

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2011

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SENATE DRS35108-MDz-44A\* (02/16)

Short Title: Various Clarifying Militia Law Amendments.

(Public)

Sponsors: Senator Hartsell.

Referred to:

1 A BILL TO BE ENTITLED  
2 AN ACT TO MAKE REFERENCES IN CHAPTER 127A OF THE NORTH CAROLINA  
3 GENERAL STATUTES TO FEDERAL AND STATE MILITARY ORGANIZATIONS  
4 PROPER AND UNIFORM, AS DIRECTED BY SESSION LAW 2009-281, AS  
5 AMENDED BY SESSION LAW 2010-152, AND TO MAKE OTHER CLARIFYING,  
6 CONFORMING, AND TECHNICAL AMENDMENTS, AS RECOMMENDED BY THE  
7 GENERAL STATUTES COMMISSION.

8 The General Assembly of North Carolina enacts:

9 **SECTION 1.(a)** Chapter 127A of the General Statutes reads as rewritten:

10 **"Chapter 127A.**

11 **"Militia.**

12 **"Article 1.**

13 **"Classification of Militia.**

14 **"§ 127A-1. Composition of militia.**

15 The militia of the State shall consist of all able-bodied citizens of the State and of the  
16 United States and ~~such~~ all other able-bodied persons who have or shall declare their intention to  
17 become citizens of the United States, subject to ~~such~~ the qualifications as ~~may be hereinafter~~  
18 ~~prescribed,~~ prescribed in this Chapter, who shall be drafted into ~~said~~ the militia or shall  
19 voluntarily accept commission, appointment, or assignment to duty therein.

20 ...

21 **"§ 127A-3. Organized militia; National Guard.**

22 The North Carolina National Guard, both ~~army and air,~~ Army and Air, shall consist of  
23 regularly commissioned, warrant and enlisted personnel ~~between such ages as may be within~~  
24 the age limits established by regulations promulgated by the secretary of the appropriate service  
25 and shall be organized, governed, armed, equipped and have ~~such~~ the duties and responsibilities  
26 ~~as hereinafter provided,~~ provided in this Chapter.

27 **"§ 127A-4. Organized militia; naval militia.**

28 The naval militia shall consist of regularly commissioned, warrant and enlisted personnel  
29 ~~between such ages as may be within the age limits~~ established by regulations promulgated by  
30 the secretary of the appropriate service and shall be organized, governed, armed, equipped and  
31 have ~~such~~ the duties and responsibilities ~~as hereinafter provided,~~ provided in this Chapter.

32 **"§ 127A-5. Organized militia; State defense militia.**

33 The State defense militia shall consist of commissioned, warrant and enlisted personnel  
34 called, ordered, appointed or enlisted therein by the Governor under the provisions of Article 5



1 of this Chapter and shall be organized, governed, armed, equipped and have ~~such~~the duties and  
2 responsibilities as ~~hereinafter provided~~provided in this Chapter.

3 **"§ 127A-6. Organized militia; historic military commands.**

4 Historic military commands are those historic groups which remain active by meeting at  
5 least once a month and which follow military procedures. Only ~~such~~ groups ~~as may be~~  
6 designated by the Governor shall fall within this branch of the militia. Any maximum age limits  
7 prescribed by this Chapter ~~shall not be applicable~~do not apply to members of historic military  
8 commands.

9 **"§ 127A-7. Composition of unorganized militia.**

10 The unorganized militia shall consist of all other able-bodied citizens of the State and of the  
11 United States and ~~such~~all other able-bodied persons who have or shall declare their intention to  
12 become citizens of the United States, who shall be at least 17 years of age, except those who  
13 have been convicted of a felony or discharged from any component of the military under other  
14 than honorable conditions.

15 **"§ 127A-8. Exemptions from duty with the militia.**

16 The officers, judicial and executive, of the government of the United States and the State of  
17 North Carolina, persons in the military or naval service of the United States, customhouse  
18 clerks, persons employed by the United States in the transmission of mail, artificers and  
19 personnel employed in the armories, arsenals and navy yards of the United States, pilots, and  
20 mariners actually employed in the sea service of any citizen or merchant within the United  
21 States shall be exempt from duty with the militia without regard to age, and all persons who,  
22 because of religious beliefs, ~~shall~~ claim exemption from duty with the militia, if the  
23 conscientious holding of ~~such~~the belief by ~~such~~that person ~~shall be~~is established under ~~such~~  
24 the regulations as are or may be prescribed for exemption from service with the ~~armed forces~~  
25 Armed Forces of the United States, shall be exempted from militia service in a combatant  
26 capacity; but no person so exempted shall be exempt from militia service in any capacity that  
27 shall be declared noncombatant for the ~~armed forces~~Armed Forces of the United States.

28 **"§ 127A-9. Number of troops authorized.**

29 In time of peace the State shall maintain only ~~such~~those troops ~~as may be~~that are  
30 authorized by the President of the United States; but nothing contained in this Chapter shall be  
31 construed as limiting the rights of the State in the use of the North Carolina National Guard or  
32 the State defense militia or both within its borders in time of peace. Nothing contained in this  
33 Chapter shall prevent the organization and maintenance of State police or constabulary.

34 **"§ 127A-10. Corps entitled to retain privileges.**

35 Any corps of artillery, cavalry, or infantry existing in the State on the passage of the act of  
36 Congress of May 8, 1792, which by the laws, customs, or usages of the State has been in  
37 continuous existence since the passage of ~~such~~that act, under its provisions and under the  
38 provisions of section 232 and sections 1625 to 1660, both inclusive, of Title 16 of the revised  
39 statutes of 1873 and the act of Congress of January 21, 1903, relating to the militia, shall be  
40 allowed to retain its ancient privileges, subject, nevertheless, to all duties required by law of the  
41 militia; but ~~such~~these organizations may be a part of the North Carolina National Guard, and  
42 entitled to all the privileges of this Chapter, and shall conform in all respects to the  
43 organization, discipline, and training of the North Carolina National Guard in time of war. For  
44 purposes of training and when on active duty in the service of the United States they may be  
45 assigned to higher units, as the President may direct, and shall be subject to the orders of  
46 officers under whom they shall be serving.

47 "Article 2.

48 "General Administrative Officers.

49 ...

50 **"§ 127A-17. Commander in chief to prescribe regulations.**

1 The commander in chief shall have the power and ~~it shall be his duty~~the duty, from time to  
2 ~~time-time~~, to issue ~~such~~ orders and to prescribe ~~such~~ regulations relating to the organized and  
3 unorganized militia ~~as will cause~~that are necessary for the same militia at all times to conform  
4 to the federal requirements of the United States government relating thereto.

5 **"§ 127A-17.1. Confidentiality of National Guard records.**

6 Notwithstanding any provision of Chapter ~~143B~~,143B of the General Statutes, no records of  
7 the North Carolina National Guard in the Department of Crime Control and Public Safety shall  
8 be disclosed or used for any purpose except for official purposes, and no records shall be  
9 disclosed, destroyed or used in any manner which is in violation of any existing federal law or  
10 regulation. Nothing in this Chapter shall convert records which are the property of the federal  
11 government into State property.

12 **"§ 127A-18. Personal staff of Governor.**

13 The Governor may detail not more than 10 active North Carolina National Guard members  
14 and two active naval militia members who shall in addition to their regular duties, perform the  
15 duties of aides-de-camp on the personal staff of the Governor.

16 **"§ 127A-19. Adjutant General.**

17 The military head of the militia shall be the Adjutant General who shall hold the rank of  
18 major general. The Adjutant General shall be appointed by the Governor in ~~his~~the Governor's  
19 capacity as commander in chief of the militia, in consultation with the Secretary of Crime  
20 Control and Public Safety, and shall serve at the pleasure of the Governor. No person shall be  
21 appointed as Adjutant General who has less than five years' commissioned service in an active  
22 status in any component of the ~~armed forces~~Armed Forces of the United States. The Adjutant  
23 General, while holding ~~such~~this office, may be a member of the active North Carolina National  
24 Guard or naval militia.

25 Subject to the approval of the Governor and in consultation with the ~~Secretary,~~  
26 ~~Department~~Secretary of Crime Control and Public Safety, the Adjutant General may appoint (i)  
27 a deputy adjutant general who may hold the rank of major general, and (ii) an assistant adjutant  
28 general for Army National Guard, and an assistant adjutant general for Air National Guard,  
29 each of whom may hold the rank of brigadier general and who shall serve at the pleasure of the  
30 Governor. The Adjutant General may also employ ~~such~~ staff members and other personnel as  
31 ~~may be~~ authorized by the Secretary and funded.

32 ...

33 **"§ 127A-21. United States property and fiscal officer.**

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

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

48 (c) The assumption and performance of duties and responsibilities, pay and allowances,  
49 and other personnel actions to include retention and retirement of an officer appointed and  
50 serving as the United States property and fiscal officer will be governed by regulations

1 promulgated by the National Guard Bureau or pursuant to regulations promulgated by the  
2 secretary of the appropriate service.

3 **"§ 127A-22. North Carolina property and fiscal officer.**

4 (a) Upon full mobilization of the North Carolina National Guard into federal service to  
5 the extent that the functions of a United States property and fiscal officer no longer exist or are  
6 authorized under federal statutes, the Governor of the State, in consultation with the Secretary  
7 of Crime Control and Public Safety, may appoint, designate or detail a qualified individual to  
8 serve at the pleasure of the Governor as the North Carolina property and fiscal officer for any  
9 composition of a nonfederally recognized State National Guard or State defense militia  
10 organized under the provisions of ~~G.S. 127A-1 et seq.~~ this Chapter.

11 (b) In consideration of ~~his~~ the North Carolina property and fiscal officer's services for  
12 the responsibility, care, utilization, and issue of State or federal facilities and property, under  
13 the jurisdiction of the State of North Carolina, the ~~North Carolina property and fiscal officer~~  
14 shall receive from the State ~~such a just and proper~~ salary as ~~the Governor may authorize to be~~  
15 ~~just and proper;~~ authorized by the Governor; the salary to constitute a charge upon  
16 appropriations made to the Department of Crime Control and Public Safety.

