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CHAPTER 1-03 **HOLIDAYS**

. **Holidays.** Holidays are as follows:

1. Every Sunday.
2. The first day of January, which is New Year's Day.
3. The third Monday of January, which is Martin Luther King Day, in recognition of the life, legacy, and dream of Martin Luther King, Jr.
4. The third Monday in February, in recognition of the birthday of George Washington.
5. The Friday next preceding Easter Sunday and commonly known as Good Friday.
6. The last Monday in May, which is Memorial Day.
7. The fourth day of July, which is the anniversary of the Declaration of Independence.
8. The first Monday in September, which is Labor Day.
9. The eleventh day of November, which is Veterans' Day.
10. The fourth Thursday in November, which is Thanksgiving Day.
11. The twenty-fifth day of December, which is Christmas Day.
12. Every day appointed by the President of the United States or by the governor of this state for a public holiday.

Nothing in this section may be construed to prevent the holding of legislative sessions or the taking of final action on any legislative matter upon any of such holidays other than Sunday. Any action heretofore taken upon any legislative matter upon any such holiday is valid and legal for all purposes.

1-03-01.1. Closing of state offices - Christmas Eve. State offices must be closed at twelve noon on December twenty-fourth, Christmas Eve day, unless it is a weekend or holiday pursuant to section 1-03-02.1.

1-03-02. When day following holiday shall be a holiday. If the first day of January, the fourth day of July, the eleventh day of November, or the twenty-fifth day of December falls upon a Sunday, the Monday following shall be the holiday.

1-03-02.1. When holiday falls on a Saturday. If any of the holidays enumerated in section 1-03-02 fall on a Saturday, the Friday immediately before shall be the holiday.

1-03-03. Sports on Memorial Day - Penalty. No person, prior to the hour of two p.m. of the day set apart as Memorial Day, may engage in organized or commercial ball games, horseracing, sports, or any entertainment which will interfere with the proper observance of such

day. Any violation of this section is an infraction.

1-03-04. Business days. All days other than those mentioned in sections 1-03-01, 1-03-02, and 1-03-02.1 are to be deemed business days for all purposes. However, any bank may remain closed on any one business day of each week, as it may from time to time elect. Any day upon which a bank is so closed shall be, with respect to such bank, a holiday and not a business day. Any act authorized, required, or permitted to be performed at or by or with respect to such bank on such day, may be performed on the next succeeding business day, and no liability or loss of rights shall result from such delay. Notice of intention on the part of any bank to remain closed on a business day of the week shall be posted in a conspicuous place in the lobby of the bank at least ten days prior to the establishment of such practice and similar notice shall be given when a bank elects to change the day of the week on which it remains closed. Any state bank establishing the practice, as hereinbefore provided, of closing one day a week shall give ten days' notice in writing to the commissioner of financial institutions, in addition to posting the notice in the lobby. However, any bank may elect to remain closed on a business day of the week without any prior notice in the event of the following emergencies: any act of God, death of an officer, or a robbery.

1-03-05. Act due on Saturday or holiday performed on next day. Whenever an act of a secular nature, other than a work of necessity or mercy, is appointed by law or contract to be performed upon a particular day, that falls upon a Saturday or a holiday, the act may be performed upon the next business day with the same effect as if it had been performed upon the day appointed.

1-03-06. Mothers' Day. The governor each year shall designate the second Sunday in May as Mothers' Day. The governor shall issue a proclamation requesting the people of the state to assemble on that Sunday in their churches, or at such other place or places as may be most convenient and proper, for the purpose of paying respect and tribute to our mothers.

1-03-07. Arbor Day. In order to promote and encourage the planting of trees in this state, the first Friday in May of each year is hereby designated and established as "Arbor Day" for the state of North Dakota.

1-03-08. Bird Day. To promote and encourage the conservation and enjoyment of one of nature's most attractive features, and to honor the birth and work of naturalist John James Audubon who made America's birds known to the world through his drawings and vivid prose, April twenty-sixth of each year is hereby designated as "Bird Day" in the state of North Dakota.

1-03-09. Martin Luther King Day. Repealed by S.L. 1991, ch. 55, § 2.

1-03-10. Workers' Memorial Day. The twenty-eighth day of April of each year is designated as Workers' Memorial Day in remembrance of American workers who have been killed, injured, or diseased on the job.

1-03-11. Gold Star Mothers' Day. Each year the governor shall issue a proclamation designating the last Sunday of September as Gold Star Mothers' Day in honor of mothers whose sons or daughters served and died in the line of duty in the armed forces of the United States of America or its allies, or died as a result of injury sustained in such service.

1-03-12. Four Chaplains Sunday. Each year the governor shall issue a proclamation designating the first Sunday of February as Four Chaplains Sunday in honor of the four United

States army chaplains, George L. Fox, Alexander D. Goode, Clark V. Poling, and John P. Washington, who sacrificed their own lives to save the lives of other servicemen on the Dorchester, a United States army troop transport ship that was sunk off the coast of Greenland on February 3, 1943.

1-03-13. First Nations Day. To recognize the indigenous peoples of the State of North Dakota and their contributions to the state and to the United States, the governor shall issue a proclamation each year designating the Friday before the second Monday in October as First Nations Day.

1-03-14. Vietnam Veterans' Day. March twenty-ninth of each year is Vietnam Veterans' Day. Each year the governor shall issue a proclamation on March twenty-ninth in honor and remembrance of surviving and departed Vietnam veterans, including the one hundred ninety-eight individuals from North Dakota whose names are listed on the Vietnam Veterans Memorial wall in Washington, District of Columbia, and those veterans who are or were missing in action or prisoners of war.

CHAPTER 11-11 BOARD OF COUNTY COMMISSIONERS

11-11-50. Former members of armed services' room in courthouses. The board of county commissioners shall equip and maintain adequate rooms in the courthouse for the exclusive use of former members of the armed services who served in any war in which the United States has been engaged if the county seat has a population of over ten thousand inhabitants and a memorial building has not been erected in such municipality.

CHAPTER 11-32 MEMORIALS

11-32-01. County commissioners authorized to erect a memorial or memorials or other suitable recognition - To make levy.

1. The board of county commissioners of any county in this state is hereby authorized to erect a memorial or memorials, or other suitable recognition, in commemoration of the people of the county who rendered services, or who lost their lives in the service of their country during a period of service as defined in section 37-01-40. The board may for such purpose use funds out of the general fund of the county if there is sufficient moneys in said fund, or use funds heretofore raised by tax levy for such memorial or memorials. The board may use for memorial purposes funds donated to the county for that purpose, or may use for such purpose funds out of the general fund of such county, if there is sufficient money in said fund, in conjunction with the funds so donated or obtained by such levy and tax, and the proceeds of such levy, tax, and donations, together with the amount taken out of the general fund, shall be used solely for the purpose of erecting such memorial or memorials, or other suitable recognition.

2. Nothing herein contained shall be construed to prohibit said board from expending any additional moneys derived from sources other than taxation. Such memorial or memorials, or other suitable recognition, shall be erected within the county at a place determined upon by such board and when erected, shall be properly and permanently maintained. The board may

provide for such maintenance or erection by necessary expenditures from the general fund of the county or from funds donated to the county therefor or from either or both such funds, or may enter into a written agreement with any public or private nonprofit agency or corporation for the assumption of part or all of such responsibility by such agency or corporation. Pursuant to such agreement, the county may acquire or divest itself of any title to or jurisdiction over such memorial or other suitable recognition.

11-32-02. A memorial fund created - How expended. Funds provided to be raised in accordance with section 11-32-01 shall be designated as the memorial fund and shall be kept separate and distinct from other moneys by the county treasurer and shall be expended by and under the direction and control of the board of county commissioners. The board may expend such funds at such times as it may determine and is authorized to make an allocation of any or all funds to be raised by the memorial levy for any purpose authorized by this chapter.

On or after January 1, 1960, the board may transfer all unexpended balances in the memorial fund to the county general fund if there is then no existing memorial levy and if such unexpended balance has not been pledged or appropriated for a memorial.

11-32-03. May join with cities, school districts, and other agencies in erection and operation. The board of county commissioners, in carrying out the provisions of sections 11-32-01 and 11-32-02, may join with a city, school district, or other public or private nonprofit corporation or agency, or any or all of same, in the erection and operation of said memorial, or memorials, or other suitable recognition in any proportion deemed advisable by said board. Said board in conjunction with the other cooperating body or bodies may provide for the operation and administration of said memorial, memorials, or other suitable recognition. In the event that a school building, gymnasium, or other school-related building is constructed by a school district and wholly or partially financed through moneys from the memorial fund created by this chapter, and, due to a reorganization of such school district, is transferred to another school district, such other school district shall be authorized to sell and transfer title to such building in the same manner provided by law notwithstanding the provisions of chapter 11-32.

CHAPTER 12.1-07 TREASON - FLAG DESECRATION

12.1-07-01. Treason. Treason as defined in section 17 of article I of the Constitution of North Dakota is a class A felony.

12.1-07-02. Desecration of the flag of the United States.

1. A person is guilty of a class A misdemeanor if he knowingly casts contempt upon any flag of the United States by publicly mutilating, defacing, defiling, burning, or trampling upon it.
2. The term "flag of the United States" as used in this section shall include any flag, standard, colors, or ensign, or any picture or representation of either, or of any part or parts of either, made of any substance or represented on any substance, of any size evidently purporting to be either of said flag, standard, colors, or ensign of the United States of America, or a picture or a representation of either, upon which shall be shown the colors, the stars and the stripes, in any number of either thereof, or of

any part or parts of either, by which the average person seeing the same without deliberation may believe the same to represent the flag, standard, colors, or ensign of the United States of America.

12.1-07-03. Carrying in parade or the display of certain flags, ensigns, banners, and standards prohibited. No flag of any nation, state, country, or territory other than the flag of the United States or a state flag, or the flag of a friendly foreign nation, or the dependencies of such nations, shall be:

1. Carried in parade on any public street or highway within this state.
2. Exhibited in any hall or public place.
3. Displayed or exhibited:
 - a. On any vehicle.
 - b. On any building or premises.
 - c. In any other manner in public within the state.

12.1-07-05. Penalty. Any person who violates any of the provisions of section 12.1-07-03 is guilty of a class B misdemeanor.

CHAPTER 12.1-31 MISCELLANEOUS OFFENSES

12.1-31-01.1. Disorderly conduct at a funeral - Penalty.

1. For purposes of this section:
 - a. "Funeral" means the ceremonies, rituals, processions, and memorial services held at a funeral site in connection with the burial, cremation, or memorial of a deceased individual.
 - b. "Funeral site" means a church, synagogue, mosque, funeral home, mortuary, cemetery, gravesite, mausoleum, or other place at which a funeral is conducted or is scheduled to be conducted within the next hour or has been conducted within the last hour.
2. An individual is guilty of disorderly conduct at a funeral if the individual:
 - a. Engages, with knowledge of the existence of a funeral site, in any loud singing, playing of music, chanting, whistling, yelling, or noisemaking within three hundred feet [91.44 meters] of any ingress or egress of that funeral site if the volume of the singing, music, chanting, whistling, yelling, or noisemaking is likely to be audible at and disturbing to the funeral site; or

- b. Displays, with knowledge of the existence of a funeral site and within one thousand feet [300.48 meters] of any ingress or egress of that funeral site, any visual images that convey fighting words or actual or veiled threats against any other individual
3. Disorderly conduct at a funeral is a class B misdemeanor. A second or subsequent violation of this section is a class A misdemeanor.

CHAPTER 14-02.4 HUMAN RIGHTS

14-02.4-11. Rights of veterans. Nothing contained in sections 14-02.4-03 through 14-02.4-06 repeals or modifies a federal, state, or local statute, regulation, or ordinance creating special rights or preference for veterans

CHAPTER 14-03 MARRIAGE CONTRACT

14-03-01. What constitutes marriage - Spouse defined. Marriage is a personal relation arising out of a civil contract between one man and one woman to which the consent of the parties is essential. The marriage relation may be entered into, maintained, annulled, or dissolved only as provided by law. A spouse refers only to a person of the opposite sex who is a husband or a wife.

14-03-01.1. Members of armed forces deemed residents. For the purpose of instituting any action or proceeding in the courts of this state, under the provisions of this title, in which residence is a requirement, any member of any branch of the armed forces of the United States who is stationed within the state, and the wife or husband of such member, if that wife or husband is living within the state, must be deemed to be a resident of the state of North Dakota.

14-03-10. Marriage may not be solemnized without license. A person may not solemnize any marriage until the parties to the marriage produce a license regularly issued not more than sixty days before the date of the marriage by:

1. A recorder serving the county in which either of the contracting parties resides or is temporarily domiciled, unless the board of county commissioners designates a different official;
2. A recorder serving the county in which a parent of either of the parties resides or is temporarily domiciled, unless the board of county commissioners designates a different official; or
3. A recorder serving the county in which the marriage is to be solemnized, unless the board of county commissioners designates a different official.

For the purpose of obtaining a marriage license, a member of the armed forces of the United States stationed within the state of North Dakota is deemed to reside in the county in which that person is stationed.

CHAPTER 14-05 DIVORCE

14-05-01. Marriage - How dissolved. Marriage is dissolved only:

1. By the death of one of the parties; or
2. By a judgment of a court of competent jurisdiction decreeing a divorce of the parties.

14-05-02. Effect of divorce. The effect of a judgment decreeing a divorce is to restore the parties to the state of unmarried persons, but neither party to a divorce may marry except in accordance with the decree of the court granting the divorce. It is the duty of the court granting a divorce to specify in the order for judgment whether either or both of the parties shall be permitted to marry, and if so, when. The court shall have jurisdiction to modify the decree of divorce at any time so as to permit one or both of the parties to marry, if the court deems it right.

14-05-02.1. Decree to include social security numbers. Each decree of divorce must include the social security numbers of the parties to the divorce.

14-05-03. Causes for divorce. Divorces may be granted for any of the following causes:

1. Adultery.
2. Extreme cruelty.
3. Willful desertion.
4. Willful neglect.
5. Abuse of alcohol or controlled substances.
6. Conviction of felony.
7. Irreconcilable differences.

CHAPTER 14-09 PARENT AND CHILD

14-09-06.6. Limitations on post judgment modifications of primary residential responsibility.

1. Unless agreed to in writing by the parties, or if included in the parenting plan, no motion for an order to modify primary residential responsibility may be made earlier than two years after the date of entry of an order establishing primary residential responsibility, except in accordance with subsection 3.
2. Unless agreed to in writing by the parties, or if included in the parenting plan, if a motion for modification has been disposed of upon its merits, no subsequent motion may be filed within two years of disposition of the prior motion, except in accordance with subsection 5.

3. The time limitation in subsections 1 and 2 does not apply if the court finds:
 - a. The persistent and willful denial or interference with parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The primary residential responsibility for the child has changed to the other parent for longer than six months.
4. A party seeking modification of an order concerning primary residential responsibility shall serve and file moving papers and supporting affidavits and shall give notice to the other party to the proceeding who may serve and file a response and opposing affidavits. The court shall consider the motion on briefs and without oral argument or evidentiary hearing and shall deny the motion unless the court finds the moving party has established a prima facie case justifying a modification. The court shall set a date for an evidentiary hearing only if a prima facie case is established.
5. The court may not modify the primary residential responsibility within the two-year period following the date of entry of an order establishing primary residential responsibility unless the court finds the modification is necessary to serve the best interest of the child and:
 - a. The persistent and willful denial or interference with parenting time;
 - b. The child's present environment may endanger the child's physical or emotional health or impair the child's emotional development; or
 - c. The residential responsibility for the child has changed to the other parent for longer than six months.
6. The court may modify the primary residential responsibility after the two-year period following the date of entry of an order establishing primary residential responsibility if the court finds:
 - a. On the basis of facts that have arisen since the prior order or which were unknown to the court at the time of the prior order, a material change has occurred in the circumstances of the child or the parties; and
 - b. The modification is necessary to serve the best interest of the child.
7. The court may modify a prior order concerning primary residential responsibility at any time if the court finds a stipulated agreement by the parties to modify the order is in the best interest of the child.
8. Upon a motion to modify primary residential responsibility under this section, the burden of proof is on the moving party.
9. If a motion for change of primary parental responsibility is filed during the time a parent is in active duty service, the court may not enter an order modifying or

amending a previous judgment or order, or issue a new order, which changes the child's placement that existed on the date the parent was called to active duty service, except the court may enter a temporary order concerning residential responsibility which is in the best interest of the child. The temporary order must explicitly provide that residential responsibility must be restored to the service member upon the service member's release from active duty service, unless the court finds by clear and convincing evidence that restoration of residential responsibility would not be in the best interest of the child. If an original decision concerning primary residential responsibility is pending and the service member is alerted for active duty service, or is absent for active duty service, the court may not issue a permanent order until the return of the service member from active duty. The court may issue a temporary order concerning primary residential responsibility in the best interest of the child for the time period of the active duty service. This section does not prevent a service member from consenting to a modification that continues past discharge or release from active duty service or to agreeing to a permanent order before release from active duty service. For purposes of this section, "service member" means a member of the national guard or a reserve unit of the United States armed forces and "active duty service" means an order to active duty under United States Code title 10.

14-09-07. Residence of child.

1. A parent with primary residential responsibility for a child may not change the Primary residence of the child to another state except upon order of the court or with the consent of the other parent, if the other parent has been given parenting time by the decree.
2. A parent with equal residential responsibility for a child may not change the residence of the child to another state except with consent of the other parent or order of the court allowing the move and awarding that parent primary residential responsibility.
3. A court order is not required if the other parent:
 - a. Has not exercised parenting time for a period of one year; or
 - b. Has moved to another state and is more than fifty miles [80.47 kilometers] from the residence of the parent with primary residential responsibility.

**CHAPTER 15-10
THE STATE BOARD OF HIGHER EDUCATION**

15-10-18.2. Definitions.

1. "Dependent" for purposes of section 15-10-18.3 means:
 - a. A child, stepchild, spouse, widow, or widower of a resident veteran, as "veteran" is defined in section 37-01-40, who was killed in action or died from

wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action;

- b. A child or a stepchild of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the child's other parent has been a resident of this state and was a resident of this state at the time of death or determination of total disability of the veteran; or

- c. A child or a stepchild of a veteran, as defined in section 37-01-40, who was killed in action or died from wounds or other service-connected causes, has a one hundred percent service-connected disability as determined by the department of veterans' affairs, has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, died from service-connected disabilities, was a prisoner of war, or was declared missing in action, provided the child's other parent establishes residency in this state and maintains that residency for a period of five years immediately preceding the child's or stepchild's enrollment at an institution under the control of the state board of higher education.

2. "Resident veteran" means a veteran who:

- a. Was born in and lived in this state until entrance into the armed forces of the United States;

- b. Was born in, but was temporarily living outside this state, not having abandoned residence therein prior to entrance into the armed forces of the United States;

- c. Was born elsewhere but had resided within this state 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 this state;

 - (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 this state, not registered for voting in

another state; or

- d. Has been a resident of this state for the ten years prior to the request for tuition waiver.

15-10-18.3. Free tuition in North Dakota institutions of higher education. Any dependent, as defined in section 15-10-18.2 upon being duly accepted for enrollment into any undergraduate degree or certificate program of a North Dakota state institution of higher education, must be allowed to obtain a bachelor's degree or certificate of completion, for so long as the dependent is eligible, free of any tuition and fee charges; provided, however, that the bachelor's degree or certificate of completion is earned within a forty-five-month or ten-semester period or its equivalent; and further provided that tuition and fee charges shall not include costs for aviation flight charges or expenses. Once a person qualifies as a dependent under sections 15-10-18.2 and 15-10-18.3, the dependent may not be disqualified from the benefits of this section due to such an occurrence as the return of the prisoner of war or person missing in action.

15-10-19.1. Nonresident and resident student for tuition purposes defined.

1. A "nonresident student" for tuition purposes means any student other than a resident student.
2. A "resident student" for tuition purposes means:
 - a. A person whose guardian, custodial parent, or parents are legal residents of this state and have resided in this state for twelve months, or a dependent child whose custodial parent moved into the state with the intent to establish legal residency for a period of years within the last twelve months immediately prior to the beginning of the academic term;
 - b. A person of age eighteen or over who is a legal resident of this state and has resided in this state after reaching age eighteen for twelve months immediately prior to the beginning of the academic term;
 - c. A person who graduated from a North Dakota high school;
 - d. A full-time active duty member of the armed forces, a member of a North Dakota national guard unit, or a veteran as defined in section 37-01-40;
 - e. A spouse or dependent of a full-time active duty member of the armed forces or a member of a North Dakota national guard unit or of an employee of any institution of higher education in this state, and a spouse of any other resident for tuition purposes;
 - f. A person who was a legal resident of this state for at least three consecutive years within six years of the beginning of the academic term; or
 - g. A child, widow, or widower of a veteran as 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.

3. A temporary absence from the state for vacation or other special or temporary purposes may not be considered an abandonment of residency in this state, provided a residence is maintained in this state during the temporary absence. However, a student who leaves the state and resides in another state for a period of months is not considered a resident of this state during those months if the student does not maintain a place of residence in this state during the student's absence.

CHAPTER 15-39.1 TEACHERS' FUND FOR RETIREMENT

15-39.1-04. Definitions. For purposes of this chapter, unless the context or subject matter otherwise requires:

1. "Actuarial equivalent" means the annual amount determined by calculations based on mortality tables, purchasable with a given amount at a stated age.
2. "Beneficiary" means the person designated in writing by the member except that in the absence of such designation, if the member is married, the member's spouse must be the primary beneficiary. If the member is married, and if the member wishes to name an alternate beneficiary, the member's spouse must consent in writing to the member's designation. If the member dies without having named a contingent beneficiary to receive any remaining benefits due after the death of the beneficiary, the primary beneficiary may name a contingent beneficiary.
3. "Board" means the board of trustees of the teachers' fund for retirement.
4. "Contract" means a written agreement with a school board or other governing body of a school district or special education unit of this state or a letter of appointment by a state institution, state agency, or other employer participating in the fund.
5. "Fund" means the teachers' fund for retirement.
6. "Interest" as applied to member assessments is an annual rate of six percent compounded monthly and as applied to the repurchase of credit for withdrawn years is six percent compounded annually.
7. "Retirement" means cessation of covered employment and acceptance of a benefit under former chapter 15-39, or chapter 15-39.1 or 15-39.2.
8. "Retirement annuity" means the payments made by the fund to a member after retirement, these payments beginning on the first or fifteenth day of the month following eligibility for a benefit.
9. "Salary" means a member's earnings in eligible employment under this chapter for teaching, supervisory, administrative, and extracurricular services during a school year reported as salary on the member's federal income tax withholding statements plus any salary reduction or salary deferral amounts under 26 U.S.C. 125, 132(f), 401(k), 403(b), 414(h), or 457 in effect on August 1, 2009. "Salary" includes bonus

amounts paid to members for performance, retention, experience, and other service-related bonuses, unless amounts are conditioned on or made in anticipation of an individual member's retirement or termination. The annual salary of each member taken into account in determining benefit accruals and contributions may not exceed the annual compensation limits established under 26 U.S.C. 401(a)(17)(B) in effect on August 1, 2009, as adjusted for increases in the cost of living in accordance with 26 U.S.C. 401(a)(17)(B) in effect on August 1, 2009. A salary maximum is not applicable to members whose participation began before July 1, 1996. "Salary" does not include:

- a. Fringe benefits or side, nonwage, benefits that accompany or are in addition to a member's employment, including insurance programs, annuities, transportation allowances, housing allowances, meals, lodging, or expense allowances, or other benefits provided by a member's employer.
 - b. Insurance programs, including medical, dental, vision, disability, life, long-term care, workforce safety and insurance, or other insurance premiums or benefits.
 - c. Payments for unused sick leave, personal leave, vacation leave, or other unused leave.
 - d. Early retirement incentive pay, severance pay, or other payments conditioned on or made in anticipation of retirement or termination.
 - e. Teacher's aide pay, referee pay, bus driver pay, or janitorial pay.
 - f. Amounts received by a member in lieu of previously employer-provided benefits or payments that are made on an individual selection basis.
 - g. Recruitment bonuses.
 - h. Other benefits or payments not defined in subdivisions a through g which the board determines to be ineligible teachers' fund for retirement salary.
10. "State institution" includes North Dakota vision services - school for the blind, the school for the deaf, and the North Dakota youth correctional center.
11. "Teacher" means:
- a. All persons licensed by the education standards and practices board who are contractually employed in teaching, supervisory, administrative, or extracurricular services by a state institution, multidistrict special education unit, area career and technology center, regional education association, school board, or other governing body of a school district of this state, including superintendents, assistant superintendents, business managers, principals, assistant principals, and special teachers. For purposes of this subdivision, "teacher" includes persons contractually employed by one of the above employers to provide teaching, supervisory, administrative, or

extracurricular services to a separate state institution, state agency, multidistrict special education unit, area career and technology center, regional education

extracurricular services to a separate state institution, state agency, multidistrict special association, school board, or other governing body of a school district of this state under a third-party contract.

- b. The superintendent of public instruction, assistant superintendents of public instruction, county superintendents, assistant superintendents, supervisors of instruction, the professional staff of the department of career and technical education, the professional staff of the center for distance education, the executive director and professional staff of the North Dakota education association who are members of the fund on July 1, 1995, the professional staff of an interim school district, and the professional staff of the North Dakota high school activities association who are members of the fund on July 1, 1995.
- c. The executive director and professional staff of the North Dakota council of school administrators who are members of the fund on July 1, 1995, and licensed staff of teachers centers, but only if the person was previously a member of and has credits in the fund.
- d. Employees of institutions under the control and administration of the state board of higher education who are members of the fund on July 16, 1989.

12. "Tier one member" means a teacher who has credit in the system on July 1, 2008, and has not taken a refund pursuant to section 15-39.1-20 after June 30, 2008.

13. "Tier two member" means a teacher who is not a tier one member.

15-39.1-24. Purchase of additional credit. Prior to retirement a teacher who provides proof of eligibility under rules adopted by the board may purchase additional credit for use toward retirement in the following instances and manner:

1. A teacher may purchase service credit for years of elementary or secondary teaching service at an accredited out-of-state public, private, or parochial school.
2. A teacher not qualified to receive military credit under the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] or Veterans' Reemployment Rights Act of 1991 [Pub. L. 93-508; 88 Stat. 3150] who has received an honorable discharge from military service of the United States of America may purchase military credit for no more than four years of active service, upon filing application and proof with the board.
3. A teacher may purchase service credit for credit lost while on an approved leave of absence from teaching duties.
4. A teacher may purchase service credit for the time during each legislative session spent serving as a member of the legislative assembly while holding eligible employment under this chapter. As an alternative to a teacher purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement by which payment for service credit for time spent during each legislative session by the teacher serving as a member of the legislative assembly is made pursuant to section 15-39.1-09. The agreement must

provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary without reduction for a leave of absence taken by the teacher during the legislative session.

5. A teacher may purchase credit for years of elementary or secondary teaching service if employed by an agency of the United States government.
6. A teacher who is elected president of a professional educational organization recognized by the board and who serves in a full-time capacity in lieu of teaching may purchase service credit for the time spent serving as president. As an alternative to purchasing service credit under this subsection, a teacher and the governmental body employing the teacher may enter into an agreement under which payment for service credit for the time spent as president of the professional educational organization is made pursuant to section 15-39.1-09. The agreement must provide that contributions made pursuant to section 15-39.1-09 are calculated based on the teacher's annual salary as president.
7. A teacher may purchase service credit for years of elementary or secondary teaching service in an accredited North Dakota private or parochial school.
8. A teacher who has at least five years of teaching service credit in the fund may purchase credit not based on service for use toward retirement eligibility and benefits. The purchase of service credit for such nonqualified service as defined under section 415(n) of the Internal Revenue Code is limited to an aggregate of five years.
9. A teacher who had that person's North Dakota teaching service interrupted by military service in any branch of the United States armed forces and received an honorable discharge may receive credit for military service pursuant to applicable federal veterans' rights acts including the Uniformed Services Employment and Reemployment Rights Act of 1994 [Pub. L. 103-353; 108 Stat. 3150; 38 U.S.C. 4301-4307] or the Veterans' Reemployment Rights Act of 1991 [Pub. L. 93-508; 88 Stat. 3150].
10. With the exception of military service, purchased service credit is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system.
11. The fund may accept eligible rollovers, direct rollovers, and trustee-to-trustee transfers from eligible retirement plans specified under Internal Revenue Code section 402(c)(8)(B) to purchase refunded service credit under section 15-39.1-15 and to purchase additional service credit under section 15-39.1-24. The board shall adopt rules to ensure that the rollovers and transfers comply with the requirements of the Internal Revenue Code and internal revenue service regulations. The total amount rolled over or transferred into the fund may not exceed the amount due to purchase service credit.
12. The amount of additional service eligible to be purchased under this section must be credited to the teacher when the teacher has made the required payment. Except as provided in subsections 4, 6, and 9, the purchase cost must be on an actuarial equivalent basis.

CHAPTER 16.1-07 ABSENT VOTERS' BALLOTS AND ABSENTEE VOTING

16.1-07-07. Delivering application form for ballot. The officers specified in section 16.1-07-05, upon request, shall mail an application form for an absent voter's ballot to the voter, or they may deliver the application form to the voter upon a personal application made at the officer's office. The officers may also make available or distribute the applications, prescribed by the secretary of state, to the public without any specific request being made for the applications.

16.1-07-08. Delivering ballots - Envelopes accompanying - Statement on envelope - Challenging electors voting by absentee ballot - Inability of elector to sign name.

