

**Sixty-eighth Legislative Assembly of North Dakota  
In Regular Session Commencing Tuesday, January 3, 2023**

HOUSE BILL NO. 1069  
(Government and Veterans Affairs Committee)  
(At the request of the Adjutant General)

AN ACT to create and enact a new chapter to title 37 of the North Dakota Century Code, relating to the pay and benefits received by national guard members; to amend and reenact subsection 9 of section 37-17.1-05 of the North Dakota Century Code, relating to response to disasters or emergencies; and to repeal sections 37-04-08, 37-04-09, 37-04-11, 37-04-12, 37-04-13, and 37-07-05 of the North Dakota Century Code, relating to expenses and pay of officer and enlisted members of the national guard; and to declare an emergency.

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

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

**37-04.1-01. Pay and allowances of national guard members - Deductions allowed.**

1. Each officer and enlisted member of the national guard, when called to state active duty by the governor, is entitled to receive pay and allowances at the highest rate provided for national guard members of the same grade in the national guard of the United States, except any enlisted member serving in a grade below E-3 will be paid the same as an enlisted member serving in the grade of E-3, and the daily pay rate for each of the grades listed must be increased as follows:
  - a. E-3 - fifty-five percent.
  - b. E-4 - forty-five percent.
  - c. E-5 - thirty-five percent.
  - d. E-6 - twenty-five percent.
  - e. E-7 - fifteen percent.
  - f. E-8 - ten percent.
2. If ordered by the governor in response to an emergency management assistance compact request and the requesting state pays state active duty pay at a higher rate than this state, national guard officers and enlisted members may receive the higher rate of pay when this state is reimbursed at the higher rate.
3. Each officer and enlisted member of the national guard is entitled to receive transportation, shelter, and subsistence. The value of articles issued to any national guard member and not returned in good order on demand, and all legal fines or forfeitures, may be deducted from the member's pay.
4. Each officer and enlisted member of the national guard is entitled to receive a state active duty pay enhancement of three hundred dollars for every month spent on state active duty or a prorated amount for each day of state active duty up to three hundred dollars per month.
5. Each officer and enlisted member of the national guard, when called to state active duty by the governor, is entitled to receive the same incentive pay that an officer or enlisted member of the same grade and rating would be eligible to receive if called to active duty under federal

authority in service of the United States, not to exceed the monthly amount authorized for the incentive under federal law.

6. Commissioned officers and enlisted members serving on state active duty for more than fourteen days may, at the discretion of their commanding officer, receive pay for necessary rest and recovery while on duty if it is deemed necessary to ensure the national guard members' readiness to perform assigned duties while on state active duty.

**37-04.1-02. Expenses allowed officers and enlisted members of national guard.**

Officers or enlisted members of the national guard when called into state active duty by the governor must be reimbursed for traveling and incidental expenses at the same rate provided by law for other state officials. The adjutant general may authorize the purchase of meals or rations for officers or enlisted members of the national guard in a duty or travel status in lieu of individual reimbursement for meals.

**37-04.1-03. Pay of national guard members serving on boards, commissions, and courts.**

An officer or enlisted member of the national guard detailed to serve on any board or commission ordered by the governor, or under the governor's authority by the commanding officer of the national guard, or on any court of inquiry or court-martial ordered by proper authority under any provision of this title, is entitled to receive pay and allowances at the highest rate provided for national guard members of the same grade in the national guard of the United States for each day that officer or enlisted member is actually employed on the board or court, or engaged in the business of the board or court, including any day the officer or enlisted member is traveling to and from the board or court. The sum received may not exceed ten days' pay and the actual traveling expenses and subsistence unless, upon application of the president of the court-martial or the presiding officer of the board, the officer appointing the court or board has authorized the court or board to sit for a longer period, or in case of a court-martial, the governor or officer ordering the court has authorized the court to sit for a period longer than ten days.

**37-04.1-04. Pay and allowances allowed national guard called to service under federal authority.**

An officer or enlisted member of the national guard ordered to active duty under federal authority, while so assigned, must receive the pay and allowances authorized under federal law.

**SECTION 2. AMENDMENT.** Subsection 9 of section 37-17.1-05 of the North Dakota Century Code is amended and reenacted as follows:

9. The governor may authorize the adjutant general to recall to state active duty, on a volunteer basis, former members of the North Dakota national guard. Those recalled must possess the qualifications required by the disaster or emergency. Recall under this subsection is effective only for the duration of the disaster or emergency and recalled personnel will be released from state active duty upon competent authority that the requirement of their service under this subsection has passed. Compensation for personnel recalled under this subsection will be based upon section ~~37-07-05~~37-04.1-01.

**SECTION 3. REPEAL.** Sections 37-04-08, 37-04-09, 37-04-11, 37-04-12, 37-04-13, and 37-07-05 of the North Dakota Century Code are repealed.

**SECTION 4. EMERGENCY.** This Act is declared to be an emergency measure.

Dennis E. Johnson  
Speaker of the House

Tammy Miller  
President of the Senate

Buell J. Reich  
Chief Clerk of the House

Mandi Moyer  
Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-eighth Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1069 and that two-thirds of the members-elect of the House of Representatives voted in favor of said law.

Vote: Yeas 90 Nays 0 Absent 4

Dennis E. Johnson  
Speaker of the House

Buell J. Reich  
Chief Clerk of the House

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

Vote: Yeas 47 Nays 0 Absent 0

Tammy Miller  
President of the Senate

Mandi Moyer  
Secretary of the Senate

Received by the Governor at 10:55 A.M. on March 14, 2023.

Approved at 8:24 P.M. on March 14, 2023.

Doug Burgin  
Governor

Filed in this office this 15<sup>th</sup> day of March, 2023,

at 2:58 o'clock P. M.

Michael Howe  
Secretary of State