Chapter 127A.

Militia.

Article 1.

Classification of Militia.

§ 127A-1. Composition of militia.

The militia of the State shall consist of all able-bodied citizens of the State and of the United States and all other able-bodied persons who have or shall declare their intention to become citizens of the United States, subject to the qualifications prescribed in this Chapter, who shall be drafted into the militia or shall voluntarily accept commission, appointment, or assignment to duty therein. (1917, c. 200, s. 1; C.S., s. 6791; 1949, c. 1130, s. 1; 1957, c. 1043, s. 1; 1963, c. 1016, s. 2; 1967, c. 563, s. 1; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-2. Classification of militia.

The militia shall be divided into the organized and unorganized militia. The organized militia shall consist of four classes: the North Carolina National Guard, the naval militia, the State defense militia and historic military commands. (1975, c. 604, s. 2; 2009-281, s. 1.)

§ 127A-3. Organized militia; National Guard.

The North Carolina National Guard, both Army and Air, shall consist of regularly commissioned, warrant and enlisted personnel within the age limits established by regulations promulgated by the secretary of the appropriate service and shall be organized, governed, armed, equipped and have the duties and responsibilities provided in this Chapter. (1917, c. 200, s. 2; C.S., s. 6792; 1949, c. 1130, s. 1; 1957, c. 136, s. 1; 1961, c. 192, s. 1; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-4. Organized militia; naval militia.

The naval militia shall consist of regularly commissioned, warrant and enlisted personnel within the age limits established by regulations promulgated by the secretary of the appropriate service and shall be organized, governed, armed, equipped and have the duties and responsibilities provided in this Chapter. (1917, c. 200, s. 3; C.S., s. 6793; 1949, c. 1130, s. 1; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-5. Organized militia; State defense militia.

The State defense militia shall consist of commissioned, warrant and enlisted personnel called, ordered, appointed or enlisted therein by the Governor under the provisions of Article 5 of this Chapter and shall be organized, governed, armed, equipped and have the duties and responsibilities provided in this Chapter. (1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-6. Organized militia; historic military commands.

Historic military commands are those historic groups which remain active by meeting at least once a month and which follow military procedures. Only groups designated by the Governor shall fall within this branch of the militia. Any maximum age limits prescribed by this Chapter do not apply to members of historic military commands. (1957, c. 1043, s. 2; 1967, c. 563, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-7. Composition of unorganized militia.

The unorganized militia shall consist of all other able-bodied citizens of the State and of the United States and all other able-bodied persons who have or shall declare their intention to become citizens of the United States, who shall be at least 17 years of age, except those who have been convicted of a felony or discharged from any component of the military under other than honorable conditions. (1917, c. 200, s. 4; C.S., s. 6794; 1949, c. 1130, s. 1; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 1983, c. 314, s. 1; 2011-195, s. 1(a).)

§ 127A-8. Exemptions from duty with the militia.

The officers, judicial and executive, of the government of the United States and the State of North Carolina, persons in the military or naval service of the United States, customhouse clerks, persons employed by the United States in the transmission of mail, artificers and personnel employed in the armories, arsenals and navy yards of the United States, pilots, and mariners actually employed in the sea service of any citizen or merchant within the United States shall be exempt from duty with the militia without regard to age, and all persons who, because of religious beliefs, claim exemption from duty with the militia, if the conscientious holding of the belief by that person is established under the regulations prescribed for exemption from service with the Armed Forces of the United States, shall be exempted from militia service in a combatant capacity; but no person so exempted shall be exempt from militia service in any capacity that shall be declared noncombatant for the Armed Forces of the United States. (1917, c. 200, s. 5; C.S., s. 6795; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-9. Number of troops authorized.

In time of peace the State shall maintain only those troops that are authorized by the President of the United States; but nothing contained in this Chapter shall be construed as limiting the rights of the State in the use of the North Carolina National Guard or the State defense militia or both within its borders in time of peace. Nothing contained in this Chapter shall prevent the organization and maintenance of State police or constabulary. (1917, c. 200, s. 8; C.S., s. 6797; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-10. Corps entitled to retain privileges.

Any corps of artillery, cavalry, or infantry existing in the State on the passage of the act of Congress of May 8, 1792, which by the laws, customs, or usages of the State has been in continuous existence since the passage of that act, under its provisions and under the provisions of section 232 and sections 1625 to 1660, both inclusive, of Title 16 of the revised statutes of 1873 and the act of Congress of January 21, 1903, relating to the militia, shall be allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of the militia; but these organizations may be a part of the North Carolina National Guard, and entitled to all the privileges of this Chapter, and shall conform in all respects to the organization, discipline, and training of the North Carolina National Guard in time of war. For purposes of training and when on active duty in the service of the United States they may be assigned to higher units, as the President may direct, and shall be subject to the orders of officers under whom they shall be serving. (1917, c. 200, s. 87; C.S., s. 6798; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-11 through 127A-15. Reserved for future codification purposes.

Article 2.

General Administrative Officers.

§ 127A-16. Governor as commander in chief.

(a) The Governor shall be commander in chief of the militia and shall have power to call out the militia to execute the laws, secure the safety of persons and property, suppress riots or insurrections, repel invasions and provide disaster relief.

(b) The Governor shall have the additional power, subject to the availability of funding, to place individuals, units, or parts of units of the North Carolina National Guard in a State Active Duty status to assist with the planning, support, and execution of activities connected with the swearing in and installation of the Governor and other members of the Council of State. (1917, c. 200, s. 11; C.S., s. 6799; 1975, c. 604, s. 2; 1999-442, s. 1.)

§ 127A-17. Commander in chief to prescribe regulations.

The commander in chief shall have the power and the duty, from time to time, to issue orders and to prescribe regulations relating to the organized and unorganized militia that are necessary for the militia at all times to conform to the federal requirements of the United States government relating thereto. (1917, c. 200, s. 36; C.S., s. 6800; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-17.1. Confidentiality of National Guard records.

Notwithstanding any provision of Chapter 143B of the General Statutes, no records of the North Carolina National Guard in the Department of Public Safety shall be disclosed or used for any purpose except for official purposes, and no records shall be disclosed, destroyed or used in any manner which is in violation of any existing federal law or regulation. Nothing in this Chapter shall convert records which are the property of the federal government into State property. (1977, c. 70, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-18. Personal staff of Governor.

The Governor may detail not more than 10 active North Carolina National Guard members and two active naval militia members who shall in addition to their regular duties, perform the duties of aides-de-camp on the personal staff of the Governor. (1917, c. 200, s. 12; C.S., s. 6801; 1959, c. 218, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-19. Adjutant General.

(a) The military head of the militia shall be the Adjutant General who shall hold the rank of major general with federal recognition at time of appointment or attain the rank of major general pursuant to this section. The Adjutant General shall be appointed by the Governor in the Governor's capacity as commander in chief of the militia, in consultation with the Secretary of Public Safety, and shall be subject to confirmation by the General Assembly by joint resolution.

The Governor shall submit the name of the person to be appointed, for confirmation by the General Assembly, to the General Assembly by May 1 of the year in which the Adjutant General is to be appointed. If the Governor does not submit the name by that date, the President Pro Tempore of the Senate and the Speaker of the House of Representatives shall submit a name to the General Assembly on or before May 15 of the same year. The appointment shall then be made by enactment of a bill. The bill shall state the name of the person being appointed, the office to which the appointment is being made, the residence of the appointee, and that the appointment is being made

upon the joint recommendation of the Speaker of the House of Representatives and the President Pro Tempore of the Senate. If there is no vacancy in the office of the Adjutant General and a bill that would confirm the appointment of the person as Adjutant General fails a reading in either chamber of the General Assembly, then the Governor shall submit a new name within 30 days.

Following appointment pursuant to this section, the Adjutant General shall serve at the pleasure of the Governor. The Adjutant General, while holding this office, shall be a member of the active North Carolina National Guard. If an appointed Adjutant General does not attain the rank of major general with federal recognition within a reasonable period of time from the date of appointment, the Governor shall replace the Adjutant General with an appointee who meets the criteria in, and is appointed in accordance with, this section. A "reasonable period of time" shall take into account time in grade requirements for promotion or promotions and administrative periods necessary to complete the promotion process.

(a1) In case of a vacancy in the office of the Adjutant General, the name of the Adjutant General's successor shall be submitted by the Governor to the General Assembly not later than 60 days after the vacancy arises. If a vacancy arises in the office when the General Assembly is not in session, an acting Adjutant General shall be appointed by the Governor to serve pending confirmation by the General Assembly. However, in no event shall an acting Adjutant General serve (i) for more than 12 months without General Assembly confirmation or (ii) after a bill that would confirm the appointment of the person as Adjutant General fails a reading in either chamber of the General Assembly.

(b) In order to be eligible for appointment as Adjutant General, a person shall be a resident of the State of North Carolina and meet all of the following requirements:

(1) The person shall have a total of at least 10 years of commissioned service in any component or components of the Armed Forces of the United States.

(2) The person shall have a minimum of three years commissioned service in the Army or Air National Guard within the six-year period previous to the appointment date.

(3) The person, at the time of appointment, shall be one of the following:

a. A major general with federal recognition or who is eligible for federal recognition.

b. A brigadier general with federal recognition or who is eligible for federal recognition and who is eligible for promotion to major general with federal recognition.

c. A colonel with federal recognition or who is eligible for federal recognition; who is eligible for promotion and federal recognition as a brigadier general; and who is eligible for promotion to major general with federal recognition.

(4) The person shall have completed all service school or other criteria for promotion to general officer with federal recognition.

(5) The person shall have a minimum of 12 months in command of either (i) an Army or Air National Guard unit or (ii) a unit in any component of the Armed Forces of the United States.

(c) Subject to the approval of the Governor and in consultation with the Secretary of Public Safety, the Adjutant General may appoint:

(1) A deputy adjutant general, who may hold the same rank as the Adjutant General.

(2) Two assistant adjutants general for the Army National Guard and an assistant adjutant general for the Air National Guard, each of whom may hold the rank of brigadier general.

The appointees authorized by this subsection shall serve at the pleasure of the Governor. The Adjutant General may also employ staff members and other personnel as authorized by the Secretary and funded. (1917, c. 200, s. 14; C.S., s. 6802; 1925, c. 54; 1939, c. 14; 1949, c. 1225; 1959, c. 218, s. 2; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 481; 1995, c. 122, s. 1; 2005-314, s. 1; 2008-162, s. 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a); 2014-100, s. 16B.7; 2014-106, s. 1; 2026-53, s. 8(a).)

§ 127A-20. Administrative and operational relationships of the Adjutant General.

In all administrative and operational matters affecting the militia while under State control, the Adjutant General shall be responsible to and subject to the direction and supervision of the Secretary of Public Safety. (1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g).)

§ 127A-21. United States property and fiscal officer.

(a) The Governor of the State, in consultation with the Secretary of Public Safety, shall appoint, designate, or detail, subject to the approval of the Secretary of the Army and the Secretary of the Air Force, a qualified commissioned officer of the North Carolina National Guard who is also a commissioned officer of the Army National Guard of the United States or the Air National Guard of the United States, as the case may be, to be the United States property and fiscal officer for North Carolina. If the officer is not on active duty, the President may order the officer to active duty, with the officer's consent, to serve as a property and fiscal officer.

(b) The status of the United States property and fiscal officer is that of a reserve commissioned officer of the United States Army or Air Force, as appropriate, on extended active duty and detailed for duty with the National Guard Bureau for administrative purposes. In the officer's capacity as United States property and fiscal officer, the officer will function under the direction of and cooperate fully with the State Adjutant General.

(c) The assumption and performance of duties and responsibilities, pay and allowances, and other personnel actions to include retention and retirement of an officer appointed and serving as the United States property and fiscal officer will be governed by regulations promulgated by the National Guard Bureau or pursuant to regulations promulgated by the secretary of the appropriate service. (1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-22. North Carolina property and fiscal officer.

(a) Upon full mobilization of the North Carolina National Guard into federal service to the extent that the functions of a United States property and fiscal officer no longer exist or are authorized under federal statutes, the Governor of the State, in consultation with the Secretary of Public Safety, may appoint, designate or detail a qualified individual to serve at the pleasure of the Governor as the North Carolina property and fiscal officer for any composition of a nonfederally recognized State National Guard or State defense militia organized under the provisions of this Chapter.

(b) In consideration of the North Carolina property and fiscal officer's services for the responsibility, care, utilization, and issue of State or federal facilities and property, under the jurisdiction of the State of North Carolina, the officer shall receive from the State a just and proper salary as authorized by the Governor; the salary to constitute a charge upon appropriations made to the Department of Public Safety.

(c) The North Carolina property and fiscal officer shall be an employee of the Department of Public Safety. The officer shall be required to give good and sufficient bond to the State, the amount thereof to be determined by the Governor, for the faithful performance of duties and for the safekeeping and proper distribution of the funds and property entrusted to the officer's care. The officer shall receipt for and account for all funds and property allotted to the officer's custody from the appropriation for military purposes by State and federal agencies, and shall make returns and reports through the Secretary of Public Safety concerning the property and funds as required by the Governor or State laws. (1917, c. 200, ss. 24, 25; C.S., ss. 6804, 6805; 1929, c. 317, s. 1; 1957, c. 136, s. 3; 1963, c. 1016, s. 2; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-23. Commissions for commandants and officers at qualified educational institutions.

The Governor of North Carolina is authorized to appoint and commission, as staff officers of the North Carolina unorganized militia, the officers of any university, college, academy or other educational institution which qualifies as provided in this section. Any university, college, academy or other educational institution shall be qualified under this section when the institution has been regularly incorporated under and by virtue of the laws of North Carolina; the institution, as a part of its courses of study, regularly teaches military science and tactics; the Department of Defense at Washington, D.C., has detailed an officer of the Armed Forces of the United States as professor or assistant professor of military science and tactics; the institution has been designated as qualified by the secretary of the appropriate service and has been made a unit of the Senior or Junior Reserve Officers' Training Corps, or the institution, not having a unit of the Reserve Officers' Training Corps, has been approved and authorized by the Secretary of Defense to participate in the National Defense Cadet Corps Training Program or other military training programs under Title 10, United States Code, sections 3540 and 4651.

Any qualified institution desiring the appointment of officers in the North Carolina unorganized militia shall make application to the Governor setting forth all requisite facts as to its qualifications, the names of the persons to be commissioned, the rank desired for each, and the person's position at the institution. The application shall be signed by the chancellor, president, superintendent or other presiding official, under the seal of the institution. Upon receipt of the application, the Governor may appoint and commission the officers of a qualified institution as follows: the chancellor, president, superintendent or other presiding official, as colonel; the vice-president, principal or other officer second in authority, as major; the professors and members of the faculty, as captains. The persons so commissioned shall have no connection with the North Carolina National Guard or other military forces of the State, nor shall they exercise any military authority other than in the discharge of their duties at their respective institutions. The commissions issued under this section may be terminated at the will of the Governor. (1919, c. 265, ss. 1, 2, 3; C.S., s. 6812; 1929, c. 61, s. 1; 1963, c. 1095; 1973, c. 476, s. 128; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-24 through 127A-28. Reserved for future codification purposes.

Article 3.

National Guard.

§ 127A-29. National Guard.

The North Carolina National Guard class of the four classes of the organized militia as established under G.S. 127A-2 is hereby designated the "North Carolina National Guard." Those elements of the North Carolina National Guard which receive federal recognition by the United States government shall hold a dual status both as State troops and as a reserve component of the Armed Forces of the United States. In its federal status, the North Carolina National Guard shall be subject to federal laws and regulations pertaining thereto. The Adjutant General shall insure compliance with those federal laws and regulations and with all State laws and orders of the Governor not inconsistent with them. (1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-30. Organization of National Guard units.

