

MILITARY

CHAPTER 268

SENATE BILL NO. 2115

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

AN ACT to amend and reenact section 37-01-03 and 37-01-43, and subsection 8 of section 37-26-01 of the North Dakota Century Code, relating to the operation of the North Dakota national guard.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

37-01-03. Articles of uniform code of military justice applicable in state - Regulations governing - Punishment for offenses while on duty.

The articles of uniform code of military justice governing the armed forces of the United States as codified in the Manual for Courts-Martial, United States, ~~2016~~2019 edition, are a part of this title so far as the ~~same~~articles are applicable and not modified by any provision of this title. ~~A person~~An individual who commits an offense while on military duty ~~status, to include~~including state active duty, may be tried by a court-martial lawfully appointed even after ~~such~~the duty has terminated, and if found guilty, the accused must be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States ~~and,~~ within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the ~~person~~individual alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve ~~such~~the charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Commanders may administer nonjudicial punishment for offenses while on military duty ~~status, to include~~including state active duty, in accordance with part V, Manual for Courts-Martial, except ~~that~~ the service member may not demand a trial by courts-martial. ~~Whenever~~When reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, ~~such~~the reference ~~shall~~must be deemed to include the military service of this state. ~~The intent of this title and of all laws~~Laws of this state affecting the military forces ~~is~~must be construed to conform to all acts and regulations of the United States affecting the same subjects, ~~and all laws of this state shall be construed to effect this purpose.~~

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

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

~~A person~~An individual called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act [50 U.S.C. 3901-4043] in effect on December 31, ~~2018~~2020.

SECTION 3. AMENDMENT. Subsection 8 of section 37-26-01 of the North Dakota Century Code is amended and reenacted as follows:

8. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, in effect on December 31, ~~2011~~2004, or 10 U.S.C. 12302, in effect on ~~October 28, 2004~~December 31, 2011, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 269

SENATE BILL NO. 2117

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

AN ACT to create and enact a new section to chapter 37-01 of the North Dakota Century Code, relating to death benefits for national guard members; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 37-01 of the North Dakota Century Code is created and enacted as follows:

Payment of death benefits.

The national guard may pay a death benefit to a designated beneficiary, or to the next of kin, of a national guard service member who died while serving in a state active duty status under this chapter. The payment of a death benefit may not exceed fifteen thousand dollars and is subject to available funds. The adjutant general may adopt rules to implement this section.

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

Approved April 19, 2021

Filed April 20, 2021

CHAPTER 270

SENATE BILL NO. 2114

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

AN ACT to amend and reenact section 37-07.3-03 of the North Dakota Century Code, relating to the use of the funds in the national guard training area and facility development trust fund.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-07.3-03 of the North Dakota Century Code is amended and reenacted as follows:

37-07.3-03. 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~~2019, through June 30, ~~1989~~2023, must be used solely for the acquisition or lease of land for national guard training purposes at Camp Gilbert C. Grafton training center 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~~armories~~.

Approved March 22, 2021

Filed March 23, 2021

CHAPTER 271

HOUSE BILL NO. 1211

(Representatives Magrum, Hoverson, Kasper, B. Koppelman, Louser, Schauer,
Vetter)
(Senators Meyer, Vedaa)

AN ACT to amend and reenact sections 37-14-03 and 37-14-14 of the North Dakota Century Code, relating to the veterans' aid fund and veterans' postwar trust fund; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-14-03 of the North Dakota Century Code is amended and reenacted as follows:

37-14-03. Veterans' aid fund.

The state treasurer shall keep in the state treasury the separate trust fund known as the veterans' aid fund and shall have full authority to invest the fund only in accordance with chapter 21-10. Disbursements from ~~such~~the fund must be made as provided in this chapter.

SECTION 2. AMENDMENT. Section 37-14-14 of the North Dakota Century Code is amended and reenacted as follows:

37-14-14. Veterans' postwar trust fund.

The veterans' postwar trust fund is a permanent trust fund of the state of North Dakota and consists of moneys transferred or credited to the fund under this chapter and other laws. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in these legal investments authorized by section 21-10-07 ~~accordance with chapter 21-10.~~ All income received from investments is to be utilized only for programs of benefit and service to veterans or their dependents, and all income earned in a biennium is appropriated to the administrative committee on veterans' affairs on a continuing basis in the following biennium and not in the biennium the income is earned for expenditure on these programs as authorized by law. Investment of all income received from investments is the responsibility of the state treasurer who has full authority to invest the income received only in accordance with chapter 21-10.

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

Approved March 16, 2021

Filed March 16, 2021

CHAPTER 272

HOUSE BILL NO. 1180

(Representative Becker)

AN ACT to amend and reenact subsection 6 of section 37-17.1-05 of the North Dakota Century Code, relating to the governor's authority during a declared state of disaster or emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

¹⁷⁴ **SECTION 1. AMENDMENT.** Subsection 6 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

6. In addition to any other powers conferred upon the governor by law, 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 managing a disaster or emergency.
 - b. Utilize all available resources of the state government as reasonably necessary to 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 management activities.
 - d. Subject to any applicable requirements for compensation under section 37-17.1-12, commandeer or utilize any private property if the governor finds this necessary to 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 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 in a designated disaster or emergency area, the movement of persons within the area, and the occupancy of premises therein.

¹⁷⁴ Section 37-17.1-05 was also amended by section 2 of House Bill No. 1118, chapter 191, section 3 of House Bill No. 1118, chapter 191, section 5 of House Bill No. 1410, chapter 92, and section 2 of Senate Bill No. 2181, chapter 192.

