

Senate Bill 947

Sponsored by Senators MANNING JR, MEEK, WOODS, PROZANSKI

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**. The statement includes a measure digest written in compliance with applicable readability standards.

Digest: Changes the term "militia" in the state statutes to "national guard." (Flesch Readability Score: 64.9).

Modifies terminology by changing statutory references to "militia" to "national guard."

A BILL FOR AN ACT

1
2 Relating to the national guard; amending ORS 30.847, 90.472, 105.111, 109.056, 166.660, 181A.893,
3 307.286, 314.091, 396.005, 396.015, 396.025, 396.105, 396.115, 396.120, 396.125, 396.128, 396.130,
4 396.135, 396.140, 396.160, 396.305, 396.332, 396.355, 396.530, 396.535, 396.540, 398.004, 398.006,
5 398.010, 398.012, 398.406, 399.015, 399.025, 399.045, 399.055, 399.065, 399.075, 399.085, 399.115,
6 399.135, 399.145, 399.150, 399.155, 399.205, 399.210, 399.215, 399.225, 399.238, 399.240, 399.242,
7 399.405, 399.415, 399.420, 399.425, 399.435, 399.445, 399.460, 399.505, 399.510, 399.515, 399.520,
8 399.525, 399.530, 402.105, 480.111, 480.120, 653.269, 657.150 and 659A.086.

9 **Be It Enacted by the People of the State of Oregon:**

10 **SECTION 1.** ORS 30.847 is amended to read:

11 30.847. (1) A person or group of persons is subject to an action described in subsection (2) or (3)
12 of this section for engaging in paramilitary activity if the person or group of persons knowingly,
13 while acting as part of a private paramilitary organization or on behalf of or in furtherance of any
14 objective of a private paramilitary organization:

15 (a) While armed with a deadly weapon, publicly patrols or drills;

16 (b) While armed with a dangerous or deadly weapon:

17 (A) Publicly engages in techniques capable of causing physical injury or death;

18 (B) Substantially disrupts governmental operations or a government proceeding;

19 (C) Assumes, exercises or asserts, without legal authorization, the functions, powers or duties

20 of:

21 (i) A law enforcement officer, including any sheriff, police officer, marshal or other peace officer;

22 or

23 (ii) Any local, city, county, state or federal official; or

24 (D) Interferes with another person and thereby:

25 (i) Prevents the other person, or attempts to prevent the other person, from engaging in conduct
26 in which the other person has a legal right to engage; or

27 (ii) Causes the other person, or attempts to cause the other person, to engage in conduct from
28 which the other person has a legal right to abstain; or

29 (c) Trains to engage in any activity described in paragraph (a) or (b) of this subsection.

30 (2)(a) If the Attorney General has reasonable cause to believe that a person or group of persons

NOTE: Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

1 has engaged in, or is about to engage in, paramilitary activity as described in subsection (1) of this
2 section, the Attorney General may bring a civil action in the name of the State of Oregon for
3 injunctive relief in Marion County Circuit Court or any other circuit court of this state.

4 (b)(A) If it appears to the Attorney General that a person has possession, custody or control of
5 any information, document or other material that is relevant to an investigation of paramilitary
6 activity as described in subsection (1) of this section, or that could lead to the discovery of relevant
7 information in an investigation of paramilitary activity as described in subsection (1) of this section,
8 the Attorney General may cause an investigative demand to be served upon the person. The in-
9 vestigative demand may require the person:

10 (i) To appear and testify under oath at the time and place stated in the investigative demand;

11 (ii) To answer written interrogatories; or

12 (iii) To produce relevant documentary material or physical evidence for examination at the time
13 and place stated in the investigative demand.

14 (B) An investigative demand under this paragraph shall be served in the manner provided by
15 ORS 646.622 and may be enforced in the manner provided by ORS 646.626.

16 (c) When conducting investigations under this section, the Attorney General may not demand,
17 collect or maintain information about the political, religious or social views, associations or activ-
18 ities of any individual, group, association, organization, corporation, business or partnership unless
19 the information directly relates to an investigation into, and there are reasonable grounds to suspect
20 that the subject of the information is involved in, paramilitary activity as described in subsection
21 (1) of this section.

22 (3)(a) A person injured as a result of paramilitary activity as described in subsection (1) of this
23 section may bring a civil action, individually or jointly with other aggrieved persons, in the appro-
24 priate court for relief against the person or persons who engaged in the paramilitary activity.

25 (b) A plaintiff who prevails in a claim under this subsection may recover:

26 (A) Economic or noneconomic damages, as those terms are defined in ORS 31.705;

27 (B) Injunctive relief;

28 (C) Reasonable attorney fees; and

29 (D) Any other appropriate equitable relief.

30 (4) This section does not apply to:

31 (a) The Armed Forces of the United States or the National Guard, as those terms are defined
32 in 10 U.S.C. 101, or any regularly organized state [*militia*] **national guard** or unorganized or reserve
33 [*militia*] **national guard** called into service by a state or the United States, including a defense force
34 authorized under 32 U.S.C. 109(c).

35 (b) A group of individuals that associates as a military organization solely for historical pur-
36 poses or fictional performances, or that parades in public as part of a bona fide veterans' organiza-
37 tion, so long as the group does not carry or use ammunition or explosives.

38 (c) Students in an education institution authorized by a state or federal government to teach
39 military science as a prescribed part of the course of instruction, when under the supervision of a
40 military instructor.

41 (d) Members of an organization that is authorized under state or federal law to provide
42 paramilitary, law enforcement or security services training or to engage in paramilitary activity or
43 the provision of law enforcement or security services, when performing the functions authorized by
44 law and, in the case of paramilitary activity and law enforcement services, when under the direction
45 and control of a governmental authority.

1 (e) Any lawful activity of the State Department of Fish and Wildlife.

2 (f) Any activity intended to teach or practice self-defense or self-defense techniques, such as
3 karate clubs or self-defense clinics, and similar lawful activity.

4 (g) Any facility, program or lawful activity related to firearms instruction and training intended
5 to teach the safe handling and use of firearms, or any other lawful sports or activities related to the
6 individual recreational use or possession of firearms, including but not limited to hunting activities,
7 target shooting, self-defense, firearms collection or any organized activity, including but not limited
8 to any hunting club, rifle club, rifle range or shooting range, which does not include a criminal
9 conspiracy as defined in ORS 161.450 or the knowledge of or the intent to cause or further acts of
10 physical violence or damage to persons or property.

11 (5) As used in this section:

12 (a) "Dangerous weapon" has the meaning given that term in ORS 161.015.

13 (b) "Deadly weapon" has the meaning given that term in ORS 161.015.

14 (c) "Private paramilitary organization" means any group of three or more persons associating
15 under a command structure for the purpose of functioning in public or training to function in public
16 as a combat, combat support, law enforcement or security services unit.

17 (d) "State" means the District of Columbia or a state, commonwealth, territory or possession of
18 the United States.

19 **SECTION 2.** ORS 90.472 is amended to read:

20 90.472. (1) As used in this section, "state service member" means a member of the organized
21 [*militia*] **national guard** who is called into active service of the state by the Governor under ORS
22 399.065 (1) for 90 or more consecutive days.

23 (2) A tenant may terminate a rental agreement upon written notice if the tenant provides the
24 landlord with proof of official orders showing that the tenant is a state service member.

25 (3) A termination of a rental agreement under this section is effective the earlier of:

26 (a) Thirty days after the date the next rental payment is due; or

27 (b) On the last day of the month after the month in which written notice is given.

28 (4) Notwithstanding ORS 90.300 (7)(a)(A) and 90.430, a tenant who terminates a lease under
29 subsection (2) of this section is not:

30 (a) Subject to a penalty, fee, charge or loss of deposit because of the termination; or

31 (b) Liable for any rent beyond the effective date of the termination as determined under sub-
32 section (3) of this section.

33 **SECTION 3.** ORS 105.111 is amended to read:

34 105.111. (1) As used in this section, "state service member" means a member of the organized
35 [*militia*] **national guard** who is called into active service of the state by the Governor under ORS
36 399.065 (1) for 30 or more consecutive days.

37 (2) In an action pursuant to ORS 105.110, the court may stay the eviction of the defendant for
38 up to 90 days if:

39 (a) The defendant is a state service member;

40 (b) The agreed-upon rent does not exceed \$1,200 per month; and

41 (c) The premises are occupied chiefly for dwelling purposes by the spouse, children or other
42 dependents of the defendant.

43 (3) If the defendant requests a stay of the eviction for up to 90 days and the defendant can prove
44 that the ability of the defendant to pay the agreed-upon rent is materially affected by being called
45 into active service, the court may grant the stay of the eviction.

SECTION 4. ORS 109.056 is amended to read:

109.056. (1) Except as provided in subsection (2) or (3) of this section, a parent or guardian of a minor or incapacitated person, by a properly executed power of attorney, may delegate to another person, for a period not exceeding six months, any of the powers of the parent or guardian regarding care, custody or property of the minor child or ward, except the power to consent to marriage or adoption of a minor ward.

(2) A parent or guardian of a minor child may delegate the powers designated in subsection (1) of this section to a school administrator for a period not exceeding 12 months.

(3)(a) As used in this subsection, “servicemember-parent” means a parent or guardian:

(A) Who is:

(i) A member of the organized [*militia*] **national guard** of this state;

(ii) A member of the Reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States;

(iii) A member of the commissioned corps of the National Oceanic and Atmospheric Administration; or

(iv) A member of the Public Health Service of the United States Department of Health and Human Services detailed by proper authority for duty with the Army or Navy of the United States; and

(B) Who is required to enter and serve in the active military service of the United States under a call or order by the President of the United States or to serve on state active duty as defined in the Oregon Code of Military Justice.

(b) A servicemember-parent of a minor child may delegate the powers designated in subsection (1) of this section for a period not exceeding the term of active duty service plus 30 days.

(c) Except as provided in paragraph (d) of this subsection, if the minor child is living with the child’s other parent, a delegation under paragraph (b) of this subsection must be to the parent with whom the minor child is living unless a court finds that the delegation would not be in the best interests of the minor child.

(d) When the servicemember-parent has joint custody of the minor child with the child’s other parent or another individual, and the servicemember-parent is married to an individual other than the child’s other parent, the servicemember-parent may delegate the powers designated in subsection (1) of this section to the spouse of the servicemember-parent for a period not exceeding the term of active duty service plus 30 days, unless a court finds that the delegation would not be in the best interests of the minor child.

SECTION 5. ORS 166.660 is amended to read:

166.660. (1) A person commits the crime of unlawful paramilitary activity if the person:

(a) Exhibits, displays or demonstrates to another person the use, application or making of any firearm, explosive or incendiary device or any technique capable of causing injury or death to persons and intends or knows that such firearm, explosive or incendiary device or technique will be unlawfully employed for use in a civil disorder; or

(b) Assembles with one or more other persons for the purpose of training with, practicing with or being instructed in the use of any firearm, explosive or incendiary device or technique capable of causing injury or death to persons with the intent to unlawfully employ such firearm, explosive or incendiary device or technique in a civil disorder.

(2)(a) Nothing in this section makes unlawful any act of any law enforcement officer performed in the otherwise lawful performance of the officer’s official duties.

(b) Nothing in this section makes unlawful any activity of the State Department of Fish and

1 Wildlife, or any activity intended to teach or practice self-defense or self-defense techniques, such
 2 as karate clubs or self-defense clinics, and similar lawful activity, or any facility, program or lawful
 3 activity related to firearms instruction and training intended to teach the safe handling and use of
 4 firearms, or any other lawful sports or activities related to the individual recreational use or pos-
 5 session of firearms, including but not limited to hunting activities, target shooting, self-defense,
 6 firearms collection or any organized activity including, but not limited to any hunting club, rifle
 7 club, rifle range or shooting range which does not include a conspiracy as defined in ORS 161.450
 8 or the knowledge of or the intent to cause or further a civil disorder.

9 (3) Unlawful paramilitary activity is a Class C felony.

10 (4) As used in this section:

11 (a) "Civil disorder" means acts of physical violence by assemblages of three or more persons
 12 which cause damage or injury, or immediate danger thereof, to the person or property of any other
 13 individual.

14 (b) "Firearm" has the meaning given that term in ORS 166.210.

