

MILITARY

CHAPTER 389

HOUSE BILL NO. 1135
(Committee on Judiciary)
(At the request of the Adjutant General)

CLAIMS AGAINST THE NATIONAL GUARD

AN ACT creating a new section relating to claims against the North Dakota national guard resulting from state active duty.

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

SECTION 1. CLAIMS AGAINST THE STATE.)

1. Any individual injured by an activity of the North Dakota national guard may submit a claim to the adjutant general. As used in this section, "claim" means a monetary demand upon the state for personal injury or property damage arising from activities of the national guard while on state active duty.
2. The adjutant general may approve a claim for less than two thousand five hundred dollars. If the claim is approved by the adjutant general, he shall apply to the emergency commission for an amount from the contingency fund sufficient to pay the claim. It shall be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and the commission shall direct the transfer of the requested amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
3. The adjutant general shall forward any claim exceeding two thousand five hundred dollars to the emergency commission with his recommendation. If the claim is approved by the emergency commission, it shall be conclusively presumed that an emergency exists, and the commission shall direct the transfer of the approved amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.

4. Decisions of the adjutant general or the emergency commission partially or totally denying a claim may not be appealed to any court of this state.
5. Claims may not be submitted to the legislative assembly unless the claim has been partially or totally denied by the adjutant general or the emergency commission.

Approved March 3, 1979

CHAPTER 390

HOUSE BILL NO. 1136
 (Committee on State and Federal Government)
 (At the request of the Adjutant General)

NATIONAL GUARD FACILITIES

AN ACT to amend and reenact sections 37-03-08, 37-10-01, 37-10-03, 37-10-03.3 and 37-10-03.4, and to repeal sections 37-10-05 and 37-10-06 of the North Dakota Century Code, relating to national guard facilities and military property.

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

SECTION 1. AMENDMENT.) Section 37-03-08 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-03-08. UNSUITABLE MILITARY PROPERTY - DISPOSAL.) All military property of this state found unsuitable after proper inspection shall be disposed of ~~in--the--same--manner--as--surplus--property--of--the--state~~ by the adjutant general, by sealed bid or at public auction, after advertisement of the same shall have been published once each week for three consecutive weeks in the official newspaper of the county where the sale is to take place, or it may be sold at private sale when ordered by the governor. In the case of scrap material it may be sold to established scrap dealers at current prices. The adjutant general shall suspend the sale whenever, in his opinion, better prices may or should be obtained. The adjutant general shall deposit all sale revenues in the state treasury and it shall be credited to the national guard improvement fund established by section 37-03-13, which shall not be subject to the provisions of section 54-44.1-11.

SECTION 2. AMENDMENT.) Section 37-10-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-01. ~~COMMANDING-OFFICER-OF-COMPANY,-TROOP,-OR-BATTERY-TO-PROVIDE-DRILL-ROOM-FOR-ORGANIZATION-)-)-The--commanding--officer--of--each--company--troop--or--battery--shall--provide--suitable--rooms--at--a--convenient--place--in--the--municipality--where--each--organization--is--located--or--stationed--with--the--necessary--furniture--fuel--lights--drawers--lockers--closets--and--gun--racks--for--an--armory--assembly--and--drill--room--for--such--organization--Such--room--shall--be--under--the~~

~~exclusive control of the commanding officer.~~ ADJUTANT GENERAL TO PROVIDE NATIONAL GUARD FACILITIES FOR UNITS.) The adjutant general shall provide adequate facilities for each unit of the North Dakota national guard. All national guard facilities shall be under the exclusive control of the adjutant general or any officer designated by him.

SECTION 3. AMENDMENT.) Section 37-10-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03. ADJUTANT GENERAL TO SUPERVISE ARMORIES NATIONAL GUARD FACILITIES.) The adjutant general shall fix for each unit of the national guard, within the limits of legislative appropriations, the maintenance and rent allowance to be paid by this state. The adjutant general shall acquire, contract for, erect, purchase, sell, maintain, repair, and alter state-owned armories subject to the laws made and provided therefor. The adjutant general may lease property to be used for armory purposes, but no lease shall extend for a period exceeding twenty-five years. , shall provide for the acquisition and maintenance of national guard facilities, and may lease property for national guard facilities, but no lease shall exceed fifty years.