17 (c) The North Carolina property and fiscal officer ~~for North Carolina~~ shall be an  
18 employee of the Department of Crime Control and Public Safety. ~~He~~ The officer shall be  
19 required to give good and sufficient bond to the State, the amount thereof to be determined by  
20 the Governor, for the faithful performance of ~~his~~ duties and for the safekeeping and proper  
21 distribution of ~~such~~ the funds and property entrusted to his the officer's care. ~~He~~ The officer  
22 shall receipt for and account for all funds and property allotted to ~~his~~ the officer's custody from  
23 the appropriation for military purposes by State and federal agencies, and shall make ~~such~~  
24 returns and reports through the Secretary of Crime Control and Public Safety concerning ~~same~~  
25 the property and funds as may be required by the Governor or State laws.

26 **"§ 127A-23. Commissions for commandants and officers at qualified educational**  
27 **institutions.**

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

42 Any qualified institution desiring the appointment of officers in the North Carolina  
43 unorganized militia shall make application to the Governor setting forth all requisite facts as to  
44 its qualifications, the names of the persons to be commissioned, the rank desired for each, and  
45 the person's position at the institution. The application shall be signed by the chancellor,  
46 president, superintendent or other presiding official, under the seal of the institution. Upon  
47 receipt of the application, the Governor may appoint and commission the officers of ~~such~~ a  
48 qualified institution as follows: the chancellor, president, superintendent or other presiding  
49 official, as colonel; the vice-president, principal or other officer second in authority, as major;  
50 the professors and members of the faculty, as captains. The persons so commissioned shall  
51 have no connection with the North Carolina National Guard or other military forces of the

1 State, nor shall they exercise any military authority other than in the discharge of their duties at  
2 their respective institutions. The commissions issued under this section may be terminated at  
3 the will of the Governor.

4 "Article 3.

5 "National Guard.

6 **"§ 127A-29. National Guard.**

7 The North Carolina National Guard class of the four classes of the organized militia as  
8 established under G.S. 127A-2 is hereby designated the ~~North Carolina National Guard.~~ North  
9 Carolina National Guard. Those elements of the North Carolina National Guard which receive  
10 federal recognition by the United States government shall hold a dual status both as State  
11 troops and as a reserve component of the ~~armed forces~~ Armed Forces of the United States. In its  
12 federal status, the North Carolina National Guard shall be subject to federal laws and  
13 regulations pertaining thereto. The Adjutant General shall insure compliance with ~~such those~~  
14 federal laws and regulations and with all State laws and orders of the Governor not inconsistent  
15 with ~~those federal laws and regulations.~~ them.

16 **"§ 127A-30. Organization of National Guard units.**

17 Except as otherwise specifically provided by the laws of the United States, the organization  
18 of the North Carolina National Guard, including the composition of all ~~units thereof,~~ its units,  
19 shall be the same as that which is or may hereafter be prescribed for the regular ~~army or air~~  
20 ~~force~~ United States Army or Air Force subject in time of peace to ~~such~~ general exceptions as  
21 ~~may be~~ authorized by the Secretary of Defense.

22 **"§ 127A-31. Location of units.**

23 The Governor shall determine and fix the location of the units and headquarters of the  
24 North Carolina National Guard within the State; but no organization of the North Carolina  
25 National Guard, members of which shall be entitled to and shall have received compensation  
26 under the provisions of the act of Congress approved June 3, 1916, as amended, shall be  
27 disbanded without the consent of the President, nor without ~~such that~~ consent shall the  
28 commissioned or enlisted strength of any such organization be reduced below the minimum  
29 that is now or shall be hereafter prescribed therefor by the President.

30 **"§ 127A-32. Officers appointed and commissioned; oath of office.**

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

- 33 (1) Except as otherwise specifically provided by the laws of the United States,  
34 the qualifications for appointment as an officer in the North Carolina  
35 National Guard shall be the same as those prescribed for the regular  
36 establishment, subject to ~~such~~ general exceptions as ~~may be~~ authorized by  
37 the Secretary of Defense.
- 38 (2) Candidates for ~~such~~ appointment shall make written application therefor on  
39 ~~such~~ forms as ~~may be~~ prescribed by the secretary of the appropriate service,  
40 to the Adjutant General, State of North Carolina, through command channels  
41 for comment by endorsements thereon.
- 42 (3) No person shall hereafter be appointed an officer of the North Carolina  
43 National Guard unless ~~he the person~~ has established to the satisfaction of a  
44 board of officers ~~his that person's~~ physical, moral, and professional  
45 qualifications to perform the duties of the grade and position for which  
46 examined, subject to ~~such~~ general exceptions as ~~may be~~ authorized by the  
47 Secretary of Defense. The board shall consist of three or more commissioned  
48 officers of the appropriate service, appointed under ~~such~~ regulations as ~~may~~  
49 ~~be~~ promulgated by the secretary of the appropriate service.
- 50 (4) Candidates appointed as officers of the North Carolina National Guard shall  
51 take and subscribe to the following oath of office:

1 "I, (First Name – Middle Name – Last Name), do solemnly swear that I  
2 will support and defend the Constitution of the United States and the  
3 Constitution of the State of North Carolina against all enemies, foreign and  
4 domestic; that I will bear true faith and allegiance to the same; that I will  
5 obey orders of the President of the United States and of the Governor of the  
6 State of North Carolina; that I make this obligation freely, without any  
7 mental reservation or purpose of evasion, and that I will well and faithfully  
8 discharge the duties of the office of (Grade) (Branch) in the National Guard  
9 of the State of North Carolina upon which I am about to enter, so help me  
10 God."

11 **"§ 127A-33. Promotion of officers by seniority and in accordance with regulations.**

12 The promotion of all officers shall be by seniority as far as ~~the same is~~ practicable and ~~to~~ in  
13 the best interest of the service within the organization, and in accordance with regulations  
14 promulgated by the secretary of the appropriate service.

15 ...  
16 **"§ 127A-35. Elimination and disposition of officers; efficiency board; transfer to inactive  
17 status.**

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

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

31 (c) Officers of the North Carolina National Guard may, upon their own request, be  
32 transferred to the inactive North Carolina National Guard, subject to ~~such~~ exceptions ~~as may be~~  
33 authorized by the Adjutant General, State of North Carolina, or the Secretary of Defense.

34 ...  
35 **"§ 127A-37. Enlistments in National Guard; oath of enlistment.**

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

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

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

45 "I, (First Name – Middle Name – Last Name), do solemnly swear (or affirm) that I will  
46 support and defend the Constitution of the United States and of the State of North Carolina  
47 against all enemies, foreign and domestic; that I will bear true faith and allegiance to them; and  
48 that I will obey the orders of the President of the United States and the Governor of North  
49 Carolina and the orders of the officers appointed over me, according to law, regulations, and  
50 the Uniform Code of Military Justice, so help me God."

51 **"§ 127A-38. Discharge of enlisted personnel.**

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

4 (b) Discharges may be given prior to the expiration of terms of enlistment under ~~such~~  
5 regulations ~~as may be~~ prescribed by the Adjutant General, State of North Carolina, or pursuant  
6 to regulations promulgated by the secretary of the appropriate service.

7 **"§ 127A-39. Membership continued in the National Guard.**

8 When called or ordered into federal service and discharged therefrom, members shall  
9 continue their membership in the North Carolina National Guard until the expiration of their  
10 enlistment or appointment, unless sooner terminated by proper authority.

11 **"§ 127A-40. Pensions for the members of the North Carolina National Guard.**

12 (a) Every member and former member of the North Carolina National Guard who  
13 meets the requirements ~~hereinafter set forth~~ of this section shall receive, commencing at age 60,  
14 a pension of ninety-five dollars (\$95.00) per month for 20 years' creditable military service  
15 with an additional nine dollars fifty cents (\$9.50) per month for each additional year of such  
16 service; provided, however, that the total pension shall not exceed one hundred ninety dollars  
17 (\$190.00) per month. The requirements for ~~such a~~ pension are that each member shall:

- 18 (1) Have served and qualified for at least 20 years' creditable military service,  
19 including National Guard, reserve and active duty, under the same  
20 requirement specified for entitlement to retired pay for nonregular service  
21 under Chapter 67, Title 10, United States Code.
- 22 (2) Have at least 15 years of the aforementioned service as a member of the  
23 North Carolina National Guard.
- 24 (3) Have received an honorable discharge from the North Carolina National  
25 Guard.

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

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

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

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

36 (f) The Secretary of Crime Control and Public Safety shall determine the eligibility of  
37 ~~guard~~ North Carolina National Guard members for the benefits ~~herein~~ provided in this section  
38 and shall certify those eligible to the State Treasurer. In addition, the Department of Crime  
39 Control and Public Safety shall, on and after July 1, 1983, provide the Department of State  
40 Treasurer with an annual census population, by age and the number of years of creditable  
41 service, for all former members of the North Carolina National Guard in receipt of a pension as  
42 well as for all active members of the North Carolina National Guard who are not in receipt of a  
43 pension and who have seven and more years of creditable service. The Department of Crime  
44 Control and Public Safety shall also provide the State Treasurer a census population of all  
45 former members of the North Carolina National Guard who are not in receipt of a pension and  
46 who have 15 and more years of creditable service. The Department of State Treasurer shall  
47 make pension payments to those persons certified from the North Carolina National Guard  
48 Pension Fund, which shall include general fund appropriations made to the Department of State  
49 Treasurer. The Department of State Treasurer shall have performed an annual actuarial  
50 valuation of the fund and shall have the financial responsibility for maintaining the fund on a  
51 generally accepted actuarial basis. The Department of Crime Control and Public Safety shall

1 provide the Department of State Treasurer with whatever assistance is required by the State  
2 Treasurer in carrying out ~~his-the State Treasurer's~~ financial responsibilities.

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

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

10 (h1) Any member or former member of the North Carolina National Guard who is  
11 qualified for benefits under this section and who is a member of a domiciled employees' or  
12 retirees' association that has at least 2,000 members, the majority of whom are active or retired  
13 employees of the State or public school employees, may authorize, in writing, the periodic  
14 deduction from the member's retirement benefits a designated lump sum to be paid to the  
15 employees' or retirees' association. The authorization shall remain in effect until revoked by the  
16 member. A plan of deductions pursuant to this subsection shall become void if the employees'  
17 or retirees' association engages in collective bargaining with the State, any political subdivision  
18 of the State, or any local school administrative unit.

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

21 **"§ 127A-41. Uniforms, arms and equipment.**

22 The North Carolina National Guard shall, as far as practicable, be uniformed, ~~armed-armed,~~  
23 and equipped with the same type of uniforms, arms and equipment as is or shall be provided for  
24 the appropriate regular service.