15 (c) "Explosive" means a chemical compound, mixture or device that is commonly used or in-
 16 tended for the purpose of producing a chemical reaction resulting in a substantially instantaneous
 17 release of gas and heat, including but not limited to dynamite, blasting powder, nitroglycerin,
 18 blasting caps and nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder,
 19 smokeless powder, small arms ammunition and small arms ammunition primers.

20 (d) "Law enforcement officer" means any duly constituted police officer of the United States,
 21 any state, any political subdivision of a state or the District of Columbia, and also includes members
 22 of the military reserve forces or National Guard as defined in 10 U.S.C. 101 (9), members of the or-
 23 ganized [*militia*] **national guard** of any state or territory of the United States, the Commonwealth
 24 of Puerto Rico or the District of Columbia not included within the definition of National Guard as
 25 defined by 10 U.S.C. 101 (9), members of the Armed Forces of the United States and such persons
 26 as are defined in ORS 161.015 (4) when in the performance of official duties.

27 **SECTION 6.** ORS 181A.893 is amended to read:

28 181A.893. (1) It is unlawful:

29 (a) For an entity that employs private security providers to use a name that implies that the
 30 entity is, or is affiliated with, an existing law enforcement unit or public safety agency as defined
 31 in ORS 181A.355, the organized [*militia*] **national guard** as described in ORS 396.105, the Armed
 32 Forces of the United States, a federal law enforcement agency or a federal intelligence agency.

33 (b) For a private security provider or an entity that employs private security providers to pos-
 34 sess or use in the scope of employment equipment, vehicles, uniforms or titles that imply that the
 35 provider or entity is affiliated with a public or private safety agency as defined in ORS 181A.355.

36 (2) The Board on Public Safety Standards and Training, in consultation with the Department of
 37 Public Safety Standards and Training, shall adopt rules related to the requirements of subsection (1)
 38 of this section.

39 (3) This section does not apply to special campus security providers commissioned under ORS
 40 352.118 or private security providers on campuses of institutions of higher education regulated under
 41 ORS 181A.972.

42 **SECTION 7.** ORS 307.286 is amended to read:

43 307.286. (1) Upon compliance with ORS 307.289, there shall be exempt from taxation up to
 44 \$60,000 of the assessed value of the homestead of any resident of this state who is:

45 (a) Serving in the Oregon National Guard, military reserve forces or organized [*militia*] **national**

1 **guard** of any other state or territory of the United States; and

2 (b) Performing service:

3 (A) Under Title 10 of the United States Code or pursuant to a deployment made under the au-
4 thority of the Emergency Management Assistance Compact; and

5 (B) For more than 178 consecutive days, if at least one of the days falls within the tax year for
6 which the exemption is claimed.

7 (2) For each tax year beginning on or after July 1, 2006, the amount of the exemption allowed
8 under subsection (1) of this section shall equal 103 percent of the amount of the exemption for the
9 prior tax year.

10 (3) As used in this section, “homestead” means residential property that is owned by a person
11 described in subsection (1) of this section and that, but for military service, would be occupied as
12 a residence by the person.

13 **SECTION 8.** ORS 314.091 is amended to read:

14 314.091. (1) This section applies to a taxpayer who is a member of the Armed Forces of the
15 United States who is on active duty for 90 consecutive days or more or who is a member of the
16 Oregon National Guard, the military reserve forces or the organized [*militia*] **national guard** of any
17 other state or territory of the United States who performs service in a status under Title 10 of the
18 United States Code for a period of 90 consecutive days or more.

19 (2) If a taxpayer described in subsection (1) of this section has an unpaid tax liability for a tax
20 due under ORS chapter 316 that arose during a period in which service is performed as described
21 in subsection (1) of this section, the unpaid tax liability, and all interest and penalties associated
22 with the unpaid tax liability, shall be held in abeyance until a date that is six months after the date
23 that the taxpayer’s active duty or status under Title 10 of the United States Code ceases.

24 **SECTION 9.** ORS 396.005 is amended to read:

25 396.005. As used in this chapter and ORS chapter 399:

26 (1) “Active service” includes:

27 (a) Active service of the state.

28 (b) Service performed on full-time duty status under Title 10 of the United States Code.

29 (c) Service performed on full-time duty status under Title 32 of the United States Code when
30 performed under an authority other than the Governor.

31 (2) “Active service of the state” means service performed while on full-time duty status for
32 training, operational duty or other service of the organized [*militia*] **national guard** under the au-
33 thority of the Governor, whether paid from state funds or federal funds under Title 32 of the United
34 States Code.

35 (3) “State active duty” means full-time duty status for training, operational duty or other ser-
36 vice, other than inactive duty, of the organized [*militia*] **national guard** performed under the au-
37 thority of the Governor and paid from state funds.

38 **SECTION 10.** ORS 396.015 is amended to read:

39 396.015. The terms “unorganized [*militia*] **national guard**,” “all or any part of the organized
40 [*militia*] **national guard**,” and “organized [*militia*] **national guard** or any force thereof,” whenever
41 used in this chapter and ORS chapters 398 and 399, unless a different meaning is plainly required
42 by the context, shall be deemed to include any unit, command, component, element, headquarters,
43 staff or cadre thereof as well as any member thereof.

44 **SECTION 11.** ORS 396.025 is amended to read:

45 396.025. (1) It is the intent of this chapter and ORS chapters 398 and 399 to provide for the

1 Oregon Military Department and for the state [*Militia*] **national guard** and for the organization,
2 equipment, regulation and use thereof.

3 (2) All matters relating to the organization, discipline and government of the organized
4 [*militia*] **national guard**, not otherwise provided for in this chapter and ORS chapters 398 and 399
5 or in military department regulations issued pursuant thereto, shall be decided by the customs and
6 usage of the appropriate force or forces of the Armed Forces of the United States.

7 **SECTION 12.** ORS 396.105 is amended to read:

8 396.105. (1) The [*militia*] **national guard** of the state shall be divided into the organized
9 [*militia*] **national guard** and the unorganized [*militia*] **national guard**.

10 (2) The organized [*militia*] **national guard** shall be composed of the Oregon Army National
11 Guard and the Oregon Air National Guard, which forces together with an inactive National Guard
12 shall comprise the Oregon National Guard; the Oregon Civil Defense Force whenever such a force
13 shall be duly organized; and such additional forces as may be created by the Governor.

14 (3) The unorganized [*militia*] **national guard** shall consist of all able-bodied residents of the
15 state between the ages of 18 and 45 who are not serving in any force of the organized [*militia*] **na-**
16 **tional guard** or who are not on the state retired list and who are or who have declared their in-
17 tention to become citizens of the United States; subject, however, to such exemptions from military
18 duty as are created by the laws of the United States.

19 **SECTION 13.** ORS 396.115 is amended to read:

20 396.115. The following persons shall be exempt from [*militia*] **national guard** service:

21 (1) Persons exempt from [*militia*] **national guard** service by the laws of the United States.

22 (2) Regular or duly ordained ministers of religion, or duly elected church officials regularly
23 conducting church services, or those recognized by their church as devoting the major portion of
24 their time to the practice of religion.

25 (3) Students preparing for the ministry in accredited theological or divinity schools.

26 (4) Persons whose religious tenets or conscientious scruples forbid them to bear arms.

27 **SECTION 14.** ORS 396.120 is amended to read:

28 396.120. (1) The following persons of the organized [*militia*] **national guard** may administer
29 oaths for the purposes of military administration, including military justice, and affidavits may be
30 taken for those purposes before those persons who shall have the general powers of a notary public:

31 (a) The State Judge Advocate and all Assistant State Judge Advocates.

32 (b) All law specialists.

33 (c) All summary courts-martial.

34 (d) All adjutants, assistant adjutants, acting adjutants, personnel adjutants and other persons
35 of equivalent responsibility who may be assigned a different position title by their respective force.

36 (e) All legal officers.

37 (f) The president, law officer, trial counsel and assistant trial counsel for all general and special
38 courts-martial.

39 (g) The president and the counsel for the court of any court of inquiry.

40 (h) All officers designated to take a deposition.

41 (i) All persons detailed to conduct an investigation.

42 (j) All other persons designated by military department regulations issued by the Governor.

43 (2) The signature without seal of any such person, together with the title of office, is prima facie
44 evidence of authority.

45 **SECTION 15.** ORS 396.125 is amended to read:

1 396.125. (1) The Governor of this state, by virtue of office, is the Commander in Chief of the
 2 *[militia]* **national guard** of this state, and may issue military regulations for the governance of the
 3 *[militia]* **national guard**. Military regulations issued by the Governor shall have the full force and
 4 effect of law. To the extent a regulation issued under this section conflicts with any other law of
 5 this state, the regulation shall supersede the conflicting law.

6 (2) In issuing regulations under this section, the Governor may give consideration to the laws
 7 and regulations of the United States relating to the organization, discipline and training of the
 8 *[militia]* **national guard**, to the provisions of this chapter and ORS chapters 398 and 399 and to the
 9 laws and regulations governing the United States Army and United States Air Force.

10 (3) The Governor may delegate to the Adjutant General authority to issue the regulations de-
 11 scribed in this section for the governance of the *[militia]* **national guard**.

12 **SECTION 16.** ORS 396.128 is amended to read:

13 396.128. (1) If the Adjutant General issues regulations for the governance of the organized
 14 *[militia]* **national guard** as provided under ORS 396.125, the Adjutant General shall specify in the
 15 regulations a date on which the regulations become operative for the purposes of all conduct subject
 16 to the regulations occurring on or after the specified date. To the extent a regulation issued under
 17 this section conflicts with a provision of this chapter, ORS chapter 398 or 399 or any other law of
 18 this state, the regulation shall supersede the conflicting provision or law.

19 (2) Regulations issued by the Adjutant General under this section and ORS 396.125 that have
 20 become operative shall be known and cited as “the Oregon Code of Military Justice.”

21 **SECTION 17.** ORS 396.130 is amended to read:

22 396.130. (1) The Governor may order the organized *[militia]* **national guard** or any part thereof
 23 to serve outside the borders of this state or of the United States in order to perform military duty
 24 of every description and to participate in parades, reviews, cruises, conferences, encampments, ma-
 25 neuvers or other training, and to participate in small arms and other military competitions and to
 26 attend service schools.

27 (2) The provisions of this chapter and ORS chapters 398 and 399 shall apply to the members of
 28 the organized *[militia]* **national guard** while serving without the state and while going to and re-
 29 turning from such service without the state in like manner and to the same extent as while serving
 30 within the state.

31 **SECTION 18.** ORS 396.135 is amended to read:

32 396.135. When the *[militia]* **national guard** of the state or any part thereof is called forth under
 33 the Constitution and laws of the United States, the Governor shall order out for service the organ-
 34 ized *[militia]* **national guard** or such part thereof as may be necessary, and if the number available
 35 is insufficient the Governor may call for and accept from the unorganized *[militia]* **national guard**
 36 as many volunteers as are required for service in the organized *[militia]* **national guard** or the
 37 Governor may direct the members of the unorganized *[militia]* **national guard** or such of them as
 38 the Governor may deem necessary to be drafted into the organized *[militia]* **national guard**.

39 **SECTION 19.** ORS 396.140 is amended to read:

40 396.140. (1) Whenever the Governor deems it necessary, the Governor may direct the members
 41 of the unorganized *[militia]* **national guard** to present themselves for and submit to registration at
 42 such time and place and in such manner as may be prescribed by military department regulations
 43 issued pursuant to this chapter and ORS chapters 398 and 399.

44 (2) Any member of the unorganized *[militia]* **national guard** who is ordered to register under
 45 the provisions of this section or to be drafted into the organized *[militia]* **national guard** under ORS

1 396.135, and who fails to appear at the time and place designated in such order, shall be guilty of
2 a misdemeanor.

3 **SECTION 20.** ORS 396.160 is amended to read:

4 396.160. (1) The Adjutant General shall be the Director of the Oregon Military Department, and
5 Chief of Staff to the Governor. The Adjutant General shall be the Commander of the Oregon Na-
6 tional Guard.

