in possession of this state, to be transferred and shipped as directed in this section.

7 **SECTION 39. AMENDMENT.** Section 37-03-07 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **37-03-07. Military property - Issuance - Purchase.** The adjutant general shall issue,  
10 or cause to be issued, all military property. ~~No military~~ Military property may not be issued to  
11 ~~persons or organizations~~ a person other than ~~those~~ a person belonging to the ~~national guard~~  
12 military forces of this state ~~or to such portions of the reserve militia as may be called out by the~~  
13 ~~governor~~. Purchases of property must be by the office of management and budget or as  
14 otherwise provided by law. In case of insurrection, invasion, tumult, riot, or breaches of the  
15 peace, or of imminent danger thereof, or other exigency, the governor, upon the certificate of  
16 the commanding officer of the ~~national guard~~ military forces, may suspend temporarily the  
17 operation of this section and direct the adjutant general to purchase in the open market ~~such~~  
18 any military property as may be required. The adjutant general shall report ~~such~~ this action,  
19 with the reason ~~therefor~~ for the action, and a statement of the property purchased and the  
20 prices paid ~~therefor~~ for the property, to the legislative assembly at its next session.

21 **SECTION 40. AMENDMENT.** Section 37-03-09 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23 **37-03-09. Funds for national guard - Plan of proposed field service to be**  
24 **submitted before receiving.** In order that the national guard may receive the benefit of the  
25 funds provided by the Congress of the United States, the adjutant general shall submit a plan of  
26 proposed field or camp service of instruction prepared by the commanding officer of the  
27 national guard for the ensuing year. ~~Such~~ The plan must contain an estimate of the funds  
28 required for payment, subsistence, and transportation of that portion of the national guard  
29 participating ~~therein~~ in the instruction. The estimate must contain the details and must be made  
30 out in the form required by instructions from the secretary of defense.

1           **SECTION 41. AMENDMENT.** Section 37-03-11 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-03-11. Compilation of military law by adjutant general - Distribution -**  
4 **Textbooks and reports issued.** The adjutant general, when necessary, shall cause the  
5 military law, the general regulations of this state, and the articles of uniform code of military  
6 justice of the United States, to be printed, indexed, and bound in proper and compact form at  
7 the expense of the state and shall distribute one copy ~~thereof~~ to each unit or separate  
8 headquarters and to each commissioned officer of this state. The adjutant general shall issue  
9 to each commissioned officer and headquarters, one copy of each necessary textbook and of  
10 ~~such~~ the annual reports concerning the ~~militia~~ military forces of this state as the governor may  
11 direct.

12           **SECTION 42. AMENDMENT.** Section 37-03-13 of the North Dakota Century Code is  
13 amended and reenacted as follows:

14           **37-03-13. Adjutant general to control military installations - Maintenance fund -**  
15 **Insurance.**

- 16           1. The adjutant general of the state of North Dakota has full control of Camp Gilbert  
17 C. Grafton, Ramsey County, Fraine Barracks, Burleigh County, national guard air  
18 base facilities constituting a portion of Hector Airfield in Cass County, all in North  
19 Dakota and ~~such~~ other real property, installations, and facilities that may be  
20 acquired or leased by this state or the office of the adjutant general for military  
21 purposes. All moneys received from the sale of timber, stone, agricultural  
22 products, or other material taken from the properties and the proceeds of any  
23 leases or subleases ~~thereof~~ of the properties and other proceeds from the sale of  
24 military property must be paid into the state treasury, and kept as a separate fund  
25 and are ~~hereby~~ appropriated for the improvement of the properties for military uses  
26 and must be paid out upon proper vouchers approved by the adjutant general in  
27 accordance with the ~~act~~ Act of Congress granting the lands, installations, or  
28 facilities to the state of North Dakota or as otherwise authorized by law.
- 29           2. The adjutant general, after consultation with the insurance commissioner ~~of~~  
30 ~~insurance~~, shall insure with the state fire and tornado fund in accordance with  
31 chapter 26.1-22 ~~such~~ buildings, installations, facilities or ~~their~~ contents or portions

1           ~~thereof of the same as he shall in his discretion determine~~ the adjutant general  
2           determines to be in the best interests of the state. The adjutant general may not  
3           insure buildings or property that are subject to replacement by the United States.