25 **"§ 127A-41.1. Stay of legal and court proceedings because of State military service.**

26 At any stage of any legal proceeding in any court in which a person called into service of  
27 the State by the Governor is involved, either as plaintiff or defendant, during the period of  
28 service or within 60 days after the conclusion of the period of active service, all actions and  
29 proceedings:

30 (1) May be stayed by the court on its own motion; or

31 (2) Shall be stayed on application by the member or by a person acting on behalf  
32 of the member, unless, in the opinion of the court, the ability of the plaintiff  
33 to prosecute the action or the defendant to conduct ~~his-a~~ defense is not  
34 materially affected by reason of the military service.

35 ...

36 **"§ 127A-42. Distinguished Service Medal by Governor of North Carolina.**

37 There is hereby created the North Carolina Distinguished Service Medal which shall be of  
38 appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu  
39 thereof. This medal and appurtenances thereto shall be of a design approved by the Governor.  
40 Upon the recommendation of the Secretary of Crime Control and Public Safety and a board  
41 consisting of the Adjutant General and all other general officers and officers assigned to  
42 authorized general-officer-grade ~~vacancies,~~ vacancies of the North Carolina National Guard, the  
43 Governor is authorized to present ~~such-the~~ medal to any member or former member of the  
44 ~~armed forces~~ Armed Forces of the United States discharged under honorable conditions, who  
45 has distinguished himself or herself by exceptionally meritorious conduct in the performance of  
46 outstanding service to the North Carolina National Guard. The Governor, on ~~his-the Governor's~~  
47 own authority, may award ~~such-the~~ medal to the Secretary of Crime Control and Public Safety,  
48 the Adjutant General, or any other active or inactive general officer or flag officer of the ~~armed~~  
49 ~~forces,~~ Armed Forces of the United States who has distinguished himself or herself by  
50 especially meritorious conduct in the performance of his or her duties.

51 **"§ 127A-43. North Carolina National Guard Meritorious Service Medal.**



1 There is hereby created the North Carolina National Guard Meritorious Service Medal  
2 which shall be of appropriate design, and a ribbon, together with a rosette or other device to be  
3 worn in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the  
4 Governor or ~~his designated representative~~the Governor's designee. The Governor or ~~his~~  
5 ~~designated representative~~the Governor's designee is authorized to award this medal upon the  
6 recommendation of the Secretary of Crime Control and Public Safety in consultation with the  
7 Adjutant General and a board of officers appointed by the Adjutant General. Any member or  
8 former member of the ~~armed forces~~Armed Forces of the United States discharged under  
9 honorable conditions, who has distinguished himself or herself by heroism, meritorious  
10 achievement, or meritorious service to the North Carolina National Guard, is eligible for this  
11 award. The Governor, on ~~his~~the Governor's own authority, may award ~~such~~the medal to the  
12 Secretary of Crime Control and Public Safety, the Adjutant General or any other active or  
13 inactive general officer or flag officer of the ~~armed forces~~Armed Forces of the United States  
14 who has distinguished himself or herself by heroism, meritorious achievement, or meritorious  
15 service to the North Carolina National Guard. The required heroism, achievement, or service,  
16 while of a lesser degree than that required for awarding of the North Carolina Distinguished  
17 Service Medal, must nevertheless be accomplished with distinction.

18 **"§ 127A-44. North Carolina National Guard Commendation Medal.**

19 There is hereby created the North Carolina National Guard Commendation Medal which  
20 shall be of appropriate design, and a ribbon, together with a rosette or other device to be worn  
21 in lieu thereof. This medal and appurtenances thereto shall be of a design approved by the  
22 Governor or ~~his designated representative~~the Governor's designee. The Adjutant General of  
23 North Carolina or ~~his designated representative~~the Adjutant General's designee, who shall not  
24 be below the rank of colonel (O-6), may award this medal. Any member or former member of  
25 the ~~armed forces~~Armed Forces of the United States discharged under honorable conditions,  
26 who distinguishes himself or herself by ~~his~~ example or the performance of a specific act in  
27 behalf of the North Carolina National Guard, is eligible for this award.

28 **"§ 127A-44.1. North Carolina National Guard Achievement Medal.**

29 There is hereby created the North Carolina National Guard Achievement Medal which shall  
30 be of appropriate design, and a ribbon, together with a rosette or other device to be worn in lieu  
31 thereof. This medal and appurtenances thereto shall be of a design approved by the Governor or  
32 ~~his designated representative~~the Governor's designee. The Adjutant General of North Carolina  
33 or ~~his designated representative~~the Adjutant General's designee, who shall not be below the  
34 rank of lieutenant colonel (O-5), may award this medal. Any member or former member of the  
35 ~~armed forces~~Armed Forces of the United States discharged under honorable conditions, who  
36 distinguishes himself or herself by ~~his~~ example or the performance of a specific act in behalf of  
37 the North Carolina National Guard, is eligible for this award.

38 **"§ 127A-45. North Carolina National Guard State Active Duty Award.**

39 There is hereby created the North Carolina National Guard State Active Duty Award which  
40 shall be a ribbon of appropriate design. This ribbon and appurtenances thereto shall be of a  
41 design approved by the Governor or ~~his designated representative~~the Governor's designee. The  
42 Adjutant General of North Carolina may present this ribbon to members of the North Carolina  
43 National Guard who, by order of the Governor, satisfactorily serve a tour of State active duty.  
44 To be worthy of this award, the nature of the tour of State active duty must have been a distinct  
45 and notable service to the State or to a community, as determined by the Adjutant General of  
46 North Carolina. On or after July 1, 1991, this award may also be presented to active guard  
47 personnel and reserve personnel who satisfactorily participate in tours of State active duty.

48 **"§ 127A-45.1. North Carolina National Guard Governor's Unit Citation.**

49 There is hereby created the North Carolina National Guard Governor's Unit Citation which  
50 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
51 the Governor or ~~his designated representative~~the Governor's designee. The Governor or ~~his~~

1 ~~designated representative~~the Governor's designee is authorized to present ~~such~~the unit citation,  
2 upon recommendation of the Adjutant General, subject to the approval of the Secretary, to any  
3 unit of North Carolina National Guard distinguishing itself by extraordinary heroism or  
4 meritorious service while in a State active duty status. The unit must display such gallantry,  
5 determination, and esprit de corps in accomplishing its mission under conditions which set it  
6 apart and above other units.

7 **"§ 127A-45.2. North Carolina National Guard Meritorious Unit Citation.**

8 There is hereby created the North Carolina National Guard Meritorious Unit Citation which  
9 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
10 the Governor or ~~his designated representative~~the Governor's designee. The Adjutant General is  
11 authorized to present ~~such~~this citation to any unit of the North Carolina National Guard  
12 distinguishing itself through heroism or meritorious service to the State of North Carolina. The  
13 required heroism or meritorious service, while of a lesser degree than that required for the  
14 award of the North Carolina National Guard Governor's Unit Citation, must nevertheless have  
15 been accomplished with distinction.

16 **"§ 127A-45.2A. North Carolina National Guard Outstanding Unit Award.**

17 There is hereby created the North Carolina National Guard Outstanding Unit Award which  
18 shall be a streamer, a unit emblem, and a certificate, all of appropriate design as approved by  
19 the Governor or ~~his designated representative~~the Governor's designee. The Adjutant General  
20 may present this citation to any unit of the North Carolina National Guard distinguishing itself  
21 through meritorious achievement or service to the State of North Carolina. The required  
22 meritorious service, while of a lesser degree than that required for the award of the North  
23 Carolina National Guard Meritorious Unit Citation, must nevertheless have been accomplished  
24 with distinction.

25 **"§ 127A-45.3. North Carolina National Guard Distinguished Civilian Service Medal.**

26 There is hereby created the North Carolina National Guard Distinguished Civilian Service  
27 Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof,  
28 and citation certificate, of a design approved by the Governor or ~~his designated~~  
29 ~~representative~~the Governor's designee. The Governor or ~~his designated representative~~the  
30 Governor's designee is authorized to award this medal upon the recommendation of the  
31 Adjutant General of North Carolina and a board of officers and noncommissioned officers  
32 appointed by the Adjutant General, to United States citizens and governmental officials at the  
33 policy development level who render distinguished service to the North Carolina National  
34 Guard.

35 **"§ 127A-45.4. North Carolina National Guard Outstanding Civilian Service Medal.**

36 There is hereby created the North Carolina National Guard Outstanding Civilian Service  
37 Medal which shall be of appropriate design, rosette or other device to be worn in lieu thereof,  
38 and citation certificate, of a design approved by the Governor or ~~his designated~~  
39 ~~representative~~the Governor's designee. The Adjutant General of North Carolina is authorized  
40 to award this medal upon the recommendation of a board of officers and noncommissioned  
41 officers, appointed by the Adjutant General, to United States citizens and governmental  
42 officials who render outstanding service to the North Carolina National Guard.

43 **"§ 127A-45.5. North Carolina National Guard Meritorious Civilian Service Award.**

44 There is hereby created the North Carolina National Guard Meritorious Civilian Service  
45 Award which shall consist of a certificate of a design approved by the Governor or ~~his~~  
46 ~~designated representative~~the Governor's designee. The Adjutant General of North Carolina or a  
47 ~~designated representative~~the Adjutant General's designee, who shall not be below the grade of  
48 general officer, is authorized to confer this award. This award may be granted to individuals,  
49 organizations, corporations, associations and other groups, making a substantial contribution to  
50 the North Carolina National Guard.

51 **"§ 127A-45.5A. Other awards.**

1 The Adjutant General may, from time to time, create ~~such~~ other awards and medals to  
2 recognize meritorious service or outstanding achievement. The creation of ~~such~~ the awards and  
3 medals shall be approved by the Governor. The Governor or ~~his~~ the Governor's designee shall  
4 approve the design of ~~such~~ the awards and medals.

5 **"§ 127A-46. Authority to wear medals, ribbons and other awards.**

6 The Adjutant General may prescribe those medals, ribbons and other awards and  
7 decorations ~~which~~ that may be worn by members of the militia, not inconsistent with  
8 regulations of the respective ~~armed services~~ Armed Forces of the United States.

9 **"§ 127A-47. Courts-martial for National Guard.**

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

17 **"§ 127A-48. General courts-martial.**

18 General courts-martial for military personnel of the North Carolina National Guard not in  
19 the service of the United States may be convened by orders of the Governor of the State or of  
20 the Adjutant General, and ~~such~~ these courts shall have the power to impose punishments in like  
21 manner and to the extent prescribed by the Uniform Code of Military Justice and Manual for  
22 Courts-Martial, United States, as shall be in use by the ~~armed forces~~ Armed Forces of the  
23 United States at the time of the offense, except that (i) no court shall have the authority to  
24 impose confinement as part of the sentence unless the court consisted of a military judge and  
25 not less than five members, except that a defendant who requests a military judge alone may be  
26 sentenced to confinement, and (ii) no court shall have the authority to impose confinement in  
27 excess of one year and one day as part of a sentence.

