

# MILITARY

## CHAPTER 394

HOUSE BILL NO. 1515  
(Representatives Martinson, Strinden, Mertens)  
(Senators Nething, Lodoen, W. Meyer)

### NATIONAL GUARD TRAINING AREA TRUST FUND

AN ACT to create and enact a new subsection to section 21-10-06 and a new chapter to title 37 of the North Dakota Century Code, relating to funds under management of the state investment board, and to the establishment of a national guard trust fund for training area and facility development; to amend and reenact section 54-17.1-08 of the North Dakota Century Code, relating to the sinking fund for Vietnam Conflict adjusted compensation bonds; to provide an appropriation; and to provide a statement of legislative intent.

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

SECTION 1. A new subsection to section 21-10-06 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

National guard training area and facility development trust fund.

SECTION 2. A new chapter to title 37 of the North Dakota Century Code is hereby created and enacted to read as follows:

National guard training area and facility development trust fund. The national guard training area and facility development trust fund is established as a special fund in the state treasury. The fund must be used for training area acquisition and facility development pursuant to this chapter.

National guard training area and facility development trust fund - Investment and income. The national guard training area and facility development trust fund consists of moneys transferred or credited to the fund, pursuant to this chapter and provisions of other laws. The state investment board shall invest the fund in the legal investments authorized by section 21-10-07. All interest earned and income received on the investments accrue to the fund.

Trust fund use. The principal, interest, and income from the national guard training area and facility development trust fund must be used by the adjutant general solely for training area acquisition and facility development; provided, that the principal, and any interest and income which the fund accrues from July 1, 1985, through June 30, 1989, must be used solely for the acquisition of land for national guard training purposes and the expenditure, in conjunction with federal matching funds, for the construction of a new national guard armory on or adjacent to the military reservation known as Fraine Barracks.

Payments in lieu of real estate taxes. For land acquired under this chapter, the adjutant general shall make payments in lieu of real estate taxes to the counties in which the property is located in the same manner and according to the same conditions and procedures as provided in chapter 57-02.1 for payments in lieu of real estate taxes by the state game and fish commissioner, except no county may receive less in payments under this section for any parcel or tract of land for any year than the county received in real estate taxes for the last year in which the land was taxable.

\* SECTION 3. AMENDMENT. Section 54-17.1-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

54-17.1-08. Transfer of balance. To the extent not necessary for payment of the bonds issued under this chapter and the interest thereon after July 1, 1985, on July 1, 1985, the state treasurer shall transfer three million dollars from the sinking fund, or the total of any lesser amount remaining in the fund at that time, to the national guard training area and facility development trust fund, and three million dollars from the sinking fund, or the total of any lesser amount remaining in the fund after the transfer to the trust fund, to the general fund. Upon the retirement of all bonds provided for in this chapter, together with the interest thereon, any balance remaining in the sinking fund after the transfers to the trust fund and the general fund shall be transferred by the treasurer to the general fund.

SECTION 4. APPROPRIATION. There is hereby appropriated out of the principal, and any interest earned and income of the national guard training area and facility development trust fund in the state treasury, not otherwise appropriated, the sum of \$3,000,000, or so much thereof as may be necessary or as may become available, to the adjutant general, for the purpose of implementing section 2 of this Act for the period beginning July 1, 1985, and ending June 30, 1989. This appropriation is not subject to North Dakota Century Code section 54-44.1-11.

SECTION 5. INTENT. It is the intent of the legislative assembly that the funds appropriated in section 4 of this Act be used for the acquisition of land for national guard training purposes prior to being used for the construction of a new national guard armory on or adjacent to the military reservation known as Fraine Barracks.

Approved March 29, 1985

\* NOTE: Section 54-17.1-08 was also amended by section 1 of Senate Bill No. 2341, chapter 570.

## CHAPTER 395

HOUSE BILL NO. 1411  
(Martinson)

## NATIONAL GUARD TUITION TRUST FUND USES

AN ACT to create and enact a new subsection to section 21-10-06 of the North Dakota Century Code, relating to funds under the management of the state investment board; to amend and reenact section 1 of chapter 43 of the 1981 Session Laws of North Dakota, relating to the national guard tuition trust fund; and to declare an emergency.

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

SECTION 1. A new subsection to section 21-10-06 of the 1983 Supplement to the North Dakota Century Code is hereby created and enacted to read as follows:

National guard tuition trust fund.

\* SECTION 2. AMENDMENT. Section 1 of chapter 43 of the 1981 Session Laws of North Dakota is hereby amended and reenacted to read as follows:

SECTION 1. North Dakota national guard tuition fund. There is hereby established a special trust fund in the state treasury to be known as the national guard tuition trust fund. Interest earned on such fund shall be used, within the limits of legislative appropriation, for the tuition programs provided for in chapters 37-07.1 and 37-07.2, work study programs, and other programs to encourage membership in the national guard. The fund shall not be subject to the provisions of section 54-44.1-11. The moneys in the fund shall be invested by the state ~~treasurer~~ investment board and interest earned by the fund shall be credited to the fund. On July 1, ~~1989~~ 1999, any unobligated balance in the fund shall be transferred to the general fund.

SECTION 3. EMERGENCY. This Act is hereby declared to be an emergency measure and is in effect from and after its passage and approval.

Approved March 14, 1985

\* NOTE: Section 2 has been codified as North Dakota Century Code section 37-07.1-06.1.

## CHAPTER 396

SENATE BILL NO. 2430  
(Tallackson, Christensen)

### NATIONAL GUARD FACILITIES MAINTENANCE

AN ACT to create and enact a new section to chapter 37-10 of the North Dakota Century Code, relating to national guard facilities.

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

SECTION 1. A new section to chapter 37-10 of the North Dakota Century Code is hereby created and enacted to read as follows:

National guard facilities - Maintenance and repair board. The adjutant general, the director of institutions, and a member of the governing body of a political subdivision nominated annually by the adjutant general and the director of institutions from the governing bodies of those political subdivisions which contribute to the maintenance and repair of national guard facilities, shall be the armory maintenance and repair board. The board shall meet annually and determine which national guard armories are in need of maintenance or repair. The board shall determine the priority of maintenance or repairs for each national guard armory. The board shall determine the contribution from the national guard and each political subdivision toward maintenance or repair of individual armories. The national guard shall contribute up to fifty percent of the maintenance and repair costs determined necessary by the board as funds become available within the limits of legislative appropriations.

Approved March 31, 1985

## CHAPTER 397

SENATE BILL NO. 2089  
(Legislative Council)  
(Legislative Audit and Fiscal Review Committee)

## VETERANS

AN ACT to create and enact two new sections to chapter 37-15 of the North Dakota Century Code, relating to definitions and establishing priorities for admission to the veterans' home; and to amend and reenact sections 15-10-18.2, 21-10-06, subdivision w of subsection 1 of section 28-32-01, sections 37-01-40, 37-14-03.3, 37-14-04, 37-14-06, 37-15-01, 37-15-02, 37-15-03, 37-15-07, 37-15-08, 37-15-10, 37-15-11, 37-15-12, 37-15-13, 37-15-14, 37-15-14.1, 37-15-15, 37-15-16, 37-15-17, 37-15-19, 37-15-21, 37-18.1-03, 37-18.1-04, subsection 5 of section 37-19.1-01, and sections 54-23-01, 54-23-56, 54-23-59, and 57-36-24 of the North Dakota Century Code, relating to changing the name of the soldiers' home to the veterans' home, benefits available to peacetime veterans as well as to wartime veterans, the exclusion of the administrative committee on veterans' affairs from the Administrative Agencies Practice Act, and the powers and duties of the commandant of the veterans' home.

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

SECTION 1. AMENDMENT. Section 15-10-18.2 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

15-10-18.2. Definitions.

1. "Dependent" for purposes of section 15-10-18.3 ~~shall mean~~ means any child of a resident veteran who was, during any conflict identified in section 37-01-40, as "veteran" is defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, was totally disabled as a result of service-connected causes, died from service-connected disabilities, was a prisoner of war, or was declared missing in action.
2. "Resident veteran" means a person who:

- a. Was born in and lived in ~~the~~ this state of ~~North Dakota~~ until entrance into the armed forces of the United States;
- b. Was born in, but was temporarily living outside ~~the~~ this state of ~~North Dakota~~, not having abandoned residence therein prior to entrance into the armed forces of the United States; or
- c. Was born elsewhere but had resided within ~~the~~ this state of ~~North Dakota~~ for at least six months prior to entrance into military service and had prior to or during such six-month period:
  - (1) Registered for voting, or voted in ~~the~~ this state of ~~North Dakota~~;
  - (2) Being an unemancipated minor during such period of residence, had lived with a parent or person standing in loco parentis who had acquired a residence as set forth in this section; or
  - (3) If not registered for voting in ~~the~~ this state of ~~North Dakota~~, not registered for voting in another state.

