

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2009

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SENATE DRS15220-MD-62 (2/17)

Short Title: Create Dept. of Military & Veterans Affairs.

(Public)

Sponsors: Senator Rand.

Referred to:

1 A BILL TO BE ENTITLED
2 AN ACT TO ESTABLISH THE DEPARTMENT OF MILITARY AND VETERANS
3 AFFAIRS AND TO MAKE CONFORMING AMENDMENTS TO THE GENERAL
4 STATUTES.

5 The General Assembly of North Carolina enacts:

6
7 **PART I. CREATE DEPARTMENT OF MILITARY AND VETERANS AFFAIRS**

8
9 **SECTION 1.(a)** Chapter 143B of the General Statutes is amended by adding a new
10 Article to read:

11 "Article 5A.

12 "Department of Military and Veterans Affairs.

13 "Part 1. General Provisions.

14 **"§ 143B-256. Department of Military and Veterans Affairs – creation.**

15 There is hereby created and established a department to be known as the 'Department of
16 Military and Veterans Affairs' with the organization, powers, and duties defined in Article 1 of
17 this Chapter, except as modified in this Article.

18 **"§ 143B-256.1. Transfer of Division of Veterans Affairs.**

19 The Division of Veterans Affairs of the Department of Administration is hereby transferred
20 by a Type I transfer, as defined in G.S. 143A-6, to the Department of Military and Veterans
21 Affairs.

22 **"§ 143B-256.2. Definitions.**

23 The following definitions shall apply in this Article:

- 24 (1) Department. – The Department of Military and Veterans Affairs.
25 (2) Member of the military. – Any member of the armed forces of the United
26 States or of the North Carolina Air or Army National Guard.
27 (3) Secretary. – The Secretary of the Department of Military and Veterans
28 Affairs.
29 (4) Veteran. – Any person who may be entitled to any benefits or rights under
30 the laws of the United States by reason of service in the armed forces of the
31 United States or National Guard of this State, except that for purposes of
32 qualifying as a voting member of the Military and Veterans' Affairs
33 Commission and as the Secretary of the Department of Military and
34 Veterans Affairs, this term shall mean a person who served honorably during
35 a period of war as defined in Title 38 of the United States Code.



1 "§ 143B-256.3. Purpose.

2 The purpose of this Article is to provide assistance to members of the military and veterans,
3 as well as their families and dependents, in obtaining or maintaining privileges, rights, and
4 benefits to which they are entitled under federal, State, or local laws.

5 "§ 143B-256.4. Head of the Department of Military and Veterans Affairs; powers and
6 duties.

7 (a) The head of the department is the Secretary, who shall be a veteran. The Secretary
8 shall have the powers and duties conferred by this Chapter, delegated by the Governor, and
9 conferred by the Constitution and laws of this State. The Secretary shall be responsible for
10 effectively and efficiently organizing the Department to promote the policy of the State as set
11 forth in this Article. The Secretary is hereby empowered and directed to employ within the
12 Department an additional assistant secretary as Assistant Secretary for Veterans Affairs.

13 (b) Notwithstanding G.S. 143B-9 or any other provision of law, the Secretary shall not
14 receive a salary unless the federal Fair Labor Standards Act of 1938, as amended from time to
15 time by the United States Congress, or similar federal legislation requires that the Secretary
16 receive a salary, in which case the Secretary shall receive the minimum salary required under
17 the appropriate act. The Secretary shall receive per diem and necessary travel and subsistence
18 expenses in accordance with provisions of Chapter 138 of the General Statutes.

19 (c) In furtherance of the stated purpose of this Article, the Secretary shall have the
20 following powers and duties:

- 21 (1) To assist members of the military and veterans, their families, and
22 dependents in the presentation, processing, proof, and establishment of such
23 claims, privileges, rights, and benefits as they may be entitled to under
24 federal, State, or local laws, rules, and regulations.
- 25 (2) To aid persons in active military service and their dependents with problems
26 arising out of that service which come reasonably within the purview of the
27 Department's program of assistance.
- 28 (3) To collect data and information as to the facilities and services available to
29 members of the military and veterans, their families, and dependents and to
30 cooperate with agencies furnishing information or services throughout the
31 State in order to inform such agencies regarding the availability of (i)
32 education, training, and retraining facilities, (ii) health, medical,
33 rehabilitation, and housing services and facilities, (iii) employment and
34 reemployment services, (iv) provisions of federal, State, and local laws,
35 rules, and regulations affording rights, privileges, and benefits to members
36 of the military and veterans, their families, and dependents, and in respect to
37 such other matters of similar, related, or appropriate nature not herein set
38 out.
- 39 (4) To establish such field offices, facilities, and services throughout the State as
40 may be necessary to carry out the purposes of this Article.
- 41 (5) To cooperate, as the Department deems appropriate, with governmental,
42 private, and civic agencies and instrumentalities in securing services or
43 benefits for members of the military and veterans, their families, dependents,
44 and beneficiaries.
- 45 (6) To accept any property, funds, service, or facilities from any source, public
46 or private, granted in aid or furtherance of the administration of the
47 provisions of this Article.
- 48 (7) To enter into any contract or agreement with any person, firm, or
49 corporation, or governmental agency or instrumentality in furtherance of the
50 purposes of this Article, and to make all rules and regulations necessary for
51 the proper and effective administration of its duties.

1 (8) It shall be the duty of the Department to train, supervise, and assist the
2 employees of any county, city, or town who are engaged in providing
3 services to members of the military or veterans. Authority is hereby granted
4 the governing body of any county, city, or town to appropriate such amounts
5 as it may deem necessary to provide a service program for members of the
6 military or veterans, and the expenditure of such funds is hereby declared to
7 be for a public purpose; such program shall be operated in affiliation with
8 this Department and under its supervision as set forth above.