4           **SECTION 43. AMENDMENT.** Section 37-04-01 of the North Dakota Century Code is  
5           amended and reenacted as follows:

6           **37-04-01. Commissioned officers of national guard - Qualifications.** Officers of the  
7           national guard may not be commissioned ~~as such~~ unless they are at least nineteen years of  
8           age and shall have been selected from the classes of persons having the qualifications  
9           prescribed by federal law.

10          **SECTION 44. AMENDMENT.** Section 37-04-02 of the North Dakota Century Code is  
11          amended and reenacted as follows:

12          **37-04-02. Commissioned officer of national guard to be examined.** ~~Any person~~ An  
13          individual appointed and commissioned an officer of the national guard ~~shall~~ must successfully  
14          pass ~~such~~ tests as to his physical, moral, and professional fitness as ~~shall be~~ prescribed by  
15          federal law, ~~and the examination to determine his qualifications for a commission also shall be~~  
16          ~~as prescribed by federal law.~~

17          **SECTION 45. AMENDMENT.** Section 37-04-03 of the North Dakota Century Code is  
18          amended and reenacted as follows:

19          **37-04-03. Officers commissioned by governor - Assigning or reassigning officers.**  
20          Officers must be commissioned by the governor, and each commission must designate the arm  
21          or branch of service in which the officer named ~~therein~~ is commissioned. Officers must be  
22          assigned or reassigned to duty in the various regiments or lesser separate organizations by the  
23          immediate commander ~~thereof of the regiments or organizations.~~

24          **SECTION 46. AMENDMENT.** Section 37-04-07 of the North Dakota Century Code is  
25          amended and reenacted as follows:

26          **37-04-07. Responsibility for efficiency.** The officer commanding the national guard  
27          may cause those under his the officer's command to perform any military duty, and he is  
28          responsible to the governor for the general efficiency of the national guard and for the drill,  
29          instruction, small arms and artillery practice, movements, operations, and care of the troops.  
30          Commanding officers of organizations are responsible to their immediate commanders for the  
31          equipment, drill, instruction, movements, and efficiency of their respective commands. All

1 commissioned officers and enlisted ~~men~~ members are responsible to their immediate  
2 commanding officers for prompt and unhesitating obedience, proper drill, and the preservation  
3 and proper use of the property of this state or of the organization which is in their possession.

4 **SECTION 47. AMENDMENT.** Section 37-04-08 of the North Dakota Century Code is  
5 amended and reenacted as follows:

6 **37-04-08. Pay received by personnel of the national guard.** Every commissioned  
7 officer of the national guard shall receive from this state, while engaged in any service ordered  
8 by the governor, pay and allowances at the rate allowed by law to officers of similar rank and  
9 length of service in the United States army. The adjutant general and deputy assistant adjutant  
10 general when receiving salary from the state and not on active duty in a federal status shall  
11 receive ~~such~~ compensation as may be appropriated by the legislative assembly for that  
12 purpose, provided that when the adjutant general receives compensation from the government  
13 of the United States as director of selective service, ~~such~~ the compensation must be deducted  
14 from the compensation otherwise due ~~him~~ from the state and ~~he~~ may be paid from state funds  
15 only the difference, if any, between the compensation from the United States and the  
16 compensation provided in this section.

