

MICROFILM DIVIDER

OMB/RECORDS MANAGEMENT DIVISION
SFN 2053 (2/85) 5M



ROLL NUMBER

DESCRIPTION

1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Dorena Ballarín

Date

10/2/03

2003 HOUSE GOVERNMENT AND VETERANS AFFAIRS

HB 1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna G. Hall
Operator's Signature

10/2/03
Date

2003 HOUSE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1151

House Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 1-17-03

Tape Number	Side A	Side B	Meter #
1	x		0.0-36.4
2	x		59.7-60.6
Committee Clerk Signature <i>Jody Renke</i>			

Minutes:

Chairman Klein: opened the hearing on HB 1151 relating to rights of persons who are called into active state or federal military service. 13 members present 1 absent (Representative Tieman)

Col. Jerald Engelman, Asst. Adjutant General, National Guard State of North Dakota: appeared in support of HB 1151 (SEE ATTACHED TESTIMONY)

John Jacobsen, ND Veterans Coordinating Council: appeared in support of the bill.

Lt.Col.AL Dohrman, National Guard: appeared in support of the bill. (SEE ATTACHED

TESTIMONY)

Motion by Representative Haas: **DO PASS**

Second by Representative Sitte

Discussion: Representative Klein: stated that we do need to do all we can to support our National Guard and military.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Diana Hall
Operator's Signature

10/2/03
Date

Page 2

House Government and Veterans Affairs Committee

Bill/Resolution Number HB 1151

Hearing Date 1-17-03

Representative Haas: added that it is a tremendous disruption of their lives and we should provide every convenience that we can for the people.

VOTE: 13-YES 0-NO 1-ABSENT

Representative Haas will carry the bill to the floor.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dannan Hall
Operator's Signature

1/21/03
Date

Date: 1-17-03
Roll Call Vote #:

2003 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1151

House GOVERNMENT AND VETERANS AFFAIRS Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number

Action Taken D.P.

Motion Made By Haas Seconded By Sitte

Representatives	Yes	No	Representatives	Yes	No
Chairman M.M. Klein	X		B. Amerman	X	
Vice Chairman B.B. Grande	X		L. Potter	X	
W.R. Devlin	X		C. Williams	X	
C.B. Haas	X		L. Winrich	X	
J. Kasper	X				
L.R. Klerain	X				
L. Meier	X				
M. Sitte	X				
W.W. Tieman	A				
R.H. Wikenheiser	X				

Total (Yes) 13 No 0

Absent 1 (Tieman)

Floor Assignment Haas

If the vote is on an amendment, briefly indicate intent:

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature [Signature] Date 10/2/03

REPORT OF STANDING COMMITTEE (410)
January 17, 2003 11:03 a.m.

Module No: HR-09-0716
Carrier: Haas
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1151: Government and Veterans Affairs Committee (Rep. M. Klein, Chairman)
recommends **DO PASS** (13 YEAS, 0 NAYS, 1 ABSENT AND NOT VOTING).
HB 1151 was placed on the Eleventh order on the calendar.

(2) DESK, (3) COMM

Page No. 1

HR-09-0716

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Goldsmith
Operator's Signature

10/2/03
Date

2003 SENATE GOVERNMENT AND VETERANS AFFAIRS

HB 1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis G. Hall
Operator's Signature

10/2/03
Date

2003 SENATE STANDING COMMITTEE MINUTES

BILL/RESOLUTION NO. HB 1151

Senate Government and Veterans Affairs Committee

☐ Conference Committee

Hearing Date 02/28/03

Tape Number	Side A	Side B	Meter #
Tape 1	x		0-1518
Committee Clerk Signature <i>[Signature]</i>			

Minutes:

Senator Karen Krebsbach, Chairman opens HB 1151. All senators present.

Colonel Jerald Engelman, Ass. Adjutant General of the Air (Testimony attached)

Senator Brown: Since we have deployed so many troops how many do we have left.?

Colonel Engelman: 1150 are on alert or have been mobilized and there are 2500 left.

