

# MILITARY

## CHAPTER 262

### HOUSE BILL NO. 1057

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to create and enact two new subsections to section 37-01-01, a new section to chapter 37-03, and section 37-01-10.2 of the North Dakota Century Code, relating to the definition and authority of the adjutant general to present awards; and to amend and reenact sections 37-01-09 and 37-01-10.1 of the North Dakota Century Code, relating to service medals awarded to national guard members.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** Two new subsections to section 37-01-01 of the North Dakota Century Code are created and enacted as follows:

"Adjutant general coin" means a coin or medallion bearing the state's adjutant general's organization insignia or emblem.

"Disaster response coin" means a coin or medallion bearing a design to commemorate the response during a state disaster or emergency.

**SECTION 2.** A new section to chapter 37-03 of the North Dakota Century Code is created and enacted as follows:

#### **North Dakota adjutant general and disaster response coin - Presented by whom - Qualifications.**

The adjutant general may present an adjutant general coin to deserving individuals who have distinguished themselves through exceptional service to the mission of the North Dakota national guard or department of emergency services. The adjutant general may present a disaster response coin to deserving individuals who have distinguished themselves through exceptional service during times of disaster or emergency in the state.

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

#### **37-01-09. Service medals.**

The commander in chief of the national guard of this state may issue an order providing suitable service medals or ribbons or marks of distinction for all officers and enlisted ~~men~~members who have served in the national guard for an aggregate period of five, ten, ~~fifteen,~~ and twenty, ~~thirty,~~ and forty years, respectively, and for a like service thereafter or for service on active duty with the armed forces of the United States. Such service medals or ribbons may also be awarded to any member of the

armed forces of the United States who shall serve in an active duty capacity with the North Dakota national guard for a period of two or more years.

**SECTION 4. AMENDMENT.** Section 37-01-10.1 of the North Dakota Century Code is amended and reenacted as follows:

**37-01-10.1. North Dakota legion of merit medal - Presented by whom - Qualifications - Regulations governing.**

The governor, in the name of the legislative assembly, may present a military medal known as the "North Dakota legion of merit" to any member or former member of the North Dakota national guard who, in the discharge of the person's military duty, has been distinguished by outstanding service ~~and twenty years of duty~~ to the North Dakota national guard, and that person's community, state, and nation. Such medal may also be awarded to a member or former member of the armed forces of the United States or of the national guard of another state who performs outstanding service for the guard of this state. The medal must bear a suitable inscription and must be of military design as prescribed by the adjutant general. The medal must be awarded by the board of awards in the same manner as prescribed in section 37-01-10.

**SECTION 5.** Section 37-01-10.2 of the North Dakota Century Code is created and enacted as follows:

**37-01-10.2. North Dakota state flag - Presented by whom - Qualifications.**

A North Dakota state flag may be presented upon retirement to any member of the North Dakota national guard upon the completion of twenty good years or more of military service.

Approved March 26, 2013  
Filed March 27, 2013

## CHAPTER 263

### SENATE BILL NO. 2073

(Judiciary Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-01-03 and 37-01-43, subdivision b of subsection 7 of section 37-28-02, and section 39-04-10.8 of the North Dakota Century Code, relating to the operation of the North Dakota national guard and national guard license plates.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 37-01-03 of the North Dakota Century Code is amended and reenacted as follows:

**37-01-03. 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 as codified in the Manual for Courts-Martial, United States, ~~as effective through 2010, now in effect~~ 2012 edition, are 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 military duty, to include state active duty, may be tried by a court-martial lawfully appointed even after such duty has terminated, and if found guilty, the accused must 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 person alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve such charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Commanders may administer nonjudicial punishment for offenses while on military duty, to include state active duty, in accordance with part V, Manual for Courts-Martial, except that the servicemember may not demand a trial by courts-martial. 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.

**SECTION 2. AMENDMENT.** Section 37-01-43 of the North Dakota Century Code is amended and reenacted as follows:

**37-01-43. North Dakota military civil relief act.**

A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act, ~~as effective through December 2003~~ [50 U.S.C. App. U.S.C. sections 501-596] in effect on December 19, 2003.