SECTION 2. AMENDMENT. Section 21-10-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

21-10-06. Funds under management of board - Accounts. The board is charged with the investment of the following funds:

1. State bonding fund.
2. Teachers' fund for retirement, in accordance with section 15-39.1-26.
3. State fire and tornado fund.
4. Workmen's compensation fund.
5. ~~Soldiers'~~ Veterans' home improvement fund, in accordance with section 37-15-14.1.

Separate accounts shall be maintained for each of the above funds and the moneys or securities of the individual funds shall not be commingled. However, when it is deemed advantageous in the purchase, sale, or exchange of securities, securities belonging to one or more of the funds or the Bank of North Dakota may be purchased, sold, or exchanged as part of a single transaction. In the event of such sale, the respective funds shall immediately be credited with their proportionate share of the proceeds. In the event of such purchase or exchange, title to the securities shall be

taken in the name of the individual funds, proportionate to their share of the total purchase price.

The board of university and school lands shall consult with the state investment board or the director thereof on investment policies, and the board of university and school lands may delegate authority to the state investment board or the investment director to make such purchases, sales, or exchanges on its behalf.

**SECTION 3. AMENDMENT.** Subdivision w of subsection 1 of section 28-32-01 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

- w. The administrative committee on veterans veterans' affairs except with respect to rules relating to the supervision and government of the veterans' home and the implementation of programs or services provided by the veterans' home.

**SECTION 4. AMENDMENT.** Section 37-01-40 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-01-40. "Veteran" and "wartime veteran" defined - Uniform service dates for wartime veterans --Definitions.**

1. A "veteran" is a person who has served on continuous federalized active military duty for twenty-four months or the full period for which the person was called or ordered to active military duty, whichever is shorter, and who was discharged or released therefrom under other than dishonorable conditions. A discharge reflecting "expiration of term of service" or "completion of required service" or words to that effect qualifies the shorter term of service as making the person a veteran.
2. A "wartime veteran" is a person who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released therefrom under other than dishonorable conditions. "Wartime veteran" also includes a person who died in the line of duty in the active military forces, as determined by the armed forces.
3. In order to provide for the uniformity of period of service dates for wartime veterans, the following dates and terms ~~shall be~~ are applicable to all acts of the state relative to wartime veterans where not otherwise specifically prescribed by statute:
  - 1- a. Civil war and confederate veterans who served between April 12, 1861, and May 26, 1865.

- 2- b. Future dates. The period beginning on the date of any future declaration of war by the Congress of the United States or the beginning of an emergency condition recognized by the issuance of a presidential proclamation or a presidential executive order and in which the armed forces expeditionary medal or other campaign service medals are awarded according to presidential executive order and ending on a date prescribed by presidential proclamation or concurrent resolution of the Congress of the United States.
- 3- c. Indian wars. Since the Indian wars were fought intermittently over a period of years, the determination as to whether a person shall be considered as having rendered military service during these wars will be carefully considered by the administrative committee on veterans' affairs. January 1, 1817, through December 31, 1898, is considered Indian war period.
- 4- d. "Korean conflict" means the period between June 27, 1950, to January 31, 1955.
- 5- e. Mexican wars. Since there were several skirmishes involving the Mexican border, such as Mexican border troubles 1911-1916; Veracruz expedition April 21, 1914, to November 26, 1914; punitive expedition into Mexico, March 15, 1916, to February 5, 1917; therefore the persons rendering military service in any of these skirmishes shall be considered veterans of the Mexican wars between 1911 and February 5, 1917.
- 6- f. "Spanish-American War" (a) (1) means the period beginning on April 21, 1898, and ending on July 4, 1902, (b) (2) includes the Philippine insurrection and the Boxer rebellion, and (c) (3) in the case of a veteran who served with the United States military forces engaged in hostilities in the Moro province, means the period beginning on April 21, 1898, and ending on July 15, 1903.
- 7- "Veteran" means a person who served in the active military forces, during a period of war or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released therefrom under honorable conditions. The term "veteran" also includes a person who died in active military forces.
- 8- g. "Vietnam era" means the period beginning August 5, 1964, and ending on May 7, 1975.
- 9- h. "World War I" (a) (1) means the period beginning on April 6, 1917, and ending on November 11, 1918, and

~~(b)~~ (2) in the case of a veteran who served with the United States military forces in Russia, means the period beginning on April 6, 1917, and ending on April 1, 1920.

~~10-~~ i. "World War II" means the period beginning December 7, 1941, and ending December 31, 1946, both dates inclusive.

SECTION 5. AMENDMENT. Section 37-14-03.3 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-03.3. Revolving fund. ~~Such~~ The sum of seven hundred thousand dollars shall be ~~is~~ a permanent revolving fund of the veterans' aid fund and shall not revert to the general fund and shall be used solely for the purpose of making loans to any veteran of the armed forces of the United States who served in World War II, the Korean conflict, or during hostilities in Vietnam, as defined by section 37-01-40; however, nothing in this section prohibits the department of veterans' affairs, in its discretion, from using any interest the fund accrues or has already earned or accrued for the purposes of collecting loans if in the opinion of the department the veteran has the financial means to repay, and he deliberately refuses to do so.

SECTION 6. AMENDMENT. Section 37-14-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-04. Veterans' aid fund - Purpose. The purpose of the veterans' aid fund is to make loans or advancements to any veteran of the armed forces of the United States in World War II, the Korean conflict, or during hostilities in Vietnam, all as defined by section 37-01-40, who has not been dishonorably discharged. A veteran may be permitted to make more than one loan providing he the veteran has satisfied payment requirements of a previous loan.

SECTION 7. AMENDMENT. Section 37-14-06 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-14-06. Department may provide aid. If the department of veterans' affairs is satisfied that ~~such an~~ an applicant has served as a member of the armed forces of the United States for an aggregate time of not less than thirty days during World War II, the Korean conflict, or during hostilities in Vietnam, ~~all is a veteran,~~ all is a veteran, as defined by section 37-01-40, and that he the applicant is a citizen and resident of ~~the this state of North Dakota,~~ this state of North Dakota, and that he has not been dishonorably discharged, the department may loan to ~~such the~~ such the applicant, or a guardian of ~~such the~~ such the applicant, a sum from the veterans' aid fund not to exceed the sum of two thousand dollars.

SECTION 8. AMENDMENT. Section 37-15-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-01. Soldiers' Veterans' home - Where maintained. A soldiers' veterans' home shall be maintained at the city of Lisbon in the county of Ransom.

SECTION 9. A new section to chapter 37-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

"Domiciliary care" defined. In this chapter, unless the context or subject matter otherwise requires, "domiciliary care" means providing shelter, food, and necessary medical care on an ambulatory self-care basis to assist eligible individuals who are not in need of hospitalization or skilled nursing care services. Domiciliary care does not include care to an individual whose mental or medical condition would require close supervision because the individual may pose a danger to oneself or others.

SECTION 10. AMENDMENT. Section 37-15-02 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-02. Object of soldiers' veterans' home. The object of the soldiers' veterans' home shall be is to provide a home and subsistence domiciliary care for:

1. All honorably discharged United States soldiers, sailors, marines, and coast guard who have served the United States in any of its wars or military expeditions and who are disabled by disease, wounds or otherwise and do not have sufficient means or ability to support themselves, and honorably discharged members of the North Dakota national guard mustered into federal service in 1916 and who served on the Mexican border veterans as defined in section 37-01-40 and all honorably discharged soldiers of the North Dakota national guard who heretofore or hereafter may become permanently disabled from any cause while in line and discharge of duty.
2. The spouses and surviving spouses of those mentioned in subsection 1 providing if they meet the requirements for admission under the provisions of section 37-15-10.

SECTION 11. AMENDMENT. Section 37-15-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-03. Government of soldiers' veterans' home. The general supervision and government of the soldiers' veterans' home shall be is vested in the administrative committee on veterans' affairs.

SECTION 12. AMENDMENT. Section 37-15-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-07. Commandant of soldiers' veterans' home - Appointment - Qualifications - Term - Salary - Bond. The appointment, qualifications, term of office, and salary of the commandant of the soldiers'

veterans' home shall must be as prescribed in section 37-18.1-03. The commandant shall be bonded through the state bonding fund in the amount as determined by the administrative committee on veterans' affairs, provided except that such the amount of the bond shall must be in a minimum amount of at least five thousand dollars.