1. Upon receipt of an application for an official ballot properly filled out and duly signed, or as soon thereafter as the official ballot for the precinct in which the applicant resides has been prepared, the county auditor, city auditor, or business manager of the school district, as the case may be, shall send to the absent voter by mail, at the expense of the political subdivision conducting the election, one official ballot, or personally deliver the ballot to the applicant or the applicant's agent, which agent may not, at that time, be a candidate for any office to be voted upon by the absent voter. The agent shall sign the agent's name before receiving the ballot and deposit with the auditor or business manager of the school district, as the case may be, authorization in writing from the applicant to receive the ballot or according to requirements set forth for signature by mark. The auditor or business manager of the school district, as the case may be, may not provide an absent voter's ballot to a person acting as an agent who cannot provide a signed, written authorization from an applicant. No person may receive compensation, including money, goods, or services, for acting as an agent for an elector, nor may a person act as an agent for more than four electors in any one election. A voter voting by absentee ballot may not require the political subdivision providing the ballot to bear the expense of the return postage for an absentee ballot.

2. If there is more than one ballot to be voted by an elector of the precinct, one of each kind must be included and a secrecy envelope and a return envelope must be enclosed with the ballot or ballots. The front of the return envelope must bear the official title and post-office address of the officer supplying the voter with the ballot and upon the other side a printed voter's affidavit in substantially the following form:

Precinct _____
Name _____
Residential Address _____
City _____ ND Zip Code _____
Under penalty of possible criminal prosecution for making a false statement, I swear that I reside at the residential address provided above, that I have resided in my precinct for at least thirty days next preceding the election, and this is the only ballot I will cast in this election.
Applicant's Signature _____
Date _____

If the absent voter is unable to sign the voter's name, the voter shall mark (X) or use the applicant's signature stamp on the statement in the presence of a disinterested individual. The disinterested individual shall print the name of the individual marking the X or using the signature stamp below the X or signature stamp and shall sign the interested individual's own name following the printed name together with the notation "witness to the mark".

3. Each individual requesting an absent voter's ballot under this chapter must be provided a set of instructions, prescribed by the secretary of state, sufficient to describe the process of voting by absent voter's ballot. The voting instructions must contain a statement informing the individual that the individual is entitled to complete the absent voter's ballot in secrecy.
4. Each individual requesting an absent voter's ballot under this chapter who cannot read the English language or who because of blindness or other disability is unable to mark the voter's ballot, upon request, may receive the assistance of any individual of the voter's choice, other than the voter's employer, an officer or agent of the voter's union, a candidate running in that election, or a relative of a candidate as described in subsection 2 of section 16.1-05-02, in marking the voter's ballot.

16.1-07-08.1. Procedures for voting with special write-in or federal write-in absentee ballot.

Repealed by S.L. 2011, ch. 154, § 19.

16.1-07-09 Canvassing of mailed absent voter's ballots received late. In the case of congressional, state, county, city, or school district elections, if an envelope postmarked or otherwise officially marked by the United States postal service or other mail delivery system before the date of election and containing an absent voter's ballot is received by the officer too late to be forwarded to the proper voting precinct in time to be tabulated, the ballot must be tallied by the canvassing board of the county, the governing body of the city, or the school board of the school district, as the case may be, at the time the returns are canvassed. Any envelope without a postmark or other official marking by the United States postal service or other mail delivery system or with an illegible postmark or other official marking and containing an absentee voter's ballot must be received by mail by the proper officer prior to the meeting of the canvassing board. An absent voter may personally deliver the absent voter's ballot to the appropriate officer's office at any time before five p.m. on the day before the election. Any envelope containing an absent voter's ballot with a postmark or official date stamp on the day of election or thereafter may not be tallied with the ballots timely submitted for the election. Before forwarding any ballot to a canvassing board pursuant to this section, the officer forwarding the ballot shall print the date of receipt on the envelope. Upon receipt, the canvassing board shall determine that the elector was qualified to vote in that precinct, that the elector did not previously vote in that precinct on the date of the election, and that the signatures on the absentee ballot application and the voter's affidavit were signed by the same person before allowing the ballot to be tallied.

16.1-07-10. Care and custody of ballot. Upon receipt of an envelope containing the absent voter's ballot, the proper officer immediately shall attach the application of the absent voter and file the ballot with other absentee ballots from the same precinct. Before delivering the absentee ballots to the precinct, the proper officer shall package the ballots in a

manner so the ballots are sealed securely. The package must be endorsed with the name of the proper voting precinct, the name and official title of the officer, and the words "This package contains an absent voter's ballot and must be opened only according to the processing provisions of section 16.1-07-12." The officer shall keep the package safely in the officer's office until it is delivered by the officer as provided in this chapter.

16.1-07-11. Submitting ballot to inspector of elections. If the envelope containing the absent voter's ballot is received by the county auditor, auditor or clerk of the city, or business manager of the school district, as the case may be, prior to that person's delivery of the sealed package containing the official ballots to the inspector of elections of the precinct in which such absent voter resides, such ballot, after having been enclosed with the application in an envelope as required by section 16.1-07-10, must be enclosed in such package and delivered therewith to the inspector of the precinct. If the official ballots for the precinct have been delivered to the election inspector at the time of receipt by the proper officer of the absent voter's ballot, then the officer or the officer's designee shall personally deliver it to the inspector prior to the close of the polls on election day. Any absent voter's ballot sent to the wrong precinct by the official whose duty it is to forward such ballots to the precincts, or any absent voter's ballot received by the inspector from the appropriate officer too late to be counted at the precinct, must be returned to the official by the election inspector, and must be tallied by the county canvassing board, the governing body of the city, or the school board, as the case may be, with other absent voters' ballots received too late to be counted on election day.

16.1-07-12. Opening ballot - Voting or rejecting - Depositing in ballot box - Preserving. At any time beginning on the day before election day and the closing of the polls on election day, the election clerks and board members of the relevant precinct first shall compare the signature on the application for an absent voter's ballot with the signature on the voter's affidavit provided for in section 16.1-07-08 to ensure the signatures correspond. If the applicant is then a duly qualified elector of the precinct and has not voted at the election, they shall open the absent voter's envelope in a manner as not to destroy the affidavit thereon. They shall take out the secrecy envelope with the ballot or ballots contained therein without unfolding the same, or permitting the same to be opened or examined and indicate in the pollbook of the election that the elector has voted. The election board members not participating in the comparing of signatures and entering voters into the pollbook shall remove the ballot or ballots from the secrecy envelope, unfold and initial the same, and deposit in the proper ballot box for tabulation. The votes from these cast ballots may not be tallied and the tabulation reports may not be generated until the polls have closed on election day. If the affidavit on the outer envelope of a returned absentee ballot is found to be insufficient, or that the signatures on the application and affidavit do not correspond, or that the applicant is not then a duly qualified elector of the precinct, the vote may not be allowed, but without opening the absent voter's envelope, the election inspector or election judge shall mark across the face thereof "rejected as defective" or "rejected as not an elector", as the case may be. These rejected ballots are then turned over to the county canvassing board for final determination of eligibility. The subsequent death of an absentee voter after having voted by absentee ballot does not constitute grounds for rejecting the ballot.

16.1-07-12.1. Absentee ballot precinct - Election board appointment - Ballot counting.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may create a special precinct, known as an absentee ballot precinct, for the purpose of counting all absentee ballots cast in an election in

that county. The election board of the absentee ballot precinct must be known as the absentee ballot counting board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners chooses to establish an absentee ballot precinct according to this section, the following provisions apply:
 - a. The county auditor shall appoint the absentee ballot counting board that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set forth in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
 - b. The county auditor shall have the absentee ballots delivered to the inspector of the absentee ballot counting board with the election supplies, or if received later, then prior to the closing of the polls.
 - c. The absentee ballot counting board shall occupy a location designated by the county auditor which must be open to any individual for the purpose of observing the counting process.
 - d. The absentee ballots must be opened and handled as required in section 16.1-07-12. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing. The board shall comply with the requirements of sections 16.1-15-04 through 16.1-15-12, as applicable.

16.1-07-13. Registration of absent voters' ballots on electronic voting systems. At polling places using electronic voting systems, absent voters' ballots, if any, must be entered in secrecy by the two election judges. The absentee electronic voting system ballots prepared pursuant to this section must be deposited in the ballot boxes and counted as other ballots. If the electronic voting system in use so provides, the actual electronic voting system ballot may be used as the absentee ballot.

16.1-07-14. Penalty. Any person who violates any of the provisions of this chapter is guilty of a class A misdemeanor.

16.1-07-15. Early voting precinct - Election board appointment - Closing and canvassing.

1. For any primary, general, or special statewide, district, or county election, the board of county commissioners may, before the sixtieth day before the day of the election, create a special precinct, known as an early voting precinct, to facilitate the conduct of early voting in that county according to chapters 16.1-13 and 16.1-15. At the determination of the county auditor, more than one voting location may be utilized for the purposes of operating the early voting precinct. The election board of the early voting precinct must be known as the early voting precinct election board. The county auditor shall supply the board with all necessary election supplies as provided in chapter 16.1-06.

2. If the board of county commissioners establishes an early voting precinct according to this section, the following provisions apply:
- a. Early voting must be authorized during the fifteen days immediately before the day of the election. The county auditor shall designate the business days and times during which the early voting election precinct will be open and publish notice of the early voting center locations, dates, and times in the official county newspaper once each week for three consecutive weeks immediately before the day of the election
 - b. The county auditor shall appoint the early voting precinct election board for each voting location that consists of one independent representative to act as the inspector and an equal number of representatives from each political party represented on an election board in the county, as set out in section 16.1-05-01, to act as judges. Each official of the board shall take the oath required by section 16.1-05-02 and must be compensated as provided in section 16.1-05-05.
 - c. The county auditor, with the consent of the board of county commissioners, shall designate each early voting location in a public facility, accessible to the elderly and the physically disabled as provided in section 16.1-04-02. With respect to polling places at early voting precincts, "election day" as used in sections 16.1-10-03 and 16.1-10-06.2 includes any time an early voting precinct polling place is open.
 - d. At the close of each day of early voting, the inspector, along with a judge from each political party represented on the board, shall secure all election-related materials, including:
 - (1) The pollbooks and access to any electronically maintained pollbooks.
 - (2) The ballot boxes containing voted ballots.
 - (3) Any void, spoiled, and unvoted ballots.
 - e. Ballot boxes containing ballots cast at an early voting location may not be opened until the day of the election except as may be necessary to clear a ballot jam or to move voted ballots to a separate locked ballot box in order to make room for additional ballots.
 - f. Each early voting location may be closed, as provided in chapter 16.1-15, at the end of the last day designated for early voting in the county. Results from the early voting precinct may be counted, canvassed, or released under chapter 16.1-15 as soon as any precinct within the county, city, or legislative district closes its polls on the day of the election. The county auditor shall designate a location for the closing, counting, and canvassing process under chapter 16.1-15, which location must be open to any person for the purpose of observing.

- g. The early voting precinct election board shall comply with the requirements of chapters 16.1-05, 16.1-13, and 16.1-15, as applicable.

16.1-07-16. Secretary of state to provide information regarding absentee voting for military and overseas voters. The secretary of state is designated as the official responsible for providing information regarding absentee voting by military and overseas citizens eligible to vote in the state according to section 702 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 1973ff-1]. The secretary of state shall develop and provide uniform procedures for county auditors to follow when transmitting and receiving applications for absentee ballots to and from military and overseas voters.

16.1-07-17. Notification of rejected absentee ballots cast by military and overseas voters. The secretary of state shall establish a uniform procedure for county auditors to follow when notifying a military or overseas voter that the voter's absentee ballot was rejected. The procedure must provide that the notice include the reason why the voter's absentee ballot was rejected as provided by section 707 of the Help America Vote Act of 2002 [Pub. L. 107-252; 116 Stat. 1666; 42 U.S.C. 1973ff-1].

CHAPTER 18-11 ALTERNATE FIREFIGHTERS RELIEF ASSOCIATION PLAN

18-11-20. Members withdrawing from association - Members in military service. Each association shall adopt bylaws and regulations providing that in the event any member withdraws from employment in the department or ceases to be a member of the association, whether by death or otherwise, the member is entitled to a return of an amount which is not less than fifty percent nor more than one hundred percent of the member's contributions paid to the association without interest. Any benefits already received by that member must be deducted from the amount which would be returned to the member. Any applicant for a service pension who, subsequent to entry into the service of such fire department, has served in the military forces of the United States, may not have the period of that military service deducted in the computation of the period of service herein provided for, but that military service must be construed and counted as a part and portion of the member's active duty in that fire department. However, that credit for military service may not exceed five years. Any such member, who was a full-time regular firefighter at the time of the member's entry into the armed services and who seeks credit for that military service, shall, upon return to employment in the fire department, pay into the pension fund for each year of military service the same amount of money as the member would have contributed from the member's salary had the member been in the continuous employment of the department.

CHAPTER 20.1-03 LICENSES AND PERMITS

20.1-03-04. When licenses to hunt, fish, or trap not required of residents. Subject to the provisions of this title:

1. Any resident, or any member of the resident's family residing customarily with the resident, may hunt small game, fish, or trap during the open season without a license upon land owned or leased by the resident.

2. Residents or nonresidents under the age of sixteen years may fish without a fishing license.
3. Residents may fish at a private fish hatchery without a resident fishing license.
4. Developmental center at westwood park, Grafton patients, North Dakota youth correctional center students, school for the deaf students, North Dakota vision services - school for the blind students, state hospital patients, clients of regional human service centers unit patients under direct therapeutic care, and residents of facilities licensed by the state department of health and the department of human services may fish without a resident fishing license. Patients of these institutions must be identified. The department shall issue authority to each institution.
5. Residents may fish without a resident fishing license on free fishing days. The date of these free fishing days may be set by proclamation by the governor.
6. Residents under age sixteen may take fur-bearers without a fur-bearer license.
7. Residents under age sixteen may take small game or waterfowl without a small game license.
8. Residents who are enrolled as students or serving as certified instructors during official aquatics education program events of the game and fish department may be granted free fishing privileges by discretion of the director.
9. Upon presentation of valid leave papers and a valid North Dakota operator's license, a resident who is on leave and is on active duty as a member of the United States armed forces or the United States merchant marine may hunt small game, fish, or trap during the open season without a license.

20.1-03-12. Schedule of fees for licenses and permits. The various license and permit fees are as follows:

1. For a resident, age sixteen and over, small game hunting license, six dollars.
2. For a nonresident small game hunting license, eighty-five dollars.
3. For a resident big game hunting license, twenty dollars, except the fee for a licensee under age sixteen is ten dollars, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1.
4. Except for a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents under subsection 4 of section 20.1-03-11, for a nonresident big game hunting license, two hundred dollars, and for a nonresident bow license, two hundred dollars, and a nonrefundable five dollar application fee must accompany any lottery license fee under this subsection, except as provided in a gubernatorial proclamation issued pursuant to section 20.1-08-04.1. For a nonresident who participates on the same basis as a resident in a lottery for deer licenses remaining after the second lottery for residents, fifty dollars.

5. For a resident fur-bearer license, seven dollars.
6. For a resident fishing license, ten dollars, except that for a resident sixty-five years or over or a resident totally or permanently disabled, the license fee is three dollars.
7. For a nonresident fishing license, thirty-five dollars.
8. For a nonresident short-term seven-day fishing license, twenty dollars.
9. For a resident husband and wife fishing license, fourteen dollars.
10. For a nonresident nongame hunting license, fifteen dollars.
11. For a resident wild turkey permit, eight dollars.
12. For an annual general game license, three dollars.
13. For a license to a nonresident buyer or shipper of green furs, or that person's agent, the amount that the nonresident buyer or shipper of green furs would pay for a nonresident buyer or shipper of green furs license or comparable license in that person's state of residence, or fifty dollars, whichever is greater.
14. For a license to a resident buyer or shipper of green furs, eight dollars for each place of business maintained by that person within this state.
15. For a license to a resident traveling agent, buyer, or shipper of green furs, twenty dollars.
16. For an annual license to practice taxidermy, twenty-five dollars.
17. For a permit to ship, by a person having a resident hunting license, during the respective open seasons, not to exceed in any one season twenty-five game birds, to points within this state other than that person's home or to points outside this state, three dollars.
18. For a permit to make collections of protected birds and animals for scientific purposes, ten dollars.
19. For a motorboat certificate of number and license: Each motorboat under sixteen feet [4.88 meters] in length, and all canoes, regardless of length, powered by a motor, twelve dollars. Each motorboat sixteen feet [4.88 meters] in length and over but shorter than twenty feet [6.1 meters] in length, excluding canoes, twenty-four dollars. Each motorboat twenty feet [6.1 meters] in length or over excluding canoes, thirty-three dollars.
20. To operate watercraft used for hire, the following license fees apply for three years:
 - Class 1. Each craft capable of carrying two adults of average weight, six dollars.
 - Class 2. Each craft capable of carrying three adults of average weight, six dollars.

- Class 3. Each craft capable of carrying four adults of average weight, six dollars.
- Class 4. Each craft capable of carrying five adults of average weight, six dollars.
- Class 5. Each craft capable of carrying up to eight adults of average weight, nine dollars.
- Class 6. Each craft capable of carrying up to ten adults of average weight, twelve dollars.
- Class 7. Each craft capable of carrying up to fifteen adults of average weight, twenty-four dollars.
- Class 8. Each craft capable of carrying sixteen or more adults of average weight, thirty dollars.
21. For the taking of undesirable fish from the waters of this state pursuant to section 20.1-06-05, fifteen dollars for each hoop-net or trap, and fifteen dollars for each seine of fifty feet [15.24 meters] or any fraction thereof.
22. For a resident paddlefish tag annual license, three dollars per tag.
23. For a nonresident paddlefish tag annual license, seven dollars and fifty cents per tag.
24. For an annual resident license to sell minnows or other live bait at wholesale, fifty dollars.
25. For an annual license to sell minnows or other live bait at retail, fifteen dollars, except the fee is seventy-five dollars if white suckers are sold.
26. For an annual license to operate a private fish hatchery, seventy-five dollars.
27. For a resident commercial frog license, fifty dollars.
28. For a nonresident commercial frog license, two hundred dollars.
29. For a resident frog license, three dollars.
30. For a resident husband and wife frog license, five dollars.
31. For a shooting preserve operating permit, one hundred dollars, plus thirty cents per acre [.40 hectare] for each acre [.40 hectare].
32. For a nonresident waterfowl hunting license, eighty-five dollars.
33. For a nonresident husband and wife fishing license, forty-five dollars.
34. For a nonresident short-term three-day fishing license, fifteen dollars.
35. For a nonresident fur-bearer and nongame hunting license, twenty-five dollars.
36. For a combination license, thirty-two dollars.

37. For a white-tailed deer license sold to certified guides or outfitters and provided by them to nonresidents, two hundred fifty dollars.
38. For a resident swan license, five dollars.
39. For a nonresident swan license, twenty-five dollars.
40. For a resident and nonresident sandhill crane license, five dollars.
41. For a resident commercial clam license, one hundred dollars.
42. For a nonresident commercial clam license, one thousand dollars.
43. For a commercial clam dealer's permit, two thousand dollars. In addition, the applicant shall submit to the director a surety bond in the sum of two thousand dollars.
44. For an annual class B nonresident license to sell minnows or other live bait at wholesale, two hundred fifty dollars.
45. For a bighorn sheep license issued to a nonresident, five hundred dollars.
46. For a nonresident reciprocal trapping license, two hundred fifty dollars.
47. For a nonresident spring white goose license, fifty dollars.
48. For a resident certificate fee, one dollar, and for a nonresident certificate fee, two dollars. An agent may not charge a service fee for issuing a resident or nonresident certificate fee.
49. For a nonresident short-term ten-day fishing license, twenty-five dollars.
50. For a nonresident wild turkey permit, eighty dollars.
51. For a statewide nonresident waterfowl hunting license, one hundred twenty-five dollars.
52. For an annual class A nonresident license to sell minnows or other live bait at wholesale, five hundred dollars.

The fees for these licenses and permits must be deposited with the state treasurer and credited to the game and fish fund. Forty-five dollars of each nonresident big game hunting license fee must be used for the private land initiative.

CHAPTER 21-10 STATE INVESTMENT BOARD

21-10-06. Funds under management of board - Accounts.

1. The board is charged with the investment of the following funds:
 - a. State bonding fund.
 - b. Teachers' fund for retirement.
 - c. State fire and tornado fund.
 - d. Workforce safety and insurance fund.
 - e. National guard tuition trust fund.
 - f. Public employees retirement system.
 - g. Insurance regulatory trust fund.
 - h. State risk management fund.
 - i. Budget stabilization fund.
 - j. Health care trust fund.
 - k. Cultural endowment fund.
 - l. Petroleum tank release compensation fund.
 - m. Legacy fund.
2. Separate accounting must be maintained for each of the funds listed in subsection 1. The moneys of the individual funds may be commingled for investment purposes when determined advantageous.
3. The state investment board may provide investment services to, and manage the money of, any agency, institution, or political subdivision of the state, subject to agreement with the industrial commission. The scope of services to be provided by the state investment board to the agency, institution, or political subdivision must be specified in a written contract. The state investment board may charge a fee for providing investment services and any revenue collected must be deposited in the state retirement and investment fund.

CHAPTER 23-06 CARE AND CUSTODY OF DEAD

23-06-21. Regulation of cemeteries. All persons, corporations, municipalities, associations, and organizations owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies shall:

1. Provide for a sexton or secretary.

2. Cause the lot or parcel of ground used and designated as a cemetery to be platted into orderly blocks and lots, alleys and streets or driveways, giving to each a distinctive name or number that must be a permanent designation of its location.
3. File the original plat with the recorder of the county in which the cemetery or place of burial is located and the copy or blueprint thereof with the sexton or secretary.
4. Register with the state department of health the name and location of the cemetery or place of burial, the name and address of the sexton, and the name and address of other officers of the cemetery association, corporation, or organization.
5. Furnish such information and reports as the state department of health may require including the submission of plans and specifications for review and approval before constructing, erecting, or placing on the burial site for the burial or disposition of any human remains any interment structure or device constructed or placed wholly or partially above the natural surface of the ground.
6. Keep a local register of all burials showing as to each burial the name of the deceased, the date and location of burial, the date of death, and the name and address of the undertaker.

23-06-21.1. Title to burial plots reverts after sixty years - Procedure -

Abandonment. Any entity owning, conducting, or maintaining a cemetery or plot for the burial of dead human bodies may use the procedures in this section to reinvest itself with the title to a portion of a cemetery which was conveyed by deed to a person but which has not been used for purposes of burial for more than sixty years.

1. The entity owning, conducting, or maintaining a cemetery may pass a resolution demanding that the owner of a portion of a cemetery which has been unused for more than sixty years express an interest in the cemetery plot. The entity shall personally serve a copy of its resolution on the owner in the same manner as personal service of process in a civil action. The resolution must notify the owner that the owner must, within sixty days after service of the resolution on the owner, express an interest in retaining the unused cemetery plot.
2. If the owner of the unused plot cannot personally be served with a copy of the resolution of the entity because the owner cannot be found in this state or for any other valid reason, the entity shall publish its resolution for three consecutive weeks in the official newspaper of the county where the cemetery is located and shall mail a copy of the resolution within fourteen days after the third publication to the owner's last-known address.
3. If within sixty days after personal service or after publication of the board's resolution is completed, the owner or person with a legal interest in the cemetery plot fails to express an interest in retaining the unused cemetery plot, the owner's rights are terminated and title to that person's plot reverts to the entity owning, conducting, or maintaining the cemetery.
4. It is a conclusive presumption that an owner has abandoned a cemetery plot if for a period of more than sixty years the owner has not used any portion of the lot for

purposes of burial and has not made provision for care of the lot beyond that provided uniformly to all lots within the cemetery and if the owner has failed to express an interest in retaining the cemetery plot after notice provided in this section.

CHAPTER 23-11 HOUSING AUTHORITIES LAW

23-11-31. Houses for workers in national defense and veterans. Any housing authority may undertake the development and administration of projects to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities who, as determined by the housing authority, would not otherwise be able to secure safe and sanitary dwellings within the vicinity thereof. In the ownership, development, or administration of such projects, a housing authority has all the rights, powers, privileges, and immunities that such authority has under any provisions of law relating to the ownership, development, or administration of slum clearance and housing projects for persons of low income. The authority shall exercise such rights, powers, and privileges as though all the provisions of law applicable to slum clearance and housing projects for persons of low income were applicable to projects developed or administered to assure the availability of safe and sanitary dwellings for persons engaged in national defense activities as provided in this section. Housing projects developed or administered hereunder constitute housing projects under the provisions of this chapter. When a housing authority finds that within its area of operation, or any part thereof, there is an acute shortage of safe and sanitary dwellings which impedes the national defense program or the general welfare of veterans and that necessary and safe and sanitary dwellings would not otherwise be provided when needed for such persons, any project developed or administered by such housing authority or by any housing authority cooperating with such authority pursuant to this section, with the financial aid of the federal government or as agent for the federal government as hereinafter provided, is not subject to the limitations provided in sections 23-11-13 and 23-11-14. Any such finding must be conclusive in any suit, action, or other proceeding. A housing authority may make payments in such amounts as it finds necessary or desirable for any services, facilities, works, privileges, or improvements furnished for or in connection with any such projects. After the national defense period any such projects owned and administered by a housing authority must be administered in accordance with the preceding sections of this chapter except veterans are not subject to the limitations in section 23-11-14.

CHAPTER 25-04 CARE OF DEVELOPMENTALLY DISABLED

25-04-14. Expenses chargeable against patient or patient's estate - Filing claims. Expenses for care and treatment of each patient at the developmental center at westwood park, Grafton must, if practicable, be in accordance with the cost of providing care and treatment for the different degrees or conditions of mental and physical health and charges may be adjusted in accordance with the patient's ability to pay which must include an estimate of potential future receipts, including amounts from estates. The supervising department shall recover from the patient or from a discharged patient expenses chargeable for care and treatment. If any patient is receiving social security benefits or is a veteran or a dependent of a veteran who has received, is receiving, or is entitled to receive compensation or pension from the veterans' administration, the expenses are a current claim against the patient and may be recovered monthly by the supervising department except that any amount required by the payer of the

benefits to be paid directly to the patient must, upon approval of the department of human services, be credited to the patient's personal account from any money thus received.

CHAPTER 28-32 ADMINISTRATIVE AGENCIES PRACTICE ACT

28-32-01. Definitions. In this chapter, unless the context or subject matter otherwise provides:

1. "Adjudicative proceeding" means an administrative matter resulting in an agency issuing an order after an opportunity for hearing is provided or required. An adjudicative proceeding includes administrative matters involving a hearing on a complaint against a specific-named respondent; a hearing on an application seeking a right, privilege, or an authorization from an agency, such as a ratemaking or licensing hearing; or a hearing on an appeal to an agency. An adjudicative proceeding includes reconsideration, rehearing, or reopening. Once an adjudicative proceeding has begun, the adjudicative proceeding includes any informal disposition of the administrative matter under section 28-32-22 or another specific statute or rule, unless the matter has been specifically converted to another type of proceeding under section 28-32-22. An adjudicative proceeding does not include a decision or order to file or not to file a complaint, or to initiate an investigation, an adjudicative proceeding, or any other proceeding before the agency, or another agency, or a court. An adjudicative proceeding does not include a decision or order to issue, reconsider, or reopen an order that precedes an opportunity for hearing or that under another section of this code is not subject to review in an adjudicative proceeding. An adjudicative proceeding does not include rulemaking under this chapter.
2. "Administrative agency" or "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government, including one or more officers, employees, or other persons directly or indirectly purporting to act on behalf or under authority of the agency. An administrative unit located within or subordinate to an administrative agency must be treated as part of that agency to the extent it purports to exercise authority subject to this chapter. The term administrative agency does not include:
 - a. The office of management and budget except with respect to rules made under section 32-12.2-14, rules relating to conduct on the capitol grounds and in buildings located on the capitol grounds under section 54-21-18, rules relating to the classified service as authorized under section 54-44.3-07, and rules relating to state purchasing practices as required under section 54-44.4-04.
 - b. The adjutant general with respect to the department of emergency services.
 - c. The council on the arts.
 - d. The state auditor.

- e. The department of commerce with respect to the division of economic development and finance.
- f. The dairy promotion commission.
- g. The education factfinding commission.
- h. The educational technology council.
- i. The board of equalization.
- j. The board of higher education.
- k. The Indian affairs commission.
- l. The industrial commission with respect to the activities of the Bank of North Dakota, North Dakota housing finance agency, public finance authority, North Dakota mill and elevator association, North Dakota farm finance agency, the North Dakota transmission authority, and the North Dakota pipeline authority.
- m. The department of corrections and rehabilitation except with respect to the activities of the division of adult services under chapter 54-23.4.
- n. The pardon advisory board.
- o. The parks and recreation department.
- p. The parole board.
- q. The state fair association.
- r. The attorney general with respect to activities of the state toxicologist and the state crime laboratory.
- s. The board of university and school lands except with respect to activities under chapter 47-30.1.
- t. The administrative committee on 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.
- u. The industrial commission with respect to the lignite research fund except as required under section 57-61-01.5.
- v. The attorney general with respect to guidelines adopted under section 12.1-32-15 for the risk assessment of sexual offenders, the risk level review process, and public disclosure of information under section 12.1-32-15.
- w. The commission on legal counsel for indigents.
- x. The attorney general with respect to twenty-four seven sobriety program guidelines and program fees.