**SECTION 3. AMENDMENT.** Subdivision b of subsection 7 of section 37-28-02 of the North Dakota Century Code is amended and reenacted as follows:

- b. "Veteran" means, for eligibility purposes, a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, as effective ~~through October 2004~~, in effect on October 28, 2004 and 10 U.S.C. 12302, ~~as effective through 2004~~in effect on December 31, 2011, 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 4. AMENDMENT.** Section 39-04-10.8 of the North Dakota Century Code is amended and reenacted as follows:

**39-04-10.8. National guard number plates.**

The director, in cooperation with the adjutant general, shall issue distinctive number plates to members of the national guard. A plate issued under this section must bear the national guard insignia designated by the adjutant general and the letters "NG" before the number. The director may issue the plates to the owner of a passenger motor vehicle ~~or~~, a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.84 kilograms], or a motorcycle. On request of the director, the adjutant general shall certify those members of the national guard eligible to receive the plates. On payment of all other fees required under this chapter for registration of the motor vehicle, and payment of an additional fee of not more than five dollars to cover the cost of issuing the distinctive number plates, the applicant is entitled to issuance of the distinctive number plates. A registrant is eligible for distinctive number plates under this section if the registrant is a member of the national guard or if the registrant has retired from the national guard after twenty years or more of military service. On termination of the registrant's eligibility, the registrant shall return the distinctive number plates to the director, who shall reissue for a fee of not more than five dollars another number plate to which that registrant is entitled under this chapter. The director and adjutant general shall cooperate in establishing procedures to implement this section.

Approved April 1, 2013  
Filed April 1, 2013

## CHAPTER 264

### SENATE BILL NO. 2210

(Senators Flakoll, Bowman, Carlisle, Marcellais)  
(Representatives D. Johnson, Thoreson)

AN ACT to provide for the publishing of a book of veterans.

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

#### **SECTION 1.**

##### **Book of veterans.**

The adjutant general shall initiate and coordinate the writing, publishing, and distribution of a record of all North Dakota veterans, including a record of all North Dakotans killed in action and missing in action since statehood. The adjutant general shall determine the projected costs for the completion of the writing, publishing, and distribution of the records and present those projections to the legislative management.

Approved April 30, 2013  
Filed April 30, 2013

## CHAPTER 265

### HOUSE BILL NO. 1056

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-07-05 and 37-04-08 of the North Dakota Century Code, relating to pay of national guard members when called to state active duty; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

**37-07-05. Pay and allowances of enlisted national guard members - Deductions allowed.**

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

1. E-3      55%
2. E-4      45%
3. E-5      35%
4. E-6      25%
5. E-7      15%
6. E-8      10%

Each enlisted member shall also receive transportation, shelter, and subsistence. The value of articles issued to any member of a company or battery and not returned in good order on demand, and all legal fines or forfeitures, may be deducted from the member's pay. Each enlisted member shall also receive a state active duty pay enhancement of one hundred dollars for every fourteen consecutive days spent on state active duty. Pay at an annual encampment must be such as is allowed by federal law.

**SECTION 2. AMENDMENT.** Section 37-04-08 of the North Dakota Century Code is amended and reenacted as follows:

**37-04-08. Pay received by ~~personnel~~ commissioned officers of the national guard.**

Every commissioned officer of the national guard shall receive from this state, while engaged in any service ordered by the governor, pay and allowances at the rate

allowed by law to officers of similar rank and length of service in the United States army. Each commissioned officer of the national guard shall also receive a state active duty pay enhancement of one hundred dollars for every fourteen consecutive days spent on state active duty. The adjutant general and deputy assistant adjutant general when receiving salary from the state and not on active duty in a federal status shall receive such compensation as may be appropriated by the legislative assembly for that purpose, provided that when the adjutant general receives compensation from the government of the United States as director of selective service, such compensation must be deducted from the compensation otherwise due the adjutant general from the state and the adjutant general may be paid from state funds only the difference, if any, between the compensation from the United States and the compensation provided in this section.