7 (2) The Adjutant General shall be charged, under the direction of the Governor, with the
8 supervision of all matters pertaining to the administration, discipline, mobilization, organization and
9 training of the Oregon National Guard and the Oregon Civil Defense Force, and shall collaborate
10 with the Superintendent of State Police and any county sheriff that has formed a volunteer County
11 Civil Defense Force under ORS 399.035.

12 (3) The Adjutant General shall perform all duties required by the laws of the United States and
13 of the State of Oregon, and the regulations issued thereunder, now or hereafter promulgated.

14 (4) The Adjutant General may employ such deputies, assistants and other personnel as the Ad-
15 jutant General shall deem necessary to assist the Adjutant General in the performance of those
16 duties required of the Adjutant General as Director of the Oregon Military Department. The Adju-
17 tant General shall fix the compensation of such deputies, assistants and other personnel in accord-
18 ance with then existing state laws, budgetary restrictions and employment policies.

19 (5) The Adjutant General shall supervise the preparation and submission of all returns and re-
20 ports pertaining to the [*militia*] **national guard** of the state as may be required by the United States.

21 (6) The Adjutant General shall be the channel of official military correspondence with the
22 Governor, and shall, on or before November 1 of each year, make a report to the Governor of the
23 transactions, expenditures and condition of the Oregon National Guard. The report shall include the
24 report of the United States Property and Fiscal Officer.

25 (7) The Adjutant General shall be the custodian of records of officers and enlisted personnel and
26 all other records and papers required by law or regulations to be filed in the office of the Adjutant
27 General. The Adjutant General may deposit with the State Archivist for safekeeping in the official
28 custody, records of the office of the Adjutant General that are used for historical purposes rather
29 than the administrative purposes assigned to the office of the Adjutant General by law.

30 (8) The Adjutant General shall attest and record all military commissions issued by the Gover-
31 nor and keep a roll of all commissioned officers, with dates of commission and all changes occurring
32 in the commissioned forces.

33 (9) The Adjutant General shall record, authenticate and communicate to troops and individuals
34 of the [*militia*] **national guard** all orders, instructions and regulations.

35 (10) The Adjutant General shall cause to be procured, printed and circulated to those concerned
36 all books, blank forms, laws, regulations or other publications governing the [*militia*] **national guard**
37 needful to the proper administration, operation and training thereof or to carry into effect the pro-
38 visions of this chapter and ORS chapters 398 and 399.

39 (11) The Adjutant General shall have an appropriate seal of office and affix its impression to
40 all certificates of record issued from the office of the Adjutant General.

41 (12) The Adjutant General shall render such professional aid and assistance and perform such
42 military duties, not otherwise assigned, as may be ordered by the Governor.

43 (13) The Adjutant General shall, in time of peace, perform the duties of quartermaster general
44 and chief of ordnance.

45 (14) The Adjutant General may issue regulations as described in ORS 396.125 (1) if authority is

1 delegated to the Adjutant General by the Governor.

2 **SECTION 21.** ORS 396.305 is amended to read:

3 396.305. (1) The Oregon Military Department is established. The department, under the direc-
4 tion of the Governor, shall be responsible as provided in this chapter and ORS chapters 398 and 399
5 for the supervision of the military affairs of the state.

6 (2) The military department shall prepare and promulgate necessary regulations for the organ-
7 ization, governance, armament, equipment, training and compensation of the [*militia*] **national guard**
8 of the state in conformity with the provisions of this chapter, ORS chapters 398 and 399 and the
9 laws of the United States. Regulations so made shall be subject to the approval of the Governor.

10 (3) The military department shall make such changes in the military organization of the Oregon
11 National Guard as are necessary from time to time to conform to the requirements of the laws of
12 the United States and the directives of the National Guard Bureau.

13 (4) The military department shall fix the location of the units and headquarters of the Oregon
14 National Guard, and shall, subject to the approval of the National Guard Bureau, transfer, attach,
15 consolidate or inactivate any organization or unit when in its judgment the efficiency of the present
16 organization will be increased thereby.

17 (5) The military department shall have the power to establish awards and decorations and to
18 approve the design therefor.

19 **SECTION 22.** ORS 396.332 is amended to read:

20 396.332. For the purpose of requesting a state or nationwide criminal records check under ORS
21 181A.195, the Oregon Military Department may require the fingerprints of:

22 (1) A person who is applying for or is employed in a position in a job category for which a state
23 or nationwide criminal records check is a job qualifier and in which personnel:

- 24 (a) Are assigned to the at-risk youth alternative education program;
- 25 (b) Are issued firearms and munitions;
- 26 (c) Have fiscal and purchasing responsibilities as their primary responsibilities; or
- 27 (d) Have regular access to restricted areas within a military installation.

28 (2) A person who is applying to join the organized [*militia*] **national guard** of this state, as de-
29 scribed in ORS 396.105, or is a member of the organized [*militia*] **national guard** of this state.

30 **SECTION 23.** ORS 396.355 is amended to read:

31 396.355. (1) As used in this section, "settle" means consider, ascertain, adjust, determine and
32 dispose of a claim, whether by full or partial allowance or by disallowance.

33 (2) Under such military department regulations as the Governor may prescribe, the Governor
34 or, subject to appeal to the Governor, the Adjutant General, may settle and pay in an amount not
35 more than \$500 a claim against the state for:

36 (a) Damage to or loss of real property, including damage or loss incident to use and occupancy;
37 and

38 (b) Damage to or loss of personal property, either caused by a member of the organized
39 [*militia*] **national guard** acting within the scope of assigned duties, or otherwise incident to non-
40 combat activities of the organized [*militia*] **national guard**.

41 (3) A claim may be allowed under subsection (2) of this section only if:

42 (a) It is presented in writing within one year after it accrues;

43 (b) It is not payable under section 2733 or 2734 of title 10, United States Code, under section
44 2672 of title 28, United States Code or under section 715 of title 32, United States Code;

45 (c) The damage to, or loss of, property was not caused wholly or partly by a negligent or

1 wrongful act of the claimant, agent or employee of the claimant; and

2 (d) It is substantiated as prescribed in regulations issued pursuant to this chapter and ORS
3 chapters 398 and 399.

4 (4) No claim may be paid under this section unless the amount tendered is accepted by the
5 claimant in full satisfaction.

6 (5) Notwithstanding any other provision of law, the settlement of a claim under this section is
7 final and conclusive.

8 (6) Claims approved for payment under this section shall be paid from moneys available to the
9 military department.

10 **SECTION 24.** ORS 396.530 is amended to read:

11 396.530. Armories may be constructed in locations not already provided with armories or in
12 which existing armories are inadequate, where one or more units of the organized [*militia*] **national**
13 **guard**, fully organized under this chapter and ORS chapters 398 and 399, may be located and where,
14 in the judgment of the military department, it will be most convenient to the units, and where most
15 needed. All title to the armory and grounds upon which it is situated shall vest in the State of
16 Oregon.

17 **SECTION 25.** ORS 396.535 is amended to read:

18 396.535. (1) The military department shall be a body corporate and shall have the powers of a
19 corporation for the purpose of purchasing, leasing, renting or otherwise acquiring buildings or parts
20 thereof, grounds, premises, offices, rooms, warehouses, garages, shops and storage areas for the use
21 of the department or any unit of the organized [*militia*] **national guard**. For such purpose the mil-
22 itary department, subject to the review and supervision of the Oregon Department of Administrative
23 Services as required by ORS 276.428 and 276.429, may make and execute contracts and agreements
24 the legal form and sufficiency of which shall first be approved by the Attorney General.

25 (2) Costs and charges in connection with the acquisition and use of property under this section
26 shall be paid from funds appropriated for the use of the military department and shall not be general
27 obligations of the State of Oregon.

28 **SECTION 26.** ORS 396.540 is amended to read:

29 396.540. (1) Armories may be used by members and units of the organized [*militia*] **national**
30 **guard** in accordance with regulations issued pursuant to this chapter and ORS chapters 398 and 399.

31 (2) Armories may be used by any veterans' organizations and their auxiliaries located in the
32 community where the armory is located, provided such use will not interfere with the use of the
33 facilities by the organized [*militia*] **national guard** or result in risk to federal or state property, and
34 provided that the organization makes a written request therefor and pays for heat, lights, janitor
35 service and other expense required by such use.

36 (3) Armories may be used by any federal, state, county and municipal bureau, agency or de-
37 partment or by the Armed Forces of the United States, including the Coast Guard, or by the reserve
38 components thereof for their official business, provided that such use does not interfere with the
39 members and units of the organized [*militia*] **national guard** stationed in such armory, and provided
40 that such use is approved by the officer in charge thereof and by military superiors as prescribed
41 by military department regulations issued pursuant to this chapter and ORS chapters 398 and 399.

42 (4) Armories may be rented for use by a person, firm, association or corporation, not specified
43 elsewhere in this section, for such purposes and upon such terms as may be approved by the officer
44 in charge of the armory and by military superiors as prescribed by military department regulations
45 issued pursuant to this chapter and ORS chapters 398 and 399 and provided that such use will not,

1 and only so long as such use does not, interfere with the use of the armory by the members and
2 units of the organized [*militia*] **national guard** stationed therein.

3 (5) The Oregon National Guard Association described in ORS 399.460 may use an armory or
4 other military facility at no cost, provided that the use is approved by the officer in charge and by
5 military superiors as prescribed by military department regulations issued pursuant to this chapter
6 and ORS chapters 398 and 399.

7 **SECTION 27.** ORS 398.004 is amended to read:

8 398.004. (1) The following persons who are not in federal service are subject to the Oregon Code
9 of Military Justice as described in ORS 396.128:

10 (a) Members of the organized [*militia*] **national guard**.

11 (b) All other persons lawfully ordered to duty in or with the organized [*militia*] **national**
12 **guard**, from the dates they are required by the terms of the order or other directive to obey the
13 same.

14 (2) A person may not be tried or punished for any offense provided in the Oregon Code of Mil-
15 itary Justice unless:

16 (a) The offense was committed while the person was in a duty status during a period of time in
17 which the person was under lawful orders to be in a duty status; or

18 (b) The offense charged has a connection with the military status or assignment of the person.
19 For purposes of this paragraph, the required connection with military status or assignment is con-
20 clusively established for offenses for which there is no equivalent offense in the general criminal
21 laws of this state and for offenses involving wrongful use, possession, manufacture, distribution or
22 introduction of a controlled substance described in Article 112a of the Oregon Code of Military
23 Justice.

24 (3)(a) Subject matter jurisdiction is established if a nexus exists between an offense, either mil-
25 itary or nonmilitary, and the state military force.

26 (b) State military forces have primary jurisdiction of military offenses defined in Article 1(a)(18)
27 of the Oregon Code of Military Justice when persons subject to the code are in a duty status or are
28 properly ordered to be in a duty status.

29 (c) Except as provided in paragraph (f) of this subsection, a civilian court has primary jurisdic-
30 tion of an offense when:

31 (A) An act or omission violates both the Oregon Code of Military Justice and a state, federal
32 or foreign criminal law; and

33 (B) A person subject to the code was neither in a duty status nor properly ordered to be in a
34 duty status at the time of the act or omission.

35 (d) When a person is charged with an offense described in paragraph (c) of this subsection, a
36 court-martial or nonjudicial punishment may be initiated only after a civilian court has declined to
37 prosecute or has dismissed the charge, provided jeopardy has not attached.

38 (e) Jurisdiction over attempted crimes, conspiracy crimes, solicitation and accessory crimes must
39 be determined by the underlying offense.

40 (f) State military forces have jurisdiction of any offense involving a person subject to the Oregon
41 Code of Military Justice when the person is in a duty status, when the person is properly ordered
42 to be in a duty status or when the sole offense is conduct that is prohibited by Article 112a of the
43 Oregon Code of Military Justice.

44 **SECTION 28.** ORS 398.006 is amended to read:

45 398.006. (1) Each person discharged from the organized [*militia*] **national guard** who is later

1 charged with having fraudulently obtained the discharge of the person is, subject to ORS 398.216,
2 subject to trial by court-martial on that charge and is after apprehension subject to the Oregon Code
3 of Military Justice while in the custody of the military for that trial. Upon conviction of that charge,
4 the person is subject to trial by court-martial for all offenses under the Oregon Code of Military
5 Justice committed before the fraudulent discharge.