28 **"§ 127A-49. Special courts-martial; appointments, power and authority.**

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

- 31 (1) The commander of a brigade, regiment, comparable or higher command of  
32 the North Carolina Army National Guard, provided that ~~such~~ the commander  
33 is a general officer.
- 34 (2) The commander of a wing, group, separate squadron, comparable or higher  
35 command of the North Carolina Air National Guard, provided that ~~such~~ the  
36 commander is a general officer.
- 37 (3) The commander or officer in charge of any North Carolina National Guard  
38 command when empowered by the Governor or the Adjutant General of  
39 North Carolina, provided that ~~such~~ the commander or officer is a general  
40 officer.

41 Except as to commissioned officers, ~~such~~ special courts-martial shall have the power and  
42 authority to try any ~~person~~ subject to military law military personnel of the North Carolina  
43 National Guard for any crimes or offenses within the jurisdiction of a general military court.  
44 ~~Such~~ Special courts-martial shall have the power to impose punishments in like manner and to  
45 the extent prescribed by the Uniform Code of Military Justice and Manual for Courts-Martial,  
46 United States, as shall be in use by the ~~armed forces~~ Armed Forces of the United States at the  
47 time of the offense, except that (i) no court shall have the authority to impose confinement as  
48 part of the sentence unless the court consisted of a military judge and not less than three  
49 members except that a defendant who requests a military judge alone may be sentenced to  
50 confinement, and (ii) no court shall have the authority to impose confinement in excess of six  
51 months as part of a sentence.

1 **"§ 127A-50. Summary courts-martial.**

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

- 4 (1) Any person who may convene a general or special court-martial.  
5 (2) The commander of a battalion, comparable or higher command of the North  
6 Carolina Army National Guard, provided that ~~such~~the commander is an  
7 officer of the grade of major or above.  
8 (3) The commander of a detached squadron, comparable or higher command of  
9 the North Carolina Air National Guard, provided that ~~such~~the commander is  
10 an officer of the grade of major or above.

11 ~~Such~~The court shall consist of one officer who shall have the power to administer oaths  
12 and try enlisted personnel of each respective command for breaches of discipline and violations  
13 of laws governing ~~such~~those organizations. ~~Such~~These courts shall also have the power to  
14 impose punishments in like manner and to the extent prescribed by the Uniform Code of  
15 Military Justice and Manual for Courts-Martial, United States, as shall be in use by the ~~armed~~  
16 ~~forces~~Armed Forces of the United States at the time of the offense, except that no court shall  
17 have the authority to impose confinement as part of a sentence. There shall be no right to  
18 demand trial by court-martial.

19 **"§ 127A-50.1. Military judges.**

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

- 23 (1) Certification as a military judge by the Judge Advocate General of the  
24 United States Army, Air Force, Navy, Marines, or Coast Guard.  
25 (2) Designation as a judge advocate by ~~The~~the Judge Advocate General of the  
26 United States Army, Navy, Air Force, Marines, or Coast Guard.  
27 (3) Membership in the North Carolina National Guard, the National Guard of  
28 another state, or the active or reserve components of ~~any of the military~~  
29 ~~services~~the Armed Forces of the United States.

30 **"§ 127A-51. Nonjudicial punishment.**

31 Any commander of the North Carolina National Guard, not in the service of the United  
32 States, may, in addition to or in lieu of admonition or reprimand, impose nonjudicial  
33 punishment in like manner and to the extent prescribed by Article 15 of the Uniform Code of  
34 Military Justice and Manual for Courts-Martial, United States, as shall be currently in use by  
35 the ~~armed~~Armed Forces of the United States except that there shall be no right to  
36 demand trial by court-martial.

37 **"§ 127A-52. Jurisdiction of courts-martial.**

38 The jurisdiction of courts-martial of the North Carolina National Guard, not in the service  
39 of the United States, shall be as prescribed by the Manual for Courts-Martial, United States, as  
40 shall be currently in use by the ~~armed~~Armed Forces of the United States. Such  
41 courts-martial shall have jurisdiction to try accused persons for offenses committed while  
42 serving without the State and while going to and returning from ~~such~~ service without the State  
43 in like manner and to the same extent as while serving within the State.

44 **"§ 127A-53. Manual for Courts-Martial.**

45 Trials and proceedings by all courts and boards shall be in accordance with the Manual for  
46 Courts-Martial, United States, as shall be currently in use by the ~~armed~~Armed Forces of  
47 the United States, except as modified by this Chapter.

48 ...

49 **"§ 127A-55. Forms for courts-martial procedure.**

50 In the North Carolina National Guard, not in the service of the United States, forms for  
51 courts-martial procedure shall be substantially as those set forth in the Appendices, Manual for

1 Courts-Martial, United States, as shall be currently in use by the ~~armed forces~~ Armed Forces of  
2 the United States, with any modifications required by this Chapter.

3 **"§ 127A-56. Powers of courts-martial.**

4 In the North Carolina National Guard, not in the service of the United States, presidents of  
5 courts-martial and summary court officers shall have power to issue warrants to arrest an  
6 accused person and to bring the person before a court for trial whenever ~~such-the~~ person has  
7 disobeyed an order in writing from the convening authority to appear before ~~such-the~~ court, a  
8 copy of the charge or charges having been delivered to the accused with ~~such-the~~ order, and to  
9 issue subpoenas and subpoenas duces tecum, and to enforce by attachment attendance of  
10 witnesses and the production of books, papers, records and other articles subject to a subpoena  
11 duces tecum, and to sentence for a refusal to be sworn or to answer as provided in actions  
12 before civil courts. The presiding officer shall also have power to punish for contempt  
13 occurring in the presence of the court.

14 **"§ 127A-57. Execution of processes and sentences.**

15 All warrants and other processes authorized by this Chapter and sentences of any of the  
16 military courts of this State shall be executed by any sheriff, deputy sheriff, or State or local  
17 law enforcement officer into whose hands ~~the same~~ they may be placed for service or execution,  
18 and ~~such-the~~ officer shall make return thereof to the officer issuing or imposing the same. ~~Such~~  
19 The service or execution of process or sentence shall be made by ~~such-the~~ officer without  
20 tender or advancement of fee therefor; but all costs in ~~such-these~~ cases shall be paid from funds  
21 appropriated to the Department of Crime Control and Public Safety.

22 ...

23 **"§ 127A-59. Sentences.**

24 When any sentence to fine or imprisonment ~~shall be~~ is imposed by any military court of this  
25 State, it shall be the duty of the military judge, president of ~~said-the~~ court, or summary court  
26 officer, upon the approval of the court's findings and ~~sentence of such court,~~ sentence, to make  
27 out and sign a certificate entitling the case, giving the name of the accused, the date and place  
28 of trial, the date of approval of sentence, and the terms of the sentence. The trial counsel shall  
29 deliver ~~such-the~~ certificate to the Clerk of the Superior Court of Wake County, and it shall  
30 thereupon be the duty of the clerk to take ~~such-the~~ actions ~~as are~~ necessary to carry ~~said-the~~  
31 sentence into execution in the same manner as prescribed by law for the collection of fines, or  
32 commitment to service of terms of imprisonment, in criminal cases determined in the courts of  
33 this State. The Administrative Office of the Courts shall ensure that the State's criminal history  
34 records include pertinent information relating to a court-martial under this Chapter in a like  
35 manner as a comparable offense under the State's criminal laws would be recorded.

36 **"§ 127A-60. Approval of sentence.**

37 No sentence imposed by a special or general court-martial of the North Carolina National  
38 Guard, not in the service of the United States, shall be executed until approved by the  
39 Governor. Any officer convicted by a general court-martial and dismissed from the service  
40 shall be forever disqualified from holding a commission in the militia.

41 ...

42 **"§ 127A-62. Appeals; discretionary review.**

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

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

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

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

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

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

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

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

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

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

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

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

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

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

33 (h) Counsel. –

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

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

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

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

44 (3) Where a defendant alleges ineffective assistance of prior counsel as a ground  
45 for relief, the defendant shall be deemed to waive the attorney-client  
46 privilege with respect to both oral and written communications between ~~such~~  
47 ~~counsel and~~ the defendant and the prior counsel to the extent the defendant's  
48 prior counsel reasonably believes ~~such the~~ communications are necessary to  
49 defend against the allegations of ineffectiveness. This waiver of the  
50 attorney-client privilege shall be automatic upon the filing of the pleadings

1 alleging ineffective assistance of prior counsel, and the Wake County  
2 Superior Court need not enter an order waiving the privilege.

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

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

12 (j) The rules for practice and procedure for review of courts-martial by the Wake  
13 County Superior Court shall be consistent with those prescribed for review of administrative  
14 appeals by the Superior Court, except as modified by this section.

15 "Article 4.

16 "Naval Militia.

17 **"§ 127A-67. Organization and equipment.**

18 The organization of the naval militia shall be units of convenient size, in each of which the  
19 number and rank of officers and the distribution of the total enlisted strength among the several  
20 ratings of petty officers and other enlisted personnel shall be such as are prescribed by the  
21 Secretary of the Navy, who may also prescribe the number of officers and the number of petty  
22 officers and other enlisted personnel required for the organization of ~~such the~~ units into larger  
23 bodies for administrative and other purposes, and the arms and equipment of the naval militia  
24 shall be those which are now or may hereafter be prescribed by the Secretary of the Navy.

25 **"§ 127A-68. Officers appointed to naval militia.**

26 Officers of the United States ~~navy and marine corps~~ Navy and Marine Corps may, with the  
27 approval of the Secretary of the Navy, be appointed by the Governor and commissioned as  
28 officers of the naval militia.

29 ...

30 **"§ 127A-70 Discipline in naval militia.**

31 The naval militia shall be subject to the system of discipline prescribed for the United  
32 States ~~navy and marine corps~~ Navy and Marine Corps, and the commanding officer of a naval  
33 militia ~~battalion or brigade unit~~ or a naval militia officer in command of naval militia forces on  
34 shore or on any vessel of the ~~navy~~ United States Navy loaned to the State, or on any vessel on  
35 which such forces are training, whether within or without the State, or wherever, either within  
36 or without the State, naval militia forces of the State shall be assembled pursuant to orders,  
37 shall have power without trial by courts-martial to impose upon members of the naval militia  
38 the punishments which the commanding officer of a vessel of the ~~navy~~ United States Navy is  
39 authorized by law to impose.