Except as otherwise specifically provided by the laws of the United States, the organization of the North Carolina National Guard, including the composition of all its units, shall be the same as that which is or may hereafter be prescribed for the regular United States Army or Air Force subject in time of peace to general exceptions authorized by the Secretary of Defense. (1917, c. 200, s. 7; C.S., s. 6808; 1959, c. 218, s. 4; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-31. Location of units.

The Governor shall determine and fix the location of the units and headquarters of the North Carolina National Guard within the State; but no organization of the North Carolina National Guard, members of which shall be entitled to and shall have received compensation under the provisions of the act of Congress approved June 3, 1916, as amended, shall be disbanded without the consent of the President, nor without that consent shall the commissioned or enlisted strength of any such organization be reduced below the minimum that is now or shall be hereafter prescribed therefor by the President. (1917, c. 200, s. 9; C.S., s. 6809; 1921, c. 120, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-32. Officers appointed and commissioned; oath of office.

All officers of the North Carolina National Guard shall be appointed and commissioned by the Governor as follows, viz.:

(1) Except as otherwise specifically provided by the laws of the United States, the qualifications for appointment as an officer in the North Carolina National Guard shall be the same as those prescribed for the regular establishment, subject to general exceptions authorized by the Secretary of Defense.

(2) Candidates for appointment shall make written application therefor on forms prescribed by the secretary of the appropriate service, to the Adjutant General, State of North Carolina, through command channels for comment by endorsements thereon.

(3) No person shall hereafter be appointed an officer of the North Carolina National Guard unless the person has established to the satisfaction of a board of officers that person's physical, moral, and professional qualifications to perform the duties of the grade and position for which examined, subject to general exceptions authorized by the Secretary of Defense. The board shall consist of

three or more commissioned officers of the appropriate service, appointed under regulations promulgated by the secretary of the appropriate service.

(4) Candidates appointed as officers of the North Carolina National Guard shall take and subscribe to the following oath of office:

"I, (First Name – Middle Name – Last Name), do solemnly swear that I will support and defend the Constitution of the United States and the Constitution of the State of North Carolina against all enemies, foreign and domestic; that I will bear true faith and allegiance to the same; that I will obey orders of the President of the United States and of the Governor of the State of North Carolina; that I make this obligation freely, without any mental reservation or purpose of evasion, and that I will well and faithfully discharge the duties of the office of (Grade) (Branch) in the National Guard of the State of North Carolina upon which I am about to enter, so help me God." (1917, c. 200, s. 15; C.S., s. 6811; 1921, c. 120, s. 3; 1959, c. 218, s. 5; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-33. Promotion of officers by seniority and in accordance with regulations.

The promotion of all officers shall be by seniority as far as practicable and in the best interest of the service within the organization, and in accordance with regulations promulgated by the secretary of the appropriate service. (1917, c. 200, s. 17; C.S., s. 6814; 1921, c. 120, s. 4; 1959, c. 218, s. 7; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-34. Relative rank among officers of same grade.

Officers of the North Carolina National Guard in the same grade rank among themselves according to the date of rank established by regulations promulgated by the secretary of the appropriate service and the Adjutant General of the State of North Carolina. (1917, c. 200, s. 19; C.S., s. 6816; 1921, c. 120, s. 5; 1927, c. 227, s. 1; 1959, c. 218, s. 8; 1961, c. 192, s. 2; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1.)

§ 127A-35. Elimination and disposition of officers; efficiency board; transfer to inactive status.

(a) Whenever the efficiency or general fitness, including physical fitness, of a North Carolina National Guard officer is in question, the Adjutant General, State of North Carolina, may order the officer to appear before an efficiency board to determine whether or not the appointment of the officer should be withdrawn. The efficiency board will be composed of not less than three commissioned officers, all senior in rank to the officer undergoing investigation. A member of the board serving in a legal or medical advisory capacity may be junior to any person, other than a judge advocate, law specialist, or medical officer being considered. The findings of an efficiency board are not final until reviewed and approved by the Secretary of Public Safety and the Governor of the State of North Carolina.

(b) Commissions of officers of the North Carolina National Guard may be vacated upon resignation, absence without leave for 30 days, pursuant to sentence of a court martial, or pursuant to regulations promulgated by the secretary of the appropriate service.

(c) Officers of the North Carolina National Guard may, upon their own request, be transferred to the inactive North Carolina National Guard, subject to exceptions authorized by the Adjutant General, State of North Carolina, or the Secretary of Defense. (1917, c. 200, s. 28; C.S., s.

6818; 1959, c. 218, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-36. Retirement of officers.

Retirement of officers shall be regulated so as to conform to federal laws and regulations of the United States relating to retirement of National Guard officers. (1917, c. 200, s. 29; C.S., s. 6819; 1949, c. 1130, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1.)

§ 127A-37. Enlistments in National Guard; oath of enlistment.

(a) Enlistments in the North Carolina National Guard shall be for the periods and subject to the qualifications as prescribed by the secretary of the appropriate service.

(b) Enlisted persons shall not be recognized as members of the North Carolina National Guard until they shall have subscribed to the following oath of enlistment:

"I do hereby acknowledge to have voluntarily enlisted this ____ day of _____, ____, in the (Army) (Air) National Guard of the State of North Carolina and as a Reserve of the (Army) (Air Force) with membership in the (Army National Guard of the United States) (Air National Guard of the United States) for a period of (Years – Months – Days) under the conditions prescribed by law, unless sooner discharged by proper authority.

"I, (First Name – Middle Name – Last Name), do solemnly swear (or affirm) that I will support and defend the Constitution of the United States and of the State of North Carolina against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and that I will obey the orders of the President of the United States and the Governor of North Carolina and the orders of the officers appointed over me, according to law, regulations, and the Uniform Code of Military Justice, so help me God." (1917, c. 200, s. 30; C.S., s. 6820; 1921, c. 120, s. 6; 1957, c. 136, s. 6; 1959, c. 218, s. 10; 1975, c. 604, s. 2; 1999, c. 456, s. 59; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-38. Discharge of enlisted personnel.

(a) Enlisted personnel discharged from service in the North Carolina National Guard shall receive a discharge in writing in the form and with the classification that is or shall be prescribed under regulations promulgated by the appropriate service.

(b) Discharges may be given prior to the expiration of terms of enlistment under regulations prescribed by the Adjutant General, State of North Carolina, or pursuant to regulations promulgated by the secretary of the appropriate service. (1917, c. 200, s. 32; C.S., s. 6822; 1959, c. 218, s. 12; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-39. Membership continued in the National Guard.

When called or ordered into federal service and discharged therefrom, members shall continue their membership in the North Carolina National Guard until the expiration of their enlistment or appointment, unless sooner terminated by proper authority. (1921, c. 120, s. 8; C.S., s. 6822(a); 1959, c. 218, s. 13; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-40. Pensions for the members of the North Carolina National Guard.

(a) Every member and former member of the North Carolina National Guard who meets the requirements of this section shall receive, commencing at age 60, a pension of one hundred five dollars ($105.00) per month for 20 years' creditable military service with an additional ten dollars

and fifty cents ($10.50) per month for each additional year of such service; provided, however, that the total pension shall not exceed two hundred ten dollars ($210.00) per month. The requirements for a pension are that each member shall:

(1) Have served and qualified for at least 20 years' creditable military service, including National Guard, reserve and active duty, under the same requirement specified for entitlement to retired pay for nonregular service under Chapter 67, Title 10, United States Code.

(2) Have at least 15 years of the aforementioned service as a member of the North Carolina National Guard.

(3) Have received an honorable discharge from the North Carolina National Guard.

(b) Payment to a retired member of the North Carolina National Guard under the provisions of this section will cease at the death of the individual and no payment will be made to beneficiaries or to the decedent's estate, except that the legal representative of a retired member who dies shall be entitled to a full check for the month in which the death occurred.

(c) No individual receiving retired pay as a result of length of service, age or physical disability retirement from any of the regular components of the Armed Forces of the United States will be eligible for benefits under this section.

(d) Nothing contained in this section shall preclude or in any way affect the benefits that an individual may be entitled to from State, federal or private retirement systems.

(e) Repealed by Session Laws 1989, c. 792, s. 2.3.

(f) The Board of Trustees of the Teachers' and State Employees' Retirement System shall administer the provisions of this section. The Secretary of Public Safety shall determine the eligibility of North Carolina National Guard members for the benefits provided in this section and shall certify those eligible to the Board of Trustees. In addition, the Department of Public Safety shall, on and after July 1, 1983, provide the Board of Trustees with an annual census population, by age and the number of years of creditable service, for all former members of the North Carolina National Guard in receipt of a pension as well as for all active members of the North Carolina National Guard who are not in receipt of a pension and who have seven and more years of creditable service. The Department of Public Safety shall also provide the Board of Trustees an annual census population of all former members of the North Carolina National Guard who are not in receipt of a pension and who have 15 and more years of creditable service. The Department of State Treasurer shall make pension payments to those persons certified from the North Carolina National Guard Pension Fund.

(g) The provisions of this section shall apply to any member or former member of the North Carolina National Guard who is qualified for the above retirements with eligibility commencing at age 60 or July 1, 1974, whichever is the later date.

(h) If, for any reason, the North Carolina National Guard Pension Fund shall be insufficient to pay in full any pension benefits, or other charges, then all benefits or payments shall be reduced pro rata, for as long as the deficiency in amount exists. No claim shall accrue with respect to any amount by which a pension or benefit payment shall have been reduced.

(h1) Any member or former member of the North Carolina National Guard who is qualified for benefits under this section and who is a member of a domiciled employees' or retirees' association that has at least 2,000 members, the majority of whom are active or retired employees of the State or public school employees, may authorize, in writing, the periodic deduction from the member's retirement benefits a designated lump sum to be paid to the employees' or retirees' association. The authorization shall remain in effect until revoked by the member. A plan of

deductions pursuant to this subsection shall become void if the employees' or retirees' association engages in collective bargaining with the State, any political subdivision of the State, or any local school administrative unit.

(i) Pensions for members of the North Carolina National Guard shall be subject to future legislative change or revision.

(j) Except for the applications of the provisions of G.S. 110-136, and in connection with a court-ordered equitable distribution under G.S. 50-20, the pensions provided are not subject to attachment, garnishments, or judgments against the member or former member of the National Guard entitled to them, nor are any rights in the fund or the pensions or benefits assignable. Notwithstanding any provisions to the contrary, any overpayment of benefits or erroneous payment to a member in a State-administered retirement system, the Disability Salary Continuation Plan, or the Disability Income Plan of North Carolina, including any benefits paid to, or State Health Plan premiums or claims paid on behalf of, any member who is later determined to have been ineligible for those benefits or unentitled to those amounts, may be offset against any retirement allowance, return of contributions, or any other right accruing under this Article to the same person, the person's estate, or designated beneficiary. (1973, c. 625, s. 1; c. 1241, ss. 1-3; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 870; 1983, c. 761, ss. 250, 251; 1989, c. 792, s. 2.3; 2002-126, s. 6.4(g); 2005-276, s. 29.27; 2006-66, s. 22.20; 2007-323, s. 28.21A; 2009-66, s. 10; 2009-281, s. 1; 2009-451, s. 26.21; 2011-145, s. 19.1(g); 2011-195, s. 1(a); 2013-287, s. 3; 2014-100, s. 35.15C; 2015-241, s. 30.24; 2017-135, s. 9(d); 2020-48, s. 1.7(a).)

§ 127A-40.1. North Carolina National Guard Pension Fund.

(a) As used in this section, the term "Board of Trustees" means the Board of Trustees of the Teachers' and State Employees' Retirement System.

(b) The North Carolina National Guard Pension Fund shall include general fund appropriations made to the Department of State Treasurer and held with the Pension Accumulation Fund of the Teachers' and State Employees' Retirement System.

(c) The Board of Trustees shall have performed an annual actuarial valuation of the Fund and shall have the financial responsibility for maintaining the Fund on a generally accepted actuarial basis.

(d) An actuarially determined employer contribution shall be calculated annually by the actuary using assumptions and a cost method approved by the Actuarial Standards Board of the American Academy of Actuaries and selected by the Board of Trustees.

(e) Notwithstanding Chapter 150B of the General Statutes, the Board of Trustees may adopt a contribution policy that would recommend a contribution not less than the actuarially determined employer contribution.

(f) The recommended employer contribution rate by the Board of Trustees each year shall not be less than the actuarially determined employer contribution.

(g) The Department of Public Safety shall provide the Department of State Treasurer with any assistance required by the State Treasurer in carrying out the financial responsibilities of the State Treasurer or the Board of Trustees. (2020-48, s. 1.7(b).)

§ 127A-41. Uniforms, arms and equipment.

The North Carolina National Guard shall, as far as practicable, be uniformed, armed, and equipped with the same type of uniforms, arms and equipment as is or shall be provided for the

appropriate regular service. (1917, c. 200, s. 37; C.S., s. 6824; 1959, c. 218, s. 15; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-41.1. Recodified as G.S. 127B-31 by Session Laws 2019-161, s. 1(b), effective October 1, 2019. (1997-153, s. 5; 2011-195, s. 1(a).)

§ 127A-41.2. Operation of post exchanges.

(a) The North Carolina National Guard is authorized to operate post exchanges.

(b) The North Carolina National Guard is authorized to enter into agreements with the Army & Air Force Exchange Service to operate post exchanges. (2007-60, s. 2; 2009-281, s. 1.)

§ 127A-42. Distinguished Service Medal by Governor of North Carolina.

There is hereby created the North Carolina Distinguished Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor. Upon the recommendation of the Secretary of Public Safety and a board consisting of the Adjutant General and all other general officers and officers assigned to authorized general-officer-grade vacancies of the North Carolina National Guard, the Governor is authorized to present the medal to any member or former member of the Armed Forces of the United States discharged under honorable conditions, who has distinguished himself or herself by exceptionally meritorious conduct in the performance of outstanding service to the North Carolina National Guard. The Governor, on the Governor's own authority, may award the medal to the Secretary of Public Safety, the Adjutant General, or any other active or inactive general officer or flag officer of the Armed Forces of the United States who has distinguished himself or herself by especially meritorious conduct in the performance of his or her duties. (1955, c. 255, s. 2; 1963, c. 1016, s. 2; 1973, c. 1124; 1975, c. 604, s. 2; 1977, c. 230, s. 1; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-43. North Carolina National Guard Meritorious Service Medal.

There is hereby created the North Carolina National Guard Meritorious Service Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or the Governor's designee. The Governor or the Governor's designee is authorized to award this medal upon the recommendation of the Secretary of Public Safety in consultation with the Adjutant General and a board of officers appointed by the Adjutant General. Any member or former member of the Armed Forces of the United States discharged under honorable conditions, who has distinguished himself or herself by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard, is eligible for this award. The Governor, on the Governor's own authority, may award the medal to the Secretary of Public Safety, the Adjutant General or any other active or inactive general officer or flag officer of the Armed Forces of the United States who has distinguished himself or herself by heroism, meritorious achievement, or meritorious service to the North Carolina National Guard. The required heroism, achievement, or service, while of a lesser degree than that required for awarding of the North Carolina Distinguished Service Medal, must nevertheless be accomplished with distinction. (1973, c. 966, s. 1; 1975, c. 604, s. 2; 1977, c. 230, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-44. North Carolina National Guard Commendation Medal.