SECTION 13. AMENDMENT. Section 37-15-08 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-08. Subordinate officers - Appointment - Preference to veterans - Compensation - Removal. The commandant of the soldiers' veterans' home shall appoint all necessary subordinate officers of the home. In the appointment of such officers, the preference afforded by the provisions of chapter 37-19.1 shall must be given to those persons who qualify therefor. The commandant shall fix the compensation of all subordinate officers shall be fixed by the commandant, subject to legislative appropriation, and any such officer may be removed by the commandant for inefficiency or misconduct.

SECTION 14. AMENDMENT. Section 37-15-10 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-10. Admittance to soldiers' veterans' home - Requirements governing.

1. No applicant shall be admitted to the soldiers' veterans' home unless he or she the applicant has been a bona fide resident of this state for at least three years one year next preceding his or her the applicant's application for admission thereto. The three-year one-year residency immediately preceding application may be waived if the applicant served in a North Dakota regiment or was accredited to the this state of North Dakota during a war period.
2. All honorably discharged soldiers of the North Dakota national guard who heretofore or hereafter may become permanently disabled from any cause while in line and discharge of duty and are not able to support themselves; due to aforesaid disabilities; may be admitted to the North Dakota soldiers' home in accordance with the laws for admission of others and under such rules and regulations as the administrative committee on veterans' affairs may adopt.
- 3- The spouse or surviving spouse of those mentioned in subsection 1 of section 37-15-02 may be admitted upon the same footing as the veteran; provided, however, that such spouse or surviving spouse shall have entered into the contract of marriage to the veteran at least five years prior to date of application and shall have attained the age of forty-five years at date of application.

- 4- 3. No person shall be admitted to the home until he or she that person shall have made formal application and furnished such proof as may be required by the administrative committee on veterans' affairs and such the application shall have been approved by the committee or a board of officers admissions of the institution which they shall designate that the committee has designated.
- 5- 4. When a member of the home who is not eligible for veterans' administration hospitalization and care becomes unable from any cause to care for himself or herself oneself under the rules and regulations prescribed by the administrative committee on veterans' affairs for the admission and care of members in the home, he or she the member shall become a charge of the county of residence at the time of admission. No individual shall gain or lose legal residence by reason of residence in or being a member of the soldiers' veterans' home.

SECTION 15. A new section to chapter 37-15 of the North Dakota Century Code is hereby created and enacted to read as follows:

Priorities for admission to veterans' home. If the veterans' home is full and a waiting list for admission is necessary, further admission to the veterans' home must be according to the following listing of priorities, so long as the individual meets the admission requirements of sections 37-15-02 and 37-15-10:

1. Veterans with service-connected disability.
2. Prisoners of war.
3. Wartime veterans with nonservice-connected disability.
4. Wartime veterans.
5. Discharged North Dakota national guard members who became disabled in the line and discharge of duty.
6. Veterans with nonservice-connected disability.
7. Veterans.
8. Spouses.
9. Surviving spouses.

An individual whose priority is higher than another individual's must be admitted before that other individual.

SECTION 16. AMENDMENT. Section 37-15-11 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-11. Lands granted for support of ~~soldiers~~ veterans' home and proceeds therefrom. All lands granted by the United States or by this state for the ~~soldiers~~ veterans' home are set apart for the support of the home. The proceeds from the sales of ~~such~~ these lands are pledged as a perpetual fund for the use and benefit of the home.

SECTION 17. AMENDMENT. Section 37-15-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-12. Federal aid accepted for ~~soldiers~~ veterans' home. The state accepts the conditions imposed by an Act of Congress, entitled "An act to provide aid to state or territorial homes for the support of disabled soldiers and sailors in the United States, approved August 27, 1888", and the various amendments thereto.

SECTION 18. AMENDMENT. Section 37-15-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-13. Treasurer to receive and deposit federal aid money. The state treasurer shall receive and receipt for all money which may become payable to this state by reason of the acceptance of the Acts of Congress as provided in section 37-15-12. ~~He~~ The state treasurer shall deposit such money to the credit of the ~~soldiers~~ veterans' home operating fund for the use and benefit of the ~~soldiers~~ veterans' home.

SECTION 19. AMENDMENT. Section 37-15-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-14. Soldiers' Veterans' home operating fund - Moneys for the maintenance of the ~~soldiers~~ veterans' home to be deposited with state treasurer. A special fund, to be known as the ~~soldiers~~ veterans' home operating fund, shall be maintained in the state treasury. Moneys arising from the interest received on money derived from the sale of lands appropriated for the support of the home and from the rental of such lands, moneys received from the United States for the support and maintenance of the home, and all other moneys, income, and collections of public funds arising from any other source or endeavor of the home ~~shall~~ must be placed in the ~~soldiers~~ veterans' home operating fund for the use and maintenance of the ~~soldiers~~ veterans' home. Moneys derived from the general fund appropriation made by the legislative assembly ~~shall~~ must be transferred periodically to the ~~soldiers~~ veterans' home operating fund upon order of the director of the ~~department of accounts and purchases~~ office of management and budget whenever ~~such~~ the operating fund's balance ~~falls so low as to require~~ requires supplementation.

SECTION 20. AMENDMENT. Section 37-15-14.1 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-14.1. Membership contribution for residents of veterans' home - Creation of special fund.

1. The administrative committee on veterans' affairs may establish a membership contribution to be paid by members of the veterans' home. The fee shall be based on the adjusted income of each member, but in no case shall it exceed forty-nine percent of the average daily per-member cost. The membership contribution shall be set under a formula determined by the administrative committee and designed to assure dignity and equity in the charge. The administrative committee may, from time to time, reconsider its action establishing a membership contribution, amend or rescind the contribution charge, or reinstate a contribution charge previously rescinded. The commandant shall collect monthly any membership contribution levied.
2. As used in subsection 1, "adjusted income" means all moneys received from any source, including social security benefits, less amounts received or expended as follows:
  - a. Moneys earned by a member through labor performed for the soldiers' veterans' home.
  - b. Moneys received as service-connected compensation.
  - c. Moneys earned during authorized leaves or furloughs from the soldiers' veterans' home.
  - d. Moneys expended by the member for hospitalization due to illness or injury.
  - e. Moneys expended by the member for other medical care or treatment, or for required medicines.
  - f. Such other receipts or expenditures as the administrative committee may permit to be deducted in individual cases.
3. All moneys received as a result of charging the membership contribution authorized by subsection 1 shall be deposited in a special fund in the state treasury to be known as the "soldiers' veterans' home improvement fund". The fund shall be invested by the state investment board in the manner provided in chapter 21-10, and all income received, less amounts deducted pursuant to section 21-10-10, shall be deposited in, or reinvested for the benefit of, the soldiers' veterans' home improvement fund. Moneys in the soldiers' veterans' home improvement fund shall, subject to and following legislative appropriations, be expended only for expansion of present facilities of the home, for development of new facilities, for enrichment of living conditions, or for additional care for members of the home, as such expansion, development, enrichment, or additional care is deemed necessary by the administrative committee. All moneys expended from the soldiers'

veterans' home improvement fund shall be paid out on vouchers prepared by the secretary of the administrative committee on veterans' affairs. The department of accounts and purchases office of management and budget shall prepare the warrant-checks.

SECTION 21. AMENDMENT. Section 37-15-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-15. Disbursement of moneys from soldiers' veterans' home operating fund. All moneys withdrawn from the soldiers' veterans' home operating fund shall be withdrawn in accordance with chapters 54-14 and 54-44.1.

SECTION 22. AMENDMENT. Section 37-15-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-16. Commandant shall take charge of unclaimed estates of small value. If a member of the soldiers' veterans' home shall die dies leaving property of the value of three hundred thousand dollars or less, the commandant immediately shall take charge of such property. If within one year forty-five days of the date of the death of such member no valid claim of any heir or devisee is made for the property and no application or petition has been filed for issuance of letters of administration, the commandant shall convert the property into cash without probate or other proceedings and make payment in the following order:

1. Reasonable funeral expenses.
2. Reasonable and necessary medical and hospital expenses of the last illness of the decedent.

If any cash remains the commandant shall deposit the cash with the state treasurer who shall credit it to the soldiers' veterans' home operating improvement fund. The commandant shall make a report of his the commandant's action to the administrative committee on veterans' affairs, which. The report shall be audited by, and spread upon included in the records of, the committee.