17 **SECTION 48. AMENDMENT.** Section 37-04-09 of the North Dakota Century Code is  
18 amended and reenacted as follows:

19 **37-04-09. Expenses allowed officers and enlisted ~~men~~ members of national**  
20 **guard.** When officers or enlisted ~~men~~ members of the national guard are convened by order of  
21 the governor at a meeting of instruction other than annual camp, or when they are detailed  
22 under orders to perform military duties outside of their own stations, they must be reimbursed  
23 for ~~traveling~~ travel and incidental expenses at the same rate as provided by law for other state  
24 officials. The adjutant general may, in ~~his~~ the adjutant general's discretion, authorize the  
25 purchase of meals or rations for officers or enlisted ~~men~~ members of the national guard in a  
26 duty or travel status in lieu of individual reimbursement for meals.

27 **SECTION 49. AMENDMENT.** Section 37-04-11 of the North Dakota Century Code is  
28 amended and reenacted as follows:

29 **37-04-11. Pay of officers serving on boards, commissions, and courts.** An officer  
30 detailed to serve on any board or commission ordered by the governor, or under ~~his~~ the  
31 authority ~~by the~~ of a commanding officer of the national guard, or on any court of inquiry or

1 court-martial ordered by proper authority in pursuance of any provision of this title, must be paid  
2 a sum equal to one day's duty pay for each day ~~he is~~ actually employed on ~~such the~~ board or  
3 court or engaged in the business ~~thereof of the board or court~~, or for each day in which ~~he is~~  
4 traveling to and from ~~such the~~ board or court. ~~Such The~~ sum may not exceed ten days' pay  
5 and actual traveling expenses and subsistence unless, upon application of the president of the  
6 court-martial or the presiding officer of the board, the officer appointing the court or board has  
7 authorized ~~such the~~ court or board to sit for a longer period, or in case of a court-martial, the  
8 governor or the officer ordering ~~such the~~ court has authorized ~~such the~~ court to sit for a longer  
9 period than ten days. An officer detailed to serve on a court-martial must be paid for each day  
10 actually employed ~~therein in~~, engaged in the business ~~thereof of~~, or in traveling to and from the  
11 ~~same court-martial~~, and traveling expenses and subsistence, when such court is held at a place  
12 other than the city of ~~his~~ residence.

13 **SECTION 50. AMENDMENT.** Section 37-04-12 of the North Dakota Century Code is  
14 amended and reenacted as follows:

15 **37-04-12. Pay and allowances allowed national guard officers assigned to duty**  
16 **with regular army.** National guard officers assigned to duty with the regular army, while so  
17 assigned, ~~shall~~ must receive the pay and allowances authorized by federal law.

18 **SECTION 51. AMENDMENT.** Section 37-04-13 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20 **37-04-13. Pay of officers having administrative functions.** In addition to the pay  
21 provided for in this title, officers commanding organizations less than a brigade and having  
22 administrative functions connected ~~therewith~~ with these organizations shall receive ~~such~~ pay as  
23 the federal law provides for the faithful performances of ~~such these~~ administrative functions,  
24 under ~~such the~~ regulations as the secretary of defense may prescribe, whether or not ~~such the~~  
25 officers belong to ~~such the~~ organizations.

26 **SECTION 52. AMENDMENT.** Section 37-04-14 of the North Dakota Century Code is  
27 amended and reenacted as follows:

28 **37-04-14. Resignation of commissioned officers.** Commissioned officers may  
29 resign in ~~such the~~ manner and under ~~such the~~ circumstances as ~~may be~~ prescribed by federal  
30 regulations.

1           **SECTION 53. AMENDMENT.** Section 37-04-15 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-04-15. Vacating commissions - Acquisition of reserve status.**

4           1. A commission in the national guard may be vacated:

5           ~~1.~~ ~~At~~ at any time when it is determined by an efficiency board as provided by federal  
6 regulation that the officer holding the commission is no longer fit for service by  
7 reason of ~~his~~ moral character, capacity, or general fitness for service;

8           ~~2.~~ ~~By~~ by resignation of the officer holding the commission;

9           ~~3.~~ ~~By~~ by the absence of the officer without leave for a period of three months; or

10          ~~4.~~ ~~Pursuant~~ pursuant to the sentence of a court-martial.