3. "Agency head" means an individual or body of individuals in whom the ultimate legal authority of the agency is vested by law.
4. "Complainant" means any person who files a complaint before an administrative agency pursuant to section 28-32-21 and any administrative agency that, when authorized by law, files such a complaint before such agency or any other agency.
5. "Hearing officer" means any agency head or one or more members of the agency head when presiding in an administrative proceeding, or, unless prohibited by law, one or more other persons designated by the agency head to preside in an administrative proceeding, an administrative law judge from the office of administrative hearings, or any other person duly assigned, appointed, or designated to preside in an administrative proceeding pursuant to statute or rule.
6. "License" means a franchise, permit, certification, approval, registration, charter, or similar form of authorization required by law.
7. "Order" means any agency action of particular applicability which determines the legal rights, duties, privileges, immunities, or other legal interests of one or more specific persons. The term does not include an executive order issued by the governor.
8. "Party" means each person named or admitted as a party or properly seeking and entitled as of right to be admitted as a party. An administrative agency may be a party. In a hearing for the suspension, revocation, or disqualification of an operator's license under title 39, the term may include each city and each county in which the alleged conduct occurred, but the city or county may not appeal the decision of the hearing officer.
9. "Person" includes an individual, association, partnership, corporation, limited liability company, state governmental agency or governmental subdivision, or an agency of such governmental subdivision.
10. "Relevant evidence" means evidence having any tendency to make the existence of any fact that is of consequence to the determination of the administrative action more probable or less probable than it would be without the evidence.
11. "Rule" means the whole or a part of an agency statement of general applicability which implements or prescribes law or policy or the organization, procedure, or practice requirements of the agency. The term includes the adoption of new rules and the amendment, repeal, or suspension of an existing rule. The term does not include:
 - a. A rule concerning only the internal management of an agency which does not directly or substantially affect the substantive or procedural rights or duties of any segment of the public.
 - b. A rule that sets forth criteria or guidelines to be used by the staff of an agency in the performance of audits, investigations, inspections, and settling commercial disputes or negotiating commercial arrangements, or in the defense, prosecution, or settlement of cases, if the disclosure of the statement

would:

- (1) Enable law violators to avoid detection;
 - (2) Facilitate disregard of requirements imposed by law; or
 - (3) Give a clearly improper advantage to persons who are in an adverse position to the state.
- c. A rule establishing specific prices to be charged for particular goods or services sold by an agency.
 - d. A rule concerning only the physical servicing, maintenance, or care of agency-owned or agency-operated facilities or property.
 - e. A rule relating only to the use of a particular facility or property owned, operated, or maintained by the state or any of its subdivisions, if the substance of the rule is adequately indicated by means of signs or signals to persons who use the facility or property.
 - f. A rule concerning only inmates of a correctional or detention facility, students enrolled in an educational institution, or patients admitted to a hospital, if adopted by that facility, institution, or hospital.
 - g. A form whose contents or substantive requirements are prescribed by rule or statute or are instructions for the execution or use of the form.
 - h. An agency budget.
 - i. An opinion of the attorney general.
 - j. A rule adopted by an agency selection committee under section 54-44.7-03.
 - k. Any material, including a guideline, interpretive statement, statement of general policy, manual, brochure, or pamphlet, which is explanatory and not intended to have the force and effect of law.

CHAPTER 30.1-29

PROTECTION OF PROPERTY OF PERSONS UNDER DISABILITY AND MINORS

30.1-29-05. (5-405) Notice.

1. On a petition for appointment of a conservator or other protective order, the person to be protected and the spouse of the person to be protected or, if none, the parents of the person to be protected, must be served personally with notice of the proceeding at least fourteen days before the date of hearing if they can be found within the state, or, if they cannot be found within the state, they, any other guardian or conservator, and any government agency paying benefits to the person sought to be protected (if the person seeking the appointment has knowledge of the existence

of these benefits) must be given notice in accordance with section 30.1-03-01. Waiver by the person to be protected is not effective unless the proceedings are limited to payment of veterans' administration benefits, the person to be protected attends the hearing, or, unless minority is the reason for the proceeding, waiver is confirmed in an interview with the visitor.

2. Notice of a petition for appointment of a conservator or other initial protective order, and of any subsequent hearing, must be given to any person who has filed a request for notice under section 30.1-29-06 and to interested persons and other persons as the court may direct. Except as otherwise provided in subsection 1, notice shall be given in accordance with section 30.1-03-01.

30.1-29-07. (5-407) Procedure concerning hearing and order on original petition.

1. Upon receipt of a petition for appointment of a conservator or other protective order because of minority, the court shall set a date for hearing on the matters alleged in the petition. If, at any time in the proceeding, the court determines that the interests of the minor are or may be inadequately represented, it may appoint an attorney to represent the minor, giving consideration to the choice of the minor if fourteen years of age or older. A lawyer appointed by the court to represent a minor has the powers and duties of a guardian ad litem.
2. Upon receipt of a petition for appointment of a conservator or other protective order for reasons other than minority, the court shall set a date for hearing. If, at any time in the proceeding, the court determines that the interests of the person to be protected are or may be inadequately represented, it may appoint an attorney to represent the person to be protected. An attorney appointed by the court to represent a protected person has the powers and duties of a guardian ad litem. If the alleged disability is mental illness, mental deficiency, physical illness or disability, chronic use of drugs, or chronic intoxication, the court may direct that the person to be protected be examined by a physician designated by the court, preferably a physician who is not connected with any institution in which the person is a patient or is detained. The court may send a visitor to interview the person to be protected. The visitor may be a guardian ad litem or an officer, employee, or special appointee of the court. In any case where the veterans' administration is or may be an interested party, a certificate of an authorized official of the veterans' administration that the person to be protected has been found incapable of handling the benefits payable on examination in accordance with the laws and regulations governing the veterans' administration shall be prima facie evidence of the necessity for such appointment.
3. After hearing, upon finding that a basis for the appointment of a conservator or other protective order has been established, the court shall make an appointment or other appropriate protective order.

30.1-29-11. (5-411) Bond. Except as provided herein, the court shall require a conservator to furnish a bond conditioned upon faithful discharge of all duties of the trust according to law, with sureties as it shall specify. Unless reduced or waived by the court for good cause, the bond shall be in the amount of the aggregate capital value of the property of the estate in the conservator's control plus one year's estimated income, including veterans' administration benefits received during that year, minus the value of securities deposited under

arrangements requiring an order of the court for their removal and the value of any land which the fiduciary, by express limitation of power, lacks power to sell or convey without court authorization. The court in lieu of sureties on a bond, may accept other security for the performance of the bond, including a pledge of securities or a mortgage of land.

30.1-29-14. (5-414) Compensation and expense.

1. When the estate is derived, in whole or in part, from money paid or being paid by the veterans' administration to the conservator or the conservator's predecessor for the benefit of the protected person, the compensation allowed from such money to the conservator shall be limited to five percent of the amount of money received from the agency during the period covered by the account, except that the court may allow a minimum compensation of not to exceed fifty dollars per year. No commission or compensation will be allowed for receipt of moneys or other assets received from a prior fiduciary nor upon the amount received from liquidation of loans or other investments.
2. If not otherwise compensated for services rendered, any visitor, lawyer, physician, conservator, or special conservator appointed in a protective proceeding is entitled to reasonable compensation from the estate.

CHAPTER 31-11 PRESUMPTIONS, MAXIMS, AND ESTOPPELS

31-11-04.1. Finding of death under Federal Missing Persons Act prima facie evidence. Written findings of presumed death, made by the secretary of war, the secretary of the navy, or other officer or employee of the United States authorized to make such findings, pursuant to the Federal Missing Persons Act, as now or hereafter amended, or a duly certified copy of such finding, shall be received in any court, office, or other place in this state as prima facie evidence of the death of the person therein found to be dead, and the date, circumstances and place of the person's disappearance.

CHAPTER 35-03 MORTGAGE OF REAL PROPERTY

35-03-01.3. Mortgages insured or guaranteed by the United States veterans' administration - Notice. The following statement must be signed at the time of the loan application by both the borrower and lender on loans that are insured or guaranteed by the United States veterans' administration:

I understand that the veterans' administration may attempt to hold me liable for the guarantee it offers the lending institution on this mortgage. I understand that it may be alleged that I may remain liable for the amount guaranteed by the veterans' administration if this mortgage is foreclosed or if the property is sold by me without first obtaining an approved release of liability from the veterans' administration. I also understand that it may be alleged that North Dakota law governing deficiency judgments

may not apply to the collection of loans guaranteed by the veterans' administration. By signing this statement, I am indicating that the contents of this statement have been explained to me by a loan officer representing the lending institution offering this mortgage loan.

CHAPTER 37-01 GENERAL PROVISIONS

37-01-01. Definitions. In this title, unless the context otherwise requires:

1. "Active militia" means the organized and uniformed military forces of this state known as the "North Dakota national guard" and the reserve militia when called to active service.
2. "Active service" means state active duty in case of public disaster, riot, tumult, breach of the peace, resistance of process, or the threat thereof, whenever called in aid of civil authorities, or under martial law, or at encampments, whether ordered by state or federal authorities, and includes the performance of any other duty requiring the entire time of the organization or person, except when called or drafted into the federal service by the president of the United States. The term includes service in case of, or to prevent, insurrection, riot, or invasion under the order of the commander in chief communicated through proper military channels.
3. "Military forces of this state" means those individuals in the active militia.
4. "Militia" means a group of individuals defined in the Constitution of North Dakota.
5. "National guard" means that part of the military forces of this state which is organized, equipped, and federally recognized under the provisions of the National Defense Act, as amended, of the United States as the "national guard, air national guard, of the United States and the state of North Dakota". The term includes also the term "national guard of the state of North Dakota".
6. "On duty" includes periods of drill and of such other training and service as may be required under state or federal law, regulation, or order.
7. "Reserve militia" consists of all those individuals who are subject to service in the active militia and who are not serving in the national guard of this state.
8. "State active duty" means active service on behalf of the state under authority of the governor at the expense of the state.
9. "State defense force" means the group of individuals in the reserve militia in state active duty under chapter 37-12.1.

37-01-02. Armed military force from another state entering this state for military duty prohibited - Exceptions. No armed military force from another state, territory, or district may enter this state for the purpose of doing military duty herein without the permission of the governor, unless such force is a part of the United States army or is acting under the authority of the United States of America.

37-01-03. Articles of uniform code of military justice applicable in state - Regulations governing - Punishment for offenses while on duty. The articles of uniform code of military justice governing the armed forces of the United States as codified in the Manual for Courts-Martial, United States, as effective through 2010, now in effect, are a part of this title so far as the same are applicable and not modified by any provision of this title. A person who commits an offense while on duty may be tried by a court-martial lawfully appointed even after such duty has terminated, and if found guilty, the accused must be punished according to the articles of uniform code of military justice and the rules and regulations governing the armed forces of the United States and within the limits prescribed in this title and by federal law for the courts-martial in the national guard. In any case in which the person alleged to have committed the offense could be charged either under the code of military justice or the civil law of this state, the officer whose duty it is to approve such charge, in the officer's discretion, may order the person charged or subject to being charged to be turned over to the civil authorities for trial. Whenever reference is made to the articles of uniform code of military justice, to the military service, or to the armed forces of the United States, such reference shall be deemed to include the military service of this state. The intent of this title and of all laws of this state affecting the military forces is to conform to all acts and regulations of the United States affecting the same subjects, and all laws of this state shall be construed to effect this purpose.

37-01-04. Governor's authority to order out national guard - Reserve militia ordered out. In case of insurrection, invasion, tumult, riot, breach of the peace, or imminent danger thereof, to provide a presence at state ceremonial events, to provide assistance to political entities in search and rescue efforts or to respond to a potential natural or environmental hazard or nuisance, or to perform training activities, the governor may order into the active service of this state any part of the national guard that the governor may deem proper. When the national guard of this state, or a part thereof, is called forth under the Constitution of the United States and the laws of the United States, the governor shall order out for service the remaining troops or such part thereof as may be necessary. If the number of available troops is insufficient, the governor shall order out such part of the reserve militia as the governor may deem necessary.

37-01-04.1. National guard emergency - Costs - Application to emergency commission. Whenever the governor orders the national guard or any portion thereof into the active service of the state in accordance with sections 37-01-04 and 37-01-06, the adjutant general shall determine and record the costs of the national guard in performing such service. Immediately following the termination of such active service, or prior thereto if it is deemed necessary by the adjutant general, the adjutant general shall make application to the state emergency commission for a grant of funds from the contingency fund or other available funds in the state treasury in an amount equal to the costs of the national guard in performing such service. Notwithstanding other provisions of chapter 54-16, it must be conclusively presumed upon the receipt of such application by the emergency commission from the adjutant general that an emergency exists, and such commission shall forthwith grant and direct the transfer to the credit of the national guard from the contingency fund or such other funds as may be available of an amount equal to that certified in such application by the adjutant general.

37-01-05. Absence of national guard from state - Designation not to be given to new organization. The state designation of an organization of the national guard which is absent from this state in the service of the United States may not be given to any new organization.

37-01-06. Seizure of property by governor to avert strike or lockout and to avert disaster or calamity. The governor, as commander in chief of the military forces of this state, may take any measure necessary to prevent or avert any impending disaster or calamity which threatens to destroy life or property in this state, or which may entail loss of life or property, or result in great suffering or hardship among the people of this state. In the event of any strike or lockout, or threatened strike or lockout, of the employees of any coal mine or public utility which threatens to endanger the life and property of the people of this state, the governor may commandeer and take for use during any such emergency any such coal mine or public utility together with the machinery, equipment, and appurtenances of any such mine or utility which may be necessary to save life and property. The governor may employ all help necessary for the operation of any such coal mine or public utility and may make and enter into all contracts required for the operation thereof. The governor may purchase any and all material necessary for operating any such coal mine or public utility and may sell and distribute the products or services thereof.

37-01-07. Facilities and services at disposal of governor upon taking over coal mine or public utility. When the governor is required to take over and use any coal mine or public utility as provided in section 37-01-06, the governor may:

1. Use any of the facilities or offices of this state.
2. Command the services of the state militia.

37-01-08. Proclamation of state of insurrection - Governor may proclaim. If any portion of the militia is employed in aid of the civil authority, the governor, if in the governor's judgment the maintenance of law and order will be promoted thereby, may declare by proclamation the county or city in which the troops are serving, or any specified portion thereof, to be in a state of insurrection.

37-01-09. Service medals. The commander in chief of the national guard of this state may issue an order providing suitable service medals or ribbons or marks of distinction for all officers and enlisted men who have served in the national guard for an aggregate period of five, ten, fifteen, and twenty years, respectively, and for a like service thereafter or for service on active duty with the armed forces of the United States. Such service medals or ribbons may also be awarded to any member of the armed forces of the United States who shall serve in an active duty capacity with the North Dakota national guard for a period of two or more years.

37-01-10. Distinguished service medal - Presented by whom - Qualifications - Regulations governing. The governor, in the name of the legislative assembly of this state, may present a military medal, known as the "distinguished service medal", to any member or former member of the North Dakota national guard who in the discharge of the person's military duties has been distinguished by extraordinary heroism or devotion to duty or to a member or former member of the armed forces of the United States or the national guard of another state who performs outstanding and extraordinary service for the national guard of this state. Such medal must bear a suitable inscription and ribbon and must be of suitable military design. The award of a distinguished service medal must be made by a board of awards consisting of the adjutant general and senior officers of regiments or separate organizations of the national guard of this state. Such board must be instituted by a general order of the adjutant general's office prescribing rules and regulations for its meetings and method of procedure. Not more than one

distinguished service medal may be awarded to any one person and no medals may be awarded or presented to any person whose service subsequent to the recommendations for award has not been honorable. For each succeeding citation, a person to whom a distinguished service medal has been awarded or presented previously is entitled to wear, as the adjutant general of the state may direct, a metal device attached to the ribbon of such distinguished service medal. In the event of the death of a person to whom a distinguished service medal has been awarded, the presentation must be made to the nearest of kin.

37-01-10.1. North Dakota legion of merit medal - Presented by whom - Qualifications - Regulations governing. The governor, in the name of the legislative assembly, may present a military medal known as the "North Dakota legion of merit" to any member or former member of the North Dakota national guard who, in the discharge of the person's military duty, has been distinguished by outstanding service and twenty years of duty to the North Dakota national guard, and that person's community, state, and nation. Such medal may also be awarded to a member or former member of the armed forces of the United States or of the national guard of another state who performs outstanding service for the guard of this state. The medal must bear a suitable inscription and must be of military design as prescribed by the adjutant general. The medal must be awarded by the board of awards in the same manner as prescribed in section 37-01-10.

37-01-11. Members of active militia exempt from civil process. No person belonging to the active militia of this state may be arrested on any warrant, except for treason or felony, while going to, remaining at, or returning from any place which the person may be required to attend for military duty.

37-01-12. When members of national guard or militia exempt from civil or criminal liability. Members of the national guard or militia ordered into the active service of the state by any proper authority are not civilly nor criminally liable for any act or acts done by them in the line of duty. Members of the national guard or militia ordered into active service of the state must be presumed to be acting in the line of duty except in the case of willful misconduct or gross negligence. When a suit or proceeding is commenced in any court against an officer of the militia for any act done by such officer in the officer's official capacity in the discharge of any duty under the provisions of this title, or against any person acting under the authority or order of any such officer or by virtue of any warrant issued by any such officer pursuant to law, the defendant is entitled to legal representation provided by the attorney general, an assistant attorney general, or a judge advocate officer at no cost. The defendant in such action may require the person prosecuting or instituting the suit or proceeding to file security for the payment of the costs that may be awarded to the defendant therein. The defendant in all such cases may make a general denial and give the special matter in evidence. If the action is dismissed or a verdict or judgment is rendered against the plaintiff, the defendant shall recover treble costs in the action.

37-01-13. Right of way of national guard while on duty - Exceptions - Interference with - Penalty. Commanding officers of any portion of the national guard parading or performing any military duty in any street or highway may require any or all persons in such street or highway to yield the right of way, except that the carriage of the United States mail, the legitimate functions of the police, and the progress and operations of hospital ambulances and fire departments may not be interfered with thereby. The adjutant general may provide for the issuance of special identification plates to be placed upon the privately owned vehicles of members of the national guard in order to properly identify vehicles operated by such members.

All persons who hinder, delay, or obstruct any portion of the national guard wherever parading or performing any military duty are guilty of a class B misdemeanor.

37-01-14. Free passage through toll gates, bridges, and ferries. Any person belonging to the military forces of this state, going to or returning from any parade, encampment, drill, or meeting which the person may be required by law to attend, must be allowed to pass free through all toll gates and over all toll bridges and ferries, with the person's conveyance and with any military property of this state in the person's charge, if the person is in uniform or if the person presents an order for duty or a certificate of membership in the national guard.

37-01-15. Exemption from jury duty. Repealed by S.L. 1977, ch. 113, § 1.

37-01-16. Unlawful conversion of military property - Unlawful wearing of uniforms and devices indicating rank - Penalty. Any person who shall:

1. Secretly sell, dispose of, offer for sale, purchase, retain after a demand made by a commissioned officer of the national guard, or in any manner pawn or pledge any arms, uniforms, equipment, or other military property issued under the provisions of this title; or
2. Wear any uniform or any device, strap, knot, or insignia of any design or character used as a designation of grade, rank, or office, prescribed by law, or by general regulation duly promulgated, for the use of the national guard, or any device, strap, knot, or insignia similar thereto, unless the person is a member of the army or navy of the United States or of the national guard of this or any other state, a member of an association wholly composed of soldiers who have been honorably discharged from the service of the United States, or a member of the order of sons of veterans, is guilty of a class B misdemeanor.

37-01-17. Misuse of funds or property by officer or soldier of national guard.

Repealed by S.L. 1975, ch. 106, § 673.

37-01-18. Officer or soldier of national guard making false certificate or return - Misdemeanor. Repealed by S.L. 1975, ch. 106, § 673.

37-01-19. Commanding officer may arrest trespassers and disturbers. Upon any occasion of duty, the commanding officer may place under arrest during the continuance of such duty any person who shall:

1. Trespass upon the campground, parade ground, armory, or other place devoted to such duty;
2. Interrupt or molest in any way or manner the orderly discharge of duty by those under arms; or
3. Disturb or prevent the passage of troops going to or returning from such duty.

37-01-20. Penalty for resisting when state of insurrection exists. In a place declared by proclamation of the governor to be in a state of insurrection, any person who shall:

1. Resist the execution of process;

2. Aid the rescue or escape of another from lawful custody or confinement; or
3. Resist a force ordered out by the governor to quell or suppress an insurrection, is guilty of a class C felony.

37-01-21. Military parades by certain bodies prohibited - Exceptions - Penalty. No body of people, other than the regularly organized units of the national guard and militia and the troops of the United States, may associate themselves together as a military company or organization or parade in public with firearms, and no municipality may raise or appropriate any money toward arming or equipping, uniforming or in any other way supporting, sustaining, or providing drillrooms or armories for, any such body of people. Associations wholly composed of soldiers honorably discharged from the service of the United States and members of the order of sons of veterans may parade in public with firearms on Decoration Day, upon the reception of any regiment or company of soldiers returning from service, or for the purpose of escort duty at the burial of deceased soldiers. Students in educational institutions where military science is a prescribed part of the course of instruction, with the consent of the governor, may drill and parade with firearms in public under the superintendence of their teachers. This section does not prevent any organization authorized to do so by law from parading with firearms nor prevent parades by the national guard of other states. Any person violating any provision of this section is guilty of a class B misdemeanor.

37-01-22. Governor may make rules and regulations governing military forces in state - Limitations - Effect. The governor may make such rules and regulations as deemed expedient for the government of the military forces of this state, but such rules and regulations must conform to the provisions of this title and, as nearly as practicable, to those governing the armed forces of the United States. When promulgated, such rules and regulations have the same force and effect as the provisions of this title and may not be repealed, altered, amended, or added to except by the commanding officer of the national guard with the approval of the governor.

37-01-23. Custom and usage of the armed forces of the United States to govern national guard. All matters relating to the organization, discipline, and government of the national guard, not otherwise provided for in this title or in the general regulations, must be decided by the custom and usage of the armed forces of the United States.

37-01-24. Jurisdiction of troops occupying a military district under martial law to pursue, arrest, and subpoena. Troops occupying a military district established under martial law, if necessary, may pursue, arrest, and subpoena persons wanted in said military district, anywhere within this state.

37-01-25. Officers and employees of state or political subdivisions in national guard or federal service to retain status for period of active service. All officers and employees of this state or of a political subdivision thereof who:

1. Are members of the national guard;
2. Are members of the armed forces reserve of the United States of America;
3. Shall be subject to call in the federal service by the president of the United States; or

4. Shall volunteer for such service,

when ordered by proper authority to active noncivilian employment, are entitled to a leave of absence from such civil service for the period of such active service without loss of status or efficiency rating. If such persons have been in the continuous employ of the state or political subdivision for ninety days immediately preceding the leave of absence, they shall receive twenty workdays each calendar year without loss of pay. In addition, any leave of absence necessitated by a full or partial mobilization of the reserve and national guard forces of the United States of America, or emergency state active duty, must be without loss of pay for the first thirty days thereof less any other paid leave of absence which may have been granted during the calendar year pursuant to this section. However, if leave is required for weekend, daily, or hourly periods of drill for military training on a day in which a public officer or employee is scheduled to perform the work of the state or of a political subdivision, the officer or employee must be given the option of time off with a concurrent loss of pay for the period missed or must be given an opportunity to reschedule the work period so that the reserve or national guard weekend, daily, or hourly drill or period of training occurs during time off from work without loss of status or efficiency rating.

37-01-25.1. Reinstatement to former position - Appeals - Penalty. Any person referred to in section 37-01-25, who within ninety days after receiving a discharge other than dishonorable from such active noncivilian service, and who is not physically or otherwise incapacitated to perform the duties of the position formerly held by the person, applies for such position held by the person at the time of entering such active service, must be given such position or one of like seniority, status, and pay, and is immune to discharge from said position except for cause, as defined by the department of veterans' affairs, for a period of one year after entering upon the duties of the person's civilian position. Any such person not so reemployed or who is discharged within a period of one year without cause, has the right of appeal to the department of veterans' affairs under such rules and regulations as the administrative committee on veterans' affairs may promulgate. If the department of veterans' affairs finds that such person was not reemployed or was discharged within one year without cause, it may order any officer or other appointing power to comply with the provisions of this chapter. If such person at the time of entering noncivilian service has been an officer or employee of the state of North Dakota or any political subdivision or city thereof, having a merit or civil service system with an appeal board, such appeal board has the same powers as are granted to the department of veterans' affairs in this section. In order to carry out the provisions of this chapter, the department of veterans' affairs is hereby authorized to contract and pay for technical or other services with any board, council, or commission established by such state agencies, departments, or divisions to administer such systems. Any person violating any of the provisions of this section is guilty of an infraction.

37-01-25.2. Penalty. Repealed by omission from this code.

37-01-26. Pay of officers and enlisted men assigned to special duty. Any commissioned officer assigned to special duty by the governor or under the governor's authority must be paid duty pay for the time actually employed, and the officer's necessary traveling expenses and subsistence when such payment is authorized by the governor. Judge advocates must be paid such compensation as shall be approved by the governor for services in bringing any suits provided for in this title, and in actions or proceedings by habeas corpus, certiorari, or otherwise. All staff officers must be paid duty pay for special service ordered by competent authority with the approval of the governor. Enlisted persons on duty under orders of the

governor, but not at the time serving with troops, shall receive the same rate of pay as is provided for the national guard when called into active service by the governor and their actual traveling expenses and subsistence.

37-01-27. Members of national guard exempt from poll tax. Repealed by S.L. 1969, ch. 528, § 24.

37-01-28. Failure of member of the militia to appear - Penalty. Every member of the militia who is ordered out or ordered on duty, who volunteers, or who is drafted under the provisions of this title, who does not appear at the time and place designated by that person's commanding officer, the adjutant general, or the mustering officer, who does not produce a sworn certificate of physical disability from a physician in good standing showing that person's inability to appear, must be taken as a deserter and dealt with as prescribed in the uniform code of military justice of the United States.

37-01-29. Discipline and training of the national guard - Requirements governing. The discipline, including the training, of the national guard must conform to the system which is prescribed by the Congress of the United States.

37-01-30. Incurring of expenses by officers of militia - Auditing and payment of accounts. No officer of the militia may incur any expense whatsoever to be paid by this state, except such as is authorized in this title, without first obtaining the authority of the governor. In extreme emergencies, however, the commanding officer of any organization or detachment of the national guard may make purchases of such necessities as are absolutely required for the immediate use and care of that officer's command. A report of such action containing a statement of the articles purchased and the price thereof must be made forthwith through the channel of the adjutant general. The commander in chief shall be the auditor of all accounts for property purchased by the adjutant general, and the copies of the orders or contracts under which such purchases are made must be filed in the office of the paymaster general. All other military accounts payable by the state must be audited by the adjutant general. Military accounts thus audited must be paid by the paymaster general of the state from the proper appropriation made by the legislative assembly.

37-01-31. Honorably discharged veterans preferred for appointment to state or municipal offices - Physical defects not to disqualify. Repealed by S.L. 1973, ch. 282, § 3.

37-01-32. State treasurer as trustee exchanging farmlands for military purposes - Conditions of exchange. Repealed by S.L. 1953, ch. 223, § 9.

37-01-33. Saving of rights accrued. All contracts, pensions, commissions, leases, agreements, and similar actions taken, made, or entered into under previous statutes which, by their nature, custom, or usage, were continuing in effect remain in full force and effect.

37-01-34. Recordation of discharge papers. An individual discharged from any branch of the armed forces of the United States may record, without payment of any fee, that individual's discharge from the armed forces, a certificate issued in lieu of the discharge, duly authenticated and certified copies of the discharge or certificate, or duly certified records of that individual's service and discharge from the armed forces in the office of the recorder of the county in which that individual resides, unless the board of county commissioners designates a different official. Any discharge document recorded by the recorder, or designated official, may be made available only to the following persons: the veteran, the parents, the veteran's next of

kin, the veteran's legal representative, a county veterans' service officer, a veterans' organization service officer, the department of veterans' affairs, or a designee of the veteran.

37-01-35. Legalizing previous recordings. If a recorder, or designated official, has recorded discharge papers without charging the recording fees provided by law, the recording is declared legalized. In no such case may the recorder, or designated official, be held responsible in cases in which filing fees have not been collected.

37-01-36. Certified copy of record furnished veteran without charge. If a copy of any public record is required by any veteran or a veteran's guardian, dependent, or representative in connection with an application for benefits made available by federal or state laws, the official charged with the custody of such public record, without charge, shall provide a certified copy of such record upon request. This section is subject to the restrictions provided for in section 37-01-34.

37-01-37. Disability of minor to contract. The disability of minority of any person otherwise eligible for guaranty or insurance of a loan pursuant to the Servicemen's Readjustment Act of 1944 [Pub. L. 78-346; 58 Stat. 284], as amended, and of the minor spouse of any eligible veteran irrespective of the person's age, in connection with any transaction entered into pursuant to said Act as amended, is hereby removed, for all purposes in connection with such transaction including, but not limited to, incurring of indebtedness or obligations and acquiring, encumbering, selling, releasing, or conveying property, or any interest therein, and litigating or settling controversies arising therefrom, if all or part of any obligations incident to such transaction be guaranteed or insured by the administrator of veterans' affairs pursuant to such Act. This section may not be construed to impose any other or greater right or liabilities than would exist if such person and such spouse were under no such disability.

37-01-38. National guard operating fund. All income, collections, and reimbursements of the North Dakota national guard from the United States and from armory rentals must be deposited in the state treasury and credited to a national guard operating fund. The state treasurer, upon order of the director of the office of management and budget, shall make semiannual transfers from the general fund appropriation for the maintenance of the national guard to the national guard operating fund.

37-01-39. Expenditure of funds. All expenditures of funds for the maintenance and operation of the national guard and the office of the adjutant general must be made upon vouchers signed and approved by the adjutant general or such other officer or official as may be designated by the adjutant general. Upon approval of such vouchers by the office of the budget, warrant-checks must be prepared by the office of management and budget for signature by the state auditor and state treasurer in accordance with such approved vouchers.

37-01-39.1. Unit funds - Maintenance and expenditure. Each unit of the North Dakota national guard, upon approval of the adjutant general, is authorized to maintain a nonreverting unit fund for purposes as prescribed by federal law and regulations relating to unit funds of the federal military forces and to pay petty operating, equipment, and supply costs incurred by the individual units. All funds transferred by the adjutant general to the unit fund must be deposited in the unit fund and are hereby appropriated for the maintenance and operation of the unit funds. Unit funds may be expended upon authorization of the unit fund custodian designated by the adjutant general under guidelines established by the adjutant general.

37-01-40. Veteran and wartime veteran defined - Uniform service dates for wartime

veterans.

