

MILITARY

CHAPTER 223

S. B. No. 190
(Dewing)

MISCELLANEOUS MILITARY PROVISIONS

AN ACT

To amend and reenact subsections 5 and 6 of section 37-0101, and to create subsection 11 of section 37-0101 of the North Dakota Revised Code of 1943, to amend and reenact sections 37-0103, 37-0123, 37-0206, 37-0311, 37-0404 of the North Dakota Revised Code of 1943, and section 37-1003 of the North Dakota Revised Code of 1943 as amended by chapter 225 of the 1951 Session Laws, and to provide for and designate the adjutant general as contracting officer for the construction of armories; and to create an armory fund from the sale of lands and to repeal sections 37-0132, 37-0310 and 37-0410 of the North Dakota Revised Code of 1943, relating to military affairs, and declaring an emergency.

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

§ 1. AMENDMENT.) Subsections 5 and 6 of section 37-0101 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0101. DEFINITIONS.)

5. "National guard" shall mean that part of the military force of this state which is organized, equipped, and federally recognized under the provisions of the National Defense Act, as amended, of the United States as the "national guard, air national guard, of the United States and the state of North Dakota." It shall include also the term "national guard of the state of North Dakota";
6. "Company" shall include a company of infantry, engineers, and signal corps, an air unit, a battery of field artillery, a troop of cavalry, or any similar organization in any branch of the military service authorized by federal law for this state, including a permanent detachment;

§ 2. AMENDMENT.) Subsection 11 of section 37-0101 of the North Dakota Revised Code of 1943 is hereby created to read as follows:

11. The term "War Department", whenever used in this title, shall include the Department of Army and the Department of Air Force.

§ 3. AMENDMENT.) Section 37-0103 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0103. ARTICLES OF UNIFORM CODE OF MILITARY JUSTICE APPLICABLE IN STATE; REGULATIONS GOVERNING, PUNISHMENT FOR OFFENSES WHILE ON DUTY.) The articles of uniform code of military justice governing the armed forces of the United States, now or hereafter in effect, shall be a part of this title so far as the same are applicable and not modified by any provision of this title. A person who commits an offense while on duty may be tried by a court martial lawfully appointed even after such duty has terminated, and if found guilty, the accused shall be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States and within the limits prescribed in this title and by federal law for the courts martial in the national guard. In any case in which the offense charged also is made an offense by the civil law of this state, the officer whose duty it is to approve such charge, in his discretion, may order the person charged to be turned over to the civil authorities for trial. Whenever reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, such reference shall be deemed to include the military service of this state. The intent of this title and of all laws of this state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all laws of this state shall be construed to effect this purpose.

§ 4. AMENDMENT.) Section 37-0123 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0123. CUSTOM AND USAGE OF THE ARMED FORCES OF THE UNITED STATES TO GOVERN NATIONAL GUARD.) All matters relating to the organization, discipline, and government of the national guard, not otherwise provided for in this title or in the general regulations, shall be decided by the custom and usage of the armed forces of the United States.

§ 5. AMENDMENT.) Section 37-0206 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0206. STAFF OF THE GOVERNOR; WHAT CONSTITUTES.) The staff of the governor shall consist of:

1. The adjutant general who shall be the chief of staff and shall hold the rank of brigadier general, provided that in the event of an officer having a total of twenty years or more commissioned service in the armed forces he shall hold the grade of major general;
2. The assistant adjutant general who shall be assistant chief of staff;
3. The paymaster general who shall perform the duties of his office in accordance with the provisions set forth under this title.

§ 6. AMENDMENT.) Section 37-0311 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0311. COMPILATION OF MILITARY LAW BY ADJUTANT GENERAL; DISTRIBUTION; TEXTBOOKS AND REPORTS ISSUED.) The adjutant general, when necessary, shall cause the military law, the general regulations of this state, and the articles of uniform code of military justice of the United States, to be printed, indexed, and bound in proper and compact form at the expense of the state and shall distribute one copy thereof to each unit or separate headquarters and to each commissioned officer of this state. The adjutant general shall issue to each commissioned officer and headquarters, one copy of each necessary textbook and of such annual reports concerning the militia as the governor may direct.