9 (9) The Department may, in its discretion, contribute to each county an amount
10 not to exceed two thousand dollars (\$2,000) on a matching basis for any
11 fiscal year for the maintenance and operation of a county service program
12 for members of the military and veterans. Participating counties shall furnish
13 the Department such reports, accountings, and other information at such
14 times and in such form as the Department may require.

15 **"§ 143B-256.5. Appropriations.**

16 Appropriations for the Department shall be made from the General Fund of the State, and
17 the Governor, with the approval of the Council of State, is hereby authorized and empowered to
18 allocate from time to time from the Contingency and Emergency Fund, such funds as may be
19 necessary to carry out the intent and purposes of this Article.

20 **"§ 143B-256.6. Transfer of veterans' activities.**

21 The Governor may transfer to the Department such funds, facilities, properties, and
22 activities now being held or administered by the State for the benefit of veterans, their families,
23 and dependents, as he may deem proper; provided, that the provisions of this section shall not
24 apply to the activities of the North Carolina Employment Security Commission in respect to
25 veterans.

26 **"§ 143B-256.7. Quarters.**

27 The Department of Administration shall provide, in the City of Raleigh, adequate quarters
28 for the central office of the Department of Military and Veterans Affairs. The Department of
29 Military and Veterans Affairs shall procure suitable space for its field offices and other
30 activities pursuant to applicable provisions of law and in accordance with rules adopted by the
31 Governor with the approval of the Council of State.

32 **"§ 143B-256.8. Copies of records to be furnished to the Department of Military and**
33 **Veterans Affairs.**

34 (a) Whenever copies of any State and local public records are requested by a
35 representative of the Department of Military and Veterans Affairs while assisting persons in
36 obtaining any federal, State, local, or privately provided benefits relating to members of the
37 military or veterans, and their beneficiaries, the official charged with the custody of those
38 records shall furnish the representative with the requested number of certified copies of those
39 records without charge. This subsection shall not apply to the disclosure of information in
40 certain privileged and confidential records referred to elsewhere in the General Statutes of
41 North Carolina, and that information shall continue to be disclosed in the manner prescribed by
42 the relevant statutes.

43 (b) No official chargeable with the collection of any fee or charge under the laws of the
44 State of North Carolina in connection with his official duties shall be held accountable on his
45 official bond or otherwise for any fee or charge remitted pursuant to the provisions of this
46 section.

47 **"§ 143B-256.9. Confidentiality of Military and Veterans Affairs records.**

48 Notwithstanding any other provisions of Chapter 143B of the General Statutes, no records
49 of the Department of Military and Veterans Affairs shall be disclosed or used for any purpose
50 except for official purposes, and no records shall be disclosed, destroyed, or used in any

1 manner which is in violation of any existing federal law or regulation. Nothing in this Chapter
 2 shall convert records which are the property of the federal government into State property."

3 **SECTION 1.(b)** Article 5A of Chapter 143B of the General Statutes, as created by
 4 this act, is amended by adding a new Part to read:

5 "Part 2. Military and Veterans' Affairs Commission."

6 **SECTION 1.(c)** Part 13 of Article 9 of Chapter 143B of the General Statutes is
 7 recodified as Part 2 of Article 5A of Chapter 143B of the General Statutes, and G.S. 143B-399,
 8 143B-400, and 143B-401 are recodified as G.S. 143B-257, 143B-257.1, and 143B-257.2,
 9 respectively.

10 **SECTION 1.(d)** G.S. 143B-257, as enacted by this act, reads as rewritten:
 11 "**§ 143B-257. ~~Veterans'~~ Military and Veterans' Affairs Commission – creation, powers
 12 and duties.**

13 There is hereby created the Military and Veterans' Affairs Commission of the Department
 14 of ~~Administration~~ Military and Veterans Affairs. The Military and Veterans' Affairs
 15 Commission shall have the following functions and duties:

- 16 (1) To advise the Governor on matters relating to the affairs of members of the
 17 military and veterans in North Carolina; ~~Carolina~~.
- 18 (2) To maintain a continuing review of the operation and budgeting of existing
 19 programs for ~~veterans and~~ members of the military and veterans, as well as
 20 their dependents in the State and to make any recommendations to the
 21 Governor for improvements and additions to ~~such~~ these matters to which the
 22 Governor shall give due ~~consideration~~; consideration.
- 23 (3) To serve collectively as a liaison between the ~~Division of~~ Department of
 24 Military and Veterans Affairs and the veterans organizations represented on
 25 the ~~Commission~~; Commission.
- 26 (4) To promulgate rules and regulations concerning the awarding of
 27 scholarships for children of North Carolina veterans as provided by Article 4
 28 of Chapter 165 of the General Statutes of North Carolina. The Commission
 29 shall make rules and regulations consistent with the provisions of ~~this~~ that
 30 Chapter. All rules and regulations not inconsistent with the provisions of ~~this~~
 31 that Chapter heretofore adopted by the State Board of Veterans' Affairs or
 32 the Veterans' Affairs Commission of the Department of Administration shall
 33 remain in full force and effect unless and until repealed or superseded by
 34 action of the ~~Veterans' Military and Veterans' Affairs Commission~~. All rules
 35 and regulations adopted by the Commission shall be enforced by the
 36 ~~Division of Veterans' Affairs~~; Department of Military and Veterans Affairs.
- 37 (4a)(5) To promulgate rules concerning the awarding of the North Carolina Services
 38 Medal to all veterans who have served in any period of war as defined in 38
 39 U.S.C. § 101. The award shall be self-financing; those who wish to be
 40 awarded the medal shall pay a fee to cover the expenses of producing the
 41 medal and awarding the medal. All rules adopted by the Commission with
 42 respect to the North Carolina Services Medal shall be implemented and
 43 enforced by the ~~Division of Veterans' Affairs~~; and Department of Military
 44 and Veterans Affairs.
- 45 (5)(6) To advise the Governor on any matter the Governor may refer to it."