There is hereby created the North Carolina National Guard Commendation Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or the Governor's designee. The Adjutant General of North Carolina or the Adjutant General's designee, who shall not be below the rank of colonel (O-6), may award this medal. Any member or former member of the Armed Forces of the United States discharged under honorable conditions, who distinguishes himself or herself by example or the performance of a specific act in behalf of the North Carolina National Guard, is eligible for this award. (1975, c. 604, s. 2; 1977, c. 230, s. 3; 1991, c. 367, s. 2; 2011-195, s. 1(a).)

§ 127A-44.1. North Carolina National Guard Achievement Medal.

There is hereby created the North Carolina National Guard Achievement Medal which shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or the Governor's designee. The Adjutant General of North Carolina or the Adjutant General's designee, who shall not be below the rank of lieutenant colonel (O-5), may award this medal. Any member or former member of the Armed Forces of the United States discharged under honorable conditions, who distinguishes himself or herself by example or the performance of a specific act in behalf of the North Carolina National Guard, is eligible for this award. (1991, c. 367, s. 3; 2011-195, s. 1(a).)

§ 127A-45. North Carolina National Guard State Active Duty Award.

There is hereby created the North Carolina National Guard State Active Duty Award which shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a design approved by the Governor or the Governor's designee. The Adjutant General of North Carolina may present this ribbon to members of the North Carolina National Guard who, by order of the Governor, satisfactorily serve a tour of State active duty. To be worthy of this award, the nature of the tour of State active duty must have been a distinct and notable service to the State or to a community, as determined by the Adjutant General of North Carolina. On or after July 1, 1991, this award may also be presented to active guard personnel and reserve personnel who satisfactorily participate in tours of State active duty. (1973, c. 966, s. 2; 1975, c. 604, s. 2; 1991, c. 367, s. 1; 2011-195, s. 1(a).)

§ 127A-45.1. North Carolina National Guard Governor's Unit Citation.

There is hereby created the North Carolina National Guard Governor's Unit Citation which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or the Governor's designee. The Governor or the Governor's designee is authorized to present the unit citation, upon recommendation of the Adjutant General, subject to the approval of the Secretary, to any unit of North Carolina National Guard distinguishing itself by extraordinary heroism or meritorious service while in a State active duty status. The unit must display such gallantry, determination, and esprit de corps in accomplishing its mission under conditions which set it apart and above other units. (1977, c. 229, s. 1; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-45.2. North Carolina National Guard Meritorious Unit Citation.

There is hereby created the North Carolina National Guard Meritorious Unit Citation which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or the Governor's designee. The Adjutant General is authorized to present this citation to

any unit of the North Carolina National Guard distinguishing itself through heroism or meritorious service to the State of North Carolina. The required heroism or meritorious service, while of a lesser degree than that required for the award of the North Carolina National Guard Governor's Unit Citation, must nevertheless have been accomplished with distinction. (1977, c. 229, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-45.2A. North Carolina National Guard Outstanding Unit Award.

There is hereby created the North Carolina National Guard Outstanding Unit Award which shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by the Governor or the Governor's designee. The Adjutant General may present this citation to any unit of the North Carolina National Guard distinguishing itself through meritorious achievement or service to the State of North Carolina. The required meritorious service, while of a lesser degree than that required for the award of the North Carolina National Guard Meritorious Unit Citation, must nevertheless have been accomplished with distinction. (1991, c. 367, s. 4; 2011-195, s. 1(a).)

§ 127A-45.3. North Carolina National Guard Distinguished Civilian Service Medal.

There is hereby created the North Carolina National Guard Distinguished Civilian Service Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof, and citation certificate, of a design approved by the Governor or the Governor's designee. The Governor or the Governor's designee is authorized to award this medal upon the recommendation of the Adjutant General of North Carolina and a board of officers and noncommissioned officers appointed by the Adjutant General, to United States citizens and governmental officials at the policy development level who render distinguished service to the North Carolina National Guard. (1977, c. 796; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-45.4. North Carolina National Guard Outstanding Civilian Service Medal.

There is hereby created the North Carolina National Guard Outstanding Civilian Service Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof, and citation certificate, of a design approved by the Governor or the Governor's designee. The Adjutant General of North Carolina is authorized to award this medal upon the recommendation of a board of officers and noncommissioned officers, appointed by the Adjutant General, to United States citizens and governmental officials who render outstanding service to the North Carolina National Guard. (1977, c. 796; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-45.5. North Carolina National Guard Meritorious Civilian Service Award.

There is hereby created the North Carolina National Guard Meritorious Civilian Service Award which shall consist of a certificate of a design approved by the Governor or the Governor's designee. The Adjutant General of North Carolina or the Adjutant General's designee, who shall not be below the grade of general officer, is authorized to confer this award. This award may be granted to individuals, organizations, corporations, associations and other groups, making a substantial contribution to the North Carolina National Guard. (1977, c. 796; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-45.5A. Other awards.

The Adjutant General may, from time to time, create other awards and medals to recognize meritorious service or outstanding achievement. The creation of the awards and medals shall be

approved by the Governor. The Governor or the Governor's designee shall approve the design of the awards and medals. (1991, c. 367, s. 5; 2011-195, s. 1(a).)

§ 127A-46. Authority to wear medals, ribbons and other awards.

The Adjutant General may prescribe those medals, ribbons and other awards and decorations that may be worn by members of the militia, not inconsistent with regulations of the respective Armed Forces of the United States. (1939, c. 344; 1959, c. 218, s. 16; 1967, c. 563, s. 4; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-47. Courts-martial for National Guard.

(a) Courts-martial for military personnel of the North Carolina National Guard not in the service of the United States shall be of three kinds, namely, general courts-martial, special courts-martial, and summary courts-martial. They shall be constituted, have cognizance of the same subjects, and possess like powers as similar courts provided for by the Uniform Code of Military Justice and Manual for Courts-Martial, United States. The proceedings of courts-martial of the North Carolina National Guard shall follow the forms and modes of procedure prescribed for such similar courts.

(b) Notwithstanding any other provision of law, no provision in the Uniform Code of Military Justice and Manual for Courts-Martial, United States, concerning the special trial counsel shall apply to courts-martial convened under this Article, nor shall any such provision be construed as imposing additional or alternative procedural requirements upon the Governor of North Carolina or the North Carolina National Guard as to any "covered offense" under 10 U.S.C. § 801. (1917, c. 200, s. 55; C.S., s. 6825; 1963, c. 1018, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 1; 2011-195, s. 1(a); 2023-86, s. 6(a).)

§ 127A-48. General courts-martial.

General courts-martial for military personnel of the North Carolina National Guard not in the service of the United States may be convened by orders of the Governor of the State or of the Adjutant General, and these courts shall have the power to impose punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the time of the offense, except that (i) no court shall have the authority to impose confinement as part of the sentence unless the court consisted of a military judge and not less than five members, except that a defendant who requests a military judge alone may be sentenced to confinement, and (ii) no court shall have the authority to impose confinement in excess of one year and one day as part of a sentence. (1917, c. 200, s. 56; C.S., s. 6826; 1957, c. 136, s. 7; 1963, c. 1018, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 2; 2011-195, s. 1(a).)

§ 127A-49. Special courts-martial; appointments, power and authority.

In the North Carolina National Guard, not in the service of the United States, special courts-martial may be appointed by any of the following:

(1) The commander of a brigade, regiment, comparable or higher command of the North Carolina Army National Guard, provided that the commander is a general officer.

(2) The commander of a wing, group, separate squadron, comparable or higher command of the North Carolina Air National Guard, provided that the commander is a general officer.

(3) The commander or officer in charge of any North Carolina National Guard command when empowered by the Governor or the Adjutant General of North Carolina, provided that the commander or officer is a general officer.

Except as to commissioned officers, special courts-martial shall have the power and authority to try any person subject to military law for any crimes or offenses within the jurisdiction of a general military court. Special courts-martial shall have the power to impose punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the time of the offense, except that (i) no court shall have the authority to impose confinement as part of the sentence unless the court consisted of a military judge and not less than three members except that a defendant who requests a military judge alone may be sentenced to confinement, and (ii) no court shall have the authority to impose confinement in excess of six months as part of a sentence. (1917, c. 200, s. 57; C.S., s. 6827; 1957, c. 136, s. 8; 1963, c. 1018, s. 3; 1973, c. 1123; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 3; 2011-195, s. 1(a).)

§ 127A-50. Summary courts-martial.

(a) In the North Carolina National Guard, not in the service of the United States, summary courts-martial may be appointed by any of the following:

(1) Any person who may convene a general or special court-martial.

(2) The commander of a battalion, comparable or higher command of the North Carolina Army National Guard, provided that the commander is an officer of the grade of major or above.

(3) The commander of a detached squadron, comparable or higher command of the North Carolina Air National Guard, provided that the commander is an officer of the grade of major or above.

(b) The court shall consist of one officer who shall have the power to administer oaths and try enlisted personnel of each respective command for breaches of discipline and violations of laws governing those organizations.

(c) The summary courts-martial officer shall have the power to impose punishments in like manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the time of the offense, except that no such court shall have the authority to impose confinement as part of a sentence. There shall be no right to demand trial by general or special court-martial.

(d) When the summary courts-martial officer is a military judge appointed under G.S. 127A-50.1, the summary courts-martial officer shall have the enhanced punishment authority to impose forfeitures of two-thirds pay for one month, to impose extra duty, to reduce the rank of enlisted persons with a rank of E-7 or above by up to two ranks, and to reduce the rank of enlisted persons with a rank of E-6 or below to the rank of E-1. No such court shall have the authority to impose confinement as part of a sentence. There shall be no right to demand trial by general or special court-martial. (1917, c. 200, s. 58; C.S., s. 6828; 1957, c. 136, s. 9; 1963, c. 1018, s. 4; 1975, c. 604, s. 2; 1983, c. 315, s. 1; 2009-281, s. 1; 2010-193, s. 4; 2011-195, s. 1(a); 2025-51, s. 8(a).)

§ 127A-50.1. Military judges.

(a) The Adjutant General shall appoint military judges to preside over courts-martial of the North Carolina National Guard not in federal service. Minimum requirements for appointment as a military judge are as follows:

(1) Repealed by Session Laws 2025-51, s. 8(b), effective July 2, 2025, and applicable to military judges serving on or after that date, except the requirements of G.S. 127A 50.1, as amended by Section 8(b) of Session Laws 2025-51 only apply to appointments made on or after that date.

(2) Designation as a judge advocate by the Judge Advocate General of the United States Army, Navy, Air Force, Marines, or Coast Guard.

(3) Membership in the North Carolina National Guard.

(4) A member in good standing of the bar of the highest court of this State.

(5) Hold the rank of lieutenant colonel or above.

(b) The Adjutant General or the Staff Judge Advocate may detail military judges for all purposes for which military judges may be detailed, except that only those certified as a military judge by the Judge Advocate General of the United States Army, Air Force, Navy, Marines, or Coast Guard may preside over a general or special court-martial.

(c) Nothing in this section shall preclude the detailing of a military judge from another component of the Armed Forces of the United States made available for detail, provided that such military judge has been certified by the Judge Advocate General from the military judge's component of the Armed Forces of the United States. The Adjutant General shall detail such military judge with the advice of the Staff Judge Advocate.

(d) Military judges for the Army National Guard and the Air National Guard may preside over courts-martial of the other; provided, however, the Adjutant General shall obtain the advice of the Staff Judge Advocate from the military judge's branch of service before the judge is detailed.

(e) Military judges appointed by the Adjutant General may issue investigative subpoenas as authorized under the Uniform Code of Military Justice and pursuant to such rules and regulations as prescribed by the military judge's component of the Armed Forces of the United States and as may be prescribed by the Adjutant General of the North Carolina National Guard. Subpoenas issued under this section shall have the same force and effect as subpoenas issued by the courts of this State. Subpoenas issued under this section may be served by a duly appointed investigating officer, a North Carolina National Guard Provost Marshal or Deputy Provost Marshal, or any sheriff, deputy sheriff, or State or local law enforcement officer. (1987, c. 649, s. 1; 2010-193, s. 5; 2011-195, s. 1(a); 2025-51, s. 8(b).)

§ 127A-51. Nonjudicial punishment.

Any commander of the North Carolina National Guard, not in the service of the United States, may, in addition to or in lieu of admonition or reprimand, impose nonjudicial punishment in like manner and to the extent prescribed by Article 15 of the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United States except that there shall be no right to demand trial by court-martial. (1957, c. 136, s. 10; 1975, c. 604, s. 2; 1983, c. 315, s. 2; c. 316, s. 1; 2009-281, s. 1; 2010-193, s. 6; 2011-195, s. 1(a).)

§ 127A-52. Jurisdiction of courts-martial.

The jurisdiction of courts-martial of the North Carolina National Guard, not in the service of the United States, shall be as prescribed by the Manual for Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United States. Such courts-martial shall have jurisdiction to try accused persons for offenses committed while serving without the State and while going to and returning from service without the State in like manner and to the same extent as while serving within the State. (1957, c. 136, s. 10; 1975, c. 604, s. 2; 1983, c. 316, s. 2; 2009-281, s. 1; 2010-193, s. 7; 2011-195, s. 1(a).)

§ 127A-53. Manual for Courts-Martial.

Trials and proceedings by all courts and boards shall be in accordance with the Manual for Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United States, except as modified by this Chapter. (1917, c. 200, s. 64; C.S., s. 6831; 1957, c. 136, s. 14; 1975, c. 604, s. 2; 1983, c. 316, s. 3; 2010-193, s. 8; 2011-195, s. 1(a).)

§ 127A-54. Pretrial confinement; sentences; where executed.

(a) A defendant may be arrested and placed under pretrial confinement in a local government confinement facility, but a determination shall be made under subsection (b) of this section whether he or she shall remain confined pending the court-martial. If the defendant is not released from confinement, he or she shall be transferred into the custody of the Sheriff of Wake County and confined in the Wake County confinement facility pending trial. All costs of transportation and confinement are to be paid from funds appropriated to the Department of Public Safety as reimbursements to the local government or agency providing the transportation and confinement.

(b) The provisions of Article 26 of Chapter 15A of the General Statutes shall apply to any defendant who has been placed into pretrial confinement, in the same manner as if the defendant had been placed into confinement for an alleged violation of the criminal laws of this State. Nothing in this section is intended to abridge the right of habeas corpus.

(c) Any defendant whose sentence by a military court includes confinement shall be placed into the custody of the Division of Prisons of the Department of Adult Correction. The Division of Prisons of the Department of Adult Correction is authorized to transfer physical custody of the defendant to a local confinement facility. (1917, c. 200, s. 61; C.S., s. 6832; 1975, c. 604, s. 2; 2010-193, s. 9; 2011-145, s. 19.1(g), (h); 2017-186, s. 2(uuuuu); 2021-180, s. 19C.9(rrr).)

§ 127A-55. Forms for courts-martial procedure.

In the North Carolina National Guard, not in the service of the United States, forms for courts-martial procedure shall be substantially as those set forth in the Appendices, Manual for Courts-Martial, United States, as shall be currently in use by the Armed Forces of the United States, with any modifications required by this Chapter. (1957, c. 136, s. 13; 1975, c. 604, s. 2; 1983, c. 316, s. 4; 2009-281, s. 1; 2010-193, s. 10; 2011-195, s. 1(a).)

§ 127A-56. Powers of courts-martial.

In the North Carolina National Guard, not in the service of the United States, military judges certified by the Judge Advocate General of the United States Army, Air Force, Navy, Marines, or Coast Guard and detailed to courts-martial shall have power to issue warrants to arrest an accused person and to bring the person before a court for trial whenever the person has disobeyed an order in writing from the convening authority to appear before the court, a copy of the charge or charges

having been delivered to the accused with the order, and to issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of witnesses and the production of books, papers, records and other articles subject to a subpoena duces tecum, and to sentence for a refusal to be sworn or to answer as provided in actions before civil courts. A certified military judge shall also have power to punish for contempt occurring in the presence of the court. (1917, c. 200, s. 60; C.S., s. 6830; 1957, c. 136, s. 12; 1975, c. 604, s. 2; 1983, c. 316, s. 5; 2009-281, s. 1; 2010-193, s. 11; 2011-195, s. 1(a); 2025-51, s. 8(c).)