SECTION 23. AMENDMENT. Section 37-15-17 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-17. Intestate members leaving estates valued in excess of three hundred thousand dollars - Commandant to administer. If a member of the soldiers' veterans' home shall die dies leaving property in excess of three hundred thousand dollars in value not disposed of by will, the commandant shall be entitled to letters of administration upon such estate. He shall make application to the proper court for letters of administration, qualify as administrator, and distribute and dispose of such estate as is provided by this code. If no valid claim shall be made to such estate by the heirs or the next of kin of the deceased member for a period of one year after the granting of letters of administration, the residue of the estate shall revert

to this state be deposited with the state treasurer for the benefit of the soldiers' veterans' home improvement fund.

SECTION 24. AMENDMENT. Section 37-15-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-19. Report of commandant to governor and department of accounts and purchases office of management and budget. The commandant of the soldiers' veterans' home shall submit to the governor and the department of accounts and purchases office of management and budget a biennial report as prescribed by section 54-06-04.

SECTION 25. AMENDMENT. Section 37-15-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-15-21. Commandant may accept gifts, donations, or bequests. The commandant for and in behalf of the soldiers' veterans' home is hereby authorized to accept or receive any donations, gifts, or bequests offered or tendered to, or for the benefit of the soldiers' veterans' home. All such moneys received or accepted shall be used for the specific purposes for which they were given or donated. This authority shall apply and be retroactive to any or all gifts, donations, or bequests heretofore tendered, offered, or made.

SECTION 26. AMENDMENT. Section 37-18.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-18.1-03. Powers and duties of committee - Creation of subcommittees. The committee ~~shall be~~ is responsible for organization, policy, and general administration of all veterans' affairs in the state of North Dakota. It ~~shall have~~ has the following powers and duties:

1. The chairman and secretary of the committee, acting jointly, shall appoint from the voting membership of the committee, two subcommittees: a five-member subcommittee to be responsible for supervision and government of the soldiers' veterans' home, and a seven-member subcommittee to be responsible for supervision and government of the department of veterans' affairs. Once appointed, a subcommittee member shall continue to serve as long as he remains a voting member of the committee, unless removed from the subcommittee by the committee chairman and secretary, acting jointly. In no case shall any one voting member serve on both subcommittees at the same time, and each nominating organization listed in section 37-18.1-01 shall have at least one voting member nominated by it serving on each subcommittee. From the membership of each subcommittee, a chairman will be selected by majority vote to preside over it for the term of one year. No person shall be permitted to serve as chairman of the committee and as chairman of a subcommittee simultaneously. A majority of the members of the

- subcommittee shall be required for a quorum, and a majority of the members present voting in favor thereof shall be required for any action.
2. The committee shall detail the specific powers and duties of each subcommittee relating to supervision, government, and implementation of programs or services provided by the soldiers' veterans' home and the department of veterans' affairs.
  3. The committee shall appoint the commandant of the soldiers' veterans' home and the commissioner of the department of veterans' affairs. Individuals appointed to these positions must be bona fide residents of the state, must hold an honorable discharge from active service within the armed forces of the United States, and must have served during a period of war or armed conflict and must qualify as a veteran as defined in section 37-01-40. Their terms of office shall be for two years, commencing on July 1, 1971, and on every second anniversary thereof. The committee shall determine the salaries paid to the commandant of the soldiers' veterans' home and the commissioner of the department of veterans' affairs within the limits of legislative appropriation. Both officers shall be bonded through the state bonding fund in the sum of five thousand dollars. The commandant of the soldiers' veterans' home and the commissioner of veterans' affairs shall serve as the executive secretary for their respective subcommittees. The commandant and the commissioner shall have no vote in the affairs of the subcommittees.
  4. The committee shall, under recommendation from each of its subcommittees, present any matters needing attention and action to the appropriate board, commission, agency, or department of the state, and the North Dakota veterans' coordinating council.
  5. The committee shall assure compliance with applicable federal and state laws in the administration of both the department of veterans' affairs and the North Dakota soldiers' veterans' home and shall exercise its responsibilities in all things necessary to carry out the provisions of this chapter in regard to organization, policy, and general administration of the agencies served and involved in the conduct of veterans' affairs.

**SECTION 27. AMENDMENT.** Section 37-18.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-18.1-04. Committee members not to receive compensation - Expenses permitted.** Committee members shall not receive any compensation for the performance of their official duties. Voting members may be

reimbursed for travel expenses and meals and lodging expenses in connection with their official duties at the same rate and in the same manner as are elected officials and employees of the state, with payment to be made by the department of veterans' affairs and the soldiers' veterans' home to each of their respective subcommittee members incurring such expenses. Such payment shall be made by warrant-check drawn by the department of accounts and purchases office of management and budget upon the submission of a proper voucher to it, signed by the commissioner of veterans' affairs or the commandant of the soldiers' veterans' home, as the case may be.

**SECTION 28. AMENDMENT.** Subsection 5 of section 37-19.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

5. "Veteran" ~~shall be~~ means a wartime veteran as defined in subsection 7 2 of section 37-01-40.

**\* SECTION 29. AMENDMENT.** Section 54-23-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-23-01. Institutions under control of director of institutions.** The director of institutions shall have full power to manage, control, and govern, subject only to the limitations contained in this chapter and in title 25, the penitentiary, the school for the blind, the school for the deaf, the Grafton state school, the North Dakota industrial school, and San Haven. The director ~~shall~~ does not have the power to manage, control, and govern the soldiers' veterans' home.

**SECTION 30. AMENDMENT.** Section 54-23-56 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-23-56. Director to coordinate and assist charitable and penal institutions in farm operations.** All crop, vegetable, livestock, dairy, and related activities at the state penitentiary, state farm, state industrial school, state hospital, Grafton state school, and the soldiers' veterans' home, shall be coordinated to the greatest possible extent by the director of institutions, who shall provide the various institutions with the managerial and technical assistance necessary to develop and maintain efficient nonduplicating farm and related operations.

**SECTION 31. AMENDMENT.** Section 54-23-59 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**54-23-59. Legislative intent Employees of institutions - Charges for lodging and meals.** It is the intent of the legislative assembly that ~~officers~~ Officers and employees of institutions under the supervision of the director of institutions, the state department of health, and the ~~board of trustees of the soldiers' home~~ administrative committee on veterans' affairs may not receive lodging or meals at such institutions unless a charge is

**\* NOTE:** Section 54-23-01 was also amended by section 12 of House Bill No. 1062, chapter 311.

made therefor, ~~which~~. Any charge ~~shall~~ must be equal to the fair value of the meals and lodging provided. If an officer or employee is required by law to live at the institution, ~~his~~ that person's lodging ~~shall~~ must be furnished free of charge. Food supplies, other than meals for which a charge is made, ~~shall~~ may not be provided to officers and employees of institutions under the supervision of the ~~the~~ director of institutions, the state department of health, and the ~~board of trustees of the soldiers' home~~ administrative committee on veterans' affairs.

SECTION 32. AMENDMENT. Section 57-36-24 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

57-36-24. Exemptions. All gift cigarettes, snuff, cigars, and other tobacco products, not for resale, which are given to the North Dakota ~~soldiers'~~ veterans' home or the North Dakota state hospital for distribution to the occupants thereof, ~~shall be~~ are exempt from the excise taxes levied under ~~the provisions of~~ this chapter.

Approved March 28, 1985

## CHAPTER 398

HOUSE BILL NO. 1252  
(Representative Martinson)

## DISASTER OR EMERGENCY RESPONSE

AN ACT to amend and reenact sections 37-17.1-01, 37-17.1-02, 37-17.1-03, 37-17.1-04, 37-17.1-05, 37-17.1-06, 37-17.1-07, 37-17.1-09, 37-17.1-10, 37-17.1-11, 37-17.1-12, 37-17.1-13, 37-17.1-14, 37-17.1-15, 37-17.1-16, 37-17.1-17, 37-17.1-18, 37-17.1-19, 37-17.1-20, 37-17.1-21, and 37-17.1-22 of the North Dakota Century Code, relating to disasters or emergencies; and to repeal section 37-17.1-08 of the North Dakota Century Code, relating to disasters or emergencies.

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

**SECTION 1. AMENDMENT.** Section 37-17.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-17.1-01. Short title.** This chapter shall be cited as the North Dakota Disaster Act of 1973 1985.

**SECTION 2. AMENDMENT.** Section 37-17.1-02 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

**37-17.1-02. Purposes.** The purposes of this chapter are to:

1. Reduce vulnerability of people and communities of this state to damage, injury, and loss of life and property resulting from natural or manmade ~~catastrophes, riots~~ disasters or emergencies, or hostile military or paramilitary action.
2. Prepare for prompt and efficient rescue, care, and treatment of persons victimized or threatened by disaster.
3. Provide a setting conducive to the rapid and orderly start of restoration and rehabilitation of persons and property affected by disasters or emergencies.