6 (2) A person who has deserted from the organized [*militia*] **national guard** may not be relieved
7 from amenability to the jurisdiction of the Oregon Code of Military Justice by virtue of a separation
8 from any later period of service.

9 **SECTION 29.** ORS 398.010 is amended to read:

10 398.010. (1) The Oregon Code of Military Justice applies throughout this state and also applies
11 to all persons otherwise subject to the code while they are serving outside the state, and while they
12 are going to and returning from such service outside the state, in the same manner and to the same
13 extent as if they were serving inside the state.

14 (2) Courts-martial and courts of inquiry may be convened and held in units of the organized
15 [*militia*] **national guard** while those units are serving outside the state with the same jurisdiction
16 and powers as to persons subject to the Oregon Code of Military Justice as if the proceedings were
17 held inside the state. Offenses committed outside the state may be tried and punished either inside
18 or outside the state.

19 **SECTION 30.** ORS 398.012 is amended to read:

20 398.012. (1) The Governor, on the recommendation of the Adjutant General, shall appoint an of-
21 ficer of the organized [*militia*] **national guard** as State Judge Advocate. To be eligible for appoint-
22 ment as State Judge Advocate, an officer must:

23 (a) Be a member in good standing of the Oregon State Bar;

24 (b) Have been a member of the Oregon State Bar for at least five years; and

25 (c) Meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10
26 U.S.C. 801 et seq.

27 (2) The Adjutant General may appoint an officer of the organized [*militia*] **national guard** as
28 an Assistant State Judge Advocate. The Adjutant General may appoint as many Assistant State
29 Judge Advocates as the Adjutant General deems necessary. To be eligible for appointment as an
30 Assistant State Judge Advocate, an officer must:

31 (a) Be a member in good standing of the Oregon State Bar; and

32 (b) Meet the qualifications for a judge advocate under the Uniform Code of Military Justice, 10
33 U.S.C. 801 et seq.

34 (3)(a) The Adjutant General may appoint members of the organized [*militia*] **national guard** who
35 are members in good standing of the Oregon State Bar as temporary Assistant State Judge Adv-
36 cates. An individual appointed as a temporary Assistant State Judge Advocate has 12 months from
37 the date of appointment to meet the qualifications for a judge advocate under the Uniform Code of
38 Military Justice, 10 U.S.C. 801 et seq.

39 (b) A temporary Assistant State Judge Advocate who has met the requirements under this sub-
40 section is eligible for appointment as an Assistant State Judge Advocate.

41 (c) The Adjutant General may extend, for an additional 12 months, the time during which a
42 temporary Assistant State Judge Advocate must meet the qualifications described in paragraph (a)
43 of this subsection.

44 (4) The State Judge Advocate, the senior Army or Air Force judge advocate in the organized
45 [*militia*] **national guard** or their assistants shall make frequent inspections in the field for super-

1 vision of the administration of military justice and general military legal matters.

2 (5)(a) Convening authorities shall at all times communicate directly with their judge advocate
3 in matters relating to the administration of military justice and general military legal matters.

4 (b) The judge advocate of any command may communicate directly with the judge advocate of
5 a superior or subordinate command, the State Judge Advocate or the senior Army or Air Force
6 judge advocate in the organized [*militia*] **national guard**.

7 (6) A person who has acted as member, military judge, trial counsel, assistant trial counsel, de-
8 fense counsel, assistant defense counsel or investigating officer, or who has been a witness for either
9 the prosecution or defense in any case, may not later act as judge advocate to any reviewing au-
10 thority upon the same case.

11 (7) A judicial officer, as defined by ORS 1.210, is not prohibited, by reason of holding that office,
12 from:

13 (a) Performing all acts necessary or incumbent to the authorized exercise of duties as a judge
14 advocate.

15 (b) Being assigned as a judge advocate by the Adjutant General as appointed by the Governor
16 as Commander in Chief under the Oregon Constitution.

17 **SECTION 31.** ORS 398.406 is amended to read:

18 398.406. In the organized [*militia*] **national guard** not in federal service, the processes and sen-
19 tences of its courts-martial shall be executed by the civil officers prescribed by the laws of the state.
20 Where no provision is made for executing those processes and sentences, the process or sentence
21 shall be executed by a United States Marshal or deputy marshal, who shall make a return to the
22 military officer issuing the process or the court imposing the sentence, pursuant to section 333 of
23 title 32, United States Code.

24 **SECTION 32.** ORS 399.015 is amended to read:

25 399.015. The ground force of the organized [*militia*] **national guard** shall be the Army National
26 Guard and shall be composed of the army units which are a part of the Oregon National Guard on
27 August 9, 1961, and such units as may be authorized thereafter, including the personnel who are
28 enlisted, appointed or commissioned therein. All persons who are members of the Army National
29 Guard shall be federally recognized as such.

30 **SECTION 33.** ORS 399.025 is amended to read:

31 399.025. The air force of the organized [*militia*] **national guard** shall be the Air National Guard
32 and shall be composed of the air force units which are a part of the Oregon National Guard on
33 August 9, 1961, and such units as may be authorized thereafter, including the personnel who are
34 enlisted, appointed or commissioned therein. All persons who are members of the Air National
35 Guard shall be federally recognized as such.

36 **SECTION 34.** ORS 399.045 is amended to read:

37 399.045. (1) The forces of the organized [*militia*] **national guard** shall be organized, armed, dis-
38 ciplined, governed, administered and trained as prescribed by applicable federal and state laws and
39 regulations.

40 (2) It hereby is declared to be the policy of the state that there shall be an equality of treatment
41 and opportunity for all persons in the organized [*militia*] **national guard** without regard to race,
42 creed, color or national origin.

43 **SECTION 35.** ORS 399.055 is amended to read:

44 399.055. Members and units of the organized [*militia*] **national guard** shall assemble for training
45 and shall participate in field training periods and active duty for training periods, maneuvers,

1 schools, conferences or other similar duties at such times and places as are prescribed therefor by
2 applicable federal and state laws and regulations. In addition to these periods, the commander of
3 any organization may require the officers, warrant officers and enlisted persons of the command to
4 meet for ceremonies, parades or training at such times and places as the commander may appoint.

5 **SECTION 36.** ORS 399.065 is amended to read:

6 399.065. (1) The Governor shall have the power, in case of invasion, disaster, insurrection, riot,
7 breach of the peace, or imminent danger thereof, to order into active service of the state for such
8 period, to such extent and in such manner as the Governor may deem necessary all or any part of
9 the organized [*militia*] **national guard**. Such power shall include the power to order the organized
10 [*militia*] **national guard** or any part thereof to function under the operational control of the United
11 States Army, Navy or Air Force commander in charge of the defense of any area within the state
12 which is invaded or attacked or is or may be threatened with invasion or attack.

13 (2) The Governor may order into active service of the state for such period, to such extent and
14 such manner as the Governor may deem necessary units or individuals of the organized [*militia*]
15 **national guard** when in the judgment of the Governor the services of such units or individuals are
16 required for the furtherance of the organization, maintenance, discipline or training of the organized
17 [*militia*] **national guard** or for ceremonial functions of the state government.

18 (3) Whenever any portion of the organized [*militia*] **national guard** is employed pursuant to this
19 section, the Governor, if in the judgment of the Governor the maintenance of law and order will
20 thereby be promoted, may by proclamation declare the county or city in which the troops are serv-
21 ing, or any specified portion thereof, to be under martial law.

22 **SECTION 37.** ORS 399.075 is amended to read:

23 399.075. (1)(a) The Adjutant General, with the approval of the Governor, may order members of
24 the organized [*militia*] **national guard** into active service of the state.

25 (b) Active service of the state may be for a purpose that includes, but is not limited to, carrying
26 out state or federal drug interdiction and counter-drug law enforcement activities under a drug
27 interdiction and counter-drug activities plan approved by the Governor. When participating in such
28 activities, and to the extent authorized by 32 U.S.C. 112, applicable regulations of the National
29 Guard Bureau and the drug interdiction and counter-drug activities plan approved by the Governor,
30 the Oregon Military Department is designated as a law enforcement agency for the purpose of car-
31 rying out federal asset forfeiture laws only.

32 (2) A member serving in active service of the state may not receive less than the pay and al-
33 lowances of the member's corresponding grade in the Armed Forces of the United States in ac-
34 cordance with a schedule approved by the Adjutant General for the period of time in active service
35 of the state.

36 (3) When federal funds are authorized to provide for pay and allowances under this section, state
37 funds may not be used to provide for the pay and allowances.

38 (4) Notwithstanding subsection (2) of this section:

39 (a) A medical examiner may be paid for services and necessary disbursements in an amount
40 approved by the Governor.

41 (b) An appointed judge advocate may be paid for legal services and necessary disbursements in
42 any suit, action or proceeding in an amount approved by the Governor.

43 (c) A member may consent to perform active service of the state without pay and allowances,
44 provided that the member may, within the discretion of the Adjutant General, be paid for necessary
45 traveling expenses, subsistence and per diem allowances.

1 (5) A member serving on a court-martial, court of inquiry, efficiency board, medical board or
 2 other special duty requiring the member's absence from the member's duty station or business may
 3 be reimbursed for actual and necessary travel or other expenses incurred within the limits estab-
 4 lished for state employees by the Oregon Department of Administrative Services under ORS 292.210
 5 to 292.250.

6 (6) All pay and allowances, except per diem, mileage and expenses while traveling under orders,
 7 shall be subject to be applied to the payment of:

8 (a) Penalties and fines imposed by a military court.

9 (b) Any shortage of or injury to state or United States property or funds for which a member
 10 of the organized [*militia*] **national guard** is responsible or accountable and where such responsibility
 11 has been fixed by competent authority.

12 (7)(a) Except as provided in paragraph (b) of this subsection, a member of the organized
 13 [*militia*] **national guard** who is ordered to state active duty shall be considered a temporary em-
 14 ployee of the military department.

15 (b) A member of the organized [*militia*] **national guard** who is ordered to state active duty is
 16 not subject to ORS chapter 240 and ORS 243.650 to 243.809.

17 (8) The limitations on employment imposed by ORS 238.082 (2) and (3) do not apply to a retired
 18 member of the Public Employees Retirement System who is ordered into active service of the state.
 19 Hours served by a person under this subsection shall not be counted for the purpose of the limita-
 20 tions on employment imposed by ORS 238.082 (2) and (3).

21 **SECTION 38.** ORS 399.085 is amended to read:

22 399.085. For all purposes under this chapter and ORS chapters 396 and 398, members of the or-
 23 ganized [*militia*] **national guard** who enter and serve in the active military service of the United
 24 States in time of war under a call or order by the President or who enter and serve on active duty
 25 in the military service of the United States in time of peace in their status within the National
 26 Guard of the United States or Air National Guard of the United States and who thereafter return
 27 to the military service of the state, shall be entitled to credit for time so served as if such service
 28 had been rendered to the state.

29 **SECTION 39.** ORS 399.115 is amended to read:

30 399.115. (1) Any person who trespasses upon any armory, arsenal, camp, range, base or other
 31 facility of the organized [*militia*] **national guard** or other place where any unit of the organized
 32 [*militia*] **national guard** is performing military duty, including training, or who in any way or man-
 33 ner interrupts or molests the discharge of military duties by any member of the organized [*militia*]
 34 **national guard** or of the Armed Forces of the United States or who trespasses or prevents the
 35 passage of troops of the organized [*militia*] **national guard** or of the Armed Forces of the United
 36 States in the performance of their military duties may be placed in arrest by the commanding officer,
 37 or the designated representative of the commanding officer, of the unit performing such military
 38 duty at the place where the offense is committed and may be held in arrest during the continuance
 39 of the performance of such military duty, but not to exceed 12 hours.

40 (2) The commanding officer or the designated representative of the commanding officer, of any
 41 unit of the organized [*militia*] **national guard** performing military duty in or at any armory, arsenal,
 42 camp, range, base or other facility of the organized [*militia*] **national guard** or other place where
 43 such unit is performing military duty may prohibit persons who hawk, peddle, vend or sell goods,
 44 wares, merchandise, food products or beverages upon the streets and highways from conducting
 45 sales or auctions, and may prohibit all gambling within the limits of such armory, arsenal, camp,

1 range, base or other facility of the organized [*militia*] **national guard** or other place where such unit
2 is performing military duty or within such limits not exceeding one mile therefrom as the com-
3 manding officer may prescribe. Such commanding officer may in the discretion of the commanding
4 officer abate as common nuisances all such sales, actions and gambling.

