HOUSE . . . . . No. 4109

The Commonwealth of Massachusetts

HOUSE OF REPRESENTATIVES, May 27, 2014.

The committee on Ways and Means, to whom was referred the Bill granting, updating, and revising defense policies of the Commonwealth (printed in House, No. 3868), reports recommending that the same ought to pass with an amendment substituting therefor the accompanying bill (House, No. 4109).

For the committee,

BRIAN S. DEMPSEY.

HOUSE . . . . . No. 4109

The Commonwealth of Massachusetts

In the Year Two Thousand Fourteen

An Act granting, updating, and revising defense policies of the Commonwealth.

Be it enacted by the Senate and House of Representatives in General Court assembled, and by the authority of the same, as follows:

SECTION 1. Chapter 6 of the General Laws is hereby amended by striking out section 18, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 18. There shall be an armory commission composed of the following members:the adjutant general, who shall serve as chairperson; the state quartermaster, who shall serve as clerk; 2 assistant adjutants general, 1 of whom shall be an army officer and 1 of whom shall be an air officer; and the army national guard facilities management officer. Neither the adjutant general, the state quartermaster, nor the army national guard facilities management officer shall receive any additional compensation on account of their membership in the armory commission. The assistant adjutants general shall, if not currently on full-time military duty, receive 1 day's pay of grade and allowances for each day of service as a member of the armory commission.

SECTION 2. Chapter 15A of the General Laws is hereby amended inserting a new section-

Section 44. (a) As used in this section, the following words shall, unless context clearly requires otherwise, have the following meanings:-

"Armed forces", the armed forces of the commonwealth as defined in section 10 of chapter 33, including a state guard or similar organization composed as permitted by law, or of the armed forces of another state or territory.

"Service in the uniformed services" shall, in addition to the definition provided for in 34 C.F.R. 668.18, also mean either voluntary or involuntary service in the armed forces of the commonwealth, including a state guard or similar organization composed as permitted by law,

when engaged in duty under chapter 33 or 32 U.S.C., or of the armed forces of another state or territory ordered to perform service under appropriate state or federal authority, without regard for the number of consecutive days of duty.

(b) Members of the armed forces of the commonwealth ordered to state active duty pursuant to chapter 33 or of the armed forces of another state or territory ordered to state active duty under appropriate authority who attend an educational institution within the commonwealth shall be entitled to all rights, protections, privileges and immunities afforded under the federal regulation providing readmission requirements for service members pursuant to 34 C.F.R. 668.18, as from time to time amended.

(c) Any service performed pursuant to chapter 33, similar authority of another state or territory, or 32 U.S.C. when in support of a critical homeland security or emergency management operation as determined by the adjutant general shall not be included in the calculation of a student's cumulative length of absence from an educational institution.

(d) No student shall incur any academic or financial penalty by virtue of performing service in the uniformed services. A student who enrolls in, but is unable to complete an academic course in order to perform service in the uniformed services, shall have the option to complete the course at a later date without penalty or withdraw from the course with a full refund of fees and tuition paid. If the academic course is no longer available upon the student's return from service in the uniformed services, the student shall be permitted to complete a replacement course for equivalent credit without penalty. If the student chooses to withdraw from the course, the student's record shall reflect that the withdrawal is due to active military service.

SECTION 2. Chapter 33 of the General Laws is hereby amended by striking out sections 1 and 2, as appearing in the 2012 Official Edition, and inserting in place thereof the following sections:-

Section 1. As used in this chapter, the following words shall, unless the context clearly requires otherwise, have the following meanings:"Commander-in-chieft", the governor of the commonwealth.

"Enlisted person", a member, other than a commissioned officer or a warrant officer, in the military forces of the commonwealth.

"Military custodian", the senior military officer in command of troops stationed in an armory or air installation unless otherwise designated by the commander-in-chief.

"Military forces of the commonwealth" shall include the organized militia as defined in section 4, and members of the unorganized militia, as defined in section 3, when drafted or accepted as volunteers under sections 55 and 56.

"Noncommissioned officer", an enlisted person serving at a rank of corporal through command sergeant major or the air equivalents of these ranks.

"Officer", a commissioned officer or a warrant officer in the military forces of the commonwealth.

"Organization", a command composed of 2 or more units.

"Unit" shall include headquarters, detachment, company, battery, troop, and equivalent air unit, and such other elements as may be determined by the commander-in-chief to come under such designation.

Section 2. The militia of the commonwealth shall consist of all able-bodied citizens and all other able-bodied persons who have declared their intention to become citizens of the United States, between the ages of 18 and 45, and who are residents of the commonwealth, and of such other persons as may, upon their own application, be enlisted or commissioned therein pursuant to any provision of this chapter, subject to exemptions created by law.

SECTION 3. Section 3 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 5, the words "the suppression of riots" and inserting in place thereof the following words:- threats to homeland security.

SECTION 4. Said chapter 33 is hereby further amended by striking out sections 4 and 4A, as so appearing, and inserting in place thereof the following 2 sections:-

Section 4. The active or organized militia shall be composed of volunteers, and shall comprise the aides-de-camp of the commander-in-chief, the state staff, the armed forces of the commonwealth as defined in section 10, the National Lancers, and the retired list. The organized militia shall constitute the military division of the executive branch of the commonwealth.

Section 4A. The National Lancers shall be organized as the commander-in-chief directs, and may retain their name and the right to wear distinctive uniforms, provided that such uniforms are approved by the commander-in-chief. The National Lancers may retain their methods of selecting their officers and conducting their internal affairs consistent with the laws of the commonwealth and the laws of the United States. The National Lancers may use land and stable facilities belonging to the commonwealth for their activities, equipment and exercises, without charge, and may receive from the commonwealth, its departments, divisions or bureaus, or the federal government, without charge, any surplus equipment, goods, or other materials, as are available, provided that all such equipment, goods and materials remain the property of the commonwealth and are accounted for as such.

SECTION 5. Section 7 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “from time to time”.

SECTION 6. Section 8 of said chapter 33 of the General Laws is hereby repealed.

SECTION 7. Said chapter 33 is hereby further amended by striking out section 10, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 10. The armed forces of the commonwealth shall consist of the active national guard, army and air, the inactive national guard, army and air, and, whenever necessary, a state defense force or similar organization composed as the commander-in-chief may prescribe.

SECTION 8. Section 11 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “from time to time”.

SECTION 9. Said chapter 33 is hereby further amended by striking out section 12, as so appearing, and inserting in place thereof the following section:-

Section 12. No person shall be discriminated against or be segregated in the military forces of the commonwealth because of race, color, religious creed, sexual orientation or national origin.

SECTION 13. Said chapter 33 is hereby further amended by striking out sections 13 to 15, inclusive, as appearing in the 2012 Official Edition, and inserting in place thereof the following 4 sections:-

Section 13. (a) As used in this section, the following words shall, in addition to the definitions provided in 38 U.S.C. 4303, and unless context clearly requires otherwise, have the following meanings:-

“Benefit of employment” shall include a workplace free of conduct that has the purpose or effect of unreasonably interfering with an individual’s work performance by creating an intimidating, hostile, humiliating or offensive work environment.

“Service in the uniformed services”, voluntary or involuntary service in the armed forces of the commonwealth as defined in section 10, including the state defense force or similar organization composed as permitted by law, the state staff, or in the armed forces of another state or territory.

“Uniformed services”, the armed forces of the commonwealth, including the state defense force or similar organization composed as permitted by law, and the state staff when engaged in duty under this chapter or 32 U.S.C. or the armed forces of another state or territory when ordered to active duty under appropriate authority.

(b) Members of the armed forces of the commonwealth, including the state defense force or similar organization composed as permitted by law, the state staff, or the armed forces of another state or territory who are employed within the commonwealth and ordered to active duty under this chapter, appropriate authority of another state or territory, or 32 U.S.C. shall be entitled to all rights, protections, privileges, and immunities afforded under the Uniformed Services Employment and Reemployment Rights Act, codified at 38 U.S.C. 4301 et seq., as from time to time amended.

(c) For the purposes of this section, the adjutant general of the commonwealth shall perform all duties assigned to the secretaries of defense and labor of the United States under 38 U.S.C. 4301 et seq., with assistance from the secretary of labor and workforce development of the commonwealth when so requested by the adjutant general.

(d) For purposes of this section, the attorney general of the commonwealth shall perform all duties assigned to the attorney general of the United States under 38 U.S.C. 4301 et seq.

(e) For the purposes of this section, the secretary of veterans' services of the commonwealth shall perform all duties assigned to the secretary of veterans affairs of the United States under 38 U.S.C. 4301 et seq.