Senator Dever :Does this include basic training and AIT?

Colonel Engelman: They are in title 10 at that time

Senator Dever: What about the full time national guard?

Colonel Engelman: They are usually not in title 10 or 32. If they go on that and are on for 30 days yes, they would be.

Senator Dever : When we had guard members called up for homeland security what would they be one?

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

[Signature]
Operator's Signature

10/2/03
Date

Page 2

Senate Government and Veterans Affairs Committee

Bill/Resolution Number HB 1151

Hearing Date 02/28/03

Colonel Engelman: Airport security they were in title 32 status. They were called up by the President so they are then covered by federal laws. Border patrol was on title 10 and they were automatically covered also.

Senator Krebsbach : The guard members that are providing security at bases are they under title 10?

Colonel Engelman: Yes, they are which means all federal laws apply to them.

Senator Dever : Army Reserve are they subject to any of this?

Colonel Engelman: they are in Title 10 at all times

John Jacobsen, ND Veteran's Council: This was voted unanimously by council to support this bill.

Jim Coats, in support, Title 50 started in 1918. They have to protect our men and women when they are asked to drop everything and go and protect our country or state, This would be a peace of mind of soldiers and their families.

Closed HB 1151

Senator Brown moves for a Do Pass

Senator Wardner 2nd

6 Yes 0 No

Carrier: Senator Brown

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna H. [Signature]
Operator's Signature

10/2/03
Date

Date: 2/28/03
Roll Call Vote #: 1

2003 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1151

Senate Government and Veteran Affairs Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken Do Pass

Motion Made By Brown Seconded By Wardner

Senators	Yes	No	Senators	Yes	No
Senator Karen Krebsbach, Chr.	✓		Senator April Fairfield	✓	
Senator Dick Dever, Vice Chr.	✓		Senator Carolyn Nelson	✓	
Senator Richard Brown	✓				
Senator Rich Wardner	✓				

Total (Yes) 6 No 0

Absent 0

Floor Assignment Brown

If the vote is on an amendment, briefly indicate intent:

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Baller
Operator's Signature

10/2/03
Date

REPORT OF STANDING COMMITTEE (410)
February 28, 2003 11:31 a.m.

Module No: SR-36-3648
Carrier: Brown
Insert LC: . Title: .

REPORT OF STANDING COMMITTEE
HB 1151: Government and Veterans Affairs Committee (Sen. Krebsbach, Chairman)
recommends **DO PASS** (6 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). HB 1151
was placed on the Fourteenth order on the calendar.

(2) DESK, (3) COMM

Page No. 1

SR-36-3648

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis G. Ballbach
Operator's Signature

10/2/03
Date

2003 TESTIMONY

HB 1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dennis J. Hall
Operator's Signature

10/2/03
Date

**NORTH DAKOTA STATE BOARD OF HIGHER EDUCATION
POLICY MANUAL**

SUBJECT: STUDENT AFFAIRS

EFFECTIVE: November 21, 2002

Section: 510 Rights of Students Called to Active Military Service

1. A student not on active military service at the beginning of an academic term who is called or ordered to active military service for fourteen consecutive days or longer during the term shall have the right, at the student's option:
 - a. To withdraw from any or all classes in which the student is enrolled, even if after the established deadline for withdrawal, and be entitled, subject to applicable laws or regulations governing federal or state financial aid programs and allocation or refund as required under those programs, to a full refund of tuition and mandatory fees. The student shall not receive credit or a grade for classes from which the student withdraws. A student in good standing at the time of exercising this right shall have the right to be readmitted and reenroll, without penalty or redetermination of admission eligibility, within one year following release from active military service;
 - b. To request an incomplete under the institution's incomplete policy; or
 - c. Except for science labs, internships and other classes for which attendance or in-person participation is an essential part continue and complete the course for full credit if, in the opinion of the faculty member teaching the class, the student has completed sufficient work and has demonstrated sufficient progress toward meeting course requirements to justify the award of credit and grade. Upon a student's request and at the discretion of the faculty member, this option may be made available for a science lab or internship.
2. A student called or ordered to active military service during a term shall have the right to a refund of fees other than mandatory fees for that term as follows:
 - a. A refund on a *pro rata* basis for a housing contract and a traditional term board contract, and a full refund of any unused balance for a "declining balance" board contract, or a board contract by which a student purchased a specified number or dollar value of meals;
 - b. A refund on a *pro rata* basis of parking fees and other optional fees;
 - c. No refund is due for course challenge or similar fees for classes for which the student is awarded full credit;