5 **SECTION 40.** ORS 399.135 is amended to read:

6 399.135. The organized [*militia*] **national guard** in the performance of its military duties shall
7 have the right of way over any persons or vehicles on any public street or highway of this state,
8 except United States mail carriers, fire apparatus and other emergency vehicles. Any person who
9 hinders or delays, or obstructs, the organized [*militia*] **national guard** in the performance of its
10 military duties, is guilty of a misdemeanor.

11 **SECTION 41.** ORS 399.145 is amended to read:

12 399.145. Any person belonging to the organized [*militia*] **national guard** shall, together with the
13 conveyance in the charge of the person and the property of the state or the United States in the
14 charge of the person, be allowed to pass free through all tollgates and tunnels and over all toll
15 bridges and also over all ferries if the person is in uniform or presents an order for duty or certif-
16 icate of an order for duty.

17 **SECTION 42.** ORS 399.150 is amended to read:

18 399.150. Oaths and affirmations required in any matter connected with the military service may
19 be administered by any duly commissioned officer of the organized [*militia*] **national guard** or other
20 officer authorized to administer oaths under the laws of the state, and no charge shall be made nor
21 shall any fee be accepted for such service.

22 **SECTION 43.** ORS 399.155 is amended to read:

23 399.155. No member of the organized [*militia*] **national guard** shall wear, when on or off duty,
24 any uniform or any device, strap, knot or insignia of any design or character used as a designation
25 of grade, rank or office, such as are by law or regulation, duly promulgated, prescribed for the use
26 of the organized [*militia*] **national guard**, without the permission of the commanding officer.

27 **SECTION 44.** ORS 399.205 is amended to read:

28 399.205. Any member of the organized [*militia*] **national guard** who is wronged by the com-
29 manding officer, and who, upon due application to that commanding officer, is refused redress, may
30 complain to any superior commissioned officer, who shall forward the complaint to the Governor or
31 Adjutant General.

32 **SECTION 45.** ORS 399.210 is amended to read:

33 399.210. Any officer or enlisted person of the [*militia*] **national guard** of this state who receives
34 compensation from the United States as a federally recognized member of the organized [*militia*]
35 **national guard** shall not be ineligible by reason thereof to hold lucrative office or seat in the
36 Legislative Assembly within the meaning of section 10, Article II of the Oregon Constitution.

37 **SECTION 46.** ORS 399.215 is amended to read:

38 399.215. Active members of the organized [*militia*] **national guard** shall be exempt from duty to
39 act as a juror.

40 **SECTION 47.** ORS 399.225 is amended to read:

41 399.225. (1) Members of the organized [*militia*] **national guard** ordered into active service of the
42 state pursuant to this chapter shall not be liable civilly or criminally for any act or acts done by
43 them in the performance of their duty. When an action or proceeding of any nature is commenced
44 in any court by any person against any officer of the [*militia*] **national guard** for any act done by
45 the officer in an official capacity in the discharge of any duty under this chapter and ORS chapters

1 396 and 398, or an alleged omission by the officer to do an act which it was the duty of the officer
 2 to perform, or against any person acting under the authority or order of such officer, or by virtue
 3 of any warrant issued by the officer pursuant to law, the defendant may require the person insti-
 4 tuting or prosecuting the action or proceeding to file security for the payment of costs that may be
 5 awarded to the defendant therein, and the defendant in all cases may make a general denial and give
 6 the special matter in evidence. A defendant in whose favor a final judgment is rendered in an action
 7 or a final order is made in a special proceeding shall recover the costs of the defendant.

8 (2) No member of the organized [*militia*] **national guard** of the state shall be arrested on any
 9 civil process while going to, remaining at, or returning from any place at which the member may
 10 be required to attend for military duty.

11 **SECTION 48.** ORS 399.238 is amended to read:

12 399.238. (1) As used in this section, "service member" means:

13 (a) A member of the organized [*militia*] **national guard** who is called into active service of the
 14 state.

15 (b) A member of the Oregon National Guard who is called into active service under Title 10 of
 16 the United States Code.

17 (c) A member of the Oregon National Guard who is called into active service under Title 32 of
 18 the United States Code to perform under an authority other than the Governor.

19 (2) A service member may, while in active service or within one year after that service ends,
 20 apply to a court or an administrative body:

21 (a) For relief with respect to any obligation or liability incurred by the member before the pe-
 22 riod of active service began. The court or administrative body, after appropriate notice and hearing,
 23 may grant relief unless the court or administrative body determines that the ability of the member
 24 to comply with the terms of the obligation or liability has not been materially affected by active
 25 service.

26 (b) For a stay of a civil or administrative proceeding in which the service member is a party.
 27 The court or administrative body, after appropriate notice, shall grant the stay unless the court or
 28 administrative body determines that the ability of the service member to appear is not materially
 29 affected by active service.

30 (3) The court or administrative body may not charge or collect any fee from a service member
 31 who applies to the court or administrative body for relief under this section.

32 (4) An application filed under this section may not be deemed as consent to jurisdiction in any
 33 action or proceeding.

34 (5) The period of a service member's active service may not be included in computing any period
 35 limited by law, rule or order for bringing any action or proceeding before a court or administrative
 36 body for or against the service member or the service member's heirs, executors, administrators or
 37 assigns.

38 **SECTION 49.** ORS 399.240 is amended to read:

39 399.240. (1) As used in this section:

40 (a) "Interest" includes service charges, renewal fees or other charges or fees associated with
 41 an obligation or liability.

42 (b) "Service member" means:

43 (A) A member of the organized [*militia*] **national guard** who is called into active service of the
 44 state for 30 or more consecutive days.

45 (B) A member of the Oregon National Guard who is called into active service under Title 10

1 of the United States Code.

2 (C) A member of the Oregon National Guard who is called into active service under Title 32
3 of the United States Code to perform under an authority other than the Governor for 30 or more
4 consecutive days.

5 (2) Notwithstanding ORS 82.010, 83.095, 708A.255, 723.502, 723.730 and 725.340, an obligation or
6 liability bearing interest at a rate in excess of six percent per year incurred by a service member
7 before being called into active service may not, during any part of the period of active service, bear
8 interest in excess of six percent per year except by court order.

9 (3) The service member shall provide written notice to the creditor requesting that the rate of
10 interest be reduced to six percent per year and shall include proof of the official orders showing that
11 the service member is being called into active service.

12 (4) A creditor that receives a request under subsection (3) of this section to reduce a rate of
13 interest may apply to the court for a determination that the ability of a service member to pay in-
14 terest on an obligation or liability at a rate in excess of six percent per year is not materially af-
15 fected because of the active service of the member. If a court determines that the ability of a service
16 member to pay interest on an obligation or liability at a rate in excess of six percent per year is
17 not materially affected because of the active service of the member, the court may order an interest
18 rate that is just.

19 (5) A creditor must recompute the payment schedule to amortize the balance of the obligation
20 or liability over the remainder of the obligation or liability at a rate of interest determined under
21 subsection (2) or (4) of this section.

22 **SECTION 50.** ORS 399.242 is amended to read:

23 399.242. (1) As used in this section, "service member" means:

24 (a) A member of the organized [*militia*] **national guard** who is called into active service of the
25 state for 30 or more consecutive days.

26 (b) A member of the Armed Forces of the United States, as that term is defined in ORS 366.931,
27 who is called into active service under Title 10 of the United States Code.

28 (c) A member of the Oregon National Guard who is called into active service under Title 32 of
29 the United States Code to perform under an authority other than the Governor for 30 or more
30 consecutive days.

31 (2)(a) Except as provided in subsection (6) of this section, a service member who has obtained
32 the following services from a telecommunications service provider, an Internet service provider, a
33 health club as defined in ORS 431A.450, a health spa as defined in ORS 646A.030 or a provider of
34 television services may terminate or suspend the provision of services upon written notice and as
35 provided in paragraph (b) of this subsection:

36 (A) Telecommunications services.

37 (B) Internet services.

38 (C) Health spa services as defined in ORS 646A.030.

39 (D) Exercise or athletic activities offered by a health club.

40 (E) Television services, including but not limited to cable television, direct satellite and other
41 television-like services.

42 (b) The service member must provide proof to the service provider of the official orders showing
43 that the service member has been called into active service:

44 (A) At the time written notice is given; or

45 (B) If precluded by military necessity or circumstances that make the provision of proof at the

1 time of giving written notice unreasonable or impossible, within 90 days after written notice has
2 been given.

3 (3) A termination or suspension of services under this section is effective on the day written
4 notice is given under subsection (2) of this section.

5 (4)(a) A service member who terminates or suspends the provision of services under this section
6 and who is no longer in active service may reinstate the provision of services on the same terms
7 and conditions as originally agreed to with the service provider before the termination or suspension
8 upon written notice to the provider that the service member is no longer in active service. Written
9 notice under this subsection must be given within 90 days after termination of the service member's
10 active service.

11 (b) Upon receipt of the written notice of reinstatement, the service provider shall resume the
12 provision of services or, if the services are no longer available, provide substantially similar services
13 within a reasonable time not to exceed 30 days from the date of receipt of the written notice of
14 reinstatement.

15 (5) A service member who terminates, suspends or reinstates the provision of services under this
16 section:

17 (a) May not be charged a penalty, fee, loss of deposit or any other additional cost because of
18 the termination, suspension or reinstatement; and

19 (b) Is not liable for payment for any services after the effective date of the termination or sus-
20 pension, or until the effective date of a reinstatement of services as described in subsection (4) of
21 this section.

22 (6) A service member may terminate a contract for any service provided by a commercial mobile
23 radio services provider in accordance with 50 U.S.C. 535a.

24 **SECTION 51.** ORS 399.405 is amended to read:

25 399.405. All commissioned officers of the organized [*militia*] **national guard** shall be appointed
26 and promoted by the Governor upon recommendation of the Adjutant General.

27 **SECTION 52.** ORS 399.415 is amended to read:

28 399.415. (1) No person shall be appointed or promoted as a commissioned officer of the organized
29 [*militia*] **national guard** unless the person has passed such examination as to the physical, moral
30 and professional qualifications of the person as may be prescribed by applicable federal and state
31 laws and regulations.

32 (2) No person shall be recognized as a commissioned officer of the organized [*militia*] **national**
33 **guard** and no appointment as such shall become effective until the person has taken and subscribed
34 an oath of office as prescribed by applicable federal and state laws and regulations. Such oath shall
35 be taken and subscribed before an officer of the organized [*militia*] **national guard** authorized to
36 administer oaths as provided in ORS 399.150, or before a notary public.

37 **SECTION 53.** ORS 399.420 is amended to read:

38 399.420. (1) Commissioned officers may be assigned, reassigned, transferred or detailed to and
39 from units within the organized [*militia*] **national guard** as prescribed by applicable federal and
40 state laws and regulations.

41 (2) An officer must reside within reasonable commuting distance of the station to which the unit
42 of the officer is assigned. The Adjutant General shall determine what constitutes a reasonable dis-
43 tance in all cases of doubt.

44 **SECTION 54.** ORS 399.425 is amended to read:

45 399.425. (1) A commissioned officer of the organized [*militia*] **national guard** may tender resig-

1 nation at any time. Such resignation will be tendered in writing through proper military channels
2 in accordance with applicable federal and state laws and regulations. Such resignations shall take
3 effect when properly accepted and announced in orders.

4 (2) A commissioned officer desiring to accept an appointment or to enlist in the active Army,
5 Navy, Air Force, Marine Corps or Coast Guard of the United States or a reserve component thereof
6 shall first obtain a conditional release from the commander of the officer. Such conditional release
7 shall be issued in accordance with this chapter and ORS chapters 396 and 398 and military depart-
8 ment regulations, and shall include certification that the officer is properly cleared of responsibility
9 for all state and United States property and public money, and that the officer is not indebted to the
10 state or to the organization to which the officer belongs. An officer so released shall be considered
11 to have resigned upon presentation of evidence that the officer has accepted an appointment or en-
12 listed in the force to which released, and the resignation shall be announced in orders.