(f) In the case of an action against a private employer under this section, the action may proceed in the district or superior courts of the commonwealth. In the hearing and determination of applications under this section, courts shall have discretion to assess no fees or court costs against a person so applying for such benefits.

(g) Any service performed pursuant to this chapter or similar authority of another state or territory when in support of a critical homeland security or emergency management operation as determined by the adjutant general shall not be included in the calculation of a person's cumulative period of absence from a position of employment.

Section 13A. (a) As used in this section, the following terms shall, in addition to the definitions provided for in 50 U.S.C. App. § 511 and unless context clearly requires otherwise, have the following meanings:-

"Military service", duty performed under this chapter, appropriate authority of another state or territory or 32 U.S.C.

"Service member", a member of the armed forces of the commonwealth as defined in section 10, including the state defense force or similar organization composed as permitted by law, the state staff, or the armed forces of another state or territory.

(b) All members of the armed forces of the commonwealth, including the state defense force or similar organization composed as permitted by law, the state staff and those who reside within the commonwealth pursuant to military service, and all members of the armed forces of

another state or territory who reside within the commonwealth, ordered to active duty under this chapter, appropriate authority of another state or territory or 32 U.S.C. shall be entitled to all rights, protections, privileges, and immunities afforded under the Service members Civil Relief Act, codified at 50 U.S.C. App. Section 501 et seq., as from time to time amended, except for the provisions of Sections 536 and 541 to 549, inclusive, pertaining to life insurance.

(c) For the purposes of this section, the adjutant general of the commonwealth shall perform all duties assigned to the secretary concerned under 50 U.S.C. App. § 501 et seq., as from time to time amended.

(d) For purposes of this section, the attorney general of the commonwealth shall perform all duties assigned to the attorney general of the United States under 50 U.S.C. App. § 501 et seq., as from time to time amended.

(e) A person aggrieved by a violation of this section may bring an action in any court of competent jurisdiction whether by way of an original complaint, counter-claim, cross-claim or third party action, for damages and equitable or declaratory relief, including an injunction, as the court deems to be necessary and proper.

(f) At least 30 days prior to filing an action pursuant to this section, a written demand for relief identifying the claimant as a service member entitled to relief under this section and reasonably describing the injury or harm suffered shall be mailed to any prospective respondent. Failure to respond within 30 days of receipt shall be deemed a denial of the demand. The demand requirements of this paragraph shall not apply if the claim is asserted by way of counterclaim or cross-claim.

(g) The court may award to a claimant who prevails in an action brought under this section the costs of the action, including reasonable attorney fees. If the court finds for the claimant, recovery shall be in the amount of actual damages or $1000, whichever is greater. If the court finds the complained of act was willful or knowing or that the refusal to grant relief upon demand was made in bad faith with reason to know that the act complained of violated this section, then the recovery shall be the greater of $5000 or 3 times the amount of the damages the court finds.

(h) Nothing in this section shall be construed to preclude or limit any other remedy otherwise available under law, including consequential and punitive damages or double or treble damages pursuant to chapter 93A.

Section 14. The aides-de-camp of the commander-in-chief shall consist of such appointed or detailed aides as the commander-in-chief may deem necessary. Officers detailed under this section shall not be relieved from their ordinary national guard duties and may be removed at any time by and in the sole discretion of the commander-in-chief.

Section 15. (a) The state staff shall consist of 1 adjutant general, with the grade of major general, who shall be the chief of staff to the commander-in-chief and the chief of the state staff, and the officers provided for in this section, each of whom shall perform their duties under the direction of the adjutant general. Officers of the state staff, with the exception of the adjutant general, shall be appointed for an initial period of 6 years, with the opportunity for reappointment every 2 years thereafter. To be eligible for initial appointment on the state staff, an officer shall have federal recognition in an organization or unit of the Massachusetts national guard, army or air. The officer shall thereafter hold the position for the period of appointment or until reaching the age of 65 years, whichever occurs first, unless separated from the position prior to that time by resignation, disability, for cause in accordance with section 29 or by a legally convened court-martial in accordance with this chapter.

(b) The adjutant general shall be appointed by the commander-in-chief from those persons who are, or have been, active commissioned officers in the Massachusetts national guard, army or air, for a period of not less than 5 years and who have attained, while serving therein, or in the armed forces of the United States, a grade not lower than that of colonel. The adjutant general shall serve for a term coterminous with that of the commander-in-chief and shall receive the same pay and allowances as an officer of the regular service of corresponding grade with corresponding length of service.

The adjutant general shall be charged with carrying out the policies of the commander-in-chief and shall issue orders in the commander-in-chief's name, provided, however, that the adjutant general shall not personally exercise command of troops.

The adjutant general shall be the immediate adviser of the commander-in-chief on all matters relating to the military and shall be charged with the planning, development and execution of the program of the military forces of the commonwealth. The adjutant general shall cause the state staff to support the mobilization and demobilization of the organized militia for use in the national defense, for state defense and emergencies.

The adjutant general shall hold major organization commanders responsible for the proper training of their commands. All orders and instructions for the government of the militia and of the officers and enlisted persons therein shall be issued and communicated to those concerned through military channels.

The adjutant general shall make such returns and reports as may be prescribed by the commander-in-chief or required by the laws or regulations of the commonwealth or of the United States, and may detail such officers of appropriate grade and employ such clerks and other assistants as may be necessary in the division at an expense not exceeding the amount so appropriated. The adjutant general shall keep a roster of all Massachusetts veterans in alphabetical order by cities and towns and shall provide, upon request, said rosters to such cities and towns.

Except where powers are specifically conferred on the adjutant general by law or regulation, the adjutant general shall have no authority independent from the commander-in-chief, from whom all orders shall emanate, and the acts of the adjutant general shall be regarded as in execution of the orders of the commander-in-chief.

Under the control of the commander-in-chief, the adjutant general shall be the executive and administrative head of the military division of the commonwealth. Except as otherwise provided, the adjutant general shall personally approve all contracts and may require personal approval of all expenditures made by the division.

(c) There shall be no fewer than 3 and no more than 5 full-time assistant adjutants general appointed by the adjutant general, 1 of whom shall be designated the assistant chief of the state staff, who shall perform such duties delegated to them by the adjutant general, or as prescribed in orders and regulations. Of the full-time assistant adjutants general, at least 1 shall be an army officer and at least 1 shall be an air officer. The assistant adjutant general who is designated as the assistant chief of the state staff shall be the state finance officer for the receipt, disbursement and accounting for all funds received for the payment, equipment, travel and subsistence of the armed forces of the commonwealth and shall be advanced by the commonwealth, under such rules and regulations as the state comptroller may prescribe, 100 per cent of the pay, allowances, and mileage for duty under section 38, 40, 41 or 60, and shall return the unexpended balance of the sum so advanced as soon as possible, or at such times as the comptroller may require. The assistant adjutant general designated as the assistant chief of the state staff shall give bond to the commonwealth in the penal sum of $20,000 with surety or sureties approved by the commander-in-chief, conditioned upon the faithful performance of all duties as prescribed in this chapter.

(d) There shall be 1 full-time state quartermaster appointed by the adjutant general who shall, except as otherwise provided in this chapter and in chapter 344 of the acts of 1936, have the care and control of all land and buildings held for military purposes and all other military property of the commonwealth except that which is by law expressly entrusted to the keeping of others. The state quartermaster shall be adviser to the military division on all technical matters involved in the construction, alteration and repair of all structures and installations intended for the use of the armed forces of the commonwealth. The state quartermaster shall give bond to the commonwealth in the penal sum of $20,000 with surety or sureties approved by the commander-in-chief, conditioned upon the faithful performance of all duties as prescribed in this chapter. The state quartermaster shall be clerk of the armory commission established in section 18 of chapter 6.

(e) There shall be a state surgeon appointed by the adjutant general who shall be adviser to the military division on all matters pertaining to the medical services of the armed forces of the commonwealth. The state surgeon shall be a member of the board established in section 90.

(f) There shall be a full time state judge advocate appointed by the adjutant general who shall be the legal adviser of the military division on all matters referred by law or by the commander-in-chief. The state judge advocate shall examine and report in writing to the commander-in-chief on all proceedings of courts-martial requiring the action of the commander-in-chief and shall be a member of the boards established by by sections 52 and 90. The state judge advocate may be detailed by the commander-in-chief to attend any encampment, and during the encampment shall within the limits of the camp and for a distance of 1 mile outside said limits have the jurisdiction of a district court of all offenses then and there committed.