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

10/2/03

d. No refund is due for flight training or similar fees for specialized training.

3. The chancellor may adopt procedures implementing this policy.

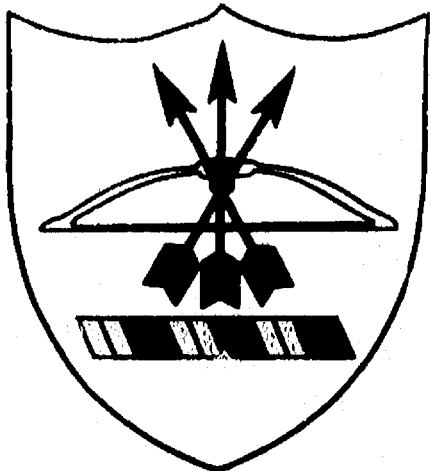
STATUTORY REFERENCES:

HISTORY: New policy. SBIIE Minutes, November 21, 2002.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Denna Ballantyne
Operator's Signature

10/2/03
Date



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
Colonel Jerald Engelman
before the
Government and Veterans Affairs Committee
January 17, 2003
8:30 a.m.
HOUSE BILL 1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dan H. H. H. H.
Operator's Signature

10/2/03
Date

TESTIMONY OF
COL JERALD ENGELMAN, THE DEPUTY ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD

BEFORE THE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

January 17, 2003

8:30 a.m.

HOUSE BILL 1151

Mr. Chairman, Members of the Committee, good morning.

This Bill provides certain protections to our National Guard members who volunteer or are called to active-duty by the state from specific financial liabilities they may face. These part time military members provide full time dedication to this state and country. Recent statewide, national, and international events have underscored the crucial role of citizen service members and their service to our state and nation. This legislation seeks to protect service members from adverse consequences when the service member answers duty's call.

This Bill adopts a provision of federal law entitled the Soldiers and Sailors Civil Relief Act of 1940 ("SSCRA"), and makes it applicable to military members who are called to active duty in support of state emergencies, disasters, or missions. By passing this Bill, we will be providing the same protections our military members have when called to duty by the President, and will allow them to dedicate themselves the serving this state and nation. Congress emphasized the importance of these protections when they passed the Soldiers and Sailors Civil Relief Act. Appendix Section 510 of title 50 provides:

50 USCS Appendix § 510 (2002)

§ 510. Purpose; suspension of enforcement of civil liabilities

In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons

The micrographic images of this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

1/21/03
Date

in such service during the period herein specified over which this Act [50
USCS Appx. §§ 501 et seq.] remains in force.

We believe this sound logic—providing protection so that service members can devote their energy to their duties—is also applicable to our National Guard members that answer the call to state service for homeland security and disaster relief.

For the specific protections, I would direct your attention to Attachment 1 to my testimony. As you can see, the protections provided include: reduction of interest rates on loans to 6%; the ability to breach a property lease; protection against civil process; the ability to maintain private health insurance, or drop this coverage and have it reinstated without restrictions; a moratorium on mortgage foreclosure and eviction protection; and, the ability to defer payment of income tax until the conclusion of military service.

While this Bill will have an impact on the private sector, we believe this impact will be minimal in most cases. First, for all the protections—except the termination of leases by leasees, and private health insurance reinstatement—there is a requirement that the soldier's ability to meet his or her obligations be "materially affected" by military service. Courts that have considered "material affect" compare a service member's financial condition prior to entry and his or her condition while in military service. If the soldier or airmen is in a better financial condition while in military service, the protections do not apply. This is often the case with our young soldiers and student members. In our most recent deployment of 127 soldiers for a Federal air base security mission (Federal SSCRA), the majority did not meet this "materially affected" test.