- 4- 3. Clarify the roles of the governor, state agencies, and local governments in prevention mitigation of, preparation for, and response to and recovery from disasters or emergencies.
- 5- Authorize and provide for cooperation in disaster prevention, preparedness, response, and recovery.
- 6- 4. Authorize and provide for coordination of emergency management activities relating to disaster prevention, preparedness, response, and recovery by agencies and officers of this state, and similar state-local, interstate, federal-state, and foreign activities in which the state and its political subdivisions may participate.
- 7- 5. Provide a disaster for a statewide emergency management system embodying all aspects of pre-disaster preparedness and post-disaster response mitigation, preparedness, response and recovery.
- 8- Assist in prevention of disasters caused or aggravated by inadequate planning for and regulation of public and private facilities and land use.

SECTION 3. AMENDMENT. Section 37-17.1-03 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-03. Limitations. Nothing in this chapter shall be construed to:

1. Interfere with the course or conduct of a labor dispute, except that actions otherwise authorized by this chapter or other laws may be taken when necessary to forestall or mitigate imminent or existing danger to public health or safety.
2. Interfere with dissemination of news or comment on public affairs, but any. Any communications facility or organization, including but not limited to radio and television stations, wire services, and newspapers, may be required to transmit or print public service messages furnishing information or instructions in connection with a disaster or emergency situation.
3. Affect the jurisdiction or responsibilities of units of the armed forces of the United States or of this state, or of any personnel thereof, when on active duty, but state, State and local, and interjurisdictional disaster emergency operational plans shall place reliance upon the forces available for performance of functions related to disaster disasters or emergencies.

4. Limit, modify, or abridge the authority of the governor to proclaim martial law, provide aid or assistance to civil authorities, or exercise any other powers vested in him under the Constitution of North Dakota, or statutes, common law, or sovereign powers of this state independent of, or in conjunction with, any provisions of this chapter.
5. Change or modify the responsibilities of the American National Red Cross as defined by the Congress of the United States in Public Law 58-4 [33 Stat. 599; 36 U.S.C. 1], as amended.

SECTION 4. AMENDMENT. Section 37-17.1-04 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-04. Definitions. As used in this chapter:

1. "Disaster" means the occurrence or imminent threat of widespread or severe damage, injury, or loss of life or property resulting from any natural or manmade cause, including but not limited to: fire, flood, earthquake, wind, severe high and low temperatures, tornado storm, wave action, oil spill, or other water or air contamination requiring emergency action to avert danger or damage, epidemic, air contamination, blight, drought, infestation, explosion, riot, or hostile military or paramilitary action, which is determined by the governor to require state or state and federal assistance or actions to supplement the recovery efforts of local governments in alleviating the damage, loss, hardship, or suffering caused thereby.
2. "Disaster and or emergency worker" means any full or part-time paid, volunteer, or auxiliary employee of this state, or other states, territories, possessions, or the District of Columbia, of the federal government, or any neighboring country, or of any political subdivision thereof, or of any agency or organization or other authorized person performing disaster or emergency services responsibilities or duties at any place in this state subject to the order or control of, or pursuant to a request of, the state government or any political subdivision thereof.
3. "Political subdivision" means any county, city, or other unit of local government. "Emergency" means any situation which is determined by the governor to require state or state and federal response or mitigation actions to immediately supplement local governments to protect lives and property, to provide for public health and safety, or to avert or lessen the threat of a disaster.

4. "Emergency management" means a comprehensive integrated system at all levels of government and in the private sector which provides for the development and maintenance of an effective capability to mitigate, prepare for, respond to and recover from, known and unforeseen hazards or situations, caused by an act of nature or man, which may threaten, injure, damage, or destroy lives, property, or our environment.

SECTION 5. AMENDMENT. Section 37-17.1-05 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-05. The governor and ~~disaster~~ disasters or emergencies - Penalty.

1. The governor is responsible ~~for meeting the dangers to the state and people presented by disasters to minimize or avert the adverse effects of a disaster or emergency.~~
2. Under this chapter, the governor may issue executive orders, and proclamations, and regulations and amend or rescind them. Executive orders, proclamations, and regulations have the force and effect of law.
3. A disaster or emergency shall be declared by executive order or proclamation of the governor if he finds the governor determines a disaster has occurred or that this occurrence or the threat thereof is imminent a state of emergency exists. The state of disaster or emergency shall continue until the governor finds determines that the threat or danger of an emergency has passed or the disaster has been dealt with to the extent that emergency conditions no longer exist and terminates the state of disaster emergency by executive order or proclamation; but no state of disaster emergency may continue for longer than thirty days unless renewed by the governor. The legislative assembly by concurrent resolution may terminate a state of disaster or emergency at any time and thereupon, the governor shall issue an executive order or proclamation ending the state of disaster emergency. All executive orders or proclamations issued under this subsection shall indicate the nature of the disaster or emergency, the area or areas threatened, the conditions which have brought it about or which make possible termination of the state of disaster or emergency. An executive order or proclamation shall be disseminated promptly by means calculated to bring its contents to the attention of the general public, unless the circumstances attendant upon the disaster or emergency prevent or impede such dissemination, and it shall be promptly filed with the state office of disaster division of emergency services management, the secretary of state, and the

county or city auditor of the county or counties jurisdictions affected.

4. An executive order or proclamation of a state of disaster or emergency shall activate the disaster response and recovery aspects of the state, and local, and interjurisdictional disaster emergency operational plans applicable to the political subdivision or area in question and be authority for the deployment and use of any forces to which the plan or plans apply and for use or distribution of any supplies, equipment, and materials and facilities assembled, stockpiled, or arranged to be made available pursuant to this chapter or any other provision of law relating to a disaster emergencies or emergency.
5. During the continuance of any state of disaster or emergency declared by the governor, the governor is commander-in-chief of the disaster emergency services management organization and of all other forces available for emergency duty. To the greatest extent practicable, the governor shall delegate or assign command authority by prior arrangement embodied in appropriate executive orders or regulations emergency operational plans, but nothing herein restricts his the governor's authority to do so by orders issued at the time of the disaster or emergency.
6. In addition to any other powers conferred upon the governor by law, he the governor may:
  - a. Suspend the provisions of any regulatory statute prescribing the procedures for conduct of state business, or the orders, rules, or regulations, of any state agency, if strict compliance with the provisions of any statute, order, rule, or regulation would in any way prevent, hinder, or delay necessary action in coping with the managing a disaster or emergency.
  - b. Utilize all available resources of the state government as reasonably necessary to cope with manage the disaster or emergency and of each political subdivision of the state.
  - c. Transfer the direction, personnel, or functions of state departments and agencies or units thereof for the purpose of performing or facilitating emergency services management activities.
  - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if he the governor finds this necessary to cope with manage the disaster or emergency.

- e. Direct and compel the evacuation of all or part of the population from any stricken or threatened area within the state if he the governor deems this action necessary for the preservation of life or other disaster or emergency mitigation, response, or recovery.
  - f. Prescribe routes, modes of transportation, and destinations in connection with an evacuation.
  - g. Control ingress and egress ~~to and from~~ in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.
  - h. Suspend or limit the sale, dispensing, or transportation of alcoholic beverages, firearms, explosives, and combustibles.
  - i. Make provision for the availability and use of temporary emergency housing.
  - j. Make provisions for the control, allocation, and the use of quotas for critical shortages of fuel or other life and property sustaining commodities.
  - k. Designate members of the highway patrol, North Dakota national guard, or others trained in law enforcement, as peace officers.
7. Any person who willfully violates any provision of an executive order, or proclamation, or regulation issued by the governor pursuant to this chapter shall be guilty of an infraction.

SECTION 6. AMENDMENT. Section 37-17.1-06 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-06. State division of disaster emergency services management.

1. A division of ~~disaster emergency services management~~ is hereby established in the office of the adjutant general. The division shall have a director appointed by, and to serve at the pleasure of, the adjutant general; and, his compensation shall be fixed by the adjutant general within the legislative appropriations. The division shall have a ~~planning officer~~ and other professional, technical, secretarial, and clerical employees as necessary for the performance of its functions. The director of the division shall fix the compensation of the staff in conformity with state merit system regulations and may make such expenditures within the appropriations therefor,

or from other funds made available to him for purposes of disaster preparedness emergency management, as may be necessary to carry out the purposes of this chapter.