(g) There may be a state inspector general appointed by the adjutant general who shall perform such duties as prescribed in orders by the commander-in-chief.

(h) Except when ordered on duty under section 38, 40, 41 or 60, the officers of the state staff shall respectively receive the following salaries: the assistant adjutants general, the same pay and allowances as an officer of the regular service of corresponding grade of at least lieutenant colonel but not exceeding that of colonel with corresponding length of service; provided, however, that the assistant adjutant general who is designated assistant chief of the state staff shall hold the grade of brigadier general and shall receive the same pay and allowances as an officer of the regular service of corresponding grade with corresponding length of service, but not exceeding that of brigadier general; the state quartermaster, the same pay and allowances as an officer of the regular service of corresponding grade with corresponding length of service but not exceeding that of colonel; the state judge advocate, the same pay and allowances as an officer of the regular service of corresponding grade with corresponding length of service but not exceeding that of colonel; the state surgeon and the state inspector general, the same pay and allowances as officers of the regular service of corresponding grade with corresponding length of service but not exceeding that of colonel for each day of service, not to exceed $25,000 dollars each per annum.

(i) During the absence or disability of an officer of the state staff, or during such time as the officer is in the active military service of the United States, that officer's duties shall be performed by another officer designated in orders by the commander-in-chief.

SECTION 11. Sections 16, 17 and 18 of said chapter 33 of the General Laws are hereby repealed.

SECTION 12. Section 19 of said chapter 33, as appearing in the 2012 Official Edition, is hereby amended by striking out , in line 16, the words “by his order” and inserting in place thereof the following words:- by order of the commander-in-chiefand at the commender-in-chief’s sole discretion.

SECTION 13. Said chapter 33 is hereby further amended by striking out sections 19A and 20, as so appearing, and inserting in place thereof the following 2 sections:-

Section 19A. The armory commission established by section 18 of chapter 6 and the war records commission referenced in section 16 of chapter 6 are hereby declared to be within the military division.

Section 20. No person shall be eligible to appointment or be appointed as an officer in the armed forces of the commonwealth who is not a citizen of the United States of 18 years of age or over, who is under sentence of a court or board which disables such person from holding office or command, who is under suspension from command in the armed forces of the United States or of any state, who is under sentence of imprisonment by a civilian court, whether suspended or not, or who is made ineligible to such service under the laws of the United States. No person shall receive a commission in the national guard, army or air, unless such person possesses such minimum qualifications as may be prescribed by the laws of the United States and has qualified for such commission.

SECTION 14. Section 21 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “he is”.

SECTION 15. Said section 21 of said chapter 33 of the General Laws, as so appearing, is hereby further amended by striking out, in line 4, the word “his” and inserting in place thereof the following word:- the.

SECTION 16. Said chapter 33 is hereby further amended by striking out sections 22 to 24, inclusive,, as so appearing, and inserting in place thereof the following 3 sections:-

Section 22.(a) Whenever necessary, there shall be a military service commission, hereinafter called the commission, consisting of the adjutant general and six officers of the Massachusetts national guard, army and air. Three of such officers shall be selected from the army national guard, and 3 of such officers shall be selected from the air national guard. The commander-in-chief shall initially detail 2 such officers for terms of 1 year each, 2 such officers for terms of 2 years each and 2 such officers for terms of 3 years each. Thereafter all officers will be detailed to the commission for terms of 3 years by the commander-in-chief.

(b) Subject to Article LIII of the Articles of Amendment of the Constitution, a person certified as eligible for any specific grade in the national guard, army or air, under the laws of the United States, and graduates of the Massachusetts Military Academy, shall be eligible for appointment without professional examination.

Section 23. (a) Brigadier generals shall be appointed by the commander-in-chief upon recommendation of their superior commander, if any, from the colonels who have had active service for at least 2 years as a colonel.

(b) Regimental and separate organization commanders shall be appointed by the commander-in-chief upon the recommendation of superior commanders, if any.

(c) All other officers shall be appointed by the commander-in-chief upon the recommendation of appropriate commanders, approved by superior commanders.

Section 24. Every commissioned officer, before entering upon the performance of official duties or exercising any command, shall take and subscribe the following oath and declaration:

I, _____, do solemnly swear that I will bear true faith and allegiance to the commonwealth of Massachusetts, and will support the constitution thereof and the constitution of the United States, that I will obey the lawful orders of all my superior officers, and that I will faithfully and impartially discharge and perform all the duties incumbent on me as _____ according to the best of my ability and understanding, agreeably to the rules and regulations of the constitution and the laws of the commonwealth and the United States. So help me, God.

All officers shall take and subscribe the said oath before any competent authority or an officer qualified under section 81 to administer oaths, except retired officers and aides-de-camp of the commander-in-chief who may take said oath before any competent authority. The following certificate shall be printed on every commission and shall be signed by the person before whom the officer is qualified:

This may certify that _____, commissioned as within on this _____ day of _____, A.D., ___ personally appeared and took and subscribed the oaths required by the constitution and laws of this commonwealth and by a law of the United States, as qualification for the discharge of official duties.

Before me,_____.

SECTION 17. Section 25 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word “his”.

SECTION 18. Said section 25 of said chapter 33, as so appearing, is hereby further amended by striking out, in lines 3 and 4, the following words “he shall possess” and inserting in place thereof the following word:- possessing.

SECTION 19. Section 26 of chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the words “except an air medical group or any army medical battalion”.

SECTION 20. Said section 26 of chapter 33 of the General Laws, as so appearing, is hereby amended by striking out the last sentence.

SECTION 21. Said chapter 33 is hereby further amended by striking out section 29, as so appearing, and inserting in place thereof the following section:-

Section 29. (a) At any time, the moral character, capacity and general fitness for the service of any service member may be investigated and determined by an efficiency board of 3 commissioned officers, senior in rank to the service member and designated by the commander-in-chief. One board member shall be a noncommissioned officer senior in rank to the service member if the service member before the board is an enlisted person. Any such investigation and board proceedings shall provide the service member due process consistent with military practice. The investigation may include misconduct in civil life for which the service member is not amenable to court-martial. If the findings of the board are unfavorable to the service member and are approved by the commander-in-chief, the service member shall be appropriately disciplined or discharged.

(b) A service member may be honorably discharged by the commander-in-chief upon tender of resignation or upon appointment in a regular component or in another reserve component of the armed forces of the United States.

(c) The commander-in-chief may discharge a service member who is under sentence of imprisonment by a civilian court, whether suspended or not, or who has been absent without leave for 2 months continuously.

SECTION 22. Section 30 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “Officers” and inserting in place thereof the following words:- Service members.

SECTION 23. Said chapter 33 is hereby further amended by striking out sections 31 and 32, as so appearing, and inserting in place thereof the following 2 sections:-

Section 31. An officer or noncommissioned officer in the military forces of the commonwealth at the age of 65 shall be honorably discharged or, upon request by such officer and pursuant to the eligibility requirements of this section, placed upon the retired list with the highest grade held in the active military service.

A member of the armed forces of the commonwealth, with at least a total of 20 years of service as an officer or noncommissioned officer in the armed forces of the commonwealth or the United States, of which at least the last 5 years of service shall have been in the armed forces of the commonwealth or the state staff, may be placed upon the retired list with any grade held by the member in the active military service or 1 grade higher, but in any case not to exceed the grade of major general; provided, however, that any such member who has had federal recognition in the grade of major general may, upon request, be placed upon the retired list in the grade of lieutenant general.

Service members on the retired list accepting appointment to or a commission in the active military forces of the commonwealth may again be placed upon said retired list, at their own request, with their former grade on the retired list, or any lower grade.

Section 32. The commander-in-chief may order any service member before a medical board consisting of at least 3 medical officers, and if the board reports such service member to be physically unable to perform the assigned military duties, the commander-in-chief may order the service member discharged or placed on the retired list.

SECTION 24. Section 33 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word “him” and inserting in place thereof the following words:- the commander-in-chief.

SECTION 25. Section 34 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “, as he deems necessary”.

SECTION 26. Section 39 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the word “his” and inserting in place thereof the following words:- the commander-in-chief’s.

SECTION 27. Said chapter 33 is hereby further amended by striking out section 41, as so appearing, and inserting in place thereof the following section:-

Section 41. (a) In case of a tumult, riot, mob or body of persons acting together by force to violate or resist the laws of the commonwealth, or when such tumult, riot or mob is threatened, or in case of public catastrophe or natural disaster, or the usual police provisions are inadequate to preserve order and afford protection to persons and property, or additional support to civilian law enforcement is necessary, and the fact appears to the commander-in-chief, to the sheriff of a county, to the mayor or city manager of a city or to the selectmen of a town, the commander-in-chief, upon initiative of the commander-in-chief, or at the request of such sheriff, mayor or city manager or selectmen, may issue an order directed to the commander of any organization or unit of the armed forces of the commonwealth directing the command, or any part thereof, to appear at a time and place therein specified to aid the civil authority in suppressing such violations, preserving order, affording such protection and supporting the laws.