Second, with a recent change in Federal law, the protections of the SSCRA have been extended to federally funded state National Guard Duty for thirty days longer, when ordered by the President in response to a national emergency. With this change in Federal law, the impact of this Bill is limited to cases of State Active Duty, federally paid training, and full-time National Guard duty in excess of 30 days. In calendar year 2002, the total number of Guard members called to state service in excess of 30 days was approximately 302. The average length of service for this group was approximately 100 days. As you can see—with these short tours—the impact on the private sector should be minimal. This is especially true when most of these 302 Guard members would not be able to meet the material affects test.

This legislation was modeled after legislation adopted in Minnesota, Ohio, Wisconsin, Kentucky, and a number of other states recognizing the need to promote the interests of state and national defense by extending protections to its citizens who perform state military missions. These protections would extend to service members called to or ordered to state duty for 30 consecutive days or longer. While most states have not adopted a period of "qualifying active service" for the protections to become effective, this period strikes an appropriate balance. For example, a military member called or ordered to duty for a short duration state mission could not seek a stay of judicial proceedings under this provision. On the other hand, a service member ordered to duty for 30 or more days in support of a state mission may temporarily delay judicial proceedings until the member completes the military duty. The statute contemplates that the protections may be invoked at the time the service member is ordered or called to duty for 30 days or longer, or at any time during the period of qualifying service.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna G. Baller
Operator's Signature

10/2/03
Date

By adoption of the federal law, numerous court interpretations and decades of application of the SSCRA would provide guidance to those applying the protections of these provisions to military members serving our state.

Changes in the structure of our military, recent threats to our national and state security, and statewide disasters and emergencies underscore the importance of our service members. I urge the 58th North Dakota legislature to adopt these important provisions to provide protections to service members who volunteer to answer the call of duty to our state and country. Thank you for your thoughtful and careful consideration of this proposed legislation.

I would be pleased to respond to any questions, Mr. Chairman.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Hall
Operator's Signature

10/2/03
Date

STATE CIVIL RELIEF ACT SUMMARY

The Federal Soldiers' and Sailors' Civil Relief Act [50 U.S.C. Sections 500-593], with the "Wellstone" Amendments of 2002, protect our Guard members when called to Title 10 active duty, or when ordered to active duty by the President in a Title 32 state status for 30 days or longer, when responding to a national emergency. Therefore, this Bill would only cover state active duty, Guard members called to full-time National Guard duty, and Guard members who conduct training in a Title 32 state status. The protections granted under Federal law and HB 1151 are as follows:

- provid*
- ① 6% interest rate on loans. The loan must have existed prior to entering active duty, the military service must affect the service member's ability to make payments, and the interest rate must currently be greater than 6%. This will most often apply when the reservist makes less on active duty compared to his or her civilian job. [50 U.S.C. App. Sec. 526]
 - ② Lease protections. Incoming reservists may break their leases due to being ordered to active duty. The lease must be entered into prior to receiving orders for active duty, and the reservist must give at least 30 days notice. The reservist will be responsible for rent until the end of the month following the month notice was given. [50 U.S.C. App. Sec. 534]
 - ③ Protection from Civil Process. Reservist involved in a lawsuit at the start of their active service, or those who are sued during their military service, may be able to stay the proceedings. The service member must show that military duty interferes with the ability to make a court appearance. Additionally, the service member is protected from default judgment while on active duty. [50 U.S.C. App. Sec. 521]
 - ④ Health Care. Service members may suspend their health care coverage while on active duty. Once released, their health care provider must reinstate their coverage without regard to most pre-existing conditions and waiting periods. This provision does not apply to employer sponsored group insurance plans. [50 U.S.C. App. Sec. 593]
 - ⑤ Mortgage Foreclosure. No sale, foreclosure or seizure of property shall be valid if made during the period of military service or within 3 months thereafter, with limited exceptions. The obligation must have been entered into pre-service and the service member must still own the property at the time relief is sought. Military service must have materially affected the ability to comply with terms of obligation. [50 U.S.C. App. Sec. 532]
 - ⑥ Eviction Protection. Service members and dependents may not be evicted from a dwelling place, unless their ability to pay is not materially affected by military service. [50 U.S.C. App. Sec. 530]
 - ⑦ Income Tax. The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during a period of military service is deferred for a period extending not more than six months after the termination of his period of military service, if such person's ability to pay such tax is materially impaired by reason of such service. [50 U.S.C. App. Sec. 573]