11          2. Officers of the national guard who are rendered superfluous by the disbandment of  
12 their organization must be disposed of as provided by federal law. An officer, upon  
13 application ~~therefor~~, may be placed in the reserve in ~~such~~ the manner as may be  
14 authorized by federal law.

15          **SECTION 54. AMENDMENT.** Section 37-04-16 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17          **37-04-16. Retirement and discharge of national guard officers.** Any officer of the  
18 national guard who has reached the age of sixty-four years must be placed on the retired list by  
19 the governor. Any officer who has served ~~as such~~ under a commission in the military service of  
20 this state for a continuous period of eight years may be placed, ~~at his own~~ upon request, ~~upon~~  
21 on the retired list with an advance in grade and withdrawn from active service and command by  
22 the governor. A commissioned officer must be withdrawn from active service and placed upon  
23 the retired list ~~whenever he becomes~~ if disabled and incapable of performing the duties of ~~his~~  
24 office. A commissioned officer, upon the recommendation of ~~his~~ the commanding officer or of  
25 an inspecting officer, must be placed by the governor upon the retired list ~~whenever he~~  
26 ~~becomes~~ if unfit or incompetent for service ~~and thereby~~ by being incapable of performing the  
27 duties of ~~his~~ office. The governor, however, may not order the retirement of an officer until the  
28 provisions of section 37-04-17 have been complied with. Vacancies in the commissioned  
29 personnel of the national guard caused by the operation of this section must be filled in the  
30 same manner as other vacancies in the commissioned personnel are filled.

1           **SECTION 55. AMENDMENT.** Section 37-04-17 of the North Dakota Century Code is  
2 amended and reenacted as follows:

3           **37-04-17. Board appointed to determine disability, unfitness, or incompetency of**  
4 **officers - Powers of board - Findings.** Before the governor ~~shall make~~ makes an order  
5 placing an officer on the retired list on the ground that ~~such~~ the officer is disabled, unfit, or  
6 incompetent, ~~he~~ the governor shall appoint a board of not less than five commissioned officers,  
7 one of whom must be a surgeon, to investigate and report on the matter. ~~Such~~ The board shall  
8 determine the facts as to the nature and cause of the incapacity of the officer who appears to  
9 be disabled, unfit, or incompetent from any cause to perform military service, and whose case  
10 shall be referred to it. Before entering upon the discharge of ~~his~~ duties, each member of the  
11 board must be sworn to an honest and impartial performance of ~~his~~ duties as a member of the  
12 board. ~~No~~ An officer whose grade or promotion would be affected by the decision of ~~such~~ the  
13 board in any case that may come before ~~it~~ the board may not participate in the examination or  
14 decision in ~~such~~ the case. The board has the powers of courts of inquiry and courts-martial,  
15 and whenever ~~it~~ the board finds an officer incapacitated for active ~~service~~ duty, ~~it~~ the board  
16 shall report ~~such~~ this fact to the governor, stating the cause of incapacity, whether from  
17 disability, unfitness, or incompetency. If the governor approves the finding of the board, the  
18 officer must be placed upon the retired list as provided in this chapter. ~~No~~ An officer may not  
19 be placed upon the retired list by the action of ~~such~~ the board without having had a full and fair  
20 hearing before the board if, upon due notice, ~~he~~ the officer demands it. It is not necessary to  
21 refer any case for the action of the board unless the officer designated to be placed upon the  
22 retired list, within twenty days after being notified that ~~he~~ the officer will be so retired, serves on  
23 the adjutant general a notice in writing that ~~he~~ the officer demands a hearing and examination  
24 before ~~such~~ the board.