(b) Military police forces of the national guard, both army and air, provided that all such military police forces shall hold the appropriate law enforcement occupational specialty as certified by the armed forces of the United States, shall have and exercise all the powers of constables, except the service of civil process, and of police officers and shall appear for duty armed and equipped: (i) at all times upon all land and buildings held for military purposes and all other military property of the commonwealth; or (ii) when on duty within the commonwealth under this chapter or Title 32 of the United States Code.SECTION 28. Section 43 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “or section forty-two”.

SECTION 29. Section 44 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “, or a precept under section forty-two,”.

SECTION 30. Said section 44 of said chapter 33, as so appearing, is hereby further amended by striking out, in line 5, the words “and also by letter.”

SECTION 31. Said chapter 33 is hereby further amended by striking out sections 45 to 47, inclusive,, as so appearing, and inserting in place thereof the following 3 sections:-

Section 45. An officer who neglects or refuses to obey an order of the commander-in-chief or an officer or enlisted person who fails to obey an order may be punished in accordance with this chapter.

Section 46. The troops shall appear at the time and place appointed by the order issued under section 41, armed and equipped, and shall obey and execute the orders they have received, or any additional orders received from the commander-in-chief.

Section 47. No officer or enlisted person of the armed forces of the commonwealth, not on leave of absence, shall be excused from duty when ordered out under section 38, 40 or 41 except upon a physician’s certificate of disability. If an officer or enlisted person is absent without leave and does not produce that certificate to the commanding officer, that service member may be punished in accordance with this chapter for desertion or absence without leave. Sickness shall not be an excuse unless the service member procures that certificate or satisfies the court-martial that the service member was unable to procure the certificate.

SECTION 32. Section 48 of said chapter 33, as so appearing, is hereby amended by striking out, in line 2, the words “forty-two,”.

SECTION 33. Section 49 of said chapter 33, as so appearing, is hereby amended by striking out, in lines 2 and3, the words “under a precept in accordance with section forty-two, or”.

SECTION 34. Said chapter 33 is hereby further amended by striking out section 50, as so appearing, and inserting in place thereof the following section:-

Section 50. (a) The armed forces of the United States and any part of the armed forces of the commonwealth parading or performing any duty according to law shall have the right of way in any street or highway through which they may pass, and drivers of military vehicles may drive such vehicles through an intersection of ways contrary to any traffic signs or signals regulating traffic at such intersection, if a police officer or duly authorized member of the military service is stationed at the intersection to regulate traffic; provided, that the carriage of the United States mails, the legitimate functions of the police and the progress and operation of fire departments shall not be so disrupted. Motor vehicles of the military forces of the commonwealth may be equipped with sirens or other audible warning devices and with visible warning devices as provided in section 7E of chapter 90.

(b) A vehicle owned or operated by a designated member of the armed forces of the commonwealth who is assigned public safety duties that require immediate emergency response to incidents or events, such as emergency response to hazardous materials or weapons of mass destruction incidents may, with prior written authorization by the adjutant general, and only by authority of a permit issued by the registrar of motor vehicles, have mounted thereon flashing, rotating or oscillating red lights. Said emergency lights may only be activated when circumstances reasonably require an immediate emergency response. Upon termination of the duties which warranted the issuance of the permit, the adjutant general shall immediately notify in writing the registrar of motor vehicles who shall forthwith revoke such red light permit. Upon revocation, the registrar of motor vehicles shall notify the owner and operator of the vehicle for which such permit was issued and the owner and operator shall thereafter be subject to a fine of not less than $100 nor more than $300, unless otherwise provided.

SECTION 35. Section 51 of said chapter 33 of the General Laws, as so appearing, is hereby amended by inserting after the word “disaster”, in line 6, the following words:- threats to homeland or national security,

SECTION 36. Said chapter 33 is hereby further amended by striking out section 53, as so appearing, and inserting in place thereof the following section:-

Section 53. No officers or enlisted persons shall be liable, either civilly or criminally, for any damage to property or injury to any person, including consequential death, caused by them or by their order, while performing any military duty lawfully ordered under any provision of this chapter, unless the act or order causing such damage or injury was manifestly beyond the scope of the authority of such officers or enlisted persons and except as otherwise provided by chapter 258.

SECTION 37. Section 54 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the words “section forty, forty-one, or forty-two” and inserting in place thereof the following words:- section 40 or 41.

SECTION 38. Section 55 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 9, the word “him” and inserting in place thereof the following words:- the adjutant general.

SECTION 39. Section 56 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word “he” and inserting in place thereof the following words:- the commander-in-chief.

SECTION 40. Said chapter 33 is hereby further amended by striking out section 57, as so appearing, and inserting in place thereof the following section:-

Section 57. Except while on duty under section 38, 40, 41 or 60, or in obedience to the commander-in-chief, no officers or enlisted persons shall be required to perform military duty during the time when polls are open for an election in the city or town where they reside. Officers parading their unit or ordering it to duty, contrary to this section, shall be liable to trial and punishment in accordance with this chapter.

SECTION 41. Said chapter 33 is hereby further amended by striking out section 59, as so appearing, and inserting in place thereof the following section:-

Section 59. (a) An employee of the commonwealth in the service of the armed forces of the commonwealth or a reserve component of the armed forces of the United States shall be entitled to receive pay without loss of ordinary remuneration as a public employee during annual training under section 60 or drills and parades under section 61 not exceeding 34 days in any state fiscal year and not exceeding 17 days in any federal fiscal year, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime.

(b) An employee of the commonwealth in the service of the armed forces of the commonwealth under sections 38, 40 or 41 shall be entitled to receive pay without loss of ordinary remuneration as a public employee and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime during the first 30 consecutive days of any mission. Thereafter, any such ordinary remuneration shall be reduced by any amount received either from the United States or the commonwealth as base pay for military service performed during the same pay period, and there shall be no loss of any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime. National guard duty performed under title 32 of the United States Code shall not be deemed service in the armed forces of the commonwealth under sections 38, 40 or 41 for the purposes of this section.

(c) An employee of the commonwealth in the armed forces of the commonwealth performing duty under titles 10 or 32 of the United States Code shall be paid the regular base salary as a public employee for each pay period of such military leave of absence, reduced by any amount received either from the United States or the commonwealth as base pay for military service performed during the same pay period, and shall not lose any seniority or any accrued vacation leave, sick leave, personal leave, compensation time or earned overtime.

(d) An employee of a county, city or town within the commonwealth which, by vote of its county commissioners or city council or of its inhabitants at a town meeting, accepts this section, or has accepted similar provisions of earlier laws, shall be entitled to the benefits and protections of this section or the benefits of the accepted provision of an earlier law.

SECTION 42. Section 59A of chapter 33 of the General Laws is hereby repealed.

SECTION 43. Section 61 of said chapter 33, as so appearing, is hereby amended by striking out subsection (a) and inserting in place thereof the following subsection:-

(a) In addition to the duty required by sections 38, 40, 41 or 60, every unit of the armed forces of the commonwealth, except the state defense force or a similar organization composed as permitted by law, shall assemble for training at least 48 times in each year, and more often if so directed by the unit or organization commander. Organization drills and parades may be held in place of unit drills, and transportation to and from the place of such drills and parades shall be furnished for the units composing the organization if authorized by the commander-in-chief.

SECTION 44. Section 63 of said chapter 33 of the General Laws is hereby repealed.

SECTION 45. Said chapter 33 is hereby further amended by striking out section 64, as so appearing, and inserting in place thereof the following section:-

Section 64. The commander-in-chief may exclude traffic from highways during target practice or maneuvers of any organization or unit of the armed forces of the commonwealth or the United States or of any state thereof, whenever public convenience or safety so requires.

SECTION 46. Section 65 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2, the word “his” and inserting in place thereof the following word:- any.

SECTION 47. Said section 65 of said chapter 33, as so appearing, is hereby further amended by striking out, in lines 4 to 5, the words “his leave” and inserting in place thereof the following word:- authorization.