**SECTION 3. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 26, 2013  
Filed March 27, 2013

## CHAPTER 266

### HOUSE BILL NO. 1310

(Representatives Docket, Karls, Thoreson, Guggisberg)  
(Senator Carlisle)

AN ACT to amend and reenact section 37-14-18 of the North Dakota Century Code, relating to eligibility of county veterans' service officers to be appointed as conservators.

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

**SECTION 1. AMENDMENT.** Section 37-14-18 of the North Dakota Century Code is amended and reenacted as follows:

#### **37-14-18. County veterans' service officer - Appointment - Duties.**

The board of county commissioners of each county of the state of North Dakota shall appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. The veterans' affairs commissioner may work directly with county veterans' service officers. An individual may serve as a county veterans' service officer in more than one county. The appointment must be made with the prior advice of the commissioner of veterans' affairs, and in accordance with veterans' preference as provided in section 37-19.1-02. By August 1, 2011, all county veterans' service officers must be accredited by the national association of county veterans' service officers. It is the duty of the county veterans' service officer to become acquainted with the laws, both state and federal, enacted for the benefit of returning servicemen and servicewomen to assist such returning members of the armed forces in the presentation, proof, and establishment of such claims, privileges, and rights as they have. It also is the duty of the county veterans' service officer to actively cooperate with and to coordinate the activities of the state and federal agencies within the county which the officer serves to facilitate their operation and ensure promptness in the solution of the problems concerned with the reestablishment of returning servicemen and servicewomen in civilian pursuits. A county veterans' service officer may not serve as a conservator for an individual who is receiving benefits or services from the department of veterans' affairs or the United States department of veterans' affairs, except if the individual is the spouse or an immediate family member of the officer, ~~or unless the conservator is appointed by the county under chapter 11-21.~~

Approved April 12, 2013  
Filed April 12, 2013

## CHAPTER 267

### SENATE BILL NO. 2292

(Senators Sinner, J. Lee, Lyson, Oehlke)  
(Representative Gruchalla)

AN ACT to create and enact a new subsection to section 37-17.1-04 and a new section to chapter 37-17.1 of the North Dakota Century Code, relating to search and rescue operations; and to amend and reenact section 37-17.1-27 of the North Dakota Century Code, relating to reimbursement of costs under the state disaster relief fund.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 37-17.1-04 of the North Dakota Century Code is created and enacted as follows:

"Wide area search and rescue" means the employment, coordination, and utilization of available resources and personnel in activities occurring within large geographical areas for the purpose of locating, relieving distress, and preserving the life of an individual reported or believed to be lost, stranded, or deemed a high-risk missing individual, and removing any survivor to a place of safety.

**SECTION 2.** A new section to chapter 37-17.1 of the North Dakota Century Code is created and enacted as follows:

#### Wide area search and rescue activities - Powers and duties of local officials - Costs.

1. The chief law enforcement officer of each political subdivision is responsible for local wide area search and rescue activities. The operation of a wide area search and rescue activity must be in accordance with state and local operations plans adopted by the governing body of each subdivision. A state or local operations plan must specify the use of the incident command system for a multiagency or multijurisdictional search and rescue operation. The local emergency management director shall notify the department of emergency services of each wide area search and rescue mission. The local emergency management director shall work in a coordinating capacity directly supporting all wide area search and rescue activities in that political subdivision and in registering each emergency search and rescue worker for employee status. The chief law enforcement official of each political subdivision may restrict access to a specific search and rescue area to personnel authorized by the chief law enforcement official. Access may be restricted only for the time necessary to accomplish the search and rescue mission. An unauthorized person may not interfere with a search and rescue mission.
2. If a search and rescue activity results in the discovery of a deceased individual or if any search and rescue worker assists in the recovery of human remains, the chief law enforcement official of the political subdivision shall ensure compliance with chapter 11-19.1.

