

Requested by Senator MANNING JR

**PROPOSED AMENDMENTS TO
SENATE BILL 947**

1 On page 1 of the printed bill, line 2, after the semicolon insert “creating
2 new provisions; and”.

3 Delete lines 10 through 30 and delete pages 2 through 34 and insert:

4 **“SECTION 1.** ORS 30.847 is amended to read:

5 “30.847. (1) A person or group of persons is subject to an action described
6 in subsection (2) or (3) of this section for engaging in paramilitary activity
7 if the person or group of persons knowingly, while acting as part of a private
8 paramilitary organization or on behalf of or in furtherance of any objective
9 of a private paramilitary organization:

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

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

12 “(A) Publicly engages in techniques capable of causing physical injury
13 or death;

14 “(B) Substantially disrupts governmental operations or a government
15 proceeding;

16 “(C) Assumes, exercises or asserts, without legal authorization, the func-
17 tions, powers or duties of:

18 “(i) A law enforcement officer, including any sheriff, police officer, mar-
19 shal or other peace officer; or

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

21 “(D) Interferes with another person and thereby:

1 “(i) Prevents the other person, or attempts to prevent the other person,
2 from engaging in conduct in which the other person has a legal right to
3 engage; or

4 “(ii) Causes the other person, or attempts to cause the other person, to
5 engage in conduct from which the other person has a legal right to abstain;
6 or

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

9 “(2)(a) If the Attorney General has reasonable cause to believe that a
10 person or group of persons has engaged in, or is about to engage in,
11 paramilitary activity as described in subsection (1) of this section, the At-
12 torney General may bring a civil action in the name of the State of Oregon
13 for injunctive relief in Marion County Circuit Court or any other circuit
14 court of this state.

15 “(b)(A) If it appears to the Attorney General that a person has possession,
16 custody or control of any information, document or other material that is
17 relevant to an investigation of paramilitary activity as described in sub-
18 section (1) of this section, or that could lead to the discovery of relevant
19 information in an investigation of paramilitary activity as described in sub-
20 section (1) of this section, the Attorney General may cause an investigative
21 demand to be served upon the person. The investigative demand may require
22 the person:

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

25 “(ii) To answer written interrogatories; or

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

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

1 “(c) When conducting investigations under this section, the Attorney
2 General may not demand, collect or maintain information about the political,
3 religious or social views, associations or activities of any individual, group,
4 association, organization, corporation, business or partnership unless the
5 information directly relates to an investigation into, and there are reason-
6 able grounds to suspect that the subject of the information is involved in,
7 paramilitary activity as described in subsection (1) of this section.

8 “(3)(a) A person injured as a result of paramilitary activity as described
9 in subsection (1) of this section may bring a civil action, individually or
10 jointly with other aggrieved persons, in the appropriate court for relief
11 against the person or persons who engaged in the paramilitary activity.

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

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

15 “(B) Injunctive relief;

16 “(C) Reasonable attorney fees; and

17 “(D) Any other appropriate equitable relief.

18 “(4) This section does not apply to:

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

23 “**(a) The Armed Forces or the National Guard, as those terms are**
24 **defined in 10 U.S.C. 101, or the National Guard, as described in ORS**
25 **396.105, called into service by a state or by the United States.**

26 “(b) A group of individuals that associates as a military organization
27 solely for historical purposes or fictional performances, or that parades in
28 public as part of a bona fide veterans’ organization, so long as the group does
29 not carry or use ammunition or explosives.

30 “(c) Students in an education institution authorized by a state or federal

1 government to teach military science as a prescribed part of the course of
2 instruction, when under the supervision of a military instructor.

3 “(d) Members of an organization that is authorized under state or federal
4 law to provide paramilitary, law enforcement or security services training
5 or to engage in paramilitary activity or the provision of law enforcement or
6 security services, when performing the functions authorized by law and, in
7 the case of paramilitary activity and law enforcement services, when under
8 the direction and control of a governmental authority.

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

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

13 “(g) Any facility, program or lawful activity related to firearms instruc-
14 tion and training intended to teach the safe handling and use of firearms,
15 or any other lawful sports or activities related to the individual recreational
16 use or possession of firearms, including but not limited to hunting activities,
17 target shooting, self-defense, firearms collection or any organized activity,
18 including but not limited to any hunting club, rifle club, rifle range or
19 shooting range, which does not include a criminal conspiracy as defined in
20 ORS 161.450 or the knowledge of or the intent to cause or further acts of
21 physical violence or damage to persons or property.

22 “(5) As used in this section:

23 “(a) ‘Dangerous weapon’ has the meaning given that term in ORS 161.015.

24 “(b) ‘Deadly weapon’ has the meaning given that term in ORS 161.015.

25 “(c) ‘Private paramilitary organization’ means any group of three or more
26 persons associating under a command structure for the purpose of function-
27 ing in public or training to function in public as a combat, combat support,
28 law enforcement or security services unit.

29 “(d) ‘State’ means the District of Columbia or a state, commonwealth,
30 territory or possession of the United States.

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

2 “90.472. (1) As used in this section, ‘state service member’ means a mem-
3 ber of the [*organized militia*] **National Guard as described in ORS 396.105**
4 who is called into active service of the state by the Governor under ORS
5 399.065 (1) for 90 or more consecutive days.

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

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

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

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

14 “(4) Notwithstanding ORS 90.300 (7)(a)(A) and 90.430, a tenant who ter-
15 minates a lease under subsection (2) of this section is not:

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

18 “(b) Liable for any rent beyond the effective date of the termination as
19 determined under subsection (3) of this section.

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

21 “105.111. (1) As used in this section, ‘state service member’ means a
22 member of the [*organized militia*] **National Guard as described in ORS**
23 **396.105** who is called into active service of the state by the Governor under
24 ORS 399.065 (1) for 30 or more consecutive days.

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

27 “(a) The defendant is a state service member;

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

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

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

5 **“SECTION 4.** ORS 109.056 is amended to read:

6 “109.056. (1) Except as provided in subsection (2) or (3) of this section, a
7 parent or guardian of a minor or incapacitated person, by a properly exe-
8 cuted power of attorney, may delegate to another person, for a period not
9 exceeding six months, any of the powers of the parent or guardian regarding
10 care, custody or property of the minor child or ward, except the power to
11 consent to marriage or adoption of a minor ward.

12 “(2) A parent or guardian of a minor child may delegate the powers des-
13 igned in subsection (1) of this section to a school administrator for a pe-
14 riod not exceeding 12 months.

15 “(3)(a) As used in this subsection, ‘servicemember-parent’ means a parent
16 or guardian:

17 “(A) Who is:

18 “(i) A member of the [*organized militia of this state*] **National Guard as**
19 **described in ORS 396.105;**

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

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

24 “(iv) A member of the Public Health Service of the United States De-
25 partment of Health and Human Services detailed by proper authority for
26 duty with the Army or Navy of the United States; and

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

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

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

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

16 **“SECTION 5.** ORS 166.660 is amended to read:

17 “166.660. (1) A person commits the crime of unlawful paramilitary activity
18 if the person:

19 “(a) Exhibits, displays or demonstrates to another person the use, appli-
20 cation or making of any firearm, explosive or incendiary device or any
21 technique capable of causing injury or death to persons and intends or knows
22 that such firearm, explosive or incendiary device or technique will be un-
23 lawfully employed for use in a civil disorder; or

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

29 “(2)(a) Nothing in this section makes unlawful any act of any law
30 enforcement officer performed in the otherwise lawful performance of the

1 officer's official duties.

2 “(b) Nothing in this section makes unlawful any activity of the State
3 Department of Fish and Wildlife, or any activity intended to teach or prac-
4 tice self-defense or self-defense techniques, such as karate clubs or self-
5 defense clinics, and similar lawful activity, or any facility, program or lawful
6 activity related to firearms instruction and training intended to teach the
7 safe handling and use of firearms, or any other lawful sports or activities
8 related to the individual recreational use or possession of firearms, including
9 but not limited to hunting activities, target shooting, self-defense, firearms
10 collection or any organized activity including, but not limited to any hunting
11 club, rifle club, rifle range or shooting range which does not include a con-
12 spiracy as defined in ORS 161.450 or the knowledge of or the intent to cause
13 or further a civil disorder.

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

15 “(4) As used in this section:

16 “(a) ‘Civil disorder’ means acts of physical violence by assemblages of
17 three or more persons which cause damage or injury, or immediate danger
18 thereof, to the person or property of any other individual.

19 “(b) ‘Firearm’ has the meaning given that term in ORS 166.210.

20 “(c) ‘Explosive’ means a chemical compound, mixture or device that is
21 commonly used or intended for the purpose of producing a chemical reaction
22 resulting in a substantially instantaneous release of gas and heat, including
23 but not limited to dynamite, blasting powder, nitroglycerin, blasting caps and
24 nitrojelly, but excluding fireworks as defined in ORS 480.111, black powder,
25 smokeless powder, small arms ammunition and small arms ammunition
26 primers.

27 “(d) ‘Law enforcement officer’ means any duly constituted police officer
28 of the United States, any state, any political subdivision of a state or the
29 District of Columbia, and also includes members of the military reserve
30 forces or National Guard as defined in **10 U.S.C. 101(c)** [*10 U.S.C. 101 (9)*,

1 *members of the organized militia of any state or territory of the United States,*
2 *the Commonwealth of Puerto Rico or the District of Columbia not included*
3 *within the definition of National Guard as defined by 10 U.S.C. 101 (9)],*
4 members of the Armed Forces of the United States and such persons as are
5 defined in ORS 161.015 (4) when in the performance of official duties.

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

7 “181A.893. (1) It is unlawful:

8 “(a) For an entity that employs private security providers to use a name
9 that implies that the entity is, or is affiliated with, an existing law enforce-
10 ment unit or public safety agency as defined in ORS 181A.355, the [*organized*
11 *militia*] **National Guard** as described in ORS 396.105, the Armed Forces of
12 the United States, a federal law enforcement agency or a federal intelligence
13 agency.

14 “(b) For a private security provider or an entity that employs private se-
15 curity providers to possess or use in the scope of employment equipment,
16 vehicles, uniforms or titles that imply that the provider or entity is affiliated
17 with a public or private safety agency as defined in ORS 181A.355.