1. A "veteran" is an individual who has served on continuous federalized active military duty for one hundred eighty days or the full period for which the individual was called or ordered to active military duty for reasons other than training, and who was discharged or released 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 individual a veteran.
2. A "wartime veteran" is an individual who served in the active military forces, during a period of armed conflict or who received the armed forces expeditionary or other campaign service medal during an emergency condition and who was discharged or released under other than dishonorable conditions. "Wartime veteran" also includes an individual who died in the line of duty in the active military forces, as determined by the armed forces.
3. Period of service dates for a wartime veteran begins with the date of any declaration of war by the Congress of the United States or presidential proclamation beginning hostilities 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 and dates determined by the United States department of defense.
4. Current uniform period of service dates for periods of armed conflict include:
 - a. The period beginning December 7, 1941, through December 31, 1946, known as world war II;
 - b. The period beginning June 27, 1950, through January 31, 1955, known as the Korean war;
 - c. The period beginning August 5, 1964, through May 7, 1975, known as the Vietnam war;
 - d. The period beginning August 2, 1990, through January 2, 1992, known as the gulf war; and
 - e. The period beginning September 11, 2001, and ending on a date prescribed by presidential proclamation or by Congress as the last day of operation Iraqi freedom or operation enduring freedom, whichever occurs later.
5. The department of veterans' affairs shall maintain a list of all period of service dates for emergency conditions in which the armed forces expeditionary medal has been awarded.

37-01-41. Claims against the national guard.

1. Any individual injured by an activity of the North Dakota national guard may submit a claim to the adjutant general. As used in this section, "claim" means a monetary

demand upon the state for personal injury or property damage arising from activities of the national guard while on state active duty.

2. The adjutant general may approve a claim for less than two thousand five hundred dollars. If the claim is approved by the adjutant general, the adjutant general shall apply to the emergency commission for an amount from the contingency fund sufficient to pay the claim. It must be conclusively presumed upon the receipt of such application by the emergency commission that an emergency exists, and the commission shall direct the transfer of the requested amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
3. The adjutant general shall forward any claim exceeding two thousand five hundred dollars to the emergency commission with the adjutant general's recommendation. If the claim is approved by the emergency commission, it must be conclusively presumed that an emergency exists, and the commission shall direct the transfer of the approved amount to the adjutant general from the contingency fund. The adjutant general, upon receipt of the transfer from the contingency fund, shall pay the claim.
4. Decisions of the adjutant general or the emergency commission partially or totally denying a claim may not be appealed to any court of this state.
5. Claims may not be submitted to the legislative assembly unless the claim has been partially or totally denied by the adjutant general or the emergency commission.

37-01-42. Honorary high school diplomas - Veterans of World War II and Korean and Vietnam conflicts.

1. Any World War II veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between September 16, 1940, and December 31, 1946, prior to completing the necessary high school graduation requirements; and
 - b. The veteran was honorably discharged from the United States armed forces.
2. Any Korean conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran was a member of the United States armed forces between June 27, 1950, and January 31, 1955; and
 - b. The veteran was honorably discharged from the United States armed forces.
3. Any Vietnam conflict veteran who did not receive a high school diploma may apply for an honorary high school diploma, provided:
 - a. The veteran entered the United States armed forces between February 28, 1961, and May 7, 1975; and

- b. The veteran was honorably discharged from the United States armed forces.
4. In order to receive an honorary high school diploma, the veteran or a representative of the veteran shall complete an application on a form prescribed by the superintendent of public instruction. A county veterans' service officer shall certify the veteran's status as an honorably discharged veteran who served during the qualifying period to the superintendent of public instruction. The superintendent of public instruction shall forward the application to the school district in which the veteran last attended school before induction. If the school district no longer exists, the application must be forwarded to the school district that has jurisdiction. If a school district decides not to issue a diploma under this program, the veteran may apply to the superintendent of public instruction for the diploma.
5. The school district and the superintendent of public instruction shall review and either approve or deny each application received.
6. If a veteran who would have qualified for a diploma under this section is deceased, a family member of the veteran may apply for and, if approved, be awarded the veteran's honorary high school diploma.

37-01-43. North Dakota military civil relief act. A person called or ordered to active service for thirty consecutive days or longer has all of the protections afforded to persons in the military service of the United States under the Servicemembers Civil Relief Act, as effective through December 2003 [50 U.S.C. App. sections 501-596].

CHAPTER 37-03 ADJUTANT GENERAL

37-03-14. North Dakota veterans' cemetery - Administration. The adjutant general shall establish and operate the North Dakota veterans' cemetery, which the adjutant general shall locate within or adjacent to Fort Abraham Lincoln state park. The adjutant general may accept and expend private and federal funds to establish and operate the veterans' cemetery. All moneys received from private or federal sources must be paid to the state treasurer for deposit into the veterans' cemetery maintenance fund. The adjutant general, with the approval of the governor, may enter into an agreement with the director of the parks and recreation department for the maintenance of the cemetery. The adjutant general shall provide lots in the state veterans' cemetery for the interment of deceased members of the national guard, other reserve components, and veterans, and their spouses, minor children, and unmarried adult children who were physically or mentally disabled and incapable of self-support. The adjutant general may adopt, amend, or rescind any rules under chapter 28-32 as deemed necessary to implement and administer this section.

CHAPTER 37-07.1 NATIONAL GUARD TUITION WAIVER ACT

37-07.1-01. Legislative intent and purpose. The purpose of this chapter is to recognize the vital role of the national guard in the state. While the national guard is subject to federal control during periods of national emergency, it is organized, trained, and equipped to

perform military functions and to aid civil authorities in the protection of life and property while it is subject to the control of the state.

The purpose of this chapter is to encourage voluntary membership in the guard, improve the educational level of its members, and thereby benefit the state as a whole.

37-07.1-02. Definitions. As used in this chapter, unless the context or subject matter otherwise requires:

1. "School" means any university, college, career and technical education school, technical school, or postsecondary educational institution.
2. "State-controlled school" means any school which is controlled, financially supported, and operated by the state, a school district, or any other political subdivision.
3. "Tuition" means the normal registration fee.

37-07.1-03. Tuition waiver - Terms. A qualifying member of the national guard who enrolls in any state-controlled school, subject to rules adopted by the adjutant general, is entitled to receive a twenty-five percent waiver of the tuition from the state-controlled school, conditioned on the adjutant general having sufficient appropriations for tuition reimbursement under section 37-07.1-06.2. The tuition waiver is valid only so long as the member of the national guard maintains satisfactory performance with the guard, meets the qualification requirements of rules adopted by the adjutant general, and pursues a course of study in a manner that satisfies the normal requirements of the school.

37-07.1-04. Limitations. Repealed by S.L. 1983, ch. 389, § 2.

37-07.1-05. Application for waiver. It is the responsibility of the individual member of the national guard to obtain a certificate from the adjutant general or the adjutant general's designee attesting to satisfactory guard performance and describing qualification requirements and to present the certificate to the school in order to obtain a waiver of tuition fees. The certification must be accomplished at the time of enrollment for each semester or academic term for which a waiver of tuition fees is requested.

37-07.1-06. Tuition - Assistance payments. Repealed by S.L. 1995, ch. 351, § 4.

37-07.1-06.1. North Dakota national guard tuition fund. Repealed by S.L. 2009, ch. 301, § 3.

37-07.1-06.2. Tuition reimbursement - Payments. The adjutant general shall make tuition reimbursement payments, within the limits of legislative appropriations, for each qualifying member of the national guard enrolled in any state-controlled school who receives a tuition waiver provided in section 37-07.1-03.

37-07.1-07. Regulations. The adjutant general may adopt, amend, and rescind any national guard regulations pursuant to chapter 28-32 deemed necessary to implement and administer this chapter.

CHAPTER 37-07.2 NATIONAL GUARD TUITION GRANTS

37-07.2-01. National guard tuition grants - Terms of grants. Any qualifying member of the national guard who enrolls in an accredited postsecondary institution in North Dakota may, subject to the limitations of available appropriated funds and subject to national guard rules adopted by the adjutant general, receive a grant in an amount not to exceed the cost of tuition and fees for similar courses and credit hours for each qualifying member of the national guard who is enrolled at the university of North Dakota. Any accredited postsecondary institution that agrees to participate in such a program must waive twenty-five percent of the tuition for qualifying national guardsmen. These grants must be distributed according to rules promulgated by the adjutant general and are available only so long as the member maintains satisfactory performance with the guard, meets the qualification requirements of the rules, and pursues a course of study which satisfies the normal requirements of the school.

37-07.2-02. Limitation. Repealed by S.L. 1983, ch. 389, § 2.

37-07.2-03. Application for grant. It is the responsibility of the individual member of the national guard to request the grant on an application provided by the adjutant general at the time of enrollment for each semester or academic term for which a grant is requested. The grants provided for in this chapter must be paid from such funds as may be appropriated for tuition payment purposes in accordance with chapter 37-07.1.

37-07.2-04. Regulations. The adjutant general may adopt, amend, and rescind any national guard regulations, pursuant to chapter 28-32, deemed necessary to implement and administer this chapter.

CHAPTER 37-07.3 NATIONAL GUARD TRAINING AREA AND FACILITY TRUST FUND

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, 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 Fraire Barracks.

CHAPTER 37-10 ARMORIES

37-10-04. Use of armories by other organizations - Regulations governing. The use of armories for the regular meetings or functions of patriotic societies or recognized military service organizations holding charters from Congress or incorporated in this state must be granted by the adjutant general or by the officer in charge of any armory at such times and under such circumstances as not to interfere with the use of the armory for military purposes by the company or companies quartered therein. The use of an armory by a society or organization is subject to the rules and regulations in force governing the use of armories.

CHAPTER 37-14 VETERANS' RELIEF AND REHABILITATION

37-14-01.1. Definition of veteran. As used in this chapter, "veteran" means an individual who served in the armed forces of the United States on federal active duty for reasons other than training and who has been discharged under other than dishonorable conditions.

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. Disbursements from such fund must be made as provided in this chapter.

37-14-03.3. Revolving fund. The moneys in the permanent revolving fund of the veterans' aid fund are available for:

1. Making loans to any veteran and to a surviving spouse of a veteran if the spouse has not remarried;
2. Collecting loans if in the opinion of the department a person has the financial means to repay and that person deliberately refuses to repay; and
3. Paying administrative expenses related to the making and collection of loans made from the fund.

37-14-04. Veterans' aid fund - Purpose. The purpose of the veterans' aid fund is to make loans to any veteran and to a surviving spouse of a veteran if the spouse has not remarried. A qualified applicant may be permitted to receive more than one loan providing the total amount of all loans does not exceed five thousand dollars.

37-14-05. Application for aid. A qualified person may apply to the department of veterans' affairs in such form as it provides, either while the applicant is waiting for relief or assistance from another agency, state or federal, or for further assistance for the applicant's education, or otherwise.

37-14-06. Department may provide aid. If the department of veterans' affairs is satisfied that an applicant is a veteran or the surviving spouse of a veteran and has not remarried, and that the applicant is a citizen and resident of this state, and that the applicant meets the criteria set forth in rules adopted pursuant to section 37-14-10 regarding qualifications to obtain a loan, the department may loan to the applicant a sum from the veterans' aid fund not to exceed five thousand dollars. Additional loans may be made to an applicant if the applicant still meets the loan criteria and if the total of all loans does not exceed five thousand dollars. If an applicant is provided more than one loan, the amounts will be consolidated into one payment.

37-14-07. Repayment to be made to aid fund. Upon the granting of an application and at the time of disbursement, the applicant, or the applicant's legal agent, shall execute a loan agreement with the department of veterans' affairs that within a specified period of not to exceed four years from the date of the receipt of the last item of the advancement, the applicant will repay to the state for the use of the veterans' aid fund the full amount of all advancements

made to the applicant with interest as provided in rules adopted under section 37-14-10, but not to exceed ten percent annually. One-half of the interest must be waived if timely repayment is made to the fund as set forth in rules adopted pursuant to section 37-14-10. The department may take necessary legal action to collect, compromise, or settle loans if in the opinion of the department the person has the financial means to repay, and the person deliberately refuses to do so. The department may release from financial liability any person it determines is financially unable to repay the loan through no fault of the person. The department may assess and collect a late payment penalty as provided in section 47-14-05.

37-14-08. How payments are made. All payments or other expenditures approved by the department of veterans' affairs must be made upon vouchers approved by the office of the budget.

37-14-09. Records - Biennial report. The department of veterans' affairs shall keep full records and files of all transactions, applications, advancements, and business pertaining to the veterans' aid fund. The department may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

37-14-10. Committee may adopt rules. The administrative committee on veterans' affairs may make and promulgate such reasonable rules and regulations as may be necessary and proper to administer the provisions of this chapter relating to the veterans' aid fund. In any hearings or action taken under the provisions of this chapter, the provisions of chapter 28-32 do not apply.

37-14-11. Payment of expenses - Limitation. The department of veterans' affairs may expend for any purpose necessary to the proper administration of this chapter sums not to exceed the amount appropriated therefor by the legislative assembly. Vouchers must be issued in the manner provided in this chapter.

37-14-12. Decision of department appealable. The department of veterans' affairs may grant or refuse an application for relief or assistance from financial assistance programs under the control of the department under policies set by the administrative committee on veterans' affairs. The committee shall adopt and establish an appeal process. The department's decisions are appealable to an appeals committee appointed by the chairman of the administrative committee. A hearing before the appeals committee may be closed upon request of the applicant. An applicant who requests a closed hearing may invite to that hearing any two representatives and the applicant's spouse or one other family member. Each decision of the appeals committee must give the reasons for granting or refusing an application for relief or assistance. The decision of the appeals committee is final. The record of the hearing, including the identity of the applicant, is an exempt record.

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 invest the fund only in those legal investments authorized by section 21-10-07. 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.

37-14-18. County veterans' service officer - Appointment - Duties. The board of county commissioners of each county of the state of North Dakota shall appoint, employ, and pay, on a full-time or part-time basis, an officer to be known as a county veterans' service officer. The veterans' affairs commissioner may work directly with county veterans' service officers. An individual may serve as a county veterans' service officer in more than one county. The appointment must be made with the prior advice of the commissioner of veterans' affairs, and in accordance with veterans' preference as provided in section 37-19.1-02. By August 1, 2011, all county veterans' service officers must be accredited by the national association of county veterans' service officers. It is the duty of the county veterans' service officer to become acquainted with the laws, both state and federal, enacted for the benefit of returning servicemen and servicewomen to assist such returning members of the armed forces in the presentation, proof, and establishment of such claims, privileges, and rights as they have. It also is the duty of the county veterans' service officer to actively cooperate with and to coordinate the activities of the state and federal agencies within the county which the officer serves to facilitate their operation and ensure promptness in the solution of the problems concerned with the reestablishment of returning servicemen and servicewomen in civilian pursuits. A county veterans' service officer may not serve as a conservator for an individual who is receiving benefits or services from the department of veterans' affairs or the United States department of veterans' affairs, except if the individual is the spouse or an immediate family member of the officer, or unless the conservator is appointed by the county under chapter 11-21.

37-14-19. Salary and expenses of county veterans' service officer. The county veterans' service officer must be paid such monthly salary for full-time or part-time work as the board of county commissioners deems commensurate with the needs of the situation, together with actual living expenses when absent from the officer's established office upon official business in an amount not exceeding that allowed to state officials, upon itemized statements submitted by the officer and supported by sub vouchers or receipts as provided by section 21-05-01 and the officer's actual transportation expenses, which may not exceed the amounts provided by section 54-06-09, and must be in itemized form showing the mileage traveled, the days when and how traveled, and the purpose thereof, verified by the officer's affidavit and supported by sub vouchers or receipts as provided by section 21-05-01.

CHAPTER 37-15 VETERANS' HOME

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

37-15-02. Object of veterans' home. The object of the veterans' home is to provide basic care as defined under chapter 23-09.3 and long-term care as defined under chapter 23-16 for:

1. All 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 if they meet the requirements for admission under section 37-15-10.

37-15-03. Government of veterans' home. The general supervision and government

of the veterans' home is vested in the administrative committee on veterans' affairs.

37-15-07. Administrator of veterans' home - Appointment - Qualifications. The appointment, qualifications, term of office, and salary of the administrator of the veterans' home must be as prescribed in section 37-18.1-03. The administrative committee on veterans' affairs may designate the administrator as commandant of the veterans' home if the administrator is an honorably discharged veteran.

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

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

1. An applicant may not be admitted to the veterans' home unless the applicant is a bona fide resident of this state preceding the applicant's application for admission. The residency requirement may be waived if the applicant served in a North Dakota regiment or was accredited to this state.
2. 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.
3. An individual may not be admitted to the home until that individual has made formal application and furnished the proof that is required by the home and the application has been approved by the board of admissions of the home.
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 oneself under rules adopted by the veterans' home governing board for the admission and care of members in the home, the member becomes a charge of the county of residence at the time of admission. An individual may not gain or lose legal residence by reason of residence in or being a member of the veterans' home.

37-15-10.1. 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 priorities for admission to the facility appropriate to the different levels of care that are provided by the veterans' home. The priorities for admission must be established by rule as provided under chapter 28-32.

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

37-15-12. Federal aid accepted for 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.

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. The state treasurer shall deposit such money to the credit of the veterans' home operating fund for the use and benefit of the veterans' home.

37-15-14. Veterans' home operating fund - Moneys for the maintenance of the veterans' home to be deposited with state treasurer. A special fund, to be known as the veterans' home operating fund, must 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 these 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, except as provided for in section 37-15-21, must be placed in the veterans' home operating fund for the use and maintenance of the veterans' home.

37-15-14.1. Fees for residents of veterans' home - Special fund.

1. The veterans' home governing board may establish fees to be paid by members of the veterans' home. The fees must be based on the adjusted income of each member, but may not exceed forty-nine percent of the average daily per member cost. The fees must be set under a formula determined by the veterans' home governing board and designed to assure dignity and equity in the charge. The veterans' home governing board may reconsider its action establishing fees, amend or rescind the fees, or reinstate fees previously rescinded. The administrator of the veterans' home shall collect monthly any fees 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 expended by the member for hospitalization due to illness or injury.
 - b. Moneys expended by the member for other medical care or treatment, or for required medicines.
 - c. Such other receipts or expenditures as the veterans' home governing board may permit to be deducted in individual cases.
3. All moneys received as a result of charging the fees authorized by subsection 1 must be deposited in the veterans' home operating fund.

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

37-15-16. Administrator shall take charge of unclaimed estates of small value. If a member of the veterans' home dies leaving property of the value of three thousand dollars or less, the administrator immediately shall take charge of the property. If within forty-five days of the date of death a valid claim of any heir or devisee is not made for the property and an

application or petition has not been filed for issuance of letters of administration, the administrator shall convert the property into cash without probate or other proceedings and make payment first toward reasonable funeral expenses and second toward reasonable and necessary medical and hospital expenses of the last illness of the decedent. If any cash remains, the administrator shall deposit the cash with the state treasurer who shall credit it to the veterans' home operating fund. The administrator shall make a report of the administrator's action to the administrative committee on veterans' affairs. The report must be audited by, and included in the records of, the committee.

37-15-17. Intestate members leaving estates valued in excess of three thousand dollars - Administrator to administer estate. If a member of the veterans' home dies leaving property in excess of three thousand dollars in value not disposed of by will, the administrator is entitled to letters of administration for the estate. The administrator shall apply to the proper court for letters of administration, qualify as administrator, and distribute and dispose of the estate. If a valid claim is not made to the 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 must be deposited with the state treasurer for the benefit of the veterans' home operating fund.

37-15-18. Administrator of estate - Bond not required - Fees - Allowance of fees by district court. Upon becoming administrator of any estate under section 37-15-17, the administrator of the veterans' home is not required to give bond and may not charge or receive any compensation for the administrator's services as administrator of the estate. The district court serving the county where the administration proceedings are conducted may not allow any charge or fee in connection with the administration proceedings other than the actual disbursements of the administrator.

37-15-19. Biennial report. The administrator of the veterans' home may submit a biennial report to the governor and the secretary of state in accordance with section 54-06-04.

37-15-21. Administrator may accept gifts, donations, or bequests. The administrator for and in behalf of the veterans' home may accept and expend funds from any source, including federal or private sources and donations, gifts, or bequests offered or tendered to, or for the benefit of, the veterans' home to be used to benefit the veterans' home. All moneys received or accepted must be used for the specific purposes for which they were given or donated. This authority applies and is retroactive to any or all gifts, donations, or bequests already tendered, offered, or made. The veterans' home may establish and maintain its own local fund to administer moneys received under this section. All interest, rent, or income from moneys or property received under this section must be deposited in the veterans' home operating fund unless by the terms of acquisition the moneys are required to be maintained in a different manner.

37-15-22. Telephone services. Notwithstanding any other provision of law, the veterans' home may purchase or arrange for independent third-party telephone services.

CHAPTER 37-18 DEPARTMENT OF VETERANS' AFFAIRS

37-18-01. Department established - Commissioner. There is hereby established a department of veterans' affairs under the supervision and control of a commissioner known as commissioner of veterans' affairs, hereinafter referred to as the commissioner.

37-18-04. Duties of commissioner. It is the duty of the commissioner to coordinate agencies or instrumentalities of the state set up to render service and benefits to returning veterans; to have charge of and implement programs and benefits authorized by statute; to assist or represent veterans or their widows, administrators, executors, guardians, or heirs, in processing claims; to advise and assist veterans in taking advantage of the provisions of the Servicemen's Readjustment Act of 1944 [Pub. L. 78-346; 58 Stat. 291], or any similar or related measures afforded by the federal government; to provide counties with recommended qualifications and standards for county veterans' service officers; to assist counties with training of county veterans' service officers; to provide county veterans' service officers with educational materials; to assist county veterans' service officers in the performance of their duties; to disseminate information; and to do any and all things necessary and proper for the purpose of carrying out the intent and purposes of this chapter.

37-18-05. Seal of commissioner - Power to administer oaths and make certifications. The commissioner shall have a seal of office and may administer oaths and take acknowledgments in connection with the prosecution of any claim for compensation, hospitalization, insurance, or other aid or benefits. The commissioner may certify to the correctness of any document or documents which may be submitted in connection with any such application.

37-18-06. Establishment of divisions - Assistants. The commissioner is hereby authorized and empowered to establish within the department a claims division, a loan division, a field division, and such other divisions as from time to time may become necessary to carry out the purposes of the chapter; to appoint such assistants as may be necessary; and to prescribe regulations and rules of procedure.

37-18-07. Commissioner - Appointment - Qualifications - Term - Salary. The appointment, qualifications, term of office, and salary of the commissioner must be as prescribed in section 37-18.1-03. The commissioner must be allowed such amounts for travel, clerkhire, and expenses as may be prescribed from time to time by legislative appropriations.

37-18-08. Office of commissioner - Where located. The office of the commissioner shall be located in the same city as the principal office of the veterans' administrator for this state. If the veterans' administrator is removed from the state, such commissioner's office must be located in the state capitol.

37-18-11. Release of information and records - Confidential nature. All records and papers pertaining or relating to veterans which are transmitted by the United States government to the department of veterans' affairs must be kept and maintained by said department under the following provisions and conditions:

1. All records and papers of the department are to be utilized in the manner to best serve the public interest, but the veteran's right of privacy as to information pertaining to the veteran's military or naval service and to confidential information contained in the veteran's application for benefits will be respected.

2. All reports of investigation made by employees of the department or at the direction of the department for official departmental purposes are for the use of the commissioner and the commissioner's staff only. Materials and information which disclose the investigative techniques of the department or the identity of confidential informants and material received in confidence by representatives of the department will not be released.
3. Records pertaining to any application for benefits, whether pending or adjudicated, will be deemed confidential and no disclosure therefrom will be made except in the circumstances and under the conditions set forth in this chapter, and any person making application for benefits must hereinafter be referred to as the applicant.
4. An applicant may not have access to official department records concerning the applicant, but information from official records may be disclosed to an applicant or the applicant's duly authorized representative as to matters concerning the applicant.
5. "Duly authorized representative" is defined as any person authorized in writing by the applicant to act for the applicant, or the applicant's legally constituted representative if the applicant is incompetent or deceased. If for proper reason no such representative has been or will be appointed, the applicant's spouse, an adult child, or if the applicant is unmarried, either of the applicant's parents shall be recognized as the duly authorized representative of the applicant.
6. Medical information may be disclosed as follows:
 - a. Except as otherwise required by law, information contained in medical records on file shall be disclosed to the resident on request.
 - b. Information contained in medical records of residents and beneficiaries pertaining to medical history, diagnosis, findings, or treatment may be disclosed directly to physicians and hospitals for treatment, payment, and health care operations, and as otherwise authorized by law. This information is to be treated as confidential information. This information also may be disclosed without the consent of the resident or the resident's personal representative when a request for the information is received from the veterans' administration, the United States public health service, the superintendent of a state hospital, a commissioner or head of a state department of mental hygiene, or head of a state, county, or city health department and the disclosure is required by law, or for the purpose of treatment, payment, or department and the disclosure is required by law, or for the purpose of treatment, payment, or health care operations
7. Information contained in loan files may be made available to any party having an interest in such loan transaction upon approval by the director or pursuant to rules and regulations promulgated by the director.
8. Information contained in department files required for official purposes by any agency of the United States government or by any agency of the state of North Dakota, or by any law enforcement or public welfare agency of any North Dakota county or municipality may be furnished in response to an official

request, written or oral, from such agency. The requesting agency must be asked to specify the purpose for which such information is to be used.

9. Subject to the limitations of any other law, members of the legislative assembly may be furnished such information contained in department files as may be requested for official use.
10. A county veterans' service officer may be permitted to inspect records pertaining to any application for benefits in which the officer's office may be directly involved upon the condition that only such information contained therein as may be properly disclosed will be disclosed by the officer only to the applicant or if the applicant is incompetent, to the applicant's legally constituted representative
11. When records pertaining to any application for benefits are requested for use in any judicial proceedings, they will be released only upon service of a proper subpoena and upon the condition that they will be returned upon conclusion of such proceedings.
12. Addresses of applicants from department records will not be furnished, person to whom it may not be furnished, the person making the request will be informed that correspondence enclosed in an unsealed envelope showing no return address, with the name of the addressee thereon, and bearing sufficient postage to cover mailing costs will be forwarded by the department. At the time the correspondence is forwarded, the department's return address will be placed on the envelope. If undelivered mail is returned to the department, the original sender will be notified thereof, but the envelope will be retained by the department. In no event will letters be forwarded for the purposes of debt collection, canvassing, or harassment.
13. Separation documents evidencing service in the armed forces of the United States will be considered confidential and privileged, anything contained in Subsections 4 through 10 notwithstanding. Examination of such records will be limited to authorized employees of the department and information entered thereon will be disclosed only to interested governmental agencies for the purpose of assisting veterans and their dependents to obtain the rights and benefits to which they may be entitled.

37-18-12. Funding authority - Continuing appropriation. The department of veterans' affairs may accept and expend funds from any source, including federal or private sources, to be used to assist veterans or qualified veterans' spouses in obtaining assistance and to pay other expenses authorized by law incurred in carrying out programs of benefit and service for resident North Dakota veterans as authorized by the administrative committee on veterans' affairs with the approval of the emergency commission. However, all interest earnings from the veterans' postwar trust fund received by the department of veterans' affairs from the administrative committee on veterans' affairs are appropriated to the department on a continuing basis.

37-18-13. Records. The department of veterans' affairs may receive from the United States such records of veterans as the United States may wish to turn over to the department of veterans' affairs and same shall keep and maintain the records as provided in this chapter.

37-18-14. Department of veterans' affairs employees - Conservatorship activities prohibited. An employee of the department of veterans' affairs may not serve as a conservator for an individual who is receiving benefits or services from the department, except if the individual is the spouse or an immediate family member of the employee.

CHAPTER 37-18.1 ADMINISTRATIVE COMMITTEE ON VETERANS' AFFAIRS

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, must hereinafter be referred to as the committee. The committee must consist of three ex officio nonvoting members and fifteen voting members. The adjutant general, the center director of the veterans' administration, and the executive director of job service North Dakota are 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, the veterans of World War 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 fifteen nominees, three from each list, five of whom must be appointed to a term of three years, five of whom must be appointed to a term of two years, and five of whom must 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 five nominees, to fill expiring terms of voting members of the committee. Each such appointment must be for a term of three years, or until a successor is appointed and qualified. All terms 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 must be made for the remainder of the unexpired term.

37-18.1-02. Chairman - Secretary - Duties - Terms - Meetings. A chairman and a secretary of the committee must be appointed by the governor from among the voting membership of the committee. Such appointment must be made annually, with the term of office to begin on the first day of July of the year specified and to end on the thirtieth day of June of the following year. Meetings of the committee must be held upon the call of the chairman, at such times and places as may be selected by the chairman, and upon due notice to committee members by the secretary. Meetings must also be called by the chairman upon the written request of any four voting members of the committee. A majority of the members of the committee is required for a quorum, and a majority of the members present voting in favor

thereof is required for any action.

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

1. The chairman and secretary of the committee, acting jointly, shall appoint a seven-member governing board for administration of the veterans' home, from within or outside the committee, subject to ratification of a majority vote of the committee, and shall establish term lengths for service on the governing board. The governing board has all ordinary powers required of a governing board, including the power to establish qualifications for and selection of an administrator and to establish an appropriate salary structure, subject to limitations of legislative appropriation. The administrator serves at the pleasure of the governing board.
2. The chairman and secretary of the committee jointly shall appoint a subcommittee to be responsible for supervision and government of the department of veterans' affairs. Once appointed, a subcommittee member may continue to serve as long as the member remains a voting member of the committee, unless removed from the subcommittee by joint action of the committee chairman and secretary. A member of the subcommittee may not serve on the governing board of the veterans' home. Each nominating organization listed in section 37-18.1-01 must have at least one voting member nominated by the organization serving on the subcommittee. The subcommittee shall select by majority vote of the members a chairman to preside for the term of one year.
3. The committee shall appoint the commissioner of the department of veterans' affairs. The commissioner must be a bona fide resident of the state, and must qualify as a veteran as defined in section 37-01-40. The commissioner serves at the pleasure of the committee. The committee shall determine the salary paid to the commissioner of the department of veterans' affairs within the limits of legislative appropriation. The commissioner of veterans' affairs shall serve as the executive secretary for the subcommittee. The commissioner has no vote in the affairs of the subcommittee.
4. The committee shall, under recommendation from the board or the subcommittee, 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 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. The board governing the veterans' home and the subcommittee governing the department of veterans' affairs shall conduct an annual performance evaluation of the administrator and commissioner, respectively, with the evaluation presented to the committee. The board and subcommittee shall create and implement a strategic plan for the veterans' home and the department of veterans' affairs,

respectively. The board and the subcommittee annually shall report as to the status of the respective strategic plan to the committee. After receiving a report, the committee shall submit the report to the governor.