46 **SECTION 1.(e)** G.S. 143B-257.1, as enacted by this act, reads as rewritten:

47 "**§ 143B-257.1. Military and Veterans' Affairs Commission – members; selection;
 48 quorum; compensation.**

49 The Military and Veterans' Affairs Commission of the Department of ~~Administration~~
 50 Military and Veterans Affairs shall consist of one voting member from each congressional
 51 district, all of whom shall be veterans, appointed by the Governor for four-year terms. In

1 making these appointments, the Governor shall ~~insure~~ensure that both major political parties
2 will be continuously represented on the Military and Veterans' Affairs Commission.

3 The initial members of the Commission shall be the appointed members of the current
4 Veterans' Affairs Commission who shall serve for the remainder of their current terms and six
5 additional members appointed by the Governor for terms expiring ~~June 30, 1981~~September 30,
6 2013. Thereafter, all members shall be appointed for terms of four years. Any appointment to
7 fill a vacancy on the Commission created by the resignation, dismissal, death or disability of a
8 member shall be for the balance of the unexpired term. The Governor shall have the power to
9 remove any member of the Commission in accordance with provisions of G.S. 143B-13.

10 In the event that more than ~~4~~13 congressional districts are established in the State, the
11 Governor shall on ~~July~~October 1 following the establishment of such additional congressional
12 districts appoint a member of the Commission from that congressional district. If on ~~July 1,~~
13 ~~1977~~October 1, 2009, or at any time thereafter due to congressional redistricting, two or more
14 members of the Military and Veterans' Affairs Commission shall reside in the same
15 congressional district then such members shall continue to serve as members of the
16 Commission for a period equal to the remainder of their current terms on the Commission
17 provided that upon the expiration of said term or terms the Governor shall fill ~~such~~the vacancy
18 or vacancies in such a manner as to insure that as expeditiously as possible there is one member
19 of the Military and Veterans' Affairs Commission who is a resident of each congressional
20 district in the State.

21 The Governor shall designate from the membership of the Commission a chairman and
22 vice-chairman of the Commission who shall serve at the pleasure of the Governor. The
23 Secretary of the Department of ~~Administration or his~~Military and Veterans Affairs or the
24 Secretary's designee shall serve as secretary of the Commission.

25 Members of the Commission shall receive per diem and necessary travel and subsistence
26 expenses in accordance with provisions of G.S. 138-5.

27 A majority of the Commission shall constitute a quorum for the transaction of business.

28 The Military and Veterans' Affairs Commission shall meet at least twice a year and may
29 hold special meetings at any time or place within the State at the call of the chairman, at the call
30 of the Secretary of the Department of ~~Administration~~Military and Veterans Affairs or upon the
31 written request of at least six members.

32 All clerical and other services required by the Commission shall be provided by the
33 Secretary of the Department of ~~Administration~~Military and Veterans Affairs."

34 **SECTION 1.(f)** G.S. 143B-257.2, as enacted by this act, reads as rewritten:

35 "**§ 143B-257.2. Military and Veterans' Affairs Commission Advisory Committee –**
36 **members; compensation.**

37 The department commander or official head of each veterans' organization which has been
38 chartered by an act of the United States Congress and which is legally constituted and operating
39 in this State pursuant to said charter shall constitute an Advisory Committee to the Military and
40 Veterans' Affairs Commission. Members of the Military and Veterans' Affairs Commission
41 Advisory Committee shall receive per diem and necessary travel and subsistence expenses in
42 accordance with the provisions of G.S. 138-5."

43 **SECTION 1.(g)** Article 5A of Chapter 143B of the General Statutes, as created by
44 this act, is amended by adding a new Part to read:

45 "Part 3. Governor's Jobs for Veterans Committee."

46 **SECTION 1.(h)** Part 19 of Article 9 of Chapter 143B of the General Statutes is
47 recodified as Part 3 of Article 5A of Chapter 143B of the General Statutes, and G.S. 143B-420
48 and G.S. 143B-421 are recodified as G.S. 143B-258 and G.S. 143B-258.1, respectively.

49 **SECTION 1.(i)** G.S. 143B-258, as enacted by this act, reads as rewritten:

50 "**§ 143B-258. Governor's Jobs for Veterans Committee – creation; appointment,**
51 **organization, etc.; duties.**

(a) There is hereby created and established in the North Carolina Department of ~~Administration, Division of Military and~~ Veterans Affairs, a committee to be known as the Governor's Jobs for Veterans Committee, with one member from each Congressional district, appointed by the Governor. Members of the Committee shall serve at the pleasure of the Governor. The Secretary of ~~Administration, Military and Veterans Affairs,~~ with the concurrence of the Governor, shall appoint a chairman to administer this Committee who shall be subject to the direction and supervision of the Secretary. The chairman shall serve at the pleasure of the Secretary. The chairman shall devote full time to his duties of office.

(b) Subject to the general supervision of the Secretary, the duties of the chairman shall include but not be limited to the following:

- (1) Serving as a liaison between the Office of the Governor and all State agencies to insure that veterans receive the employment preference to which they are legally entitled and that such State agencies list available jobs with appropriate public employment services;
- (2) Evaluating existing programs designed to benefit veterans and submitting reports and recommendations to the Governor and Secretary;
- (3) Developing and furthering favorable employer attitudes toward the employment of veterans by appropriate promulgation of information concerning veterans and the functions of the Committee;
- (4) Serving as a liaison between the Committee and communities throughout the State to the end that civic committees and volunteer groups are formed and utilized to promote the objectives of the Committee;
- (5) Assisting employers in properly designing affirmative action plans as they relate to handicapped and Vietnam-era veterans;
- (6) Serving as a liaison between veterans and State agencies on questions regarding the employment practices of such State agencies."