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

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

24 **“SECTION 7.** ORS 307.286 is amended to read:

25 “307.286. (1) Upon compliance with ORS 307.289, there shall be exempt
26 from taxation up to \$60,000 of the assessed value of the homestead of any
27 resident of this state who is:

28 “(a) Serving in the Oregon National Guard, military reserve forces or
29 [*organized militia*] **National Guard** of any other state or territory of the
30 United States; and

1 “(b) Performing service:

2 “(A) Under Title 10 of the United States Code or pursuant to a deploy-
3 ment made under the authority of the Emergency Management Assistance
4 Compact; and

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

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

10 “(3) As used in this section, ‘homestead’ means residential property that
11 is owned by a person described in subsection (1) of this section and that, but
12 for military service, would be occupied as 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
15 Armed Forces of the United States who is on active duty for 90 consecutive
16 days or more or who is a member of the Oregon National Guard, the military
17 reserve forces or the [*organized militia*] **National Guard** of any other state
18 or territory of the United States who performs service in a status under Title
19 10 of the United States Code for a period of 90 consecutive days or more.

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

27 **“SECTION 9.** ORS 396.005 is amended to read:

28 “396.005. As used in this chapter and ORS chapter 399:

29 “(1) ‘Active service’ includes:

30 “(a) Active service of the state.

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

3 “(c) Service performed on full-time duty status under Title 32 of the
4 United States Code when performed under an authority other than the Gov-
5 ernor.

6 “(2) ‘Active service of the state’ means service performed while on full-
7 time duty status for training, operational duty or other service of the [*or-*
8 *ganized militia*] **National Guard** under the authority of the Governor,
9 whether paid from state funds or federal funds under Title 32 of the United
10 States Code.

11 “(3) ‘State active duty’ means full-time duty status for training, opera-
12 tional duty or other service, other than inactive duty, of the [*organized*
13 *militia*] **National Guard** performed under the authority of the Governor and
14 paid from state funds.

15 **“SECTION 10.** ORS 396.015 is amended to read:

16 “396.015. (1) The terms [*unorganized militia,* ‘*all or any part of the or-*
17 *ganized militia,*’ and ‘*organized militia or any force thereof,*’] ‘**National**
18 **Guard,**’ ‘**all or any part of the National Guard**’ and ‘**National Guard**
19 **or any part thereof,**’ whenever used in this chapter and ORS chapters 398
20 and 399, unless a different meaning is plainly required by the context, shall
21 be deemed to include any unit, command, component, element, headquarters,
22 staff or cadre thereof as well as any member thereof.

23 “(2) **The term ‘National Guard’ whenever used in this chapter and**
24 **ORS chapters 398 and 399, unless a different meaning is plainly re-**
25 **quired by the context, shall mean ‘National Guard’ as that term is**
26 **described in ORS 396.105.**

27 **“SECTION 11.** ORS 396.025 is amended to read:

28 “396.025. (1) It is the intent of this chapter and ORS chapters 398 and 399
29 to provide for the Oregon Military Department and for the [*state Militia*]
30 **National Guard of this state** and for the organization, equipment, regu-

1 lation and use thereof.

2 “(2) All matters relating to the organization, discipline and government
3 of the [*organized militia*] **National Guard**, not otherwise provided for in this
4 chapter and ORS chapters 398 and 399 or in military department regulations
5 issued pursuant thereto, shall be decided by the customs and usage of the
6 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 of the state shall be divided into the organized*
9 *militia and the unorganized militia.*]

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

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

21 **“The National Guard of this state shall be composed of:**

22 **“(1) The Oregon Army National Guard and the Oregon Air National**
23 **Guard, whose forces together with an inactive National Guard shall**
24 **comprise the Oregon National Guard;**

25 **“(2) The Oregon Civil Defense Force whenever such a force shall**
26 **be duly organized; and**

27 **“(3) Such additional forces as may be created by the Governor.**

28 **“SECTION 13.** ORS 396.115 is amended to read:

29 “396.115. The following persons shall be exempt from [*militia*] **National**
30 **Guard** service:

1 “(1) Persons exempt from [*militia*] **National Guard** service by the laws
2 of the United States.

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

6 “(3) Students preparing for the ministry in accredited theological or di-
7 vinity schools.

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

10 “**SECTION 14.** ORS 396.120 is amended to read:

11 “396.120. (1) The following persons of the [*organized militia*] **National**
12 **Guard** may administer oaths for the purposes of military administration,
13 including military justice, and affidavits may be taken for those purposes
14 before those persons who shall have the general powers of a notary public:

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

16 “(b) All law specialists.

17 “(c) All summary courts-martial.

18 “(d) All adjutants, assistant adjutants, acting adjutants, personnel adju-
19 tants and other persons of equivalent responsibility who may be assigned a
20 different position title by their respective force.

21 “(e) All legal officers.

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

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

25 “(h) All officers designated to take a deposition.

26 “(i) All persons detailed to conduct an investigation.

27 “(j) All other persons designated by military department regulations is-
28 sued by the Governor.

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

1 **“SECTION 15.** ORS 396.125 is amended to read:

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

9 “(2) In issuing regulations under this section, the Governor may give
10 consideration to the laws and regulations of the United States relating to
11 the organization, discipline and training of the [*militia*] **National Guard**, to
12 the provisions of this chapter and ORS chapters 398 and 399 and to the laws
13 and regulations governing the United States Army and United States Air
14 Force.

15 “(3) The Governor may delegate to the Adjutant General authority to is-
16 sue the regulations described in this section for the governance of the
17 [*militia*] **National Guard**.

18 **“SECTION 16.** ORS 396.128 is amended to read:

19 “396.128. (1) If the Adjutant General issues regulations for the governance
20 of the [*organized militia*] **National Guard** as provided under ORS 396.125,
21 the Adjutant General shall specify in the regulations a date on which the
22 regulations become operative for the purposes of all conduct subject to the
23 regulations occurring on or after the specified date. To the extent a regu-
24 lation issued under this section conflicts with a provision of this chapter,
25 ORS chapter 398 or 399 or any other law of this state, the regulation shall
26 supersede the conflicting provision or law.

27 “(2) Regulations issued by the Adjutant General under this section and
28 ORS 396.125 that have become operative shall be known and cited as ‘the
29 Oregon Code of Military Justice.’

30 **“SECTION 16a.** ORS 396.128 is added to and made a part of ORS

1 **chapter 396.**

2 **“SECTION 17.** ORS 396.130 is amended to read:

3 “396.130. (1) The Governor may order the [*organized militia*] **National**
4 **Guard** or any part thereof to serve outside the borders of this state or of the
5 United States in order to perform military duty of every description and to
6 participate in parades, reviews, cruises, conferences, encampments, maneu-
7 vers or other training, and to participate in small arms and other military
8 competitions and to attend service schools.

9 “(2) The provisions of this chapter and ORS chapters 398 and 399 shall
10 apply to the members of the [*organized militia*] **National Guard** while serv-
11 ing without the state and while going to and returning from such service
12 without the state in like manner and to the same extent as while serving
13 within the state.

14 **“SECTION 18.** ORS 396.135 is amended to read:

15 “396.135. When the [*militia*] **National Guard** of the state or any part
16 thereof is called forth under the Constitution and laws of the United States,
17 the Governor shall order out for service the [*organized militia*] **National**
18 **Guard** or [*such*] **any** part thereof as may be necessary, and if the number
19 available is insufficient the Governor may call for and accept from the [*un-*
20 *organized militia*] **general public** as many volunteers as are required for
21 service in the [*organized militia*] **National Guard** or the Governor may di-
22 rect the members of the [*unorganized militia*] **general public** or such of them
23 as the Governor may deem necessary to be drafted into the [*organized*
24 *militia*] **National Guard**.

25 **“SECTION 19.** ORS 396.140 is amended to read:

26 “396.140. [(1)] Whenever the Governor deems it necessary, the Governor
27 may direct the members of the [*unorganized militia*] **general public** to
28 present themselves for and submit to registration at such time and place and
29 in such manner as may be prescribed by military department regulations is-
30 sued pursuant to this chapter and ORS chapters 398 and 399.

1 “[2] *Any member of the unorganized militia who is ordered to register*
2 *under the provisions of this section or to be drafted into the organized militia*
3 *under ORS 396.135, and who fails to appear at the time and place designated*
4 *in such order, shall be guilty of a misdemeanor.*]

5 **“SECTION 20.** ORS 396.160 is amended to read:

6 “396.160. (1) The Adjutant General shall be the Director of the Oregon
7 Military Department, and Chief of Staff to the Governor. The Adjutant
8 General shall be the Commander of the Oregon National Guard.

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

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

18 “(4) The Adjutant General may employ such deputies, assistants and other
19 personnel as the Adjutant General shall deem necessary to assist the Adju-
20 tant General in the performance of those duties required of the Adjutant
21 General as Director of the Oregon Military Department. The Adjutant Gen-
22 eral shall fix the compensation of such deputies, assistants and other per-
23 sonnel in accordance with then existing state laws, budgetary restrictions
24 and employment policies.

25 “(5) The Adjutant General shall supervise the preparation and submission
26 of all returns and reports pertaining to the [*militia*] **National Guard** of the
27 state as may be required by the United States.

28 “(6) The Adjutant General shall be the channel of official military corre-
29 spondence with the Governor, and shall, on or before November 1 of each
30 year, make a report to the Governor of the transactions, expenditures and

1 condition of the Oregon National Guard. The report shall include the report
2 of the United States Property and Fiscal Officer.

3 “(7) The Adjutant General shall be the custodian of records of officers and
4 enlisted personnel and all other records and papers required by law or reg-
5 ulations to be filed in the office of the Adjutant General. The Adjutant
6 General may deposit with the State Archivist for safekeeping in the official
7 custody, records of the office of the Adjutant General that are used for his-
8 torical purposes rather than the administrative purposes assigned to the of-
9 fice of the Adjutant General by law.

10 “(8) The Adjutant General shall attest and record all military commis-
11 sions issued by the Governor and keep a roll of all commissioned officers,
12 with dates of commission and all changes occurring in the commissioned
13 forces.

14 “(9) The Adjutant General shall record, authenticate and communicate to
15 troops and individuals of the [*militia*] **National Guard** all orders, in-
16 structions and regulations.