SECTION 48. Said chapter 33 is hereby further amended by striking out sections 66 and 67, as so appearing, and inserting in place thereof the following 2 sections:-

Section 66. Whoever willfully obstructs, interferes with, or hinders any officer or enlisted person while on duty or at any parade, drill or assembly for military purposes may be detained at the discretion of the commanding officer and delivered into the custody of any police officer for examination or trial before a court having jurisdiction of the place. A person found guilty of any of the offenses enumerated in this section, or in sections 65 or 123, or of obstructing or interfering with the armed forces of the United States or any part of the armed forces of the commonwealth in the exercise or enjoyment of the right of way granted by section 50, shall be punished by a fine of not more than $1000 or by imprisonment in a house of correction for not less than 30 days nor more than 2 ½ years or by imprisonment in the state prison for not more than 5 years, or by both such fine and imprisonment in a house of correction.

Section 67. (a) To each member who completes 3 years of honorable service in the armed forces of the commonwealth, there shall be awarded a medal, and for each additional 3 years of like service a clasp to be affixed to the ribbon pendant thereof. Members of the armed

forces of the commonwealth, active, retired or honorably discharged, who have served in the armed forces of the United States in time of war and have been honorably discharged shall receive a clasp indicative of such service, to be affixed to the ribbon pendant of the medal herein provided.

(b) The adjutant general and 2 field grade officers of the armed forces of the commonwealth, detailed by the commander-in-chief, shall act as a medal of valor commission and may receive recommendations, through military channels, for the award of the medal of valor to members of the armed forces of the commonwealth, who, by reason of conspicuous gallantry at the risk of their own life, above and beyond the call of duty, while on military service, are recommended for the award of said medal of valor.

(c) The adjutant general and 2 field grade officers of the armed forces of the commonwealth, detailed by the commander-in-chief, shall constitute a commission to receive recommendations, through military channels, for the award of the Massachusetts military medal to a member of the armed forces of the commonwealth who, while on military service, performed a singularly meritorious act of heroism which distinguished that service member above peers but to a lesser degree than that required for awarding of the medal of valor.

(d) The adjutant general and 2 field grade officers of the armed forces of the commonwealth, detailed by the commander-in-chief, shall act as a Massachusetts medal of merit commission, and may receive recommendations, through military channels, for the award of the medal of merit to members of the armed forces of the commonwealth, the United States, any other state or territory of the United States or any other country who have distinguished themselves by exceptionally meritorious conduct in performing outstanding services while members of the armed forces of the commonwealth, the United States, any other state or territory of the United States or any other country.

(e) The adjutant general may receive recommendations, through military channels, for the award of the Massachusetts commendation medal to members of the armed forces of the commonwealth, the United States, any other state or territory of the United States or any other country who have distinguished themselves by heroism, meritorious achievement or meritorious service while members of the armed forces of the commonwealth, the United States, any other state or territory of the United States or any other country.

(f) The adjutant general may receive recommendations, through military channels, for the award of the Massachusetts achievement medal to members of the armed forces of the commonwealth, the United States, any other state or territory of the United States, or any other country who have distinguished themselves by meritorious service or achievement to a lesser degree than required for award of the commendation medal while members of the armed forces of the commonwealth, the United States, any other state or territory of the United States, or any other country.

(g) Commissions constituted under subsections (b), (c) and (d) shall, after careful investigation, report their findings and recommendations to the commander-in-chief, who, if the award appears justified, shall confer upon the member the medal recommended.

Not more than 1 medal of valor, Massachusetts military medal, medal of merit, commendation medal or achievement medal shall be awarded to any person; provided, however, that a suitable clasp shall be awarded, under the same conditions.

The design of the medals hereinbefore referred to shall be approved by the art commission for the commonwealth.

The Massachusetts medal of valor, military medal, medal of merit, commendation medal and achievement medal may be awarded posthumously.

SECTION 49. Said chapter 33 is hereby further amended by striking out section 69, as so appearing, and inserting in place thereof the following section:-

Section 69. The military courts of the armed forces of the commonwealth shall be general courts-martial, special courts-martial and summary courts-martial. They shall be constituted like, and have cognizance of the same subjects, and possess like powers, except as to punishment, as similar courts provided for by the laws and regulations governing the armed forces of the United States, and proceedings of courts-martial shall follow the forms and modes of procedure prescribed for said similar courts, except as expressly modified by this chapter and in accordance with the rules and regulations made and published by the commander-in-chief or a designee.

SECTION 50. Section 70 of chapter 33 of the General Laws is hereby repealed.

SECTION 51. Said chapter 33 is hereby further amended by striking out sections 71 to 74, inclusive, as so appearing, and inserting in place thereof the following 4 sections:-

Section 71. General courts-martial of the armed forces of the commonwealth may be convened by the commander-in-chief and may impose 1 or more of the following punishments or sentences for each offense: (1) fine, not exceeding $2000; (2) forfeiture of pay and allowances; (3) reprimand; (4) dismissal or dishonorable discharge from the service; (5) reduction of noncommissioned officers; and (6) confinement for a period not to exceed that provided for by the laws and regulations governing the armed forces of the United States except as expressly modified by this chapter.

Section 72. Special courts-martial shall have power to try any person subject to military law, except a commissioned officer, for any crime or offense made punishable by the laws and regulations governing the armed forces of the United States or by the provisions of this chapter. Special courts-martial shall have the same powers of punishment as do general courts-martial, except that fines imposed shall not exceed $1000.

Section 73. Summary courts-martial shall have the power to try enlisted personnel for any non-capitol offense made punishable by the laws and regulations governing the armed forces of the United States or by the provisions of this chapter. Noncommissioned officers shall not be tried by summary courts-martial if they object thereto before arraignment. Summary courts-martial shall have power to impose a fine not exceeding $250 for any single offense and may reduce enlisted personnel. The proceedings of such court shall be informal and the record thereof shall be substantially the same as that prescribed for the armed forces of the United States.

Section 74. (a) Under such regulations as the commander-in-chief may prescribe, a commanding officer may, in addition to or in lieu of admonition or reprimand, impose one of the following disciplinary punishments for minor offenses without the intervention of a court-martial:

(1) Upon any member of the command, the withholding of privileges for a period not to exceed 2 consecutive weeks, or restriction to certain specified limits for a similar period, and the imposition of a fine not exceeding $200 for any single offense.

(2) Upon enlisted personnel of the command, extra duties for a period not to exceed 2 consecutive weeks, and not to exceed 2 hours per day, or reduction to the next inferior grade.

(b) A person punished under authority of this section who deems such punishment unjust or disproportionate to the offense may, through the proper channel, appeal to the next superior authority. The appeal shall be promptly forwarded and decided; provided, however, that the person punished may in the meantime be required to undergo the punishment adjudged. The officer who imposes the punishment, that officer's successor in command and superior authority shall have power to suspend, set aside or remit any part or amount of the punishment and to restore all rights, privileges and property affected.

(c) The imposition and enforcement of disciplinary punishment under authority of this section for any act or omission shall not be a bar to trial by court-martial for a serious crime or offense growing out of the same act or omission, and not properly punishable under this section; provided, however, the fact that a disciplinary punishment has been enforced may be shown by the accused upon trial, and when so shown shall be considered in determining the measure of punishment to be adjudged in the event of a finding of guilty.

SECTION 52. Section 75 of said chapter 33 of the General Laws is hereby repealed.

SECTION 53. Said chapter 33 is hereby further amended by striking out sections 77 and 78, as appearing in the 2012 Official Edition, and inserting in place thereof the following 2 sections:-

Section 77. The senior member of a court-martial and summary court officers may issue warrants to arrest accused persons and to bring an accused person before the court for trial whenever that person shall have disobeyed a written order from the convening authority, delivered to that person with a copy of the charge or charges, and directing that person to appear before the court. Said officials may issue subpoenas, and may enforce the attendance of witnesses and the production of books and documents, and may sentence for a refusal to be sworn or to answer, as in actions before civilian courts.

Section 78. (a) All processes and sentences of courts-martial shall be executed by an officer qualified to serve criminal process, and pre-trial confinement or commitment under said sentences may be made to any jail, house of correction or prison in the commonwealth. The master or keeper of the jail, house of correction or prison to which a person is sentenced shall receive and detain that person in the same manner as if sentenced by a civilian court. The necessary charges shall be paid by the commonwealth and approved by the adjutant general.

(b) All fines assessed by a court-martial and collected or withheld shall be paid to the commonwealth through the adjutant general subject to such regulations as the adjutant general may prescribe.

SECTION 54. Section 82 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the word “civil” and inserting in place thereof the following word:- civilian.