SECTION 1.(j) G.S. 143B-258.1, as enacted by this act, reads as rewritten:

"§ 143B-258.1. Governor's Jobs for Veterans Committee – authority to receive grants-in-aid.

The Committee is hereby authorized to receive grants-in-aid from the federal government and charitable organizations for carrying out its duties."

PART II. CONFORMING CHANGES

SECTION 2.(a) G.S. 20-79.5(a) reads as rewritten:

"(a) Plates. – The State government officials listed in this section are eligible for a special registration plate under G.S. 20-79.4. The plate shall bear the number designated in the following table for the position held by the official.

| Position | Number on Plate |
|---|-----------------|
| Governor | 1 |
| Lieutenant Governor | 2 |
| Speaker of the House of Representatives | 3 |
| President Pro Tempore of the Senate | 4 |
| Secretary of State | 5 |
| State Auditor | 6 |
| State Treasurer | 7 |
| Superintendent of Public Instruction | 8 |
| Attorney General | 9 |
| Commissioner of Agriculture | 10 |
| Commissioner of Labor | 11 |
| Commissioner of Insurance | 12 |

| | | |
|----|--|---|
| 1 | Speaker Pro Tempore of the House | 13 |
| 2 | Legislative Services Officer | 14 |
| 3 | Secretary of Administration | 15 |
| 4 | Secretary of Environment and Natural Resources | 16 |
| 5 | Secretary of Revenue | 17 |
| 6 | Secretary of Health and Human Services | 18 |
| 7 | Secretary of Commerce | 19 |
| 8 | Secretary of Correction | 20 |
| 9 | Secretary of Cultural Resources | 21 |
| 10 | Secretary of Crime Control and Public Safety | 22 |
| 11 | Secretary of Juvenile Justice and Delinquency Prevention | 23 |
| 12 | <u>Secretary of Military and Veterans Affairs</u> | <u>24</u> |
| 13 | Governor's Staff | 24-29 <u>25-29</u> |
| 14 | State Budget Officer | 30 |
| 15 | State Personnel Director | 31 |
| 16 | Chair of the State Board of Education | 32 |
| 17 | President of the U.N.C. System | 33 |
| 18 | President of the Community Colleges System | 34 |
| 19 | State Board Member, Commission Member, or State | |
| 20 | Employee Not Named in List | 35-43 |
| 21 | Alcoholic Beverage Control Commission | 44-46 |
| 22 | Assistant Commissioners of Agriculture | 47-48 |
| 23 | Deputy Secretary of State | 49 |
| 24 | Deputy State Treasurer | 50 |
| 25 | Assistant State Treasurer | 51 |
| 26 | Deputy Commissioner for the Department of Labor | 52 |
| 27 | Chief Deputy for the Department of Insurance | 53 |
| 28 | Assistant Commissioner of Insurance | 54 |
| 29 | Deputies and Assistant to the Attorney General | 55-65 |
| 30 | Board of Economic Development Nonlegislative Member | 66-88 |
| 31 | State Ports Authority Nonlegislative Member | 89-96 |
| 32 | Utilities Commission Member | 97-103 |
| 33 | State Board Member, Commission Member, or State | |
| 34 | Employee Not Named in List | 104 |
| 35 | Post-Release Supervision and Parole Commission Member | 105-107 |
| 36 | State Board Member, Commission Member, or State | |
| 37 | Employee Not Named in List | 108-200" |
| 38 | SECTION 2.(b) G.S. 47-113.2(b)(1) reads as rewritten: | |
| 39 | "(1) Authorized party. – Four categories of authorized parties are recognized with | |
| 40 | respect to access to military discharge documents under subsection (d) of | |
| 41 | this section: | |
| 42 | a. | The subject of the document. |
| 43 | b. | Agents and representatives of the subject authorized in writing: |
| 44 | 1. | By the subject or subject's widow or widower in a notarized |
| 45 | | authorization, |
| 46 | 2. | By a court to represent subject, or |
| 47 | 3. | By the subject's executor acting on behalf of a deceased |
| 48 | | subject. |
| 49 | c. | Authorized agents of the Division of <u>Department of Military and</u> |
| 50 | | Veterans Affairs, the United States Department of Veterans Affairs, |
| 51 | | the Department of Defense, or a court official with an interest in |

1 assisting the subject or the deceased subject's beneficiaries to obtain a
2 benefit.

3 d. Agents or representatives of the North Carolina State Archives."

4 **SECTION 2.(c)** G.S. 65-43.4(b)(1) reads as rewritten:

5 "(1) The disinterment is requested in writing and filed with the Program Director
6 of the veterans cemeteries, the Assistant Secretary for Veterans Affairs, or
7 the ~~Division of Department of Military and Veterans Affairs;~~"

8 **SECTION 2.(d)** G.S. 65-43.5(a)(2) reads as rewritten:

9 "(2) The reinterment is requested in writing and filed with the Program Manager
10 of veterans cemeteries, the Assistant Secretary for Veterans Affairs, or the
11 ~~Division of Department of Military and Veterans Affairs;~~ and"

12 **SECTION 2.(e)** G.S. 66-58(b) is amended by adding a new subdivision to read:

13 "(26) The Department of Military and Veterans Affairs."

14 **SECTION 2.(f)** G.S. 126-5(d)(1) reads as rewritten:

15 "(d) (1) Exempt Positions in Cabinet Department. – The Governor may designate a
16 total of 100 exempt policymaking positions throughout the following
17 departments:

18 a. Department of Administration;

19 b. Department of Commerce;

20 c. Department of Correction;

21 d. Department of Crime Control and Public Safety;

22 e. Department of Cultural Resources;

23 f. Department of Health and Human Services;

24 g. Department of Environment and Natural Resources;

25 h. Department of Revenue;

26 i. Department of Transportation; ~~and~~

27 j. Department of Juvenile Justice and Delinquency
28 ~~Prevention.~~ Prevention; and

29 k. Department of Military and Veterans Affairs.