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

Approved March 29, 2021

Filed March 30, 2021

CHAPTER 273

SENATE BILL NO. 2344

(Senators Dwyer, Larson, Meyer)
(Representatives Devlin, K. Koppelman)

AN ACT to amend and reenact section 37-17.1-29 of the North Dakota Century Code, relating to governmental regulation of firearms and ammunition; and to provide a penalty.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 37-17.1-29 of the North Dakota Century Code is amended and reenacted as follows:

37-17.1-29. Firearms in emergencies.

1. ~~Notwithstanding any other law, a person acting on behalf or under the authority of the state or a political subdivision may not do any of the following during a declared emergency: a state agency, political subdivision, or elected or appointed official or employee of this state or of a political subdivision may not, under governmental authority or color of law, including any other statutorily authorized responses to disaster, war, acts of terrorism, or emergencies of whatever kind or nature:~~
 - a. Close or limit the operating hours of:
 - (1) Any government-owned or government-operated indoor or outdoor shooting range, unless the closure or limitation is required for maintenance, law enforcement training, military training, hunter education, or other special activities associated with the shooting sports or the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activity within the jurisdiction;
 - (2) Any private indoor or outdoor shooting range, unless the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activities within the jurisdiction; or
 - (3) Any entity engaged in the lawful selling or servicing of any firearm, including any component or accessory; ammunition, including any component or accessory; ammunition-reloading equipment and supplies; or personal weapons other than firearms, unless the closing or limitation of hours applies equally to all forms of commerce, use, recreation, enjoyment, or general activity within the jurisdiction;
 - b. Prohibit, regulate, or restrict/curtail the otherwise lawful possession, defensive use, carrying, transfer, transportation, storage, or display, or other lawful use of a firearm or ammunition;
 - b. Seize; or seize, commandeer, confiscate, or authorize the seizure or confiscation of, any otherwise lawfully possessed firearm or ammunition

unless the person acting on behalf of or under the authority of the state or political subdivision is defending that person or another from an assault, arresting an individual in actual possession of a firearm or ammunition for a violation of law, or seizing or confiscating the firearm or ammunition as evidence of a crime; or

- c. ~~Require registration of any firearm or ammunition for which~~When registration is not otherwise required by law, require registration of any firearm, including any component or accessory; ammunition, including any component or accessory; ammunition-reloading equipment and supplies; or personal weapons other than firearms;
 - d. Suspend or revoke a permit to carry a concealed pistol issued pursuant to chapter 62.1-04, except as expressly authorized in that chapter; or
 - e. Refuse to accept an application for a permit to carry a concealed pistol, provided the application has been completed properly in accordance with chapter 62.1-04.
2. ~~Subdivision a of subsection 1 as it relates to transfer of a firearm or ammunition does not apply to the commercial sale of firearms or ammunition if an authorized authority has ordered an evacuation or general closure of businesses in the affected area.~~
 3. Any individual aggrieved by a violation of this section may commence a civil action against any person who subjects the individual, or causes the individual to be subjected, to an action prohibited by this section.
 - 4-3. In addition to any other remedy, an individual aggrieved by the seizure or confiscation of a firearm or ammunition in violation of this section may bring an action for the return of the firearm or ammunition, or the value of the firearm or ammunition, if the firearm or ammunition is no longer available, in the district court of the county in which that individual resides, in which the firearm or ammunition is located, or in which the seizure or confiscation occurred.
 - 5-4. In any action to enforce this section, the court shall award a prevailing plaintiff costs and reasonable attorney's fees.

Approved April 12, 2021

Filed April 13, 2021

CHAPTER 274

HOUSE BILL NO. 1146

(Representatives Bosch, Heinert, Nathe)
(Senators Davison, Larson)

AN ACT to amend and reenact subsection 4 of section 37-17.3-02.2 and section 37-17.3-03 of the North Dakota Century Code, relating to rulemaking authority of the statewide interoperability executive committee and eligibility for statewide interoperable radio network access; and to declare an emergency.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Subsection 4 of section 37-17.3-02.2 of the North Dakota Century Code is amended and reenacted as follows:

4. The committee may adopt rules governing the connection or integration of public safety answering points to the statewide interoperable radio network and shall adopt rules governing eligibility for access to the network.

SECTION 2. AMENDMENT. Section 37-17.3-03 of the North Dakota Century Code is amended and reenacted as follows:

37-17.3-03. ~~Political subdivisions may furnish receiving and transmitting sets for enforcement purposes - State cost-share.~~ Receiving and transmitting sets for enforcement purposes - State cost-share.

1. ~~Each county and organized city~~Subject to the rules of the statewide interoperability executive committee, a political subdivision within the state or a nongovernmental emergency services provider operating within the state may furnish to its ~~law enforcement, firefighters, and emergency medical personnel~~ the appropriate personal and vehicular radios that can access the statewide interoperable radio network. Each radio ~~that is~~ programmed to access the statewide interoperable radio network must be approved by the statewide interoperability executive committee. The chief information officer shall establish a process to register and audit users of the statewide interoperable radio network.
2. The information technology department may provide a state cost-share for each radio purchased under this section. The state cost-share for each radio is one thousand five hundred dollars unless the cost of the radio is less than one thousand five hundred dollars in which case the state cost-share is the cost of the radio.

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

Approved March 17, 2021

Filed March 18, 2021