SECTION 4. AMENDMENT.) Section 37-10-03.3 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.3. USE OF STATE FUNDS IN THE CONSTRUCTION OF ARMORIES NATIONAL GUARD FACILITIES.) ~~Subject to appropriations made by the legislature, the adjutant general is authorized to make allocations not to exceed twenty thousand dollars for a single unit armory, and not to exceed forty thousand dollars for a multiple unit armory, in collaboration with the federal funds made available under the armory construction program as provided for in Public Law 783, 81st Congress, chapter 945, 2nd session, approved September 11, 1950, and in collaboration with funds made available by municipalities or counties wherein the armories are to be located, providing that the affected municipalities or counties made available an equal amount of money or facilities. In instances where a city has received a direct grant from the state of North Dakota for the construction of an armory since the year 1940 the amount of the direct grant under this provision of law shall be reduced proportionately.~~ The adjutant general may participate with political subdivisions to match federal funds for the construction of national guard facilities by contributing, subject to legislative appropriations, up to fifty thousand dollars for a single unit facility or one hundred thousand dollars for a multiple unit facility, but the state contribution shall not exceed the amount provided by political subdivisions.

SECTION 5. AMENDMENT.) Section 37-10-03.4 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-10-03.4. CONTRACTING OFFICER FOR CONSTRUCTION OF ARMORIES NATIONAL GUARD FACILITIES.) ~~In--order--that--full--benefit--may--be derived--under--the--provisions--of--Public--Law--783,--cited--under--this title,--governing--bodies--of--municipalities--or--counties--may--by--proper resolution--appoint--and--designate--the--adjutant--general--of--the--state as--the--contracting--officer--for--the--construction--of--such--armories, provided--that--all--contracts--let--shall--be--subject--to--the--approval--of--the--governing--body--concerned.--The--adjutant--general--is--empowered--to act--as--the--contracting--officer--for--the--state,--and--may--appoint--agent officers,--or--a--resident--agent,--to--facilitate--the--proper--completion of--the--contract.~~ The adjutant general or his designee shall be the contracting officer for the state concerning the construction of national guard facilities. Governing bodies of political subdivisions may, by resolution, also designate the adjutant general or his designee as their contracting officer for the construction of national guard facilities.

SECTION 6. REPEAL.) Sections 37-10-05 and 37-10-06 of the North Dakota Century Code are hereby repealed.

Approved March 3, 1979

CHAPTER 391

HOUSE BILL NO. 1657
(Unhjem, Martinson)

NATIONAL GUARD TUITION GRANTS

AN ACT to provide for tuition grants to national guard members who enroll in private nonprofit colleges and universities.

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

SECTION 1. NATIONAL GUARD TUITION GRANTS - TERMS OF GRANTS.) Any member of the national guard who shall enroll in any private nonprofit college or university in North Dakota granting a four-year baccalaureate degree shall, subject to the limitations of available appropriated funds and subject to national guard regulations which may be promulgated by the adjutant general, be entitled to receive a grant in the amount of fifty percent of the tuition fees charged by the school, but not in excess of the tuition for similar courses and credit hours at the university of North Dakota. Any private nonprofit college or university which shall agree to participate in such a program shall waive tuition for qualifying national guardsmen in an amount equal to twenty-five percent of the tuition for similar courses and credit hours at the university of North Dakota. The use of the grant shall not be restricted to the payment of such tuition fees by the member of the national guard. These grants shall be distributed according to rules and regulations promulgated by the adjutant general and shall be available only so long as the member maintains satisfactory performance with the guard and pursues a course of study which satisfies the normal requirements of the school. As used in this Act the word "tuition" has the same meaning as provided in section 37-07.1-02.

SECTION 2. LIMITATION.) The grants provided by this Act shall not be available to any member of the national guard who shall have less than one year of service obligation to the national guard remaining at the beginning of each semester or academic term for which a grant is requested.

SECTION 3. APPLICATION FOR GRANT.) It shall be the responsibility of the individual member of the national guard to request the grant on an application provided by the adjutant general at the time of enrollment for each semester or academic term for

which a grant is requested. The grants provided for in this Act shall be paid from such funds as may be appropriated for tuition payment purposes in accordance with chapter 37-07.1.