30 The Governor may designate exempt managerial positions in a number up to
31 one percent (1%) of the total number of full-time positions in each cabinet
32 department listed above in this sub-subdivision, not to exceed 30 positions in
33 each department. Notwithstanding the provisions of this subdivision, or the
34 other requirements of this subsection, the Governor may at any time increase
35 by five the number of exempt policymaking positions at the Department of
36 Health and Human Services, but at no time shall the total number of exempt
37 policymaking positions exceed 105. The Governor shall notify the General
38 Assembly and the State Personnel Director of the additional positions
39 designated hereunder."

40 **SECTION 2.(g)** G.S. 143B-2 is amended by adding a new subdivision to read:

41 "(11) Department of Military and Veterans Affairs."

42 **SECTION 2.(h)** G.S. 143B-6 is amended by adding a new subdivision to read:

43 "(12) Department of Military and Veterans Affairs."

44 **SECTION 2.(i)** G.S. 143B-417(1) reads as rewritten:

45 "(1) To determine the number of student interns to be allocated to each of the
46 following offices or departments:

47 a. Office of the Governor

48 b. Department of Administration

49 c. Department of Correction

50 d. Department of Cultural Resources

51 e. Department of Revenue

- 1 f. Department of Transportation
- 2 g. Department of Environment and Natural Resources
- 3 h. Department of Commerce
- 4 i. Department of Crime Control and Public Safety
- 5 j. Department of Health and Human Services
- 6 k. Office of the Lieutenant Governor
- 7 l. Office of the Secretary of State
- 8 m. Office of the State Auditor
- 9 n. Office of the State Treasurer
- 10 o. Department of Public Instruction
- 11 p. Repealed by Session Laws 1985, c. 757, s. 162.
- 12 q. Department of Agriculture and Consumer Services
- 13 r. Department of Labor
- 14 s. Department of Insurance
- 15 t. Office of the Speaker of the House of Representatives
- 16 u. Justices of the Supreme Court and Judges of the Court of Appeals
- 17 v. Community Colleges System Office
- 18 w. Office of State Personnel
- 19 x. Office of the Senate President Pro Tempore
- 20 y. Department of Juvenile Justice and Delinquency Prevention
- 21 z. Administrative Office of the Courts
- 22 aa. State Ethics Commission
- 23 bb. Employment Security Commission
- 24 cc. State Board of Elections
- 25 dd. Department of Justice
- 26 ee. Department of Military and Veterans Affairs"

27 **SECTION 2.(j)** G.S. 143B-426.22(a) reads as rewritten:

28 "(a) Creation; Membership. – The Governor's Management Council is created in the
29 Department of Administration. The Council shall contain the following members: The
30 Secretary of Administration, who shall serve as chairman, a senior staff officer responsible for
31 productivity and management programs from the Departments of Commerce, Revenue,
32 Environment and Natural Resources, Transportation, Crime Control and Public Safety, Cultural
33 Resources, Correction, Health and Human Services, Juvenile Justice and Delinquency
34 ~~Prevention, and Prevention, Military and Veterans Affairs~~, Administration; and an equivalent
35 officer from the Offices of State Personnel, State Budget and Management, and the Governor's
36 Program for Executive and Organizational Development. The following persons may also serve
37 on the Council if the entity represented chooses to participate: a senior staff officer responsible
38 for productivity and management programs from any State department not previously specified
39 in this section, and a representative from The University of North Carolina."

40 **SECTION 2.(k)** G.S. 161-10.1 reads as rewritten:

41 "**§ 161-10.1. Exemption of armed forces discharge documents and certain other records
42 needed in support of claims for veterans' benefits.**

43 Any schedule of fees which is now or may be prescribed in Chapter 161 of the General
44 Statutes or in G.S. 161-10 shall not apply to nor shall the same repeal any of the provisions of
45 Article 5 of Chapter 47 of the General Statutes. Any schedule of fees which is now or may be
46 hereafter prescribed in Chapter 161 of the General Statutes or as may appear in G.S. 161-10
47 shall not apply to nor shall the same repeal any of the provisions of G.S. ~~165-11.1~~143B-256.8."

48 **SECTION 2.(l)** G.S. 165-1, 165-2, 165-4, 165-6, 165-8, 165-9, 165-10, 165-11,
49 and 165-11.1 are repealed.

50 **SECTION 2.(m)** G.S. 165-3 reads as rewritten:

51 "**§ 165-3. Definitions.**

1 Wherever used in this ~~Article, Chapter~~, unless the context otherwise requires, the terms
2 defined in this section shall have the following meaning:

- 3 (1) "Commission" means the Veterans Affairs Commission.
4 (2) "Department" means the North Carolina ~~Department~~ of
5 ~~Administration~~, Department of Military and Veterans Affairs an agency of
6 the government of the State of North Carolina.
7 (3) Repealed by Session Laws 1973, c. 620, s. 9.
8 (4) "Veteran" means
9 a. For qualifying as a voting member of the State Board of Veterans
10 Affairs and as the State Director of Veterans Affairs, a person who
11 served honorably during a period of war as defined in Title 38,
12 United States Code.
13 b. For entitlement to the services of the Department of Administration,
14 any person who may be entitled to any benefits or rights under the
15 laws of the United States by reason of service in the armed forces of
16 the United States.
17 (5) "Veterans' organization" means any organization of veterans which has been
18 chartered by an act of the United States Congress and is legally constituted
19 and operating in this State pursuant to said charter."

