

**Sixtieth Legislative Assembly of North Dakota
In Regular Session Commencing Wednesday, January 3, 2007**

SENATE BILL NO. 2115
(Government and Veterans Affairs Committee)
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-04, 37-07.2-01, 37-28-01, 37-28-02, and 37-28-03 of the North Dakota Century Code, relating to the governor's authority to call out the national guard for training, national guard tuition grants, the definition of resident for military adjusted compensation, and the time period for filing claims; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

SECTION 2. AMENDMENT. Section 37-07.2-01 of the North Dakota Century Code is amended and reenacted as follows:

37-07.2-01. National guard tuition grants - Terms of grants. Any qualifying member of the national guard who enrolls in ~~any private nonprofit college or university~~ an accredited postsecondary institution in North Dakota ~~granting a four-year baccalaureate degree~~ may, subject to the limitations of available appropriated funds and subject to national guard rules ~~promulgated~~ adopted by the adjutant general, receive a grant in an amount equal to the payments made pursuant to chapter 37-07.1 for similar courses and credit hours for each qualifying member of the national guard who is enrolled at the university of North Dakota. Any ~~private nonprofit college or university~~ accredited postsecondary institution that agrees to participate in such a program must waive twenty-five percent of the tuition for qualifying national guardsmen in an amount equal to the difference between the tuition grant received by the national guard member and the tuition charged for similar courses and credit hours at the university of North Dakota. ~~The use of the grant may not be restricted to the payment of tuition fees by the member of the national guard.~~ These grants must be distributed according to rules promulgated by the adjutant general and are available only so long as the member maintains satisfactory performance with the guard, meets the qualification requirements of the rules, and pursues a course of study which satisfies the normal requirements of the school. As used in this chapter, the word "tuition" has the same meaning as provided in section 37-07.1-02.

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

37-28-01. Statement of public purpose. In order to ease the financial hardships and personal and family sacrifice sustained by ~~those North Dakota~~ North Dakota members of the North Dakota national guard, and North Dakota residents of the reserve, and active duty component who were mobilized after December 5, 1992, in support of military operations around the world it is the intent of the legislative

assembly that additional compensation be provided to those resident veterans of North Dakota and payment of that compensation is declared to be a public purpose. It is the further intent of the legislative assembly to encourage those North Dakota resident veterans to continue their voluntary membership in the national guard, reserve component, and active military force.

SECTION 4. AMENDMENT. Section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

37-28-02. Definitions. As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
 - a. The surviving unmarried husband or wife as of the date of signing the application;
 - b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;
 - c. The surviving person standing in loco parentis; or
 - d. The surviving parent or parents.
3. "Domestic service" means service by a veteran during the period of service which is not foreign service.
4. "Foreign service" means service by a veteran after December 5, 1992, for which the veteran received an armed forces expeditionary medal or campaign badge.
5. "Honorable and faithful" means service evidenced by:
 - a. An honorable discharge, or its equivalent;
 - b. In the case of an officer, a certificate of service; and
 - c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.
6. "Period of service" means the period of time beginning December 5, 1992, and ending June 30, ~~2007~~ 2009.
7. ~~"Resident" means a person who has filed a North Dakota income tax return for the year prior to making application for benefits under this section and who:~~
 - a. ~~Was born in and lived in the state of North Dakota until entrance into the armed forces of the United States;~~
 - b. ~~Was born in, but was temporarily living outside the state of North Dakota, not having abandoned North Dakota residence at the time of entrance into the armed forces of the United States; or~~
 - e. ~~Was born elsewhere but had resided within the state of North Dakota for the last six months before entrance into military service and had prior to or during that six month period:~~
 - (1) ~~Voted in the state of North Dakota;~~
 - (2) ~~Was an emancipated minor during such period of residence or had lived with a parent or person standing in loco parentis who was a resident; or~~

~~(3) Was not registered for voting in another state after being a resident.~~

- d. ~~a.~~ "Resident" ~~also~~ means a veteran who was a bona fide resident of the state of North Dakota at the time of ~~entering the armed forces mobilization~~ or, in the case of an active component member, at the time of deployment for which the member received an expeditionary medal or campaign badge, as determined under the rules of the adjutant general and the laws of this state. "Resident" includes all mobilized members of the North Dakota national guard.
8. ~~b.~~ "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 12302 and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, or active component member awarded the expeditionary medal or campaign badge for service after December 5, 1992, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

SECTION 5. AMENDMENT. Section 37-28-03 of the North Dakota Century Code is amended and reenacted as follows:

37-28-03. Payment of adjusted compensation for domestic and foreign service. Each national guard or reserve component resident veteran mobilized stateside is entitled to fifty dollars for each month or major fraction thereof for domestic service, not to exceed nine hundred dollars. Each national guard, reserve, or active component resident veteran of foreign service who received the expeditionary medal or campaign badge is entitled to one hundred dollars for each month or major fraction thereof, not to exceed one thousand eight hundred dollars. Combined totals for stateside and foreign service may not exceed one thousand eight hundred dollars. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general through June 30, ~~2007~~ 2009, or in the case of a soldier mobilized on June 30, ~~2007~~ 2009, not later than six months after the end of the mobilization period of service.

SECTION 6. EMERGENCY. Sections 3, 4, and 5 of this Act are declared to be an emergency measure.

President of the Senate

Speaker of the House

Secretary of the Senate

Chief Clerk of the House

This certifies that the within bill originated in the Senate of the Sixtieth Legislative Assembly of North Dakota and is known on the records of that body as Senate Bill No. 2115 and that two-thirds of the members-elect of the Senate voted in favor of said law.

Vote: Yeas 45 Nays 0 Absent 2

President of the Senate

Secretary of the Senate

This certifies that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 92 Nays 0 Absent 2

Speaker of the House

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2007.

Approved at _____ M. on _____, 2007.

Governor

Filed in this office this _____ day of _____, 2007,

at ___ o'clock _____ M.

Secretary of State