ATTACHMENT 1

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Danna Hall
Operator's Signature

10/2/03
Date

⑧ Dependents. Dependents of military personnel may claim some of the benefits of the Act in cases where their sponsor's military service has had an adverse affect on them in one of the above-mentioned points. The applicability of the Act will be left to the discretion of a court of competent jurisdiction. [50 U.S.C. App. Sec. 511]

ATTACHMENT 1

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for processing and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna G. Hall
Operator's Signature

10/2/03
Date

50 USCS Appendix (2002)

§ 526. Maximum rate of interest

No obligation or liability bearing interest at a rate in excess of 6 percent per year incurred by a person in military service before that person's entry into that service shall, during any part of the period of military service, bear interest at a rate in excess of 6 percent per year unless, in the opinion of the court, upon application thereto by the obligee, the ability of such person in military service to pay interest upon such obligation or liability at a rate in excess of 6 percent per year is not materially affected by reason of such service, in which case the court may make such order as in its opinion may be just. As used in this section the term "interest" includes service charges, renewal charges, fees, or any other charges (except bona fide insurance) in respect of such obligation or liability.

§ 534. Termination of leases by lessees

(1) The provisions of this section shall apply to any lease covering premises occupied for dwelling, professional, business, agricultural, or similar purposes in any case in which (a) such lease was executed by or on the behalf of a person who, after the execution of such lease, entered military service, and (b) the premises so leased have been occupied for such purposes, or for a combination of such purposes, by such person or by him and his dependents.

(2) Any such lease may be terminated by notice in writing delivered to the lessor (or his grantee) or to the lessor's (or his grantee's) agent by the lessee at any time following the date of the beginning of his period of military service. Delivery of such notice may be accomplished by placing it in an envelope properly stamped and duly addressed to the lessor (or his grantee) or to the lessor's (or his grantee's) agent and depositing the notice in the United States mails. Termination of any such lease providing for monthly payment of rent shall not be effective until thirty days after the first date on which the next rental payment is due and payable subsequent to the date when such notice is delivered or mailed. In the case of all other leases, termination shall be effected on the last day of the month following the month in which such notice is delivered or mailed and in such case any unpaid rental for a period preceding termination shall be proratably computed and any rental paid in advance for a period succeeding termination shall be refunded by the lessor (or his assignee). Upon application by the lessor to the appropriate court prior to the termination period provided for in the notice, any relief granted in this subsection shall be subject to such modifications or restrictions as in the opinion of the court justice and equity may in the circumstances require.

(3) Any person who shall knowingly seize, hold, or detain the personal effects, clothing, furniture, or other property of any person who has lawfully terminated a lease covered by this section, or in any manner interfere with the removal of such property from the premises covered by such lease, for the purpose of subjecting or attempting to subject any of such property to a claim for rent accruing subsequent to the date of termination of such

ATTACHMENT 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.


Operator's Signature

10/2/03
Date

lease, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

§ 521. Stay of proceedings where military service affects conduct thereof

At any stage thereof any action or proceeding in any court in which a person in military service is involved, either as plaintiff or defendant, during the period of such service or within sixty days thereafter may, in the discretion of the court in which it is pending, on its own motion, and shall, on application to it by such person or some person on his behalf, be stayed as provided in this Act [50 USCS Appx. §§ 501 et seq.], unless, in the opinion of the court, the ability of plaintiff to prosecute the action or the defendant to conduct his defense is not materially affected by reason of his military service.