SECTION 55. Said chapter 33 is hereby further amended by striking out section 83, as so appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 83. (a) For duty performed under the provisions of sections 60 and 61 by members of the armed forces of the commonwealth not serving in a federal duty status, there may be allowed and paid from funds appropriated therefor the same rate of pay of like grade as would be received by them if they were on active duty status in the armed forces of the United States with less than 2 years service, and such subsistence, travel or other allowances as the adjutant general may authorize.

(b) For duty performed under the provisions of sections 38, 40 and 41, there shall be allowed and paid to members of the armed forces of the commonwealth from funds appropriated therefor the same rate of base pay for length of service and allowances for housing and subsistence as if they were on active duty status in the armed forces of the United States; provided, however, that such compensation shall not be less than $100 per day and shall be subject to the provisions of subsection (c).

(c) For duty performed under the provisions of sections 38, 40, 41 and 60, the pay and allowances authorized by this section shall be reduced by any amounts received from the United

States government as pay or allowances for military service performed during the same pay period.

SECTION 56. Section 85 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “forty-two”.

SECTION 57. Sections 86 and 87 of said chapter 33 of the General Laws are hereby repealed.

SECTION 58. Said chapter 33 is hereby further amended by striking out section 88, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 88. An officer or enlisted person of the military division, while performing any duty lawfully ordered under any provision of this chapter, or a person not a member of the armed forces of the commonwealth, but who is the owner, or is employed by the owner of a motor vehicle lawfully loaned to or hired by the commonwealth under section 89 and whose services are loaned or given to the commonwealth for any purpose set forth in said section, or a person rendering assistance to any of the armed forces of the commonwealth in connection with the use of a motor vehicle under any provision of section 89 by request or order of any responsible officer of said armed forces and who by reason of such voluntary action, employment or assistance and without fault or neglect on the part of such person, receives an injury, is disabled or contracts a sickness or disease, incapacitating that person from pursuing the usual business or occupation of such person, shall, during the period of such incapacity, receive compensation to be fixed by a board appointed under the provisions of section 90 to inquire into the claim, and actual necessary expenses for medical services and care, medicines and hospitalization, replacement or repair of eyeglasses, dentures or prosthetic devices worn or carried. In case of death resulting from such injury, sickness or disease, except in the case of any such death for which compensation is payable under the provisions of the second paragraph of this section, compensation shall be paid to the decedent’s dependents, as determined in accordance with clause (3) of section 1 and section 32 of chapter 152, in the amounts provided by and otherwise subject to section 31 of said chapter; provided, that dependents other than widows and children shall receive compensation to be fixed by said board, which shall exercise all the powers given by said provisions of chapter 152 to the division of industrial accidents.

In the case of the death of a member of the Massachusetts national guard resulting from injury, sickness or disease received while in the line of duty pursuant to orders under titles 10 and 32 of the United States Code or this chapter, and that injury, sickness or disease resulting in the death was not the result of fault or neglect on the part of the decedent, a single payment of $100,000 shall be paid to the surviving spouse. If there is no surviving spouse the amount shall be paid to the child, or children in equal shares, of the decedent. If there is no surviving spouse and no child or children, the surviving mother and father of the decedent, if the father and mother were dependent on the decedent for support at the time of the decedent’s death each shall receive

$50,000. If only 1 parent was dependent on the decedent for support, that parent shall receive $100,000. The standard for dependency shall be determined in accordance with clause (3) of section 1 and section 32 of chapter 152. All claims presented under the provision of this section shall be made in accordance with the procedure provided for under section 90.

SECTION 59. Section 89 of said chapter 33, as so appearing, is hereby amended by striking out, in line 10, the words “or forty-two”.

SECTION 60. Said chapter 33 is hereby further amended by striking out section 90, as so appearing, and inserting in place thereof the following section:-

Section 90. Claims against the commonwealth for compensation under the provisions of section 88 shall be referred to a board of 3 officers, including the state judge advocate and a medical or medical service officer, appointed by the commander-in-chief. The board in consideration of the claim shall, except as otherwise provided in section 88, take into account any compensation received by the claimant or the claimant’s dependents from the United States. The board shall have the same power to take evidence, administer oaths, issue subpoenas and compel witnesses to attend and testify and produce books and papers, and to punish their failure to do so as is possessed by a general court-martial. The findings of the board shall be subject to the approval of the adjutant general. The amounts so found due and so approved shall be a charge against the commonwealth and shall be paid in the same manner as other military accounts.

SECTION 61. Said chapter 33 is hereby further amended by striking out section 94, as so appearing, and inserting in place thereof the following section:-

Section 94. No person performing any services under section 88 shall, by reason of such services, be deemed to be an employee of the commonwealth or, if not already an officer or enlisted person of the military division of the commonwealth, to be such an officer or enlisted person, or to be entitled to receive any pension or retirement allowance from the commonwealth, or to have acquired any right, or to be entitled to receive any other benefit or compensation. A person claiming the right to receive compensation from the commonwealth under section 88 shall, within a reasonable time after receiving an injury, or contracting a sickness or disease, while performing services referred to therein, give to the adjutant general notice of the name and place of residence of such person, and the time, place and cause of such injury, sickness or disease. Such notice shall be in writing, signed by the person claiming compensation or by someone in that person’s behalf.

SECTION 62. Said chapter 33 is hereby further amended by striking out sections 96 and 97, as so appearing, and inserting in place thereof the following 2 sections:-

Section 96. Organization and unit funds shall be maintained and conducted as the commander-in-chief may prescribe in regulations. The administration of such a fund by the

officer designated in regulations to have the custody thereof shall be one of the duties pertaining to the office of such officer. Upon the disbandment of any organization or unit maintaining a fund as above provided, the adjutant general shall at once become custodian or treasurer thereof and shall distribute the funds to such organizations or units as the adjutant general may determine to be equitably entitled thereto, or, if no organization or unit is so entitled, shall draw a check for the total amount on deposit in favor of the state treasurer, who shall hold such funds or shall expend them as the general court may prescribe; provided, however, that in the case of organizations or units ordered into the active service of the United States, the adjutant general may act as custodian of such funds during the period of active federal service.

Section 97. There may annually be allowed and paid quarterly from money appropriated for the purpose in substantially equal installments under such regulations as may be promulgated by the commander-in-chief, to the organizations and units of the armed forces of the commonwealth, when not in federal service, appropriate sums for administration and maintenance including telephone, postage, printing, office and other necessary supplies not available through issue, for athletic or recreational equipment for the common use of enlisted personnel, for clerical assistance, for the repair and alteration of uniforms and such other military purposes as may be approved by the commander-in-chief.

SECTION 63. Said chapter 33 is hereby further amended by striking out section 99, as so appearing, and inserting in place thereof the following section:-

Section 99. Whoever, not being in the service of the armed forces of the United States or of the commonwealth, appears in public wearing the distinctive uniform of any branch of such service shall be punished by a fine of not more than $1000 or by imprisonment for not more than 6 months, or both. This section shall not apply to any person discharged from such service, for any cause other than the own unworthiness of such person, wearing a uniform in order to take part in any military or naval parade or on any occasion of ceremony, or to any person in the service of the armed forces of the United States, discharged for any cause other than the own unworthiness of such person, wearing the uniform from place of discharge to the home of such person. Any person found violating any provision of this section may be arrested without a warrant by any officer qualified to serve criminal process; provided, that nothing in this section shall subject to penalty any action with respect to the wearing of uniforms of the armed forces of the United States which is authorized by federal law.

SECTION 64. Section 100 of said chapter 33 of the General Laws is hereby repealed.

SECTION 65. Said chapter 33 is hereby further amended by striking out section 103, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 103. An officer or enlisted person shall be responsible for the proper care, safekeeping and return, when so directed, of all items of military property issued by the United States or the commonwealth. Service members shall use the same for military purposes only,

and upon being discharged, transferred or otherwise separated from the military service, or upon the demand of a commanding officer, shall forthwith deliver such item or items to the commanding officer, or to any officer ordered to receive them, in good order and condition, fair wear thereof excepted.

SECTION 66. Section 104 of said chapter 33 of the General Laws is hereby repealed.

SECTION 67. Section 105 of said chapter 33, as appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 16 to 17, the words “by him”.

SECTION 68. Section 106 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 4, the word “his”.

SECTION 69. Said chapter 33 is hereby further amended by striking out sections 107 and 108, as so appearing, and inserting in place thereof the following 2 sections:-

Section 107. A person who knowingly purchases, retains or has possession of any item of military property of the United States or of the commonwealth, unless the same shall have been issued to such person, or is in possession in accordance with law, shall be punished by a fine not exceeding 10 times the value thereof.