17 “(10) The Adjutant General shall cause to be procured, printed and cir-
18 culated to those concerned all books, blank forms, laws, regulations or other
19 publications governing the [*militia*] **National Guard** needful to the proper
20 administration, operation and training thereof or to carry into effect the
21 provisions of this chapter and ORS chapters 398 and 399.

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

25 “(12) The Adjutant General shall render such professional aid and assist-
26 ance and perform such military duties, not otherwise assigned, as may be
27 ordered by the Governor.

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

30 “(14) The Adjutant General may issue regulations as described in ORS

1 396.125 (1) if authority is 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 de-
4 partment, under the direction of the Governor, shall be responsible as pro-
5 vided in this chapter and ORS chapters 398 and 399 for the supervision of
6 the military affairs of the state.

7 “(2) The military department shall prepare and promulgate necessary
8 regulations for the organization, governance, armament, equipment, training
9 and compensation of the [*militia*] **National Guard** of the state in conformity
10 with the provisions of this chapter, ORS chapters 398 and 399 and the laws
11 of the United States. Regulations so made shall be subject to the approval
12 of the Governor.

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

17 “(4) The military department shall fix the location of the units and
18 headquarters of the Oregon National Guard, and shall, subject to the ap-
19 proval of the National Guard Bureau, transfer, attach, consolidate or inac-
20 tivate any organization or unit when in its judgment the efficiency of the
21 present organization will be increased thereby.

22 “(5) The military department shall have the power to establish awards and
23 decorations and to approve the design therefor.

24 **“SECTION 22.** ORS 396.332 is amended to read:

25 “396.332. For the purpose of requesting a state or nationwide criminal
26 records check under ORS 181A.195, the Oregon Military Department may
27 require the fingerprints of:

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

- 1 “(a) Are assigned to the at-risk youth alternative education program;
- 2 “(b) Are issued firearms and munitions;
- 3 “(c) Have fiscal and purchasing responsibilities as their primary respon-
- 4 sibilities; or
- 5 “(d) Have regular access to restricted areas within a military installation.
- 6 “(2) A person who is applying to join the [*organized militia*] **National**
- 7 **Guard** of this state[, *as described in ORS 396.105,*] or is a member of the
- 8 [*organized militia*] **National Guard** of this state.

9 **“SECTION 23.** ORS 396.355 is amended to read:

10 “396.355. (1) As used in this section, ‘settle’ means consider, ascertain,

11 adjust, determine and dispose of a claim, whether by full or partial allowance

12 or by disallowance.

13 “(2) Under such military department regulations as the Governor may

14 prescribe, the Governor or, subject to appeal to the Governor, the Adjutant

15 General, may settle and pay in an amount not more than \$500 a claim against

16 the state for:

17 “(a) Damage to or loss of real property, including damage or loss incident

18 to use and occupancy; and

19 “(b) Damage to or loss of personal property, either caused by a member

20 of the [*organized militia*] **National Guard** acting within the scope of as-

21 signed duties, or otherwise incident to noncombat activities of the [*organized*

22 *militia*] **National Guard**.

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

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

25 “(b) It is not payable under section 2733 or 2734 of title 10, United States

26 Code, under section 2672 of title 28, United States Code or under section 715

27 of title 32, United States Code;

28 “(c) The damage to, or loss of, property was not caused wholly or partly

29 by a negligent or wrongful act of the claimant, agent or employee of the

30 claimant; and

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

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

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

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

9 **“SECTION 24.** ORS 396.530 is amended to read:

10 “396.530. Armories may be constructed in locations not already provided
11 with armories or in which existing armories are inadequate, where one or
12 more units of the [*organized militia*] **National Guard**, fully organized under
13 this chapter and ORS chapters 398 and 399, may be located and where, in the
14 judgment of the military department, it will be most convenient to the units,
15 and where most needed. All title to the armory and grounds upon which it
16 is situated shall vest in the State of 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
19 have the powers of a corporation for the purpose of purchasing, leasing,
20 renting or otherwise acquiring buildings or parts thereof, grounds, premises,
21 offices, rooms, warehouses, garages, shops and storage areas for the use of
22 the department or any unit of the [*organized militia*] **National Guard**. For
23 such purpose the military department, subject to the review and supervision
24 of the Oregon Department of Administrative Services as required by ORS
25 276.428 and 276.429, may make and execute contracts and agreements the le-
26 gal form and sufficiency of which shall first be approved by the Attorney
27 General.

28 “(2) Costs and charges in connection with the acquisition and use of
29 property under this section shall be paid from funds appropriated for the use
30 of the military department and shall not be general obligations of the State

1 of Oregon.

2 **“SECTION 26.** ORS 396.540 is amended to read:

3 “396.540. (1) Armories may be used by members and units of the [*organized*
4 *militia*] **National Guard** in accordance with regulations issued pursuant to
5 this chapter and ORS chapters 398 and 399.

6 “(2) Armories may be used by any veterans’ organizations and their aux-
7 iliaries located in the community where the armory is located, provided such
8 use will not interfere with the use of the facilities by the [*organized*
9 *militia*] **National Guard** or result in risk to federal or state property, and
10 provided that the organization makes a written request therefor and pays for
11 heat, lights, janitor service and other expense required by such use.

12 “(3) Armories may be used by any federal, state, county and municipal
13 bureau, agency or department or by the Armed Forces of the United States,
14 including the Coast Guard, or by the reserve components thereof for their
15 official business, provided that such use does not interfere with the members
16 and units of the [*organized militia*] **National Guard** stationed in such ar-
17 mory, and provided that such use is approved by the officer in charge thereof
18 and by military superiors as prescribed by military department regulations
19 issued pursuant to this chapter and ORS chapters 398 and 399.

20 “(4) Armories may be rented for use by a person, firm, association or
21 corporation, not specified elsewhere in this section, for such purposes and
22 upon such terms as may be approved by the officer in charge of the armory
23 and by military superiors as prescribed by military department regulations
24 issued pursuant to this chapter and ORS chapters 398 and 399 and provided
25 that such use will not, and only so long as such use does not, interfere with
26 the use of the armory by the members and units of the [*organized militia*]
27 **National Guard** stationed therein.

28 “(5) The Oregon National Guard Association described in ORS 399.460
29 may use an armory or other military facility at no cost, provided that the
30 use is approved by the officer in charge and by military superiors as pre-

1 scribed by military department regulations issued pursuant to this chapter
2 and ORS chapters 398 and 399.

3 **“SECTION 27.** ORS 398.004 is amended to read:

4 “398.004. (1) The following persons who are not in federal service are
5 subject to the Oregon Code of Military Justice as described in ORS 396.128:

6 “(a) Members of the [*organized militia*] **National Guard.**

7 “(b) All other persons lawfully ordered to duty in or with the [*organized*
8 *militia*] **National Guard**, from the dates they are required by the terms of
9 the order or other directive to obey the same.

10 “(2) A person may not be tried or punished for any offense provided in
11 the Oregon Code of Military Justice unless:

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

15 “(b) The offense charged has a connection with the military status or as-
16 signment of the person. For purposes of this paragraph, the required con-
17 nection with military status or assignment is conclusively established for
18 offenses for which there is no equivalent offense in the general criminal laws
19 of this state and for offenses involving wrongful use, possession, manufac-
20 ture, distribution or introduction of a controlled substance described in Ar-
21 ticle 112a of the Oregon Code of Military Justice.

22 “(3)(a) Subject matter jurisdiction is established if a nexus exists between
23 an offense, either military or nonmilitary, and the state military force.

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

28 “(c) Except as provided in paragraph (f) of this subsection, a civilian
29 court has primary jurisdiction of an offense when:

30 “(A) An act or omission violates both the Oregon Code of Military Justice

1 and a state, federal or foreign criminal law; and

2 “(B) A person subject to the code was neither in a duty status nor prop-
3 erly ordered to be in a duty status at the time of the act or omission.

4 “(d) When a person is charged with an offense described in paragraph (c)
5 of this subsection, a court-martial or nonjudicial punishment may be initi-
6 ated only after a civilian court has declined to prosecute or has dismissed
7 the charge, provided jeopardy has not attached.

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

10 “(f) State military forces have jurisdiction of any offense involving a
11 person subject to the Oregon Code of Military Justice when the person is in
12 a duty status, when the person is properly ordered to be in a duty status or
13 when the sole offense is conduct that is prohibited by Article 112a of the
14 Oregon Code of Military Justice.

15 “**SECTION 28.** ORS 398.006 is amended to read:

16 “398.006. (1) Each person discharged from the [*organized militia*] **National**
17 **Guard** who is later charged with having fraudulently obtained the discharge
18 of the person is, subject to ORS 398.216, subject to trial by court-martial on
19 that charge and is after apprehension subject to the Oregon Code of Military
20 Justice while in the custody of the military for that trial. Upon conviction
21 of that charge, the person is subject to trial by court-martial for all offenses
22 under the Oregon Code of Military Justice committed before the fraudulent
23 discharge.

24 “(2) A person who has deserted from the [*organized militia*] **National**
25 **Guard** may not be relieved from amenability to the jurisdiction of the
26 Oregon Code of Military Justice by virtue of a separation from any later
27 period of service.

28 “**SECTION 29.** ORS 398.010 is amended to read:

29 “398.010. (1) The Oregon Code of Military Justice applies throughout this
30 state and also applies to all persons otherwise subject to the code while they

1 are serving outside the state, and while they are going to and returning from
2 such service outside the state, in the same manner and to the same extent
3 as if they were serving inside the state.

4 “(2) Courts-martial and courts of inquiry may be convened and held in
5 units of the [*organized militia*] **National Guard** while those units are serv-
6 ing outside the state with the same jurisdiction and powers as to persons
7 subject to the Oregon Code of Military Justice as if the proceedings were
8 held inside the state. Offenses committed outside the state may be tried and
9 punished either inside or outside the state.