2. The division of disaster emergency services management shall prepare and maintain a state disaster plan and keep it current, which plan may include provisions for:
  - a. Prevention and minimization of Averting or minimizing the injury and damage caused by disaster disasters or emergencies.
  - b. Prompt and effective response to a disaster or emergency.
  - c. Emergency relief.
  - d. Identification of areas particularly vulnerable to disasters a disaster or emergency.
  - e. Recommendations for zoning, building, and other land use controls, safety measures for securing mobile homes or other nonpermanent or semipermanent structures, and other preventive mitigation and preparedness measures designed to eliminate or reduce disasters or their impact.
  - f. Assistance to local officials in designing developing and maintaining local emergency action plans management systems.
  - g. Authorization and procedures for the erection or other construction of temporary works designed to protect against or mitigate danger, damage, or loss from flood, conflagration, or other disaster any disaster or emergency.
  - h. Preparation and distribution of emergency management assistance program guidance to the appropriate state and local officials of state catalogs of federal, state, and private assistance programs.
  - i. Organization of manpower and chains of command.
  - j. Coordination of federal, state, and local disaster emergency management activities.
  - k. Coordination of the state disaster plan or emergency operations plans with the disaster or emergency plans of the federal government.
  - l. Other necessary matters.

3. The division of disaster emergency services management shall take an integral part in the development and revision of local and interjurisdictional disaster or emergency operations plans prepared under section 37-17.1-07. To this end it shall employ or otherwise secure the services of professional and technical personnel capable of providing expert assistance to political subdivisions, their disaster agencies, and interjurisdictional planning and disaster agencies local emergency management organizations. These personnel shall consult with subdivisions and agencies local emergency management organizations on a regularly scheduled basis and shall make field examinations of the areas, circumstances, and conditions to which particular local and interjurisdictional disaster or emergency plans are intended to apply, and may suggest or require revisions.
4. In preparing and revising the state disaster plan or emergency plans, the division of disaster emergency services management shall seek the advice and assistance of local government, business, labor, industry, agriculture, civic, and volunteer organizations and community leaders. In advising local and interjurisdictional agencies emergency management organizations, the division shall encourage them also to seek advice from these sources.
5. The state State disaster plan or emergency plans or any part parts thereof may be incorporated in regulations of the division of disaster emergency services or executive orders which shall have the force and effect of law upon implementation by the governor.
6. The division of disaster emergency services management shall:
  - a. Determine requirements of the state and its political subdivisions for food, clothing, and other necessities in event of an emergency. Coordinate the procurement and prepositioning of supplies, materials, and equipment, for disaster or emergency operations.
  - b. Procure, and pre-position supplies, medicines, materials, and equipment.
  - c. Promulgate standards and requirements Provide guidance and standards for local and interjurisdictional disaster or emergency operational plans.
  - d. Periodically review local and interjurisdictional disaster or emergency operational plans.

- e- d. Coordinate for support state or state and federal assistance to local units of government emergency management organizations.
- f- e. Establish and operate or assist political subdivisions, their disaster agencies, and interjurisdictional disaster agencies local emergency management organizations to establish and operate training programs and programs of for emergency public information.
- g- f. Make surveys of industries, resources, and facilities, within the state, both public and private, as are necessary to carry out the purposes of this chapter. The use of sensitive and proprietary logistical data submitted to the state in confidence by individual industries and suppliers shall be accorded full confidentiality and will be released only in aggregate form.
- h- g. Plan and make arrangements for the availability and use of any private facilities, services, and property, and, if necessary and if in fact used, coordinate payment for that use under terms and conditions agreed upon.
- i- h. Establish access to a register of persons with types of training and skills important in emergency prevention mitigation, preparedness, response, and recovery.
- j- i. Establish access to a register of mobile and construction equipment and temporary housing equipment and facilities available for use in a disaster or emergency.
- k- j. Prepare, for issuance by the governor, executive orders, proclamations, and regulations guidance as necessary or appropriate in coping with disasters managing a disaster or emergency.
- l- k. Cooperate Coordinate with the federal government and any public or private agency or entity in achieving any purpose of this chapter and in implementing programs for disaster prevention mitigation, preparation, response, and recovery.
- m- l. Be the state search and rescue coordinating agency, establish access to a register of search and rescue equipment and personnel in the state, and plan for its effective utilization in carrying out the search for and rescue of persons, at any time, when no violation of criminal laws exists.

- n- m. Do other things necessary, incidental, or appropriate for the implementation of this chapter.

SECTION 7. AMENDMENT. Section 37-17.1-07 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-07. Local and interjurisdictional disaster agencies and services emergency management organizations.

1. All areas of the state shall be within the jurisdiction of and may shall be served by the division of disaster emergency services management and by a local or interjurisdictional agency responsible for disaster preparedness and coordination of response emergency management organization.
2. Each county shall maintain a disaster agency or participate in a local or interjurisdictional disaster agency which, except as otherwise provided under this chapter, has jurisdiction over and an emergency management organization which serves the entire county.
3. Each municipal corporation city shall provide a disaster agency an emergency management organization of its own, or it shall participate in a the countywide or an interjurisdictional disaster agency emergency management organization. Each governing board of a municipal corporation city shall make its determination on the basis of the municipality's disaster vulnerability and capability of response related to population size and concentration. The disaster agency of a county shall cooperate with the disaster agencies of municipalities situated within its borders but shall not have jurisdiction within a municipality having its own disaster agency city's emergency management requirements, hazards, capabilities, and resources. The division of disaster emergency services management shall publish and keep current a list of municipalities cities desiring to have disaster agencies an emergency management organization of their own.
4. Any provision of this chapter or other law to the contrary notwithstanding, the governor may require a political subdivision to establish and maintain a disaster agency jointly with one or more contiguous political subdivisions, if he finds that the political subdivision does not have a disaster agency of its own, or is not participating in an interjurisdictional disaster organization to provide disaster prevention, preparedness, response, or recovery services under other provisions of this chapter.

- 5- The mayor of a city, or chairman of the board of county commissioners, or other principal executive officer of each political subdivision in the state shall notify the division of disaster emergency services management of the manner in which the political subdivision city or county is providing or securing disaster planning and emergency services emergency management activities, identify the person who heads the agency from which the service is obtained will coordinate the activities of the local emergency management organization, and furnish additional information relating thereto as the division requires.
- 6- 5. Each local and interjurisdictional agency emergency management organization shall prepare and keep current a local or interjurisdictional disaster or emergency operational plan for its area.
- 7- 6. The local or interjurisdictional disaster agency, as the case may be, emergency management organization shall prepare and distribute to all appropriate officials in written form a clear and complete statement of the disaster or emergency responsibilities of all their local agencies and officials and of the disaster chain of command.

SECTION 8. AMENDMENT. Section 37-17.1-09 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-09. Authority to utilize existing services and facilities. In carrying out the provisions of this chapter, the governor and the executive officers or governing bodies of the political subdivisions counties and cities of the state are directed to utilize the services, equipment, supplies, and facilities of existing departments, offices, and agencies of the state and of the political subdivisions counties and cities thereof to the maximum extent practicable, and the officers and personnel of all such departments, offices, and agencies are required and directed to cooperate with and extend such reasonable services and facilities to the governor and to the disaster emergency services management organizations of the state upon request.

SECTION 9. AMENDMENT. Section 37-17.1-10 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-10. Local disaster disasters 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 may be declared only by the principal executive officer of a political subdivision the county or city. It shall 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 ~~political subdivision~~ county or city. Any order or proclamation declaring, ~~continuing, or terminating~~ a local disaster or emergency shall be given prompt and general publicity and shall 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 ~~or interjurisdictional~~ disaster or emergency operational plans and to authorize the furnishing of aid and assistance thereunder.
3. ~~No interjurisdictional agency or official thereof may declare a local disaster emergency, unless expressly authorized by the agreement pursuant to which the agency functions. However, an interjurisdictional disaster agency shall provide aid and services in accordance with the agreement pursuant to which it functions.~~

SECTION 10. AMENDMENT. Section 37-17.1-11 of the North Dakota Code is hereby amended and reenacted to read as follows:

37-17.1-11. Disaster prevention or emergency mitigation.