37-18.1-04. Committee members not to receive compensation - Expenses permitted. Committee members may 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 veterans' home to each of their respective subcommittee members incurring the expenses. The payment must be made by warrant-check drawn by the office of management and budget upon the submission of a proper voucher to it, signed by the commissioner of veterans' affairs or the administrator of the veterans' home, as the case may be.

CHAPTER 37-19.1 VETERANS' PREFERENCES

37-19.1-01. Definitions. As used in this chapter:

1. "Agency" or "governmental agency" means all political subdivisions and any state, including any state agency, board, bureau, commission, department, officer, and any state institution or enterprise authorized to employ individuals either temporarily or permanently.
2. "Chief deputy" means the individual who is appointed by an elected or appointed official under express statutory authority to hire a chief deputy and who is authorized to act on behalf of that official. The term does not include an individual appointed to a position that must be filled under a competitive personnel system.
3. "Competitive personnel system" means a system that rates applicants for a position using an objective set of skills, knowledge, abilities, behaviors, or other characteristics required for the position.
4. "Disabled veteran" means a veteran who is found to be entitled to a service-Connected disability rating as determined by the United States veterans' administration.
5. "Justifiable cause" means grounds for action that are in accord with sufficient reason that can be justified or defended as correct. Justifiable cause not to hire a veteran must be something specific to that individual which renders the individual unsuitable for the position.
6. "Political subdivision" means counties, cities, townships, and any other governmental entity created by state law which employs individuals either temporarily or permanently.
7. "Private secretary" means the individual who is appointed by an elected or appointed official under express legal authority to hire a private secretary or administrative assistant and who is authorized to handle correspondence, keep files, schedule

appointments, and do other clerical work of a more personal and confidential nature for that official, but does not include an individual appointed to a position that must be filled under a competitive personnel system.

8. "Veteran" means a North Dakota resident who is a wartime veteran as defined in subsection 2 of section 37-01-40.

37-19.1-02. Public employment preference to veterans - Residency requirements.

1. Veterans are entitled to preference, over all other applicants, in recruitment and selection processes by governmental agencies, provided that such veteran is a United States citizen at the time of application for employment. Veterans qualified for preference may not be disqualified from holding any position with an agency because of physical or mental disability, unless the disability renders them unable to properly perform the duties of the position applied for. To receive veterans' preference, an applicant must submit the following documentation:

- a. An applicant claiming veterans' preference shall provide a copy of report of separation DD-214.

- b. An applicant claiming disabled veterans' preference shall provide a copy of report of separation DD-214 and a letter less than one year old from the veteran administration indicating the veteran's disability status.

- c. An applicant claiming veterans' preference as an eligible spouse of a deceased veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and the veteran's death certificate.

- d. An applicant claiming disabled veterans' preference as an eligible spouse of a disabled veteran shall provide a copy of the marriage certificate, the veteran's report of separation DD-214, and a letter less than one year old from the veterans' administration indicating the veteran's disability status.

2. When a veteran applies for employment to a position that is not being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the veteran. A disabled veteran is entitled to a preference superior to that given other veterans under this section, which preference must be accorded in the manner provided in this section. If the group of eligible individuals includes either veterans or disabled veterans, the employing authority of that particular agency or governmental agency shall make a selection for the available position as follows:

- a. A disabled veteran is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed. If the list includes two or more disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the

qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A disabled veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.

b. If the group of eligible individuals does not include one or more disabled veterans and consists only of veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and, in the absence of justifiable cause, documented in writing, for not making that selection, must be so employed.

c. If the group of eligible individuals includes nonveterans and veterans, but not disabled veterans, then the employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing. A veteran from the group of eligible individuals is first entitled to the position and must be employed unless there is justifiable cause that is documented in writing for not employing that veteran.

3. When a veteran applies for employment to a position that is being filled through a competitive personnel system, the officer, board, or person whose duty it is to employ an individual to fill the available position shall investigate the qualifications of the veteran. If the veteran is found to possess the qualifications required for the position applied for, whether educational or by way of prior experience, and is physically and mentally able to perform the duties of the position applied for, the officer, board, or person shall employ the following:

a. No distinction or discrimination may be made in the administration of the competitive personnel system examination because the applicant may be a veteran.

b. Upon receipt of proof required in subsection 1, on a one hundred point scale, the examiner shall add five points for a veteran and ten points for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score. If a scale other than a one hundred point scale is used, the examiner shall add five percent of the scale used for a veteran and ten percent of the scale used for a disabled veteran to the examination grade of the applicant. The total is the veteran's examination score.

c. The employing authority shall designate a prescribed number of eligible individuals to be considered from the top number of the group of eligible candidates in rank order, from highest to lowest, based on the applicant's final score.

- d. The employing authority shall fill the position from the group of eligible individuals to be considered. The employing authority may further inquire into the qualifications of each eligible individual from within that group through means including interviews, background checks, and skills testing.
4. This section does not apply when the position to be filled is that of a superintendent of schools, teacher, administrative head of a department required by law, or the chief deputy or private secretary of an elected or appointed official; the chancellor and vice chancellors of the board of higher education; and presidents or executive deans, vice presidents, assistants to the president, provosts, instructors, and athletic team coaches of board institutions. Temporary committees and individual or group appointments made by the governor or legislative assembly are also excepted from the provisions of this section. If an exempt position is advertised, the advertisement must state that veterans' preference does not apply to the position being advertised.
5. An employee of a state agency is not eligible for preference when applying for a different job within the same state agency or other state agencies. An employee of a political subdivision is not eligible for preference when applying for a different job within the same political subdivision.

37-19.1-03. Preferences to be granted veterans' spouses.

1. The unremarried spouse of a veteran who died while in service, or later died from a service-connected cause or causes, is entitled, if the person is otherwise qualified, to the employment preference given to a veteran under section 37-19.1-02 in the manner provided therein.
2. The spouse of a disabled veteran, who has a one hundred percent service-connected disability as determined by the department of veterans' affairs, or who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs, is, if the disabled veteran is unable to exercise the veteran's right to a veteran's employment preference due to the veteran's disability, entitled, if the person is otherwise qualified, to the employment preference given to a veteran under section 37-19.1-02 in the manner provided therein.

37-19.1-04. Refusal to give preference - Retaliatory action or removal - Remedies - Procedures.

1. If a veteran, or a qualified veteran's spouse, hereafter known as the applicant, is not given the preference provided in section 37-19.1-02 or 37-19.1-03, the applicant, within fifteen days after notification by certified mail that employment has been refused, may request a hearing as provided in subsection 3. The notification from the employer must include the reasons for nonselection, inform the applicant of the right to an appeal hearing, inform the applicant of the requirement that the request for a hearing must be filed by certified mail within fifteen days after the notification, inform the applicant that a request for an appeal hearing must be made to the commissioner of veterans' affairs at the included commissioner's mailing address, and inform the applicant that if the applicant requests an appeal, the applicant must mail a copy of the request for an appeal hearing to the employer or employing agency. The applicant's request for a hearing must be in writing, must include a

copy of the employer's notification that employment has been refused, and must be mailed to the commissioner of veterans' affairs by certified mail. A copy of the written request must be mailed to the employer or employing agency by certified mail. The applicant is entitled to immediate employment in the position for which application was originally made, or an equivalent position, together with backpay and benefits from the date the appointment should have been made less amounts otherwise earnable through due diligence, if the hearing officer finds in favor of the applicant.

2. Any person who has exercised the right to an employment preference under this chapter, and who, within one year after exercise of that right:
 - a. Is discharged;
 - b. Has had compensation reduced; or
 - c. Is otherwise subject to action by the employing agency designed to cause the veteran or qualified veteran's spouse to resign or quit employment, is entitled to a hearing if the person believes that the employing agency took any of the above-described action due to the exercise of employment preference. The hearing must be held before a hearing officer as provided in subsection 3. If the hearing officer finds that the employing agency took any of the actions described in subdivision a, b, or c due to the person's exercise of the right to an employment preference, the hearing officer shall order the employing agency to cease and desist from such action or to reinstate the veteran or qualified veteran's spouse. The request for a hearing under this subsection must be in writing addressed to the commissioner of veterans' affairs. The request for a hearing must identify the employer or employing agency that took any action described in subdivision a, b, or c and describe the action taken. A copy of the written request must be mailed to the employer or employing agency. The request, addressed to the commissioner of veterans' affairs and the copy to the employer or employing agency, must be made by certified mail within fifteen calendar days after any action described in subdivision a, b, or c is taken by the employing agency.
3. Within fifteen days after receiving a request from an applicant or person under subsection 1 or 2, the commissioner of veterans' affairs may request the director of the office of administrative hearings to designate a hearing officer to hear the grievance arising under subsection 1 or 2. The commissioner shall notify the employer or employing agency that a request for a hearing has been made. The office of administrative hearings is entitled to be reimbursed by the employer or employing agency for all hearing officer services rendered and expenses incurred in performing these duties. The hearing officer shall hold the hearing within thirty calendar days after the hearing officer request is received by the director of the office of administrative hearings. Notwithstanding the time limitation, the hearing officer may postpone or continue the hearing for good cause, at the request of a party. At the hearing, both parties may be represented by counsel. If the hearing is requested pursuant to subsection 1, the employing agency has the burden of proving that the veteran or the qualified veteran's spouse did not possess the qualifications required for the position. If the hearing is requested pursuant to subsection 2, the employing agency has the burden of proving that any action which was taken was not taken because of exercise of the right to an employment preference. The hearing officer

shall issue findings of fact, conclusions of law, and an order within fifteen days after the hearing is concluded, briefs filed, and arguments closed. The order is binding on both parties, subject to appeal.

4. Any party aggrieved by the findings of fact, conclusions of law, and order of the hearing officer may appeal in the manner provided for in chapter 28-32, except that the appellant need not execute an undertaking.

CHAPTER 37-26

OPERATION DESERT SHIELD AND DESERT STORM VETERANS' COMPENSATION

37-26-01. **Definitions.** As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
 - a. The surviving unremarried husband or wife as of the date of signing the application;
 - b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;
 - c. The surviving person standing in loco parentis; or
 - d. The surviving parent or parents.
3. "Domestic service" means service by a veteran during the period of service which is not foreign service.
4. "Foreign service" means service by a veteran during the period of service anywhere in the Persian Gulf theatre.
5. "Honorable and faithful" means service evidenced by:
 - a. An honorable discharge, or its equivalent;
 - b. In the case of an officer, a certificate of service; and
 - c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.
6. "Period of service" means the period of time beginning August 2, 1990, and ending June 30, 1993.
7. "Resident" means a person who:
 - a. Was born in and lived in the state of North Dakota until entrance into the

armed forces of the United States;

- b. Was born in, but was temporarily living outside the state of North Dakota, not having abandoned North Dakota residence at the time of entrance into the armed forces of the United States; or
- c. Was born elsewhere but had resided within the state of North Dakota for the last six months before entrance into military service and had prior to or during that six-month period:
 - (1) Voted in the state of North Dakota;
 - (2) Was an emancipated minor during such period of residence or had lived with a parent or person standing in loco parentis who was a resident; or
 - (3) Was not registered for voting in another state after being a resident.
- d. "Resident" also means a veteran who was a bona fide resident of the state of North Dakota at the time of entering the armed forces, as determined under the rules of the adjutant general and the laws of this state. A person is not a resident of North Dakota for the purpose of receiving any benefits under this chapter if the person was on continuous active duty in the armed forces, immediately prior to August 2, 1990, and has not established actual abode in North Dakota prior to April 18, 1991.

- 8. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 673 or 10 U.S.C. 673(b) 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.

37-26-02. Payment of adjusted compensation for domestic and foreign service.

Each veteran is entitled to fifty dollars for each month or major fraction thereof for domestic service and one hundred dollars for each month or major fraction thereof for foreign service. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general after April 1, 1991, but not later than six months after the end of the period of service.

37-26-03. Payment to beneficiary of veteran who died in active service. In the case of a veteran who died as a result of active service during the period of service, the beneficiary of such veteran is entitled to a payment of two thousand five hundred dollars in lieu of any other compensation under this chapter.

37-26-04. Application. Each veteran or veteran's beneficiary entitled to payment under this chapter shall make application to the adjutant general of the state of North Dakota upon a form prescribed by the adjutant general. If the veteran is incompetent or the veteran's

beneficiary is incompetent or a minor, application may be made by the guardian of the veteran or beneficiary, and if there is no guardian, the person determined by the adjutant general to have assumed the major responsibility for the care of the veteran or beneficiary and to be a proper person to receive payment for the veteran or beneficiary may make the application. If a veteran is hospitalized in a state, county, or federal institution and no application has otherwise been approved by the adjutant general, the person in charge of such institution may make the application with the approval of the adjutant general. For the purpose of this section, the word "minor" does not include the unremarried spouse of a veteran. Each application must be accompanied by a certified copy of honorable discharge or other evidence of honorable and faithful service. Each application must be subscribed and sworn to by the applicant in such manner as may be prescribed by the adjutant general. The adjutant general shall provide by rule for an endorsement of the evidence of honorable and faithful service if application for payment has been made.

37-26-05. Method of payment - Deduction of sums due veterans' aid fund. Upon submission of satisfactory proof that the applicant is entitled to payment under this chapter, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and forward a voucher for the payment to the office of management and budget, which shall cause the warrant-check to be issued for the amount of the claim. Payment must be made from funds appropriated by the legislative assembly. If the veteran or the applicant for payment under this chapter is indebted to the veterans' aid fund of the state of North Dakota, the adjutant general shall determine the amount of such indebtedness and certify such determination to the office of management and budget together with the record of payment due. Within the limits of the payment due, the amount of such indebtedness must be paid to the veterans' aid fund and the applicant must be paid any remainder to which the veteran is entitled.

37-26-06. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted. Payments under this chapter are exempt from all state and local taxes and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-26-05.

37-26-07. Duty of adjutant general - Finality of decisions - Questions of residence subject to court review. The adjutant general shall administer this chapter. The adjutant general shall prepare and distribute application blanks and investigate all claims and applications filed. If the adjutant general is satisfied of the proof of a claim and application, the adjutant general shall approve and direct payment of the claim. The adjutant general may adopt any rules necessary to the efficient administration of this chapter. The necessary books, papers, records, cases, and equipment used in the administration of this chapter shall become a part of the permanent records of the office of the adjutant general. The adjutant general may determine any claim in any case if doubt arises as to the eligibility of an applicant to receive payment and the decision of the adjutant general in such case is final, except on questions of residence which are subject to review by a court of competent jurisdiction. The adjutant general shall authorize payment for prisoners of war upon their release and return.

37-26-08. Penalty for false statement. Any person who willfully makes a false statement in the application for benefits under this chapter is guilty of a class A misdemeanor.

CHAPTER 37-27
WAR AND ARMED CONFLICT VETERANS' COMPENSATION

37-27-01. Definitions. As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
 - a. The surviving unremarried spouse as of the date of signing the application;
 - b. The surviving child or children and the lawful issue of a deceased child or children by representation;
 - c. The surviving person standing in loco parentis; or
 - d. The surviving parent or parents.
3. "Honorable and faithful" means service evidenced by:
 - a. An honorable discharge, or its equivalent;
 - b. In the case of an officer, a certificate of service; and
 - c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.
4. "Period of service" means:
 - a. For the Persian Gulf War, the period of time beginning August 2, 1990, and ending June 30, 1993;
 - b. For the Grenada armed conflict, the period of time beginning October 23, 1983, and ending November 21, 1983;
 - c. For the Lebanon armed conflict, the period of time beginning June 1, 1983, and ending August 1, 1984; or
 - d. For the Panama armed conflict, the period of time beginning December 20, 1989, and ending January 30, 1990.
5. "Qualifying service" means service by a veteran during a period of service anywhere in a theatre or area of armed conflict as evidenced by award of an armed forces expeditionary medal or other campaign service medal.
6. "Resident" means a person who has filed a resident North Dakota income tax return for the year prior to May 3, 1993, and who:
 - a. Was born in and lived in North Dakota until entrance into the armed forces of

the United States;

- b. Was born in, but was temporarily living outside North Dakota, not having abandoned North Dakota residence at the time of entrance into the armed forces of the United States;
 - c. Was born elsewhere but had resided in North Dakota for the last twelve months before entrance into military service and had prior to or during that twelve-month period:
 - (1) Voted in North Dakota;
 - (2) Was an emancipated minor during the period of residence or had lived with a parent or person standing in loco parentis who was a resident;
or
 - (3) Was not registered for voting in another state after being a resident; or
 - d. Was a bona fide resident of North Dakota at the time of entering the armed forces, as determined under the rules of the adjutant general and the laws of this state. A person is not a resident of North Dakota for the purpose of receiving any benefits under this chapter if the person was on continuous active duty in the armed forces for a period of seven years or more, immediately prior to the qualifying period of service, and has not established actual abode in North Dakota prior to May 3, 1993.
7. "Theatre or area of armed conflict" means any area the president designated a combat zone by executive order for the Persian Gulf War or the Grenada, Lebanon, or Panama armed conflicts.
8. "Veteran" means a member of the regular active duty armed forces of the United States who performed honorable and faithful service at any time during a period of service in the theatre or area of armed conflict, who was a resident of North Dakota, and who has not received a bonus or adjusted compensation from another state for the same period of service.

37-27-02. Payment of adjusted compensation for service. Each veteran is entitled to one hundred dollars for each month or any part of a month for qualifying service. The total compensation paid to any veteran for qualifying service under this chapter may not exceed one thousand dollars, except as provided in this section and section 37-27-03. If the veteran received a purple heart for qualifying service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications may be filed with the adjutant general after July 1, 1993, but not later than December 31, 1994.

37-27-03. Payment to beneficiary of veteran who died in active service. In the case of a veteran who died as a result of qualifying service during a period of service or who died while on orders to or from the Persian Gulf theatre or the Grenada, Lebanon, or Panama areas of armed conflict during a period of service, the beneficiary of the veteran is entitled to a

payment of two thousand five hundred dollars in lieu of any other compensation under this chapter.

37-27-04. Application. Each veteran or veteran's beneficiary entitled to payment under this chapter shall make application to the adjutant general upon a form prescribed by the adjutant general. If the veteran is incompetent or the veteran's beneficiary is incompetent or a minor, application may be made by the guardian of the veteran or beneficiary, and if there is no guardian, the person determined by the adjutant general to have assumed the major responsibility for the care of the veteran or beneficiary and to be a proper person to receive payment for the veteran or beneficiary may make the application. If a veteran is hospitalized in a state, county, or federal institution and no application has been approved by the adjutant general, the person in charge of the institution may make the application with the approval of the adjutant general. For the purposes of this section, the word "minor" does not include the unremarried spouse of a veteran. Each application must be accompanied by a certified copy of honorable discharge or other evidence of honorable and faithful qualifying service. Each application must be subscribed and sworn to by the applicant in the manner prescribed by the adjutant general.

37-27-05. Method of payment - Deduction of sums due veterans' aid fund. Upon submission of satisfactory proof that the applicant is entitled to payment under this chapter, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and forward a voucher for the payment to the office of management and budget, which shall cause the warrant-check to be issued for the amount of the claim. Payment must be made from funds appropriated by the legislative assembly. If the veteran or the applicant for payment under this chapter is indebted to the veterans' aid fund of the state of North Dakota, the adjutant general shall determine the amount of the indebtedness and certify the determination to the office of management and budget together with the record of payment due. Within the limits of the payment due, the amount of the indebtedness must be paid to the veterans' aid fund and the applicant must be paid any remainder to which the veteran is entitled.

37-27-06. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted. Payments under this chapter are exempt from all state and local taxes, including an income tax liability determined under section 57-38-30.3, and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-27-05.

37-27-07. Duty of adjutant general - Finality of decisions - Questions of residence subject to court review. The adjutant general shall administer this chapter. The adjutant general shall prepare and distribute application blanks and investigate all claims and applications filed. If the adjutant general is satisfied of the proof of a claim and application, the adjutant general shall approve and direct payment of the claim. The adjutant general may adopt any rules necessary to the efficient administration of this chapter. The necessary documents used in the administration of this chapter shall become a part of the permanent records of the office of the adjutant general. The adjutant general may determine any claim in any case if doubt arises as to the eligibility of an applicant to receive payment and the decision of the adjutant general in such case is final, except on questions of residence which are subject to review by a court of competent jurisdiction. The adjutant general shall authorize payment for prisoners of war upon their release and return.

37-27-08. Penalty for false statement. Any person who willfully makes a false statement in the application for benefits under this chapter is guilty of a class A misdemeanor.

CHAPTER 37-28 **MILITARY OPERATIONS ADJUSTED COMPENSATION**

37-28-01. Statement of public purpose. In order to ease the financial hardships and personal and family sacrifice sustained by members of the North Dakota national guard, and North Dakota residents of the reserve, and active duty component who were mobilized after December 5, 1992, in support of military operations around the world it is the intent of the legislative assembly that additional compensation be provided to those resident veterans of North Dakota and payment of that compensation is declared to be a public purpose. It is the further intent of the legislative assembly to encourage those North Dakota resident veterans to continue their voluntary membership in the national guard, reserve component, and active military force.

37-28-02. Definitions. As used in this chapter:

1. "Adjutant general" means the adjutant general of North Dakota.
2. "Beneficiary" in relation to a deceased veteran, means, in the order named:
 - a. The surviving unremarried husband or wife as of the date of signing the application;
 - b. The surviving child or children and the lawful issue of a deceased child or children by right of representation;
 - c. The surviving person standing in loco parentis; or
 - d. The surviving parent or parents.
3. "Domestic service" means service by a veteran during the period of service which is not foreign service.
4. "Foreign service" means service by a veteran after December 5, 1992, for which the veteran received an armed forces expeditionary medal or campaign badge or performed service overseas in direct support to the global war on terror.
5. "Honorable and faithful" means service evidenced by:
 - a. An honorable discharge, or its equivalent;
 - b. In the case of an officer, a certificate of service; and
 - c. In the case of a veteran who has not been discharged, a certificate from the appropriate service authority that the veteran's service was honorable and faithful.

6. "Period of service" means the period of time beginning December 5, 1992, and ending June 30, 2011.
7. a. "Resident" means a veteran who was a bona fide resident of the state of North Dakota at the time of mobilization or, in the case of an active component member, at the time of deployment for which the member received an expeditionary medal or campaign badge, as determined under the rules of the adjutant general and the laws of this state. "Resident" includes all mobilized members of the North Dakota national guard.
- b. "Veteran" means a member of the national guard or reserve component who was activated under 10 U.S.C. 12301, as effective through October 2004, and 10 U.S.C. 12302, as effective through 2004, and who completed honorable and faithful service of more than thirty days on active duty in the armed forces of the United States at any time during the period of service, or active component member awarded the expeditionary medal or campaign badge for service after December 5, 1992, who was a resident of the state of North Dakota, and who has not received bonus or adjusted compensation from another state for the period of service.

37-28-03. Payment of adjusted compensation for domestic and foreign service.

Each national guard or reserve component resident veteran mobilized stateside is entitled to fifty dollars for each month or major fraction thereof for domestic service. Each national guard, reserve, or active component resident veteran of foreign service who received the expeditionary medal or campaign badge is entitled to one hundred dollars for each month or major fraction thereof. If the veteran received a purple heart for foreign service, the veteran is entitled to a payment of two thousand five hundred dollars in lieu of monthly payments for adjusted compensation related to the mobilization during which the purple heart was earned. If the veteran is deceased, the veteran's beneficiary is entitled to any payments under this chapter to which the veteran would have been entitled. Applications for adjusted compensation may be filed with the adjutant general through June 30, 2011, or in the case of a soldier mobilized on June 30, 2011, not later than six months after the end of the mobilization period of service.

37-28-04. Payment to beneficiary of veteran who died in active service. In the case of a veteran who died as a result of active service during the period of service, the beneficiary of the veteran is entitled to a payment of five thousand dollars in lieu of any other compensation under this chapter.

37-28-05. Application. Each veteran or veteran's beneficiary entitled to payment under this chapter shall make application to the adjutant general of the state of North Dakota upon a form prescribed by the adjutant general. If the veteran is incompetent or the veteran's beneficiary is incompetent or a minor, application may be made by the guardian of the veteran or beneficiary, and if there is no guardian, the person determined by the adjutant general to have assumed the major responsibility for the care of the veteran or beneficiary and to be a proper person to receive payment for the veteran or beneficiary may make the application. If a veteran is hospitalized in a state, county, or federal institution and no application has otherwise been approved by the adjutant general, the person in charge of such institution may make the application with the approval of the adjutant general. For purposes of this section, the word "minor" does not include the unremarried spouse of a veteran. Each application must be accompanied by a certified copy of honorable discharge or other evidence of honorable and faithful service. Each application must be subscribed and sworn to by the applicant in such

manner as may be prescribed by the adjutant general. The adjutant general shall provide by rule for an endorsement of the evidence of honorable and faithful service if application for payment has been made.

37-28-06. Method of payment - Deduction of sums due veterans' aid fund. Upon submission of satisfactory proof that the applicant is entitled to payment under this chapter, the adjutant general shall compute the amount of payment due the applicant, make a record thereof, and forward a voucher for the payment to the office of management and budget, which shall cause the warrant-check to be issued for the amount of the claim. Payment must be made from funds appropriated by the legislative assembly. If the veteran or the applicant for payment under this chapter is indebted to the veterans' aid fund of the state of North Dakota, the adjutant general shall determine the amount of such indebtedness and certify such determination to the office of management and budget together with the record of payment due. Within the limits of the payment due, the amount of such indebtedness must be paid to the veterans' aid fund and the applicant must be paid any remainder to which the veteran is entitled.

37-28-07. Payments exempt from taxation and from execution - Assignments void - Debts to state and political subdivisions not deducted. Payments under this chapter are exempt from all state and local taxes, including taxes determined under section 57-38-30.3, and from levy, garnishment, attachment, and sale on execution. Any pledge, mortgage, sale, assignment, or transfer of any right, claim, or interest in any claim or payment under this chapter is void and payment to the veteran may not be denied because of any sums owed to the state or any political subdivisions, except as provided in section 37-26-05.

37-28-08. Duty of adjutant general - Finality of decisions - Questions of residence subject to court review. The adjutant general shall administer this chapter. The adjutant general shall prepare and distribute application blanks and investigate all claims and applications filed. If the adjutant general is satisfied of the proof of a claim and application, the adjutant general shall approve and direct payment of the claim. The adjutant general may adopt any rules necessary to the efficient administration of this chapter. The necessary books, papers, records, cases, and equipment used in the administration of this chapter become a part of the permanent records of the office of the adjutant general. The adjutant general may determine any claim in any case if doubt arises as to the eligibility of an applicant to receive payment and the decision of the adjutant general in such case is final, except on questions of residence which are subject to review by a court of competent jurisdiction. The adjutant general shall authorize payment for prisoners of war upon their release and return.

37-28-09. Penalty for false statement. Any person who willfully makes a false statement in the application for benefits under section 37-28-05 is guilty of a class A misdemeanor.

CHAPTER 39-03 HIGHWAY PATROL

39-03-04. Qualifications of patrolmen - Veterans have preference. No person may be appointed as a patrolman unless the person has all of the following qualifications:

1. Has passed such physical examination and such other qualification test as may be required by the superintendent.

2. Is of good moral character and temperate habits.
3. Has been a citizen of the United States for not less than two years prior to the appointment.

Preference for appointment must be given at all times to honorably discharged veterans and citizens of the state of North Dakota, and all appointments must be made without regard to any political party affiliation of the applicant.

CHAPTER 39-04 MOTOR VEHICLE REGISTRATION

39-04-10.5. Prisoner of war plates - Transfer to certain surviving spouses - Retirement. On the death of a prisoner of war to whom was issued a special number plate under subdivision o of subsection 2 of section 39-04-18, the director shall comply with this section. If the deceased prisoner of war was survived by a spouse, the director shall transfer the number plate to that spouse's name, and the spouse may retain the number plate as an active plate. If the surviving spouse remarries, then within thirty days of that remarriage, the surviving spouse shall surrender the plate to the director. On receipt of a surrendered plate, on the death of the surviving spouse, or if the deceased prisoner of war had no surviving spouse, the director shall retire the number used on the number plate. On retirement of a number plate and at the request of the survivors of the deceased prisoner of war, the director shall issue to the survivors one commemorative plaque resembling the number plate that had been issued to the prisoner of war.

39-04-10.8. National guard number plates. The director, in cooperation with the adjutant general, shall issue distinctive number plates to members of the national guard. A plate issued under this section must bear the national guard insignia designated by the adjutant general and the letters "NG" before the number. The director may issue the plates to the owner of a passenger motor vehicle or a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.84 kilograms]. On request of the director, the adjutant general shall certify those members of the national guard eligible to receive the plates. On payment of all other fees required under this chapter for registration of the motor vehicle, and payment of an additional fee of not more than five dollars to cover the cost of issuing the distinctive number plates, the applicant is entitled to issuance of the distinctive number plates. A registrant is eligible for distinctive number plates under this section if the registrant is a member of the national guard or if the registrant has retired from the national guard after twenty years or more of military service. On termination of the registrant's eligibility, the registrant shall return the distinctive number plates to the director, who shall reissue for a fee of not more than five dollars another number plate to which that registrant is entitled under this chapter. The director and adjutant general shall cooperate in establishing procedures to implement this section.