3. Upon authorization by the governor and approval of costs by the director of the division of homeland security, expenses incurred in meeting a contingency or emergency arising from a wide area search and rescue operation may be reimbursed under section 37-17.1-22 or 37-17.1-27.

**SECTION 3. AMENDMENT.** Section 37-17.1-27 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-27. State disaster relief fund - Creation - Uses.**

There is created in the state treasury a state disaster relief fund. Moneys in the fund are to be used subject to legislative appropriations and emergency commission and budget section approval for providing the required state share of funding for expenses associated with presidential-declared disasters in the state and for the purposes of reimbursing costs under section 2 of this Act. Any interest or other fund earnings must be deposited in the fund.

Approved April 10, 2013  
Filed April 10, 2013

## CHAPTER 268

### HOUSE BILL NO. 1149

(Representatives Anderson, Hofstad, Kreun)  
(Senator Laffen)

AN ACT to create and enact a new subsection to section 37-17.1-06 and a new subdivision to subsection 1 of section 37-17.1-07.1 of the North Dakota Century Code, relating to emergency response to hazardous chemical, oil, gas, and saltwater incidents.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new subsection to section 37-17.1-06 of the North Dakota Century Code is created and enacted as follows:

The division of homeland security shall serve as a central information dissemination point and repository for initial notification information for spills and discharges in the state for hazardous chemicals as defined in section 37-17.1-07.1, oil, gas, and saltwater. The division shall develop processes to ensure proper state and federal agencies that have oversight responsibilities are promptly notified. The division shall also provide notice to local emergency management officials within a time that is consistent with the level of emergency.

**SECTION 2.** A new subdivision to subsection 1 of section 37-17.1-07.1 the North Dakota Century Code is created and enacted as follows:

For purposes of monitoring, determining if emergency response may be required, and notifying local officials, owners and operators or responsible parties shall report all spills or discharges to the appropriate state agency as required by law. The report must include the name of the reporting party, including phone number and address; date; time of release; location of release; containment status; waterways involved; and immediate potential threat. If the release occurs or travels offsite from a facility, the owner and operator or responsible party shall notify the surface owner within a reasonable time. State agencies that receive direct reports of spills or discharges shall provide the report information to the division within a time that is consistent with potential level of response needed.

Approved April 10, 2013  
Filed April 10, 2013

## CHAPTER 269

### HOUSE BILL NO. 1120

(Political Subdivisions Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-17.1-10 of the North Dakota Century Code, relating to authority to issue mandatory evacuations during emergencies; and to declare an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 37-17.1-10 of the North Dakota Century Code is amended and reenacted as follows:

#### **37-17.1-10. Local disasters, mandatory evacuations, or emergencies.**

1. Unless so declared in accordance with the provisions of subsection 4 of section 37-17.1-05, a local disaster or emergency, or mandatory evacuation order may be declared only by the principal executive officer of the county or city. It may not be continued or renewed for a period in excess of seven days except by or with the consent of the governing board of the county or city. Any order or proclamation declaring a local disaster or emergency, or mandatory evacuation must be given prompt and general publicity and must be filed promptly with the county or city auditor.
2. The effect of a declaration of a local disaster or emergency is to activate the response and recovery aspects of any and all applicable local disaster or emergency operational plans and to authorize the furnishing of aid and assistance thereunder.

**SECTION 2. EMERGENCY.** This Act is declared to be an emergency measure.

Approved March 18, 2013  
Filed March 18, 2013

## CHAPTER 270

### HOUSE BILL NO. 1025

(Legislative Management)

(Advisory Commission on Intergovernmental Relations)

AN ACT to amend and reenact sections 37-17.1-12, 37-17.1-16, 37-17.1-17, and 40-22-01.1 of the North Dakota Century Code, relating to liability and immunity during disaster responses and financing of repairs.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 37-17.1-12 of the North Dakota Century Code is amended and reenacted as follows:

##### **37-17.1-12. Compensation - Entitlement - Time - Amount.**

1. Persons within this state shall conduct themselves and keep and manage their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public to effectively prevent, mitigate, prepare for, respond to, and recover from a disaster or emergency. This obligation includes appropriate personal service and use or restriction on the use of property in time of disaster or emergency. This chapter neither increases nor decreases these obligations but recognizes their existence under the Constitution of North Dakota and statutes of this state and the common law. Compensation for services or for the taking or use of property must be only to the extent that obligations recognized herein are exceeded in a particular case and then only to the extent that the claimant may not be deemed to have volunteered that person's services or property without compensation.
2. Personal services may not be compensated by the state or any county or city thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property ~~must~~ may be ~~only paid~~ if the property was commandeered or otherwise used in management of a disaster or emergency declared ~~by the governor and its use or destruction was ordered by the governor~~ under proper authority to the extent not otherwise waived or agreed upon before the use of property.
4. A claim made against a county or city must be made in writing to the appropriate governing body within two years after the use, damage, loss, or destruction of the property under proper authority is discovered or reasonably should have been discovered, may only be for actual damages not recovered from claimants' property or other applicable insurance, and may be paid from any combination of funds provided under section 40-22-01.1, disaster relief funds made available to a county or city for this purpose, or other funds at the discretion of the governing body. A city or county may establish reasonable provisions for the payment of compensation.
5. Any person claiming compensation for the use, damage, loss, or destruction of property by the state under this chapter shall file a written claim therefor

with the office of management and budget in the form and manner required by the office. The claim for compensation must be received by the office of management and budget within ~~one year~~two years after the use, damage, loss, or destruction of the property pursuant to the governor's order under section 37-17.1-05 is discovered or reasonably should have been discovered or compensation under this chapter is waived.

- 5-6. Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the office of management and budget, the amount of compensation must be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

**SECTION 2. AMENDMENT.** Section 37-17.1-16 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-16. Immunity and exemption.**

1. All functions hereunder and all other activities relating to emergency management are hereby declared to be governmental functions. The state, a county or city, any disaster or emergency worker, an employee of a federal agency on loan or leave to the state in support of emergency service response whether the emergency is declared or undeclared, or any other person providing goods or services during an emergency if the person is working in coordination with and under the direction of an appropriate governmental emergency or disaster response entity, complying with or reasonably attempting to comply with this chapter, or any executive order or disaster or emergency operational plan pursuant to this chapter, or pursuant to any ordinance relating to any precautionary measures enacted by any county or city of the state, except in case of willful misconduct, gross negligence, or bad faith, is not liable for the death of or injury to persons, or for damage to property except as compensation may be provided in section 37-17.1-12, as a result of any such activity. This section does not affect the right of any person to receive benefits to which that person would otherwise be entitled under this chapter, or under workforce safety and insurance law, or under any pension law, nor the right of any such person to receive any benefits or compensation under any Act of Congress.
2. Any requirement for a license to practice any professional, mechanical, or other skill does not apply to any authorized disaster or emergency worker who, in the course of performing the worker's duties, practices the professional, mechanical, or other skill during a disaster or emergency.
3. This section does not affect any other provision of law that may provide immunity to a person that is providing volunteer assistance.

**SECTION 3. AMENDMENT.** Section 37-17.1-17 of the North Dakota Century Code is amended and reenacted as follows:

**37-17.1-17. No private liability.**

Any person owning or controlling real estate or other premises who voluntarily and without compensation grants a license or privilege, or otherwise permits the designation or use of the whole or any part or parts of such real estate or premises for the purpose of emergency management activities during an actual, impending, mock or practice disaster or emergency, is, together with their successors in interest, if any,

not civilly liable, ~~except in the case of gross negligence or willful and malicious failure to guard or warn against a dangerous condition, use, structure, or activity, for negligently causing the death of, or injury to, any person on or about such real estate or premises or for loss of, or damage to, the property of such person.~~

**SECTION 4. AMENDMENT.** Section 40-22-01.1 of the North Dakota Century Code is amended and reenacted as follows:

**40-22-01.1. Restoration of certain property damaged in flood control or during a declared disaster or emergency - Special assessments for costs.**