§ 127A-57. Execution of processes and sentences.

Except as otherwise provided in this Chapter, all warrants and other processes authorized by this Chapter and sentences of any of the military courts of this State shall be executed by any sheriff, deputy sheriff, or State or local law enforcement officer into whose hands they may be placed for service or execution, and the officer shall make return thereof to the officer issuing or imposing the same. The service or execution of process or sentence shall be made by the officer without tender or advancement of fee therefor; but all costs in these cases shall be paid from funds appropriated to the Department of Public Safety. (1917, c. 200, s. 62; C.S., s. 6833; 1973, c. 108, s. 80; 1975, c. 604, s. 2; 2010-193, s. 12; 2011-145, s. 19.1(g); 2011-195, s. 1(a); 2025-51, s. 8(d).)

§ 127A-58: Repealed by Session Laws 2010-193, s. 13, effective December 1, 2010.

§ 127A-59. Sentences.

When any sentence to fine or imprisonment is imposed by any military court of this State, it shall be the duty of the military judge, upon the approval of the court's findings and sentence, to make out and sign a certificate entitling the case, giving the name of the accused, the date and place of trial, the date of approval of sentence, and the terms of the sentence. The trial counsel shall deliver the certificate to the Clerk of the Superior Court of Wake County, and it shall thereupon be the duty of the clerk to take the actions necessary to carry the sentence into execution in the same manner as prescribed by law for the collection of fines, or commitment to service of terms of imprisonment, in criminal cases determined in the courts of this State. The Administrative Office of the Courts shall ensure that the State's criminal history records include pertinent information relating to a court-martial under this Chapter in a like manner as a comparable offense under the State's criminal laws would be recorded. (1917, c. 200, s. 63; C.S., s. 6834; 1973, c. 108, s. 81; 1975, c. 604, s. 2; 2010-193, s. 14; 2011-195, s. 1(a); 2025-51, s. 8(e).)

§ 127A-60. Approval of sentence.

No sentence imposed by a special or general court-martial of the North Carolina National Guard, not in the service of the United States, shall be executed until approved by the Governor. The Governor may delegate this approval authority to the Adjutant General. Any officer convicted by a general court-martial and dismissed from the service shall be forever disqualified from holding a commission in the militia. (1917, c. 200, s. 65; C.S., s. 6835; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 15; 2011-195, s. 1(a); 2025-51, s. 8(f).)

§ 127A-61. Disposition of fines.

Fines imposed by courts-martial under this Chapter shall be disposed of as prescribed in Article IX, Sec. 7, of the Constitution of North Carolina. (1975, c. 604, s. 2.)

§ 127A-62. Appeals; discretionary review.

(a) Jurisdiction. – Court-martial judgments which include a sentence to confinement shall have a right of appeal to the Wake County Superior Court. The provisions of G.S. 15A-1451 shall apply to appeals under this section.

(b) Filing and Service. – An appeal under this section must be made in writing and filed with the Clerk of Superior Court of Wake County within 10 days after the approval of the sentence by the Governor. A copy of the petition shall be filed with the military court and the military trial counsel of record. For the purposes of a filing fee, the appeal shall be treated as an administrative appeal to the Superior Court.

(c) Assertion of Errors. – All errors, including, but not limited to, the following, must be asserted or shall be deemed waived:

(1) Any error of law, including the following:

a. The court erroneously failed to dismiss the charge prior to the court-martial.

b. The court's ruling was contrary to law with regard to motions made before or during the trial or with regard to the admission or exclusion of evidence.

c. The evidence, at the close of all the evidence, was insufficient to justify submission of the case to the court-martial panel, whether or not a motion so asserting was made before verdict.

d. The court erroneously instructed the court-martial panel.

(2) The verdict is contrary to the weight of the evidence.

(3) For any other cause, the defendant did not receive a fair and impartial trial.

(d) Appointment of Superior Court Judge. – The appeal shall be heard by a judge assigned by the Chief Justice of the North Carolina Supreme Court, to be heard at a session of the Wake County Superior Court designated by the Chief Justice.

(e) Applicable Law. – The presiding judge, in determining whether there were errors, shall apply the law as provided for trial by courts-martial under this Article.

(f) Setting Aside of Findings or Sentence. – The findings or sentence, or both, may be modified or set aside, in whole or in part, by the court on the ground of newly discovered evidence, fraud on the court, lack of jurisdiction over the accused or the offense, or error prejudicial to the substantial rights of the accused.

(g) Hearings and Rehearings. – The court may remand the matter to the court-martial for evidentiary hearings or other proceedings, to be conducted by a military judge alone, that it deems necessary prior to the court's final disposition of the case. If the court sets aside the findings or sentence, the court may, except when the setting aside is based on lack of sufficient evidence in the record to support the findings, order a rehearing. If the court sets aside the findings and sentence and does not order a rehearing, the court shall dismiss the charges. If the court orders a rehearing, but the convening authority finds a rehearing impractical, the convening authority shall dismiss the charges.

(h) Counsel. –

(1) The Staff Judge Advocate of the North Carolina National Guard shall:

a. Designate a judge advocate who is qualified and certified under Article 27(b) of the Uniform Code of Military Justice, and who is a member of the North Carolina Bar, to represent the defendant.

b. Designate a judge advocate who is qualified and certified under Article 27(b) of the Uniform Code of Military Justice, and who is a member of the North Carolina Bar, to represent the State.

(2) The counsel designated to represent the defendant under sub-subdivision a. of subdivision (1) of this subsection shall not be the counsel who represented the defendant at the court-martial.

(3) Where a defendant alleges ineffective assistance of prior counsel as a ground for relief, the defendant shall be deemed to waive the attorney-client privilege with respect to both oral and written communications between the defendant and the prior counsel to the extent the defendant's prior counsel reasonably believes the communications are necessary to defend against the allegations of ineffectiveness. This waiver of the attorney-client privilege shall be automatic upon the filing of the pleadings alleging ineffective assistance of prior counsel, and the Wake County Superior Court need not enter an order waiving the privilege.

(4) The Adjutant General, upon the recommendation of the Staff Judge Advocate, shall place the designated judge advocates described in this subsection onto State active duty for the periods of time necessary for either counsel to provide adequate representation to the respective parties, if regularly scheduled unit training periods are insufficient. The Staff Judge Advocate shall verify to the Adjutant General whether any such additional periods of time are necessary.

(i) Discretionary Review. – Review of decisions by the Wake County Superior Court shall be pursuant to G.S. 7A-31.1.

(j) The rules for practice and procedure for review of courts-martial by the Wake County Superior Court shall be consistent with those prescribed for review of administrative appeals by the Superior Court, except as modified by this section. (2010-193, s. 16; 2011-195, s. 1(a).)

§ 127A-63. Adjutant General and National Guard Staff Judge Advocate access to law enforcement and medical examiner records.

(a) The Adjutant General or the National Guard Staff Judge Advocate may request records of criminal investigations from a law enforcement agency or medical examiner. Unless release is prohibited by court order, the investigating law enforcement agency or medical examiner shall disseminate the requested records or information to the Adjutant General or the National Guard Staff Judge Advocate. Such records shall only be used in a court-martial action or administrative investigation or proceeding involving a member of the National Guard.

(b) Records and information received pursuant to this section shall remain State records and shall be governed by G.S. 127A-17.1, G.S. 132-1.4, and military regulations governing official use or disclosure to servicemembers as required in connection with adjudicative proceedings. (2023-86, s. 5(a).)

§ 127A-64. Availability of resources for National Guard Family Assistance Centers; report.

(a) To the extent feasible and practicable, State and local agencies who provide services directed at individuals who have served in the active or reserve components of the Armed Forces of the United States and their families shall make personnel and other resources available to the National Guard Family Assistance Centers.

(b) The Department of Public Safety shall report annually no later than September 1 to the Chairs of the House of Representatives and Senate Appropriations Committees on Justice and Public Safety and to the House of Representatives Committee on Homeland Security, Military, and Veterans Affairs on the activities of the National Guard Family Assistance Centers during the previous fiscal year. This report shall include information on services provided as well as on the number and type of members of the active or reserve components of the Armed Forces of the United States, veterans, and family members served.

(c) The North Carolina National Guard may use funds appropriated to it for Family Assistance Centers for expenses related to support of surviving family members of deceased members of the North Carolina National Guard, including, but not limited to, the costs of providing educational materials; workshops; outreach events; and invitational travel, including per diem and other travel-related expenses. (2011-145, s. 19.1(g); 2011-185, s. 1; 2014-106, s. 2; 2015-241, s. 16B.9.)

§ 127A-65. List of rights; posting.

The North Carolina National Guard shall post on its website a list of the rights a servicemember or a dependent of a servicemember has under the North Carolina Servicemembers Civil Relief Act and under the federal Servicemembers Civil Relief Act, Chapter 50 of Title 50 of the United States Code. (2019-161, s. 1(c); 2025-25, s. 29(5).)

§ 127A-66. Reserved for future codification purposes.

Article 4.

Naval Militia.

§ 127A-67. Organization and equipment.

The organization of the naval militia shall be units of convenient size, in each of which the number and rank of officers and the distribution of the total enlisted strength among the several ratings of petty officers and other enlisted personnel shall be such as are prescribed by the Secretary of the Navy, who may also prescribe the number of officers and the number of petty officers and other enlisted personnel required for the organization of the units into larger bodies for administrative and other purposes, and the arms and equipment of the naval militia shall be those which are now or may hereafter be prescribed by the Secretary of the Navy. (1917, c. 200, s. 66; C.S., s. 6836; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-68. Officers appointed to naval militia.

Officers of the United States Navy and Marine Corps may, with the approval of the Secretary of the Navy, be appointed by the Governor and commissioned as officers of the naval militia. (1917, c. 200, s. 67; C.S., s. 6837; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-69. Officers assigned to duty.

Line officers of the naval militia may be for line duties only, for engineering duties only, or for aeronautic duties only. (1917, c. 200, s. 68; C.S., s. 6838; 1975, c. 604, s. 2.)

§ 127A-70. Discipline in naval militia.

The naval militia shall be subject to the system of discipline prescribed for the United States Navy and Marine Corps, and the commanding officer of a naval militia unit or a naval militia

officer in command of naval militia forces on shore or on any vessel of the United States Navy loaned to the State, or on any vessel on which such forces are training, whether within or without the State, or wherever, either within or without the State, naval militia forces of the State shall be assembled pursuant to orders, shall have power without trial by courts-martial to impose upon members of the naval militia the punishments which the commanding officer of a vessel of the United States Navy is authorized by law to impose. (1917, c. 200, s. 69; C.S., s. 6839; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-71. Disbursing and accounting officer.

The Governor shall appoint a disbursing officer, approved by and of a rank prescribed by the Secretary of the Navy, to perform the duties the Secretary of the Navy may prescribe. The Governor shall also appoint the disbursing officer, or another officer of the appropriate finance office of the naval militia that the Governor may elect, as accounting officer for each unit thereof, or at the Governor's option for each larger unit or combination of units, who shall be responsible for the proper accounting for all public property issued to and for the use of the unit or larger unit or combination of units. (1917, c. 200, s. 70; C.S., s. 6840; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-72. Rendition of accounts.

Accounting officers shall render accounts as prescribed by the Governor or by the Secretary of the Navy, and shall be required to give good and sufficient bond to the State and to the United States, in the sums that the Governor or the Secretary of the Navy directs, and conditioned upon the faithful accounting for all public property and for the safekeeping of the part thereof in the personal custody of the officer. Accounting officers may issue any or all such property to other officers or enlisted personnel of the naval militia under applicable rules and regulations. (1917, c. 200, s. 71; C.S., s. 6841; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-73. Disbandment of naval militia.

No part of the naval militia which is entitled to compensation under the provisions of an act of Congress approved August 29, 1916, shall be disbanded without the consent of the President. (1917, c. 200, s. 86; C.S., s. 6842; 1975, c. 604, s. 2.)

§ 127A-74. Courts-martial for naval militia.

Courts-martial for the naval militia, not in the service of the United States, shall be organized, have the same powers, functions and authorities, and follow the same procedures as courts-martial for the North Carolina National Guard as set forth in G.S. 127A-47 through 127A-62. (1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-75 through 127A-79. Reserved for future codification purposes.

Article 5.

State Defense Militia.

§ 127A-80. Authority to organize and maintain North Carolina State Defense Militia.

(a) The Governor is authorized to organize any part of the unorganized militia as a State force for discipline and training, into companies, battalions, regiments, brigades or similar organizations, as deemed necessary for the defense of the State; to maintain, uniform and equip this military force within the appropriations available; to exercise discipline in the same manner as is

now or may hereafter be provided by the laws of the State for the North Carolina National Guard. The military force shall be subject to the call or the order of the Governor to execute the law and secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, as may now or hereafter be provided by law for the North Carolina National Guard or for the State militia.

(b) The military force shall be designated as the "North Carolina State Defense Militia" and shall be composed of personnel of the unorganized militia as may volunteer for service therein or be drafted as provided by law. To be eligible for service in an enlisted status, a person must be at least 17 years of age. To be eligible for service as an officer, a person must be at least 18 years of age. The force and its personnel shall be additional to and distinct from the North Carolina National Guard organized under existing law. A person may not become a member of the defense militia established under this section, if a member of a reserve component of the Armed Forces of the United States.

(c) The Governor is hereby authorized: to prescribe rules and regulations governing the appointment of officers, the enlistment of other personnel, the organization, administration, equipment, discipline and discharge of the personnel of the military force; to requisition from the Secretary of Defense arms and equipment that are in possession of and can be spared by the Department of Defense; and to furnish the facilities of available armories, equipment, State premises and property, for the purpose of drill and instruction.

(d) The force shall not be called, ordered, or in any manner drafted, as such, into the military service of the United States, but no person shall by reason of membership therein, be exempt from military service under any federal law.

(e) The Governor is hereby authorized to transfer to the benefit of the State defense militia any available and unexpended funds which the Governor finds necessary for its use from any appropriations to the North Carolina National Guard by the General Assembly, and for the same purpose to allot monies from the Contingency and Emergency Fund with the concurrence of the Council of State. Upon disbandment of the State defense militia any monies or balance to the credit of any unit of this organization shall be paid into the State treasury for the benefit of the North Carolina National Guard, and all property, clothing, and equipment belonging to the State shall be transferred to the account of the North Carolina National Guard for disposition in accordance with the best interests of the State and as deemed advisable by the Governor. Upon disbandment of any unit of the State defense militia prior to the disbandment of the entire organization, the Governor is authorized to direct the transfer of any State property or balance of funds of the disbanded unit to any other unit, including any new unit or units organized to fill vacancies, or otherwise, as the Governor may direct.

(f) The State defense militia shall be subject to the military laws of the State not inconsistent with or contrary to the provisions contained in this Article with the following exceptions:

The provisions of G.S. 127A-117, 127A-118, and 127A-139 as amended, shall not be applicable to the personnel and units of the State defense militia.

(g) There shall be allowed annually to each unit or company of the State defense militia the funds necessary for armory rent, heat, light, stationery, printing, and other expenses.

(h) All payments are to be made by the Secretary of Public Safety in accordance with State laws in semiannual installments on the first day of July and the first day of January of each year, but no payment shall be made unless all assemblies and duties required by law are duly performed by all organizations named.