10 **“SECTION 30.** ORS 398.012 is amended to read:

11 “398.012. (1) The Governor, on the recommendation of the Adjutant Gen-
12 eral, shall appoint an officer of the [*organized militia*] **National Guard** as
13 State Judge Advocate. To be eligible for appointment as State Judge Advo-
14 cate, an officer must:

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

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

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

20 “(2) The Adjutant General may appoint an officer of the [*organized*
21 *militia*] **National Guard** as an Assistant State Judge Advocate. The Adju-
22 tant General may appoint as many Assistant State Judge Advocates as the
23 Adjutant General deems necessary. To be eligible for appointment as an As-
24 sistant State Judge Advocate, an officer must:

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

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

28 “(3)(a) The Adjutant General may appoint members of the [*organized*
29 *militia*] **National Guard** who are members in good standing of the Oregon
30 State Bar as temporary Assistant State Judge Advocates. An individual ap-

1 pointed as a temporary Assistant State Judge Advocate has 12 months from
2 the date of appointment to meet the qualifications for a judge advocate under
3 the Uniform Code of Military Justice, 10 U.S.C. 801 et seq.

4 “(b) A temporary Assistant State Judge Advocate who has met the re-
5 quirements under this subsection is eligible for appointment as an Assistant
6 State Judge Advocate.

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

10 “(4) The State Judge Advocate, the senior Army or Air Force judge ad-
11 vocate in the [*organized militia*] **National Guard** or their assistants shall
12 make frequent inspections in the field for supervision of the administration
13 of military justice and general military legal matters.

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

17 “(b) The judge advocate of any command may communicate directly with
18 the judge advocate of a superior or subordinate command, the State Judge
19 Advocate or the senior Army or Air Force judge advocate in the [*organized*
20 *militia*] **National Guard**.

21 “(6) A person who has acted as member, military judge, trial counsel, as-
22 sistant trial counsel, defense counsel, assistant defense counsel or investi-
23 gating officer, or who has been a witness for either the prosecution or
24 defense in any case, may not later act as judge advocate to any reviewing
25 authority upon the same case.

26 “(7) A judicial officer, as defined by ORS 1.210, is not prohibited, by rea-
27 son of holding that office, from:

28 “(a) Performing all acts necessary or incumbent to the authorized exercise
29 of duties as a judge advocate.

30 “(b) Being assigned as a judge advocate by the Adjutant General as ap-

1 pointed by the Governor as Commander in Chief under the Oregon Consti-
2 tution.

3 **“SECTION 31.** ORS 398.406 is amended to read:

4 “398.406. In the [*organized militia*] **National Guard** not in federal service,
5 the processes and sentences of its courts-martial shall be executed by the
6 civil officers prescribed by the laws of the state. Where no provision is made
7 for executing those processes and sentences, the process or sentence shall
8 be executed by a United States Marshal or deputy marshal, who shall make
9 a return to the military officer issuing the process or the court imposing the
10 sentence, pursuant to section 333 of title 32, United States Code.

11 **“SECTION 32.** ORS 399.015 is amended to read:

12 “399.015. The ground force of the [*organized militia*] **National Guard**
13 shall be the Army National Guard and shall be composed of the army units
14 which are a part of the Oregon National Guard on August 9, 1961, and such
15 units as may be authorized thereafter, including the personnel who are en-
16 listed, appointed or commissioned therein. All persons who are members of
17 the Army National Guard shall be federally recognized as such.

18 **“SECTION 33.** ORS 399.025 is amended to read:

19 “399.025. The air force of the [*organized militia*] **National Guard** shall
20 be the Air National Guard and shall be composed of the air force units which
21 are a part of the Oregon National Guard on August 9, 1961, and such units
22 as may be authorized thereafter, including the personnel who are enlisted,
23 appointed or commissioned therein. All persons who are members of the Air
24 National Guard shall be federally recognized as such.

25 **“SECTION 34.** ORS 399.045 is amended to read:

26 “399.045. (1) The forces of the [*organized militia*] **National Guard** shall
27 be organized, armed, disciplined, governed, administered and trained as pre-
28 scribed by applicable federal and state laws and regulations.

29 “(2) It hereby is declared to be the policy of the state that there shall be
30 an equality of treatment and opportunity for all persons in the [*organized*

1 *militia*] **National Guard** without regard to race, creed, color or national
2 origin.

3 **“SECTION 35.** ORS 399.055 is amended to read:

4 “399.055. Members and units of the [*organized militia*] **National Guard**
5 shall assemble for training and shall participate in field training periods and
6 active duty for training periods, maneuvers, schools, conferences or other
7 similar duties at such times and places as are prescribed therefor by appli-
8 cable federal and state laws and regulations. In addition to these periods, the
9 commander of any organization may require the officers, warrant officers and
10 enlisted persons of the command to meet for ceremonies, parades or training
11 at such times and places as the commander may appoint.

12 **“SECTION 36.** ORS 399.065 is amended to read:

13 “399.065. (1) The Governor shall have the power, in case of invasion, dis-
14 aster, insurrection, riot, breach of the peace, or imminent danger thereof, to
15 order into active service of the state for such period, to such extent and in
16 such manner as the Governor may deem necessary all or any part of the
17 [*organized militia*] **National Guard**. Such power shall include the power to
18 order the [*organized militia*] **National Guard** or any part thereof to function
19 under the operational control of the United States Army, Navy or Air Force
20 commander in charge of the defense of any area within the state which is
21 invaded or attacked or is or may be threatened with invasion or attack.

22 “(2) The Governor may order into active service of the state for such pe-
23 riod, to such extent and such manner as the Governor may deem necessary
24 units or individuals of the [*organized militia*] **National Guard** when in the
25 judgment of the Governor the services of such units or individuals are re-
26 quired for the furtherance of the organization, maintenance, discipline or
27 training of the [*organized militia*] **National Guard** or for ceremonial func-
28 tions of the state government.

29 “(3) Whenever any portion of the [*organized militia*] **National Guard** is
30 employed pursuant to this section, the Governor, if in the judgment of the

1 Governor the maintenance of law and order will thereby be promoted, may
2 by proclamation declare the county or city in which the troops are serving,
3 or any specified portion thereof, to be under martial law.

4 **“SECTION 37.** ORS 399.075 is amended to read:

5 “399.075. (1)(a) The Adjutant General, with the approval of the Governor,
6 may order members of the [*organized militia*] **National Guard** into active
7 service of the state.

8 “(b) Active service of the state may be for a purpose that includes, but
9 is not limited to, carrying out state or federal drug interdiction and
10 counter-drug law enforcement activities under a drug interdiction and
11 counter-drug activities plan approved by the Governor. When participating
12 in such activities, and to the extent authorized by 32 U.S.C. 112, applicable
13 regulations of the National Guard Bureau and the drug interdiction and
14 counter-drug activities plan approved by the Governor, the Oregon Military
15 Department is designated as a law enforcement agency for the purpose of
16 carrying out federal asset forfeiture laws only.

17 “(2) A member serving in active service of the state may not receive less
18 than the pay and allowances of the member’s corresponding grade in the
19 Armed Forces of the United States in accordance with a schedule approved
20 by the Adjutant General for the period of time in active service of the state.

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

24 “(4) Notwithstanding subsection (2) of this section:

25 “(a) A medical examiner may be paid for services and necessary dis-
26 bursements in an amount approved by the Governor.

27 “(b) An appointed judge advocate may be paid for legal services and nec-
28 essary disbursements in any suit, action or proceeding in an amount ap-
29 proved by the Governor.

30 “(c) A member may consent to perform active service of the state without

1 pay and allowances, provided that the member may, within the discretion of
2 the Adjutant General, be paid for necessary traveling expenses, subsistence
3 and per diem allowances.

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

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

12 “(a) Penalties and fines imposed by a military court.

13 “(b) Any shortage of or injury to state or United States property or funds
14 for which a member of the [*organized militia*] **National Guard** is responsible
15 or accountable and where such responsibility has been fixed by competent
16 authority.

17 “(7)(a) Except as provided in paragraph (b) of this subsection, a member
18 of the [*organized militia*] **National Guard** who is ordered to state active
19 duty shall be considered a temporary employee of the military department.

20 “(b) A member of the [*organized militia*] **National Guard** who is ordered
21 to state active duty is not subject to ORS chapter 240 and ORS 243.650 to
22 243.809.

23 “(8) The limitations on employment imposed by ORS 238.082 (2) and (3)
24 do not apply to a retired member of the Public Employees Retirement System
25 who is ordered into active service of the state. Hours served by a person
26 under this subsection shall not be counted for the purpose of the limitations
27 on employment imposed by ORS 238.082 (2) and (3).

28 “**SECTION 38.** ORS 399.085 is amended to read:

29 “399.085. For all purposes under this chapter and ORS chapters 396 and
30 398, members of the [*organized militia*] **National Guard of this state** who

1 enter and serve in the active military service of the United States in time
2 of war under a call or order by the President or who enter and serve on
3 active duty in the military service of the United States in time of peace in
4 their status within the National Guard of the United States or Air National
5 Guard of the United States and who thereafter return to the military service
6 of the state, shall be entitled to credit for time so served as if such service
7 had been rendered to the state.

8 **“SECTION 39.** ORS 399.115 is amended to read:

9 “399.115. (1) Any person who trespasses upon any armory, arsenal, camp,
10 range, base or other facility of the [*organized militia*] **National Guard** or
11 other place where any unit of the [*organized militia*] **National Guard** is
12 performing military duty, including training, or who in any way or manner
13 interrupts or molests the discharge of military duties by any member of the
14 [*organized militia*] **National Guard** or of the Armed Forces of the United
15 States or who trespasses or prevents the passage of troops of the [*organized*
16 *militia*] **National Guard** or of the Armed Forces of the United States in the
17 performance of their military duties may be placed in arrest by the com-
18 manding officer, or the designated representative of the commanding officer,
19 of the unit performing such military duty at the place where the offense is
20 committed and may be held in arrest during the continuance of the per-
21 formance of such military duty, but not to exceed 12 hours.