1. In addition to disaster prevention or emergency mitigation measures as included in the state, and local, and interjurisdictional disaster or emergency operational plans, the governor shall consider, on a continuing basis, steps that could be taken to prevent mitigate or reduce the harmful consequences of disasters or emergencies. At ~~his~~ the governor's direction, and pursuant to any other authority and capability they have, state agencies, ~~including but not limited to~~ those charged with responsibilities in connection with: floodplain management, stream encroachment and flow regulation, weather modification, fire prevention and control, air quality, public works, land use and land use planning, and construction standards, shall make studies of disaster prevention or emergency mitigation-related matters. The governor, from time to time, shall make recommendations to the legislative assembly, local governments, and other appropriate public and private entities as may facilitate measures for prevention mitigation or reduction of the harmful consequences of disasters or emergencies.
2. The North Dakota state engineer and the water conservation commission, in conjunction with the division of disaster emergency services management, shall keep land uses and construction of structures and other facilities under continuing study and identify areas which are particularly susceptible to severe land shifting, subsidence, flood, or other catastrophic occurrence. The studies under this subsection shall concentrate on means of reducing or

avoiding the dangers caused by this occurrence or the consequences thereof.

3. If the division of disaster emergency services believes management determines, on the basis of the studies or other competent evidence, that: an area is susceptible to a disaster of catastrophic proportions without adequate warning; that; existing building standards and land use controls in that area are inadequate and could add substantially to the magnitude of the disaster; or emergency; and that changes in zoning regulations, other land use regulations, or building requirements are needed in order to further the purposes of this section, it shall specify the essential changes to the governor. If the governor, upon review of the recommendation determination, finds after public hearing, that the changes are essential, he the governor shall so recommend to the agencies or local governments with jurisdiction over the that area and subject matter. If no action or insufficient action pursuant to his the governor's recommendations is taken within the time specified by the governor, he the governor shall so inform the legislative assembly and request legislative action appropriate to mitigate the impact of the disaster or emergency.
4. The governor, at the same time that he the governor makes his recommendations pursuant to subsection 3, may suspend the standard or control which he the governor finds to be inadequate to protect the public safety and by regulation place a new standard or control in effect. The new standard or control shall remain in effect until rejected by concurrent resolution of both houses of the legislative assembly or amended by the governor. During the time it is in effect, the standard or control contained in the governor's regulation shall be administered and given full effect by all relevant regulatory agencies of the state and local governments to which it applies. The governor's action is subject to judicial review in accordance with chapter 28-32, but shall not be subject to temporary stay pending litigation.

SECTION 11. AMENDMENT. Section 37-17.1-12 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-12. Compensation.

1. Each person Persons within this state shall conduct himself themselves and keep and manage his their affairs and property in ways that will reasonably assist and will not unreasonably detract from the ability of the state and the public successfully to meet disaster emergencies to effectively 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 shall 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 his services or property without compensation.

2. No personal services may be compensated by the state or any subdivision or agency county or city thereof, except pursuant to statute or local law or ordinance.
3. Compensation for property shall be only if the property was commandeered or otherwise used in dealing with management of a disaster or emergency declared by the governor and its use or destruction was ordered by the governor ~~or the governor's state disaster emergency coordinator.~~
4. Any person claiming compensation for the use, damage, loss, or destruction of property under this chapter shall file a claim therefor with the office of the management and budget in the form and manner required by the office.
5. Unless the amount of compensation on account of property damaged, lost, or destroyed is agreed between the claimant and the office of the management and budget, the amount of compensation shall be calculated in the same manner as compensation due for a taking of property pursuant to the condemnation laws of this state.

SECTION 12. AMENDMENT. Section 37-17.1-13 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-13. Communications. The division of ~~disaster~~ emergency ~~services management~~ shall ascertain what means exist for rapid and efficient communications in times of a disaster emergencies or emergency. The division shall consider the desirability of supplementing these communications resources or of integrating them into a comprehensive state or ~~state-federal~~ state and federal telecommunications or other communications system or network, including the military installations. In studying the character and feasibility of any system or its several parts, the division shall evaluate the possibility of multipurpose use thereof for general state and local governmental purposes. The division shall make recommendations to the governor as appropriate.

SECTION 13. AMENDMENT. Section 37-17.1-14 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-14. Mutual aid.

1. ~~Political subdivisions not participating in interjurisdictional arrangements pursuant to this chapter nevertheless Counties and cities shall be encouraged and assisted by the division of disaster emergency services management to conclude suitable arrangements for furnishing mutual aid in coping with disasters emergency management. The arrangements shall include provision of aid by persons and units in public employ.~~
2. ~~In passing upon review of local disaster or emergency plans, the division of disaster emergency services management shall consider whether they contain adequate provisions for the rendering and receipt of mutual aid.~~
- 3- ~~It is a sufficient reason for the division of disaster emergency services to consider an interjurisdictional agreement or arrangement pursuant to section 37-17.1-08 that the area involved and political subdivisions therein have available equipment, supplies, and forces necessary to provide mutual aid on a regional basis and that the political subdivisions have not already made adequate provision for mutual aid, but in considering the making of an interjurisdictional arrangement to accomplish the purpose of this section, the division need not consider establishment and maintenance of an interjurisdictional agency or arrangement for any other disaster purposes.~~

SECTION 14. AMENDMENT. Section 37-17.1-15 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-15. Weather modification. The division of disaster emergency services management shall keep continuously apprised of weather conditions which present danger of precipitation or other climatic activity severe enough to constitute a disaster. If the division determines that precipitation that may result resulting from weather modification operations, either by itself or in conjunction with other precipitation or climatic conditions or activity, would create or contribute to the severity of a disaster, it shall direct the officer or agency empowered to issue permits for weather modification operations to suspend the issuance of the permits. Thereupon, no permits may be issued until the division informs the officer or agency that the danger has passed.

SECTION 15. AMENDMENT. Section 37-17.1-16 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

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

1. All functions hereunder and all other activities relating to ~~disaster~~ emergency services management are hereby declared to be governmental functions. Neither the state nor any ~~political subdivision~~ county or city or its departments and agencies, or any disaster or emergency worker complying with or reasonably attempting to comply with this chapter, or any ~~order, rule, or regulation promulgated~~ executive order or disaster or emergency operational plan pursuant to the provisions of this chapter, or pursuant to any ordinance relating to any precautionary measures enacted by any ~~political subdivision~~ county or city of the state, except in case of willful misconduct, gross negligence, or bad faith, shall be liable for the death of or injury to persons, or for damage to property, as a result of any such activity. The provisions of this section shall not affect the right of any person to receive benefits to which ~~he~~ they would otherwise be entitled under this chapter, or under the workmen's compensation 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 shall not apply to any authorized disaster or emergency worker who shall, in the course of performing his their duties, practice such professional, mechanical, or other skill during a disaster or emergency.

**SECTION 16. AMENDMENT.** Section 37-17.1-17 of the North Dakota Century Code is hereby amended and reenacted to read 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 ~~sheltering persons~~ emergency management activities during an actual, impending, mock or practice ~~attack~~ disaster or emergency, shall, together with ~~his~~ their successors in interest, if any, not be civilly liable 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 17. AMENDMENT.** Section 37-17.1-18 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-18. **Appropriations and authority to accept services, gifts, grants, and loans.**

1. Each political subdivision county or city shall have the power to make appropriations in the manner provided by law for making appropriations for the ordinary expenses of such political subdivision county or city for the payment of expenses of its local disaster emergency services management organization.
2. Whenever the federal government or any agency or officer thereof or any person, firm, or corporation shall offer to the state, or through the state to any political subdivision county or city thereof, services, equipment, supplies, materials, or funds by way of gift, grant, or loan, for purposes of disaster emergency services management, the state, acting through the governor or disaster the emergency services management director or coordinator, or such political subdivision county or city, acting through its executive officer or governing body, may accept such offer and may authorize any officer of the state or of the political subdivision, county, or city, as the case may be, to receive such services, equipment, supplies, materials, or funds on behalf of the state or such political subdivision county or city, and subject to the terms of the offer and the rules and regulations, if any, of the agency making the offer.

SECTION 18. AMENDMENT. Section 37-17.1-19 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-19. Temporary housing for disaster victims and site acquisition and preparation. In accordance with the provisions of the United States Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143], the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a disaster or emergency, a program of temporary housing for disaster victims adversely affected by a major disaster or emergency in those cases where such disaster or emergency victims are unable to meet their needs through assistance under provisions other than section 404 of the Disaster Relief Act or through other means. The governor shall be authorized:

1. To receive temporary housing units to be occupied by disaster or emergency victims from any agency of the United States and to make such units available to any political subdivision county or city of the state.
2. To assist any political subdivision county or city of this state which is the site of temporary housing for disaster or emergency victims, to acquire and to prepare sites necessary for such temporary housing, and to "pass through" funds made available by any agency, public or private.