§ 593. Health insurance reinstatement upon reemployment

(a) Right to reinstatement of coverage. A person who, by reason of military service described in section 702(a)(1) [50 USCS Appx. § 592(a)(1)], is entitled to the rights and benefits of this Act shall also be entitled upon release from such military service to reinstatement of any health insurance which (1) was in effect on the day before such service commenced, and (2) was terminated effective on a date during the period of such service.

(b) Exclusion or waiting period. An exclusion or a waiting period may not be imposed in connection with reinstatement of health insurance coverage of a health or physical condition of a person under subsection (a), or a health or physical condition of any other person who is covered by the insurance by reason of the coverage of such person, if--

(1) the condition arose before or during that person's period of training or service in the Armed Forces;

(2) an exclusion or waiting period would not have been imposed for the condition during a period of coverage resulting from participation by such person in the insurance; and

(3) the condition of such person has not been determined by the Secretary of Veterans Affairs to be a disability incurred or aggravated in the line of duty (within the meaning of section 105 of title 38, United States Code).

(c) Employer-offered insurance benefits. Subsection (a) does not apply in the case of employer-offered insurance benefits in which a person referred to in such subsection is entitled to participate pursuant to the provisions of chapter 43 of title 38, United States Code.

§ 532. Mortgages, trust deeds, etc.

(1) The provisions of this section shall apply only to obligations secured by mortgage,

ATTACHMENT 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

trust deed, or other security in the nature of a mortgage upon real or personal property owned by a person in military service at the commencement of the period of the military service and still so owned by him which obligations originated prior to such person's period of military service.

(2) In any proceeding commenced in any court during the period of military service to enforce such obligation arising out of nonpayment of any sum thereunder due or out of any other breach of the terms thereof occurring prior to or during the period of such service the court may, after hearing, in its discretion, on its own motion, and shall, on application to it by such person in military service or some person on his behalf, unless in the opinion of the court the ability of the defendant to comply with the terms of the obligation is not materially affected by reason of his military service--

(a) stay the proceedings as provided in this Act [50 USCS Appx. §§ 501 et seq.]; or

(b) make such other disposition of the case as may be equitable to conserve the interests of all parties.

(3) No sale, foreclosure, or seizure of property for nonpayment of any sum due under any such obligation, or for any other breach of the terms thereof, whether under a power of sale, under a judgment entered upon warrant of attorney to confess judgment contained therein, or otherwise, shall be valid if made during the period of military service or within three months thereafter, except pursuant to an agreement as provided in section 107 [50 USCS Appx. § 517], unless upon an order previously granted by the court and a return thereto made and approved by the court.

(4) Any person who shall knowingly make or cause to be made any sale, foreclosure, or seizure of property, defined as invalid by subsection (3) hereof, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

§ 530. Eviction or distress during military service; stay; penalty for noncompliance; allotment of pay for payment

(a) No eviction or distress shall be made during the period of military service in respect of any premises for which the agreed rent does not exceed \$ 1,200 per month, occupied chiefly for dwelling purposes by the wife, children, or other dependents of a person in military service, except upon leave of court granted upon application therefor or granted in an action or proceeding affecting the right of possession.

(b) On any such application or in any such action the court may, in its discretion, on its own motion, and shall, on application, unless in the opinion of the court the ability of the tenant to pay the agreed rent is not materially affected by reason of such military service, stay the proceedings for not longer than three months, as provided in this Act [50 USCS Appx. §§ 501 et seq.], or it may make such other order as may be just. Where such stay is granted or other order is made by the court, the owner of the premises shall be entitled, upon application therefor, to relief in respect of such premises similar to that granted

ATTACHMENT 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorinda G. Ball
Operator's Signature

10/2/03
Date

persons in military service in sections 301, 302, and 500 of this Act [50 USCS §§ 531, 532, 560] to such extent and for such period as may appear to the court to be just.