22 “(2) The commanding officer or the designated representative of the com-
23 manding officer, of any unit of the [*organized militia*] **National Guard** per-
24 forming military duty in or at any armory, arsenal, camp, range, base or
25 other facility of the [*organized militia*] **National Guard** or other place where
26 such unit is performing military duty may prohibit persons who hawk, ped-
27 dle, vend or sell goods, wares, merchandise, food products or beverages upon
28 the streets and highways from conducting sales or auctions, and may prohibit
29 all gambling within the limits of such armory, arsenal, camp, range, base or
30 other facility of the [*organized militia*] **National Guard** or other place where

1 such unit is performing military duty or within such limits not exceeding
2 one mile therefrom as the commanding officer may prescribe. Such com-
3 manding officer may in the discretion of the commanding officer abate as
4 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
7 its military duties shall have the right of way over any persons or vehicles
8 on any public street or highway of this state, except United States mail
9 carriers, fire apparatus and other emergency vehicles. [*Any person who*
10 *hinders or delays, or obstructs, the organized militia in the performance of its*
11 *military duties, is guilty of a misdemeanor.*]

12 **“SECTION 41.** ORS 399.145 is amended to read:

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

19 **“SECTION 42.** ORS 399.150 is amended to read:

20 “399.150. Oaths and affirmations required in any matter connected with
21 the military service may be administered by any duly commissioned officer
22 of the [*organized militia*] **National Guard** or other officer authorized to ad-
23 minister oaths under the laws of the state, and no charge shall be made nor
24 shall any fee be accepted for such service.

25 **“SECTION 43.** ORS 399.155 is amended to read:

26 “399.155. No member of the [*organized militia*] **National Guard** shall
27 wear, when on or off duty, any uniform or any device, strap, knot or insignia
28 of any design or character used as a designation of grade, rank or office,
29 such as are by law or regulation, duly promulgated, prescribed for the use
30 of the [*organized militia*] **National Guard**, without the permission of the

1 commanding officer.

2 **“SECTION 44.** ORS 399.205 is amended to read:

3 “399.205. Any member of the [*organized militia*] **National Guard** who is
4 wronged by the commanding officer, and who, upon due application to that
5 commanding officer, is refused redress, may complain to any superior com-
6 missioned officer, who shall forward the complaint to the Governor or Ad-
7 jutant General.

8 **“SECTION 45.** ORS 399.210 is amended to read:

9 “399.210. Any officer or enlisted person of the [*militia*] **National Guard**
10 of this state who receives compensation from the United States as a federally
11 recognized member of the [*organized militia*] **National Guard** shall not be
12 ineligible by reason thereof to hold lucrative office or seat in the Legislative
13 Assembly within the meaning of [*section 10*], Article II **section 10**, of the
14 Oregon Constitution.

15 **“SECTION 46.** ORS 399.215 is amended to read:

16 “399.215. Active members of the [*organized militia*] **National Guard** shall
17 be exempt from duty to act as a juror.

18 **“SECTION 47.** ORS 399.225 is amended to read:

19 “399.225. (1) Members of the [*organized militia*] **National Guard** ordered
20 into active service of the state pursuant to this chapter shall not be liable
21 civilly or criminally for any act or acts done by them in the performance of
22 their duty. When an action or proceeding of any nature is commenced in any
23 court by any person against any officer of the [*militia*] **National Guard** for
24 any act done by the officer in an official capacity in the discharge of any
25 duty under this chapter and ORS chapters 396 and 398, or an alleged omis-
26 sion by the officer to do an act which it was the duty of the officer to per-
27 form, or against any person acting under the authority or order of such
28 officer, or by virtue of any warrant issued by the officer pursuant to law, the
29 defendant may require the person instituting or prosecuting the action or
30 proceeding to file security for the payment of costs that may be awarded to

1 the defendant therein, and the defendant in all cases may make a general
2 denial and give the special matter in evidence. A defendant in whose favor
3 a final judgment is rendered in an action or a final order is made in a special
4 proceeding shall recover the costs of the defendant.

5 “(2) No member of the [*organized militia*] **National Guard** of the state
6 shall be arrested on any civil process while going to, remaining at, or re-
7 turning from any place at which the member may be required to attend for
8 military duty.

9 **“SECTION 48.** ORS 399.238 is amended to read:

10 “399.238. (1) As used in this section, ‘service member’ means:

11 “(a) A member of the [*organized militia*] **National Guard** who is called
12 into active service of the state.

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

15 “(c) A member of the Oregon National Guard who is called into active
16 service under Title 32 of the United States Code to perform under an au-
17 thority other than the Governor.

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

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

26 “(b) For a stay of a civil or administrative proceeding in which the ser-
27 vice member is a party. The court or administrative body, after appropriate
28 notice, shall grant the stay unless the court or administrative body deter-
29 mines that the ability of the service member to appear is not materially af-
30 fected by active service.

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

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

6 “(5) The period of a service member’s active service may not be included
7 in computing any period limited by law, rule or order for bringing any action
8 or proceeding before a court or administrative body for or against the service
9 member or the service member’s heirs, executors, administrators or assigns.

10 **“SECTION 49.** ORS 399.240 is amended to read:

11 “399.240. (1) As used in this section:

12 “(a) ‘Interest’ includes service charges, renewal fees or other charges or
13 fees associated with an obligation or liability.

14 “(b) ‘Service member’ means:

15 “(A) A member of the [*organized militia*] **National Guard** who is called
16 into active service of the state for 30 or more consecutive days.

17 “(B) A member of the Oregon National Guard who is called into active
18 service under Title 10 of the United States Code.

19 “(C) A member of the Oregon National Guard who is called into active
20 service under Title 32 of the United States Code to perform under an au-
21 thority other than the Governor for 30 or more consecutive days.

22 “(2) Notwithstanding ORS 82.010, 83.095, 708A.255, 723.502, 723.730 and
23 725.340, an obligation or liability bearing interest at a rate in excess of six
24 percent per year incurred by a service member before being called into active
25 service may not, during any part of the period of active service, bear interest
26 in excess of six percent per year except by court order.

27 “(3) The service member shall provide written notice to the creditor re-
28 questing that the rate of interest be reduced to six percent per year and shall
29 include proof of the official orders showing that the service member is being
30 called into active service.

1 “(4) A creditor that receives a request under subsection (3) of this section
2 to reduce a rate of interest may apply to the court for a determination that
3 the ability of a service member to pay interest on an obligation or liability
4 at a rate in excess of six percent per year is not materially affected because
5 of the active service of the member. If a court determines that the ability
6 of a service member to pay interest on an obligation or liability at a rate in
7 excess of six percent per year is not materially affected because of the active
8 service of the member, the court may order an interest rate that is just.

9 “(5) A creditor must recompute the payment schedule to amortize the
10 balance of the obligation or liability over the remainder of the obligation
11 or liability at a rate of interest determined under subsection (2) or (4) of this
12 section.

13 **“SECTION 50.** ORS 399.242 is amended to read:

14 “399.242. (1) As used in this section, ‘service member’ means:

15 “(a) A member of the [*organized militia*] **National Guard** who is called
16 into active service of the state for 30 or more consecutive days.

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

20 “(c) A member of the Oregon National Guard who is called into active
21 service under Title 32 of the United States Code to perform under an au-
22 thority other than the Governor for 30 or more consecutive days.

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

29 “(A) Telecommunications services.

30 “(B) Internet services.

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

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

3 “(E) Television services, including but not limited to cable television, di-
4 rect satellite and other television-like services.

5 “(b) The service member must provide proof to the service provider of the
6 official orders showing that the service member has been called into active
7 service:

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

9 “(B) If precluded by military necessity or circumstances that make the
10 provision of proof at the time of giving written notice unreasonable or im-
11 possible, within 90 days after written notice has been given.

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

14 “(4)(a) A service member who terminates or suspends the provision of
15 services under this section and who is no longer in active service may rein-
16 state the provision of services on the same terms and conditions as originally
17 agreed to with the service provider before the termination or suspension
18 upon written notice to the provider that the service member is no longer in
19 active service. Written notice under this subsection must be given within 90
20 days after termination of the service member’s active service.

21 “(b) Upon receipt of the written notice of reinstatement, the service pro-
22 vider shall resume the provision of services or, if the services are no longer
23 available, provide substantially similar services within a reasonable time not
24 to exceed 30 days from the date of receipt of the written notice of rein-
25 statement.

26 “(5) A service member who terminates, suspends or reinstates the pro-
27 vision of services under this section:

28 “(a) May not be charged a penalty, fee, loss of deposit or any other ad-
29 ditional cost because of the termination, suspension or reinstatement; and

30 “(b) Is not liable for payment for any services after the effective date of

1 the termination or suspension, or until the effective date of a reinstatement
2 of services as described in subsection (4) of this section.

3 “(6) A service member may terminate a contract for any service provided
4 by a commercial mobile radio services provider in accordance with 50 U.S.C.
5 535a.

6 “**SECTION 51.** ORS 399.405 is amended to read:

7 “399.405. All commissioned officers of the [*organized militia*] **National**
8 **Guard** shall be appointed and promoted by the Governor upon recommen-
9 dation of the Adjutant General.

10 “**SECTION 52.** ORS 399.415 is amended to read:

11 “399.415. (1) No person shall be appointed or promoted as a commissioned
12 officer of the [*organized militia*] **National Guard** unless the person has
13 passed such examination as to the physical, moral and professional quali-
14 fications of the person as may be prescribed by applicable federal and state
15 laws and regulations.

16 “(2) No person shall be recognized as a commissioned officer of the [*or-*
17 *ganized militia*] **National Guard** and no appointment as such shall become
18 effective until the person has taken and subscribed an oath of office as pre-
19 scribed by applicable federal and state laws and regulations. Such oath shall
20 be taken and subscribed before an officer of the [*organized militia*] **National**
21 **Guard** authorized to administer oaths as provided in ORS 399.150, or before
22 a notary public.

23 “**SECTION 53.** ORS 399.420 is amended to read:

24 “399.420. (1) Commissioned officers may be assigned, reassigned, trans-
25 ferred or detailed to and from units within the [*organized militia*] **National**
26 **Guard** as prescribed by applicable federal and state laws and regulations.

27 “(2) An officer must reside within reasonable commuting distance of the
28 station to which the unit of the officer is assigned. The Adjutant General
29 shall determine what constitutes a reasonable distance in all cases of doubt.

30 “**SECTION 54.** ORS 399.425 is amended to read:

1 “399.425. (1) A commissioned officer of the [*organized militia*] **National**
2 **Guard** may tender resignation at any time. Such resignation will be tendered
3 in writing through proper military channels in accordance with applicable
4 federal and state laws and regulations. Such resignations shall take effect
5 when properly accepted and announced in orders.

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

18 “(3) No officer shall be allowed to resign a commission who is under ar-
19 rest, suspension or who is under orders to be returned to any military court
20 for delinquency.