When any city ~~shall have~~ has constructed any temporary emergency flood control protection devices or works to protect property located within a portion of a city from flood damage ~~or expended funds for the protection of the city from flood or other peril under chapter 37-17.1 or otherwise,~~ the city may cause ~~the removal of~~ maintain and remove material used in the construction of ~~such~~ the temporary emergency flood control protection devices or works and the repair of damages to land, buildings, or personal property caused by the operation of its equipment upon the property while in the process of installing or removing ~~such~~ the temporary emergency flood protection systems. ~~Such~~ The city may create by resolution of its governing board a special assessment district encompassing the protected area. Special assessments against the property within the district ~~shall~~ must be imposed to cover the costs incurred by the city in ~~constructing and maintaining the emergency flood protection devices or works and in~~ removing the material used and in repairing the damages caused by the operation of equipment while installing or removing ~~such~~ the temporary emergency flood protection systems. ~~The amount to be assessed must be established by a resolution adopted by the governing board.~~ Special assessments against any property in the district ~~shall~~ must be determined and made in the same manner as is provided for improvements by special assessments to the extent consistent herewith, and the certification and collection, including lien provisions, applicable to other special assessments ~~shall~~ be applicable hereto. Provided, however, that the provisions of sections 40-22-15, 40-22-17, and 40-22-18, relating to a resolution of necessity and protests against special assessments, ~~shall~~ sections 40-22-10, 40-22-11, and 40-22-29, relating to engineers' reports, plans, and estimates, and section 40-22-19, relating to contract proposals, do not apply to special assessment districts created pursuant to ~~under~~ this section.

Approved April 29, 2013  
Filed April 29, 2013

## CHAPTER 271

### SENATE BILL NO. 2118

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact sections 37-17.1-14.1 and 37-17.1-14.3 of the North Dakota Century Code, relating to authority to join interstate mutual aid agreements.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 37-17.1-14.1 of the North Dakota Century Code is amended and reenacted as follows:

##### **37-17.1-14.1. Mutual aid - Cooperation.**

1. The division of homeland security shall encourage and assist political subdivisions to enter mutual aid agreements with other public and private agencies within the state for reciprocal aid and assistance in responding to and recovering from actual and potential disasters or emergencies.
2. In reviewing emergency operations plans and programs of political subdivisions, the division of homeland security shall consider whether the plans and programs contain adequate provisions for mutual aid.
3. Local emergency management organizations may assist in negotiation of mutual aid agreements between the governor and an adjoining state or province or a political subdivision of an adjoining state or a province and shall carry out arrangements of any such agreements relating to the local political subdivision.

**SECTION 2. AMENDMENT.** Section 37-17.1-14.3 of the North Dakota Century Code is amended and reenacted as follows:

##### **37-17.1-14.3. Authority to join interstate mutual aid agreements - Interstate compacts.**

1. The governor, in the name of the state, may join with other states in the interstate mutual aid agreement or compact.
2. The governor may negotiate and execute such supplemental agreements as may be necessary and proper to fully carry out the terms and provisions of the interstate mutual aid agreement or compact as set forth in section 37-17.1-14.5.
3. Local emergency management organizations may enter interstate mutual aid agreements with nearby political subdivisions or public response entities. Such agreements are valid once filed with the department of emergency services.

Approved March 19, 2013  
Filed March 19, 2013

## CHAPTER 272

### HOUSE BILL NO. 1467

(Representatives Karls, Boehning, Brabandt, Streyle)  
(Senators Armstrong, Dever)

AN ACT to create and enact a new section to chapter 37-17.1 of the North Dakota Century Code, relating to emergencies and firearms; and to amend and reenact subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the powers of the governor in an emergency.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 37-17.1 of the North Dakota Century Code is created and enacted as follows:

##### Firearms in emergencies.

1. Notwithstanding any other law, a person acting on behalf or under the authority of the state or a political subdivision may not do any of the following during a declared emergency:
  - a. Prohibit or restrict the otherwise lawful possession, use, carrying, transfer, transportation, storage, or display of a firearm or ammunition;
  - b. Seize or confiscate, or authorize the seizure or confiscation of, any otherwise lawfully possessed firearm or ammunition unless the person acting on behalf of or under the authority of the state or political subdivision is defending that person or another from an assault, arresting an individual in actual possession of a firearm or ammunition for a violation of law, or seizing or confiscating the firearm or ammunition as evidence of a crime; or
  - c. Require registration of any firearm or ammunition for which registration is not otherwise required by law.
2. Subdivision a of subsection 1 as it relates to transfer of a firearm or ammunition does not apply to the commercial sale of firearms or ammunition if an authorized authority has ordered an evacuation or general closure of businesses in the affected area.
3. Any individual aggrieved by a violation of this section may commence a civil action against any person who subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.
4. In addition to any other remedy, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this section may bring an action for the return of the firearm or ammunition, or the value of the firearm or ammunition, if the firearm or ammunition is no longer available, in the district court of the county in which that individual resides, in which the firearm or ammunition is located, or in which the seizure or confiscation occurred.

5. In any action to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

**SECTION 2. AMENDMENT.** Subdivision h of subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

- h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, ~~firearms,~~ explosives, and combustibles, not including ammunition.

Approved April 12, 2013  
Filed April 12, 2013

## CHAPTER 273

### SENATE BILL NO. 2353

(Senators Miller, Dotzenrod, Oehlke, Unruh)  
(Representative Gruchalla)

AN ACT to create and enact two new sections to chapter 37-17.3 of the North Dakota Century Code, relating to statewide integrated radio communication; to provide for a legislative management study; and to provide an appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

#### **Legislative declaration - Statewide integrated radio communication system service.**

The legislative assembly finds that effective radio communication is vital to public safety and effective emergency response and law enforcement and declares that a statewide integrated radio communication system will more effectively serve the goals of law enforcement and emergency response personnel and thereby better serve the people of North Dakota. Existing radio systems operated by local jurisdictions serve those jurisdictions adequately, but do not provide the protection and benefits to the citizens of North Dakota that new digital networks being utilized in neighboring states offer.

**SECTION 2.** A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

#### **North Dakota statewide interoperability executive committee.**

1. The statewide interoperability executive committee consists of:
  - a. The director of state radio or a designee;
  - b. The director of the division of homeland security or a designee;
  - c. The superintendent of the highway patrol or a designee;
  - d. The adjutant general or a designee;
  - e. The director of the department of transportation or a designee;
  - f. A representative of the North Dakota sheriff's and deputies association;
  - g. A representative of the North Dakota emergency managers association;
  - h. A representative of the North Dakota fire chiefs association;
  - i. A representative of the North Dakota emergency medical services association;

- j. A representative of the North Dakota police chiefs association;
  - k. A representative of the North Dakota peace officers association;
  - l. A representative of the North Dakota 911 association; and
  - m. The North Dakota chief information officer or a designee.
2. The committee shall elect a chairman and vice chairman for terms of two years upon its initial meeting. The adjutant general shall call and convene the initial meeting.
  3. The committee shall prepare recommendations regarding a statewide integrated radio system with due consideration for all stakeholders reliant upon a radio communication system.

**SECTION 3. LEGISLATIVE MANAGEMENT STUDY.** During the 2013-14 interim, to assist with the development of a statewide interoperability plan, the legislative management shall consider studying issues relating to the development of the current radio communication plan, its costs and components, and evolving technologies that will better serve the public. The study must include the input of stakeholders statewide, including local city, local county, and state public service and public safety entities, including those members represented on the statewide interoperability executive committee. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-fourth legislative assembly.

**SECTION 4. APPROPRIATION.** There is appropriated out of any moneys in the general fund in the state treasury, not otherwise appropriated, the sum of \$25,000, or so much of the sum as may be necessary, to the department of emergency services for the purpose of paying the costs of the members of the statewide interoperability executive committee expenses, including travel expenses, in providing an inventory of technologies used for radio communications, and with the remainder to the department of homeland security to analyze information, for the biennium beginning July 1, 2013, and ending June 30, 2015.