39-04-10.10. North Dakota veterans' number plates.

1. The director may issue distinctive number plates to individuals eligible for interment in the North Dakota veterans' cemetery. The director shall issue a number plate under this section upon receiving:
 - a. Payment of all other fees required under this chapter for registration of a motor

vehicle;

- b. Payment of an initial fee of fifteen dollars of which ten dollars is to be deposited in the highway tax distribution fund and five dollars is to be deposited in the veterans' cemetery maintenance fund; and
- c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general.

2. The department shall collect the fees and the ten dollar surcharge under this section. The department shall report to the legislative assembly on the funds collected under this section during each legislative session. The department shall pay the funds collected under subdivisions b and c of subsection 1 to the adjutant general monthly, who then, within ten days of receipt of the funds, shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and the ten dollar surcharge shall be divided with five dollars being deposited in the veterans' cemetery trust fund and five dollars being deposited in the veterans' cemetery maintenance fund in the state treasury. Investment of the fund is the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. At the request of the adjutant general, the interest in the veterans' cemetery trust fund must be deposited in the veterans' cemetery maintenance fund for the purpose of funding salaries and maintenance of the veterans' cemetery.

3. The veterans' cemetery trust fund may accept funds from private and federal sources.

39-04-10.14. North Dakota gold star number plates - Definition - Description - Fee.

1. The director may issue distinctive number plates to a surviving spouse, parent, including stepmother, stepfather, parent through adoption, and foster parent who stands or stood in loco parentis, grandparents, child, including stepchild and child through adoption, and sibling, including half-brother and half-sister, of a member of the armed forces of the United States who died while serving on active duty during a time of military conflict. The director shall issue a number plate under this section upon receiving:
 - a. Payment of all other fees required under this chapter for registration of a motor vehicle;
 - b. Payment of an initial fee of fifteen dollars, of which ten dollars is to be deposited in the highway tax distribution fund and five dollars is to be deposited in the veterans' cemetery maintenance fund; and
 - c. Verification of subsequent payments of an annual surcharge of ten dollars paid to the adjutant general.
2. The department shall collect the fees and the ten dollar surcharge under this section. The department shall report to the legislative assembly on the funds collected under

this section during each legislative session. The department shall pay the funds collected for the veterans' cemetery and adjutant general to the adjutant general monthly. Within ten days of receipt of the funds, the adjutant general shall deposit five dollars of each initial fee in the veterans' cemetery maintenance fund and shall apportion the ten dollar surcharge and deposit five dollars in the veterans' cemetery trust fund and five dollars in the veterans' cemetery maintenance fund in the state treasury. The state treasurer may invest the fund in the same manner as the state investment board is authorized to make investments. At the request of the adjutant general, the interest in the veterans' cemetery trust fund must be deposited in the veterans' cemetery maintenance fund for the purpose of funding salaries and maintenance of the veterans' cemetery.

3. Plates issued under this section must bear a gold star emblem logo on the left side of the plate and the letters "GS" before the number. The director shall cooperate with the director of the department of veterans' affairs to design the gold star emblem logo. The director may issue one set of plates per eligible owner of a passenger motor vehicle or a truck the registered gross weight of which does not exceed twenty thousand pounds [9071.85 kilograms].
4. On request of the director, the department of veterans' affairs shall certify those surviving family members of deceased members of the United States armed forces listed above as eligible to receive the plates.
5. Once declared eligible for a gold star plate, the department may not remove the eligibility of a surviving family member.
6. Once a plate number is issued to an eligible family member, the department may not assign the plate to another eligible person.

39-04-18. Motor vehicles exempt from registration fees - Reciprocal use of state highways by foreign licensed motor vehicles.

1. Except as provided in this section, every motor vehicle as defined in section 39-01-01, trailer or semitrailer designed to be towed by a truck or truck tractor, and farm trailer operated or intended to be operated upon any highway, road, or street in this state must be registered annually with the department. Any vehicle being operated on highways, roads, or streets of this state must display license plates as furnished by the department upon payment of the fees prescribed in this chapter.

Upon satisfactory proof to the department that a motor vehicle owned by a resident of this state was not used upon any of the highways of this state in any one or more years, the motor vehicle may be registered upon payment of the registration fee for the current year.

Any resident of the state of North Dakota, serving in the armed forces of the United States for a period of time greater than one year, may relicense any motor vehicle owned by the veteran without paying any fee or penalties for the intervening years when the vehicle was not licensed, providing the veteran shows by suitable affidavit that the vehicle was not in use during any year in which it was not licensed. The vehicle must be licensed for the license fee applicable to the month of the year

in which application for license is made.

2. The following motor vehicles may be operated upon the highways, roads, and streets of this state without being registered, under such limitations as are herein specified; provided, however, that whenever the department determines that it is to the best interest of the state of North Dakota and determines by reciprocal agreement or otherwise that as great or greater privileges are not granted North Dakota residents while traveling in other states or territories, the department may cancel or limit the application of any exception to residents or motor vehicles from such other state or territory:
 - a. Farm tractors as defined in section 39-01-01, special mobile equipment and road rollers and other road construction or maintenance machinery that cannot be operated on the highways and streets of this state in a normal operating manner.
 - b. Motor vehicles owned by or in possession of Indian mission schools, by this state or any of its agencies, departments, or political subdivisions, including school districts possessing a motor vehicle or vehicles used for driver education instruction, or by any entity located upon the international boundary line between the United States of America and Canada used and maintained as a memorial to commemorate the long-existing relationship of peace and good will between the people and the governments of the United States of America and Canada and to further international peace among the nations of the world; provided, however, that the vehicles must display license plates provided by the department at actual cost. Upon request, qualifying law enforcement motor vehicles must be issued a license plate under section 39-04-10.9.

Each motor vehicle loaned or furnished by a licensed North Dakota motor vehicle dealer to a school district in North Dakota to be used exclusively for instructing pupils in the driver education and training program conducted by the school district will be assigned an official license plate. The license plates must be used only on the motor vehicles furnished by dealers and used in the driver education program, and for no other purpose except for garaging and safekeeping of the motor vehicle.

A person may not use a driver education motor vehicle bearing official license plates for any purpose other than driver education course instruction. A person is not in violation of this subdivision if the person is required by the dealer or a school administrator to house or otherwise protect the vehicle at the person's home or other facility.

- c. Motor vehicles registered in any other state or territory when coming into this state a distance not exceeding twenty miles [32.19 kilometers]; provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state. Nor may

such vehicles be required to pay any other tax, and no registration fee or tax may be required when such vehicles do not leave the incorporated limits of any city while in the state of North Dakota within a zone circumscribed by a line running parallel to the corporate limits of any city or contiguous cities and twenty miles [32.19 kilometers] distant therefrom. This section does not prevent trucks from coming into the state such distance as shall be necessary to reach the nearest railway shipping station.

- d. Motor vehicles owned and operated by the United States government, or any foreign government, or any of their agencies or departments; provided, however, that such motor vehicles must display identification plates.
- e. Passenger motor vehicles registered in any other state or territory; provided, however, that such motor vehicles have displayed thereon the current license plates issued by the state or territory in which they are registered and provided further that the owners or operators thereof are not residents of this state for any purpose and are not gainfully employed or stationed in this state.
- f. Motor vehicles owned and operated by a manufacturer of motor vehicles when such motor vehicles are operated or moved such distance as may be authorized by the director from the factory where manufactured or assembled, to a depot or place of shipment or other point of delivery; provided, however, that such vehicles have displayed in plain sight the name and address of the manufacturer and a written permit from local police authorities.
- g. Motor vehicles owned and operated by a licensed North Dakota motor vehicle dealer from a railway depot, warehouse, salesroom, or place of shipment; provided, however, that such vehicles have displayed in plain sight the name and address of the dealer and a written permit from the local police authorities.
- h. Motor vehicles owned and operated by nonresidents engaged in harvest of agricultural products from June first through December thirty-first of any one year; provided, however, that such motor vehicles have displayed thereon a decal or other means of identification issued by the director upon payment of a fee of fifty dollars.
- i. Vehicles owned by nonresident military personnel stationed in this state and operated by such military personnel or their dependents, provided such vehicle is registered in the state or territory whereof such military person is a resident, and provided further that current license plates from such state or territory are displayed on such vehicle.
- j. Motor vehicles not exceeding twenty-six thousand pounds [11793.40 kilograms] registered gross weight owned and operated by a disabled veteran under the provisions of Public Law 79-663 [38 U.S.C. 3901] or who has a one hundred percent service-connected disability as determined by the department of veterans' affairs who is entitled to display a distinctive license plate issued by the department upon the payment of a fee of five dollars. This exemption applies to no more than two such motor vehicles owned by a disabled veteran at any one time.

- k. Motor vehicles having not over two axles and not being used in combination owned and operated by nonresidents and any motor vehicle or combination of three axles or more operated in this state pursuant to a proportional licensing or other agreement or arrangement with any jurisdiction having motor vehicle .
- l. Motor vehicles owned and operated by a resident building mover or by a resident well driller; provided, however, that such vehicles are used only for moving buildings or building-moving equipment, or are used only for drilling water wells or moving water well-drilling equipment; provided, further, that such vehicles display a license plate issued by the director upon the payment of a fee of twenty-five dollars for two axle trucks, fifty dollars for tandem axle trucks and single axle truck-tractor units, and seventy-five dollars for each tandem axle truck-tractor unit.

Any vehicle which has been issued this special motor vehicle license may be registered under the regular motor vehicle registration law, by payment of the difference between the amount paid for the special motor vehicle license and the regular registration fee for such vehicle.

Any vehicle which has been issued this special motor vehicle license and is found being operated upon the highways of this state without being equipped with special house-moving or well-drilling equipment shall forfeit the fee paid and, in addition, must be required to register under the regular motor vehicle registration law of this state. None of the above limitations may be construed as restricting the operation of the special licensed vehicle when such operation would not require a greater fee than that paid for this operation.

- m. Any trailer, semitrailer, or farm trailer when the gross weight, not including the weight of the towing vehicle, does not exceed one thousand five hundred pounds [680.39 kilograms] and it is not for hire or commercial use, or when used to transport recreational vehicles or boats and it is not for hire or commercial use.
- n. Any vehicle which is driven or moved upon a highway only for the purpose of crossing the highway from one property to another. The crossing must be made at an angle of approximately ninety degrees to the direction of the highway.
- o. Passenger motor vehicles, house cars, or pickup trucks not exceeding ten thousand pounds [4535.92 kilograms] gross weight owned and operated by a resident who, while serving in the United States armed forces, was a prisoner of war and has received an honorable discharge from the United States armed forces; provided, however, that the vehicles display a distinctive license plate issued by the department upon the payment of five dollars. This exemption also applies to any passenger motor vehicle, house car, or pickup truck not exceeding ten thousand pounds [4535.92 kilograms] gross weight subsequently purchased or acquired by such a former prisoner of war; provided, that the exemption provided by this subdivision is allowed only with respect to one motor vehicle owned by such a former prisoner of war at any one time.

CHAPTER 39-06 OPERATORS' LICENSES

39-06-02. What persons are exempt from license - Resident defined. The following persons are exempt from license hereunder:

1. Any employee of the United States government while operating a motor vehicle owned by or leased to that government and being operated on official business.
2. A nonresident who is at least sixteen years of age, who has in that person's immediate possession a valid operator's license issued to that person in that person's home state or country, may operate a motor vehicle in this state.
3. A nonresident who is at least sixteen years of age, whose home state or country does not require the licensing of operators, may operate a motor vehicle within this state for a period of not more than thirty days in any calendar year without making an application for or obtaining an operator's license of this state; provided, however, that the person shall have in that person's possession while driving in this state an official certificate showing the lawful registry of the motor vehicle and be able to prove that person's lawful possession or the right to operate such vehicle and to establish that person's identity.
4. A member of the armed forces of the United States may operate a motor vehicle in this state while that person is stationed in North Dakota, provided that person has a valid current operator's license from another state.
5. A person over sixteen years of age who becomes a resident of this state and who has in that person's possession a valid operator's license issued to that person pursuant to the laws of some other state or country or by military authorities of the United States may operate a motor vehicle for a period of not more than sixty days after becoming a resident of this state, without being required to have a North Dakota operator's license.
6. A member of the North Dakota national guard may operate any military vehicles as authorized by a national guard operator's license while on duty.

For purposes of this chapter, a person must be deemed a resident of this state when the person has lived in the state for ninety consecutive days, unless such person is a nonresident student, a tourist, or a member of the armed forces.

39-06-19.1. Extended term of license held by members of the armed forces - Limitations. A valid operator's license issued under the provisions of this chapter to a resident of North Dakota who enters or is in the United States armed forces and serving upon active duty with such forces continues in full force and effect so long as the active service continues and the licensee remains absent from this state, and for not to exceed thirty days following the date on which the holder of such license is honorably separated from such service or returns to this state, unless the license is sooner suspended, canceled, or revoked for cause as provided by

law. The license is valid only when in the immediate possession of the licensee while driving and the licensee has the licensee's discharge or separation papers, if the licensee has been discharged or separated from the service, or has documentation authorizing the licensee to be absent from the licensee's duty station in the licensee's immediate possession.

CHAPTER 40-33.1 MUNICIPAL STEAM HEATING AUTHORITIES

40-33.1-05. Officers and employees. Municipal steam heating authorities shall not be subject to civil service or merit system laws, veterans' preference laws, or other laws, ordinances, and regulations pertaining to the status of municipal employees. Employees of an authority shall have the same position as employees of a private corporation and the board of directors of an authority shall manage their employee relationships in the same manner as private corporations.

CHAPTER 40-45 POLICE PENSIONS IN CITIES

40-45-10. Period of service spent in armed forces to be included as service in department. Any member of a police department who has resigned therefrom or who shall resign therefrom, or who has been granted or shall be granted a leave of absence to serve in the armed forces of the United States or armed forces reserve thereof, or who shall have been selected for training under the selective service provisions of the laws of the United States and has returned with an honorable discharge from, or other document showing honorable service in, such service to the police department, shall have the period of such service included as part of the person's period of service in the department.

CHAPTER 40-46 EMPLOYEES' PENSIONS IN CITIES

40-46-11. Period of service spent in armed forces included as service to city. Any employee of a city having an employees' pension fund who resigns therefrom or who has been granted or shall be granted a leave of absence to serve in the armed forces of the United States or armed forces reserve thereof, or who shall have been selected for training under the selective service provisions of the laws of the United States, and who has returned to the employ of the city with an honorable discharge from, or other documents showing honorable service in, such service, shall have the period of such service included as part of the employee's period of service to such city.

CHAPTER 40-55 PUBLIC RECREATION SYSTEM

40-55-11. Recreation centers or systems may be established as memorials. The community centers, playgrounds, recreational centers and systems, or any recreational or

character-building facility provided for herein may be erected or established as memorials in commemoration of the men and women of the locality who lost their lives in the service of their country during World War II and in gratitude to all who served in the armed forces. In such cases, the names of those so remembered shall be preserved in some manner in connection with the memorial.

CHAPTER 40-61 MUNICIPAL PARKING AUTHORITY ACT

40-61-04. Officers and employees. Municipal parking authorities shall not be subject to civil service or merit system laws, veterans preference laws, or other laws, ordinances, and regulations pertaining to the status of municipal employees. Employees of a municipal parking authority shall have the same position as employees of a private corporation and the board of directors of a municipal parking authority shall manage their employee relationships in the same manner as private corporations.

CHAPTER 43-07 CONTRACTORS

43-07-20. Employment preference in contract. In all contracts, except those which involve federal-aid funds and when a preference or discrimination would be contrary to a federal law or regulation, hereafter let for state, county, city, school district, or township construction, repair, or maintenance work under any laws of this state, there shall be inserted a provision by which the contractor must give preference to the employment of bona fide North Dakota residents, as determined by section 54-01-26, with preference given first to honorably discharged disabled veterans and veterans of the armed forces of the United States, as defined in section 37-19.1-01, who are deemed to be qualified in the performance of that work. The preference shall not apply to engineering, superintendence, management, or office or clerical work.

No contract shall be let to any person, firm, association, cooperative, corporation, or limited liability company refusing to execute an agreement containing the aforementioned provisions.

CHAPTER 43-51 PROFESSIONAL AND OCCUPATIONAL LICENSING

43-51-11. Members of military - License renewal.

1. A board shall adopt rules to provide for or shall grant on a case-by-case basis exceptions to the board's license renewal requirements in order to address renewal compliance hardships that may result from:
 - a. Activation of more than thirty days of a licensee who is a member of the national guard or armed forces of the United States.
 - b. Service in the theater or area of armed conflict by a licensee who is a member

of the regular active duty armed forces of the United States.

2. For purposes of this section, the term board includes the state board of accountancy, state electrical board, North Dakota real estate appraiser qualifications and ethics board, state real estate commission, secretary of state with respect to contractor licensing, state board of medical examiners, and state board of dental examiners.

CHAPTER 44-01 ELIGIBILITY AND QUALIFICATIONS OF OFFICERS

44-01-02. Credit for military service. Any person elected or appointed to any position or office in this state, or in any political subdivision thereof, in which length of service is one of the qualifications necessary to election or appointment, must be given credit for service in the army of the United States between April 6, 1917, and November 11, 1919, in the particular vocation, profession, or trade in which the person was engaged at the time of entering such service, if the person holds an honorable discharge from the military service of the United States and is recognized as a North Dakota soldier.

CHAPTER 44-02 VACANCIES IN OFFICE

44-02-10. Vacancy due to military service - How office is filled. When the incumbent of any elective office in this state is unable to discharge the duties of the incumbent's office by reason of service in the armed forces of the United States, an acting official who shall have the powers of the incumbent must be appointed in the same manner that an appointment would be made in case of a vacancy in office, the appointment being made from a list of three names which must be submitted by the incumbent to the appointing body or officer within thirty days after leaving for the service. Provided, however, in the office of state's attorney the names of practicing attorneys residing in adjoining counties may be included if there are less than three practicing attorneys residing in such county in which the appointment is to be made. If the incumbent has already entered the military service the incumbent shall, within ten days after the passage and approval of this section, file a list of three names with the appointing body or officer. If the incumbent fails to submit a list of names, the appointing body or officer shall make the appointment of the acting official without regard to the incumbent's wishes; provided, however, that in the filling of such vacancy in the office of state's attorney, a practicing attorney from an adjoining county may be named to fill such vacancy if there are less than three practicing attorneys residing in the county where such vacancy is to be filled. Provided, further, the acting official shall serve, and the acting official's tenure of office must be terminated immediately upon the incumbent filing a "notice of return" with the secretary of state in instances in which it is a state official, or with the county auditor when the incumbent is an official of the county or any of its subdivisions. This section is hereby declared to be retroactive and all appointments to vacancies heretofore made in the manner herein provided are hereby validated.

CHAPTER 54-07 GOVERNOR

54-07-01.2. Governor to have power to appoint majority of members of certain boards and commissions - Limitations.

1. Notwithstanding sections 2-05-01, 4-18.1-04, 4.1-05-02, 6-01-03, 6-09-02.1, 12-55.1-02, 12-59-01, 15-39.1-05.1, 15.1-01-01, 15.1-13-02, 20.1-02-23, 23-01-02, 23-25-02, 36-01-01, 37-18.1-01, 50-06-05.6, 50-06.1-16, 54-34.3-10, 54-54-02, 55-01-01, 55-06-01, 61-02-04, and 61-28-03, all members of the following boards and commissions must, subject to the limitations of this section, be considered to have resigned from such boards and commissions effective January first of the first year of each four-year term of the governor:

- a. The aeronautics commission.
- b. The milk marketing board.
- c. The dairy promotion commission.
- d. The state banking board.
- e. The state credit union board.
- f. The advisory board of directors to the Bank of North Dakota.
- g. The pardon advisory board.
- h. The state parole board.
- i. The state board of public school education.
- j. The education standards and practices board.
- k. The board of trustees for the teachers' fund for retirement.
- l. The state game and fish advisory board.
- m. The health council.
- n. The air pollution control advisory council.
- o. The board of animal health.
- p. The administrative committee on veterans' affairs.
- q. The committee on aging.
- r. The committee on employment of people with disabilities.
- s. The commission on the status of women.
- t. The North Dakota council on the arts.

- u. The state historical board.
 - v. The Yellowstone-Missouri Rivers confluence commission.
 - w. The state water commission.
 - x. The state water pollution control board.
2. The governor shall have the option of reappointing any member to any board or commission to complete the term to which the member was appointed, or the governor may appoint a simple majority of any board or commission to complete the terms of those resigned members who do not receive reappointments. In order to assure continuity, the governor shall reappoint for the completion of their original terms no fewer than one less than a simple majority of the former members of each board or commission.
 3. If the governor has not acknowledged in writing the resignation of any members of any board or commission prior to July first of the first year of the governor's term, the board or commission member must be considered to have been reappointed to complete the term to which the member was originally appointed. All members of boards and commissions shall continue to serve until the time they are notified of the acceptance of their resignation by the governor, and in all cases the members of boards and commissions shall continue to serve until their successors have been named and qualified.
 4. In those instances where nominations for the filling of vacancies on boards and commissions are submitted to the governor pursuant to state law, the governor shall notify such persons and organizations of acceptance of the resignation of any board or commission member. Such persons and organizations shall furnish the governor with the number of required nominations to fill the vacancies within sixty days after the notice or the governor may nominate and appoint such members as are otherwise qualified.
 5. The provisions of this section do not apply to those constitutional officers who serve on boards and commissions, except insofar as a governor may count such constitutional officers among those the governor reappoints in order to conform to the continuity requirements of this section.
 6. All vacancies created by resignation after July first of the first year of each term of a governor must be filled as provided by law. If any person refuses an appointment, the governor shall fill such position as otherwise provided by law.

CHAPTER 54-41 NORTH DAKOTA COAT OF ARMS

54-41-03. Authorized use. The coat of arms of this state may be used in a manner following persons, organizations, and agencies:

1. The governor of North Dakota.
2. The North Dakota national guard.
3. Departments and agencies of the state of North Dakota.
4. North Dakota veterans organizations.
5. Officially recognized North Dakota educational institutions, systems, or divisions thereof.
6. Recognized North Dakota patriotic organizations.
7. The legislative assembly

CHAPTER 54-52 PUBLIC EMPLOYEES RETIREMENT SYSTEM

54-52-17.4. Purchase of additional credit.

1. A participating member may elect to purchase credit for years of service and prior service for which the participating member is not presently receiving credit. A participating member is entitled to purchase additional credit under this section for the following service or prior service, except this service is not eligible for credit if the years claimed also qualify for retirement benefits from another retirement system:
 - a. Active prior employment in the armed forces of the United States, except as provided in section 54-52-17.14, for up to four years of credit.
 - b. Employment as a permanent employee by a public employer either within or outside the state of North Dakota.
 - c. Employment as a permanent employee by a political subdivision participating in the public employees retirement system which did not pay the cost of past service benefits under section 54-52-02.1.
 - d. Service the participating member did not elect to repurchase upon reemployment under section 54-52-02.6.
 - e. Service of an eligible employee, who exercised the privilege to withdraw from the predecessor plan to the public employees retirement system under subsection 10 of section 54-52-17 as created by section 13 of chapter 499 of the 1977 Session Laws.
 - f. Employment as a permanent employee by the federal government.
2. A participating member may elect to purchase credit for the following absences for which the participating member is not receiving service credit:

- a. Employer-approved leave of absence; or
 - b. Months away from work while participating as a seasonal employee.
3. Supreme and district court judges under the public employees retirement system may elect to purchase credit for the following years of service:
 - a. Except as provided in section 54-52-17.14, for up to four years of credit for active employment in the armed forces of the United States.
 - b. As a county judge in a county or counties that did not participate in the public employees retirement system under this chapter.
 - c. Participation in the public employees retirement system as a county judge may be converted to credit in the judges' retirement system.
4. The participating member may purchase credit under this section, or the participating member's employer may purchase for the participating member, by paying to the board an amount equal to the actuarial cost to the fund of providing the credit. If the participating member purchases credit pursuant to subdivision d of subsection 1, the participating member must pay to the board an amount equal to the greater of the actuarial cost to the fund of providing the credit, or the amount the participating member received upon taking a refund of the participating member's account balance, plus interest at the actuarial rate of return from the time the participating member was issued the refund. If the participating member is not repurchasing all of the credit originally refunded, the participating member must pay a pro rata amount of the refunded amount determined by dividing the refunded amount by the number of months of credit refunded, multiplying that amount times the number of months of credit the participating member seeks to repurchase, and adding interest at the actuarial rate of return. The participating member or the participating member's employer shall also pay to the retiree health benefits fund established under section 54-52.1-03.2 an amount equal to the actuarial cost to that fund for the additional credit. This contribution must be recorded as a member contribution pursuant to section 54-52.1-03.2. The board shall adopt rules governing the purchase of additional credit under this section.
5. Pursuant to rules adopted by the board, the board may allow a participating member to purchase service credit with either pretax or aftertax moneys, at the board's discretion. If the participating member elects to purchase service credit using pretax moneys, the requirements and restrictions in subsection 3 of section 54-52-05 apply to the purchase arrangement.
6. In addition to service credit identified in this section, a vested participating member may purchase up to five years of service credit unrelated to any other eligible service.

CHAPTER 54-57

OFFICE OF ADMINISTRATIVE HEARINGS

54-57-01. Office of administrative hearings - Agency defined - Administrative

agency defined.

1. A state office of administrative hearings is created.
2. The office is under the direction of a director of administrative hearings who must be free of any association that would impair the director's ability to function officially in a fair and objective manner. The director must be an attorney at law in good standing, admitted to the bar in this state, and currently licensed by the state board of law examiners. The director of administrative hearings must be appointed by the governor and confirmed by the senate and shall hold office for a term of six years, the term beginning July first of the year of appointment and ending June thirtieth of the sixth calendar year after appointment.
3. The director of administrative hearings may preside as an administrative law judge at administrative hearings and may employ or appoint additional administrative law judges to serve in the office as necessary to fulfill the duties of office as described in section 54-57-04 and section 28-32-31 and to provide administrative law judges to preside at administrative hearings as requested by agencies. The director of administrative hearings may employ or appoint only such additional administrative law judges who are attorneys at law in good standing, admitted to the bar in the state, and currently licensed by the state board of law examiners. Administrative law judges employed by the director before August 1, 1995, need not be attorneys at law and may be designated by the director to preside at any administrative proceedings or adjudicative proceedings under section 54-57-03. The director may delegate to an employee the exercise of a specific statutory power or duty as deemed advisable, subject to the director's control, including the powers and duties of a deputy director. All administrative law judges must be classified employees, except that the director of administrative hearings must be an unclassified employee who only may be removed, during a term of office, for cause. Each administrative law judge must have a demonstrated knowledge of administrative practices and procedures and must be free of any association that would impair the person's ability to function officially in a fair and objective manner.
4. The director of administrative hearings may employ the necessary support staff required by the office. Support staff must be classified employees.
5. The director of administrative hearings shall develop categories of positions in the classified service under class titles for the appointment or employment of administrative law judges and support staff in consultation with and approved by the director of North Dakota human resource management services, including the salary to be paid for each position or category of position.
6. The director shall file a report with the governor and the state advisory council for administrative hearings not later than the first day of December of each odd-numbered year. The report must provide information regarding all administrative hearings conducted by the office of administrative hearings during the previous biennium. The report must provide information regarding meeting case processing guidelines for each agency, the cost of hearings for each agency, the decisions issued for each agency, and the results of the office of administrative hearings' service survey.

7. In this chapter, unless the context or subject matter otherwise requires, "agency" means each board, bureau, commission, department, or other administrative unit of the executive branch of state government whether headed by an appointed or elected official.
8. In this chapter, unless the context or subject matter otherwise requires, "administrative agency" means that term as defined in section 28-32-01.

54-57-02. Temporary administrative law judges. When regularly appointed administrative law judges are not available, the director of administrative hearings may contract on a temporary basis with qualified individuals to serve as administrative law judges for the office of administrative hearings. Temporary administrative law judges are not employees of the state.

54-57-03. Hearings before administrative law judges.

1. Notwithstanding the authority granted in chapter 28-32 allowing agency heads or other persons to preside in an administrative proceeding, all adjudicative proceedings of administrative agencies under chapter 28-32, except those of the public service commission, the industrial commission, the insurance commissioner, the state engineer, the department of transportation, job service North Dakota, and the labor commissioner, must be conducted by the office of administrative hearings in accordance with the adjudicative proceedings provisions of chapter 28-32 and any rules adopted pursuant to chapter 28-32. But, appeals hearings pursuant to section 61-03-22 and drainage appeals from water resource boards to the state engineer pursuant to chapter 61-32 must be conducted by the office of administrative hearings. Additionally, hearings of the department of corrections and rehabilitation for the parole board in accordance with chapter 12-59, regarding parole violations; job discipline and dismissal appeals to the board of higher education; Individuals With Disabilities Education Act and section 504 due process hearings of the superintendent of public instruction; and chapter 37-19.1 veterans' preferences hearings for any agency must be conducted by the office of administrative hearings in accordance with applicable laws.
2. The agency head shall make a written request to the director requesting the designation of an administrative law judge to preside for each administrative proceeding or adjudicative proceeding to be held.
3. Informal disposition of an administrative proceeding or adjudicative proceeding may be made by an agency at any time before or after the designation of an administrative law judge from the office of administrative hearings.
4. If a party to an administrative proceeding or adjudicative proceeding is in default, the agency may issue a default order and a written notice of default, including a statement of the grounds for default, prior to the hearing. The agency shall determine all the issues involved. If issued, the default notice and order must be served upon all the parties and the administrative law judge, if one has been designated to preside. After service of the default notice and order, if a hearing is necessary to complete the administrative action with or without the participation of the party in default, an administrative law judge from the office of administrative hearings must preside.