21 **“SECTION 55.** ORS 399.435 is amended to read:

22 “399.435. (1) The efficiency, moral character and general fitness for re-
23 tention in the [*organized militia*] **National Guard** of any commissioned of-
24 ficer may be investigated and determined by an efficiency examining board.
25 The members of an efficiency examining board shall be senior in rank to the
26 officer under investigation unless unavoidable.

27 “(2) The physical fitness for further service of any commissioned officer
28 in the [*organized militia*] **National Guard** may be investigated and deter-
29 mined by a medical examining board of officers.

30 “(3) Efficiency and medical examining boards shall be appointed by the

1 Governor upon recommendation of the Adjutant General except that when-
2 ever an examining board is to be appointed for the purpose of determining
3 fitness of any officer for continued federal recognition, such board shall be
4 appointed by the commander designated in the applicable laws of the United
5 States and the regulations issued thereunder.

6 **“SECTION 56.** ORS 399.445 is amended to read:

7 “399.445. Officers of the [*organized militia*] **National Guard** shall give
8 bonds and security as may be required by the Adjutant General to secure the
9 state against loss on account of misuse or misapplication of state or federal
10 property and funds. Such bonds shall be conditioned upon faithful perform-
11 ance of all duties and the accounting for all property and funds for which
12 the officer is responsible or accountable. The Adjutant General may, in lieu
13 of the foregoing, enter into an agreement, conditioned in like terms and for
14 the same purpose, with a qualified surety company to bond all officers of the
15 [*organized militia*] **National Guard** without specifically naming them. The
16 premiums on bonds shall be charged to funds appropriated for the support
17 of the [*organized militia*] **National Guard**.

18 **“SECTION 57.** ORS 399.460 is amended to read:

19 “399.460. All commissioned officers and warrant officers of the [*organized*
20 *militia*] **National Guard**, including retired officers and warrant officers
21 thereof, may organize themselves into an association, the name of which
22 shall be the Oregon National Guard Association. The association may adopt
23 bylaws not inconsistent with the statutes of this state and may alter and
24 amend such bylaws.

25 **“SECTION 58.** ORS 399.505 is amended to read:

26 “399.505. (1) The qualifications for enlistment and reenlistment, the peri-
27 ods of enlistment, reenlistment and voluntary extension of enlistment, the
28 period of service, the form of oath to be taken and the manner and form of
29 transfer and discharge of enlisted personnel of the [*organized militia*] **Na-**
30 **tional Guard** shall be those prescribed by applicable federal and state laws

1 and regulations.

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

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

14 “**SECTION 59.** ORS 399.510 is amended to read:

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

24 “**SECTION 60.** ORS 399.515 is amended to read:

25 “399.515. (1) This section, ORS 398.006, 398.252 and 399.205 and the Oregon
26 Code of Military Justice as described in ORS 396.128 shall be carefully ex-
27 plained to:

28 “(a) Every enlisted member at the time of enlistment or transfer or in-
29 duction into, or at the time of an order to duty in or with any of the forces
30 of the [*organized militia*] **National Guard** or within 30 days thereafter; and

1 “(b) Each unit of the [*organized militia*] **National Guard** on an annual
2 basis.

3 “(2) A complete text of ORS chapter 398 and the Oregon Code of Military
4 Justice, of ORS 399.205 and of the regulations issued by the Adjutant General
5 under ORS 396.160 and 398.420 shall be made available to any member of the
6 [*organized militia*] **National Guard**, upon request, for personal examination.

7 “**SECTION 61.** ORS 399.520 is amended to read:

8 “399.520. All noncommissioned officers of the [*organized militia*] **National**
9 **Guard** shall be appointed in the discretion of the appointing officer upon the
10 nomination of the officer under whose immediate command they are to serve.
11 Appointing officers shall be designated in military department regulations
12 issued pursuant to ORS 396.305. The appointment of a noncommissioned of-
13 ficer may be terminated as prescribed by such regulations.

14 “**SECTION 62.** ORS 399.525 is amended to read:

15 “399.525. (1) An enlisted person may be discharged from any force of the
16 [*organized militia*] **National Guard** prior to the expiration of the term of
17 enlistment under such conditions as may be prescribed by applicable federal
18 and state laws and regulations.

19 “(2) An enlisted person discharged from a force of the [*organized militia*]
20 **National Guard** shall receive a discharge in writing in such form and of
21 such type or classification as may be prescribed by applicable laws and reg-
22 ulations of the United States and by military department regulations issued
23 pursuant to this chapter and ORS chapters 396 and 398.

24 “**SECTION 63.** ORS 399.530 is amended to read:

25 “399.530. When an enlisted person of the [*organized militia*] **National**
26 **Guard** absents self without leave and there is reason to believe that the
27 person does not intend to return, the person may be discharged in accordance
28 with military department regulations issued pursuant to ORS 396.305.

29 “**SECTION 64.** ORS 402.105 is amended to read:

30 “402.105. The Governor shall participate on behalf of the State of Oregon

1 with other states legally joining in the compact in a form substantially as
2 follows:

3 “ _____

4 EMERGENCY MANAGEMENT

5 ASSISTANCE COMPACT

6 Article I - Purposes and Authorities

7

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

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

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

27

28 Article II - General Implementation

29

30 Each party state entering into this compact recognizes many emergencies

1 transcend political jurisdictional boundaries and that intergovernmental co-
2 ordination is essential in managing these and other emergencies under this
3 compact. Each state further recognizes that there will be emergencies which
4 require immediate access and present procedures to apply outside resources
5 to make a prompt and effective response to such an emergency. This is be-
6 cause few, if any, individual states have all the resources they may need in
7 all types of emergencies or the capability of delivering resources to areas
8 where emergencies exist.

9 The prompt, full, and effective utilization of resources of the participating
10 states, including any resources on hand or available from the Federal Gov-
11 ernment or any other source, that are essential to the safety, care, and wel-
12 fare of the people in the event of any emergency or disaster declared by a
13 party state, shall be the underlying principle on which all articles of this
14 compact shall be understood.

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

19

20 Article III - Party State Responsibilities

21

22 A. It shall be the responsibility of each party state to formulate proce-
23 dural plans and programs for interstate cooperation in the performance of
24 the responsibilities listed in this article. In formulating such plans, and in
25 carrying them out, the party states, insofar as practical, shall:

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

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

4 (3) Develop interstate procedures to fill any identified gaps and to resolve
5 any identified inconsistencies or overlaps in existing or developed plans.

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

8 (5) Protect and assure uninterrupted delivery of services, medicines, wa-
9 ter, food, energy and fuel, search and rescue, and critical lifeline equipment,
10 services, and resources, both human and material.

11 (6) Inventory and set procedures for the interstate loan and delivery of
12 human and material resources, together with procedures for reimbursement
13 or forgiveness.

14 (7) Provide, to the extent authorized by law, for temporary suspension of
15 any statutes or ordinances that restrict the implementation of the above re-
16 sponsibilities.

17 B. The authorized representative of a party state may request assistance
18 of another party state by contacting the authorized representative of that
19 state. The provisions of this compact shall only apply to requests for assist-
20 ance made by and to authorized representatives. Requests may be verbal or
21 in writing. If verbal, the request shall be confirmed in writing within 30 days
22 of the verbal request. Requests shall provide the following information:

23 (1) A description of the emergency service function for which assistance
24 is needed including, but not limited to, fire services, law enforcement, emer-
25 gency medical, transportation, communications, public works and engineer-
26 ing, building, inspection, planning and information assistance, mass care,
27 resource support, health and medical services, and search and rescue.

28 (2) The amount and type of personnel, equipment, materials and supplies
29 needed, and a reasonable estimate of the length of time they will be needed.

30 (3) The specific place and time for staging of the assisting party's re-

1 sponse and a point of contact at that location.

2 C. There shall be frequent consultation between state officials who have
3 assigned emergency management responsibilities and other appropriate rep-
4 resentatives of the party states with affected jurisdictions and the United
5 States Government, with free exchange of information, plans, and resource
6 records relating to emergency capabilities.

7

8

Article IV - Limitations

9

10 Any party state requested to render mutual aid or conduct exercises and
11 training for mutual aid shall take such action as is necessary to provide and
12 make available the resources covered by this compact in accordance with the
13 terms hereof; provided that it is understood that the state rendering aid may
14 withhold resources to the extent necessary to provide reasonable protection
15 for such state. Each party state shall afford to the emergency forces of any
16 party state, while operating within its state limits under the terms and con-
17 ditions of this compact, the same powers except that of arrest unless specif-
18 ically authorized by the receiving state, duties, rights, and privileges as are
19 afforded forces of the state in which they are performing emergency services.
20 Emergency forces will continue under the command and control of their
21 regular leaders, but the organizational units will come under the operational
22 control of the emergency services authorities of the state receiving assist-
23 ance. These conditions may be activated, as needed, only subsequent to a
24 declaration of a state of emergency or disaster by the Governor of the party
25 state that is to receive assistance or upon commencement of exercises or
26 training for mutual aid and shall continue so long as the exercises or
27 training for mutual aid are in progress, the state of emergency or disaster
28 remains in effect or loaned resources remain in the receiving state(s),
29 whichever is longer.

30

1 Article V - Licenses and Permits

2

3 Whenever any person holds a license, certificate, or other permit issued
4 by any state party to the compact evidencing the meeting of qualifications
5 for professional, mechanical, or other skills, and when such assistance is
6 requested by the receiving party state, such person shall be deemed licensed,
7 certified, or permitted by the state requesting assistance to render aid in-
8 volving such skill to meet a declared emergency or disaster, subject to such
9 limitations and conditions as the Governor of the requesting state may pre-
10 scribe by executive order or otherwise.

11

12 Article VI - Liability

13

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

22

23 Article VII - Supplementary Agreements

24

25 Inasmuch as it is probable that the pattern and detail of the machinery
26 for mutual aid among two or more states may differ from that among the
27 states that are party hereto, this compact contains elements of a broad base
28 common to all states, and nothing herein shall preclude any state from en-
29 tering into supplementary agreements with another state or affect any other
30 agreements already in force between states. Supplementary agreements may

1 comprehend, but shall not be limited to, provisions for evacuation and re-
2 ception of injured and other persons and the exchange of medical, fire, po-
3 lice, public utility, reconnaissance, welfare, transportation and
4 communications personnel, and equipment and supplies.