25           **SECTION 56. AMENDMENT.** Section 37-04-18 of the North Dakota Century Code is  
26 amended and reenacted as follows:

27           **37-04-18. Retired officer subject to orders of commander in chief only.** The  
28 officers on the retired list are subject to detail for duty only by orders from the commander in  
29 chief, who ~~shall~~ may cause to be issued ~~such~~ these orders as ~~he may deem~~ deemed  
30 necessary detailing ~~them~~ these officers for duty upon boards of officers for military purposes,  
31 courts-martial, and courts of inquiry, and for ~~such~~ other military duties as in ~~his~~ the commander

1 in chief's judgment may be advisable. If officers on the retired list are detailed for active duty  
2 other than upon boards of officers, courts-martial, and courts of inquiry, ~~they~~ the officers are  
3 entitled only to the rank which properly belongs to the office, the duties of which ~~they~~ the  
4 officers are detailed to perform. When the duty ends, or the detail is canceled, the officer shall  
5 return again to the retired list with ~~his~~ the officer's former retired rank.

6 **SECTION 57. AMENDMENT.** Section 37-07-01 of the North Dakota Century Code is  
7 amended and reenacted as follows:

8 **37-07-01. Original enlistments in national guard - Qualifications.** Any person who  
9 is a citizen of the United States, or who has declared ~~his~~ an intention to become a citizen, if  
10 within the ages set forth in the National Defense Act of 1920, as amended, able-bodied, free  
11 from disease, of good character, and of temperate habits, may be originally enlisted in the  
12 national guard of this state under the restrictions contained in this title for a term ~~of not less than~~  
13 ~~three years and as~~ provided by national guard regulations promulgated by the secretary of  
14 defense.

15 **SECTION 58. AMENDMENT.** Section 37-07-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17 **37-07-02. Reenlistment periods in national guard.** Reenlistments in the national  
18 guard subsequent to original enlistments may be made for ~~such~~ a period as may be prescribed  
19 by the adjutant general in accordance with regulations promulgated by the United States  
20 department of defense. For the purpose of this section, any enlistment by a person who has  
21 previously served six months or more in the armed forces of the United States must be  
22 considered a reenlistment.

23 **SECTION 59. AMENDMENT.** Section 37-07-03 of the North Dakota Century Code is  
24 amended and reenacted as follows:

25 **37-07-03. Enlisted ~~men~~ members to sign contract of enlistment and subscribe to**  
26 **oath.** Individuals enlisting in the national guard of this state shall sign an enlistment contract  
27 and subscribe ~~the following~~ an oath of enlistment:

28 I acknowledge to have voluntarily enlisted on \_\_\_\_\_, \_\_\_\_\_, as a  
29 soldier in the national guard of the United States and of the state of North Dakota, for  
30 the period of three years (or one year \_\_\_\_\_,) under the conditions prescribed by law,  
31 unless sooner discharged by proper authority. And I do solemnly swear that I will bear

1 ~~true faith and allegiance to the United States of America and to the state of North~~  
2 ~~Dakota, and that I will serve them honestly and faithfully against all their enemies~~  
3 ~~whomsoever, and that I will obey the orders of the president of the United States and of~~  
4 ~~the governor of the state of North Dakota, and of the officers appointed over me~~  
5 ~~according to law, the rules of war, and the uniform code of military justice in the form~~  
6 ~~prescribed by federal law.~~

7 **SECTION 60. AMENDMENT.** Section 37-07-04 of the North Dakota Century Code is  
8 amended and reenacted as follows:

9 **37-07-04. Transfers of enlisted ~~men~~ members.** Enlisted members of the national  
10 guard ~~removing from one location to another in this state~~ may be transferred from one unit to  
11 another within the same organization upon recommendations of the respective unit  
12 commanders ~~concerned~~ and approval of the commanding officer of the organization. Transfers  
13 between organizations will be made only upon the approval of the adjutant general.