13 (3) No officer shall be allowed to resign a commission who is under arrest, suspension or who
14 is under orders to be returned to any military court for delinquency.

15 **SECTION 55.** ORS 399.435 is amended to read:

16 399.435. (1) The efficiency, moral character and general fitness for retention in the organized
17 [*militia*] **national guard** of any commissioned officer may be investigated and determined by an ef-
18 ficiency examining board. The members of an efficiency examining board shall be senior in rank to
19 the officer under investigation unless unavoidable.

20 (2) The physical fitness for further service of any commissioned officer in the organized
21 [*militia*] **national guard** may be investigated and determined by a medical examining board of offi-
22 cers.

23 (3) Efficiency and medical examining boards shall be appointed by the Governor upon recom-
24 mendation of the Adjutant General except that whenever an examining board is to be appointed for
25 the purpose of determining fitness of any officer for continued federal recognition, such board shall
26 be appointed by the commander designated in the applicable laws of the United States and the reg-
27 ulations issued thereunder.

28 **SECTION 56.** ORS 399.445 is amended to read:

29 399.445. Officers of the organized [*militia*] **national guard** shall give bonds and security as may
30 be required by the Adjutant General to secure the state against loss on account of misuse or mis-
31 application of state or federal property and funds. Such bonds shall be conditioned upon faithful
32 performance of all duties and the accounting for all property and funds for which the officer is re-
33 sponsible or accountable. The Adjutant General may, in lieu of the foregoing, enter into an agree-
34 ment, conditioned in like terms and for the same purpose, with a qualified surety company to bond
35 all officers of the organized [*militia*] **national guard** without specifically naming them. The premi-
36 ums on bonds shall be charged to funds appropriated for the support of the organized [*militia*] **na-**
37 **tional guard**.

38 **SECTION 57.** ORS 399.460 is amended to read:

39 399.460. All commissioned officers and warrant officers of the organized [*militia*] **national**
40 **guard**, including retired officers and warrant officers thereof, may organize themselves into an as-
41 sociation, the name of which shall be the Oregon National Guard Association. The association may
42 adopt bylaws not inconsistent with the statutes of this state and may alter and amend such bylaws.

43 **SECTION 58.** ORS 399.505 is amended to read:

44 399.505. (1) The qualifications for enlistment and reenlistment, the periods of enlistment,
45 reenlistment and voluntary extension of enlistment, the period of service, the form of oath to be

1 taken and the manner and form of transfer and discharge of enlisted personnel of the organized
2 [*militia*] **national guard** shall be those prescribed by applicable federal and state laws and regu-
3 lations.

4 (2) The Governor is authorized to extend the period of any enlistment, reenlistment, voluntary
5 extension of enlistment or the period of service of enlisted personnel of the Oregon Civil Defense
6 Force for a period not to exceed six months after the termination of an emergency declared by the
7 Governor, the legislature, the President or Congress.

8 (3) Whenever the period of enlistment, reenlistment, voluntary extension of enlistment, and the
9 period of service of enlisted personnel of the reserve components of the Armed Forces of the United
10 States are extended, the Governor shall extend the period of any enlistment, reenlistment, voluntary
11 extension of enlistment or the period of service of enlisted personnel in the corresponding force of
12 the organized [*militia*] **national guard** for the same period.

13 **SECTION 59.** ORS 399.510 is amended to read:

14 399.510. Every person who enlists or reenlists in any force of the organized [*militia*] **national**
15 **guard** shall sign an enlistment contract and shall take and subscribe such oath or affirmation of
16 enlistment as may be prescribed by applicable federal and state laws and regulations. Such oath
17 shall be taken and subscribed before any commissioned officer or warrant officer of the organized
18 [*militia*] **national guard** or of any component of the Armed Forces of the United States. A person
19 making a false oath as to any material statement contained in such enlistment contract is guilty of
20 perjury and shall be punished upon conviction as provided by law.

21 **SECTION 60.** ORS 399.515 is amended to read:

22 399.515. (1) This section, ORS 398.006, 398.252 and 399.205 and the Oregon Code of Military
23 Justice as described in ORS 396.128 shall be carefully explained to:

24 (a) Every enlisted member at the time of enlistment or transfer or induction into, or at the time
25 of an order to duty in or with any of the forces of the organized [*militia*] **national guard** or within
26 30 days thereafter; and

27 (b) Each unit of the organized [*militia*] **national guard** on an annual basis.

28 (2) A complete text of ORS chapter 398 and the Oregon Code of Military Justice, of ORS 399.205
29 and of the regulations issued by the Adjutant General under ORS 396.160 and 398.420 shall be made
30 available to any member of the organized [*militia*] **national guard**, upon request, for personal ex-
31 amination.

32 **SECTION 61.** ORS 399.520 is amended to read:

33 399.520. All noncommissioned officers of the organized [*militia*] **national guard** shall be ap-
34 pointed in the discretion of the appointing officer upon the nomination of the officer under whose
35 immediate command they are to serve. Appointing officers shall be designated in military department
36 regulations issued pursuant to ORS 396.305. The appointment of a noncommissioned officer may be
37 terminated as prescribed by such regulations.

38 **SECTION 62.** ORS 399.525 is amended to read:

39 399.525. (1) An enlisted person may be discharged from any force of the organized [*militia*] **na-**
40 **tional guard** prior to the expiration of the term of enlistment under such conditions as may be
41 prescribed by applicable federal and state laws and regulations.

42 (2) An enlisted person discharged from a force of the organized [*militia*] **national guard** shall
43 receive a discharge in writing in such form and of such type or classification as may be prescribed
44 by applicable laws and regulations of the United States and by military department regulations is-
45 sued pursuant to this chapter and ORS chapters 396 and 398.

SECTION 63. ORS 399.530 is amended to read:

399.530. When an enlisted person of the organized [*militia*] **national guard** absents self without leave and there is reason to believe that the person does not intend to return, the person may be discharged in accordance with military department regulations issued pursuant to ORS 396.305.

SECTION 64. ORS 402.105 is amended to read:

402.105. The Governor shall participate on behalf of the State of Oregon with other states legally joining in the compact in a form substantially as follows:

EMERGENCY MANAGEMENT

ASSISTANCE COMPACT

Article I - Purposes and Authorities

This compact is made and entered into by and between the participating member states which enact this compact, hereinafter called party states. For the purposes of this compact, the term “states” is taken to mean the several states, the Commonwealth of Puerto Rico, the District of Columbia, and all U.S. territorial possessions.

The purpose of this compact is to provide for mutual assistance between the states entering into this compact in managing any emergency or disaster that is duly declared by the Governor of the affected state(s), whether arising from natural disaster, technological hazard, man-made disaster, civil emergency aspects of resources shortages, community disorders, insurgency, or enemy attack.

This compact shall also provide for mutual cooperation in emergency-related exercises, testing, or other training activities using equipment and personnel simulating performance of any aspect of the giving and receiving of aid by party states or subdivisions of party states during emergencies, such actions occurring outside actual declared emergency periods. Mutual assistance in this compact may include the use of the states’ National Guard forces, either in accordance with the National Guard Mutual Assistance Compact or by mutual agreement between states.

Article II - General Implementation

Each party state entering into this compact recognizes many emergencies transcend political jurisdictional boundaries and that intergovernmental coordination is essential in managing these and other emergencies under this compact. Each state further recognizes that there will be emergencies which require immediate access and present procedures to apply outside resources to make a prompt and effective response to such an emergency. This is because few, if any, individual states have all the resources they may need in all types of emergencies or the capability of delivering resources to areas where emergencies exist.

The prompt, full, and effective utilization of resources of the participating states, including any resources on hand or available from the Federal Government or any other source, that are essential to the safety, care, and welfare of the people in the event of any emergency or disaster declared by a party state, shall be the underlying principle on which all articles of this compact shall be understood.

On behalf of the Governor of each state participating in the compact, the legally designated state official who is assigned responsibility for emergency management will be responsible for formulation of the appropriate interstate mutual aid plans and procedures necessary to implement this

1 compact.

2

3

Article III - Party State Responsibilities

4

5 A. It shall be the responsibility of each party state to formulate procedural plans and programs
6 for interstate cooperation in the performance of the responsibilities listed in this article. In formu-
7 lating such plans, and in carrying them out, the party states, insofar as practical, shall:

8 (1) Review individual state hazards analyses and, to the extent reasonably possible, determine
9 all those potential emergencies the party states might jointly suffer, whether due to natural disaster,
10 technological hazard, man-made disaster, emergency aspects of resource shortages, civil disorders,
11 insurgency, or enemy attack.

12 (2) Review party states' individual emergency plans and develop a plan which will determine the
13 mechanism for the interstate management and provision of assistance concerning any potential
14 emergency.

15 (3) Develop interstate procedures to fill any identified gaps and to resolve any identified incon-
16 sistencies or overlaps in existing or developed plans.

17 (4) Assist in warning communities adjacent to or crossing the state boundaries.

18 (5) Protect and assure uninterrupted delivery of services, medicines, water, food, energy and
19 fuel, search and rescue, and critical lifeline equipment, services, and resources, both human and
20 material.

21 (6) Inventory and set procedures for the interstate loan and delivery of human and material re-
22 sources, together with procedures for reimbursement or forgiveness.

23 (7) Provide, to the extent authorized by law, for temporary suspension of any statutes or ordi-
24 nances that restrict the implementation of the above responsibilities.

25 B. The authorized representative of a party state may request assistance of another party state
26 by contacting the authorized representative of that state. The provisions of this compact shall only
27 apply to requests for assistance made by and to authorized representatives. Requests may be verbal
28 or in writing. If verbal, the request shall be confirmed in writing within 30 days of the verbal re-
29 quest. Requests shall provide the following information:

30 (1) A description of the emergency service function for which assistance is needed including, but
31 not limited to, fire services, law enforcement, emergency medical, transportation, communications,
32 public works and engineering, building, inspection, planning and information assistance, mass care,
33 resource support, health and medical services, and search and rescue.

34 (2) The amount and type of personnel, equipment, materials and supplies needed, and a reason-
35 able estimate of the length of time they will be needed.

36 (3) The specific place and time for staging of the assisting party's response and a point of con-
37 tact at that location.

38 C. There shall be frequent consultation between state officials who have assigned emergency
39 management responsibilities and other appropriate representatives of the party states with affected
40 jurisdictions and the United States Government, with free exchange of information, plans, and re-
41 source records relating to emergency capabilities.

42

43

Article IV - Limitations

44

45 Any party state requested to render mutual aid or conduct exercises and training for mutual

1 aid shall take such action as is necessary to provide and make available the resources covered by
 2 this compact in accordance with the terms hereof; provided that it is understood that the state
 3 rendering aid may withhold resources to the extent necessary to provide reasonable protection for
 4 such state. Each party state shall afford to the emergency forces of any party state, while operating
 5 within its state limits under the terms and conditions of this compact, the same powers except that
 6 of arrest unless specifically authorized by the receiving state, duties, rights, and privileges as are
 7 afforded forces of the state in which they are performing emergency services. Emergency forces will
 8 continue under the command and control of their regular leaders, but the organizational units will
 9 come under the operational control of the emergency services authorities of the state receiving as-
 10 sistance. These conditions may be activated, as needed, only subsequent to a declaration of a state
 11 of emergency or disaster by the Governor of the party state that is to receive assistance or upon
 12 commencement of exercises or training for mutual aid and shall continue so long as the exercises
 13 or training for mutual aid are in progress, the state of emergency or disaster remains in effect or
 14 loaned resources remain in the receiving state(s), whichever is longer.

15
 16 Article V - Licenses and Permits

17
 18 Whenever any person holds a license, certificate, or other permit issued by any state party to
 19 the compact evidencing the meeting of qualifications for professional, mechanical, or other skills,
 20 and when such assistance is requested by the receiving party state, such person shall be deemed
 21 licensed, certified, or permitted by the state requesting assistance to render aid involving such skill
 22 to meet a declared emergency or disaster, subject to such limitations and conditions as the Governor
 23 of the requesting state may prescribe by executive order or otherwise.