§ 7. AMENDMENT.) Section 37-0404 of the North Dakota Revised Code of 1943 is hereby amended and reenacted to read as follows:

37-0404. OATH REQUIRED OF COMMISSIONED OFFICERS IN NATIONAL GUARD.) Commissioned officers of the national guard of this state shall take and subscribe, in substance, the following oath of office:

"I,....., do solemnly swear that I will support and defend the constitution of the United States and the constitution of the state of North Dakota, against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey the orders of the president of the United States and of the governor of the state of North Dakota; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of.....in the national guard of the state of North Dakota upon which I am about to enter, so help me God."

§ 8. AMENDMENT.) Section 37-1003 as amended by chapter 225 of the 1951 session laws is hereby amended and reenacted to read as follows:

37-1003. POWERS AND DUTIES OF ARMORY SUPERVISORS.)

§ 1.) The board of armory supervisors shall fix for each unit of the national guard the maintenance and rent allowance to be paid by this state. The board shall acquire, contract for, erect, purchase, sell, maintain, repair, and alter state-owned armories subject to the laws made and provided therefor. Such board may lease property to be used for armory purposes, but no lease shall extend for a period exceeding twenty-five years. The state board of armory supervisors, with the approval of the governor, may declare that portions of the military reservation known as Fraine Barracks are not needed for military purposes, as the facts and circumstances may reasonably warrant, and may negotiate sales thereof for civilian site purposes. Property to be sold may be subdivided and platted prior to sale at the option of the said Board. The North Dakota industrial commission may assist the said Board in the management and disposal of property to be sold under this act. Sales shall be made under the provisions of Chapter 302 of the 1951 session laws of North Dakota. All net proceeds of sales made under this act shall be placed in the state treasury in a separate fund for the construction of armories in North Dakota. Such board, with the approval of the adjutant general, is authorized to make exchange of lands, owned by the state of North Dakota and used for military purposes, with other agencies of the state, counties, municipalities or other political subdivisions, corporations or individuals; or to purchase, within funds available, parcels of land necessary for the construction of armories or the expansion of present military installations in the state of North Dakota. Such board is authorized, with the approval of the adjutant general, to lease parts of military installations to the department of defense or other agencies of the federal government. Subject to appropriations herein made by the legislature, the board is authorized to make allocations not to exceed twenty thousand dollars for a single unit armory, and not to exceed forty thousand dollars for a multiple unit armory, in collaboration with the federal funds made available under the armory construction program as provided for in Public Laws 783, 81st Congress, chapter 945, 2nd session, approved September 11, 1950; and in collaboration with funds made available by municipalities or counties wherein the armories are to be located; and provided, further, that the affected municipalities or counties make available an equal amount of money or facilities. Provided, that in instances where a city has received a direct grant from the state of North Dakota

for the construction of an armory since the year 1940 the amount of the direct grant under this provision of law shall be reduced proportionately.

§ 2.) In order that full benefit may be derived under the provisions of Public law 783, cited under this title, governing bodies of municipalities or counties may by proper resolution appoint and designate the adjutant general of the state as the contracting officer for the construction of such armories, provided that all contracts let shall be subject to the approval of the governing body concerned.

§ 3.) The adjutant general is empowered to act as the contracting officer for the state, provided that all contracts let shall be subject to the approval of the state board of armory supervisors. The adjutant general is further authorized to appoint agent officers, or a resident agent, to facilitate the proper completion of the contract.

§ 9. REPEAL.) Sections 37-0132, 37-0310 and 37-0410 of the North Dakota Revised Code of 1943 are hereby repealed.

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

Approved March 12, 1953.