40 **"§ 127A-71. Disbursing and accounting officer.**

41 The Governor shall appoint a disbursing officer, approved by and of ~~such a rank as may be~~  
42 prescribed by the Secretary of the Navy, to perform ~~such the~~ duties as the Secretary of the Navy  
43 may prescribe. The Governor shall also appoint the ~~above described~~ disbursing officer, or ~~such~~  
44 ~~other~~ another officer of the ~~pay corps~~ appropriate finance office of the naval militia as ~~hethat the~~  
45 Governor may elect, as accounting officer for each ~~battalion unit~~ thereof, or at ~~his the~~  
46 Governor's option for each larger unit or combination of ~~units of the same units,~~  
47 responsible for the proper accounting for all public property issued to and for the use of ~~such~~  
48 ~~battalion the unit~~ or larger unit or combination of units.

49 **"§ 127A-72. Rendition of accounts.**

50 Accounting officers shall render accounts as prescribed by the Governor or by the Secretary  
51 of the Navy, and shall be required to give good and sufficient bond to the State and to the

1 United States, in ~~such the~~ sums as ~~that~~ the Governor or the Secretary of the Navy ~~may~~  
2 ~~direct, directs,~~ and conditioned upon the faithful accounting for all public property and for the  
3 safekeeping of ~~such the~~ part thereof as ~~may be~~ in the personal custody of ~~such the~~ officer.  
4 Accounting officers may issue any or all such property to other officers or enlisted personnel of  
5 the naval militia under ~~such rules and regulations as may be prescribed.~~ applicable rules and  
6 regulations.

7 ...  
8 **"§ 127A-74. Courts-martial for naval militia.**

9 Courts-martial for the naval militia, not in the service of the United States, shall be  
10 organized, have the same powers, functions and authorities, and follow the same procedures as  
11 courts-martial for the North Carolina National Guard as set forth in G.S. 127A-47 through  
12 ~~127A-61.~~ 127A-62."

13 "Article 5.

14 "State Defense Militia.

15 **"§ 127A-80. Authority to organize and maintain ~~State defense militia of North~~**  
16 **Carolina North Carolina State Defense Militia.**

17 (a) The Governor is authorized to organize ~~such any~~ part of the unorganized militia as a  
18 State force for discipline and training, into companies, battalions, regiments, brigades or similar  
19 organizations, as ~~may be~~ deemed necessary for the defense of the State; to maintain, uniform  
20 and equip ~~such this~~ military force within the appropriations available; to exercise discipline in  
21 the same manner as is now or may hereafter be provided by the laws of the State for the North  
22 Carolina National Guard. ~~Such The~~ military force shall be subject to the call or the order of the  
23 Governor to execute the law and secure the safety of persons and property, suppress riots or  
24 insurrections, repel invasions or provide disaster relief, as may now or hereafter be provided by  
25 law for the North Carolina National Guard or for the State militia.

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

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

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

43 (e) The Governor is hereby authorized to transfer to the benefit of the State defense  
44 militia any available and unexpended funds which ~~he shall find the~~ Governor finds necessary  
45 for its use from any appropriations to the North Carolina National Guard by the General  
46 Assembly, and for the same purpose to allot ~~moneys monies~~ from the Contingency and  
47 Emergency Fund with the concurrence of the Council of State. Upon disbandment of the State  
48 defense militia any ~~moneys monies~~ or balance to the credit of any unit of this organization shall  
49 be paid into the State treasury for the benefit of the North Carolina National Guard, and all  
50 property, clothing, and equipment belonging to the State shall be transferred to the account of  
51 the North Carolina National Guard for disposition in accordance with the best interests of the



1 State and as deemed advisable by the Governor. Upon disbandment of any unit of the State  
2 defense militia prior to the disbandment of the entire organization, the Governor is authorized  
3 to direct the transfer of any State property or balance of funds of the disbanded unit to any other  
4 unit, including any new unit or units organized to fill vacancies, or otherwise, as the Governor  
5 may direct.

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

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

11 (g) There shall be allowed annually to each unit or company of the State defense militia  
12 ~~such the funds as may be necessary to be applied to the payment of~~ for armory rent, heat, light,  
13 stationery, printing, and other expenses.

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

18 (i) The commander of each organization participating in the appropriation herein  
19 named shall render an itemized statement of all funds received from any source whatsoever for  
20 the support of the organization in ~~such the manner and on such the forms as may be~~ prescribed  
21 by the Secretary of ~~the Department of~~ Crime Control and Public Safety. Failure on the part of  
22 any commander to submit promptly when due the financial statement of the organization will  
23 be sufficient cause to withhold all appropriations for the organization.

24 "**§ 127A-81. State defense militia cadre.**

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

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

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

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

47 (e) The duties of the State defense militia cadre shall be as ordered and directed by the  
48 Governor from time to time, or in regulations, and may include authority to take charge of  
49 armories and other military installations and real properties used by the North Carolina  
50 National Guard, together with ~~such any other property as that~~ the regulations may provide,  
51 when and if the North Carolina National Guard, or any part thereof, ~~may be~~ is inducted into the

1 service of the United States, or, for any extended period of time, ~~may be~~ absent on any duty  
2 from its home station. In addition, the cadre shall have duties appropriate to the organization,  
3 maintenance, and training of a military cadre to act as a nucleus for the organization of an  
4 active State defense militia whenever the necessity may arise."

5 "Article 6.

6 "Unorganized Militia.

7 **"§ 127A-87. Unorganized militia ordered out for service.**

8 The commander in chief may at any time, in order to execute the law, secure the safety of  
9 persons and property, suppress riots or insurrections, repel invasions or provide disaster relief,  
10 in addition to the North Carolina National Guard, the State defense militia and the naval militia,  
11 order out the whole or any part of the unorganized militia. When the militia of this State or a  
12 part thereof is called forth under the Constitution and laws of the United States, the Governor  
13 shall first order out for service the North Carolina National Guard, the State defense militia or  
14 naval militia, or ~~such any part~~ thereof as ~~that~~ may be necessary, and if the number available ~~be~~  
15 ~~is~~ insufficient, ~~he the Governor~~ shall then order out ~~such any part~~ of the unorganized militia as  
16 ~~he that the Governor~~ may deem necessary. During the absence or organizations of the North  
17 Carolina National Guard or naval militia in the service of the United States, their state  
18 designations shall not be given to new organizations.

19 **"§ 127A-88. Manner of ordering out unorganized militia.**

20 The Governor shall, when ordering out the unorganized militia, designate the number. ~~He~~  
21 The Governor may order them out either by calling for volunteers or by draft. ~~He The Governor~~  
22 may attach them to the several organizations of the North Carolina National Guard, the State  
23 defense militia or naval militia, as may be best for the service.

24 **"§ 127A-89. Draft of unorganized militia.**

25 If the unorganized militia is ordered out by draft, the Governor shall designate the persons  
26 in each county to make the draft, and prescribe rules and regulations for conducting ~~the same it.~~

27 **"§ 127A-90. Punishment for failure to appear.**

28 Every member of the militia ordered out for duty, or who shall volunteer or be drafted, who  
29 does not appear at the time and place ordered, shall be liable to ~~such~~ punishment as a  
30 ~~court martial may determine.~~ determined by a court-martial.

31 **"§ 127A-91. Promotion of marksmanship.**

32 The Adjutant General is authorized to detail a commissioned officer of the North Carolina  
33 National Guard or member of the State defense militia to promote rifle marksmanship among  
34 the State defense militia and the unorganized militia of the State. ~~Such The officer~~ or member  
35 so detailed shall serve without pay and it shall be ~~his duty~~ the duty of the officer or member to  
36 organize and supervise rifle clubs in schools, colleges, universities, clubs and other groups,  
37 under ~~such~~ rules and regulations ~~as prescribed by the Adjutant General shall prescribe~~ and in  
38 ~~such a manner to that will~~ make them, when duly organized, acceptable for membership in the  
39 National Rifle Association. Provided, that ~~such these~~ duties and efforts shall in nowise interfere  
40 or conflict with clubs of schools or units operating in R.O.T.C. Reserve Officers' Training Corps  
41 or similar schools under the supervision of ~~armed forces instructors.~~ instructors of the Armed  
42 Forces of the United States."

43 "Article 7.

44 "Regulations as to Active Service.

45 **"§ 127A-97. National Guard and naval militia first ordered out.**

46 In all cases the North Carolina National Guard and naval militia as provided for in this  
47 Chapter shall be first ordered into service.

48 **"§ 127A-98. Regulations enforced on active State service.**

49 Whenever any portion of the militia ~~shall be~~ called into active State service to execute the  
50 law, secure the safety of persons and property, suppress riots or insurrections, repel invasions  
51 or provide disaster relief, the provisions of the Uniform Code of Military Justice of the United

1 States, governing the ~~armed forces~~Armed Forces of the United States, and the regulations  
2 prescribed for the ~~armed forces~~Armed Forces of the United States, and the regulations issued  
3 thereunder, shall be enforced and regarded as part of this Chapter until ~~said forces shall be~~this  
4 portion of the militia is relieved from such the duty. As to offenses committed when ~~such the~~  
5 provisions of the Uniform Code of Military Justice of the United States are so enforced,  
6 courts-martial shall possess, in addition to the jurisdiction and power of sentence and  
7 punishment herein vested in them, all additional jurisdiction and power of sentence and  
8 punishment exercisable by like courts under ~~such the~~provisions of the Uniform Code of  
9 Military Justice of the United States or regulations or laws governing the ~~United States armed~~  
10 ~~forces~~Armed Forces of the United States or the customs and usages thereof; but no punishment  
11 under ~~such the~~Code which shall extend that extends to the taking of life shall in any case be  
12 inflicted except in case of war, invasion, or insurrection, declared by a proclamation of the  
13 Governor to exist and then only after approval by the Governor of the sentence inflicting ~~such~~  
14 that punishment. Imprisonment other than in guardhouse shall be executed in county jails or  
15 other prisons designated by the Governor for that purpose.

16 **"§ 127A-99. Regulations governing unorganized militia.**

17 Whenever any part of the unorganized militia is ordered out, it shall be governed by the  
18 same rules and regulations and be subject to the same penalties as the North Carolina National  
19 Guard or naval militia."

20 "Article 8.

21 "Pay of Militia.