Any ~~political subdivision~~ county or city of this state is expressly authorized to acquire, temporarily or permanently, by purchase, lease, or otherwise, sites required for installation of temporary housing units for disaster or emergency victims and to enter into whatever arrangements, including purchase of temporary housing units and payment of transportation charges, which are necessary to prepare or equip such sites to utilize the housing units.

The governor is authorized to make rules and regulations shall establish guidelines necessary to carry out the purposes of sections 37-17.1-19, 37-17.1-20, and 37-17.1-21.

SECTION 19. AMENDMENT. Section 37-17.1-20 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-20. Community disaster loans. In accordance with the provisions of the United States Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143], the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a ~~presidential-declared~~ presidentially-declared "major disaster", a program of community disaster loans in those cases where communities are unable to meet or provide for ~~its~~ their essential governmental functions through assistance under provisions other than section 414 of the Disaster Relief Act or through other means. Upon the governor's determination that a local government of the state will suffer a substantial loss of tax and other revenues from a ~~major~~ disaster and has demonstrated a need for financial assistance to perform its governmental functions to apply to the federal government, on behalf of the local government, for a loan; and to receive and disburse the proceeds of any approved loan to any applicant local government.

The governor shall be authorized:

1. To determine the amount needed by any applicant local government to restore or resume its governmental functions, and to certify the same to the federal government; ~~provided, however, that no.~~ No application amount shall exceed twenty-five percent of the annual operating budget of the applicant for the fiscal year in which the ~~major~~ disaster occurs.
2. To recommend to the federal government, based upon ~~his~~ the governor's review, the cancellation of all or any part of repayment when, within three fiscal years following the ~~major~~ disaster, the revenues of the local government are insufficient to meet its operating expenses, including additional disaster-related expenses of a ~~municipal~~ operation character county or city.

SECTION 20. AMENDMENT. Section 37-17.1-21 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-21. ~~Debris and wreckage removal in disaster emergencies or major disasters or emergencies.~~ In accordance with the provisions of the United States Disaster Relief Act of 1974 [Pub. L. 93-288; 88 Stat. 143], the governor is authorized to enter into such agreements and execute such assurances on behalf of the state of North Dakota as may be necessary to establish, in the event of a disaster or emergency, a program of debris and wreckage removal caused by a ~~major disaster~~ in those cases where such debris and wreckage removal cannot be provided under provisions other than section 403 of the Disaster Relief Act or through other means. The governor shall be authorized:

1. Notwithstanding any other provision of law, through the use of state departments or agencies, or the use of any of the state's instrumentalities, to clear or remove from publicly or privately owned land or water, debris and wreckage which may threaten public health or safety, or threaten public or private property, in any disaster or emergency declared by the governor ~~or major disaster as declared by the president~~.
2. To accept funds from the federal government and utilize such funds to make grants to any local government for the purpose of removing debris or wreckage from publicly or privately owned land or water.

Authority under sections 37-17.1-19, 37-17.1-20, and 37-17.1-21 shall not be exercised, except upon state-owned lands, unless the affected local government, corporation, organization, or individual shall first present an unconditional authorization for removal of such debris or wreckage from public and private property and, in the case of removal of debris or wreckage from private property, shall first agree to indemnify the state government against any claim arising from such removal.

Whenever the governor provides for clearance of debris or wreckage pursuant to subsections 1 or 2, employees of the designated state agencies or individuals appointed by the state are authorized to enter upon private land or waters and perform any tasks necessary to the removal or clearance operation.

Except in cases of willful misconduct, gross negligence, or bad faith, any state employee or agent complying with orders of the governor and performing duties pursuant thereto under sections 37-17.1-19, 37-17.1-20, and 37-17.1-21 shall not be liable for death of or injury to persons or damage to property.

The governor is authorized to make rules and regulations shall establish guidelines to carry out the purposes of sections 37-17.1-19, 37-17.1-20, and 37-17.1-21.

SECTION 21. AMENDMENT. Section 37-17.1-22 of the 1983 Supplement to the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-17.1-22. Disaster or emergency response and recovery costs. Whenever the governor declares a state of disaster or emergency in accordance with section 37-17.1-05, or when the governor enters into an agreement with the federal government following a "major" disaster or an emergency declared by the president of the United States, ~~the state coordinating officer for that disaster emergency as designated by the governor~~ director of the division of emergency management shall determine and record the costs of the state response and recovery operations in accordance with an agreement with the federal government or in accordance with procedures established by the governor in the case of a state-declared disaster or emergency. Immediately following the response or recovery operations, or prior thereto if deemed necessary by the governor, the governor shall make application to the state emergency commission for a grant of funds ~~from the natural disaster fund or other available funds in the state treasury~~ in an amount equal to the response and recovery costs of the state. Notwithstanding other provisions of chapter 54-16, it shall be conclusively presumed upon receipt by the emergency commission of such application from the governor that ~~an a disaster or~~ an a disaster or emergency exists, and such commission shall ~~forthwith~~ immediately grant and direct the transfer to the department of the governor's designated representative of an amount equal to that certified in such application by the governor.

SECTION 22. REPEAL. Section 37-17.1-08 of the North Dakota Century Code is hereby repealed.

Approved March 1, 1985

## CHAPTER 399

SENATE BILL NO. 2380  
(Senators Lodoen, Ingstad)  
(Representatives Sauter, Schneider, Conmy)

### CRISIS RELOCATION PROGRAM EXPENDITURES PROHIBITED

AN ACT to create and enact a new section to chapter 37-17.1 of the North Dakota Century Code, relating to the expenditure of disaster planning funds.

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

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

Crisis relocation plans - Public expenditures prohibited. The expenditure of or authorization for an expenditure by any official or employee of the state or any political subdivision of the state of any funds, whether derived from the state, federal government, or any other source, for the purpose of planning, developing, or implementing any type of crisis relocation program or plan, the primary purpose of which is to effect a mass evacuation of this state's civilian population in the event of the threat of nuclear war, is prohibited. This section does not prohibit the use of state, federal, or other funds for other disaster planning needs and activities as authorized by law.

Approved March 22, 1985

## CHAPTER 400

SENATE BILL NO. 2112  
(Committee on Social Services and Veterans Affairs)  
(At the request of the Department of Veterans' Affairs)

## ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS

AN ACT to amend and reenact section 37-18.1-01 of the North Dakota Century Code, relating to the administrative committee on veterans' affairs.

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

SECTION 1. AMENDMENT. Section 37-18.1-01 of the North Dakota Century Code is hereby amended and reenacted to read as follows:

37-18.1-01. Administrative committee on veterans' affairs - Membership - Appointment. There is hereby created an administrative committee on veterans' affairs, which, for purposes of this chapter, shall hereinafter be referred to as the committee. The committee shall consist of four ex officio nonvoting members and ~~twelve~~ fifteen voting members. The adjutant general, the center director of the veterans' administration, the executive director of job service North Dakota, and the director of institutions shall be the ex officio nonvoting members who shall serve in an advisory capacity to the committee. On or before June 20, 1971, the American legion, the veterans of foreign wars, the disabled American veterans, ~~and~~ the veterans of World War I, ~~U-S-A- II, Korea, and Vietnam, (amvets), and Vietnam veterans' of America,~~ U-S-A- II, Korea, and Vietnam, (amvets), and Vietnam veterans' of America, incorporated, shall each prepare a list containing the names of six persons qualifying as veterans under the provisions of section 37-01-40, for appointment as voting members of the committee. On or before July 1, 1971, the governor shall select ~~twelve~~ fifteen nominees, three from each list, ~~four~~ five of whom shall be appointed to a term of three years, ~~four~~ five of whom shall be appointed to a term of two years, and ~~four~~ five of whom shall be appointed to a term of one year, or until their successors are appointed and qualified. On or before the twentieth day of June in each year, beginning in the year 1972, each of the above-listed nominating organizations shall submit a list containing the names of two persons who qualify as veterans under the provisions of section 37-01-40, to the governor for appointment or reappointment as voting members of the committee. On or before the first day of July in each year, beginning in the year 1972, the

governor shall select one nominee from each list, a total of ~~four~~ five nominees, to fill expiring terms of voting members of the committee. Each such appointment shall be for a term of three years, or until a successor is appointed and qualified. All terms shall begin on the first day of July and end on the thirtieth day of June in the year specified. In case of the inability or failure of any voting member of the committee to serve, the governor shall appoint another member from a list of two persons qualifying as veterans under the provisions of section 37-01-40, submitted by the nominating organization represented by the member who was unable or failed to serve. Such appointments shall be made for the remainder of the unexpired term.

Approved March 22, 1985