5

6

Article VIII - Compensation

7

8 Each party state shall provide for the payment of compensation and death
9 benefits to injured members of the emergency forces of that state and repre-
10 sentatives of deceased members of such forces in case such members sustain
11 injuries or are killed while rendering aid pursuant to this compact, in the
12 same manner and on the same terms as if the injury or death were sustained
13 within their own state.

14

15

Article IX - Reimbursement

16

17 Any party state rendering aid in another state pursuant to this compact
18 shall be reimbursed by the party state receiving such aid for any loss or
19 damage to or expense incurred in the operation of any equipment and the
20 provision of any service in answering a request for aid and for the costs in-
21 curred in connection with such requests; provided, that any aiding party
22 state may assume in whole or in part such loss, damage, expense, or other
23 cost, or may loan such equipment or donate such services to the receiving
24 party state without charge or cost; and provided further, that any two or
25 more party states may enter into supplementary agreements establishing a
26 different allocation of costs among those states. Article VIII expenses shall
27 not be reimbursable under this provision.

28

29

Article X - Evacuation

30

1 Plans for the orderly evacuation and interstate reception of portions of
2 the civilian population as the result of any emergency or disaster of suffi-
3 cient proportions to so warrant, shall be worked out and maintained between
4 the party states and the emergency management/services directors of the
5 various jurisdictions where any type of incident requiring evacuations might
6 occur. Such plans shall be put into effect by request of the state from which
7 evacuees come and shall include the manner of transporting such evacuees,
8 the number of evacuees to be received in different areas, the manner in
9 which food, clothing, housing, and medical care will be provided, the regis-
10 tration of the evacuees, the providing of facilities for the notification of
11 relatives or friends, and the forwarding of such evacuees to other areas or
12 the bringing in of additional materials, supplies, and all other relevant fac-
13 tors. Such plans shall provide that the party state receiving evacuees and the
14 party state from which the evacuees come shall mutually agree as to re-
15 imbursement of out-of-pocket expenses incurred in receiving and caring for
16 such evacuees, for expenditures for transportation, food, clothing, medicines
17 and medical care, and like items. Such expenditures shall be reimbursed as
18 agreed by the party state from which the evacuees come. After the termi-
19 nation of the emergency or disaster, the party state from which the evacuees
20 come shall assume the responsibility for the ultimate support of repatriation
21 of such evacuees.

22

23 Article XI - Implementation

24

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

28 B. Any party state may withdraw from this compact by enacting a statute
29 repealing the same, but no such withdrawal shall take effect until 30 days
30 after the Governor of the withdrawing state has given notice in writing of

1 such withdrawal to the Governors of all other party states. Such action shall
2 not relieve the withdrawing state from obligations assumed hereunder prior
3 to the effective date of withdrawal.

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

9

10 Article XII - Validity

11

12 This compact shall be construed to effectuate the purposes stated in Ar-
13 ticle I hereof. If any provision of this compact is declared unconstitutional,
14 or the applicability thereof to any person or circumstances is held invalid,
15 the constitutionality of the remainder of this compact and the applicability
16 thereof to other persons and circumstances shall not be affected thereby.

17

18 Article XIII - Additional Provisions

19

20 Nothing in this compact shall authorize or permit the use of military
21 force by the National Guard of a state at any place outside that state in any
22 emergency for which the President is authorized by law to call into federal
23 service the [*militia*] **National Guard as defined in 10 U.S.C. 101(c)**, or for
24 any purpose for which the use of the Army or the Air Force would in the
25 absence of express statutory authorization be prohibited under 18 U.S.C.
26 1385.

27 “

28 **“SECTION 65.** ORS 480.111 is amended to read:

29 “480.111. As used in ORS 480.111 to 480.165:

30 “(1) ‘Cone fountain’ means a cardboard or heavy paper cone that:

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

2 “(b) If mounted on a common base with other cones having less than
3 one-half inch of separation, results, when measured in combination with all
4 other cones on the base, in a total pyrotechnic composition of not more than
5 200 grams;

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

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

11 “(2) ‘Consumer fireworks’ means:

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

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

19 “(3) ‘Cylindrical fountain’ means a cylindrical tube that:

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

21 “(b) If mounted on a common base with other tubes having less than
22 one-half inch of separation, results, when measured in combination with all
23 other tubes on the base, in a total pyrotechnic composition of not more than
24 200 grams;

25 “(c) If mounted on a common base with other tubes having at least one-
26 half inch of separation, results, when measured in combination with all other
27 tubes on the base, in a total pyrotechnic composition of not more than 500
28 grams;

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

1 “(e) Is provided with a means for restraining the behavior of the item,
2 such as a spike for insertion into the ground, a wood or plastic base for
3 placing on the ground or, if designed to be handheld, a wood or cardboard
4 handle.

5 “(4) ‘Display fireworks’ means pyrotechnic devices that:

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

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

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

14 “(5) ‘Exempt fireworks’ means the following:

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

17 “(b) Snakes or similar smoke-producing items containing 100 grains or
18 less of combustible substances.

19 “(c) Model rockets and model rocket motors that are used to propel re-
20 coverable models of rocket.

21 “(d) Novelties and trick noisemakers.

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

24 “(f) Blank cartridges of a type used:

25 “(A) For theater or other shows;

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

27 “(C) By the [*militia*] **National Guard as described in ORS 396.105**, an
28 organization of war veterans or other organizations, if parading an armed
29 color guard.

30 “(g) Cartridges, shells or gunpowder for use in legally permitted types of

1 firearms.

2 “(h) Military pyrotechnic and signaling devices classified by the United
3 States Department of Transportation as Division 1.4 compatibility group S
4 explosives that are assigned to and in the possession of the Armed Forces
5 of the United States, or an authorized agent of the armed forces, as inventory
6 for use by the armed forces or agent in training active members of the armed
7 forces in their duties.

8 “(i) Other items that in the judgment of the State Fire Marshal do not
9 require regulation or restrictions on sale.

10 “(6) ‘Explosive mixture’ means a substance arranged in a manner to allow
11 burning in less than one second.

12 “(7)(a) ‘Fireworks’ means:

13 “(A) Consumer fireworks;

14 “(B) Display fireworks;

15 “(C) Exempt fireworks;

16 “(D) Pyrotechnic articles;

17 “(E) Special effects; and

18 “(F) Other pyrotechnic devices that:

19 “(i) Are capable of producing audible, visual, mechanical or thermal ef-
20 fects through combustion, deflagration or detonation; and

21 “(ii) Contain chemical elements and compounds that are capable of burn-
22 ing independently of atmospheric oxygen or contain flammable liquid mix-
23 tures or flammable gas mixtures.

24 “(b) ‘Fireworks’ does not mean a candle, flaming club, flaming baton or
25 other device that is designed to keep the flame and thermal radiation in close
26 proximity to the device.

27 “(8) ‘Fireworks display’ means an entertainment feature at which the
28 public or a private group is allowed to view a display or discharge that uses
29 or explodes display fireworks or pyrotechnic articles.

30 “(9) ‘Flutter sparkler’ means a narrow paper tube that:

1 “(a) Contains five grams or less of pyrotechnic composition;
2 “(b) Produces colored sparks upon ignition; and
3 “(c) Is activated by igniting paper located at one end of the tube.
4 “(10) ‘Ground spinner’ means a small device similar to a wheel in design
5 and effect that:
6 “(a) Contains 20 grams or less of pyrotechnic composition;
7 “(b) Vents from an orifice located on the side of the tube or elsewhere
8 on the device; and
9 “(c) When placed on the ground and ignited, spins rapidly and produces
10 a shower of colored sparks.
11 “(11) ‘Illuminating torch’ means a cylindrical tube that:
12 “(a) Contains 100 grams or less of pyrotechnic composition; and
13 “(b) Is provided with a means for restraining the behavior of the item,
14 such as a spike for insertion into the ground, a wood or plastic base for
15 placing on the ground or, if designed to be handheld, a wood or cardboard
16 handle.
17 “(12) ‘Local government’ has the meaning given that term in ORS 174.116.
18 “(13)(a) ‘Manufacture’ means to make, construct, fabricate or produce
19 fireworks.
20 “(b) ‘Manufacture’ does not mean:
21 “(A) The assembly or fabrication of sets or mechanical pieces for fire-
22 works displays; or
23 “(B) Actions taken within the scope of a certification for conducting
24 fireworks displays or for a pyrotechnics operator.
25 “(14) ‘Pyrotechnic articles’ means devices that:
26 “(a) Are designed for professional use;
27 “(b) Are similar to consumer fireworks in chemical composition and con-
28 struction;
29 “(c) Contain 500 grams or less of pyrotechnic composition;
30 “(d) Are not labeled as consumer fireworks; and

1 “(e) Have identification numbers UN0431 or UN0432 in the United States
2 Department of Transportation Hazardous Materials Table set forth in 49
3 C.F.R. 172.101 or an amendment or replacement of that identification stand-
4 ard recognized by the State Fire Marshal.

5 “(15) ‘Pyrotechnic composition’ means a mixture that is:

6 “(a) Composed of a metal powder having a high combustion temperature
7 and an oxidant; and

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

10 “(16) ‘Pyrotechnic device’ means consumer fireworks, display fireworks,
11 pyrotechnic articles, special effects and bird and animal control devices, and
12 other combinations or compositions of materials, that produce audible, vis-
13 ual, mechanical or thermal effects.

14 “(17) ‘Special effects’ means articles containing pyrotechnic composition
15 that, subject to authorization from the appropriate jurisdiction, are:

16 “(a) Manufactured, assembled, designed or discharged in connection with
17 television, theater or motion picture productions, concerts or conference
18 centers; or

19 “(b) Used for commercial, industrial, educational, recreational or enter-
20 tainment purposes.