20 **SECTION 2.(n)** G.S. 165-20 reads as rewritten:

21 "**§ 165-20. Definitions.**

22 As used in this Article the terms defined in this section shall have the following meaning:

- 23 (1) "Active federal service" means full-time duty in the armed forces other than
24 active duty for training; however, if disability or death occurs while on
25 active duty for training (i) as a direct result of armed conflict or (ii) while
26 engaged in extra-hazardous service, including such service under conditions
27 simulating war, such active duty for training shall be considered as active
28 federal service.
29 (2) "Armed forces" means the army, navy, marine corps, air force and coast
30 guard, including their reserve components.
31 (3) "Child" means a person: (i) under 25 years of age at the time of application
32 for a scholarship, (ii) who is a domiciliary of North Carolina and is a
33 resident of North Carolina when applying for a scholarship, (iii) who has
34 completed high school or its equivalent prior to receipt of a scholarship
35 awarded under this Article, (iv) who has complied with the requirements of
36 the Selective Service System, if applicable, and (v) who further meets one of
37 the following requirements:
38 a. A person whose veteran parent was a legal resident of North Carolina
39 at the time of said veteran's entrance into that period of service in the
40 armed forces during which eligibility is established under
41 G.S. 165-22.
42 b. A veteran's child who was born in North Carolina and has been a
43 resident of North Carolina continuously since birth. Provided, that
44 the requirement in the preceding sentence as to birth in North
45 Carolina may be waived by the ~~Department of~~
46 ~~Administration~~ Military and Veterans Affairs if it is shown to the
47 satisfaction of the Department that the child's mother was a
48 native-born resident of North Carolina and was such resident at the
49 time of her marriage to the veteran and was outside the State
50 temporarily at the time of the child's birth, following which the child

- 1 was returned to North Carolina within a reasonable period of time
2 where said child has since lived continuously.
- 3 c. A person meeting either of the requirements set forth in subdivision
4 (3) a or b above, and who was legally adopted by the veteran prior to
5 said person's reaching the age of 15 years.
- 6 (4) "Period of war" and "wartime" shall mean any of the periods or
7 circumstances as defined below:
- 8 a. World War I, meaning (i) the period beginning on April 6, 1917 and
9 ending on November 11, 1918, and (ii) in the case of a veteran who
10 served with the United States armed forces in Russia, the period
11 beginning on April 6, 1917 and ending on April 1, 1920.
- 12 b. World War II, meaning the period beginning on December 7, 1941
13 and ending on December 31, 1946.
- 14 c. Korean Conflict, meaning the period beginning on June 27, 1950 and
15 ending on January 31, 1955.
- 16 d. Vietnam era, meaning the period beginning on August 5, 1964, and
17 ending on May 7, 1975.
- 18 d1. Persian Gulf War, meaning the period beginning on August 2, 1990,
19 and ending on the date prescribed by Presidential proclamation or
20 concurrent resolution of the United States Congress.
- 21 e. Any period of service in the armed forces during which the veteran
22 parent of an applicant for a scholarship under this Article suffered
23 death or disability (i) as a direct result of armed conflict or (ii) while
24 engaged in extra-hazardous service, including such service under
25 conditions simulating war.
- 26 (5) "Private educational institution" means any junior college, senior college or
27 university which is operated and governed by private interests not under the
28 control of the federal, State or any local government, which is located within
29 the State of North Carolina, which does not operate for profit, whose
30 curriculum is primarily directed toward the awarding of associate,
31 baccalaureate or graduate degrees, which agrees to the applicable
32 administration and funding provisions of G.S. 165-22.1, of this Article, and
33 which is otherwise approved by the State Board of Veterans Affairs.
- 34 (6) "State educational institution" means any constituent institution of The
35 University of North Carolina, or any community college operated under the
36 provisions of Chapter 115D of the General Statutes of North Carolina.
- 37 (7) "Veteran" means a person who served as a member of the armed forces of
38 the United States in active federal service during a period of war and who
39 was separated from the armed forces under conditions other than
40 dishonorable. A person who was separated from the armed forces under
41 conditions other than dishonorable and whose death or disability was
42 incurred (i) as a direct result of armed conflict or (ii) while engaged in
43 extra-hazardous service, including such service under conditions simulating
44 war, shall also be deemed a "veteran" and such death or disability shall be
45 considered wartime service-connected."

46 **SECTION 2.(o)** G.S. 165-22(2) reads as rewritten:

- 47 "(2) Class I-B: Under this class a limited scholarship providing only those
48 benefits set forth in G.S. 165-21(1)a and d and 165-21(2) of this Article,
49 shall be awarded to any child whose veteran parent, at the time the benefits
50 pursuant to this Article are sought to be availed of, is or was at the time of
51 his death receiving compensation for a wartime service-connected disability

1 of one hundred percent (100%) as rated by the United States Department of
2 Veterans Affairs. Provided, that if the veteran parent of a recipient under this
3 class should die of his wartime service-connected condition before the
4 recipient shall have utilized all of his scholarship eligibility time, then the
5 North Carolina ~~Department of Administration~~Department of Military and
6 Veterans Affairs shall amend the recipient's award from Class I-B to Class
7 I-A for the remainder of the recipient's eligibility time. The effective date of
8 such an amended award shall be determined by the Department of
9 ~~Administration~~Military and Veterans Affairs but, in no event shall it predate
10 the date of the veteran parent's death."