14 **SECTION 61. AMENDMENT.** Section 37-07-05 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16 **37-07-05. Pay and allowances of enlisted ~~men~~ members - Deductions allowed.**

17 1. ~~Each~~ An enlisted ~~man~~ member of the national guard, when called into state active  
18 service duty by the governor, shall receive pay at the rate provided for enlisted  
19 ~~men~~ members of similar grade, rating, and term of enlistment in the national guard  
20 of the United States, except that ~~such~~ the daily pay rate for each of the grades  
21 ~~hereafter~~ listed must be increased by the percentage ~~set forth~~ after ~~such~~ the grade  
22 as follows:

- |    |                  |     |     |
|----|------------------|-----|-----|
| 23 | <del>1. a.</del> | E-3 | 55% |
| 24 | <del>2. b.</del> | E-4 | 45% |
| 25 | <del>3. c.</del> | E-5 | 35% |
| 26 | <del>4. d.</del> | E-6 | 25% |
| 27 | <del>5. e.</del> | E-7 | 15% |
| 28 | <del>6. f.</del> | E-8 | 10% |

29 2. ~~Each~~ An enlisted ~~man~~ member shall also receive transportation, shelter, and  
30 subsistence. The value of articles issued to any member ~~of a company or battery~~  
31 and not returned in good order on demand, and all legal fines or forfeitures, may be

1                   deducted from the member's pay. ~~Pay at an annual encampment must be such as~~  
2                   ~~is allowed by federal law.~~

3                   **SECTION 62. AMENDMENT.** Section 37-07-06 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5                   **37-07-06. Discharge of enlisted ~~men~~ members.** An enlisted ~~man~~ member  
6 discharged from service in the national guard, except when drafted into the military service of  
7 the United States, shall receive a discharge in writing in ~~such~~ the form and with ~~such~~ the  
8 classification as ~~is or shall be prescribed for the regular army by regulation.~~ In time of peace, a  
9 discharge may be given prior to the expiration of the term of enlistment under ~~such~~ regulations  
10 as the president may prescribe.

11                   **SECTION 63. AMENDMENT.** Section 37-08-01 of the North Dakota Century Code is  
12 amended and reenacted as follows:

13                   **37-08-01. National guard reserve - Organization.** The national guard reserve is all  
14 individuals who are subject to service in the national guard and are not serving in the national  
15 guard of this state. Subject to ~~such~~ the rules and regulations ~~as of~~ of the president ~~may~~  
16 ~~prescribe~~, a national guard reserve must be maintained in this state which ~~shall consist~~ consists  
17 of ~~such~~ organizations, officers, and enlisted ~~men~~ members as the president may prescribe, ~~or~~  
18 and members thereof of the reserve may be assigned as reserves to an active organization of  
19 the national guard.

20                   **SECTION 64. AMENDMENT.** Section 37-08-03 of the North Dakota Century Code is  
21 amended and reenacted as follows:

22                   **37-08-03. Transfer from active to reserve list and from reserve to active list.**

23 Under ~~such~~ the regulations ~~as of~~ of the secretary of defense ~~may prescribe~~, enlisted ~~men~~  
24 members of the active national guard may be transferred to the national guard reserve and ~~men~~  
25 members enlisted in or transferred to the national guard reserve may be transferred to the  
26 active national guard, except that ~~no~~ an enlisted ~~man~~ member may not be required to serve  
27 under any enlistment for a longer time than the period for which ~~he~~ the member enlisted in the  
28 active national guard or national guard reserve, as the case may be.

29                   **SECTION 65. AMENDMENT.** Section 37-08-04 of the North Dakota Century Code is  
30 amended and reenacted as follows:

1           **37-08-04. Method of drafting reserves for service.** ~~Whenever~~ If it is necessary to  
2 call out any portion of the reserve militia for active ~~duty~~ service, the governor shall direct ~~his~~ the  
3 order to the adjutant general, who, upon receipt of ~~such~~ the order, shall cause to be drafted by  
4 lot, by mustering officers detailed for that duty from the national guard, as many of the reserve  
5 militia, or shall accept as many volunteers, as are required by the governor. The adjutant  
6 general ~~forthwith~~ shall as soon as practicable forward to the governor a list of persons drafted  
7 or accepted as volunteers. A member of the reserve militia called to active service must be  
8 paid in the same manner and amount as a national guard member on state active duty.