Section 108. An officer or noncommissioned officer of the armed forces of the commonwealth to whom monies or public property are at any time issued may be required to give bond to the commonwealth, in such amount and with such surety or sureties as may be determined by the commander-in-chief, conditioned upon the faithful performance of the duties of such officer, accounting properly for all monies or property received by virtue of the assignment and duties during the term of such bond, and turning over to immediate successor of the officer, or other officer designated by the commander-in-chief, all records, reports, monies or property for which the officer is accountable as provided for under section 112.

SECTION 70. Section 109 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 2,the words “he deems” and inserting in place thereof the following word:- deemed

SECTION 71. Section 110 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in lines 2 to3, the words “ninety-six”.

SECTION 72. Said chapter 33 is hereby further amended by striking out sections 111 and 112, as so appearing, and inserting in place thereof the following 2 sections:-

Section 111. (a) An officer or enlisted person shall be responsible for military property of the United States and of the commonwealth received by such officer or enlisted person, and shall not sell, loan or transfer it or any part of it, without the authority of the commander-in-chief and shall be liable to the commonwealth for all such property defaced, injured, destroyed or lost

by neglect or default of the officer or enlisted person, or for its value, to be recovered in an action of tort brought by the state judge advocate in the name of the commonwealth.

(b) Service members shall exercise the strictest care and vigilance for the preservation of the individual and unit clothing and equipment and other property furnished their commands; and, in case of any loss thereof or damage thereto by their neglect or default, they shall be subject to appropriate punishment in accordance with the military justice provisions of this chapter.

(c) When any officer or enlisted person neglects or refuses to return any military property of the United States or of the commonwealth or of any unit, or to account satisfactorily for it to the officer responsible for its custody, or to the officer ordered to receive it, such custodian or officer may make a written complaint directly to the colonel of state police, describing the missing property, and thereupon the state police shall make diligent search for the property, and shall take possession of all such property and turn the same over to the officer responsible for its custody.

Section 112. (a) An officer of the military forces of the commonwealth, upon vacating an office, shall turn over to an immediate successor, or other officer designated by the commander-in-chief, all records, reports and military property in possession of such officer belonging or in any way pertaining to such office.

(b) Upon the disbandment of any unit which has received military property for military use, the service members responsible for such property shall return it to the officer ordered to receive it.

(c) Until such service member responsible for military property or a legal representative receives from the adjutant general notice that the property accounts of such service member have been found correct, the liability of such service member or of the estate of such service member for military property shall continue. Upon the death or desertion of a service member responsible for military property, the immediate commanding officer shall at once cause such property to be collected, and a correct inventory made by physical count and examination. Such inventory shall be forwarded to the adjutant general, and compensation for any shortage may be recovered as provided in subsection (a) of section 111.

SECTION 73. The second sentence of section 113 of said chapter 33 of the General Laws, as so appearing, is hereby amended by inserting after the word “sold”, in line 4, the following words:- or otherwise disposed of.

SECTION 74. Section 114 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 1, the words “governor, with the advice and consent of the council” and inserting in place thereof the following words:- commander-in-chief.

SECTION 75. Section 115 of said chapter 33 of the General Laws is hereby repealed.

SECTION 76. Section 116 of said chapter 33 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by striking out, in lines 1 to2, the words “governor and council” and inserting in place thereof the following words:- commander-in-chief.

SECTION 77. Section 121 of said chapter 33 of the General Laws is hereby repealed.

SECTION 78. Said chapter 33 is hereby further amended by striking out sections 122 and 123, as appearing in the 2012 Official Edition, and inserting in place thereof the following 2 sections:-

Section 122. (a) Armories and air installations provided for the armed forces of the commonwealth shall be used by them for the military purposes or purposes incidental thereto designated by the commander-in-chief. A state armory or air installation when not in use for military purposes may be used without charge and subject only to rules and regulations promulgated by the commander-in-chief for social activities or athletics by military units stationed in such armory or air installation. Non-military use of an armory under this section shall not be permitted if it interferes with its military use.

(b) An armory or air installation may be used for the purposes set forth in subsections (c) and (e) in accordance with terms and conditions prescribed by the commander-in-chief, upon application therefor to the adjutant general through the military custodian of the armory or air installation. No such application shall be granted unless it is approved by the military custodian and the adjutant general and contains a certificate from each unit commander whose drill or other military duty is to be changed or modified by such use, stating the approval of the application and that such change or modification will not in any way be detrimental to the unit or to its training, and further stating in detail the manner in which said change or modification is to be effected. Such applications may, after the lapse of one year from the date of their receipt, be destroyed or disposed of by order of their lawful custodian, and any proceeds received in the course of their disposal shall be paid to the commonwealth.

(c) Subject to subsection (b), armories or air installations may be used temporarily for the following public purposes:

(1) A public meeting, hearing, or activity held by a city, town, state, or federal department, board, commission, or similar entity;

(2) An examination conducted by a state department, board, commission, or similar entity;

(3) A meeting of an organization composed of veterans of the armed forces of the commonwealth or the armed forces of the United States, their auxiliaries, drill teams, bands and

drum corps of organizations of veterans as well as a board of trade, a chamber of commerce, or a meeting to raise funds for any non-sectarian charitable or non-sectarian educational purpose;

(4) A meeting to raise funds for a benefit association of police officers or firefighters;

(5) Elections, primaries or caucuses, and town meetings;

(6) A meeting or rally of a political party or a municipal party, as defined by section 1 of chapter 50, conducted by the duly constituted local committee of such party; provided, that no party shall be permitted to use the same armory more than twice in the same year; and

(7) A meeting of any organization of boys and girls under 18 years of age, or of any student military organization sponsored or sanctioned by the armed forces of the commonwealth or the armed forces of the United States. Upon application to the adjutant general and on terms and conditions prescribed by him or her such organizations may be permitted to use for parade or drill purposes such grounds owned by the commonwealth as are used by the armed forces.

(d) Compensation for the use of any armory or air installation under subsection (c) shall be fixed by the adjutant general with the approval of the armory commission and shall be at least sufficient to cover all expenses of lighting, heating and guarding the armory or air installation, and similar expenses. Such compensation shall be paid to the adjutant general, who shall pay the same to the commonwealth.

(e) Subject to subsection (b) an armory or air installation may be used for:

(1) Athletic contests and social or civic activities conducted by responsible organizations or associations.

(2) For a period not exceeding 9 days for any exhibition of the products of labor, agriculture or industry, including any automobile exhibition conducted by a responsible organization, and, for the purpose of decorating the premises, for such additional time immediately preceding said period, not exceeding 18 hours, as may be approved by the military custodian and the adjutant general, and for the purpose of removing decorations, exhibits or equipment, for such additional time immediately following said period, not exceeding 18 hours, as may so be approved; provided, that the compensation for such uses shall in no case be less than the fair rental value, for the entire period during which the armory or air installation is occupied by any such exhibit or equipment, of halls of a similar nature in the same or a similar city or town, together with a sum sufficient to cover the expenses of providing such guards and labor as may be necessary to protect the armory or air installation while so used and to remove and replace items of military equipment while so used. Subject to the foregoing limitation, such compensation shall be fixed by the adjutant general and shall be paid as provided in subsection (d).

(f) Each organization using an armory or air installation under subsection (c) or (e) shall, under rules and regulations prescribed by the commander-in-chief, pay for any damage to or loss of any property or equipment and for any personal injury for which the adjutant general or other state official may be legally liable. Said rules and regulations may also require that such organization shall file with the adjutant general a bond in such form and amount and containing such conditions as said rules and regulations may prescribe.

(g) The adjutant general is authorized to enter into interagency agreements with other city, town, state, or federal agencies and to charge said agencies for the use of any armory, air installation or other facility under his or her control.

Section 123. Every officer whose unit occupies, or assembles or drills in any armory, air installation, drill hall or building used according to law for that purpose shall have control of such premises during the period of occupation, subject to orders of superior officers, and any person intruding contrary to commander's orders or to the orders of that commander's superior officers, or who interrupts, disturbs, obstructs or insults the troops or any of them so occupying such premises, may be ejected, forcibly if necessary, or may be dealt with as provided in sections 65 and 66 for like offences, at the discretion of such officer or of that officer's superior officers; provided, however, that in armories not classified as state armories reasonable inspection of the premises may be made by the mayor or city manager or the selectmen, or the owners of the premises.

SECTION 79. Section 124 of chapter 33 of the General Laws is hereby repealed.

SECTION 80. Said chapter 33 is hereby further amended by striking out section 126, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 126. The armory commission shall rebuild, remodel or repair state armories or air installations damaged or destroyed, and may reconstruct, remodel, enlarge or otherwise improve existing state armories, or air installations if it deems the needs of the service so require, and shall construct additional armories or air installations until the armed forces of the commonwealth shall be provided with adequate quarters.