(c) Any person who shall knowingly take part in any eviction or distress otherwise than as provided in subsection (a) hereof, or attempts so to do, shall be fined as provided in title 18, United States Code, or imprisoned for not to exceed one year, or both.

(d) The Secretary of Defense or Secretary of Transportation, with respect to the Coast Guard when it is not operating as a service in the Navy, is hereby empowered, subject to such regulations as he may prescribe, to order an allotment of the pay of a person in military service in reasonable proportion to discharge the rent of premises occupied for dwelling purposes by the wife, children, or other dependents of such person.

§ 573. Income taxes; collection deferred; interest; statute of limitations

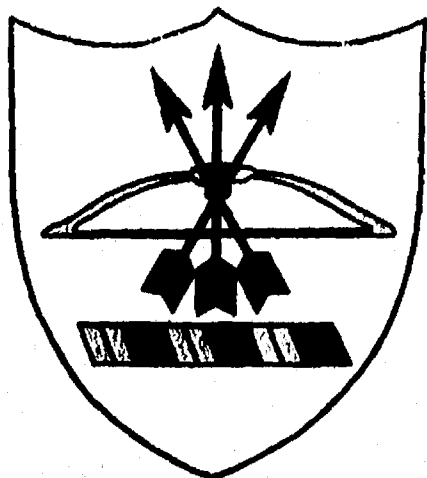
The collection from any person in the military service of any tax on the income of such person, whether falling due prior to or during his period of military service, shall be deferred for a period extending not more than six months after the termination of his period of military service if such person's ability to pay such tax is materially impaired by reason of such service. No interest on any amount of tax, collection of which is deferred for any period under this section, and no penalty for nonpayment of such amount during such period, shall accrue for such period of deferment by reason of such nonpayment. The running of any statute of limitations against the collection of such tax by distraint or otherwise shall be suspended for the period of military service of any individual the collection of whose tax is deferred under this section, and for an additional period of nine months beginning with the day following the period of military service. The provisions of this section shall not apply to the income tax on employees imposed by section 1400 of the Federal Insurance Contributions Act.

ATTACHMENT 2

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Donna Hall
Operator's Signature

10/2/03
Date



Army National Guard
"The Straight Arrows"



Air National Guard
"The Happy Hooligans"

The
North Dakota
National Guard

Testimony of
Colonel Jerald Engelman
before the
Government and Veterans Affairs Committee
February 28, 2003
9:00 a.m.
HOUSE BILL 1151

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Dorena H. Ball
Operator's Signature

10/2/03
Date

TESTIMONY OF
COL JERALD ENGELMAN, THE DEPUTY ADJUTANT GENERAL
NORTH DAKOTA NATIONAL GUARD

BEFORE THE
GOVERNMENT AND VETERANS AFFAIRS COMMITTEE

February 28, 2003

9:00 a.m.

HOUSE BILL 1151

Madam Chairman, Members of the Committee, good morning.

This Bill provides certain protections to our National Guard members who volunteer or are called to active-duty by the state from specific financial liabilities they may face. These part time military members provide full time dedication to this state and country. Recent statewide, national, and international events have underscored the crucial role of citizen service members and their service to our state and nation. This legislation seeks to protect service members from adverse consequences when the service member answers duty's call.

This Bill adopts a provision of federal law entitled the Soldiers and Sailors Civil Relief Act of 1940 ("SSCRA"), and makes it applicable to military members who are called to active duty in support of state emergencies, disasters, or missions. By passing this Bill, we will be providing the same protections our military members have when called to duty by the President, and will allow them to dedicate themselves the serving this state and nation. Congress emphasized the importance of these protections when they passed the Soldiers and Sailors Civil Relief Act. Appendix Section 510 of title 50 provides:

50 USCS Appendix § 510 (2002)

§ 510. Purpose; suspension of enforcement of civil liabilities

In order to provide for, strengthen, and expedite the national defense under the emergent conditions which are threatening the peace and security of the United States and to enable the United States the more successfully to fulfill the requirements of the national defense, provision is hereby made to suspend enforcement of civil liabilities, in certain cases, of persons in the military service of the United States in order to enable such persons to devote their entire energy to the defense needs of the Nation, and to this end the following provisions are made for the temporary suspension of legal proceedings and transactions which may prejudice the civil rights of persons

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Operator's Signature

Date

in such service during the period herein specified over which this Act [50
USCS Appx. §§ 501 et seq.] remains in force.