11 **SECTION 2.(p)** G.S. 165-22.1 reads as rewritten:

12 **"§ 165-22.1. Administration and funding.**

13 (a) The administration of the scholarship program shall be vested in the Department of
14 ~~Administration~~Military and Veterans Affairs, and the disbursing and accounting activities
15 required shall be a responsibility of the Department of ~~Administration~~Military and Veterans
16 Affairs. The Veterans Affairs Commission shall determine the eligibility of applicants, select
17 the scholarship recipients, establish the effective date of scholarships, and may suspend or
18 revoke scholarships if the ~~said~~ Veterans Affairs Commission finds that the recipient does not
19 comply with the registration requirements of the Selective Service System or does not maintain
20 an adequate academic status, or if the recipient engages in riots, unlawful demonstrations, the
21 seizure of educational buildings, or otherwise engages in disorderly conduct, breaches of the
22 peace or unlawful assemblies. The Department of ~~Administration~~Military and Veterans Affairs
23 shall maintain the primary and necessary records, and the Veterans Affairs Commission shall
24 promulgate such rules and regulations not inconsistent with the other provisions of this Article
25 as it deems necessary for the orderly administration of the program. It may require of State or
26 private educational institutions, as defined in this Article, such reports and other information as
27 it may need to carry out the provisions of this Article. The Department of ~~Administration~~
28 Military and Veterans Affairs shall disburse scholarship payments for recipients certified
29 eligible by the Department of ~~Administration~~Military and Veterans Affairs upon certification
30 of enrollment by the enrolling institution.

31 (b) Funds for the support of this program shall be appropriated to the Department of
32 ~~Administration~~Military and Veterans Affairs as a reserve for payment of the allocable costs for
33 room, board, tuition, and other charges, and shall be placed in a separate budget code from
34 which disbursements shall be made. Funds to support the program shall be supported by
35 receipts from the Escheat Fund, as provided by G.S. 116B-7, but those funds may be used only
36 for worthy and needy residents of this State who are enrolled in public institutions of higher
37 education of this State. In the event the said appropriation for any year is insufficient to pay the
38 full amounts allocable under the provisions of this Article, such supplemental sums as may be
39 necessary shall be allocated from the Contingency and Emergency Fund. The method of
40 disbursing and accounting for funds allocated for payments under the provisions of this section
41 shall be in accordance with those standards and procedures prescribed by the Director of the
42 Budget, pursuant to the ~~Executive State~~ Budget Act.

43 (c) Allowances for room and board in State educational institutions shall be at such rate
44 as established by the Secretary of the Department of ~~Administration~~Military and Veterans
45 Affairs.

46 (d) Scholarship recipients electing to attend a private educational institution shall be
47 granted a monetary allowance for each term or other academic period attended under their
48 respective scholarship awards. All recipients under Class I-B scholarship shall receive an
49 allowance at one rate, irrespective of course or institution; all recipients under Classes I-A, II,
50 III and IV shall receive a uniform allowance at a rate higher than for Class I-B, irrespective of
51 course or institution. The amount of said allowances shall be determined by the Director of the

1 Budget and made known prior to the beginning of each fall quarter or semester; provided that
2 the Director of the Budget may change the allowances at intermediate periods when in his
3 judgment such changes are necessary. Disbursements by the State shall be to the private
4 institution concerned, for credit to the account of each recipient attending said institution. The
5 manner of payment to any private institution shall be as prescribed by the Department of
6 ~~Administration~~Military and Veterans Affairs. The participation by any private institution in the
7 program shall be subject to the applicable provisions of this Article and to examination by State
8 auditors of the accounts of scholarship recipients attending or having attended private
9 institutions. The Veterans Affairs Commission may defer making an award or may suspend an
10 award in any private institution which does not comply with the provisions of this Article
11 relating to said institutions.

12 (e) Irrespective of other provisions of this Article, the Veterans Affairs Commission
13 may prescribe special procedures for adjusting the accounts of scholarship recipients who for
14 reasons of illness, physical inability to attend class or for other valid reason satisfactory to the
15 Veterans Affairs Commission may withdraw from State or private educational institutions prior
16 to the completion of the term, semester, quarter or other academic period being attended at the
17 time of withdrawal. Such procedures may include, but shall not be limited to, paying the
18 recipient the dollar value of his unused entitlements for the academic period being attended,
19 with a corresponding deduction of this period from his remaining scholarship eligibility time."

20 **SECTION 2.(q)** G.S. 165-46 reads as rewritten:

21 "**§ 165-46. Establishment.**

22 The State of North Carolina shall construct, maintain, and operate veterans homes for the
23 aged and infirm veterans resident in this State under the administrative authority and control of
24 ~~the Division of Veterans Affairs of the Department of Administration~~Military and Veterans
25 Affairs. There is vested in ~~such Division~~that Department any and all powers and authority that
26 may be necessary to enable it to establish and operate the homes and to issue rules necessary to
27 operate the homes in compliance with applicable State and federal statutes and regulations."

28 **SECTION 2.(r)** G.S. 165-47 reads as rewritten:

29 "**§ 165-47. Exemption from certificate of need.**

30 Any state veterans home established by the Division of Veterans Affairs or Department of
31 Military and Veterans Affairs shall be exempt from the certificate of need requirements as set
32 out in Article 9 of Chapter 131E, or as may be hereinafter enacted."

33 **SECTION 2.(s)** G.S. 165-48 reads as rewritten:

34 "**§ 165-48. North Carolina Veterans Home Trust Fund.**

35 (a) Establishment. – A trust fund shall be established in the State treasury, for the
36 ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs, to be known as the
37 North Carolina Veterans Home Trust Fund.

38 (b) Composition. – The trust fund shall consist of all funds and monies received by the
39 ~~Veterans' Affairs Commission or the Division of Veterans Affairs~~Department of
40 Military and Veterans Affairs from the United States, any federal agency or institution, and any
41 other source, whether as a grant, appropriation, gift, contribution, bequest or individual
42 reimbursement, for the care and support of veterans who have been admitted to a State veterans
43 home.

44 (c) Use of Fund. – The trust fund created in subsection (a) of this section shall be used
45 by the ~~Division of Veterans Affairs~~Department of Military and Veterans Affairs:

- 46 (1) To pay for the care of veterans in said State veterans homes;
- 47 (2) To pay the general operating expenses of the State veterans homes, including
48 the payment of salaries and wages of officials and employees of said homes;
49 and
- 50 (3) To remodel, repair, construct, modernize, or add improvements to buildings
51 and facilities at the homes.

