

HOUSE BILL NO. 1177

Introduced by

Government and Veterans Affairs Committee

(At the request of the Adjutant General)

1 A BILL for an Act to amend and reenact sections 37-01-01, 37-01-04, 37-01-09, 37-01-11,
2 37-01-12, 37-01-21, 37-01-26, 37-01-28, 37-01-30, 37-02-01, 37-02-02, 37-02-04, 37-03-05,
3 37-03-07, 37-03-11, 37-04-02, 37-04-07, 37-04-09, 37-07-01, 37-07-03, 37-07-04, 37-07-05,
4 37-07-06, 37-08-03, 37-08-04, 37-11-01, and 37-11-02 of the North Dakota Century Code,
5 relating to requirements for membership in the military forces of the state; and to provide an
6 effective date.

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

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

10 **37-01-01. Definitions.** In this title, unless the context or subject matter otherwise
11 requires:

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

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

1 **SECTION 2. AMENDMENT.** Section 37-01-04 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **37-01-04. Governor's authority to order out national guard - ~~Reserve militia~~ State**
4 **defense force ordered out.** In case of insurrection, invasion, tumult, riot, breach of the peace,
5 or imminent danger thereof, to provide a presence at state ceremonial events, or to provide
6 assistance to political entities in search and rescue efforts or to respond to a potential natural or
7 environmental hazard or nuisance, the governor may order into the active service of this state
8 any part of the national guard that the governor may deem proper. When the national guard of
9 this state, or a part thereof, is called forth under the Constitution of the United States and the
10 laws of the United States, the governor shall order out for service the remaining troops or such
11 part thereof as may be necessary. If the number of available troops is insufficient, the governor
12 shall order out such part of the ~~reserve militia~~ state defense force as the governor may deem
13 necessary.

14 **SECTION 3. AMENDMENT.** Section 37-01-09 of the North Dakota Century Code is
15 amended and reenacted as follows:

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

24 **SECTION 4. 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 duty.

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

17 **SECTION 6. AMENDMENT.** Section 37-01-21 of the North Dakota Century Code is
18 amended and reenacted as follows:

19 **37-01-21. Military parades by certain bodies prohibited - Exceptions –Penalty.** No
20 ~~body of men~~ persons, other than the ~~regularly organized units of the national guard and militia~~
21 military forces of this state and the troops of the United States, may associate themselves
22 together as a military ~~company~~ or organization or parade in public with firearms, and no
23 municipality may raise or appropriate any money toward arming or equipping, uniforming or in
24 any other way supporting, sustaining, or providing drillrooms or armories for; any such ~~body of~~
25 ~~men~~ persons. ~~Associations~~ An association wholly composed of ~~soldiers~~ military members
26 honorably discharged from the service of the United States and members of the order of sons
27 of veterans may parade in public with firearms ~~on Decoration Day, upon the reception of any~~
28 ~~regiment or company of soldiers returning from service, or for the purpose of escort duty at the~~
29 ~~burial of deceased soldiers~~. Students in educational institutions where military science is a
30 prescribed part of the course of instruction, with the consent of the governor, may drill and
31 parade with firearms in public under the superintendence of their teachers. This section does

1 not prevent any organization authorized to do so by law from parading with firearms nor prevent
2 parades by the national guard of other states. ~~Any person violating any provision of this section
3 is guilty of a class B misdemeanor.~~

4 **SECTION 7. AMENDMENT.** Section 37-01-26 of the North Dakota Century Code is
5 amended and reenacted as follows:

6 **37-01-26. Pay of officers and enlisted ~~men~~ members assigned to special duty.**