The armory commission shall designate the location of armories and air installations so to be constructed and shall thereupon, in behalf of the commonwealth, take by eminent domain under chapter 79, or acquire by purchase or otherwise, suitable lots of land in the respective cities or towns designated, and shall erect, furnish and equip thereon armories or air installations sufficient for one or more units of the armed forces of the commonwealth as it deems necessary; provided, however no land shall be acquired and no buildings erected, reconstructed, remodeled or enlarged until the site and plans thereof, and the total amount to be authorized therefor, have been approved by the commander-in-chief.

The armory commission may, in behalf of the commonwealth, and with the approval of the commander-in-chief, take by eminent domain under chapter 79, or acquire by purchase or lease, land suitable for ranges for target practice for the armed forces of the commonwealth and upon such land may, with the approval of the commander-in-chief, erect such buildings and construct such facilities as may be needed.

Land acquired by purchase under this section shall be paid for by the commonwealth upon the execution of such a release or conveyance as shall be prescribed by the attorney general.

The armory commission may, in behalf of the commonwealth, and with the approval of the commander-in-chief, dispose of an armory or air installation, whenever it deems that the continued existence of such armory or air installation no longer suitably or efficiently serves the purposes of the armed forces of the commonwealth either due to obsolescence or changes in the defense requirements.

SECTION 81. Section 127 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in lines 4 to5 and 11 to12, the words “governor and council” and inserting in place thereof the following words:- commander-in-chief.

SECTION 82. Section 130 of said chapter 33 of the General Laws, as so appearing is hereby amended by striking out, in line 5, the word “He” and inserting in place thereof the following words:-The commander-in-chief.

SECTION 83. Section 131 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3 the words “fifty dollars” and inserting in place thereof the following words:- $500.

SECTION 84. Section 133 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 3, the words “not less than twenty, not more than five-hundred dollars” and inserting in place thereof the following words:- “not less than $200 and not more than $500.

SECTION 85. Section 135 of said chapter 33 of the General Laws, as so appearing, is hereby amended by striking out, in line 13, the words “the rate of fifteen dollars per day” and inserting in place thereof the following words:- the applicable per diem rate of the Commonwealth.

SECTION 86. Said chapter 33 is hereby further amended by striking out sections 137 and 138, as so appearing, and inserting in place thereof the following 3 sections:-

Section 137. There is hereby established a Massachusetts national guard education assistance program. This program shall be administered by the military division which shall have the authority to issue a certificate of exemption from the matriculation fee and tuition to any

member of the Massachusetts army or air national guard who is enrolled at any state institution in a program the cost of which is borne by the commonwealth and who is qualified as hereinafter provided. This certificate shall remain in effect 1 full academic year and shall be renewed after the student has completed a full academic year of work equal to 30 semester hours, in accordance with regulations prescribed by the military division. A certificate may therefore be in effect for more than 1 year.

To receive benefits from the program, the member shall be a member in good standing of the active Massachusetts army or air national guard at the beginning of each semester that benefits are payable and shall remain a member in good standing of the active Massachusetts army or air national guard throughout the entire semester for which benefits are payable.

Assistance shall continue for the benefit of the member only during such time as the member remains a student in good standing at the institution in which the member is enrolled and in no event shall any student receive the benefits for more than 130 semester hours.

Enrollment of a member in a course at said institutions shall be dependent on the availability of seats. Availability of seats for the purposes of this section shall mean vacancies that exist in a course after the enrollment of all tuition paying students, and all students who are enrolled under any scholarship or tuition waiver provisions.

Section 138. (a) As used in this section the following words shall, unless the context clearly requires otherwise, have the following meanings:—

"Chief", the chief of the Joint Base Cape Cod fire department.

"Department", the Joint Base Cape Cod fire department.

"Joint Base Cape Cod", approximately 22,000 acres of land owned by the commonwealth in Barnstable county established under chapter 196 of the acts of 1935 and used primarily for military purposes.

(b) There shall be within the military division a Joint Base Cape Cod fire department. The department shall provide air crash crew and fire protection services on the Joint Base Cape Cod. The department shall be under the supervision and control of the chief of the Joint Base Cape Cod fire department.

The chief shall be appointed by the adjutant general and may be removed by the adjutant general for cause after a hearing. The chief shall have charge of extinguishing fires on the Joint Base Cape Cod and the protection of life and property in the event of fire, aircraft mishap or explosion. The chief shall enforce all applicable state and federal fire laws and codes. The chief shall purchase, subject to the approval of the adjutant general or the adjutant general's designee, and maintain all apparatus used by the fire department, and shall make other necessary

expenditures subject to such further limitations as the adjutant general or the adjutant general's designee may prescribe.

The chief shall enter into mutual aid agreements with surrounding cities and towns as necessary. The chief shall have and exercise all the powers and discharge all the duties conferred or imposed by statute upon engineers in towns except as otherwise provided by chapter 48. The chief shall appoint a deputy chief and such officers and firefighters as he or she deems necessary and may remove the same for cause after a hearing, subject to the provisions of any applicable collective bargaining agreement. The chief, deputy chief, officers and firefighters shall be civilian employees of the military division and shall not be subject to the provisions of the General Laws establishing a civil service system. New uniformed members of the department shall be subject to the provisions for firefighters set forth in sections 61A and 61B of chapter 31.

Except as otherwise provided herein, the chief shall administer the department. He or she shall make rules and regulations for its operation, shall report annually to the adjutant general or the adjutant general's designee on the condition of the department and at such other times as the adjutant general or the adjutant general's designee shall request.

Section 139. Subject to conditions and limitations as promulgated in regulations by the commander-in-chief, the national guard is hereby authorized to use all appropriate means necessary to protect assets vital to national security classified as such according to rules, regulations, or instructions promulgated by the department of defense of the United States or the military departments thereof or as otherwise ordered by the commander-in-chief.

SECTION 87. Section 7E of chapter 90 of the General Laws, as appearing in the 2012 Official Edition, is hereby amended by inserting after the word "ambulances", in line 2, the following words:- "vehicles specified in section 50(b) of chapter 33".

SECTION 88. Section 52A of chapter 149 of the General Laws is hereby repealed.

SECTION 89. Chapter 222 of the General Laws is hereby amended by striking out section 11, as appearing in the 2012 Official Edition, and inserting in place thereof the following section:-

Section 11. Persons serving in or with the armed forces of the commonwealth or the United States or their dependents, wherever located, may acknowledge any instrument, in the manner and form required by the laws of this commonwealth, before any commissioned officer in the active service of the armed forces of the commonwealth or the United States with the rank of second lieutenant or higher in the army, air force or marine corps, or ensign or higher in the navy or United States coast guard. Any such instrument shall contain a statement that the person executing the instrument is serving in or with the armed forces of the commonwealth or the United States or is a dependent of a person serving in or with the armed forces of the

commonwealth or the United States. No such instrument shall be rendered invalid by the failure to state therein the place of execution or acknowledgment.

No authentication of the officer's certificate of acknowledgment shall be required.

Instruments so acknowledged outside of the commonwealth, if otherwise in accordance with law, shall be received and may be used in evidence, or for any other purpose, in the same manner as if taken before a commissioner of the commonwealth appointed to take depositions in other states.

SECTION 90. Section 4 of chapter 260 of the General Laws, as so appearing , is hereby amended by striking out, in line 29, the word "soldier" and inserting in place thereof the following words:- enlisted person.

SECTION 91. The provisions of this act shall not affect the incumbents serving in the positions of assistant adjutant general who is designated executive officer, assistant adjutant general, assistant adjutant general for air, sate quartermaster, state surgeon, state judge advocate, and deputy state judge advocate at the time of passage of this act. They shall continue to serve in accordance with the provisions of subsection (a) of section 15 of chapter 33 the General Lawsin effect at the time of their appointments to the state staff; provided, however, that they shall be subject to dismissal for cause in accordance with section 29 of chapter 33 of the General Laws or by a legally convened court-martial in accordance with the military justice provisions of chapter 33 of the General Laws, and that the incumbent deputy state judge advocate shall, in the event of a vacancy in the office of state judge advocate, assume the responsibilities of the state judge advocate.

SECTION 92. To each servicemember who performed honorable service in support of the 2013 Boston Marathon response between April 15, 2013, and April 22, 2013, as a member of the armed forces of the commonwealth, the United States, any other state or territory of the United States or any other country, there shall be awarded a medal according to rules and regulations promulgated by the adjutant general.