(i) The commander of each organization participating in the appropriation herein named shall render an itemized statement of all funds received from any source whatsoever for the support of the organization in the manner and on the forms prescribed by the Secretary of Public Safety. Failure on the part of any commander to submit promptly when due the financial statement of the organization will be sufficient cause to withhold all appropriations for the organization. (1941, c. 43; 1943, c. 166; 1945, c. 209, s. 1; c. 835; 1957, c. 1083; 1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; c. 553; 1983, c. 314, ss. 2, 3; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-81. State defense militia cadre.

(a) The Governor is authorized: to organize and regulate part of the unorganized militia as a State defense militia cadre in units or commands which the Governor may deem necessary to provide a cadre for an active State defense militia; to prescribe regulations for the maintenance of the property and equipment of the cadre, for the exercise of its discipline, and for its training and duties.

(b) The cadre shall be designated the "North Carolina State Defense Militia Cadre" and shall be composed of a force of officers and enlisted personnel raised by appointment of the Governor, or otherwise, as may be provided by law. The Secretary of Public Safety may reimburse cadre members for expenses actually incurred, not to exceed the amount appropriated and authorized for the purpose by the General Assembly.

(c) The Governor's authority under this Article shall not be subject to regulations prescribed by the Secretary of Defense. Age and membership requirements for the State defense militia generally, as set forth in G.S. 127A-80, shall apply. The training of the cadre need not be in accordance with training regulations issued by the Department of Defense. The provisions of G.S. 127A-80(c), (d), (g), (h) and (i) shall also apply to cadres.

(d) The total authorized strength of the cadre, its authorized officer and enlisted strength, the composition of each of its units or commands, and the allocation of cadre units or commands among the counties, cities, and towns of the State, shall be as prescribed by the Governor in suitable regulations enforced through the Adjutant General, or as otherwise provided by law.

(e) The duties of the State defense militia cadre shall be as ordered and directed by the Governor from time to time, or in regulations, and may include authority to take charge of armories and other military installations and real properties used by the North Carolina National Guard, together with any other property that the regulations may provide, when and if the North Carolina National Guard, or any part thereof, is inducted into the service of the United States, or, for any extended period of time, is absent on any duty from its home station. In addition, the cadre shall have duties appropriate to the organization, maintenance, and training of a military cadre to act as a nucleus for the organization of an active State defense militia whenever the necessity may arise. (1963, c. 1016, s. 1; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1983, c. 314, s. 4; 1991 (Reg. Sess., 1992), c. 1030, s. 35; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§§ 127A-82 through 127A-86. Reserved for future codification purposes.

Article 6.

Unorganized Militia.

§ 127A-87. Unorganized militia ordered out for service.

The commander in chief may at any time, in order to execute the law, secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, in addition to the North Carolina National Guard, the State defense militia and the naval militia, order out the whole or any part of the unorganized militia. When the militia of this State or a part thereof is called forth under the Constitution and laws of the United States, the Governor shall first order out for service the North Carolina National Guard, the State defense militia or naval militia, or any part thereof that may be necessary, and if the number available is insufficient, the Governor shall then order out any part of the unorganized militia that the Governor may deem necessary. During the absence or organizations of the North Carolina National Guard or naval militia in the service of the United States, their state designations shall not be given to new organizations. (1917, c. 200, s. 46; C.S., s. 6860; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-88. Manner of ordering out unorganized militia.

The Governor shall, when ordering out the unorganized militia, designate the number. The Governor may order them out either by calling for volunteers or by draft. The Governor may attach them to the several organizations of the North Carolina National Guard, the State defense militia or naval militia, as may be best for the service. (1917, c. 200, s. 47; C.S., s. 6861; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-89. Draft of unorganized militia.

If the unorganized militia is ordered out by draft, the Governor shall designate the persons in each county to make the draft, and prescribe rules and regulations for conducting it. (1917, c. 200, s. 48; C.S., s. 6862; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-90. Punishment for failure to appear.

Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who does not appear at the time and place ordered, shall be liable to punishment as determined by a court-martial. (1917, c. 200, s. 49; C.S., s. 6863; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-91. Promotion of marksmanship.

The Adjutant General is authorized to detail a commissioned officer of the North Carolina National Guard or member of the State defense militia to promote rifle marksmanship among the State defense militia and the unorganized militia of the State. The officer or member so detailed shall serve without pay and it shall be the duty of the officer or member to organize and supervise rifle clubs in schools, colleges, universities, clubs and other groups, under rules and regulations prescribed by the Adjutant General and in a manner that will make them, when duly organized, acceptable for membership in the National Rifle Association. Provided, that these duties and efforts shall in nowise interfere or conflict with clubs of schools or units operating in Reserve Officers' Training Corps or similar schools under the supervision of instructors of the Armed Forces of the United States. (1937, c. 449; 1963, c. 1016, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-92 through 127A-96. Reserved for future codification purposes.

Article 7.

Regulations as to Active Service.

§ 127A-97. National Guard and naval militia first ordered out.

In all cases the North Carolina National Guard and naval militia as provided for in this Chapter shall be first ordered into service. (1917, c. 200, s. 44; C.S., s. 6857; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-98. Regulations enforced on active State service.

Whenever any portion of the militia is called into active State service to execute the law, secure the safety of persons and property, suppress riots or insurrections, repel invasions or provide disaster relief, the provisions of the Uniform Code of Military Justice of the United States, governing the Armed Forces of the United States, and the regulations prescribed for the Armed Forces of the United States, and the regulations issued thereunder, shall be enforced and regarded as part of this Chapter until this portion of the militia is relieved from the duty. As to offenses committed when the provisions of the Uniform Code of Military Justice of the United States are so enforced, courts-martial shall possess, in addition to the jurisdiction and power of sentence and punishment herein vested in them, all additional jurisdiction and power of sentence and punishment exercisable by like courts under the provisions of the Uniform Code of Military Justice of the United States or regulations or laws governing the Armed Forces of the United States or the customs and usages thereof; but no punishment under the Code that extends to the taking of life shall in any case be inflicted except in case of war, invasion, or insurrection, declared by a proclamation of the Governor to exist and then only after approval by the Governor of the sentence inflicting that punishment. Imprisonment other than in guardhouse shall be executed in county jails or other prisons designated by the Governor for that purpose. (1917, c. 200, s. 45; C.S., s. 6858; 1963, c. 1018, s. 6; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-99. Regulations governing unorganized militia.

Whenever any part of the unorganized militia is ordered out, it shall be governed by the same rules and regulations and be subject to the same penalties as the North Carolina National Guard or naval militia. (1917, c. 200, s. 35; C.S., s. 6859; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-100 through 127A-104. Reserved for future codification purposes.

Article 8.

Pay of Militia.

§ 127A-105. Rations and pay on State service.

The militia of the State, both officers and enlisted personnel, when called into the service of the State by the Governor shall receive the same pay as when called or ordered into the service of the United States, and shall be rationed or paid the equivalent thereof, provided that no officer or enlisted personnel shall receive less than 18 times the minimum hourly wage per day as provided for in G.S. 95-25.3(a). (1813, c. 850, s. 5, P.R.; R.C., c. 70, s. 84; Code, s. 3248; Rev., s. 4856; 1907, c. 316; 1917, c. 200, s. 50; C.S., s. 6864; 1935, c. 452; 1959, c. 218, s. 17; 1975, c. 604, s. 2; 1997-153, s. 2; 1997-443, s. 7.12(c).)

§ 127A-106. Paid by the State.

When the militia or any portion thereof is ordered by the Governor into State service, the pay (including payment for any leave earned as a result of more than 30 days of continuous service),

subsistence, transportation and other necessary expenses incident thereto shall be paid by the State Treasurer, upon the approval of the Governor. (1917, c. 200, s. 52; C.S., s. 6866; 1975, c. 604, s. 2; 1993, c. 257, s. 12; 1997-153, s. 6; 1997-443, s. 7.12(c); 2011-195, s. 1(a).)

§ 127A-107. Rate of pay for other service.

The Governor may, whenever the public service requires it, order upon special or regular duty any officer or enlisted member of the North Carolina National Guard or naval militia, and the expenses and compensation therefor of the officer or enlisted member shall be paid out of the appropriations made to the Department of Public Safety. The officers or enlisted members shall receive the same rate of pay as officers and enlisted members of the same grade and like service of the Armed Forces of the United States, provided that no such officer or enlisted member shall receive less than 18 times the minimum hourly wage per day as provided for in G.S. 95-25.3(a). Officers and enlisted members when on duty in connection with examining boards, efficiency boards, advisory boards, courts of inquiry or similar duty shall be allowed per diem and subsistence prescribed for lawful State boards and commissions generally for such duty. Officers and enlisted members serving on general or special courts-martial shall receive the base pay of their rank. No staff officer or enlisted member who receives a salary from the State as such shall be entitled to any additional compensation other than actual and necessary expenses incurred while traveling upon orders issued by the proper authority. (1917, c. 200, s. 51; C.S., s. 6865; 1935, c. 451; 1949, c. 1130, s. 4; 1959, c. 218, s. 18; 1963, c. 1019, s. 1; 1969, c. 986; 1971, c. 204; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1997-153, s. 3; 1997-443, s. 7.12(c); 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-108. Pay and care of soldiers, airmen and sailors disabled in service.

A member of the North Carolina National Guard, the State defense militia, or the naval militia who without fault or negligence on the member's part is disabled through illness, injury, or disease contracted or incurred while on duty or by reason of duty in the service of the State or while reasonably proceeding to or returning from duty shall receive the actual necessary expenses for care and medicine and medical attention at the expense of the State and if the disability temporarily incapacitates the member from pursuing the member's usual business or occupation the member shall receive during his or her incapacity the pay and allowances that are provided for the same grade and rating in like circumstances in the active Armed Forces of the United States. If the member is permanently disabled, the member shall receive the pensions and benefits that persons under similar circumstances in the Armed Forces of the United States receive from the United States. In case a member dies as a result of such an injury, illness or disease within one year after it has been incurred or contracted, the surviving spouse, minor children, or dependent parents of the member shall receive the pension and benefits as persons under similar circumstances receive from the United States.

The cost incurred by reason of this section shall be paid out of the Contingency and Emergency Fund, or another fund designated by law.

The Adjutant General, with the approval of the Governor, shall make and publish regulations pursuant to this section that are necessary for its implementation. Before the name of any person is placed on the disability or pension rolls of the State under this section, proof shall be made in accordance with these regulations that the applicant is entitled to the care, pension, or benefit.

Nothing in this section shall in any way limit or condition any other payment to a member that the law allows, except that any payments made under the provisions of Chapter 97 of the General

Statutes or under federal statutes as now or hereafter amended shall be deducted from the payments made under this section. (1917, c. 200, s. 54; C.S., s. 6868; 1959, c. 218, s. 19; c. 763; 1965, c. 1058; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-109. Pay of general and field officers.

General and field officers when away from their home stations visiting the organizations of their commands, for inspection and instruction under orders from proper authority, shall receive actual necessary expenses and the pay of their rank. (1917, c. 200, s. 53; C.S., s. 6867; 1975, c. 604, s. 2.)

§ 127A-110. Proceedings against third party injuring or killing organized militia personnel.

(a) The right of a member of the North Carolina National Guard, the State defense militia, or the naval militia to compensation and other benefits under G.S. 127A-108 shall not be affected by the fact that the injury or death was caused under circumstances creating a liability in some person other than the State, or "third party," to pay damages therefor. The respective rights and interests of the member under this Article, and the State, if any, in respect of the common-law cause of action against a third party and the damages recovered shall be as set forth in this section.

(b) The member or personal representative if the member be dead, shall have the exclusive right to proceed to enforce the liability of the third party by appropriate proceedings if the proceedings are instituted not later than 12 months after the date of injury or death, whichever is later. During this 12-month period, and at any time thereafter if summons is issued against the third party during the 12-month period, the member or personal representative shall have the right to settle with the third party and to give a valid and complete release of all claims to the third party by reason of the injury or death, subject to the provisions of subsection (h) of this section.

(c) If settlement is not made and summons is not issued within the 12-month period described in subsection (b) of this section, then all rights of the member, or personal representative if the member be dead, against the third party shall pass by operation of the period fixed by the statute of limitations applicable to these rights and if the State has not settled with or instituted proceedings against the third party within this time, then all such rights shall revert to the member or personal representative 60 days before the expiration of the applicable statute of limitations.

(d) The person in whom the right to bring a proceeding or make settlement is vested shall, during the continuation thereof, also have the exclusive right to make settlement with the third party and the release of the person having the right shall fully acquit and discharge the third party except as provided by subsection (h) of this section. A proceeding so instituted by the person having the right shall be brought in the name of the member or personal representative and the State shall not be a necessary or proper party thereto. If the member or personal representative refuses to cooperate with the State by being the party plaintiff, then the action shall be brought in the name of the State and the member or personal representative shall be made a party plaintiff or party defendant by order of court.

(e) The amount of compensation and other benefits paid or payable on account of the injury or death shall not be admissible in evidence in any proceeding against the third party. If the third party defending the proceeding, by answer duly served on the State, sufficiently alleges that actionable negligence of the State joined and concurred with the negligence of the third party in producing the injury or death, then an issue shall be submitted to the jury in the case as to whether actionable negligence of the State joined and concurred with the negligence of the third party in producing the injury or death. The State shall have the right to appear, to be represented, to

introduce evidence, to cross-examine adverse witnesses, and to argue to the jury as to this issue as fully as though it were a party although not named or joined as a party to the proceeding. The issue as to the State's negligence shall be the last of the issues submitted to the jury. If the verdict is that actionable negligence of the State did join and concur with that of the third party in producing the injury or death, then the court shall reduce the damages awarded by the jury against the third party by the amount which the State would otherwise be entitled to receive therefrom by way of subrogation hereunder and the entire amount recovered, after such reduction, shall belong to the member or personal representative free of any claim by the State and the third party shall have no further right by way of contribution or otherwise against the State, except any right which may exist by reason of an express contract of indemnity between the State and the third party, which was entered into prior to the injury to the member.

(f) (1) Any amount obtained by any person by settlement with, judgment against, or otherwise from the third party by reason of the injury or death shall be disbursed by order of the court for the following purposes and in the following order of priority:

a. First to the payment of actual court costs taxed by judgment.

b. Second to the payment of the fee of the attorney representing the person making settlement or obtaining judgment, and this fee shall not exceed one third of the amount obtained or recovered of the third party.

c. Third to the reimbursement of the State for all benefits by way of compensation or medical treatment expense paid or to be paid by the State pursuant to G.S. 127A-108.

d. Fourth to the payment of any amount remaining to the member or personal representative.

(2) The attorney fee paid under subdivision (1) of this subsection shall be paid by the member and the State in direct proportion to the amount each shall receive under sub-subdivisions (1)c. and d. of this subsection and shall be deducted from the payments when distribution is made.

(g) In any proceeding against or settlement with the third party, every party to the claim for compensation shall have a lien to the extent of the party's interest under subsection (f) of this section upon any payment made by the third party by reason of the injury or death, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not to sue, or otherwise and the lien may be enforced against any person receiving the funds. Neither the member or personal representative nor the State shall make any settlement with or accept any payment from the third party without the written consent of the other and no release to or agreement with the third party shall be valid or enforceable for any purpose unless both State and member or personal representative join therein; provided, that this sentence shall not apply if the State is made whole for all benefits paid or to be paid by the member or personal representative under this Chapter less attorney's fees as provided by subsection (f) of this section and the release to or agreement with the third party is executed by the member. The Attorney General shall have the right on behalf of the State to reduce by compromise its claim.