7 Any commissioned officer assigned to special duty by the governor or under ~~his~~ the authority of the
8 governor must be paid duty pay for the time actually employed, ~~and his necessary traveling.~~
9 Necessary travel expenses and subsistence must be paid when ~~such payment is~~ authorized by
10 the governor. Judge advocates must be paid such compensation as shall be approved by the
11 governor for services in bringing any suits provided for in this title, and in actions or proceedings
12 by habeas corpus, certiorari, or otherwise. All staff officers must be paid duty pay for special
13 service ordered by competent authority with the approval of the governor. Enlisted ~~men on duty~~
14 ~~under orders of the governor, but not at the time serving with troops,~~ members shall receive the
15 same rate of pay as is provided for enlisted members of similar grade, rating, and term of
16 enlistment in the national guard when called into to active service by the governor, and their
17 actual traveling, in addition to travel expenses and subsistence. When called or ordered to
18 state active duty, enlisted members must be paid according to section 37-07-05.

19 **SECTION 8. AMENDMENT.** Section 37-01-28 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **37-01-28. Failure of member of the ~~militia~~ militia military forces to appear - Penalty.**

22 Every member of the ~~militia~~ militia military forces who is ordered out or ordered on duty, who
23 volunteers, or who is drafted under the provisions of this title, who does not appear at the time
24 and place designated by ~~his~~ a commanding officer, the adjutant general, or the mustering
25 officer, who does not produce a sworn certificate of physical disability from a physician in good
26 standing showing ~~his~~ an inability to appear, must be taken as a deserter and dealt with as
27 prescribed in the uniform code of military justice ~~of the United States.~~

28 **SECTION 9. AMENDMENT.** Section 37-01-30 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **37-01-30. Incurring of expenses by officers of ~~militia~~ militia military forces - Auditing
31 and payment of accounts. No officer of the ~~militia~~ militia military forces may incur any expense**

1 whatsoever to be paid by this state, except such as is authorized in this title, without first
2 obtaining the authority of the governor. In extreme emergencies, however, the commanding
3 officer of any organization or detachment of the national guard may make purchases of such
4 necessities as are absolutely required for the immediate use and care of ~~his~~ the officer's
5 command. A report of such action containing a statement of the articles purchased and the
6 price thereof must be made forthwith through the channel of the adjutant general. The
7 commander in chief shall be the auditor of all accounts for property purchased by the adjutant
8 general, and the copies of the orders or contracts under which such purchases are made must
9 be filed in the office of the paymaster general. All other military accounts payable by the state
10 must be audited by the adjutant general. Military accounts thus audited must be paid ~~by the~~
11 ~~paymaster general of the state~~ from the proper appropriation made by the legislative assembly.

12 **SECTION 10. AMENDMENT.** Section 37-02-01 of the North Dakota Century Code is
13 amended and reenacted as follows:

14 **37-02-01. Militia Military forces - How constituted - Exceptions.** ~~All able-bodied~~
15 ~~citizens, and all able-bodied persons of foreign birth who have declared their intention to~~
16 ~~become citizens, who are more than eighteen, and less than forty five, years of age, and who~~
17 ~~are residents of this state, constitute the militia, unless~~ Unless exempted by the laws of the
18 United States, or by the laws of this state, the military forces consist of all able-bodied male
19 persons residing in the state, between the ages of eighteen and forty-five, and those residents
20 and nonresidents who are accepted into the military service of this state.

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

23 **37-02-02. North Dakota national guard - Composition.** The North Dakota national
24 guard consists of the regularly enlisted and enrolled ~~male citizens~~ members, within the age
25 limits prescribed by the National Defense Act of 1920, as it may be amended; organized,
26 armed, and equipped as provided in this title, and of commissioned officers within the ages
27 conforming to the rules and regulations promulgated by the department of the army and
28 department of the air force as conditions precedent to federal recognition. ~~The governor may~~
29 ~~authorize the appointment or enlistment of female citizens of the state in the medical corps,~~
30 ~~nurses corps, and other noncombatant branches and service of the national guard, and while~~
31 ~~so serving, they have the same status as male members of the national guard. Such national~~

1 ~~guard must be composed of such units as the defense department of the United States may~~
2 ~~allocate and designate, with the approval of the governor of this state.~~

