

Fifty-eighth  
Legislative Assembly  
of North Dakota

ENGROSSED 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 37-01-01, 37-02-01, 37-02-02, and 37-08-01  
2 of the North Dakota Century Code, relating to the militia.

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

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

6 **37-01-01. Definitions.** In this title, unless the context ~~or subject matter~~ otherwise  
7 requires:

- 8 1. "Active militia" ~~consists of~~ means the organized and uniformed military forces of  
9 this state, ~~which must be~~ known as the "North Dakota national guard" and the  
10 reserve militia when called to active service.
- 11 2. "Active service" means ~~service on behalf of the state~~ active duty in case of public  
12 disaster, riot, tumult, breach of the peace, resistance of process, or the threat  
13 thereof, whenever called in aid of civil authorities, or under martial law, or at  
14 encampments, whether ordered by state or federal authorities, and includes the  
15 performance of any other duty requiring the entire time of the organization or  
16 person, except when called or drafted into the federal service by the president of  
17 the United States. ~~Such~~ The term includes service in case of, or to prevent,  
18 insurrection, riot, or invasion under the order of the commander in chief  
19 communicated through proper military channels.
- 20 3. ~~"Battalion" includes a "squadron" of cavalry, and of the air service as well as a~~  
21 ~~battalion of infantry, artillery, engineers, and signal corps.~~
- 22 4. ~~"Company" includes a company of infantry, engineers, and signal corps, an air~~  
23 ~~unit, a battery of field artillery, a troop of cavalry, or any similar organization in any~~

- 1           ~~branch of the military service authorized by federal law for this state, including a~~  
2           ~~permanent detachment.~~
- 3           5. ~~"Defense department" includes the department of army and the department of air~~  
4           ~~force.~~
- 5           6. ~~"In service of the United States" and "not in the service of the United States" have~~  
6           ~~the same meaning as such terms have as used in the National Defense Act [Pub.~~  
7           ~~L. 64-85; 39 Stat. 166], approved June 3, 1916, and in amendments thereto.~~
- 8           7. ~~"Militia" means the forces provided for in the Constitution of North Dakota, and is~~  
9           ~~divided into two classes designated as the active militia and the reserve militia.~~
- 10          8. ~~"Military forces of this state" consists of means those persons subject to military~~  
11          ~~duty individuals in the active militia as defined in the Constitution of North Dakota~~  
12          ~~and those persons subject to duty in the national guard as defined in the National~~  
13          ~~Defense Act of the United States of America.~~
- 14          4. "Militia" means a group of individuals defined in the Constitution of North Dakota.
- 15          9. 5. "National guard" means that part of the military ~~force~~ forces of this state which is  
16          organized, equipped, and federally recognized under the provisions of the National  
17          Defense Act, as amended, of the United States as the "national guard, air national  
18          guard, of the United States and the state of North Dakota". ~~‡~~ The term includes  
19          also the term "national guard of the state of North Dakota".
- 20          40. 6. "On duty" includes periods of drill and of such other training and service as may be  
21          required under state or federal law, regulation, or order.
- 22          44. 7. "Reserve militia" consists of all those ~~persons~~ individuals who are subject to  
23          service in the active militia, ~~but~~ and who are not serving in the national guard of  
24          this state.
- 25          8. "State active duty" means active service on behalf of the state under authority of  
26          the governor at the expense of the state.
- 27          9. "State defense force" means the group of individuals in the reserve militia in state  
28          active duty under chapter 37-12.1.

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

1           **37-02-01. Militia - How constituted - Exceptions.** All able-bodied male citizens; and  
2 all able-bodied ~~persons~~ males of foreign birth who have declared ~~their~~ an intention to become  
3 citizens, who are ~~more than~~ between the ages of eighteen; and ~~less than~~ forty-five; years ~~of~~  
4 age; and who are residents of this state, and other volunteers allowed by law constitute the  
5 militia; unless exempted by the laws of the United States; or by the laws of this state.

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

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

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

21           **37-08-01. National guard reserve - Organization.** The national guard reserve is all  
22 individuals who are subject to service in the national guard and are not serving in the national  
23 guard of this state. Subject to ~~such~~ the rules and regulations ~~as~~ of the president ~~may~~  
24 ~~prescribe~~, a national guard reserve must be maintained in this state which ~~shall consist~~  
25 consists of ~~such~~ organizations, officers, and enlisted ~~men~~ members as the president may  
26 ~~prescribe, or~~ and members ~~thereof~~ of the reserve may be assigned as reserves to an active  
27 organization of the national guard.