CHAPTER 224

H. B. No. 582
(Nygaard and A. J. Anderson)

DISBURSEMENT OF MONEYS FOR SUPPORT AND MAINTENANCE OF SOLDIERS' HOME

AN ACT

Relating to the disbursement of moneys for the support and maintenance of the state soldiers' home.

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

§ 1.) On the first day of July in each odd numbered year, the state auditor shall pay to the treasurer of the soldiers' home fifty percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state for

the support and maintenance of the home during the biennium beginning on that date and twenty-five percent of the soldiers' home fund on the first day of January in each even numbered year. The remaining twenty-five percent of the soldiers' home fund shall be paid to the treasurer of the soldiers' home by the state auditor on the first day of the fourth quarter of the biennium. Upon requisition by the commandant of the soldiers' home, at any time during the biennium, the state auditor shall pay to the treasurer of the soldiers' home moneys accumulated in the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home. All moneys received by the soldiers' home shall be disbursed by the treasurer of the soldiers' home subject to the order of the board of trustees of the home and shall be used exclusively for the benefit of the home. No payments shall be made to the treasurer of the home until he has qualified as required by the laws of this state. During the fourth quarter of the biennium, moneys which accrue during said quarter to the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, and moneys which have accumulated in said funds and have not been requisitioned as above provided, shall be used for the support and maintenance of the soldiers' home as far as such funds are available and shall be supplemented, as necessity requires, by the twenty-five percent of the soldiers' home fund appropriated by the legislative assembly from the general fund of this state and paid to the treasurer of the soldiers' home on the first day of the fourth quarter of the biennium. At the end of the biennium, moneys remaining unexpended in the soldiers' home fund shall be repaid by the treasurer of the soldiers' home to the state treasurer and shall be credited to the general fund of this state.

§ 2.) At the end of each quarter of the biennium the commandant of the soldiers' home shall make a report to the state auditor, duly certified upon oath, showing the amount of money received from the soldiers' home fund, the United States aid fund, soldiers' home, interest and income fund, soldiers' home, and institutional revolving fund, soldiers' home, respectively; the amount remaining unexpended from each fund; and the estimated amount which will be required for the support and maintenance of the home during the next succeeding six month period. At the end of each month the commandant shall submit a statement of expenditures to the state auditor, duly certified upon oath, showing the amount paid to each person and firm, designating the type of service rendered and commodity purchased during the month. This monthly statement shall be audited by an auditor, appointed by the board of trustees of the soldiers' home. The state auditor shall submit the monthly

statement to the state auditing board for approval and should that board not approve the payments thereon listed or any of them, the payments herein provided to be made from the soldiers' home fund to the treasurer of the soldiers' home shall be made by the state auditor only to the extent that the said payments exceed the unapproved items, until such corrections as the state auditing board may require are effected.

Approved February 24, 1953.

CHAPTER 225

H. B. No. 782
(Toussaint)

CIVIL DEFENSE COMPACT WITH OTHER STATES

AN ACT

To amend and reenact section 1 of chapter 228 of the 1951 Session Laws, relating to civil defense.

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

§ 1. AMENDMENT.) Section 1 of chapter 228 of the 1951 session laws is hereby amended and reenacted to read as follows:

§ 1. PURPOSE; POLICY.) It is hereby found and declared that it is necessary, because of the present national emergency with which the United States of America is confronted, to provide for the creation of state and local civil defense agencies, and to confer upon the said defense agencies and upon the political subdivisions of the state, the emergency powers and the incidents thereof enumerated in this Act. It is further declared to be the purpose of this Act and the policy of the state thereby to assist and cooperate with the federal government and other states, by authorizing the state of North Dakota to enter into a compact with any other state for mutual helpfulness in meeting any civil defense emergency, including the contiguous provinces of the Dominion of Canada, in matters relating to the civil defense effort; to meet the extraordinary conditions and problems resulting in this state from the present emergency by establishing such organizations and taking such steps as are necessary and appropriate to carry out the provisions of this Act; and, generally, to defend the state, protect the public peace, health, and safety, and preserve the lives and property of the people of the state.

Approved March 10, 1953.