3 **SECTION 12. AMENDMENT.** Section 37-02-04 of the North Dakota Century Code is
4 amended and reenacted as follows:

5 **37-02-04. Governor to be commander in chief of militia military forces - Inability**
6 **of governor to act.** ~~The military establishment of this state consists of a department of the~~
7 ~~army, a department of the air force, and a department of military records.~~ The governor of this
8 state, ~~by virtue of his office,~~ is commander in chief of the military ~~establishment~~ forces except
9 ~~as to such portions thereof as at times may be~~ when the military forces are in the service of the
10 United States. The adjutant general as chief of staff in the name of the governor shall transmit
11 orders to staff officers and commanders of subordinate units. Whenever the governor is unable
12 to perform the duties of commander in chief, the adjutant general is in command.

13 **SECTION 13. AMENDMENT.** Section 37-03-05 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **37-03-05. General duties of adjutant general.** The adjutant general is in active
16 control of the military ~~department~~ of this state and shall:

- 17 1. Perform the duties pertaining to the adjutant general and other chiefs of staff
18 departments under the regulations and customs of the United States ~~army~~.
- 19 2. Superintend the preparation of all military returns and reports required by the
20 United States from this state.
- 21 3. Keep a register of all the officers of the ~~militia and national guard~~ military forces of
22 this state.
- 23 4. Keep in the office of the adjutant general all records and papers required to be kept
24 and filed in the office.
- 25 5. Cause to be prepared and issued all necessary blank books, blanks, forms, and
26 notices required to carry into full effect this title. All such books and blanks are the
27 property of this state.
- 28 6. Adopt any regulations relating to the preparation of reports and returns, and to the
29 care and preservation of military property belonging to this state and to the United
30 States, as in the adjutant general's opinion the conditions demand. The

- 1 regulations are operative when promulgated in the form of general orders,
2 circulars, or letters of instruction.
- 3 7. Render annually to the governor a statement in detail showing the acquisition and
4 disposition of all clothing, ordnance, arms, ammunition, and other military property
5 on hand or issued.
- 6 8. Keep in the office of the adjutant general a list of the retired officers of the
7 ~~organized militia~~ military forces, showing age, military experience, and training of
8 each.
- 9 9. Perform all other duties prescribed for the adjutant general by law.

10 **SECTION 14. AMENDMENT.** Section 37-03-07 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **37-03-07. Military property - Issuance - Purchase.** The adjutant general shall issue,
13 or cause to be issued, all military property. No military property may be issued to persons or
14 organizations other than those belonging to the ~~national guard~~ active military forces of this state
15 or to such portions of the ~~reserve militia as may be~~ state defense force called out by the
16 governor. Purchases of property must be by the office of management and budget or as
17 otherwise provided by law. In case of insurrection, invasion, tumult, riot, or breaches of the
18 peace, or of imminent danger thereof, or other exigency, the governor, upon the certificate of
19 the commanding officer of the ~~national guard~~ active military forces, may suspend temporarily
20 the operation of this section and direct the adjutant general to purchase in the open market
21 such military property as may be required. The adjutant general shall report such action, with
22 the reason therefor, and a statement of the property purchased and the prices paid therefor, to
23 the legislative assembly at its next session.

24 **SECTION 15. AMENDMENT.** Section 37-03-11 of the North Dakota Century Code is
25 amended and reenacted as follows:

26 **37-03-11. Compilation of military law by adjutant general - Distribution -**
27 **Textbooks and reports issued.** The adjutant general, when necessary, shall cause the
28 military law, the general regulations of this state, and the articles of uniform code of military
29 justice of the United States, to be printed, indexed, and bound in proper and compact form at
30 the expense of the state and shall distribute one copy thereof to each unit or separate
31 headquarters and to each commissioned officer of this state. The adjutant general shall issue

1 to each commissioned officer and headquarters, one copy of each necessary textbook and of
2 such annual reports concerning the ~~militia~~ military forces as the governor may direct.