We believe this sound logic—providing protection so that service members can devote their energy to their duties—is also applicable to our National Guard members that answer the call to state service for homeland security and disaster relief.

For the specific protections, I would direct your attention to Attachment 1 to my testimony. As you can see, the protections provided include: reduction of interest rates on loans to 6%; the ability to breach a property lease; protection against civil process; the ability to maintain private health insurance, or drop this coverage and have it reinstated without restrictions; a moratorium on mortgage foreclosure and eviction protection; and, the ability to defer payment of income tax until the conclusion of military service.

While this Bill will have an impact on the private sector, we believe this impact will be minimal in most cases. First, for all the protections—except the termination of leases by leasees, and private health insurance reinstatement—there is a requirement that the soldier's ability to meet his or her obligations be "materially affected" by military service. Courts that have consider "material affect" compare a service member's financial condition prior to entry and his or her condition while in military service. If the soldier or airmen is in a better financial condition while in military service, the protections do not apply. This is often the case with our young soldiers and student members. In our most recent deployment of 127 soldiers for a Federal air base security mission (Federal SSCRA), the majority did not meet this "materially affected" test.

Second, with a recent change in Federal law, the protections of the SSCRA have been extended to federally funded state National Guard Duty for thirty days longer, when ordered by the President in response to a national emergency. With this change in Federal law, the impact of this Bill is limited to cases of State Active Duty, federally aid training, and full-time National Guard duty in excess of 30 days. In calendar year 2000, the total number of Guard members called to state service in excess of 30 days was approximately 302. The average length of service for this group was approximately 100 days. As you can see—with these short tours—the impact on the private sector should be minimal. This is especially true when most of these 302 Guard members would not be able to meet the material affects test.

This legislation was modeled after legislation adopted in Minnesota, Ohio, Wisconsin, Kentucky, and a number of other states recognizing the need to promote the interests of state and national defense by extending protections to its citizens who perform state military missions. These protections would extend to service members called to or ordered to state duty for 30 consecutive days or longer. While most states have not adopted a period of "qualifying active service" for the protections to become effective, this period strikes an appropriate balance. For example, a military member called or ordered to duty for a short duration state mission could not seek a stay of judicial proceedings under this provision. On the other hand, a service member ordered to duty for 30 or more days in support of a state mission may temporarily delay judicial proceedings until the member completes the military duty. The statute contemplates that the protections may be invoked at the time the service member is ordered or called to duty for 30 days or longer, or at any time during the period of qualifying service.

Deanna Holladay
Operator's Signature

10/2/03
Date

By adoption of the federal law, numerous court interpretations and decades of application of the SSCRA would provide guidance to those applying the protections of these provisions to military members serving our state.

Changes in the structure of our military, recent threats to our national and state security, and statewide disasters and emergencies underscore the importance of our service members. I urge the 58th North Dakota legislature to adopt these important provisions to provide protections to service members who volunteer to answer the call of duty to our state and country. Thank you for your thoughtful and careful consideration of this proposed legislation.

I would be pleased to respond to any questions, Madam Chairman.

The micrographic images on this film are accurate reproductions of records delivered to Modern Information Systems for microfilming and were filmed in the regular course of business. The photographic process meets standards of the American National Standards Institute (ANSI) for archival microfilm. NOTICE: If the filmed image above is less legible than this Notice, it is due to the quality of the document being filmed.

Deanna Baller
Operator's Signature

10/2/03
Date