Approved April 26, 2013  
Filed April 26, 2013

## CHAPTER 274

### SENATE BILL NO. 2334

(Senators Berry, Hogue)

AN ACT to create and enact a new section to chapter 37-17.3 of the North Dakota Century Code, relating to fees for the statewide seamless base map; and to provide a continuing appropriation.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 37-17.3 of the North Dakota Century Code is created and enacted as follows:

#### **Statewide seamless base map fees - Continuing appropriation.**

The statewide seamless base map is an open record. The data collected by the director which produces the statewide seamless base map is exempt from section 44-04-18 and may be accessed solely through a subscription service established by the director. The director shall establish the appropriate fees for access to the statewide seamless base map subscription service. Changes to fees charged by the division, including schedule of charges, must take effect on July first. The director shall announce any fee increases a minimum of one year before the effective date. All fees collected through the subscription service must be deposited in the statewide seamless base map fund. Any moneys deposited in the statewide seamless base map fund are appropriated on a continuing basis to the division for the purpose of paying maintenance and distribution costs related to the statewide seamless base map.

Approved March 21, 2013

Filed March 21, 2013

## CHAPTER 275

### SENATE BILL NO. 2127

(Senators Sorvaag, Dever, Flakoll, Marcellais)  
(Representatives Boehning, Kasper)

AN ACT to create and enact a new section to chapter 37-19.1 of the North Dakota Century Code, relating to private employers providing a voluntary veterans' preference in employment.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1.** A new section to chapter 37-19.1 of the North Dakota Century Code is created and enacted as follows:

#### **Private employment veterans' preference.**

A private, nonpublic employer in this state may provide a preference to a veteran for employment. Spouses of honorably discharged veterans who have a service-connected permanent and total disability also may be preferred for employment. This preference is not considered a violation of any state or local equal employment opportunity law.

Approved March 19, 2013  
Filed March 19, 2013

## CHAPTER 276

### SENATE BILL NO. 2062

(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to amend and reenact section 37-29-03 of the North Dakota Century Code, relating to job protections of emergency responders.

#### BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

**SECTION 1. AMENDMENT.** Section 37-29-03 of the North Dakota Century Code is amended and reenacted as follows:

#### **37-29-03. Discrimination prohibited in employment practices - Limitations - Verification - Civil actions.**

1. An employer may not terminate or demote an employee who is a volunteer emergency responder or in any other manner discriminate against that employee in the terms and conditions of employment based upon the employee being absent or tardy from employment due to serving as a volunteer emergency responder in responding to a disaster or emergency.
2. An employee who is terminated, demoted, or otherwise discriminated against in violation of this section may bring a civil action against the employer that violated this subsection. In the civil action, the employee may seek reinstatement to the employee's former position; payment of back wages; reinstatement of fringe benefits; and if seniority rights are granted, the employee may seek reinstatement of seniority rights. A civil action under this section must be commenced within one year of the date of the violation.
3. ~~Subsection~~Except for an involuntarily activated North Dakota national guard member, subsection 1 does not apply if due to serving as a volunteer emergency responder, the employee is absent or tardy from the employee's place of employment for a period that exceeds twenty regular working days in a calendar year.
4. In order to receive the protections of subsection 1, an employee who will be absent or tardy from the employee's place of employment while serving as a volunteer emergency responder in the case of a disaster or emergency shall make reasonable efforts to notify the employer of that service.
5. An employer may request that an employee provide the employer with written verification of times and dates of instances during which the employee was absent or tardy from employment due to serving as a volunteer emergency responder in the case of a disaster or emergency. Verification under this subsection may include a statement from the department of emergency services, the adjutant general's office, the North Dakota wing of the civil air patrol, or other appropriate entity.

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6. This section does not limit an employer from charging against an employee's regular pay the time the employee is absent or tardy from employment while serving as a volunteer emergency responder to a disaster or emergency.

Approved March 21, 2013

Filed March 21, 2013