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

5 **37-04-02. Commissioned officer of national guard to be examined.** Any person
6 appointed and commissioned an officer of the national guard shall successfully pass such tests
7 as to his physical, moral, and professional fitness as ~~shall be~~ prescribed by federal law, ~~and the~~
8 ~~examination to determine his qualifications for a commission also shall be as prescribed by~~
9 ~~federal law.~~

10 **SECTION 17. AMENDMENT.** Section 37-04-07 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **37-04-07. Responsibility for efficiency.** The officer commanding the national guard
13 may cause those under his the officer's command to perform any military duty, and he is
14 responsible to the governor for the general efficiency of the national guard and for the drill,
15 instruction, small arms and artillery practice, movements, operations, and care of the troops.
16 Commanding officers of organizations are responsible to their immediate commanders for the
17 equipment, drill, instruction, movements, and efficiency of their respective commands. All
18 commissioned officers and enlisted ~~men~~ members are responsible to their immediate
19 commanding officers for prompt and unhesitating obedience, proper drill, and the preservation
20 and proper use of the property of this state or of the organization which is in their possession.

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

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

1 **SECTION 19. AMENDMENT.** Section 37-07-01 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **37-07-01. Original enlistments in national guard - Qualifications.** Any person who
4 is a citizen of the United States, or who has declared ~~his~~ an intention to become a citizen, if
5 within the ages set forth in the National Defense Act of 1920, as amended, able-bodied, free
6 from disease, of good character, and of temperate habits, may be originally enlisted in the
7 national guard of this state under the restrictions contained in this title for a term ~~of not less than~~
8 ~~three years and~~ as provided by national guard regulations promulgated by the secretary of
9 defense.

10 **SECTION 20. AMENDMENT.** Section 37-07-03 of the North Dakota Century Code is
11 amended and reenacted as follows:

12 **37-07-03. Enlisted ~~men~~ members to sign contract of enlistment and subscribe to**
13 **oath.** Individuals enlisting in the national guard of this state shall sign an enlistment contract
14 and subscribe ~~the following~~ an oath of enlistment: in the form prescribed by the adjutant
15 general.

16 ~~I acknowledge to have voluntarily enlisted on _____, _____, as a~~
17 ~~soldier in the national guard of the United States and of the state of North Dakota, for~~
18 ~~the period of three years (or one year _____,) under the conditions prescribed by law,~~
19 ~~unless sooner discharged by proper authority. And I do solemnly swear that I will bear~~
20 ~~true faith and allegiance to the United States of America and to the state of North~~
21 ~~Dakota, and that I will serve them honestly and faithfully against all their enemies~~
22 ~~whomsoever, and that I will obey the orders of the president of the United States and of~~
23 ~~the governor of the state of North Dakota, and of the officers appointed over me~~
24 ~~according to law, the rules of war, and the uniform code of military justice.~~

25 **SECTION 21. AMENDMENT.** Section 37-07-04 of the North Dakota Century Code is
26 amended and reenacted as follows:

27 **37-07-04. Transfers of enlisted ~~men~~ members.** Enlisted members of the national
28 guard ~~removing from one location to another in this state~~ may be transferred from one unit to
29 another within the same organization upon recommendations of the respective unit
30 commanders ~~concerned~~ and approval of the commanding officer of the organization. Transfers
31 between organizations will be made only upon the approval of the adjutant general.