5. When designating administrative law judges to preside in an administrative proceeding or adjudicative proceeding, the director shall attempt to assign an administrative law judge having expertise in the subject matter to be dealt with.
6. The director of administrative hearings may assign an administrative law judge to preside in an administrative proceeding or adjudicative proceeding, upon request, to any agency exempted from the provisions of this section, to any agency, or part of any agency, that is not an administrative agency subject to the provisions of chapter 28-32, to any unit of local government in this state, to any tribal government in this state, to the judicial branch, or to any agency to conduct a rulemaking hearing.

54-57-03.1. Hearings after judgment. The office of administrative hearings may not hold hearings on the same issue involving the same parties as the original hearing after a judgment has been rendered by a court concerning that issue unless authorized to or directed to by that court.

54-57-04. Duties of administrative law judges. All administrative law judges shall comply with the duties of hearing officers under section 28-32-31 for all hearings of administrative agencies under chapter 28-32, as well as for all hearings of administrative agencies not under chapter 28-32, in accordance with applicable laws.

54-57-05. Uniform rules of administrative practice or procedure - Effective date - Administrative law judge rules.

1. The director of administrative hearings shall adopt, in accordance with chapter 28-32, rules of administrative hearings practice or procedure which implement chapter 28-32 and which aid in the course and conduct of all administrative hearings and related proceedings conducted by administrative agencies under chapter 28-32. The uniform rules must be used by all administrative agencies subject to chapter 28-32 which do not have their own rules of administrative hearings practice or procedure governing the course and conduct of hearings. If an administrative agency's rules are silent on any aspect of the agency's administrative hearings practice or procedure, the applicable uniform rule governs.
2. The director of administrative hearings may adopt rules to further establish qualifications for administrative law judges; to establish procedures for requesting and designating administrative law judges; and to facilitate the performance of duties and responsibilities conferred by this chapter. Any rules adopted by the director of administrative hearings pursuant to this subsection must be adopted in accordance with chapter 28-32.

54-57-07. Compensation for provision of administrative law judges - Special fund established - Continuing appropriation.

1. The office of administrative hearings shall require payment for services rendered by any administrative law judge provided by it to any agency, to any unit of local government in this state, to any tribal government in this state, or to the judicial branch, in the conduct of an administrative hearing and related proceedings, and those entities must make the required payment to the office. Payment must include payment for support staff necessary to render administrative law judge services.

Moneys received by the office of administrative hearings in payment for providing an administrative law judge to conduct an administrative hearing and related proceedings must be deposited into the operating fund of the office of administrative hearings.

2. The office of administrative hearings shall require payment for mileage, meals, and lodging in connection with services rendered by an administrative law judge provided to any agency, to any unit of local government in this state, to any tribal government in this state, or to the judicial branch, in the conduct of an administrative hearing and related proceedings, and those entities must make the required payment to the office. Payment for meals and lodging must be in the amounts allowable under section 44-08-04. Payment for mileage when using state vehicles must be in amounts set for user charges under section 24-02-03.5. All other payments must be in amounts allowed for other state officials and employees. Either general fund or special fund moneys, or other income, may be used for the payment of mileage, meals, and lodging under this subsection.
3. A special fund is established in the state treasury and designated as the administrative hearings fund. The office of administrative hearings shall deposit in the fund all moneys received by it in payment for providing services rendered by any administrative law judge in the conduct of an administrative hearing and related proceedings under this chapter, as well as all moneys received by the office in payment for mileage, meals, and lodging in connection with providing any administrative law judge to conduct an administrative hearing and related proceedings. The moneys in the fund are a standing and continuing appropriation and are appropriated, as necessary, for the following purposes:
 - a. For the office of administrative hearings to pay for salaries, wages, benefits, operating expenses, and equipment, including payment to temporary administrative law judges, as necessary, for the purpose of providing requested administrative law judges to agencies, to any unit of local government in this state, to any tribal government in this state, or to the judicial branch.
 - b. For the office of administrative hearings to pay mileage, meals, and lodging to any administrative law judges, as necessary, in connection with the services to be provided under this chapter.

CHAPTER 57-02 GENERAL PROPERTY ASSESSMENT

57-02-08. Property exempt from taxation. All property described in this section to the extent herein limited shall be exempt from taxation:

1. All property owned exclusively by the United States except any such property which the state and its political subdivisions are authorized by the laws of the United States to tax.
2. All property owned by this state, but no lands contracted to be sold by the state shall

be exempt.

3. All property belonging to any political subdivision and the leasehold interest in property leased by a political subdivision from another political subdivision.
4. Property of Indians if the title of that property is inalienable without the consent of the United States secretary of the interior.
5. All lands used exclusively for burying grounds or cemeteries.
6. All property belonging to schools, academies, colleges, or other institutions of learning, not otherwise used with a view to profit, and all dormitories and boarding halls, including the land upon which they are situated, owned and managed by any religious corporation for educational or charitable purposes for the use of students in attendance upon any educational institution, if such dormitories and boarding halls are not managed or used for the purpose of making a profit over and above the cost of maintenance and operation.
7. Repealed by S.L. 2011, ch. 445, § 2.
8. All buildings belonging to institutions of public charity, including public hospitals and nursing homes licensed pursuant to section 23-16-01 under the control of religious or charitable institutions, used wholly or in part for public charity, together with the land actually occupied by such institutions not leased or otherwise used with a view to profit.
 - a. The exemption provided by this subsection includes any dormitory, dwelling, or residential-type structure, together with necessary land on which such structure is located, owned by a religious or charitable organization recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code which is occupied by members of said organization who are subject to a religious vow of poverty and devote and donate substantially all of their time to the religious or charitable activities of the owner.
 - b. For purposes of this subsection and section 5 of article X of the Constitution of North Dakota, property is not used wholly or in part for public charity or charitable or other public purposes if that property is residential rental units leased to tenants based on income levels that enable the owner to receive a federal low-income housing income tax credit.
9. All real property, not exceeding two acres [.81 hectare] in extent, owned by any religious corporation or organization, upon which there is a building used for the religious services of the organization, or upon which there is a dwelling with usual outbuildings, intended and ordinarily used for the residence of the bishop, priest, rector, or other minister in charge of services, must be deemed to be property used exclusively for religious services, and exempt from taxation, whether the real property consists of one tract or more. The exemption for a building used for the religious services of the owner continues to be in effect if the building in whole, or in part, is rented to another otherwise tax-exempt corporation or organization, provided no profit is realized from the rent. All real property owned by any religious corporation or organization and used as a parking lot by persons attending religious

services is exempt from taxation. All taxes assessed or levied on any of the property, while the property is used for religious purposes, are void.

10. Property of an agricultural fair association duly incorporated for the purpose of holding agricultural fairs, and not conducted for the profit of any of its members or stockholders; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.
11. Property owned by lodges, chapters, commanderies, consistories, farmers' clubs, commercial clubs, and like organizations, and associations, grand or subordinate, not organized for profit, and used by them for places of meeting and for conducting their business and ceremonies, and all property owned by any fraternity, sorority, or organization of college students if such property is used exclusively for such purposes; provided, further, that any portion of such premises not exclusively used for places of meeting and conducting the business and ceremonies of such organization shall be subject to taxation.
Provided, further, that if any such organization as contemplated by this subsection is licensed for the sale of alcoholic beverages as defined by the statutes of the state of North Dakota, such portion of such premises where such alcoholic beverages are consumed or sold shall be deemed not to be so used exclusively for conduct of its business and meeting if such beverages are sold at a profit.
Provided, further, that if food other than that served at lodge functions and banquets and food sold or consumed in any fraternity or sorority house, is sold at a profit on the premises, that portion of the premises where such food is sold at a profit shall be deemed not to be used exclusively for places of meeting or conducting the business and ceremonies of such organization; provided, that all property described in this subsection shall be subject to taxation for the cost of fire protection services furnished by any municipal corporation in which said property is located.
13. All land used as a public park or monument ground belonging to any military organization, and not used for gain.
14. The armory, and land or lots upon which situated, owned by a regiment, battalion, or company of the North Dakota national guard, and used for military purposes by such organization.
15. a. All farm structures and improvements located on agricultural lands.
 - (1) This subsection must be construed to exempt farm buildings and improvements only, and may not be construed to exempt from taxation industrial plants, or structures of any kind not used or intended for use as a part of a farm plant, or as a farm residence.
 - (2) "Farm buildings and improvements" includes a greenhouse or other building used primarily for the growing of horticultural or nursery products from seed, cuttings, or roots, if not used on more than an occasional basis for a showroom for the retail sale of horticultural or nursery products. A greenhouse or building used primarily for display and sale of grown horticultural or nursery products is not a farm building or improvement.

- (3) Any structure or improvement used primarily in connection with a retail or wholesale business other than farming, any structure or improvement located on platted land within the corporate limits of a city, or any structure or improvement located on railroad operating property subject to assessment under chapter 57-05 is not exempt under this subsection. For purposes of this paragraph, "business other than farming" includes processing to produce a value-added physical or chemical change in an agricultural commodity beyond the ordinary handling of that commodity by a farmer prior to sale.
 - (4) The following factors may not be considered in application of the exemption under this subsection:
 - (a) Whether the farmer grows or purchases feed for animals raised on the farm.
 - (b) Whether animals being raised on the farm are owned by the farmer.
 - (c) Whether the farm's replacement animals are produced on the farm.
 - (d) Whether the farmer is engaged in contract feeding of animals on the farm.
- b. It is the intent of the legislative assembly that this exemption as applied to a residence must be strictly construed and interpreted to exempt only a residence that is situated on a farm and which is occupied or used by a person who is a farmer and that the exemption may not be applied to property which is occupied or used by a person who is not a farmer. For purposes of this subdivision:
- (1) "Farm" means a single tract or contiguous tracts of agricultural land containing a minimum of ten acres [4.05 hectares] and for which the farmer, actually farming the land or engaged in the raising of livestock or other similar operations normally associated with farming and ranching, has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years.
 - (2) "Farmer" means an individual who normally devotes the major portion of time to the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state and has received annual net income from farming activities which is fifty percent or more of annual net income, including net income of a spouse if married, during any of the three preceding calendar years. For purposes of this paragraph, "farmer" includes a:
 - (a) "Beginning farmer", which means an individual who has begun occupancy and operation of a farm within the three preceding calendar years; who normally devotes the major portion of time to

the activities of producing products of the soil, poultry, livestock, or dairy farming in such products' unmanufactured state; and who does not have a history of farm income from farm operation for each of the three preceding calendar years.

(b) "Retired farmer", which means an individual who is retired because of illness or age and who at the time of retirement owned and occupied as a farmer the residence in which the person lives and for which the exemption is claimed.

(c) "Surviving spouse of a farmer", which means the surviving spouse of an individual who is deceased, who at the time of death owned and occupied as a farmer the residence in which the surviving spouse lives and for which the exemption is claimed. The exemption under this subparagraph expires at the end of the fifth taxable year after the taxable year of death of an individual who at the time of death was an active farmer. The exemption under this subparagraph applies for as long as the residence is continuously occupied by the surviving spouse of an individual who at the time of death was a retired farmer.

(3) "Net income from farming activities" means taxable income from those activities as computed for income tax purposes pursuant to chapter 57-38 adjusted to include the following:

(a) The difference between gross sales price less expenses of sale and the amount reported for sales of agricultural products for which the farmer reported a capital gain.

(b) Interest expenses from farming activities which have been deducted in computing taxable income.

(c) Depreciation expenses from farming activities which have been deducted in computing taxable income.

(4) When exemption is claimed under this subdivision for a residence, the assessor may require that the occupant of the residence who it is claimed is a farmer provide to the assessor for the year or years specified by the assessor a written statement in which it is stated that fifty percent or more of the net income of that occupant, and spouse if married and both spouses occupy the residence, was, or was not, net income from farming activities.

(5) In addition to any of the provisions of this subsection or any other provision of law, a residence situated on agricultural land is not exempt for the year if it is occupied by an individual engaged in farming who had nonfarm income, including that of a spouse if married, of more than forty thousand dollars during each of the three preceding calendar years. This paragraph does not apply to a retired farmer or a beginning farmer as defined in paragraph 2.

- (6) For purposes of this section, "livestock" includes "nontraditional livestock" as defined in section 36-01-00.1.
- (7) A farmer operating a bed and breakfast facility in the farm residence occupied by that farmer is entitled to the exemption under this section for that residence if the farmer and the residence would qualify for exemption under this section except for the use of the residence as a bed and breakfast facility.
16. Property now owned, or hereafter acquired, by a corporation organized, or hereafter created, under the laws of this state for the purpose of promoting athletic and educational needs and uses at any state educational institution in this state, and not organized for profit.
17. Moneys and credits, including shares of corporate stock and membership interests in limited liability companies, except moneyed capital which is so invested or used as to come into direct competition with money invested in bank stock.
20. Fixtures, buildings, and improvements up to the amount of valuation specified, when owned and occupied as a homestead, as hereinafter defined, by any of the following persons:
- a. A paraplegic disabled veteran of the United States armed forces or any veteran who has been awarded specially adapted housing by the department of veterans' affairs, or the unremarried surviving spouse if such veteran is deceased, for the first one hundred twenty thousand dollars of true and full valuation of the fixtures, buildings, and improvements.
 - b. Any permanently and totally disabled person who is permanently confined to use of a wheelchair, or, if deceased, the unremarried surviving spouse of a permanently and totally disabled person. If the spouse of a permanently and totally disabled person owns the homestead or if it is jointly owned by them, the same reduction in assessed valuation applies as long as both reside thereon. The provisions of this subdivision do not reduce the liability for special assessments levied upon the homestead. The phrase "permanently confined to use of a wheelchair" means that the person cannot walk with the assistance of crutches or any other device and will never be able to do so and that a physician selected by the local governing board has so certified. Any person claiming an exemption under this subsection for the first time shall file with the county auditor an affidavit showing the facts herein required and a description of the property. The affidavit must be open for public inspection. A person thereafter shall furnish to the assessor or other assessment officials when requested to do so any information that is believed will support the claim for exemption for a subsequent year.

For purposes of this subsection, and except as otherwise provided in this subsection, "homestead" has the meaning provided in section 47-18-01 except that it also applies to any person who otherwise qualifies under the provisions of this subsection whether or not the person is the head of a family. The board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which the qualifying owner has held title to the exempt property.

22. All or any part of fixtures, buildings, and improvements upon any nonfarmland up to a taxable valuation of seven thousand two hundred dollars, owned and occupied as a home by a blind person. Residential homes owned by the spouse of a blind person, or jointly owned by a blind person and spouse, shall also be exempt within the limits of this subsection as long as the blind person resides in the home. For purposes of this subsection, a blind person is defined as one who is totally blind, has visual acuity of not more than 20/200 in the better eye with correction, or whose vision is limited in field so that the widest diameter subtends an angle no greater than twenty degrees. The exemption provided by this subsection extends to the entire building classified as residential, and owned and occupied as a residence by a person who qualifies for the exemption as long as the building contains no more than two apartments or rental units which are leased.

23. All, or any portion of structural improvements other than paving and surfacing to land used exclusively for the business of operating an automobile parking lot within a city open for general public patronage. If a portion of the structure is exempt from taxation as being open for general public patronage, the amount of such exemption shall be computed by determining the value of the public parking area in proportion to the total value of the structure.

25. All personal property is exempt except:
 - a. Personal property of entities, other than railroads, required by section 4 of article X of the Constitution of North Dakota to be assessed by the state board of equalization.
 - b. Any property that is subjected to a tax which is imposed in lieu of ad valorem taxes.
 - c. Any particular kind or class of personal property, including mobile homes or house trailers, that is subjected to a tax imposed pursuant to any other provision of law.

26. Fixtures, buildings, and improvements when owned and occupied as a homestead, as hereinafter defined, by a paraplegic disabled person, or if the person is deceased the unremarried spouse, if the income from all sources of the person and spouse, or if the person is deceased the income from all sources of the unremarried surviving spouse, in the calendar year prior to the year for which the exemption is claimed did not exceed the maximum amount of income provided in section 57-02-08.1 for receiving a homestead credit under that section. To obtain the exemption for the first time, a certificate from a medical doctor who is approved by the board of county commissioners, accompanied by an affidavit, showing the facts herein required and a description of the property, must be filed with the county auditor. The affidavit and accompanying certificate must be opened to public inspection. Any person claiming the exemption for any year after the first year shall furnish to the assessor or other assessment officials when requested to do so any information which the person believes will support the claim for the exemption for any subsequent year. For purposes of this subsection, "homestead" has the meaning provided in section 47-18-01 except that it also applies to any person who otherwise qualifies under the provisions of this subsection whether or not the person is the head of a family. The

board of county commissioners is hereby authorized to cancel the unpaid taxes for any year in which the person has held title to the exempt property.

27. Installations, machinery, and equipment of systems in new or existing buildings or structures, designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, or to store any of these, by utilization of solar, wind, or geothermal energy; provided, that if the solar, wind, or geothermal energy device is part of a system which uses other means of energy, only that portion of the total system directly attributable to solar, wind, or geothermal energy shall be exempt. Provided, however, that any exemptions granted by this subsection shall be valid for a five-year period following installation of any such system and apply only to locally assessed property. For the purposes of this subsection, solar or wind energy devices shall have the meaning provided in section 57-38-01.8 and geothermal energy device means a system or mechanism or series of mechanisms designed to provide heating or cooling or to produce electrical or mechanical power, or any combination of these, by a method which extracts or converts the energy naturally occurring beneath the earth's surface in rock structures, water, or steam.
28. All fixtures, buildings, and improvements owned by any cooperative or nonprofit corporation organized under the laws of this state and used by it to furnish potable water to its members and customers for uses other than the irrigation of agricultural land.
29. Property to which title is held by a city pursuant to chapter 40-57 which is leased to an entity described in subsection 8 and used by the entity as provided in subsection 8 or subleased to a public school district for educational purposes; provided, that the entity is qualified as an exempt organization under section 501(c)(3) of the United States Internal Revenue Code of 1954, as amended.
30. Property, but not including property used for residential purposes, owned by an organization described in subsection 9 and leased to a public school district for educational purposes; provided, that the property had previously been owned and occupied by the organization for an exempt purpose described in subsection 9 for a period of at least five years.
31. All group homes owned by nonprofit corporations, not organized with a view to profit and recognized as tax exempt under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)], including those for persons with developmental disabilities as defined in section 25-01.2-01, and the real property upon which they are located during the period in which the group homes are under construction or in a remodeling phase and while they are used as group homes. For the purposes of this subsection, the term "group home" means a community-based residential home which provides room and board, personal care, habilitation services, or supervision in a family environment, and which, once established is licensed by the appropriate North Dakota licensing authority.
32. Minerals in place in the earth which at the time of removal from the earth are then subject to taxes imposed under chapter 57-51, 57-61, or 57-65.
33. Property used for athletic or recreational activities when owned by a political

subdivision and leased to a nonprofit corporation organized for the purpose of promoting public athletic or recreational activities.

34. Any building located on land owned by the state if the building is used at least in part for academic or research purposes by students and faculty of a state institution of higher education.
35. Up to one hundred fifty thousand dollars of the true and full value of all new single-family and condominium and townhouse residential property, exclusive of the land on which it is situated, is exempt from taxation for the first two taxable years after the taxable year in which construction is completed and the residence is owned and occupied for the first time if all of the following conditions are met:
 - a. The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of the property by resolution. A resolution adopted under this subsection may be rescinded or amended at any time. The governing body of the city or county may limit or impose conditions upon exemptions under this subsection, including limitations on the time during which an exemption is allowed.
 - b. Special assessments and taxes on the property upon which the residence is situated are not delinquent.
36. The governing body of the city, for property within city limits, or of the county, for property outside city limits, may grant a property tax exemption for the portion of fixtures, buildings, and improvements, used primarily to provide early childhood services by a corporation, limited liability company, or organization licensed under chapter 50-11.1 or used primarily as an adult day care center. However, this exemption is not available for property used as a residence.
37. a. A pollution abatement improvement. As used in this subsection, "pollution abatement improvement" means property, exclusive of land and improvements to the land such as ditching, surfacing, and leveling, that is:
 - (1) Part of an agricultural or industrial facility which is used for or has for its ultimate purpose the prevention, control, monitoring, reducing, or eliminating of pollution by treating, pretreating, stabilizing, isolating, collecting, holding, controlling, measuring, or disposing of waste contaminants; or
 - (2) Part of an agricultural or industrial facility and required to comply with local, state, or federal environmental quality laws, rules, regulations, or standards.
- b. The exemption under this subsection applies only to that portion of the valuation of property attributable to the pollution abatement improvement on which construction or installation was commenced after December 31, 1992, and does not apply to the valuation of any property that is not a necessary component of the pollution abatement improvement. The governing body of the city, for property within city limits, or the governing board of the county, for property outside city limits, shall determine whether the property proposed for exemption is a pollution abatement improvement and may grant an exemption

for the pollution abatement improvement based upon the requirements of this subsection.

38. The leasehold interest in property owned by the state which has been leased for pasture or grazing purposes or upon which payments in lieu of property taxes are made by the state.
39. Notwithstanding any other law, all property, including any possessory interest therein, relating to any waterworks, mains, and water distribution system leased to the state, or any agency or institution of the state, or to a private entity pursuant to subsection 5 of section 40-33-01, subsection 12 of section 61-24.5-09, or subsection 23 of section 61-35-12, which property is operated by, or providing services to, a municipality or other political subdivision or agency of the state, or its citizens.
40. Notwithstanding any other law, all property, including any possessory interest therein, relating to any sewage systems and facilities for the collection, treatment, purification, and disposal in a sanitary manner of sewage leased to the state, or any agency or institution of the state, or to a private entity pursuant to section 40-34-19 or subsection 23 of section 61-35-12, which property is operated by, or providing services to, a municipality or other political subdivision or agency of the state, or its citizens.
41. Notwithstanding any other law, all property, including any possessory interest therein, leased to a private entity pursuant to section 54-01-27, which property is operated by, or providing services to, the state or its citizens.
42. a. New single-family residential property, exclusive of the land on which it is situated, is exempt from assessment for the taxable year in which construction began and the next two taxable years, if the property remains owned by the builder, remains unoccupied, and all of the following conditions are met:
 - (1) The governing body of the city, for property within city limits, or the governing body of the county, for property outside city limits, has approved the exemption of property under this subsection by resolution.

A resolution adopted under this subsection may be rescinded or amended at any time. The governing body of the city or county may limit or impose conditions upon exemptions under this subsection, including limitations on the time during which an exemption is allowed.
 - (2) Special assessments and taxes on the property upon which the residence is situated are not delinquent.
- b. A builder is eligible for exemption of no more than ten properties under this subsection in a taxable year within each jurisdiction that has approved the exemption under this subsection. For purposes of this subsection, "builder" includes an individual who builds that individual's own residence.

57-02-08.1. Homestead credit.

1. a. Any person sixty-five years of age or older or permanently and totally disabled, in the year in which the tax was levied, with an income that does not exceed the limitations of subdivision c is entitled to receive a reduction in the assessment on the taxable valuation on the person's homestead. An exemption under this subsection applies regardless of whether the person is the head of a family.
- b. The exemption under this subsection continues to apply if the person does not reside in the homestead and the person's absence is due to confinement in a nursing home, hospital, or other care facility, for as long as the portion of the homestead previously occupied by the person is not rented to another person.
- c. The exemption must be determined according to the following schedule:
 - (1) If the person's income is not in excess of eighteen thousand dollars, a reduction of one hundred percent of the taxable valuation of the person's homestead up to a maximum reduction of four thousand five hundred dollars of taxable valuation.
 - (2) If the person's income is in excess of eighteen thousand dollars and not in excess of twenty thousand dollars, a reduction of eighty percent of the taxable valuation of the person's homestead up to a maximum reduction of three thousand six hundred dollars of taxable valuation.
 - (3) If the person's income is in excess of twenty thousand dollars and not in excess of twenty-two thousand dollars, a reduction of sixty percent of the taxable valuation of the person's homestead up to a maximum reduction of two thousand seven hundred dollars of taxable valuation.
 - (4) If the person's income is in excess of twenty-two thousand dollars and not in excess of twenty-four thousand dollars, a reduction of forty percent of the taxable valuation of the person's homestead up to a maximum reduction of one thousand eight hundred dollars of taxable valuation.
 - (5) If the person's income is in excess of twenty-four thousand dollars and not in excess of twenty-six thousand dollars, a reduction of twenty percent of the taxable valuation of the person's homestead up to a maximum reduction of nine hundred dollars of taxable valuation.
- d. Persons residing together, as spouses or when one or more is a dependent of another, are entitled to only one exemption between or among them under this subsection. Persons residing together, who are not spouses or dependents, who are coowners of the property are each entitled to a percentage of a full exemption under this subsection equal to their ownership interests in the property.
- e. This subsection does not reduce the liability of any person for special assessments levied upon any property.
- f. Any person claiming the exemption under this subsection shall sign a verified statement of facts establishing the person's eligibility.

- g. A person is ineligible for the exemption under this subsection if the value of the assets of the person and any dependent residing with the person, excluding the unencumbered value of the person's residence that the person claims as a homestead, exceeds seventy-five thousand dollars, including the value of any assets divested within the last three years. For purposes of this subdivision, the unencumbered valuation of the homestead is limited to one hundred thousand dollars.
 - h. The assessor shall attach the statement filed under subdivision f to the assessment sheet and shall show the reduction on the assessment sheet.
 - i. An exemption under this subsection terminates at the end of the taxable year of the death of the applicant.
2. a. Any person who would qualify for an exemption under subdivisions a and c of subsection 1 except for the fact that the person rents living quarters is eligible for refund of a portion of the person's annual rent deemed by this subsection to constitute the payment of property tax.
- b. For the purpose of this subsection, twenty percent of the annual rent, exclusive of any federal rent subsidy and of charges for any utilities, services, furniture, furnishings, or personal property appliances furnished by the landlord as part of the rental agreement, whether expressly set out in the rental agreement, must be considered as payment made for property tax. When any part of the twenty percent of the annual rent exceeds four percent of the annual income of a qualified applicant, the applicant is entitled to receive a refund from the state general fund for that amount in excess of four percent of the person's annual income, but the refund may not be in excess of four hundred dollars. If the calculation for the refund is less than five dollars, a minimum of five dollars must be sent to the qualifying applicant.
 - c. Persons who reside together, as spouses or when one or more is a dependent of another, are entitled to only one refund between or among them under this subsection. Persons who reside together in a rental unit, who are not spouses or dependents, are each entitled to apply for a refund based on the rent paid by that person.
 - d. Each application for refund under this subsection must be made to the tax commissioner before the first day of June of each year by the person claiming the refund. The tax commissioner may grant an extension of time to file an application for good cause. The tax commissioner shall issue refunds to applicants.
 - e. This subsection does not apply to rents or fees paid by a person for any living quarters, including a nursing home licensed pursuant to section 23-16-01, if those living quarters are exempt from property taxation and the owner is not making a payment in lieu of property taxes.
 - f. A person may not receive a refund under this section for a taxable year in which that person received an exemption under subsection 1.

3. All forms necessary to effectuate this section must be prescribed, designed, and made available by the tax commissioner. The county directors of tax equalization shall make these forms available upon request.
4. A person whose homestead is a farm structure exempt from taxation under subsection 15 of section 57-02-08 may not receive any property tax credit under this section.
5. For the purposes of this section:
 - a. "Dependent" has the same meaning it has for federal income tax purposes.
 - b. "Homestead" has the same meaning as provided in section 47-18-01.
 - c. "Income" means income for the most recent complete taxable year from all sources, including the income of any dependent of the applicant, and including any county, state, or federal public assistance benefits, social security, or other retirement benefits, but excluding any federal rent subsidy, any amount excluded from income by federal or state law, and medical expenses paid during the year by the applicant or the applicant's dependent which is not compensated by insurance or other means.
 - d. "Medical expenses" has the same meaning as it has for state income tax purposes, except that for transportation for medical care the person may use the standard mileage rate allowed for state officer and employee use of a motor vehicle under section 54-06-09.
 - e. "Permanently and totally disabled" means the inability to engage in any substantial gainful activity by reason of any medically determinable physical or mental impairment which can be expected to result in death or has lasted or can be expected to last for a continuous period of not less than twelve months as established by a certificate from a licensed physician or a written determination of disability from the social security administration.

57-02-08.2. Homestead credit - Certification.

1. Prior to the first of March of each year, the county auditor of each county shall certify to the state tax commissioner on forms prescribed by the state tax commissioner the name and address of each person for whom the homestead credit provided for in section 57-02-08.1 was allowed for the preceding year, the amount of exemption allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
2. The tax commissioner shall audit such certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county on or before the first of June of each year, the sum of the amounts computed by multiplying the exemption allowed for each such homestead in the county for the preceding year by the total of the tax mill rates, exclusive of any state mill rates, that was applied to other real estate in such taxing districts for that year.
3. The county treasurer upon receipt of the payment from the state treasurer shall

apportion and distribute it without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.

4. The tax commissioner shall annually certify to the state treasurer the amount computed by multiplying the exemption allowed for all homesteads in the state for the preceding year by one mill for deposit into the state medical center fund.

5. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of any application for abatement filed by a person because the exemption provided for in section 57-02-08.1 was not allowed in whole or in part.

57-02-08.3. Homestead credit for special assessments - Certification - Lien.

1. Any person who has qualified for the property tax credit provided for in section 57-02-08.1 may elect to also qualify for an additional homestead credit against that person's homestead for the portion of any special assessment levied by a taxing district which becomes due for the same year. The total amount of credits allowed for any one property must not exceed six thousand dollars excluding any interest charged by the body levying the special assessment. This credit may be granted only at the election of the qualifying person. The person making the election shall do so by filing with the county auditor a claim for the special assessment credit on a form prescribed by the tax commissioner. The claim must be filed with the county auditor on or before February first of the year in which the special assessment installment thereof becomes payable.

2. a. By March first of each year, the county auditor of each county shall certify to the state tax commissioner, on forms prescribed by the tax commissioner, the following information:

(1) The name and address of each person for whom the special assessment credit provided for in subsection 1 was allowed for the preceding year.