24
 25 Article VI - Liability

26
 27 Officers or employees of a party state rendering aid in another state pursuant to this compact
 28 shall be considered agents of the requesting state for tort liability and immunity purposes. No party
 29 state or its officers or employees rendering aid in another state pursuant to this compact shall be
 30 liable on account of any act or omission in good faith on the part of such forces while so engaged
 31 or on account of the maintenance or use of any equipment or supplies in connection therewith. Good
 32 faith in this article shall not include willful misconduct, gross negligence, or recklessness.

33
 34 Article VII - Supplementary Agreements

35
 36 Inasmuch as it is probable that the pattern and detail of the machinery for mutual aid among
 37 two or more states may differ from that among the states that are party hereto, this compact con-
 38 tains elements of a broad base common to all states, and nothing herein shall preclude any state
 39 from entering into supplementary agreements with another state or affect any other agreements al-
 40 ready in force between states. Supplementary agreements may comprehend, but shall not be limited
 41 to, provisions for evacuation and reception of injured and other persons and the exchange of med-
 42 ical, fire, police, public utility, reconnaissance, welfare, transportation and communications person-
 43 nel, and equipment and supplies.

44
 45 Article VIII - Compensation

1 Each party state shall provide for the payment of compensation and death benefits to injured
2 members of the emergency forces of that state and representatives of deceased members of such
3 forces in case such members sustain injuries or are killed while rendering aid pursuant to this
4 compact, in the same manner and on the same terms as if the injury or death were sustained within
5 their own state.

6
7 Article IX - Reimbursement

8
9 Any party state rendering aid in another state pursuant to this compact shall be reimbursed by
10 the party state receiving such aid for any loss or damage to or expense incurred in the operation
11 of any equipment and the provision of any service in answering a request for aid and for the costs
12 incurred in connection with such requests; provided, that any aiding party state may assume in
13 whole or in part such loss, damage, expense, or other cost, or may loan such equipment or donate
14 such services to the receiving party state without charge or cost; and provided further, that any two
15 or more party states may enter into supplementary agreements establishing a different allocation
16 of costs among those states. Article VIII expenses shall not be reimbursable under this provision.

17
18 Article X - Evacuation

19
20 Plans for the orderly evacuation and interstate reception of portions of the civilian population
21 as the result of any emergency or disaster of sufficient proportions to so warrant, shall be worked
22 out and maintained between the party states and the emergency management/services directors of
23 the various jurisdictions where any type of incident requiring evacuations might occur. Such plans
24 shall be put into effect by request of the state from which evacuees come and shall include the
25 manner of transporting such evacuees, the number of evacuees to be received in different areas, the
26 manner in which food, clothing, housing, and medical care will be provided, the registration of the
27 evacuees, the providing of facilities for the notification of relatives or friends, and the forwarding
28 of such evacuees to other areas or the bringing in of additional materials, supplies, and all other
29 relevant factors. Such plans shall provide that the party state receiving evacuees and the party state
30 from which the evacuees come shall mutually agree as to reimbursement of out-of-pocket expenses
31 incurred in receiving and caring for such evacuees, for expenditures for transportation, food, cloth-
32 ing, medicines and medical care, and like items. Such expenditures shall be reimbursed as agreed
33 by the party state from which the evacuees come. After the termination of the emergency or disas-
34 ter, the party state from which the evacuees come shall assume the responsibility for the ultimate
35 support of repatriation of such evacuees.

36
37 Article XI - Implementation

38
39 A. This compact shall become operative immediately upon its enactment into law by any two (2)
40 states; thereafter, this compact shall become effective as to any other state upon its enactment by
41 such state.

42 B. Any party state may withdraw from this compact by enacting a statute repealing the same,
43 but no such withdrawal shall take effect until 30 days after the Governor of the withdrawing state
44 has given notice in writing of such withdrawal to the Governors of all other party states. Such
45 action shall not relieve the withdrawing state from obligations assumed hereunder prior to the ef-

1 fective date of withdrawal.

2 C. Duly authenticated copies of this compact and of such supplementary agreements as may be
 3 entered into shall, at the time of their approval, be deposited with each of the party states and with
 4 the Federal Emergency Management Agency and other appropriate agencies of the United States
 5 Government.

6
 7 Article XII - Validity
 8

9 This compact shall be construed to effectuate the purposes stated in Article I hereof. If any
 10 provision of this compact is declared unconstitutional, or the applicability thereof to any person or
 11 circumstances is held invalid, the constitutionality of the remainder of this compact and the appli-
 12 cability thereof to other persons and circumstances shall not be affected thereby.

13
 14 Article XIII - Additional Provisions
 15

16 Nothing in this compact shall authorize or permit the use of military force by the National
 17 Guard of a state at any place outside that state in any emergency for which the President is au-
 18 thorized by law to call into federal service the [*militia*] **national guard**, or for any purpose for which
 19 the use of the Army or the Air Force would in the absence of express statutory authorization be
 20 prohibited under 18 U.S.C. 1385.

21
 22
 23 **SECTION 65.** ORS 480.111 is amended to read:

24 480.111. As used in ORS 480.111 to 480.165:

25 (1) "Cone fountain" means a cardboard or heavy paper cone that:

26 (a) Contains 50 grams or less of pyrotechnic composition;

27 (b) If mounted on a common base with other cones having less than one-half inch of separation,
 28 results, when measured in combination with all other cones on the base, in a total pyrotechnic
 29 composition of not more than 200 grams;

30 (c) If mounted on a common base with other cones having at least one-half inch of separation,
 31 results, when measured in combination with all other cones on the base, in a total pyrotechnic
 32 composition of not more than 500 grams; and

33 (d) Upon ignition has the same effect as a cylindrical fountain.

34 (2) "Consumer fireworks" means:

35 (a) A cone fountain, a cylindrical fountain, a flitter sparkler, a ground spinner, an illuminating
 36 torch or a wheel, or a combination of two or more of those items; and

37 (b) Any other items, other than exempt fireworks, containing 500 grams or less of pyrotechnic
 38 composition that the State Fire Marshal recognizes by rule to be suitable for retail sale to members
 39 of the general public for individual use.

40 (3) "Cylindrical fountain" means a cylindrical tube that:

41 (a) Contains 75 grams or less of pyrotechnic composition;

42 (b) If mounted on a common base with other tubes having less than one-half inch of separation,
 43 results, when measured in combination with all other tubes on the base, in a total pyrotechnic
 44 composition of not more than 200 grams;

45 (c) If mounted on a common base with other tubes having at least one-half inch of separation,

1 results, when measured in combination with all other tubes on the base, in a total pyrotechnic
2 composition of not more than 500 grams;

3 (d) Upon ignition produces a shower of colored sparks and may produce a whistling effect; and

4 (e) Is provided with a means for restraining the behavior of the item, such as a spike for in-
5 sersion into the ground, a wood or plastic base for placing on the ground or, if designed to be
6 handheld, a wood or cardboard handle.

7 (4) "Display fireworks" means pyrotechnic devices that:

8 (a) Are designed for travel into the air or to project effects from a fixed position; and

9 (b)(A) Are classified by the United States Department of Transportation as Division 1.3 com-
10 patibility group G explosives or Division 1.4 compatibility group G explosives; or

11 (B) Contain more than 500 grams of pyrotechnic composition and are classified by the United
12 States Department of Transportation as Division 1.4 compatibility group E or S explosives.

13 (5) "Exempt fireworks" means the following:

14 (a) Paper caps containing 0.25 grains or less of explosive mixture and toy guns, canes or other
15 devices designed for firing those caps.

16 (b) Snakes or similar smoke-producing items containing 100 grains or less of combustible sub-
17 stances.

18 (c) Model rockets and model rocket motors that are used to propel recoverable models of rocket.

19 (d) Novelties and trick noisemakers.

20 (e) Emergency signaling devices, if used in railroad, boat, motor vehicle or other means of
21 transportation for warning or illumination purposes.

22 (f) Blank cartridges of a type used:

23 (A) For theater or other shows;

24 (B) For signaling or ceremonial purposes in athletics or sports; or

25 (C) By the [*militia*] **national guard**, an organization of war veterans or other organizations, if
26 parading an armed color guard.

27 (g) Cartridges, shells or gunpowder for use in legally permitted types of firearms.

28 (h) Military pyrotechnic and signaling devices classified by the United States Department of
29 Transportation as Division 1.4 compatibility group S explosives that are assigned to and in the
30 possession of the Armed Forces of the United States, or an authorized agent of the armed forces,
31 as inventory for use by the armed forces or agent in training active members of the armed forces
32 in their duties.

33 (i) Other items that in the judgment of the State Fire Marshal do not require regulation or re-
34 strictions on sale.

35 (6) "Explosive mixture" means a substance arranged in a manner to allow burning in less than
36 one second.

37 (7)(a) "Fireworks" means:

38 (A) Consumer fireworks;

39 (B) Display fireworks;

40 (C) Exempt fireworks;

41 (D) Pyrotechnic articles;

42 (E) Special effects; and

43 (F) Other pyrotechnic devices that:

44 (i) Are capable of producing audible, visual, mechanical or thermal effects through combustion,
45 deflagration or detonation; and

1 (ii) Contain chemical elements and compounds that are capable of burning independently of at-
2 mospheric oxygen or contain flammable liquid mixtures or flammable gas mixtures.

3 (b) "Fireworks" does not mean a candle, flaming club, flaming baton or other device that is de-
4 signed to keep the flame and thermal radiation in close proximity to the device.

5 (8) "Fireworks display" means an entertainment feature at which the public or a private group
6 is allowed to view a display or discharge that uses or explodes display fireworks or pyrotechnic
7 articles.

8 (9) "Flitter sparkler" means a narrow paper tube that:

9 (a) Contains five grams or less of pyrotechnic composition;

10 (b) Produces colored sparks upon ignition; and

11 (c) Is activated by igniting paper located at one end of the tube.

12 (10) "Ground spinner" means a small device similar to a wheel in design and effect that:

13 (a) Contains 20 grams or less of pyrotechnic composition;

14 (b) Vents from an orifice located on the side of the tube or elsewhere on the device; and

15 (c) When placed on the ground and ignited, spins rapidly and produces a shower of colored
16 sparks.

17 (11) "Illuminating torch" means a cylindrical tube that:

18 (a) Contains 100 grams or less of pyrotechnic composition; and

19 (b) Is provided with a means for restraining the behavior of the item, such as a spike for in-
20 sersion into the ground, a wood or plastic base for placing on the ground or, if designed to be
21 handheld, a wood or cardboard handle.

22 (12) "Local government" has the meaning given that term in ORS 174.116.

23 (13)(a) "Manufacture" means to make, construct, fabricate or produce fireworks.

24 (b) "Manufacture" does not mean:

25 (A) The assembly or fabrication of sets or mechanical pieces for fireworks displays; or

26 (B) Actions taken within the scope of a certification for conducting fireworks displays or for a
27 pyrotechnics operator.

28 (14) "Pyrotechnic articles" means devices that:

29 (a) Are designed for professional use;

30 (b) Are similar to consumer fireworks in chemical composition and construction;

31 (c) Contain 500 grams or less of pyrotechnic composition;

32 (d) Are not labeled as consumer fireworks; and

33 (e) Have identification numbers UN0431 or UN0432 in the United States Department of Trans-
34 portation Hazardous Materials Table set forth in 49 C.F.R. 172.101 or an amendment or replacement
35 of that identification standard recognized by the State Fire Marshal.

36 (15) "Pyrotechnic composition" means a mixture that is:

37 (a) Composed of a metal powder having a high combustion temperature and an oxidant; and

38 (b) Capable of an exothermic reaction that produces light, heat, smoke, sound or gas.

39 (16) "Pyrotechnic device" means consumer fireworks, display fireworks, pyrotechnic articles,
40 special effects and bird and animal control devices, and other combinations or compositions of ma-
41 terials, that produce audible, visual, mechanical or thermal effects.

42 (17) "Special effects" means articles containing pyrotechnic composition that, subject to au-
43 thorization from the appropriate jurisdiction, are:

44 (a) Manufactured, assembled, designed or discharged in connection with television, theater or
45 motion picture productions, concerts or conference centers; or

(b) Used for commercial, industrial, educational, recreational or entertainment purposes.

(18) "Wheel" means a pyrotechnic device that:

(a) Is designed to be attached to a post or tree by means of a nail or string;

(b) Has one or more driver units or tubes, each containing not more than 60 grams of pyrotechnic composition;

(c) Contains a total of not more than 200 grams of pyrotechnic composition; and

(d) Upon ignition revolves and produces a shower of colored sparks and may produce a whistling effect.