1 **SECTION 22. AMENDMENT.** Section 37-07-05 of the North Dakota Century Code is
2 amended and reenacted as follows:

3 **37-07-05. Pay and allowances of enlisted ~~men~~ members - Deductions allowed.**

4 Each enlisted ~~man~~ member of the national guard, when called into active service by the
5 governor for state active duty, shall receive pay at the rate provided for enlisted ~~men~~ members
6 of similar grade, rating, and term of enlistment in the national guard of the United States, except
7 that such daily pay rate for each of the grades hereafter listed must be increased by the
8 percentage set forth after such grade as follows:

- | | | |
|----|--------|-----|
| 9 | 1. E-3 | 55% |
| 10 | 2. E-4 | 45% |
| 11 | 3. E-5 | 35% |
| 12 | 4. E-6 | 25% |
| 13 | 5. E-7 | 15% |
| 14 | 6. E-8 | 10% |

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

19 **SECTION 23. AMENDMENT.** Section 37-07-06 of the North Dakota Century Code is
20 amended and reenacted as follows:

21 **37-07-06. Discharge of enlisted ~~man~~ members.** An enlisted ~~man~~ member
22 discharged from service in the national guard, except when drafted into the military service of
23 the United States, shall receive a discharge in writing in such form and with such classification
24 as ~~is or shall be~~ prescribed ~~for the regular army~~ by regulation. In time of peace, a discharge
25 may be given prior to the expiration of the term of enlistment under such regulations as the
26 president may prescribe.

27 **SECTION 24. AMENDMENT.** Section 37-08-03 of the North Dakota Century Code is
28 amended and reenacted as follows:

29 **37-08-03. Transfer from active to reserve list and from reserve to active list.**

30 Under such regulations as the secretary of defense may prescribe, enlisted ~~men~~ members of
31 the active national guard may be transferred to the national guard reserve and ~~men~~ members

1 enlisted in or transferred to the national guard reserve may be transferred to the active national
2 guard, except that no enlisted ~~man~~ member may be required to serve under any enlistment for
3 a longer time than the period for which ~~he~~ the member enlisted in the active national guard or
4 national guard reserve, as the case may be.

5 **SECTION 25. AMENDMENT.** Section 37-08-04 of the North Dakota Century Code is
6 amended and reenacted as follows:

7 **37-08-04. Method of drafting reserves for service.** Whenever it is necessary to call
8 out any portion of the reserve ~~militia~~ for active duty, the governor shall direct ~~his~~ the order to the
9 adjutant general, who, upon receipt of such order, shall cause to be drafted by lot, by mustering
10 officers detailed for that duty from the national guard, as many of the reserve ~~militia~~, or shall
11 accept as many volunteers, as are required by the governor. The adjutant general forthwith
12 shall forward to the governor a list of persons drafted or accepted as volunteers.

13 **SECTION 26. AMENDMENT.** Section 37-11-01 of the North Dakota Century Code is
14 amended and reenacted as follows:

15 **37-11-01. Members of ~~militia and national guard~~ military forces and dependents**
16 **may be given pension.** Every member of the ~~militia or national guard~~ military forces who ~~has~~
17 ~~been or who shall be~~ is wounded or disabled or the surviving dependents of such member in
18 case of the member's death from such wound or disability ~~while,~~ must be taken care of and
19 provided for at the expense of this state in the manner provided in this chapter, if the members
20 wound or disability was received:

- 21 1. In the service of this state in case of riot, tumult, breach of the peace, resistance to
22 process, invasion, disaster relief, the protection of life or property, or insurrection,
23 or imminent danger thereof;
- 24 2. Engaged in any lawfully ordered parade, drill, encampment, or inspection;
- 25 3. Acting pursuant to call in aid of the civil authorities; or
- 26 4. Otherwise ordered to state active duty by the governor, ~~must be taken care of and~~
27 ~~provided for at the expense of this state in the manner provided in this chapter.~~

28 **SECTION 27. AMENDMENT.** Section 37-11-02 of the North Dakota Century Code is
29 amended and reenacted as follows:

30 **37-11-02. Compensation for disability or death.** Applications for compensation for
31 disability or death of any member of the ~~militia or member of the national guard~~ military forces

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

9 **SECTION 28. EFFECTIVE DATE.** This Act is contingent on the passage of House
10 Concurrent Resolution No. 3005 by the fifty-eighth legislative assembly and approval of that
11 resolution by the electors of this state. If this Act takes effect, it becomes effective on August 1,
12 2004.