22 ...  
23 **"§ 127A-106. Paid by the State.**

24 When the militia or any portion thereof ~~shall be~~is ordered by the Governor into State  
25 service, the pay (including payment for any leave earned as a result of more than 30 days of  
26 continuous service), subsistence, transportation and other necessary expenses incident thereto  
27 shall be paid by the State Treasurer, upon the approval of the Governor.

28 **"§ 127A-107. Rate of pay for other service.**

29 The Governor may, whenever the public service requires it, order upon special or regular  
30 duty any officer or enlisted member of the North Carolina National Guard or naval militia, and  
31 the expenses and compensation therefor of ~~such the~~officer and or enlisted member shall be  
32 paid out of the appropriations made to the Department of Crime Control and Public Safety.  
33 ~~Such officers and enlisted members~~The officers or enlisted member shall receive the same rate  
34 of pay as officers and enlisted members of the same grade and like service of the ~~regular~~  
35 service, Armed Forces of the United States, provided that no such officer or enlisted member  
36 shall receive less than 18 times the minimum hourly wage per day as provided for in  
37 G.S. 95-25.3(a). Officers and enlisted members when on duty in connection with examining  
38 boards, efficiency boards, advisory boards, courts of inquiry or similar duty shall be allowed  
39 per diem and subsistence prescribed for lawful State boards and commissions generally for  
40 such duty. Officers and enlisted members serving on general or special courts-martial shall  
41 receive the base pay of their rank. No staff officer or enlisted member who receives a salary  
42 from the State as such shall be entitled to any additional compensation other than actual and  
43 necessary expenses incurred while traveling upon orders issued by the proper authority.

44 **"§ 127A-108. Pay and care of soldiers, airmen and sailors disabled in service.**

45 A member of the North Carolina National Guard, the State defense militia, or the naval  
46 militia who without fault or negligence on ~~his the member's~~his part is disabled through illness,  
47 injury, or disease contracted or incurred while on duty or by reason of duty in the service of the  
48 State or while reasonably proceeding to or returning from ~~such~~duty shall receive the actual  
49 necessary expenses for care and medicine and medical attention at the expense of the State and  
50 if ~~such shall the disability~~temporarily incapacitate him for incapacitates the member from  
51 pursuing ~~his the member's~~usual business or occupation ~~he the member~~shall receive during

1 ~~such his or her~~ incapacity the pay and allowances ~~as that~~ are provided for the same grade and  
2 rating in like circumstances in the active ~~armed forces~~ Armed Forces of the United States. If  
3 ~~such the~~ member is permanently disabled, ~~he the~~ member shall receive the pensions and  
4 ~~rewards benefits~~ that persons under similar circumstances in the ~~military service~~ Armed Forces  
5 of the United States receive from the United States. In case ~~any such a~~ member ~~shall die~~ dies as a  
6 result of such an injury, illness or disease within one year after it has been incurred or  
7 contracted, the surviving spouse, minor children, or dependent parents of the member shall  
8 receive ~~such the~~ pension and ~~rewards benefits~~ as persons under similar circumstances receive  
9 from the United States.

10 The cost incurred by reason of this section shall be paid out of the Contingency and  
11 Emergency Fund, or ~~such another~~ other fund as ~~may be~~ designated by law.

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

17 Nothing ~~herein in this section~~ shall in any way limit or condition any other payment to ~~such~~  
18 a member as ~~by law may be allowed~~. Provided, however, that the law allows, except that any  
19 payments made under the provisions of Chapter 97 of the General Statutes or under federal  
20 statutes as now or hereafter amended shall be deducted from the payments made under this  
21 section.

22 ...

23 **"§ 127A-110. Proceedings against third party injuring or killing guard personnel.**

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

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

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

47 (d) The person in whom the right to bring ~~such a~~ proceeding or make settlement is  
48 vested shall, during the continuation thereof, also have the exclusive right to make settlement  
49 with the third party and the release of the person having the right shall fully acquit and  
50 discharge the third party except as provided by ~~(h) below~~ subsection (h) of this section. A  
51 proceeding so instituted by the person having the right shall be brought in the name of the

1 ~~guard~~-member or personal representative and the State shall not be a necessary or proper party  
2 thereto. If the ~~guard~~-member or personal representative ~~should refuse~~refuses to cooperate with  
3 the State by being the party plaintiff, then the action shall be brought in the name of the State  
4 and the ~~guard~~-member or personal representative shall be made a party plaintiff or party  
5 defendant by order of court.

6 (e) The amount of compensation and other benefits paid or payable on account of ~~such~~  
7 the injury or death shall not be admissible in evidence in any proceeding against the third party.  
8 If the third party defending ~~such~~the proceeding, by answer duly served on the State,  
9 sufficiently alleges that actionable negligence of the State joined and concurred with the  
10 negligence of the third party in producing the injury or death, then an issue shall be submitted  
11 to the jury in ~~such~~the case as to whether actionable negligence of the State joined and  
12 concurred with the negligence of the third party in producing the injury or death. The State  
13 shall have the right to appear, to be represented, to introduce evidence, to cross-examine  
14 adverse witnesses, and to argue to the jury as to this issue as fully as though it were a party  
15 although not named or joined as a party to the proceeding. ~~Such issue~~The issue as to the State's  
16 negligence shall be the last of the issues submitted to the jury. If the verdict ~~shall be~~  
17 that actionable negligence of the State did join and concur with that of the third party in producing  
18 the injury or death, then the court shall reduce the damages awarded by the jury against the  
19 third party by the amount which the State would otherwise be entitled to receive therefrom by  
20 way of subrogation hereunder and the entire amount recovered, after such reduction, shall  
21 belong to the ~~guard~~-member or personal representative free of any claim by the State and the  
22 third party shall have no further right by way of contribution or otherwise against the State,  
23 except any right which may exist by reason of an express contract of indemnity between the  
24 State and the third party, which was entered into prior to the injury to the ~~guard~~-member.

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

- 29 a. First to the payment of actual court costs taxed by judgment.
- 30 b. Second to the payment of the fee of the attorney representing the  
31 person making settlement or obtaining judgment, and ~~such~~this fee  
32 shall not exceed one third of the amount obtained or recovered of the  
33 third party.
- 34 c. Third to the reimbursement of the State for all benefits by way of  
35 compensation or medical treatment expense paid or to be paid by the  
36 State pursuant to G.S. 127A-108.
- 37 d. Fourth to the payment of any amount remaining to the ~~guard~~-member  
38 or personal representative.

39 (2) The attorney fee paid under ~~(f)(1)~~subdivision (1) of this section shall be paid  
40 by the ~~guard~~-member and the State in direct proportion to the amount each  
41 shall receive under ~~(f)(1)c and (f)(1)d~~hereof ~~sub-subdivisions (1)c. and d. of~~  
42 this subsection and shall be deducted from ~~such~~the payments when  
43 distribution is made.

44 (g) In any proceeding against or settlement with the third party, every party to the claim  
45 for compensation shall have a lien to the extent of the party's interest under ~~(f)~~hereofsubsection  
46 (f) of this section upon any payment made by the third party by reason of ~~such~~the injury or  
47 death, whether paid in settlement, in satisfaction of judgment, as consideration for covenant not  
48 to sue, or otherwise and ~~such~~the lien may be enforced against any person receiving ~~such~~the  
49 funds. Neither the ~~guard~~-member or personal representative nor the State shall make any  
50 settlement with or accept any payment from the third party without the written consent of the  
51 other and no release to or agreement with the third party shall be valid or enforceable for any

1 purpose unless both State and ~~guard~~-member or personal representative join therein; provided,  
2 that this sentence shall not apply if the State is made whole for all benefits paid or to be paid by  
3 ~~him the member or personal representative~~ under this Chapter less attorney's fees as provided  
4 by ~~(f)(1) and (2) hereof~~ subsection (f) of this section and the release to or agreement with the  
5 third party is executed by the ~~guard~~-member. The Attorney General shall have the right on  
6 behalf of the State to reduce by compromise its claim.

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

12 ...

13 "Article 9.

14 "Privilege of Organized State Militia and Reserve Components of the Armed Forces of the  
15 United States~~Armed Forces~~.

16 ...

17 "**§ 127A-117. Contributing members.**

18 Each organization of the North Carolina National Guard and naval militia may, besides its  
19 regular and active members, enroll contributing members on payment in advance by each  
20 person desiring to become ~~such a~~ contributing member of not less than ten dollars (\$10.00) per  
21 annum, which money shall be paid into the unit fund. Each contributing member shall be  
22 entitled to receive from the commanding officer thereof a certificate of membership.

23 "**§ 127A-118. Organizations may own property; actions.**

24 Organizations of the North Carolina National Guard and naval militia shall have the right to  
25 own and keep real and personal property, which shall belong to the organization; and the  
26 commanding officer of any organization may recover for its use debts or effects belonging to it,  
27 or damages for injury to ~~such property,~~ the property. An action for such recovery to of debts,  
28 effects, or damages must be brought in the name of the commanding officer thereof of the  
29 organization before any court of justice within the State having jurisdiction; and no suit or  
30 complaint pending in his or her name shall be abated by his or her ceasing to be commanding  
31 officer of the organization; but upon motion of the commander succeeding him ~~such~~ or her the  
32 new commander shall be admitted to prosecute the suit or complaint in like manner and with  
33 like effect as if it had been originally commenced by him or her.

34 "**§ 127A-119. When families of soldiers, airmen and sailors supported by county.**

35 When any citizen of the State is absent on duty as a member of the North Carolina National  
36 Guard, State defense militia or naval militia, and ~~his the member's~~ family members are unable  
37 to support themselves during ~~his the member's~~ absence, the board of commissioners of ~~his the~~  
38 member's county, on application, shall make a reasonable allowance towards their ~~maintenance~~  
39 ~~such allowance as may be deemed reasonable.~~ maintenance."

40 "Article 10.

41 "Care of Military Property.

42 "**§ 127A-125. Custody of military property.**

43 All public military property, except when used in the performance of military duty, shall be  
44 kept in armories, or other properly designated places of deposit; and it shall be unlawful for any  
45 person charged with the care and safety of ~~said public~~ military property to allow ~~the same~~ it  
46 out of his or her custody, except as ~~above specified.~~ specified in this section.

47 "**§ 127A-126. Other suitable storage facilities.**

48 All public military property of every description which may not be distributed among the  
49 units of the North Carolina National Guard or State defense militia according to law shall be  
50 stored and kept at suitable storage facilities as determined by the Adjutant General.