SECTION 66. ORS 480.120 is amended to read:

480.120. (1) No person shall sell, keep or offer for sale, expose for sale, possess, use, explode or have exploded any fireworks within Oregon, except as follows:

(a) Sales by manufacturers and wholesalers to customers residing outside this state in accordance with ORS 480.156;

(b) Sales to persons or organizations having obtained a permit from the State Fire Marshal for supervised public display;

(c) Sales to railroads, boats, motor vehicle or other transportation agencies, to be used for signal, warning or illumination purposes in connection with such business;

(d) Sale or use of blank cartridges for licensed shows or theaters or for signal or ceremonial purposes in athletics or sports;

(e) Experimental purposes by a manufacturer of explosives at such places where such experiments are normally conducted;

(f) Sale of blank cartridges for use by the [militia] **national guard** or any organization of war veterans or other organization authorized by law to parade in public a color guard armed with firearms;

(g) Sale of shells, cartridges, gunpowder or explosives for use in legally permitted firearms;

(h) Sales of items described in ORS 480.127 to persons who possess the retail sales permit required by ORS 480.127 by a person who holds a manufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165; or

(i) Sales of items described in ORS 480.127 to individual members of the general public for personal use by taking direct delivery of those items at the time of sale from the holder of a retail sale permit issued pursuant to ORS 480.127.

(2) Law enforcement officers of the state, county or municipality shall enforce the provisions of ORS 480.111 to 480.165.

SECTION 67. ORS 653.269 is amended to read:

653.269. The provisions of ORS 653.268 relating to pay for overtime shall not apply to:

(1) Labor employed in forest fire fighting.

(2) Employees of any irrigation system district actually engaged in the distribution of water for irrigation or domestic use.

(3) Employees of a public employer, as defined in ORS 243.650, who are employed in fire protection or law enforcement activities, including security personnel in corrections institutions, as those employees and activities are defined by rule of the Commissioner of the Bureau of Labor and Industries.

(4) Employees of a people's utility district organized under ORS chapter 261.

(5) Employees exempted from overtime:

(a) By a public employer as defined in ORS 243.650 because of the executive, administrative,

1 supervisory or professional nature of their employment as the nature of such employment is defined
2 by rule of the Commissioner of the Bureau of Labor and Industries; or

3 (b) By a collective bargaining agreement expressly waiving application of ORS 653.268.

4 (6) Employees of a public employer as defined in ORS 243.650 engaged in the operation of a
5 hospital or an establishment that is an institution primarily engaged in the care of persons who are
6 sick or aged or have mental illness or mental retardation and who reside on the premises if, before
7 performance of the work and pursuant to an agreement between the employer and employee or be-
8 tween the employer and the bargaining representative of the employees when the employees are
9 represented under a collective bargaining agreement, a work period of 14 consecutive days is ac-
10 cepted in lieu of the workweek of seven consecutive days for purposes of overtime computation and
11 if, for the employee's employment in excess of eight hours in any workday and in excess of 80 hours
12 in such 14-day period, the employee receives compensation at a rate not less than one and one-half
13 times the rate at which the employee is employed.

14 (7) Members of the organized [*militia*] **national guard** while in active service of the state in
15 accordance with ORS 399.075.

16 **SECTION 68.** ORS 657.150 is amended to read:

17 657.150. (1) An individual shall be paid benefits for weeks during the benefit year in an amount
18 that is to be determined by taking into account the individual's work in subject employment in the
19 base year as provided in this section.

20 (2)(a) To qualify for benefits an individual must have:

21 (A) Worked in subject employment in the base year with total base year wages of \$1,000 or more
22 and have total base year wages equal to or in excess of one and one-half times the wages in the
23 highest quarter of the base year; and

24 (B) Have earned wages in subject employment equal to six times the individual's weekly benefit
25 amount in employment for service performed subsequent to the beginning of a preceding benefit year
26 if benefits were paid to the individual for any week in the preceding benefit year.

27 (b) If the individual does not meet the requirements of paragraph (a)(A) of this subsection, the
28 individual may qualify for benefits if the individual has worked a minimum of 500 hours in employ-
29 ment subject to this chapter during the base year.

30 (3) If the wages paid to an individual are not based upon a fixed period of time or if wages are
31 paid at irregular intervals or in such manner as not to extend regularly over the period of employ-
32 ment, for the purposes of subsections (2) to (5) of this section, the individual's wages shall be allo-
33 cated in accordance with rules prescribed by the Director of the Employment Department. Such
34 rules shall, insofar as possible, produce results the same as those that would exist if the individual
35 had been paid wages at regular intervals. The director may adopt rules to attribute hours of work
36 to an individual if the individual is not paid on an hourly basis or if the employer does not report
37 the number of hours worked.

38 (4)(a) An eligible individual's weekly benefit amount shall be 1.25 percent of the total wages paid
39 in the individual's base year. However, such amount shall not be less than the minimum, nor more
40 than the maximum weekly benefit amount.

41 (b) The minimum weekly benefit amount shall be 15 percent (0.1500) of the state average weekly
42 covered wage for the preceding calendar year, effective for any benefit year commencing on and
43 after the week that includes July 4, 1975, and the week that includes each July 4 thereafter.

44 (c) The maximum weekly benefit amount shall be:

45 (A) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1979,

1 effective for any benefit year commencing with and after the week that includes July 4, 1980, and
2 through any benefit year commencing with the week that includes June 27, 1981.

3 (B) Fifty-five percent (0.5500) of the state average weekly covered wage for calendar year 1980,
4 effective for any benefit year commencing with and after the week that includes July 4, 1981,
5 through any benefit year commencing with the week that includes September 27, 1981.

6 (C) Fifty-eight percent (0.5800) of the state average weekly covered wage for calendar year 1980,
7 effective for any benefit year commencing with and after the week that includes October 4, 1981,
8 through any benefit year commencing with the week that includes June 27, 1982.

9 (D) Sixty percent (0.6000) of the state average weekly covered wage for calendar year 1981, ef-
10 fective for any benefit year commencing with and after the week that includes July 4, 1982, through
11 any benefit year commencing with the week that includes June 27, 1983.

12 (E) Sixty-four percent (0.6400) of the state average covered weekly wage for the preceding cal-
13 endar year, effective for any benefit year commencing with and after the week that includes July
14 4, 1983, and the week that includes each July 4 thereafter.

15 (d) All weekly benefit amounts, if not a multiple of \$1, shall be computed to the next lower
16 multiple of \$1.

17 (e) For the purposes of this subsection, the state average weekly covered wage means an amount
18 determined by the Employment Department by dividing the total wages paid by subject employers
19 during the year by 52 times the average monthly employment reported by subject employers for the
20 year.

21 (5) Benefits paid to an eligible individual in a benefit year shall not exceed 26 times the
22 individual's weekly benefit amount, or one-third of the base year's wages paid, whichever is the
23 lesser. If such amount is not a multiple of \$1, it shall be computed to the next lower multiple of \$1.

24 (6) An eligible unemployed individual who has employment in any week shall have the
25 individual's weekly benefit amount reduced, but not below zero, by the amount of earnings paid or
26 payable that exceeds the greater of:

27 (a) Ten times the minimum hourly wage established by the laws of this state; or

28 (b) One-third of the individual's weekly benefit amount.

29 (7) Payment that has been, is or will be paid to an individual for a holiday or vacation shall be
30 considered as earnings in the determination of the amount of benefits payable with respect to the
31 week in which the holiday or vacation falls in the same manner as provided in subsection (6) of this
32 section. However, if payment for the holiday or vacation is paid more than 45 days prior to the
33 holiday or vacation or is delayed more than 45 days following the end of the week in which the
34 holiday or vacation falls, the provisions of this section do not apply and previously reduced benefits
35 shall be adjusted accordingly.

36 (8) Payment that has been or is paid to an individual as back pay shall be considered as earnings
37 in the determination of the amount of benefits payable with respect to the period for which the back
38 pay has been or is paid.

39 (9) Payment that has been, or will be, made to an individual as a member of a reserve component
40 of the Armed Forces of the United States, including the organized [*militia*] **national guard** of the
41 State of Oregon, for the performance of inactive duty training shall not be considered as earnings
42 in the determination of the amount of benefits payable.

43 **SECTION 69.** ORS 659A.086 is amended to read:

44 659A.086. (1) An employee shall be granted a leave of absence by the employer of the employee
45 to perform active state service if:

1 (a) The employee is a member of the organized [*militia*] **national guard** of this state and is
2 called into active service of the state under ORS 399.065 or 399.075.

3 (b) The employee is a member of the organized [*militia*] **national guard** of another state and is
4 called into active state service by the Governor of the respective state.

5 (2) The employer shall grant the employee a leave of absence until release from active state
6 service permits the employee to resume the duties of employment. The regular employment position
7 of an employee on a leave of absence for active state service under this section is considered vacant
8 only for the period of the leave of absence. The employee is not subject to removal or discharge from
9 the position as a consequence of the leave of absence.

10 (3) Upon the termination of the leave of absence for active state service, an employee shall:

11 (a) Resume the duties of employment within seven calendar days; and

12 (b) Be restored to the employee's position or an equivalent position by the employer without loss
13 of seniority, vacation credits, sick leave credits, service credits under a pension plan or any other
14 employee benefit or right that had been earned at the time of the leave of absence.

15 (4) An employer is not required to pay wages or other monetary compensation to an employee
16 during a leave of absence required under subsection (1) of this section.

17 (5) Notwithstanding subsection (4) of this section:

18 (a) The State of Oregon shall continue coverage under an employer-sponsored health plan to an
19 employee of the State of Oregon and any other individual provided coverage under the employee's
20 plan on the day before the date the employee goes on leave for a period not exceeding a total of
21 12 months during a leave of absence required under subsection (1) of this section.

22 (b) An employer other than the State of Oregon may continue coverage under an employer-
23 sponsored health plan to an employee and any other individual provided coverage under the
24 employee's plan on the day before the date the employee goes on leave during a leave of absence
25 required under subsection (1) of this section.

26 (6)(a) Notwithstanding subsection (4) of this section, the State of Oregon, a county, a munici-
27 pality or other political subdivision of this state may establish and administer a donated leave pro-
28 gram that:

29 (A) Allows an employee who is on a leave of absence required under subsection (1) of this sec-
30 tion to receive donated leave; and

31 (B) Allows an employee to voluntarily donate vacation time to an eligible employee on a leave
32 of absence required under subsection (1) of this section.

33 (b) An employee who is on a leave of absence required under subsection (1) of this section and
34 who receives donated leave under paragraph (a) of this subsection may receive an amount of do-
35 nated leave that supplements any pay received as a member of the organized [*militia*] **national**
36 **guard**, but may not receive more than the amount the employee was earning in total compensation
37 on the date the employee began the leave of absence.

38 (7) For the purpose of calculating total compensation under subsection (6) of this section, the
39 State of Oregon, a county, a municipality or other political subdivision of this state shall:

40 (a) Include any amounts attributable to hours of overtime that equal the average number of
41 hours of overtime for the same employee class;

42 (b) Determine the average number of hours of overtime for an employee class based on a rea-
43 sonable expectation of the average number of hours of overtime employees in that class would per-
44 form over the course of a calendar year; and

45 (c) Maintain records of the average number of hours of overtime for each employee class for

1 each calendar year.

2 (8) As used in this section:

3 (a) "Active service of the state" has the meaning given that term in ORS 396.005.

4 (b) "Employee" means any individual, other than a copartner of the employer or an independent
5 contractor, who renders personal services in this state to an employer who pays or agrees to pay
6 wages or other compensation to the individual for those services.

7 (c) "Employee class" means a group of similarly situated employees whose positions have been
8 designated by their employer in a policy or a collective bargaining agreement as having common
9 characteristics.

10 (d) "Employer" means any person who employs one or more employees in this state. The term
11 includes the State of Oregon or any county, city, district, authority, public corporation or entity and
12 any of their instrumentalities organized and existing under law or charter, but does not include the
13 federal government.

14 (e) "Total compensation" means the total of an employee's base salary, differentials and over-
15 time.

16