(h) Institution of proceedings against or settlement with the third party, or acceptance of benefits under this Chapter, shall not in any way or manner affect any other remedy which any party to the claim for compensation may have except as otherwise specifically provided in this Chapter, and the exercise of one remedy shall not in any way or manner be held to constitute an

election of remedies so as to bar the other. (1967, c. 1081, s. 1; 1975, c. 604, s. 2; 2011-195, s. 1(a); 2012-194, s. 26.)

§ 127A-111. Civilian leave option.

(a) A member of the North Carolina National Guard called into service of the State by the Governor has the right to take leave without pay from his or her civilian employment. No member of the North Carolina National Guard shall be forced to use any of his or her vacation or other accrued leaves from his or her civilian employment for a period of active service. The choice of leave is solely within the discretion of the member.

(b) The Commissioner of Labor shall enforce the provisions of this section pursuant to Chapter 95 of the General Statutes. (1997-153, s. 4; 2019-161, s. 2(a).)

§§ 127A-112 through 127A-115. Reserved for future codification purposes.

Article 9.

Privilege of Organized State Militia and Reserve Components of the Armed Forces of the United States.

§ 127A-116. Leaves of absence for State officers and employees.

The Governor or the Governor's designee shall promulgate appropriate policy and regulations relating to leaves of absence for short periods of military training and for State or federal military duty or special emergency management service of all officers and employees of the State and its political subdivisions, including officers and employees of public educational facilities under the sponsorship of the State, without loss of pay, time or efficiency rating. (1917, c. 200, s. 88; C.S., s. 6869; 1937, c. 224, s. 1; 1949, c. 1274; 1975, c. 604, s. 2; 2001-513, s. 23(b).)

§ 127A-117. Contributing members.

Each organization of the North Carolina National Guard and naval militia may, besides its regular and active members, enroll contributing members on payment in advance by each person desiring to become a contributing member of not less than ten dollars ($10.00) per annum, which money shall be paid into the unit fund. Each contributing member shall be entitled to receive from the commanding officer thereof a certificate of membership. (1917, c. 200, s. 90; C.S., s. 6871; 1967, c. 218, s. 3; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-118. Organizations may own property; actions.

Organizations of the North Carolina National Guard and naval militia shall have the right to own and keep real and personal property, which shall belong to the organization; and the commanding officer of any organization may recover for its use debts or effects belonging to it, or damages for injury to the property. An action for recovery of debts, effects, or damages must be brought in the name of the commanding officer of the organization before any court of justice within the State having jurisdiction; and no suit or complaint pending in his or her name shall be abated by his or her ceasing to be commanding officer of the organization; but upon motion of the commander succeeding him or her the new commander shall be admitted to prosecute the suit or complaint in like manner and with like effect as if it had been originally commenced by him or her. (1917, c. 200, s. 92; C.S., s. 6872; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-119. When families of soldiers, airmen and sailors supported by county.

When any citizen of the State is absent on duty as a member of the North Carolina National Guard, State defense militia or naval militia, and the member's family members are unable to support themselves during the member's absence, the board of commissioners of the member's county, on application, shall make a reasonable allowance towards their maintenance. (1917, c. 200, s. 93; C.S., s. 6873; 1963, c. 1019, s. 2; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-120 through 127A-124. Reserved for future codification purposes.

Article 10.

Care of Military Property.

§ 127A-125. Custody of military property.

All public military property, except when used in the performance of military duty, shall be kept in armories, or other properly designated places of deposit; and it shall be unlawful for any person charged with the care and safety of public military property to allow it out of his or her custody, except as specified in this section. (1917, c. 200, s. 38; C.S., s. 6874; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-126. Other suitable storage facilities.

All public military property of every description which may not be distributed among the units of the North Carolina National Guard or State defense militia according to law shall be stored and kept at suitable storage facilities as determined by the Adjutant General. (1917, c. 200, s. 39; C.S., s. 6875; 1959, c. 218, s. 20; 1963, c. 1019, s. 3; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-127. Property kept in good order.

Every officer and enlisted member belonging to any unit equipped with public military property shall keep and preserve the property in good order; and for neglect to do so may be punished as a court-martial may direct. (1917, c. 200, s. 40; C.S., s. 6877; 1959, c. 218, s. 22; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-128. Equipment and vehicles.

Equipment and vehicles issued by the Department of Defense to the North Carolina National Guard or State defense militia shall be used solely for military purposes, except in those specific cases where nonmilitary use is authorized by the Department of Defense or the Governor. Necessary expense in maintaining equipment and vehicles, not provided for by the federal government, shall be a proper charge against State funds appropriated for the North Carolina National Guard: Provided, the expense shall be specifically authorized by the Governor and certified by the Adjutant General. (1917, c. 200, s. 41; C.S., s. 6878; 1921, c. 120, s. 9; 1959, c. 218, s. 23; 1963, c. 1019, s. 4; 1967, c. 563, s. 5; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-129. Transfer of property.

All officers accountable or responsible for public funds, property, or books, before being relieved from the duty, shall turn them over according to the regulations prescribed by the Governor. (1917, c. 200, s. 42; C.S., s. 6879; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-130. Replacement of lost or damaged property.

Whenever any military property issued to the North Carolina National Guard or State defense militia shall have been lost, damaged, or destroyed, and upon report of a disinterested surveying officer it shall appear that the loss, damage, or destruction of property was due to carelessness or neglect, or that its loss, damage or destruction could have been avoided by exercise of able care, the money value of the property shall be charged to the responsible officer or enlisted member, and the pay of the officers and enlisted members from both federal and State funds at any time accruing may be stopped and applied to the payment of any such indebtedness until it is discharged. (1917, c. 200, s. 43; C.S., s. 6880; 1959, c. 218, s. 24; 1963, c. 1019, s. 5; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-131. Unlawful conversion or willful destruction of military property.

(a) If any person shall willfully or wantonly destroy or injure, willfully retain after demand made or otherwise convert to the person's own use any property of the State or of the United States issued for the purpose of arming or equipping the militia of the State or if any person shall purchase any property of the State or of the United States knowing it to be unlawfully obtained, the person shall be guilty of a Class 1 misdemeanor.

(b) Any person, firm or corporation receiving in pledge or buying from any other person, firm or corporation for the purpose of resale any goods, to include arms, ammunition, explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be the property of the Armed Forces of the United States and their reserve components or of the militia of the State of North Carolina, shall keep a register and shall enter therein a true and accurate record of each purchase, showing the name, social security number and address of the person from whom purchased, the name and address of the firm or corporation from whom purchased, together with the amount paid for each item or lot of small items, the date of purchase, the serial numbers of all items bearing serial numbers, and any other marks, brands or descriptions which will serve to identify the items purchased. The register shall be at all times open to the inspection of the public. Any person, firm or corporation failing to comply with this provision shall be guilty of a Class 1 misdemeanor; and any person, firm or corporation making a false entry in such register shall be guilty of a Class 1 misdemeanor. (1876-7, c. 272, s. 19; Code, s. 3274; Rev., ss. 3536, 3537; C.S., ss. 6881, 6882; 1959, c. 218, s. 25; 1963, c. 1019, s. 6; 1975, c. 604, s. 2; 1993, c. 539, s. 936; 1994, Ex. Sess., c. 24, s. 14(c); 2011-195, s. 1(a).)

§§ 127A-132 through 127A-136. Reserved for future codification purposes.

Article 11.

Support of Militia.

§ 127A-137. Requisition for federal funds.

The Governor shall make requisition upon the secretary of the appropriate service for the State allotment from federal funds as may be appropriate for the support of the militia. (1917, c. 200, s. 23; C.S., s. 6887; 1921, c. 120, s. 10; 1963, c. 1019, s. 8; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-138. Local appropriations; unit funds.

(a) Every municipality and county within the State is hereby authorized and empowered to appropriate for the benefit of any unit or units of the militia the amounts of public funds from year to year as the governing body of the municipality or county may deem wise, patriotic and expedient; and is further authorized, either alone or in connection with others, to provide heat,

electricity, water, telephone service and other costs of operation and maintenance of any armory. These appropriations may be funded by the levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 or by the allocation of other revenues whose use is not otherwise restricted by law.

(b) Any funds donated to any unit or units of the militia by local governments, civic organizations or private sources, short-term rental of their armory buildings, or funds earned through vending machine commissions and items of similar nature shall remain at the unit or units to be expended in accordance with rules and regulations prescribed by the Secretary. (1947, c. 1010, s. 8; 1975, c. 604, s. 2; 1979, c. 701, s. 1; 2011-195, s. 1(a).)

§ 127A-139. Allowances made to different organizations and personnel.

(a) There may be allowed each year to the following officers, under rules and regulations prescribed by the Secretary of Public Safety, as follows: to general officers, and commanders of divisions, corps, groups, brigades, regiments, separate battalions, squadrons or similar organizations, not to exceed two hundred and twenty-five dollars ($225.00); to commanding officers of companies, batteries, troops, detachments and similar units not to exceed two hundred dollars ($200.00); to executive officers, adjutants, plans and training officers, logistical officers and commissioned officers in comparable assignments in divisions, corps, groups, brigades, regiments, battalions, squadrons and similar organizations, not to exceed two hundred dollars ($200.00). No officer shall be entitled to receive any part of the amounts named in this subsection unless the officer has performed satisfactorily all duties required of the officer by law and regulations and has pursued any course of instruction that may from time to time be required.

(b) There may be allowed annually to the supply sergeant of each company, battery, troop, detachment, and similar organizations, a sum of money not to exceed one hundred dollars ($100.00) for services satisfactorily performed.

(c) There shall be allowed annually sufficient funds to be allocated by the Secretary of Public Safety among the federally recognized units of the North Carolina National Guard and their headquarters, a pistol team, a rifle team, aviation support facilities, and aviation flight activities for administrative and operating expenses, including heat, electricity, telephone, postage, office supplies and equipment, minor repairs and replacement of equipment, and any other expenses and special items of equipment not otherwise provided that may be authorized in accordance with North Carolina National Guard rules and regulations.

(d) Repealed by Session Laws 1979, c. 701, s. 2.

(e) The commanding officers of all organizations participating in the appropriations herein made shall render an itemized statement of all funds received from any source whatever for the support of their respective organizations in the manner and on the forms prescribed by the Secretary through the Adjutant General. Failure on the part of any officer to submit promptly when due the financial statement of the officer's organization will be sufficient cause to withhold all appropriations for the organization. (1917, c. 200, s. 97; 1919, c. 311; C.S., s. 6889; 1921, c. 120, s. 11; 1923, c. 24; 1924, c. 6; 1927, c. 227, s. 2; 1949, c. 1130, s. 5; 1951, c. 1144, s. 1; 1953, c. 1246; 1959, c. 421; 1963, c. 1020; 1967, c. 563, s. 6; 1973, c. 1460; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 1979, c. 701, s. 2; 2009-281, s. 1; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§§ 127A-140 through 127A-144. Reserved for future codification purposes.

Article 12.

General Provisions.

§ 127A-145. Reports of officers.

All officers of the North Carolina National Guard, the State defense militia, and the naval militia shall make returns and reports to the Governor, the Secretary of Defense, or to officers designated by them, at the times and in the form from time to time prescribed. (1917, c. 200, s. 21; C.S., s. 6890; 1963, c. 1019, s. 10; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-146. Officer to give notice of absence.

When any officer shall have occasion to be absent from the officer's usual residence one week or more, the officer shall notify the officer next in command, and also the officer's next superior officer in command, of the officer's intended absence, and shall arrange for the officer next in command to handle and attend to all official communications. (1917, c. 200, s. 22; C.S., s. 6891; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-147. Orders, rules, regulations and Uniform Code of Military Justice applicable to militia when not in service of United States.

The North Carolina National Guard, State defense militia and naval militia, when not in the service of the United States, shall be governed by State law, the orders, rules and regulations of the Adjutant General, regulations promulgated by the secretary of the appropriate service of the Armed Forces of the United States, and the Uniform Code of Military Justice, as amended from time to time. (1917, c. 200, s. 34; C.S., s. 6892; 1963, c. 1018, s. 7; 1975, c. 604, s. 2; 2009-281, s. 1; 2010-193, s. 21; 2011-195, s. 1(a).)

§ 127A-148. Commander may prevent trespass and disorder.

The commander upon any occasion of duty may place in arrest during the continuance thereof any person who shall trespass upon the campground, parade ground, armory, or other place devoted to that duty, or who shall in any way or manner interrupt or molest the orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops going to or returning from any duty. The commander may prohibit and prevent the sale or use of all spirituous liquors, wine, ale, beer, or cider, the holding of huckster or auction sales, and all gambling within the limits of the post, campground or place of encampment, parade or drill under his or her command, or within any limits not exceeding one mile therefrom that the commander may prescribe. The commander may in the commander's discretion abate as common nuisance all such sales. (1917, c. 200, s. 94; C.S., s. 6893; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-149. Power of arrest in certain emergencies.

In the event members of the North Carolina National Guard or State defense militia are called out by the Governor pursuant to the authority vested in the Governor by the Constitution, they shall have the power of arrest reasonably necessary to accomplish the purpose for which they have been called out. (1959, c. 453; 1963, c. 1019, s. 11; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-150. Immunity of guardsmen from civil and criminal liability.

(a) A member of the North Carolina National Guard or State defense militia, while acting in aid of civil authorities and in the line of duty, shall have the immunities of a law-enforcement officer.

(b) Members of the North Carolina National Guard or State defense militia shall have the immunities of a law-enforcement officer whenever they are called upon to execute the laws;

engage in disaster relief; suppress or prevent actual or threatened riot or insurrection; repel invasion; or apprehend or disperse any sniper, rioters, mob or unlawful assembly.

(c) Any civil claim against a member of the North Carolina National Guard or State defense militia allegedly arising from the action or inaction of the member of the North Carolina National Guard or State defense militia while in line of duty shall be filed within two years of the date of the occurrence or forever barred. (1969, c. 969; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-151. Organizing company without authority.

If any person shall organize a military company, or drill or parade under arms as a military body, except under the militia laws and regulations of the State, or shall exercise or attempt to exercise the power or authority of a military officer in this State, without holding a commission from the Governor, the person shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 38; Rev., s. 3538; C.S., s. 6894; 1975, c. 604, s. 2; 1993, c. 539, s. 937; 1994, Ex. Sess., c. 24, s. 14(c); 2011-195, s. 1(a).)

§ 127A-152. Placing name on muster roll wrongfully.

If any officer of the militia of the State shall knowingly or willfully place, or cause to be placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the name of any enlisted member who is dead or who has been discharged, transferred, or has lost membership for any cause whatsoever, or who has been convicted of any infamous crime, the officer shall be guilty of a Class 1 misdemeanor. (1893, c. 374, s. 33; Rev., s. 3539; C.S., s. 6895; 1975, c. 604, s. 2; 1993, c. 539, s. 938; 1994, Ex. Sess., c. 24, s. 14(c); 2011-195, s. 1(a).)

§ 127A-153. Protection of uniform.

(a) The wearing of any military uniform of the United States by members of the militia shall be pursuant to applicable regulations promulgated by the respective branches of the Armed Forces of the United States and regulations of the Adjutant General of North Carolina not inconsistent with federal uniform regulations.

(b) The wearing of any military uniform of the State by members of the militia shall be pursuant to applicable regulations promulgated by the Adjutant General of North Carolina.

(c) Members of the militia who violate the regulations referred to in subsections (a) and (b) of this section shall, upon conviction by a court-martial, be punished in like manner and to the extent prescribed by Article 134 of the Uniform Code of Military Justice and Manual for Courts-Martial, United States, as shall be in use by the Armed Forces of the United States at the time of the offense.