51 "**§ 127A-127. Property kept in good order.**

1 Every officer and enlisted member belonging to any unit equipped with public military  
2 property shall keep and preserve ~~such~~the property in good order; and for neglect to do so may  
3 be punished as a court-martial may direct.

4 **"§ 127A-128. Equipment and vehicles.**

5 Equipment and vehicles issued by the Department of Defense to the North Carolina  
6 National Guard or State defense militia shall be used solely for military purposes, except in  
7 those specific cases where nonmilitary use is authorized by the Department of Defense ~~and/or~~  
8 the Governor. Necessary expense in maintaining ~~such~~ equipment and vehicles, not provided for  
9 by the federal ~~government~~government, shall be a proper charge against State funds  
10 appropriated for the North Carolina National Guard: Provided, ~~such~~the expense shall be  
11 specifically authorized by the Governor and certified by the Adjutant General.

12 **"§ 127A-129. Transfer of property.**

13 All officers accountable or responsible for public funds, property, or books, before being  
14 relieved from the duty, shall turn them over ~~the same~~ according to the regulations prescribed by  
15 the Governor.

16 **"§ 127A-130. Replacement of lost or damaged property.**

17 Whenever any military property issued to the North Carolina National Guard or State  
18 defense militia ~~of the State~~ shall have been lost, damaged, or destroyed, and upon report of a  
19 disinterested surveying officer it shall appear that the loss, damage, or destruction of property  
20 was due to carelessness or neglect, or that its loss, damage or destruction could have been  
21 avoided by exercise of able care, the money value of ~~such~~the property shall be charged to the  
22 responsible officer or enlisted member, and the pay of ~~such~~the officers and enlisted members  
23 from both federal and State funds at any time accruing may be stopped and applied to the  
24 payment of any such indebtedness until ~~same~~it is discharged.

25 **"§ 127A-131. Unlawful conversion or willful destruction of military property.**

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

31 (b) Any person, firm or corporation receiving in pledge or buying from any other  
32 person, firm or corporation for the purpose of resale any goods, to include arms, ammunition,  
33 explosives, equipment, clothing, supplies and materials, which may reasonably be thought to be  
34 the property of the ~~armed forces~~Armed Forces of the United States and their reserve  
35 components or of the militia of the State of North Carolina, shall keep a register and shall enter  
36 therein a true and accurate record of each purchase, showing the name, social security number  
37 and address of the person from whom purchased, the name and address of the firm or  
38 corporation from whom purchased, together with the amount paid for each item or lot of small  
39 items, the date of purchase, the serial numbers of all items bearing serial numbers, and any  
40 other marks, brands or descriptions which will serve to identify the items purchased. The  
41 register shall be at all times open to the inspection of the public. Any person, firm or  
42 corporation failing to comply with this provision shall be guilty of a Class 1 misdemeanor; and  
43 any person, firm or corporation making a false entry in such register shall be guilty of a Class 1  
44 misdemeanor.

45 "Article 11.

46 "Support of Militia.

47 ...

48 **"§ 127A-137. Requisition for federal funds.**

49 The Governor shall make requisition upon the secretary of the appropriate service for ~~such~~  
50 the State allotment from federal funds as may be appropriate for the support of the militia.

51 **"§ 127A-138. Local appropriations; unit funds.**

1 (a) Every municipality and county within the State is hereby authorized and empowered  
2 to appropriate for the benefit of any unit or units of the militia ~~such-the~~ amounts of public funds  
3 from year to year as the governing body of ~~such-the~~ municipality or county may deem wise,  
4 patriotic and expedient; and is further authorized, either alone or in connection with others, to  
5 provide heat, electricity, water, telephone service and other costs of operation and maintenance  
6 of any armory. ~~Such-These~~ appropriations may be funded by the levy of property taxes  
7 pursuant to G.S. 153A-149 and G.S. 160A-209 or by the allocation of other revenues whose  
8 use is not otherwise restricted by law.

9 (b) Any funds donated to any unit or units of the militia by local governments, civic  
10 organizations or private sources, short-term rental of their armory buildings, or funds earned  
11 through vending machine commissions and items of similar nature shall remain at the unit or  
12 units to be expended in accordance with rules and regulations prescribed by the Secretary.

13 **"§ 127A-139. Allowances made to different organizations and personnel.**

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

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

29 (c) There shall be allowed annually sufficient funds to be allocated by the Secretary of  
30 Crime Control and Public Safety among the federally recognized units of the North Carolina  
31 National Guard and their headquarters, ~~NCNG State Pistol Team, NCNG State Rifle Team,~~  
32 ~~NCARNG Aviation Support Facility, and NCARNG Aviation Flight Activity~~ a pistol team, a  
33 rifle team, aviation support facilities, and aviation flight activities for administrative and  
34 operating expenses, including heat, electricity, telephone, postage, office supplies and  
35 equipment, minor repairs and replacement of equipment, and ~~such-any~~ other expenses and  
36 special items of equipment not otherwise provided ~~as-that~~ may be authorized in accordance  
37 with North Carolina National Guard rules and regulations.

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

39 (e) The commanding officers of all organizations participating in the appropriations  
40 herein made shall render an itemized statement of all funds received from any source whatever  
41 for the support of their respective organizations in ~~such-the~~ manner and on ~~such-the~~ forms as  
42 ~~may be~~ prescribed by the Secretary through the Adjutant General. Failure on the part of any  
43 officer to submit promptly when due the financial statement of ~~his-the~~ officer's organization  
44 will be sufficient cause to withhold all appropriations for ~~such-organizations-the~~ the organization.

45 "Article 12.

46 "General Provisions.

47 **"§ 127A-145. Reports of officers.**

48 All officers of the North Carolina National Guard, the State defense militia, and the naval  
49 militia shall make ~~such~~ returns and reports to the Governor, the Secretary of Defense, or to ~~such~~  
50 officers ~~as they may designate~~ designated by them, at ~~such-the~~ times and in ~~such-the~~ form as  
51 ~~may~~ from time to time be prescribed.



1 **"§ 127A-146. Officer to give notice of absence.**

2 When any officer shall have occasion to be absent from ~~his-the officer's~~ usual residence one  
3 week or more, ~~he-the officer~~ shall notify the officer next in command, and also ~~his-the officer's~~  
4 next superior officer in command, of ~~his-the officer's~~ intended absence, and shall arrange for  
5 the officer next in command to handle and attend to all official communications.

6 **"§ 127A-147. Orders, rules, regulations and Uniform Code of Military Justice applicable**  
7 **to militia when not in service of United States.**

8 The North Carolina National Guard, State defense militia and naval militia, when not in the  
9 service of the United States, shall be governed by State law, the orders, rules and regulations of  
10 the Adjutant General, regulations promulgated by the secretary of the appropriate service of the  
11 ~~armed forces~~-Armed Forces of the United States, and the Uniform Code of Military Justice, as  
12 amended from time to time.

13 **"§ 127A-148. Commander may prevent trespass and disorder.**

14 The commander upon any occasion of duty may place in arrest during the continuance  
15 thereof any person who shall trespass upon the campground, parade ground, armory, or other  
16 place devoted to ~~such-that~~ duty, or who shall in any way or manner interrupt or molest the  
17 orderly discharge of duty by those under arms, or shall disturb or prevent the passage of troops  
18 going to or returning from any duty. ~~He-The commander~~ may prohibit and prevent the sale or  
19 use of all spirituous liquors, wine, ale, beer, or cider, the holding of huckster or auction sales,  
20 and all gambling within the limits of the post, ~~campground, campground or~~ place of  
21 encampment, ~~parade, parade,~~ or drill under his or her command, or within ~~such-any~~ limits not  
22 exceeding one mile therefrom ~~as he-that the commander~~ may prescribe. ~~And he-The~~  
23 commander may in ~~his-the commander's~~ discretion abate as common nuisance all such sales.

24 **"§ 127A-149. Power of arrest in certain emergencies.**

25 In the event members of the North Carolina National Guard or State defense militia are  
26 called out by the Governor pursuant to the authority vested in ~~him-the Governor~~ by the  
27 Constitution, they shall have ~~such-the~~ power of arrest ~~as may be~~ reasonably necessary to  
28 accomplish the purpose for which they have been called out.

29 **"§ 127A-150. Immunity of guardsmen from civil and criminal liability.**

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

33 (b) ~~Whenever members~~-Members of the North Carolina National Guard or State  
34 defense militia shall have the immunities of a law-enforcement officer whenever they are called  
35 upon to execute the ~~laws, laws;~~ engage in disaster ~~relief, relief;~~ suppress or prevent actual or  
36 threatened riot or ~~insurrection, insurrection;~~ repel ~~invasion, invasion;~~ or apprehend or ~~disburse~~  
37 disperse any sniper, rioters, mob or unlawful ~~assembly, they shall have the immunities of a~~  
38 law enforcement officer assembly.

39 (c) Any civil claim against a member of the North Carolina National Guard or State  
40 defense militia allegedly arising from the action or inaction of ~~such-the~~ member of the North  
41 Carolina National Guard or State defense militia while in line of duty shall be filed within two  
42 years of the date of the occurrence or forever barred.

43 **"§ 127A-151. Organizing company without authority.**

44 If any person shall organize a military company, or drill or parade under arms as a military  
45 body, except under the militia laws and regulations of the State, or shall exercise or attempt to  
46 exercise the power or authority of a military officer in this State, without holding a commission  
47 from the Governor, ~~he-the person~~ shall be guilty of a Class 1 misdemeanor.

48 **"§ 127A-152. Placing name on muster roll wrongfully.**

49 If any officer of the militia of the State shall knowingly or willfully place, or cause to be  
50 placed, on any muster roll the name of any person not regularly or lawfully enlisted, or the  
51 name of any enlisted ~~man-member~~ who is dead or who has been discharged, transferred, or has

1 lost membership for any cause whatsoever, or who has been convicted of any infamous crime,  
2 ~~he the officer~~ shall be guilty of a Class 1 misdemeanor.

3 **"§ 127A-153. Protection of uniform.**

4 (a) The wearing of any military uniform of the United States ~~government~~ by members  
5 of the militia shall be pursuant to applicable regulations promulgated by the respective ~~armed~~  
6 ~~services~~ Armed Forces of the United States and regulations of the Adjutant General of North  
7 Carolina not inconsistent with federal uniform regulations.

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

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

16 (d) Persons not subject to courts-martial who violate the regulations referred to in ~~(a)~~  
17 ~~and (b) above~~ subsections (a) and (b) of this section may be charged and tried in the State  
18 courts and upon conviction shall be punished as provided in ~~(e) above~~ subsection (c) of this  
19 section.