(2) The amount of credit allowed for the special assessment installment thereof due for the preceding year.

(3) The total amount of the special assessment credits due in each special assessment district.

(4) Other information that the tax commissioner requires.

b. The tax commissioner shall audit the certifications, make such corrections as may be required, and certify to the state treasurer for payment to each county by June first of each year the sum of the amounts computed by adding the credits allowed for portions of special assessments which were due for each homestead in the county for the preceding year. No more than the portion of special assessments due for the preceding year shall be allowed as a credit for any homestead in any year.

- c. The county treasurer upon receipt of the payment from the state treasurer shall forthwith apportion and distribute the payment to each special assessment district in the county according to the total credits allowed for each respective special assessment district.
 - d. Supplemental certifications by the county auditor and by the state tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed herein to make such corrections as may be necessary because of errors therein.
3. a. Any credit allowed under subsection 1, plus interest in the amount of nine percent per year from June first of the year for which the special assessment installment for which a credit is taken becomes payable, creates a lien in favor of the state against the property upon which the special assessment credit is allowed and remains a lien upon the property from the time the credit is allowed until the lien is fully satisfied by depositing the amount of the lien in the state general fund. If the amount of the lien exceeds the market value of the property, the state may accept the amount of the market value of the property as payment in full on the lien.
- b. (1) Except as otherwise provided in this subdivision, a transfer of title to the homestead because of sale, death, or otherwise may not be made without the lien being satisfied. When a credit under subsection 1 is allowed, the county auditor shall cause a notice of lien of record to be filed against subject property with the recorder.
 - (2) The recorder may not record any deed for property on which the county auditor has determined that there is an unsatisfied lien created under this section, except for a transfer between spouses because of the death of one of them as provided in paragraph 3.
 - (3) When a transfer occurs between spouses because of the death of one of them, the lien allowed by this section need not be satisfied until the property is again transferred.
- c. This lien has precedence over all other liens except general tax liens and prior special assessment liens and shall not be divested at any judicial sale. A mistake in the description of the property covered by this lien or in the name of the owner of the property does not defeat the lien if the property can be identified by the description in the special assessment list.

57-02-08.8. Property tax credit for disabled veterans - Certification - Distribution.

- 1. A disabled veteran of the United States armed forces with an armed forces service-connected disability of fifty percent or greater, who was discharged under honorable conditions or who has been retired from the armed forces of the United States, or the un-remarried surviving spouse if the disabled veteran is deceased, is eligible for a credit applied against the first one hundred twenty thousand dollars of

true and full valuation of the fixtures, buildings, and improvements of the person's homestead equal to the percentage of the disabled veteran's disability compensation rating for service-connected disabilities as certified by the department of veterans affairs for the purpose of applying for a property tax exemption.

2. If two disabled veterans are married to each other and living together, their combined credits may not exceed one hundred percent of one hundred twenty thousand dollars of true and full value of the fixtures, buildings, and improvements of the homestead. If a disabled veteran co-owns the homestead property with someone other than the disabled veteran's spouse, the credit is limited to that disabled veteran's interest in the fixtures, buildings, and improvements of the homestead, to a maximum amount calculated by multiplying one hundred twenty thousand dollars of true and full valuation by the disabled veteran's percentage of interest in the homestead property and multiplying the result by the applicant's certified disability percentage.
3. A disabled veteran or un-remarried surviving spouse claiming a credit under this section for the first time shall file with the county auditor an affidavit showing the facts herein required, a description of the property, and a certificate from the United States department of veterans affairs, or its successor, certifying to the amount of the disability. The affidavit and certificate must be open for public inspection. A person shall thereafter furnish to the assessor or other assessment officials, when requested to do so, any information which is believed will support the claim for credit for any subsequent year.
4. For purposes of this section, and except as otherwise provided in this section, "homestead" has the meaning provided in section 47-18-01 except that it also applies to a person who otherwise qualifies under the provisions of this section whether the person is the head of the family.
5. This section does not reduce the liability of a person for special assessments levied upon property.
6. The board of county commissioners may cancel the portion of unpaid taxes that represents the credit calculated in accordance with this section for any year in which the qualifying owner has held title to the homestead property. Cancellation of taxes for any year before enactment of this section must be based on the law that was in effect for that tax year.
7. Before the first of March of each year, the county auditor of each county shall certify to the tax commissioner on forms prescribed by the tax commissioner the name and address of each person for whom the property tax credit for homesteads of disabled veterans was allowed for the preceding year, the amount of credit allowed, the total of the tax mill rates of all taxing districts, exclusive of any state mill rates, that was applied to other real estate in the taxing districts for the preceding year, and such other information as may be prescribed by the tax commissioner.
8. The tax commissioner shall audit the certifications, make any corrections that may be required, and certify to the state treasurer for payment to each county on or before the first of June of each year, the sum of the amounts computed by multiplying the credit allowed for each homestead of a disabled veteran in the county

by the total of the tax mill rates, exclusive of any state mill rates that were applied to other real estate in the taxing districts for the preceding year.

9. The county treasurer upon receipt of the payment from the state treasurer shall apportion and distribute the payment without delay to the county and to the local taxing districts of the county on the basis on which the general real estate tax for the preceding year is apportioned and distributed.
10. On or before the first day of June of each year, the tax commissioner shall certify to the state treasurer the amount computed by multiplying the property tax credit allowed under this section for homesteads of disabled veterans in the state for the preceding year by one mill for deposit in the state medical center fund.
11. Supplemental certifications by the county auditor and by the tax commissioner and supplemental payments by the state treasurer may be made after the dates prescribed in this section to make such corrections as may be necessary because of errors or because of approval of an application for abatement filed by a person because the credit provided for the homestead of a disabled veteran was not allowed in whole or in part.

CHAPTER 57-15 TAX LEVIES AND LIMITATIONS

57-15-06.4. Levy authorized for county veterans' service officer's salary, traveling, and office expenses. The county commissioners of each county may levy annually a tax not exceeding the limitation in subsection 18 of section 57-15-06.7 to provide a fund for the payment of the salary, traveling, and office expenses of the county veterans' service officer authorized to be appointed by section 37-14-18.

57-15-06.7. Additional levies - Exceptions to tax levy limitations in counties. The tax levy limitations specified in section 57-15-06 do not apply to the following mill levies, which are expressed in mills per dollar of taxable valuation of property in the county:

1. Counties supporting airports or airport authorities may levy a tax not exceeding four mills in accordance with section 2-06-15.
2. Counties levying an additional tax as provided in section 4-02-27.2 may levy a tax not exceeding two mills for a period of not to exceed ten years.
3. Repealed by S.L. 1995, ch. 61, § 14.
4. Counties levying a tax for extension work as provided in section 4-08-15 may levy a tax not exceeding two mills.
5. Counties levying a tax for extension work as provided for in section 4-08-15.1 may levy a tax not exceeding two mills.
6. Counties levying a tax for gopher, rabbit, and crow destruction as provided in section 4-16-02 may levy a tax not exceeding one-half of one mill.

7. Counties levying a tax for payment of a judgment obtained by the state or a state agency against the county in accordance with section 11-11-46 may levy a tax not exceeding one mill.
8. Counties levying a tax for historical works in accordance with section 11-11-53 may levy a tax not exceeding one quarter of one mill, except that if sixty percent of the qualified electors voting on the question of an increase levy as provided in section 11-11-53 shall approve, a tax may be levied not exceeding three quarters of one mill.
9. A county levying a tax for a booster station in accordance with section 11-11-60 may levy a tax not exceeding two mills.
10. A county levying a tax to pay expenses of the board of county park commissioners in accordance with section 11-28-06 may levy a tax not exceeding one mill.
11. Repealed by S.L. 1999, ch. 154, § 2.
12. A county levying a tax for a county or community hospital association as provided in section 23-18-01 may levy a tax for not more than five years not exceeding eight mills in any one year or, in the alternative, for not more than fifteen years at a mill rate not exceeding five mills.
13. A county levying a tax for a nursing home authority in accordance with section 23-18.2-12 may levy a tax not exceeding five mills.
14. A county levying a tax for county roads as provided in section 24-05-01 may levy a tax not exceeding five mills if approved as provided in that section.
15. A county levying a tax to establish and maintain a public library service as provided in section 40-38-02 may levy a tax not exceeding four mills.
16. A county levying a tax to provide for career and technical education and on-the-job training services as provided in section 40-57.2-04 may levy a tax not exceeding one mill.
17. A county levying a tax for farm-to-market and federal-aid roads as provided in section 57-15-06.3 may levy a tax not exceeding the levy established by the ballot approved by the electors as provided in that section.
18. A county levying a tax for a county veterans' service officer's salary, traveling, and office expenses in accordance with section 57-15-06.4 may levy a tax not exceeding two mills.
19. A county levying a tax for planning purposes as provided in section 57-15-06.5 may levy a tax not exceeding three mills.
- 19.1. A county levying a tax for regional or county corrections centers according to section 57-15-06.6 may levy a tax not exceeding ten mills.
20. A county levying a tax for advertising purposes as provided in section 57-15-10.1

may levy a tax not exceeding one-half mill.

21. A county levying a tax for abandoned cemetery maintenance as provided in section 57-15-27.2 may levy a tax not exceeding one-tenth of one mill.
22. A county levying a tax for emergency purposes as provided in section 57-15-28 may levy a tax not exceeding two mills in a county with a population under thirty thousand but more than five thousand, or six mills in a county with a population of five thousand or fewer.
23. A county levying a tax for county emergency medical service according to section 57-15-50 may levy a tax not exceeding ten mills.
24. A county levying a tax for destruction of weeds along highways as provided in section 57-15-54 may levy a tax not exceeding two mills.
25. A county levying a tax for programs and activities for senior citizens according to section 57-15-56 may levy a tax not exceeding two mills.
26. A county levying a tax for county welfare in accordance with section 57-15-57 may levy a tax not exceeding two mills.
27. A county levying a tax to repay a loan according to section 57-47-04 may levy a tax not to exceed three mills.
28. Tax levies made for paying the principal and interest on any obligations of the county evidenced by the issuance of bonds.
29. A county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a tax not exceeding four mills on the taxable valuation of property within the county. Upon approval by a majority of electors voting on the question at a regular or special county election, a county levying a tax for a job development authority as provided in section 11-11.1-04 or for the support of an industrial development organization as provided in section 11-11.1-06 may levy a separate and additional tax for promotion of tourism in an amount not exceeding one mill on the taxable valuation of property within the county. However, if any city within the county is levying a tax for support of a job development authority or for support of an industrial development organization and the total of the county and city levies exceeds five mills, the county tax levy within the city levying under subsection 28 of section 57-15-10 must be reduced so the total levy in the city does not exceed five mills.
30. Counties levying a tax for county fairs according to section 4-02-26 may levy a tax not exceeding one mill.
31. Counties levying a tax according to section 4-02-27 for a county fair association may levy a tax not exceeding one and one-half mills.
32. Counties levying a tax in accordance with section 4-02-27.1 for a county fair association may levy a tax not exceeding one-half mill.

33. A county levying a tax for programs and activities for handicapped persons according to section 11-11-65 may levy a tax not exceeding one-half mill.
34. Counties levying an annual tax for human services purposes as provided in section 50-06.2-05 may levy a tax not exceeding twenty mills.
35. A county levying a tax for county parks and recreational facilities in accordance with section 57-15-06.9 may levy a tax not exceeding three mills.
36. A county levying a tax for old-age and survivors' insurance or comprehensive health care insurance employee benefit programs according to section 52-09-08, for social security, for an employee retirement program established by the governing body, for county automation and telecommunications under section 57-15-62, or for any combination of those purposes, may levy a tax not exceeding thirty mills. The portion of the levy under this subsection for county automation and telecommunications under section 57-15-62 may not exceed five mills. The portion of the levy under this subsection for comprehensive health care insurance employee benefit programs under section 52-09-08 may not exceed four mills.
37. Counties supporting ports or port authorities may levy a tax not exceeding four mills in accordance with section 11-36-15.
38. Counties supporting commerce authorities may levy a tax not exceeding four mills in accordance with section 11-37-14.

Tax levy or mill levy limitations do not apply to any statute which expressly provides that taxes authorized to be levied therein are not subject to mill levy limitations provided by law.

CHAPTER 57-36 TOBACCO PRODUCTS TAX LAW

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

CHAPTER 57-38 INCOME TAX

57-38-01.2. (Effective for taxable years beginning before January 1, 2009)
Adjustments to taxable income for individuals and fiduciaries. Repealed by S.L. 2009, ch. 545, § 32.

57-38-01.7. Income tax credit for charitable contributions - Limitation.

1. At the election of the taxpayer, there must be allowed, subject to the applicable

Limitations provided in this subsection, as a credit against the income tax liability under section 57-38-30 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year to nonprofit private institutions of higher education located within the state or to the North Dakota independent college fund. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.

2. At the election of the taxpayer, there must be allowed, subject to the applicable limitations provided in this subsection, as a credit against the income tax liability under section 57-38-30 for the taxable year, an amount equal to fifty percent of the aggregate amount of charitable contributions made by the taxpayer during the year directly to nonprofit private institutions of secondary education, located within the state. The amount allowable as a credit under this subsection for any taxable year may not exceed twenty percent of the corporation's total income tax under this chapter for the year, or two thousand five hundred dollars, whichever is less.
3. For purposes of this section, the term "nonprofit private institution of higher education" means only a nonprofit private educational institution located in the state of North Dakota which normally maintains a regular faculty and curriculum, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education at a level above the twelfth grade. The term "nonprofit private institution of secondary education" means only a nonprofit private educational institution located in North Dakota which normally maintains a regular faculty and curriculum approved by the state department of public instruction, which normally has a regularly organized body of students in attendance at the place where its educational activities are carried on, and which regularly offers education to students in the ninth through the twelfth grades.
4. For purposes of this section, a taxpayer may elect to treat a contribution as made in the preceding taxable year if the contribution and election are made not later than the time prescribed in section 57-38-34 for filing the return for that taxable year, including extensions granted by the commissioner.

57-38-01.16. Income tax credit for employment of developmentally disabled or chronically mentally ill persons. A taxpayer filing an income tax return under this chapter may claim a credit against the tax liability imposed under section 57-38-30 for a portion of the wages paid to a developmentally disabled or chronically mentally ill employee. The credit allowed under this section equals five percent of up to six thousand dollars in wages paid during the first twelve months of employment by the taxpayer for each developmentally disabled or chronically mentally ill employee of the taxpayer. Only wages actually paid during the taxpayer's taxable year may be considered for purposes of this section. An employee of a subcontractor is considered an employee of the contractor to the extent of any wages paid under the contract. The total of credits allowed under this section may not exceed fifty percent of the taxpayer's liability under this chapter

57-38-01.31. Employer tax credit for salary and related retirement plan contributions for mobilized employees.

1. A taxpayer who is an employer in this state is entitled to a credit against tax liability

as determined under section 57-38-29, 57-38-30, or 57-38-30.3 equal to twenty-five percent of the reduction in compensation that the taxpayer continues to pay during the taxable year to, or on behalf of, each employee of the taxpayer during the period that the employee is mobilized under title 10 of the United States Code as a member of a reserve or national guard component of the armed forces of the United States. The maximum credit allowed for each eligible employee is one thousand dollars. The amount of the tax credit may not exceed the amount of the taxpayer's state tax liability for the tax year and an excess credit may be carried forward for up to five taxable years. For the purposes of this subsection:

- a. "Reduction in compensation" means the amount by which the pay received during the taxable year by the employee for service under title 10 of the United States Code is less than the total amount of salary and related retirement plan contributions that would have been paid by the taxpayer to the employee for the same time period had the employee not been mobilized.
 - b. "Related retirement plan contributions" means the portion of voluntary or matching contributions paid by the taxpayer into a defined contribution plan maintained by the taxpayer for the employee.
2. A partnership, subchapter S corporation, limited liability company treated like a passthrough entity, or any other similar passthrough entity that is an employer in this state must be considered to be a taxpayer for purposes of this section. The amount of the credit determined at the passthrough entity level must be passed through to the partners, shareholders, or members in proportion to their respective interests in the passthrough entity.

57-38-34. Time and place of filing returns - Interest on tax when time for filing is extended.

1. Returns must be in such form as the tax commissioner from time to time may prescribe and may include the requirement that a copy of the taxpayer's federal income tax return or a portion thereof or information reflected thereon be attached to, furnished with, or included in the taxpayer's state income tax return. The taxpayer's state income tax return must contain a method for the taxpayer to identify the school district in which the taxpayer resides and must be filed with the tax commissioner's office in Bismarck, North Dakota. The tax commissioner shall prepare blank forms for use in making returns and shall cause them to be distributed throughout this state, but failure to receive or secure a form does not relieve a taxpayer from making a return.

2. Returns made on the basis of the calendar year must be filed on or before the fifteenth day of April following the close of the calendar year and returns made on the basis of a fiscal year must be filed on or before the fifteenth day of the fourth month following the close of the fiscal year. A return filed for a period of less than one year must be filed on or before April fifteenth, or on or before the date prescribed by the United States internal revenue service, whichever is later.

3. Returns for cooperatives, domestic international sales corporations, and foreign sales corporations, however, made on the basis of the calendar year must be filed on or before the fifteenth day of September following the close of the calendar year and returns made on the basis of a fiscal year must be filed on or before the fifteenth day of the ninth month following the close of the fiscal year.

4. Returns for exempt organizations required to report unrelated business taxable income under subsection 2 of section 57-38-09 made on the basis of the calendar year must be filed on or before the fifteenth day of May following the close of the calendar year and returns made on the basis of a fiscal year must be filed on or before the fifteenth day of the fifth month following the close of the fiscal year. 5. A taxpayer actively serving in the armed forces or merchant marine, outside the boundaries of the United States, may defer the filing of an income tax return and the payment of the income tax until such time as the federal income tax return is required to be filed at which time the state income tax return, with payment of tax, will also be due. No interest or penalty accrues to the date of such filing.

6. The tax commissioner may grant a reasonable extension of time for filing a return when, in the judgment of the tax commissioner, good cause exists.

CHAPTER 57-40.3 MOTOR VEHICLE EXCISE TAX

57-40.3-04. Exemptions. There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it the following:

:

1. Any motor vehicle acquired by, or leased and in the possession of, a resident disabled veteran under the provisions of Pub. L. 79-663 [38 U.S.C. 3901], a resident disabled veteran who has a one hundred percent service-connected disability as determined by the department of veterans affairs or a resident disabled veteran who has an extra-schedular rating to include individual unemployability that brings the veteran's total disability rating to one hundred percent as determined by the department of veterans' affairs who registers, or is eligible to register, the vehicle with a distinctive license plate issued by the department of transportation under subdivision j of subsection 2 of section 39-04-18. An unremarried surviving spouse who is receiving department of veterans' affairs dependency and indemnity compensation retains the exemption of the deceased, qualifying veteran in this subsection.
2. Any motor vehicle owned by or in possession of the federal or state government or a political subdivision thereof or a motor vehicle procured by or on behalf of the North Dakota lottery that is to be awarded as a prize in a game or promotion.
3. Motor carrier vehicles in excess of twenty thousand pounds [9071.85 kilograms] gross weight, whether owned or leased, engaged in interstate commerce but only to the extent their fleet miles outside North Dakota bear to their total fleet miles. For the purposes of this subsection, "fleet miles" means those miles reported in accordance with the international registration plan and must coincide with the mileage reporting period required by the plan. For the purposes of this subsection, "motor carrier vehicles" means any vehicles used upon public streets or highways for the purpose of transporting persons or property for commercial purposes. To claim this exemption, the motor carrier's vehicles must be both titled and registered in this state.
4. Any motor vehicle transferred without consideration to or from a person within thirty days prior to that person entering into the armed services of the United States or

within thirty days after discharge therefrom or while serving in the armed services of the United States; provided the person certifies to the director of the department of transportation that the transfer is made only by reason of entering into, serving in, or being discharged from the armed services of the United States.

5. a. A motor vehicle acquired by inheritance from, by bequest of, or operation of a trust created by a decedent who owned it;
 - b. The transfer of a motor vehicle that was previously titled or licensed in the name of an individual or in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more joint tenants, including a transfer into a trust in which one or more of the joint tenants is beneficiary or trustee;
 - c. The transfer of a motor vehicle by way of gift between a husband and wife, parent and child, or brothers and sisters, including a transfer into a trust in which the trustor and beneficiary occupy one of these relationships;
 - d. The transfer of a motor vehicle without monetary consideration into a trust in which the beneficiary is the person in whose name the motor vehicle was previously titled or licensed;
 - e. The transfer of a motor vehicle to reflect a new name of the owner caused by a business reorganization in which the ownership of the reorganized business remains in the same person or persons as prior to the reorganization, but only if the title transfer is completed within one hundred eighty days from the effective date of the reorganization; and
 - f. The transfer of a motor vehicle previously transferred under subdivision e which returns ownership to the previous owner; and
 - g. The transfer of a motor vehicle without monetary consideration from a revocable living trust to the trustor or to the spouse, child, or sibling of the trustor.
6. Motor vehicles transferred between a lessee and lessor; provided, that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the tax imposed under section 57-40.3-02 at the time of titling or licensing the vehicle in this state or the use tax imposed by chapter 57-40.2.
6. Motor vehicles transferred between a lessee and lessor; provided, that the lessee has been in continuous possession of such vehicle for a period of one year or longer, and further provided that the lessor has paid either the tax imposed under section 57-40.3-02 at the time of titling or licensing the vehicle in this state or the use tax imposed by chapter 57-40.2.
7. Any motor vehicle in the possession of and used as a bus exclusively by a nonprofit senior citizens' or handicapped persons' corporation; provided, that such bus may not be used for commercial activities.
 8. Any motor vehicle that does not exceed ten thousand pounds [4535.92 kilograms] gross weight and which is acquired by, or leased and in the possession of, a

permanently physically disabled, licensed driver who is restricted to operating only motor vehicles equipped with special controls to compensate for the disability, or by permanently physically disabled individuals who have either surrendered or who have been denied a driver's license because of a permanent physical disability, provided the individuals obtain from the director of the department of transportation or the director's authorized representative a statement that the individual has a restricted driver's license or has either surrendered or has not been issued a driver's license because of a permanent physical disability; a copy of the statement must be attached to the application for registration of the title to the motor vehicle for which the exemption from tax under this chapter is claimed. Any motor vehicle acquired subject to this exemption must be disposed of either by transfer to another permanently physically disabled person or by a trade-in on another exempt sale or by a transfer involving a sale subject to sales or use tax before another motor vehicle can be acquired subject to the benefits of this exemption clause.

9. Any motor vehicle registered under chapter 39-04 for the first time by a person other than a manufacturer of motor vehicles, as defined in section 39-01-01, who assembled the motor vehicle for that person's own use.
10. Motor vehicles acquired by, or leased and in the possession of, any parochial or private nonprofit school to be used for the transportation of students; provided, that to qualify a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance, and provided that the vehicles are not to be used for commercial activities.
11. Any motor vehicle with a gross vehicle weight of at least a class six, seven, or eight chassis, purchased for installation or assembly of heavy duty equipment by a person engaged in the business of installing or assembling the equipment, which when completed forms an integral part of a vehicle, has limited marketability, and is not normally sold to the general public. This exemption applies only when the manufacturer's statement of origin is reassigned to the installer or assembler by a licensed new motor vehicle dealer on a form prescribed by the tax commissioner. The motor vehicle and installed equipment must be sold as a unit when completed. "Heavy duty equipment" includes fuel delivery tanks, refuse bodies, cranes, aerial bucket devices, bus bodies regardless of gross vehicle weight, and digger derricks.
12. Motor vehicles acquired through purchase or gift by any nonprofit county and local historical societies that are exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue Code [26 U.S.C. 501(c)(3)].
13. Any motor vehicle acquired by, or leased and in the possession of, a resident who was a prisoner of war and who registers the vehicle with a distinctive license plate issued by the department of transportation under subdivision o of subsection 2 of section 39-04-18. The owner or lessor of the motor vehicle who qualifies for the exemption under this subsection is entitled to a refund of taxes paid under this chapter on acquisition or leasing of the vehicle if the distinctive license plate was acquired not more than sixty days after acquisition or leasing of the vehicle.
14. Any motor vehicle acquired by a charitable organization to be awarded as a prize in a raffle conducted in accordance with law if upon registration the motor vehicle will be subject to taxes under this chapter or the motor vehicle is registered in another

state.

15. A motor vehicle acquired at any location within this state by an individual who resides within the boundaries of any reservation in this state and who is an enrolled member of a federally recognized Indian tribe.
16. A motor vehicle originally manufactured for use as an ambulance, when purchased by the operator of an emergency medical services operation licensed under chapter 23-27.
17. Motor vehicles registered in another state or territory, if the motor vehicle is registered in this state under section 39-04-18.2.

CHAPTER 57-40.5 AIRCRAFT EXCISE TAX

57-40.5-03. Exemptions. There are specifically exempted from the provisions of this chapter and from computation of the amount of tax imposed by it, the following:

1. Aircraft acquired by disabled veterans as defined by the provisions of Public Law No. 79-663 [38 U.S.C. 1901]. This exemption shall be allowed only with respect to one aircraft owned by any disabled veteran.
2. Any aircraft owned by or in possession of the federal or state government or any of the political subdivisions, departments, agencies, or institutions thereof.
3. Aircraft which were previously titled or registered in the names of two or more joint tenants and subsequently transferred without monetary consideration to one or more of the joint tenants; the transfer of aircraft by gift, inheritance, or devise between a husband and wife, parent and child, or brothers and sisters; and the transfer of aircraft to reflect a new name of the owner caused by a business reorganization, if the ownership of the business organization remains in the same person or persons as prior to the reorganization.
4. Aircraft transferred between a lessee and lessor, if the lessee has been in continuous possession of the aircraft for a period of one year or longer, and if the lessor has paid either the tax imposed under this chapter at the time of registering the aircraft in this state or the use tax imposed by chapter 57-40.2.
5. Aircraft acquired by any parochial or private nonprofit school. To qualify, a school must normally maintain a regular faculty and curriculum and must have a regularly organized body of students in attendance. The aircraft is not to be used for commercial activities.
6. Aircraft for use as an air ambulance, when purchased by the operator of an emergency medical services operation licensed under chapter 23-27.
7. Aircraft acquired by an aviation museum located in this state that is exempt from federal income taxation under section 501(c)(3) of the United States Internal Revenue

Code [26 U.S.C. 501(c)(3)]. For purposes of this subsection, the term "acquired" has the meaning as provided in section 57-40.5-01. Any aviation museum acquiring an aircraft under this subsection shall comply with sections 57-40.5-04 and 57-40.5-05. The aircraft may not be used for commercial activities. For purposes of this subsection, commercial activities do not include activities for which a fee is charged when the proceeds are used for the benefit of the aviation museum.

CHAPTER 57-55 MOBILE HOMES TAXES

57-55-10. Exemptions - Exceptions.

1. A mobile home described in this subsection to the extent herein limited is exempt from taxation under this chapter; provided, that the mobile home shall have a tax permit as provided in section 57-55-06:
 - a. If it is owned and used as living quarters of a military person on active military duty in this state who is a resident of another state.
 - b. If it is owned and occupied by a welfare recipient, provided the mobile home is not permanently attached to the land and classified as real property. For the purposes of this subdivision, "welfare recipient" means any person who is certified to the county director of tax equalization by the county social service board as receiving the major portion of income from any state or federal public assistance program.
 - c. If it is owned and used as living quarters by a disabled veteran or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08 or section 57-02-08.8.
 - d. If it is owned and used as living quarters by a permanently and totally disabled person or unremarried surviving spouse who meets the requirements of subsection 20 of section 57-02-08.
 - e. If it is owned and used as the living quarters for a blind person who meets the requirements of subsection 22 of section 57-02-08.
 - f. If it is owned and used by a person who uses it as living quarters and who qualifies for the homestead credit provided in section 57-02-08.1, and the mobile home shall be regarded for the purposes of this exemption as the homestead of the person claiming the exemption.
2. This chapter does not apply to a mobile home that:
 - a. Is used only for the temporary living quarters of the owner or other occupant while the person is engaged in recreational or vacation activities, provided the unit:
 - (1) Displays a current travel trailer license; or

- (2) Is a park model trailer that is used only for seasonal or recreational living quarters and not as a primary residence, and which is located in a trailer park or campground, and for which the owner has paid a park model trailer fee under section 39-18-03.2. For purposes of this paragraph, "park model" trailer means a recreational vehicle not exceeding forty feet [12.19 meters] in length which is primarily designed to provide temporary living quarters for recreation, camping, or seasonal use, is built on a single chassis, is mounted on wheels, has a gross trailer area not exceeding four hundred square feet [37.16 square meters] of enclosed living space in the setup mode, and is certified by the manufacturer as complying with American national standards institute standard A119.5.
- b. Qualifies as a farm residence as described by subsection 15 of section 57-02-08, provided such mobile home is permanently attached to a foundation.
- c. Is permanently attached to a foundation and is assessed as real property, provided the owner of such mobile home also owns the land on which such mobile home is located or is in possession of the real property under the terms of a lease in recordable form which has a term that continues for at least twenty years after the date of execution with the consent of the lessor of the real property.
- d. Is owned by a licensed mobile home dealer who holds such mobile home solely for the purpose of resale, and provided that such mobile home is not used as living quarters or as the place for the conducting of any business.

VETERANS' POSTWAR TRUST FUND

Article X, Section 25 North Dakota Constitution

The veteran' postwar trust fund shall be a permanent trust fund of the state of North Dakota and shall consist of moneys transferred or credited to the fund as authorized by legislative enactment. Investment of the fund shall be the responsibility of the state treasurer who shall have full authority to invest the fund only in the same manner as the state investment board is authorized to make investments. All income received from investments is to be utilized for programs which must be of benefit and service to veterans, who are defined by legislative enactment, or their dependents, and such income is hereby appropriated to the administrative committee on veterans' affairs on a continuing basis for expenditure upon those programs selected at the discretion of the administrative committee on veteran' affairs.