1 (d) Miscellaneous. – The following provisions apply to the trust fund created in
2 subsection (a) of this section:

- 3 (1) All funds deposited and all income earned on the investment or reinvestment
4 of such funds shall be credited to the trust fund.
- 5 (2) Any monies remaining in the trust fund at the end of each fiscal year shall
6 remain on deposit in the State treasury to the credit of the North Carolina
7 Veterans Home Trust Fund.
- 8 (3) Nothing contained herein shall prohibit the establishment and utilization of
9 special agency accounts by the ~~Division of Veterans Affairs,~~Department of
10 Military and Veterans Affairs as may be approved by the Veterans Affairs
11 Commission, for the receipt and disbursement of personal funds of the State
12 veterans homes' residents or for receipt and disbursement of charitable
13 contributions for use by and for residents."

14 **SECTION 2.(t)** G.S. 165-49 reads as rewritten:

15 **"§ 165-49. Funding.**

16 (a) ~~The Division of Veterans Affairs of the Department of Administration~~The
17 Department of Military and Veterans Affairs may apply for and receive federal aid and
18 assistance from the United States Department of Veterans Affairs or any other agency of the
19 United States Government authorized to pay federal aid to states for the construction and
20 acquisition of veterans homes under Title 38, United States Code, section 8131 et seq., or for
21 the care or support of disabled veterans in State veterans homes under Title 38, United States
22 Code, section 1741 et seq., or from any other federal law for said purposes.

23 (b) ~~The Division of Veterans Affairs~~Department of Military and Veterans Affairs may
24 receive from any source any gift, contribution, bequest, or individual reimbursement, the
25 receipt of which does not exclude any other source of revenue.

26 (c) All funds received by the ~~Division~~Department shall be deposited in the North
27 Carolina Veterans Home Trust Fund, except for any funds deposited into special agency
28 accounts established pursuant to G.S. 165-48(d)(3). The Veterans Affairs Commission shall
29 authorize the expenditure of all funds from the North Carolina Veterans Home Trust Fund. The
30 Veterans Affairs Commission may delegate authority to the Assistant Secretary of Veterans
31 Affairs for the expenditure of funds from the North Carolina Veterans Home Trust Fund for
32 operations of the State Veterans Nursing Homes."

33 **SECTION 2.(u)** G.S. 165-50 reads as rewritten:

34 **"§ 165-50. Contracted operation of homes.**

35 The Veterans Affairs Commission may contract with persons or other nongovernmental
36 entities to operate each State veterans home. Contracts for the procurement of services to
37 manage, administer, and operate any State veterans home shall be awarded on a competitive
38 basis through the solicitation of proposals and through the procedures established by statute and
39 the Division of Purchase and ~~Contract~~Contract of the Department of Administration. A
40 contract may be awarded to the vendor whose proposal is most advantageous to the State,
41 taking into consideration cost, program suitability, management plan, excellence of program
42 design, key personnel, corporate or company resources, financial condition of the vendor,
43 experience and past performance, and any other qualities deemed necessary by the Veterans
44 Affairs Commission and set out in the solicitation for proposals. Any contract awarded under
45 this section shall not exceed five years in length. The Veterans Affairs Commission is not
46 required to select or recommend the vendor offering the lowest cost proposal but shall select or
47 recommend the vendor who, in the opinion of the Commission, offers the proposal most
48 advantageous to the veterans and the State of North Carolina."

49 **SECTION 2.(v)** G.S. 165-51 reads as rewritten:

50 **"§ 165-51. Program staff.**

1 The ~~Division-Department~~ shall appoint and fix the salary of an Administrative Officer for
2 the State veterans home program. The Administrative Officer shall be an honorably discharged
3 veteran who has served in active military service in the armed forces of the United States for
4 other than training purposes. The Administrative Officer shall direct the establishment of the
5 State veterans home program, coordinate the master planning, land acquisition, and
6 construction of all State veterans homes under the procedures of the Office of State
7 Construction, and oversee the ongoing operation of said veterans homes. The ~~Division~~
8 Department may hire any required additional administrative staff to help with administrative
9 and operational responsibilities at each established State Veterans Home."

10 **SECTION 2.(w)** G.S. 165-54 reads as rewritten:

11 **"§ 165-54. Deposit required.**

12 Each resident of any State veterans home shall pay to the ~~Division of Veterans~~
13 Department of Military and Veterans Affairs the cost of maintaining his or her residence
14 at the home. This deposit shall be placed in the North Carolina Veterans Home Trust Fund and
15 shall be in an amount and in the form prescribed by the Veterans Affairs Commission in
16 consultation with the Assistant Secretary for Veterans Affairs."

17 **SECTION 2.(x)** G.S. 165-55 reads as rewritten:

18 **"§ 165-55. Report and budget.**

19 (a) The Assistant Secretary for Veterans Affairs shall report annually to the Secretary of
20 the Department of ~~Administration-Military and Veterans Affairs~~ on the activities of the State
21 Veterans Homes Program. This report shall contain an accounting of all monies received and
22 expended, statistics on residents in the homes during the year, recommendations to the
23 Secretary, the Governor, and the General Assembly as to the program, and such other matters
24 as may be deemed pertinent.

25 (b) The Assistant Secretary for Veterans Affairs, with the approval of the Veterans
26 Affairs Commission, shall compile an annual budget request for any State funding needed for
27 the anticipated costs of the homes, which shall be submitted to the Secretary of the Department
28 of ~~Administration-Military and Veterans Affairs~~. State appropriated funds for operational needs
29 shall be made available only in the event that other sources are insufficient to cover essential
30 operating costs."

31
32 **PART III. EFFECTIVE DATE**

33
34 **SECTION 3.** This act becomes effective October 1, 2009.