20 **"§ 127A-154. Upkeep of properties.**

21 There shall be paid from the appropriations ~~from the~~ North Carolina National Guard ~~such~~  
22 the amounts as ~~may be~~ necessary for the maintenance, upkeep, and improvement of State  
23 military properties and facilities. Provided, ~~such these~~ expenditures shall be approved and  
24 authorized by the Governor.

25 **"§ 127A-155. When officers authorized to administer oaths.**

26 Officers of the North Carolina National Guard are authorized to administer oaths in all  
27 circumstances pertaining to any military matter whenever an oath is required.

28 "Article 13.

29 "Armories.

30 **"§ 127A-161. Definitions.**

31 As used in this Article, the following terms mean:

- 32 (1) ~~Armory:~~ Armory. – Any building or building complex and related facilities,  
33 including the lands for them, which are intended to be utilized by the militia  
34 for training, administration, storage, and the maintenance and servicing of  
35 equipment.
- 36 (2) ~~Armory site:~~ Armory site. – That land, meeting federal and State  
37 specifications, upon which an armory may be constructed.
- 38 (3) ~~Department:~~ Department. – The North Carolina Department of Crime  
39 Control and Public Safety.
- 40 (4) ~~Facilities:~~ Facilities. – Those adjuncts to an armory, including but not  
41 limited to yards, storage buildings, sheds, ramps, racks, target ranges,  
42 furniture, fixtures and other equipment and installations.
- 43 (5) ~~Funds:~~ Funds. – Any moneys appropriated by any municipality, county, the  
44 State or the United States government and made available for the purpose of  
45 acquiring armory sites or constructing or repairing any armory, warehouse,  
46 or other facility for the use of any unit or for any other purpose in connection  
47 with the housing, training, instruction or promotion of the interest of any  
48 unit.
- 49 (6) ~~Municipality:~~ Municipality. – Any incorporated city, town or village.
- 50 (7) ~~Unit:~~ Unit. – Any organizational entity of the militia.

51 ...

**"§ 127A-163. Powers of Department specified.**

The Department of Crime Control and 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) ~~As such~~When acting as an agency of the State of North Carolina, ~~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 ~~such~~ other facilities ~~as may be found 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;~~ sites, for the construction and maintenance of ~~armories~~ armories, and for providing ~~facilities, which~~ facilities that may at any time become available for ~~such~~ those purposes;
- (4) To receive and administer any other funds which may be available in furtherance of any activity in which the Department of Crime Control and Public Safety is authorized and empowered to engage under the provisions of this Article; and
- (5) To adopt ~~such~~ rules and ~~regulations~~ ~~as may be necessary~~ to carry out the intent and purpose of this Article.

...

**"§ 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 ~~such~~ the amounts and in ~~such~~ the proportions ~~as may be deemed~~ adequate and necessary by the governing body of the county and/or municipality desiring to participate in the armory construction program.

**"§ 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.

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

The unexpended portion of any appropriation from the ~~general fund~~ General Fund of the State for the purposes set out in this Article, remaining at the end of any biennium, shall not revert to the ~~general fund~~ 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.

"Article 14.

"National Guard Mutual Assistance Compact.

...

**"§ 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

- 1 Guard forces are, or may reasonably be expected to be, unable to cope with  
2 substantial and imminent danger to the public safety.
- 3 (2) "Requesting state" means the state whose governor requests assistance in  
4 coping with an emergency.
- 5 (3) "Responding state" means the state furnishing aid, or requested to furnish  
6 aid.
- 7 (b) Upon request of the governor of a party state for assistance in an emergency, the  
8 governor of a responding state shall have authority under this Compact to send without the  
9 borders of ~~his~~ the responding state and place under the temporary command of the appropriate  
10 National Guard or other military authorities of the requesting state all or any part of the  
11 National Guard forces of ~~his~~ the responding state as ~~he~~ the governor of the responding state  
12 may deem necessary, and the exercise of ~~his~~ the governor's discretion in this regard shall be  
13 conclusive.
- 14 (c) The governor of a party state may withhold the National Guard forces of ~~his~~ that  
15 governor's state from such use and recall any forces or part or member thereof previously  
16 deployed in a requesting state.
- 17 (d) Whenever National Guard forces of any party state are engaged in another state in  
18 carrying out the purposes of this Compact, the members thereof so engaged shall have the same  
19 powers, duties, rights, privileges and immunities as members of National Guard forces in such  
20 other state. The requesting state shall save members of the National Guard forces of responding  
21 states harmless from civil liability for acts or omissions in good faith which occur in the  
22 performance of their duty while engaged in carrying out the purposes of this Compact, whether  
23 the responding forces are serving the requesting state within its borders or are in transit to or  
24 from such service.
- 25 (e) Subject to the provisions of subsections (f), (g) and (h) of this section, all liability  
26 that may arise under the laws of the requesting state, the responding state, or a third state on  
27 account of or in connection with a request for aid, shall be assumed and borne by the requesting  
28 state.
- 29 (f) Any responding state rendering aid pursuant to this Compact shall be reimbursed by  
30 the requesting state for any loss or damage to, or expense incurred in the operation of any  
31 equipment answering a request for aid, and for the cost of the materials, transportation and  
32 maintenance of National Guard personnel and equipment incurred in connection with such  
33 request: Provided, that nothing herein contained shall prevent any responding state from  
34 assuming such loss, damage, expense or other cost.
- 35 (g) Each party state shall provide, in the same amounts and manner as if they were on  
36 duty within their state, for the pay and allowances of the personnel of its National Guard units  
37 while engaged without the state pursuant to this Compact and while going to and returning  
38 from such duty pursuant to this Compact. Such pay and allowances shall be deemed items of  
39 expense reimbursable under subsection (f) of this section by the requesting state.
- 40 (h) Each party state providing for the payment of compensation and death benefits to  
41 injured members and the representatives of deceased members of its National Guard forces in  
42 case such members sustain injuries or are killed within their own state, shall provide for the  
43 payment of compensation and death benefits in the same manner and on the same terms in case  
44 such members sustain injury or are killed while rendering aid pursuant to this Compact. Such  
45 compensation and death benefits shall be deemed items of expense reimbursable pursuant to  
46 subsection (f) of this section.
- 47 **"§ 127A-178. Delegation.**
- 48 Nothing in this Compact shall be construed to prevent the governor of a party state from  
49 delegating any of ~~his~~ the governor's responsibilities or authority respecting the National Guard,  
50 provided that such delegation is otherwise in accordance with law. For purposes of this

1 Compact, however, the governor shall not delegate the power to request assistance from  
2 another state.

3 **"§ 127A-179. Limitations.**

4 Nothing in this Compact shall:

- 5 (1) Expand or add to the functions of the National Guard, except with respect to  
6 the jurisdictions within which such functions may be performed;
- 7 (2) Authorize or permit National Guard units to be placed under the field  
8 command of any person not having the military or National Guard rank or  
9 status required by law for the field command position in question.

10 ...

11 **"§ 127A-181. Payment of liability to responding state.**

12 Upon presentation of a claim therefor by an appropriate authority of a state whose National  
13 Guard forces have aided this State pursuant to the Compact, any liability of this State pursuant  
14 to G.S. 127A-177(f) ~~of this Compact~~ shall be paid out of the general fund.

15 **"§ 127A-182. Status, rights and benefits of forces engaged pursuant to Compact.**

16 In accordance with ~~G.S. 127A-177(h) of this Compact~~, G.S. 127A-177(h), members of the  
17 National Guard forces of this State shall be deemed to be in State service at all times when  
18 engaged pursuant to this Compact, and shall be entitled to all rights and benefits provided  
19 pursuant to the laws of this State.

20 **"§ 127A-183. Injury or death while going to or returning from duty.**

21 All benefits to be paid under G.S. 127A-177(h) ~~of the foregoing Compact~~ shall include any  
22 injury or death sustained while going to or returning from such duty.

23 **"§ 127A-184. Authority of responding state required to relieve from assignment or  
24 reassign officers.**

25 Nothing in ~~the foregoing~~ this Compact shall authorize or permit state officials or military  
26 officers of the requesting state to relieve from assignment or reassign officers or  
27 noncommissioned officers of National Guard units of the responding state without  
28 authorization by the appropriate authorities of the responding state.

29 ...

30 "Article 16.

31 "National Guard Reemployment Rights.

32 ...

33 **"§ 127A-202. Rights.**

34 Upon release from State duty, the employee shall make written application to ~~his~~ the  
35 employee's previous employer for reemployment within five days of ~~his~~ the employee's release  
36 from duty or from hospitalization continuing after release. If the employee is still qualified for  
37 ~~his~~ the employee's previous employment, ~~he~~ the employee shall be restored to his previous  
38 position or to a position of like seniority, status and salary, unless the employer's circumstances  
39 now make the restoration unreasonable. If the employee is no longer qualified for ~~his~~ the  
40 employee's previous employment, ~~he~~ the employee shall be placed in another position, for  
41 which ~~he~~ the employee is qualified, and which will give ~~him~~ the employee appropriate  
42 seniority, status and salary, unless the employer's circumstances now make the placement  
43 unreasonable.

44 ...."

45 **SECTION 1.(b)** The Revisor of Statutes is authorized to substitute, consistent with  
46 this act, the term "Armed Forces of the United States" for the following terms, wherever these  
47 terms appear in the General Statutes, when referring to the Armed Forces of the United States:

- 48 (1) "armed forces."
- 49 (2) "Armed Forces."
- 50 (3) "armed forces of the United States."
- 51 (4) "armed services of the United States."

- 1           (5)    "United States armed services."
- 2           (6)    "United States armed forces."
- 3           (7)    "United States Armed Forces."
- 4           (8)    "U.S. armed forces."
- 5           (9)    "U.S. Armed Forces."

6           **SECTION 1.(c)** The Revisor of Statutes is authorized to insert, consistent with this  
7 act, the words "United States" before references to the "army," "navy," "marine corps," "coast  
8 guard," and "air force," wherever these terms appear in the General Statutes, when referring to  
9 a branch or branches of the Armed Forces of the Unites States, and to capitalize those terms.

10           **SECTION 1.(d)** The Revisor of Statutes is authorized to substitute, consistent with  
11 this act, the term "North Carolina National Guard" for the terms "National Guard," "national  
12 guard," and "guard," wherever these terms appear in the General Statutes, when referring to the  
13 North Carolina National Guard.

14           **SECTION 2.** This act is effective when it becomes law.