9           **SECTION 66. AMENDMENT.** Section 37-08-05 of the North Dakota Century Code is  
10 amended and reenacted as follows:

11           **37-08-05. Pay and allowances of reservists on active duty.** Officers and enlisted  
12 ~~men~~ members of the national guard reserve, when engaged in field or coast defense training  
13 with the active national guard, shall receive the same federal pay and allowances as those  
14 occupying like grades on the active list of ~~said~~ the national guard when likewise engaged. ~~No~~ A  
15 commissioned or enlisted reservist may not receive any pay or allowance out of any  
16 appropriation made by the Congress of the United States for national guard purposes except as  
17 otherwise specifically provided in this title.

18           **SECTION 67. AMENDMENT.** Section 37-11-01 of the North Dakota Century Code is  
19 amended and reenacted as follows:

20           **37-11-01. Members of ~~militia and national guard~~ military forces and dependents**  
21 **may be given pension.** ~~Every~~ A member of the ~~militia or national guard~~ military forces of this  
22 state who has been or who shall be is wounded or disabled or the surviving dependents of ~~such~~  
23 the member in case of the member's death from ~~such~~ the wound or disability ~~while~~ must be  
24 taken care of and provided for at the expense of this state in the manner provided in this  
25 chapter if the member's wound or disability was received:

- 26           1. In the service of this state in case of riot, tumult, breach of the peace, resistance to  
27           process, invasion, disaster relief, the protection of life or property, or insurrection,  
28           or imminent danger thereof;
- 29           2. Engaged in any lawfully ordered parade, drill, encampment, or inspection;
- 30           3. Acting pursuant to call in aid of the civil authorities; or

1           4.    Otherwise ordered to state active duty by the governor, ~~must be taken care of and~~  
2                    ~~provided for at the expense of this state in the manner provided in this chapter.~~

3           **SECTION 68. AMENDMENT.** Section 37-11-02 of the North Dakota Century Code is  
4 amended and reenacted as follows:

5           **37-11-02. Compensation for disability or death.** Applications for compensation for  
6 disability or death of any member of the ~~militia or member of the national guard~~ military forces  
7 of this state under conditions as specified in section 37-11-01 must be made by ~~such the~~  
8 member or ~~his~~ the surviving dependents to the workers compensation bureau. The bureau  
9 shall process ~~such the~~ application in the manner set forth in title 65 and shall make  
10 determinations of eligibility and disability in the same manner and upon the same basis as  
11 provided in ~~such~~ title 65. In the event the bureau determines a member of the ~~militia or national~~  
12 ~~guard~~ military forces of this state has been disabled under the provisions of section 37-11-01  
13 and title 65 or valid claims of surviving dependents of ~~such the~~ member exist in accordance  
14 with section 37-11-01 and title 65, it shall pay the claim pursuant to title 65.

15           **SECTION 69. AMENDMENT.** Section 37-12.1-02 of the North Dakota Century Code is  
16 amended and reenacted as follows:

17           **37-12.1-02. Establishment of a state defense force.** The governor may, by  
18 proclamation, establish a state defense force in the event that more than one-half of the units of  
19 the North Dakota national guard are called to active federal service, and may in advance of  
20 ~~such this~~ call establish a cadre of ~~such state~~ defense force ~~forces~~.

21           **SECTION 70. AMENDMENT.** Section 37-12.1-03 of the North Dakota Century Code is  
22 amended and reenacted as follows:

23           **37-12.1-03. Governor to adopt rules governing a state defense force.** If the  
24 governor establishes a state defense force, ~~he~~ the governor shall adopt rules governing, among  
25 other things, the appointment of officers, enlistments, organization of units, equipment,  
26 administration, training, pay, and discipline. The rules must, to the extent practicable, conform  
27 to the rules governing the North Dakota national guard. ~~The provisions of chapter~~ Chapter  
28 ~~28-32~~ does not apply to the rules required by this chapter.