(d) Persons not subject to courts-martial who violate the regulations referred to in subsections (a) and (b) of this section may be charged and tried in the State courts and upon conviction shall be punished as provided in subsection (c) of this section. (1921, c. 120, s. 12; C.S., s. 6895(a); 1963, c. 1017; 1975, c. 604, s. 2; 2010-193, s. 22; 2011-195, s. 1(a).)

§ 127A-154. Upkeep of properties.

There shall be paid from the appropriations for the North Carolina National Guard the amounts necessary for the maintenance, upkeep, and improvement of State military properties and facilities. Provided, these expenditures shall be approved and authorized by the Governor. (1921, c. 120, s. 13; C.S., s. 6895(b); 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-155. When officers authorized to administer oaths.

Officers of the North Carolina National Guard are authorized to administer oaths in all circumstances pertaining to any military matter whenever an oath is required. (1949, c. 1130, s. 6; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-156 through 127A-160. Reserved for future codification purposes.

Article 13.

Armories.

§ 127A-161. Definitions.

As used in this Article, the following terms mean:

(1) Armory. – Any building or building complex and related facilities, including the lands for them, which are intended to be utilized by the militia for training, administration, storage, and the maintenance and servicing of equipment.

(2) Armory site. – That land, meeting federal and State specifications, upon which an armory may be constructed.

(3) Department. – The North Carolina Department of Public Safety.

(4) Facilities. – Those adjuncts to an armory, including but not limited to yards, storage buildings, sheds, ramps, racks, target ranges, furniture, fixtures and other equipment and installations.

(5) Funds. – Any monies appropriated by any municipality, county, the State or the United States government and made available for the purpose of acquiring armory sites or constructing or repairing any armory, warehouse, or other facility for the use of any unit or for any other purpose in connection with the housing, training, instruction or promotion of the interest of any unit.

(6) Municipality. – Any incorporated city, town or village.

(7) Unit. – Any organizational entity of the militia. (1947, c. 1010, s. 1; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-162. Authority to foster development of armories and facilities.

The Department of Public Safety is authorized and empowered to foster the development in North Carolina of adequate armories and other necessary facilities for the proper housing, instruction, training and administration of all units and facilities necessary for the proper protection, care, maintenance, repair, issue and upkeep of public and military property issued to or for the use of any unit. (1947, c. 1010, s. 4; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g).)

§ 127A-163. Powers of Department specified.

The Department of Public Safety is further authorized and empowered:

(1) To act as an agency of the State of North Carolina for the purpose of setting up and administering any statewide plan for the acquisition of armories and armory sites, for the construction and maintenance of armories and for providing facilities which are now or may be necessary in order to comply with any

federal law and in order to receive, administer and disburse any funds which may be provided by act of Congress for such purpose;

(2) When acting as an agency of the State of North Carolina under subdivision (1) of this section, to promulgate statewide plans for the acquisition of armories and armory sites, for the construction and maintenance of armories and other facilities that are desirable or necessary to meet the requirements and receive the benefits of any federal legislation with respect thereto;

(3) To receive and administer any funds which may be appropriated by any act of Congress or otherwise for the acquisition of armories and armory sites, for the construction and maintenance of armories, and for providing facilities that may at any time become available for those purposes;

(4) To receive and administer any other funds which may be available in furtherance of any activity in which the Department of Public Safety is authorized and empowered to engage under the provisions of this Article; and

(5) To adopt rules to carry out the intent and purpose of this Article. (1947, c. 1010, s. 5; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g); 2011-195, s. 1(a).)

§ 127A-164. Power to acquire land, make contracts, etc.

In furtherance of the duties, power, and authority given herein, the Department of Public Safety is authorized and empowered within the limitations of G.S. 143-341 to accept and hold title to real property in the name of the State of North Carolina, and to enter in contracts and do any and all things necessary to carry out any statewide programs for the acquisition of armories and armory sites, the construction and maintenance of armories, and to provide facilities which may be considered by it as necessary for any unit and which may be authorized by act of Congress or otherwise. (1947, c. 1010, s. 6; 1973, c. 620, s. 9; 1975, c. 604, s. 2; 1977, c. 70, s. 2; 2011-145, s. 19.1(g).)

§ 127A-165. Counties and municipalities may lease, convey or acquire property for use as armory.

Every municipality and county of the State of North Carolina is hereby authorized and empowered to lease or convey by deed to the State of North Carolina:

(1) Any existing armory and the land adjacent thereto;

(2) Any real property suitable for the construction of an armory, warehouse or other facility; and

(3) Any real property suitable for use in the administration, instruction and training of any unit.

Every municipality and county is further authorized and empowered to acquire any real property which may be suitable for use as an armory or for the construction of an armory thereon, or for any other purpose of a unit. The contracting of an indebtedness and the expenditure of public funds by any municipality or county to comply with the provisions of this Article are hereby declared to be a necessary expense and for a public purpose. (1947, c. 1010, s. 7; 1949, c. 1066, s. 1; 1975, c. 604, s. 2.)

§ 127A-166. Prior conveyances validated.

All conveyances of real property made before April 20, 1949, by any municipality or county of the State of North Carolina to the State of North Carolina for armory purposes are hereby validated and ratified in every respect. (1949, c. 1066, s. 2; 1975, c. 604, s. 2.)

§ 127A-167. Appropriations to supplement available funds authorized.

Any city or town and any county in the State, separately or jointly, may make appropriations to supplement available federal or State funds to be used for the construction of armory facilities for the North Carolina National Guard. Appropriations made under authority of this Article shall be in the amounts and in the proportions deemed adequate and necessary by the governing body of the county and/or municipality desiring to participate in the armory construction program. (1955, c. 1181, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-168. Local financial support.

Each county and city in this State is authorized to make appropriations for the purposes of this Article and to fund them by levy of property taxes pursuant to G.S. 153A-149 and G.S. 160A-209 and by the allocation of other revenues whose use is not otherwise restricted by law. (1955, c. 1181, s. 2; 1961, c. 1042; 1973, c. 803, s. 12; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-169. Unexpended portion of State appropriation.

The unexpended portion of any appropriation from the General Fund of the State for the purposes set out in this Article, or in Article 17 of this Chapter, remaining at the end of any biennium, shall not revert to the General Fund of the State, but shall constitute part of a permanent fund to be expended from time to time in the manner and for the purposes set out in this Article. (1949, c. 1202, s. 2; 1975, c. 604, s. 2; 2011-195, s. 1(a); 2013-360, s. 36.11(f).)

§§ 127A-170 through 127A-174. Reserved for future codification purposes.

Article 14.

National Guard Mutual Assistance Compact.

§ 127A-175. Purposes.

(a) Provide for mutual aid among the party states in the utilization of the National Guard to cope with emergencies.

(b) Permit and encourage a high degree of flexibility in the deployment of National Guard forces in the interest of efficiency.

(c) Maximize the effectiveness of the National Guard in those situations which call for its utilization under this Compact.

(d) Provide protection for the rights of National Guard personnel when serving in other states on emergency duty. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1.)

§ 127A-176. Entry into force and withdrawal.

(a) This Compact shall enter into force when enacted into law by any two states. Thereafter, this Compact shall become effective as to any other state upon its enactment thereof.

(b) Any party state may withdraw from this Compact by enacting a statute repealing the same, but no such withdrawal shall take effect until one year after the governor of the withdrawing state has given notice in writing of such withdrawal to the governors of all other party states. (1969, c. 674, s. 1; 1975, c. 604, s. 2.)

§ 127A-177. Definitions; mutual aid.

(a) As used in this Article:

(1) "Emergency" means an occurrence or condition, temporary in nature, in which police and other public safety officials and locally available National Guard forces are, or may reasonably be expected to be, unable to cope with substantial and imminent danger to the public safety.

(2) "Requesting state" means the state whose governor requests assistance in coping with an emergency.

(3) "Responding state" means the state furnishing aid, or requested to furnish aid.

(b) Upon request of the governor of a party state for assistance in an emergency, the governor of a responding state shall have authority under this Compact to send without the borders of the responding state and place under the temporary command of the appropriate National Guard or other military authorities of the requesting state all or any part of the National Guard forces of the responding state as the governor of the responding state may deem necessary, and the exercise of the governor's discretion in this regard shall be conclusive.

(c) The governor of a party state may withhold the National Guard forces of that governor's state from such use and recall any forces or part or member thereof previously deployed in a requesting state.

(d) Whenever National Guard forces of any party state are engaged in another state in carrying out the purposes of this Compact, the members thereof so engaged shall have the same powers, duties, rights, privileges and immunities as members of National Guard forces in such other state. The requesting state shall save members of the National Guard forces of responding states harmless from civil liability for acts or omissions in good faith which occur in the performance of their duty while engaged in carrying out the purposes of this Compact, whether the responding forces are serving the requesting state within its borders or are in transit to or from such service.

(e) Subject to the provisions of subsections (f), (g) and (h) of this section, all liability that may arise under the laws of the requesting state, the responding state, or a third state on account of or in connection with a request for aid, shall be assumed and borne by the requesting state.

(f) Any responding state rendering aid pursuant to this Compact shall be reimbursed by the requesting state for any loss or damage to, or expense incurred in the operation of any equipment answering a request for aid, and for the cost of the materials, transportation and maintenance of National Guard personnel and equipment incurred in connection with such request: Provided, that nothing herein contained shall prevent any responding state from assuming such loss, damage, expense or other cost.

(g) Each party state shall provide, in the same amounts and manner as if they were on duty within their state, for the pay and allowances of the personnel of its National Guard units while engaged without the state pursuant to this Compact and while going to and returning from such duty pursuant to this Compact. Such pay and allowances shall be deemed items of expense reimbursable under subsection (f) of this section by the requesting state.

(h) Each party state providing for the payment of compensation and death benefits to injured members and the representatives of deceased members of its National Guard forces in case such members sustain injuries or are killed within their own state, shall provide for the payment of compensation and death benefits in the same manner and on the same terms in case such members sustain injury or are killed while rendering aid pursuant to this Compact. Such compensation and

death benefits shall be deemed items of expense reimbursable pursuant to subsection (f) of this section. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-178. Delegation.

Nothing in this Compact shall be construed to prevent the governor of a party state from delegating any of the governor's responsibilities or authority respecting the National Guard, provided that such delegation is otherwise in accordance with law. For purposes of this Compact, however, the governor shall not delegate the power to request assistance from another state. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-179. Limitations.

Nothing in this Compact shall:

(1) Expand or add to the functions of the National Guard, except with respect to the jurisdictions within which such functions may be performed;

(2) Authorize or permit National Guard units to be placed under the field command of any person not having the military or National Guard rank or status required by law for the field command position in question. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-180. Construction and severability.

This Compact shall be liberally construed so as to effectuate the purposes thereof. The provisions of this Compact shall be severable and if any phrase, clause, sentence or provision of this Compact is declared to be contrary to the constitution of any state or of the United States or the applicability thereof to any government, agency, person or circumstance is held invalid, the validity of the remainder of this Compact and the applicability thereof to any government, agency, person or circumstance shall not be affected thereby. If this Compact shall be held contrary to the constitution of any state participating herein, the Compact shall remain in full force and effect as to the remaining party states and in full force and effect as to the state affected as to all severable matters. (1969, c. 674, s. 1; 1975, c. 604, s. 2.)

§ 127A-181. Payment of liability to responding state.

Upon presentation of a claim therefor by an appropriate authority of a state whose National Guard forces have aided this State pursuant to the Compact, any liability of this State pursuant to G.S. 127A-177(f) shall be paid out of the general fund. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-182. Status, rights and benefits of forces engaged pursuant to Compact.

In accordance with G.S. 127A-177(h), members of the National Guard forces of this State shall be deemed to be in State service at all times when engaged pursuant to this Compact, and shall be entitled to all rights and benefits provided pursuant to the laws of this State. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§ 127A-183. Injury or death while going to or returning from duty.

All benefits to be paid under G.S. 127A-177(h) shall include any injury or death sustained while going to or returning from such duty. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2011-195, s. 1(a).)

§ 127A-184. Authority of responding state required to relieve from assignment or reassign officers.

Nothing in this Compact shall authorize or permit state officials or military officers of the requesting state to relieve from assignment or reassign officers or noncommissioned officers of National Guard units of the responding state without authorization by the appropriate authorities of the responding state. (1969, c. 674, s. 1; 1975, c. 604, s. 2; 2009-281, s. 1; 2011-195, s. 1(a).)

§§ 127A-185 through 127A-189. Reserved for future codification purposes.

Article 15.

North Carolina National Guard Tuition Assistance Act of 1975.

§ 127A-190. Short title.

This Article shall be known and may be cited as the North Carolina National Guard Tuition Assistance Act of 1975. (1975, c. 917, s. 2; 2010-31, s. 17.3(b); recodified from N.C. Gen. Stat. § 116-209.50 by 2021-180, s. 19E.1(b), (c).)

§ 127A-191. Purpose.

The General Assembly of North Carolina, recognizing that the North Carolina National Guard is the only organized, trained and equipped military force subject to the control of the State, hereby establishes a program of tuition assistance for qualifying guard members for the purpose of encouraging voluntary membership in the North Carolina National Guard, improving the educational level of its members, and thereby benefiting the State as a whole. (1975, c. 917, s. 3; 2009-281, s. 1; 2010-31, s. 17.3(b); 2011-183, s. 85; recodified from N.C. Gen. Stat. § 116-209.51 by 2021-180, s. 19E.1(b), (c).)

§ 127A-192. Definitions.

The following definitions apply in this Article:

(1) Academic year. – The annual enrollment period used by the Secretary.

(2) Private educational institutions. – Any junior college, senior college or university which is operated and governed by private interests not under the control of the federal, State or any local government, which is located within and licensed by the State of North Carolina, which does not operate for profit, whose curriculum is primarily directed toward the awarding of associate, baccalaureate or graduate degrees, which agrees to the applicable administration and funding provisions of this Article.

(3) Proprietary school. – An educational institution that is (i) defined as a proprietary school in G.S. 115D-87(2), (ii) licensed by the State Board of Community Colleges, or (iii) listed by the North Carolina State Approving Agency for Veterans and Military Education as an approved proprietary school for purposes of this Article.

(4) Secretary. – The Secretary of Public Safety or the Secretary's designee.

(5) State educational institutions. – Any of the constituent institutions of the University of North Carolina, or any community college operated under the provisions of Chapter 115D of the General Statutes of North Carolina.

(6) Student loan. – A loan or loans made to eligible students or parents of students to aid in attaining an education beyond the high school level. (1975, c. 917, s. 4;

1977, c. 70, s. 2; c. 228, s. 1; 1987, c. 564, s. 24; 2008-94, s. 2; 2010-31, s. 17.3(b), (c); 2015-264, s. 66(a); recodified from N.C. Gen. Stat. § 116-209.52 by 2021-180, s. 19E.1(b), (c).)

§ 127A-193. Benefit.

The benefit provided under this Article shall consist of a monetary educational assistance grant not to exceed the highest amount charged by a State educational institution per academic year or a lesser amount, as prescribed by the Secretary, to remain within the funds appropriated, to qualifying members of the North Carolina National Guard. Benefits provided under G.S. 127A-195(g) shall be payable for a period of one year at a time, renewable at the option of the Secretary. All other benefits provided under this Article shall be payable for a period of one academic year at a time, renewable at the option of the Secretary. (1975, c. 917, s. 5; 1977, c. 228, s. 2; 1983 (Reg. Sess., 1984), c. 1034, ss. 99, 100; 1993 (Reg. Sess., 1994), c. 769, s. 22.3; 2000-67, s. 18; 2005-444, s. 1; 2008-94, s. 3; 2010-31, s. 17.3(b), (c); recodified from N.C. Gen. Stat. § 116-209.53 by 2021-180, s. 19E.1(b), (c).)