SECTION 4. REGULATIONS.) The adjutant general may adopt, amend, and rescind any national guard regulations, pursuant to chapter 28-32, deemed necessary to implement and administer this Act.

Approved March 26, 1979

CHAPTER 392

SENATE BILL NO. 2225
(Committee on Social Welfare and Veterans Affairs)
(At the request of the Adjutant General)

NATIONAL GUARD MEMBER BENEFITS

AN ACT to amend and reenact sections 37-11-01 and 37-11-02 and to repeal sections 37-11-04, 37-11-06 and 37-11-07 of the North Dakota Century Code, relating to compensation for disability or death of members of the North Dakota national guard.

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

SECTION 1. AMENDMENT.) Section 37-11-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-01. MEMBERS OF MILITIA AND NATIONAL GUARD AND DEPENDENTS MAY BE GIVEN PENSION.) Every member of the militia or national guard who has been or who shall be wounded or disabled or the surviving dependents of such member in case of the member's death from such wound or disability while:

1. In the service of this state in case of riot, tumult, breach of the peace, resistance to process, invasion, disaster relief, the protection of life or property, or insurrection, or imminent danger thereof; or
2. Engaged in any lawfully ordered parade, drill, encampment, or inspection; or
3. Acting pursuant to call in aid of the civil authorities, or
4. Otherwise ordered to state active duty by the governor,

shall be taken care of and provided for at the expense of this state in the manner provided in this chapter.

SECTION 2. AMENDMENT.) Section 37-11-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-11-02. COMPENSATION FOR DISABILITY OR DEATH.) Applications for compensation for disability or death of any member

of the militia or member of the national guard under conditions as specified in section 37-11-01 shall be made by such member or his surviving dependents to the workmen's compensation bureau. The workmen's compensation bureau shall process such application in the manner set forth in title 65 and shall make determinations of eligibility and disability in the same manner and upon the same basis as provided in such title. In the event the workmen's compensation bureau shall determine a member of the militia or national guard has been disabled under the provisions of section 37-11-01 and title 65 or valid claims of surviving dependents of such member exist in accordance with section 37-11-01 and title 65, it shall certify to the adjutant general the type and amount or percentage of disability or the names of any approved claims of surviving dependents together with any other necessary information.

The adjutant general shall immediately make a determination of the amount of such claim or claims that will be payable during the current biennium in accordance with the provisions of section 37-11-04 and shall apply to the emergency commission for a grant of funds from the contingency fund in an amount sufficient to pay such claim or claims during the balance of the biennium. It shall be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and such commission shall forthwith grant and direct the transfer to the credit of the national guard from the contingency fund any amount equal to that certified in the application by the adjutant general. The adjutant general shall immediately thereafter pay all accumulated moneys due upon such claim or claims and thereafter make payments in accordance with the provisions of section 37-11-04.

The adjutant general shall submit to the legislative assembly at its next session, at the same time as other requests for appropriations for the national guard are submitted, a request for sufficient appropriated funds to make all payments due upon such claim or claims during the subsequent biennium and shall do so each biennium thereafter until such claim or claims are liquidated. The amount of any claims paid by the adjutant general pursuant to this chapter shall be reduced by an amount equal to any benefits payable by the government of the United States to the member or his surviving dependents because of his disability or death or payable under the provisions of section 37-11-07 to a disabled member pay the claim pursuant to title 65.

SECTION 3. REPEAL.) Sections 37-11-04, 37-11-06 and 37-11-07 of the North Dakota Century Code are hereby repealed.

Approved March 18, 1979

CHAPTER 393

HOUSE BILL NO. 1363
(Strinden)

VETERAN'S PREFERENCE IN PUBLIC EMPLOYMENT

AN ACT to amend and reenact subsection 2 of section 37-19.1-02 of the North Dakota Century Code, relating to the preference given to qualified veterans in public employment.

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

SECTION 1. AMENDMENT.) Subsection 2 of section 37-19.1-02 of the 1977 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

2. When a veteran shall apply for appointment or employment under subsection 1, the officer, board, or person whose duty it is to appoint or employ a person to fill the available position shall, except where the veteran has been qualified for the position applied for under a personnel system, investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall appoint or employ him the veteran.

Approved March 3, 1979