§ 127A-194. Eligibility.

(a) Active members of the North Carolina National Guard who are enrolled or who shall enroll in any proprietary school, private educational institution, or State educational institution shall be eligible to apply for this tuition assistance benefit: Provided, that the applicant has a minimum obligation of two years remaining as a member of the North Carolina National Guard from the end of the academic period for which tuition assistance is provided or that the applicant commit himself or herself to extended membership for at least two additional years from the end of that academic period.

(b) This tuition assistance benefit shall be applicable to students in the following categories:

(1) Students seeking to achieve completion of their secondary school education at a community college or technical institute.
(2) Students seeking trade or vocational training or education.
(3) Students seeking to achieve a two-year associate degree.
(4) Students seeking to achieve a four-year baccalaureate degree.
(5) Students seeking to achieve a graduate degree.
(6) Students enrolled in a program granting a graduate certificate.
(7) Students enrolled in a professional certification program recommended by the Director of the North Carolina National Guard Education and Employment Center and approved by the North Carolina National Guard Education Services Officer.

(c) The following persons shall be eligible to apply for disbursements to pay outstanding student loans pursuant to G.S. 127A-195(g):

(1) Persons described in subsections (a) and (b) of this section.
(2) Active members of the North Carolina National Guard who were previously enrolled in any proprietary school, private educational institution, or State educational institution, but only if:
    a. The applicant has a minimum obligation of two years remaining as a member of the North Carolina National Guard from the time of the application; or

b. The applicant commits himself or herself to extended membership for at least two additional years from the time of the application. (1975, c. 917, s. 6; 1977, c. 228, ss. 3, 4; 2008-94, s. 4; 2010-31, s. 17.3(b), (c); 2011-183, s. 86(a), (b); 2015-264, s. 66(b); 2015-298, s. 1; 2017-155, s. 3; recodified from N.C. Gen. Stat. § 116-209.54 by 2021-180, s. 19E.1(b), (c).)

§ 127A-195. Administration and funding.

(a) The Secretary is charged with the administration of the tuition assistance program under this Article. The Secretary may delegate administrative tasks to other persons within the Department of Public Safety as the Secretary deems best for the orderly administration of this program. The Department of Public Safety may also contract with the State Education Assistance Authority for the administration of these tuition benefit disbursements.

(b) The Secretary shall determine the eligibility of applicants, select the benefit recipients, establish the effective date of the benefit, and may suspend or revoke the benefit if the Secretary finds that the recipient does not maintain an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the peace, or unlawful assemblies. The Secretary shall maintain such records and shall promulgate such rules and regulations as the Secretary deems necessary for the orderly administration of this program. The Secretary may require of proprietary schools or State or private educational institutions such reports and other information as the Secretary may need to carry out the provisions of this Article and the Secretary shall disburse benefit payments for recipients upon certification of enrollment by the enrolling institutions.

(c) All tuition benefit disbursements shall be made to the proprietary school or State or private educational institution concerned, for credit to the tuition account of each recipient. Funds disbursed pursuant to subsection (g) of this section shall be made to the student loan creditor concerned to be applied against the outstanding student loans of each North Carolina National Guard member beneficiary.

(d) The participation by any proprietary school or private educational institution in this program shall be subject to the applicable provisions of this Article and to examination by the State Auditor of the accounts of the benefit recipients attending or having attended such private schools or institutions. The Secretary may defer making an award or may suspend an award in any proprietary school or private educational institution which does not comply with the provisions of this Article relating to said institutions. The manner of payment to any proprietary school or private educational institution shall be as prescribed by the Secretary.

(e) Irrespective of other provisions of this Article, the Secretary may prescribe special procedures for adjusting the accounts of benefit recipients who, for reasons of illness, physical inability to attend classes or for other valid reason satisfactory to the Secretary, may withdraw from any proprietary school or State or private educational institution prior to the completion of the term, semester, quarter or other academic period being attended at the time of withdrawal.

(f) Any balance of the monetary educational assistance grant up to the maximum for the academic year remaining after tuition is paid pursuant to subsection (c) of this section may be disbursed to the recipient as reimbursement for required course books and materials. The manner of obtaining the reimbursement payment for these required books and materials shall be as prescribed by the Secretary.

(g) Any funds not needed to accomplish the other purposes of this Article may be used to help members of the North Carolina National Guard repay outstanding student loans in accordance with rules to be adopted by the Secretary. These rules shall provide that the length of a member's deployment may be considered in determining whether or not, and in what amount, a member receives assistance pursuant to this subsection. There shall be no reimbursement under this subsection for payments already made on student loans, and funds shall not be provided under this subsection for the purpose of paying student loans obtained for courses from which the member withdrew or for which the member did not receive a passing grade. Payments for outstanding loans shall not exceed the maximum benefit available under G.S. 127A-193. (1975, c. 917, s. 7; 1977, c. 70, s. 2; 2005-444, ss. 2, 3; 2008-94, s. 1; 2010-31, s. 17.3(b), (c); 2011-183, s. 87; 2015-264, s. 66(c); recodified from N.C. Gen. Stat. § 116-209.55 by 2021-180, s. 19E.1(b), (c).)

§ 127A-196: Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

§ 127A-197: Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

§ 127A-198: Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

§ 127A-199: Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

§ 127A-200: Recodified as Part 2 of Article 23 of Chapter 116, G.S. 116-209.50 through 116-209.55, by Session Laws 2010-31, s. 17.3(b), effective July 1, 2010.

Article 16.

National Guard Reemployment Rights.

§ 127A-201. Entitlement.

Any member of the North Carolina National Guard or the National Guard of another state who, at the direction of a state's Governor, enters state duty, is entitled, upon honorable release from state duty, to all the reemployment rights provided for in this Article. (1979, c. 155, s. 1; 2015-161, s. 1; 2017-156, s. 1.)

§ 127A-201.1. Definitions.

The following definitions apply in this Article:

(1) Benefit of employment. – A term, condition, or privilege of employment, including any wages, salary, advantage, profit, privilege, gain, status, account, or interest that accrues by reason of an employment contract or agreement or an employer policy, plan, or practice. The definition also includes rights and benefits under a pension plan, a health plan, an employee stock ownership plan, insurance coverage and awards, bonuses, severance pay, supplemental unemployment benefits, vacations, and the opportunity to select work hours or location of employment.

(2) Qualified. – Having the ability to perform the essential tasks of an employment position.
(3) Seniority. – Longevity in employment together with any benefits of employment which accrue with, or are determined by, longevity in employment.
(4) State duty. – Any of the following:
a. In the case of a member of the North Carolina National Guard, State active duty under an order of the Governor pursuant to this Chapter.
b. In the case of a member of the National Guard of another state, service under an order of the governor of that state, which is similar to State active duty. (2017-156, s. 1.)

§ 127A-202. Rights.

(a) Release From State Duty. – Upon an employee's release from state duty, the employee's previous employer shall reemploy the employee in the employee's previous position within five days of the employee's release from state duty. If the employee's state duty lasted 30 days or less, the employee shall make written application to the employee's previous employer for reemployment no later than the first regularly scheduled work period that begins 24 hours after the employee has safely traveled from the place of state service to the employee's residence. If the employee's state duty lasted more than 30 days, the employee shall make written application to the employee's previous employer for reemployment within 14 days of the employee's release from state duty. If the employee is still qualified for the employee's previous employment, the employee shall be restored to the employee's previous position or to a position of like seniority, status, and salary, unless the employer's circumstances at that time make the restoration unreasonable. If the employee is no longer qualified for the employee's previous employment, the employee shall be placed in another position for which the employee is qualified and that will give the employee appropriate seniority, status, and salary, unless the employer's circumstances at that time make the placement unreasonable.

(b) Period of Recovery. – Notwithstanding the time limitations of subsection (a) of this section, if an employee is hospitalized for, or convalescing from, an illness or injury incurred in, or aggravated during, the performance of state duty, the employee shall make written application for reemployment within the period of recovery. The period of recovery is the period necessary for the employee to recover from the illness or injury, not to exceed two years unless the Commissioner of Labor extends the period. The Commissioner may extend the two-year period of recovery only if (i) the employee files with the Commissioner a written request for extension at least 15 days prior to the expiration of the two-year period of recovery and (ii) the Commissioner finds that reemployment during the two-year period would place an undue burden on the employee. The Commissioner, if extending the two-year period of recovery, shall notify the employee's previous employer of the amount of the extension. A party who is dissatisfied with a decision of the Commissioner may commence a contested case under Article 3 of Chapter 150B of the General Statutes. (1979, c. 155, s. 1; 2011-195, s. 1(a); 2017-156, s. 1; 2018-136, 3rd Ex. Sess., s. 5.9.)

§ 127A-202.1. Discrimination against persons who serve in the National Guard and acts of reprisal prohibited.

(a) It is the policy of this State that all individuals shall be afforded the right to perform, apply to perform, or have an obligation to perform service in the North Carolina National Guard or

the National Guard of another state without fear of discrimination or retaliatory action from their employer or prospective employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(b) An individual who is a member of the North Carolina National Guard or the National Guard of another state who performs, has performed, applies to perform, or has an obligation to perform service in the North Carolina National Guard or the National Guard of another state shall not be denied initial employment, reemployment, retention in employment, promotion, or any benefit of employment by an employer on the basis of that membership, application for membership, performance of service, application for service, or obligation.

(c) A person shall be considered to have denied a member of the North Carolina National Guard or the National Guard of another state initial employment, reemployment, retention in employment, promotion, or a benefit of employment in violation of this section if the member's membership, application for membership, performance of service, application for service, or obligation for service in the North Carolina National Guard or the National Guard of another state is a motivating factor in that person's action, unless the person can prove by the greater weight of the evidence that the same unfavorable action would have taken place in the absence of the member's membership, application for membership, performance of service, application for service, or obligation.

(d) Nothing in this section shall be construed to require a person to pay salary or wages to a member of the North Carolina National Guard or of the National Guard of another state during the member's period of active service.

(e) The Commissioner of Labor shall enforce the provisions of this section according to Article 21 of Chapter 95 of the General Statutes, including the rules and regulations issued pursuant to that Article.

(f) This section shall also apply when a member of the North Carolina National Guard or the National Guard of another state is called into active duty at the direction of the President, the Governor, or by any other competent authority. (1997-153, s. 1; 2004-130, s. 3; 2015-161, s. 2.)

§ 127A-203. Penalties for denial.

If any employer, public or private, fails or refuses to comply with G.S. 127A-202, the superior court for the district of the employer's place of business may, upon the filing of a motion, petition, or other appropriate pleading by the employee, require the employer to comply with G.S. 127A-202 and to compensate the employee for any loss of wages or benefits of employment suffered by reason of the employer's unlawful failure or refusal. (1979, c. 155, s. 1; 2017-156, s. 1.)

§ 127A-204: Reserved for future codification purposes.

§ 127A-205: Reserved for future codification purposes.

§ 127A-206: Reserved for future codification purposes.

§ 127A-207: Reserved for future codification purposes.

§ 127A-208: Reserved for future codification purposes.

§ 127A-209: Reserved for future codification purposes.

Article 17.

Armory and Facility Development Projects and Plan.

§ 127A-210. Armory and facility development project plan.

(a) Plan Prepared. – No later than July 1 of each year, the Department of Public Safety shall prepare a statewide plan for armories for a period of seven years into the future. The plan shall be known as the Armory and Facilities Development Plan. If the plan differs from the Armory and Facilities Development Plan adopted for the preceding calendar year, the Department shall indicate the changes and the reasons for such changes. The Department shall submit the plan to the Director of the Budget for review.

(b) Projects Listed. – The plan shall list the following armory and facilities projects based on their status as of May 1 of the year in which the plan is prepared:

(1) Projects approved by the Congress of the United States but for which federal funds have not been appropriated.

(2) Projects for which the Congress of the United States has appropriated funds.

(c) Project Priorities and Funding Recommendations. – The Department shall assign a priority to each project within each of the two categories listed under subsection (b) of this section, either by giving the project a number with "1" assigned to the highest priority, or by recommending no funding. The Department shall state its reasons for recommending the funding, deferral, or elimination of a project. The Department shall determine the priority of a project based on the following criteria: federal requirements, a project's proximity to transportation infrastructure and other critical State and federal assets, and a project's ability to further the mission of the National Guard.

(d) Distribution of the Plan. – The Director of the Budget shall provide copies of the plan to the General Assembly along with the recommended biennial budget and the recommended revised budget for the second year of the biennium.

(e) Budget Recommendations. – The Director of the Budget shall determine which projects, if any, will be included in the recommended biennial budget and in the recommended revised budget for the second year of the biennium. The budget document transmitted to the General Assembly shall identify the projects or types of projects recommended for funding.

(f) Definitions. – For purposes of this section, the terms "armory," "armory site," and "facilities" shall have the same meaning as in G.S. 127A-161. (2013-360, s. 36.11(e).)

Article 18.

Tarheel Challenge Academy.

§ 127A-220. Purpose; establishment.

The purpose of this Article is to authorize the North Carolina National Guard's Tarheel Challenge Academy to operate independently of existing schools. The Tarheel Challenge Academy is established as a Division of the North Carolina National Guard. The Tarheel Challenge Academy shall satisfy all of the following:

(1) Exist as a cost-free program.

(2) Be housed for administrative purposes within the North Carolina National Guard.

(3) Be a community-based school that leads, trains, and mentors at-risk youth.

(4) Be designated as an approved alternative learning program, as defined in this Article, and an innovative school option.
(5) Create at least a 22-week residential program that requires a 12-month post-residential mentoring period.
(6) Improve life skills and employment potential of participants by providing quasi-military based training and supervised work experience.
(7) Teach the "8 Core Components" of academic excellence, job skills, health and hygiene, physical fitness, life coping skills, responsible citizenship, leadership, and service to community.
(8) Increase opportunity for participants to receive a high school diploma or its equivalent.
(9) Enjoy the full cooperation of other State and local agencies in carrying out its program. (2021-180, s. 19E.2(a).)

§ 127A-221. Definitions.

The following definitions apply for the purposes of this Article:

(1) Academy. – Tarheel Challenge Academy, a Division of the North Carolina National Guard.
(2) Alternative learning program. – A program offered by the Academy that provides specialized services for at-risk students outside of a standard classroom setting. Services should be designed to meet the needs of students who have not been successful in the traditional school setting.
(3) Eligible participant. – An individual who meets all of the following criteria:
    a. Is a minimum of 16 years of age and a maximum of 18 years of age at the time of entry into the program.
    b. Has failed to complete or has left school for any reason before graduation or completion of a program of studies without transferring to another school and has not received a certificate from a program of equivalency or has not progressed in a traditional high school setting.
    c. A citizen or legal resident of the United States.
    d. Unemployed or underemployed.
    e. Not currently on parole or probation and not accused or convicted of a crime that would be considered a felony if the individual was an adult.
    f. Free from use of illegal drugs or substances.
    g. Physically and mentally capable to participate in the alternative learning program. (2021-180, s. 19E.2(a).)

§ 127A-222. Administration; supervision.

The general supervision and administration of the Academy shall be vested in the North Carolina National Guard Adjutant General. It shall be the duty of the Adjutant General or his or her designee to do all of the following:

(1) Create a written document that incorporates the terms and conditions imposed on the Academy by the Federal Youth Challenge Program.
(2) Organize and establish all rules and regulations for the Academy, as necessary.
(3) Direct and control all Academy personnel matters.

(4) Oversee and direct the administration and functioning of the alternative learning program offered by the Academy. (2021-180, s. 19E.2(a).)