21 “(18) ‘Wheel’ means a pyrotechnic device that:

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

24 “(b) Has one or more driver units or tubes, each containing not more than
25 60 grams of pyrotechnic composition;

26 “(c) Contains a total of not more than 200 grams of pyrotechnic compo-
27 sition; and

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

30 “**SECTION 66.** ORS 480.120 is amended to read:

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

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

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

8 “(c) Sales to railroads, boats, motor vehicle or other transportation
9 agencies, to be used for signal, warning or illumination purposes in con-
10 nection with such business;

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

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

15 “(f) Sale of blank cartridges for use by the [*militia*] **National Guard as**
16 **described in ORS 396.105** or any organization of war veterans or other or-
17 ganization authorized by law to parade in public a color guard armed with
18 firearms;

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

21 “(h) Sales of items described in ORS 480.127 to persons who possess the
22 retail sales permit required by ORS 480.127 by a person who holds a man-
23 ufacturer or wholesaler license issued pursuant to ORS 480.111 to 480.165;
24 or

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

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

1 **“SECTION 67.** ORS 653.269 is amended to read:

2 “653.269. The provisions of ORS 653.268 relating to pay for overtime shall
3 not apply to:

4 “(1) Labor employed in forest fire fighting.

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

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

11 “(4) Employees of a people’s utility district organized under ORS chapter
12 261.

13 “(5) Employees exempted from overtime:

14 “(a) By a public employer as defined in ORS 243.650 because of the exec-
15 utive, administrative, supervisory or professional nature of their employment
16 as the nature of such employment is defined by rule of the Commissioner of
17 the Bureau of Labor and Industries; or

18 “(b) By a collective bargaining agreement expressly waiving application
19 of ORS 653.268.

20 “(6) Employees of a public employer as defined in ORS 243.650 engaged
21 in the operation of a hospital or an establishment that is an institution pri-
22 marily engaged in the care of persons who are sick or aged or have mental
23 illness or mental retardation and who reside on the premises if, before per-
24 formance of the work and pursuant to an agreement between the employer
25 and employee or between the employer and the bargaining representative of
26 the employees when the employees are represented under a collective bar-
27 gaining agreement, a work period of 14 consecutive days is accepted in lieu
28 of the workweek of seven consecutive days for purposes of overtime compu-
29 tation and if, for the employee’s employment in excess of eight hours in any
30 workday and in excess of 80 hours in such 14-day period, the employee re-

1 ceives compensation at a rate not less than one and one-half times the rate
2 at which the employee is employed.

3 “(7) Members of the [*organized militia*] **National Guard as described in**
4 **ORS 396.105** while in active service of the state in accordance with ORS
5 399.075.

6 **“SECTION 68.** ORS 657.150 is amended to read:

7 “657.150. (1) An individual shall be paid benefits for weeks during the
8 benefit year in an amount that is to be determined by taking into account
9 the individual’s work in subject employment in the base year as provided in
10 this section.

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

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

16 “(B) Have earned wages in subject employment equal to six times the
17 individual’s weekly benefit amount in employment for service performed
18 subsequent to the beginning of a preceding benefit year if benefits were paid
19 to the individual for any week in the preceding benefit year.

20 “(b) If the individual does not meet the requirements of paragraph (a)(A)
21 of this subsection, the individual may qualify for benefits if the individual
22 has worked a minimum of 500 hours in employment subject to this chapter
23 during the base year.

24 “(3) If the wages paid to an individual are not based upon a fixed period
25 of time or if wages are paid at irregular intervals or in such manner as not
26 to extend regularly over the period of employment, for the purposes of sub-
27 sections (2) to (5) of this section, the individual’s wages shall be allocated
28 in accordance with rules prescribed by the Director of the Employment De-
29 partment. Such rules shall, insofar as possible, produce results the same as
30 those that would exist if the individual had been paid wages at regular in-

1 tervals. The director may adopt rules to attribute hours of work to an indi-
2 vidual if the individual is not paid on an hourly basis or if the employer does
3 not report the number of hours worked.

4 “(4)(a) An eligible individual’s weekly benefit amount shall be 1.25 per-
5 cent of the total wages paid in the individual’s base year. However, such
6 amount shall not be less than the minimum, nor more than the maximum
7 weekly benefit amount.

8 “(b) The minimum weekly benefit amount shall be 15 percent (0.1500) of
9 the state average weekly covered wage for the preceding calendar year, ef-
10 fective for any benefit year commencing on and after the week that includes
11 July 4, 1975, and the week that includes each July 4 thereafter.

12 “(c) The maximum weekly benefit amount shall be:

13 “(A) Fifty-five percent (0.5500) of the state average weekly covered wage
14 for calendar year 1979, effective for any benefit year commencing with and
15 after the week that includes July 4, 1980, and through any benefit year
16 commencing with the week that includes June 27, 1981.

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

21 “(C) Fifty-eight percent (0.5800) of the state average weekly covered wage
22 for calendar year 1980, effective for any benefit year commencing with and
23 after the week that includes October 4, 1981, through any benefit year com-
24 mencing with the week that includes June 27, 1982.

25 “(D) Sixty percent (0.6000) of the state average weekly covered wage for
26 calendar year 1981, effective for any benefit year commencing with and after
27 the week that includes July 4, 1982, through any benefit year commencing
28 with the week that includes June 27, 1983.

29 “(E) Sixty-four percent (0.6400) of the state average covered weekly wage
30 for the preceding calendar year, effective for any benefit year commencing

1 with and after the week that includes July 4, 1983, and the week that in-
2 cludes each July 4 thereafter.

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

5 “(e) For the purposes of this subsection, the state average weekly covered
6 wage means an amount determined by the Employment Department by di-
7 viding the total wages paid by subject employers during the year by 52 times
8 the average monthly employment reported by subject employers for the year.

9 “(5) Benefits paid to an eligible individual in a benefit year shall not ex-
10 ceed 26 times the individual’s weekly benefit amount, or one-third of the base
11 year’s wages paid, whichever is the lesser. If such amount is not a multiple
12 of \$1, it shall be computed to the next lower multiple of \$1.

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

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

18 “(b) One-third of the individual’s weekly benefit amount.

19 “(7) Payment that has been, is or will be paid to an individual for a hol-
20 iday or vacation shall be considered as earnings in the determination of the
21 amount of benefits payable with respect to the week in which the holiday
22 or vacation falls in the same manner as provided in subsection (6) of this
23 section. However, if payment for the holiday or vacation is paid more than
24 45 days prior to the holiday or vacation or is delayed more than 45 days
25 following the end of the week in which the holiday or vacation falls, the
26 provisions of this section do not apply and previously reduced benefits shall
27 be adjusted accordingly.

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

1 paid.

2 “(9) Payment that has been, or will be, made to an individual as a member
3 of a reserve component of the Armed Forces of the United States, including
4 the [*organized militia of the State of Oregon*] **National Guard as described**
5 **in ORS 396.105**, for the performance of inactive duty training shall not be
6 considered as earnings in the determination of the amount of benefits paya-
7 ble.

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

9 “659A.086. (1) An employee shall be granted a leave of absence by the
10 employer of the employee to perform active state service if:

11 “(a) The employee is a member of the [*organized militia of this state*]
12 **National Guard as described in ORS 396.105** and is called into active
13 service of the state under ORS 399.065 or 399.075.

14 “(b) The employee is a member of the [*organized militia*] **National Guard,**
15 **as defined in 10 U.S.C. 101(c)**, of another state and is called into active
16 state service by the Governor of the respective state.

17 “(2) The employer shall grant the employee a leave of absence until re-
18 lease from active state service permits the employee to resume the duties of
19 employment. The regular employment position of an employee on a leave of
20 absence for active state service under this section is considered vacant only
21 for the period of the leave of absence. The employee is not subject to removal
22 or discharge from the position as a consequence of the leave of absence.

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

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

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

30 “(4) An employer is not required to pay wages or other monetary com-

1 pensation to an employee during a leave of absence required under sub-
2 section (1) of this section.

3 “(5) Notwithstanding subsection (4) of this section:

4 “(a) The State of Oregon shall continue coverage under an employer-
5 sponsored health plan to an employee of the State of Oregon and any other
6 individual provided coverage under the employee’s plan on the day before the
7 date the employee goes on leave for a period not exceeding a total of 12
8 months during a leave of absence required under subsection (1) of this sec-
9 tion.

10 “(b) An employer other than the State of Oregon may continue coverage
11 under an employer-sponsored health plan to an employee and any other in-
12 dividual provided coverage under the employee’s plan on the day before the
13 date the employee goes on leave during a leave of absence required under
14 subsection (1) of this section.

15 “(6)(a) Notwithstanding subsection (4) of this section, the State of Oregon,
16 a county, a municipality or other political subdivision of this state may es-
17 tablish and administer a donated leave program that:

18 “(A) Allows an employee who is on a leave of absence required under
19 subsection (1) of this section to receive donated leave; and

20 “(B) Allows an employee to voluntarily donate vacation time to an eligi-
21 ble employee on a leave of absence required under subsection (1) of this
22 section.

23 “(b) An employee who is on a leave of absence required under subsection
24 (1) of this section and who receives donated leave under paragraph (a) of this
25 subsection may receive an amount of donated leave that supplements any pay
26 received as a member of the [*organized militia*] **National Guard of this or**
27 **any other state**, but may not receive more than the amount the employee
28 was earning in total compensation on the date the employee began the leave
29 of absence.

30 “(7) For the purpose of calculating total compensation under subsection

1 (6) of this section, the State of Oregon, a county, a municipality or other
2 political subdivision of this state shall:

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

5 “(b) Determine the average number of hours of overtime for an employee
6 class based on a reasonable expectation of the average number of hours of
7 overtime employees in that class would perform over the course of a calendar
8 year; and

9 “(c) Maintain records of the average number of hours of overtime for each
10 employee class for each calendar year.

11 “(8) As used in this section:

12 “(a) ‘Active service of the state’ has the meaning given that term in ORS
13 396.005.

14 “(b) ‘Employee’ means any individual, other than a copartner of the em-
15 ployer or an independent contractor, who renders personal services in this
16 state to an employer who pays or agrees to pay wages or other compensation
17 to the individual for those services.

18 “(c) ‘Employee class’ means a group of similarly situated employees whose
19 positions have been designated by their employer in a policy or a collective
20 bargaining agreement as having common characteristics.

21 “(d) ‘Employer’ means any person who employs one or more employees in
22 this state. The term includes the State of Oregon or any county, city, dis-
23 trict, authority, public corporation or entity and any of their instrument-
24 alities organized and existing under law or charter, but does not include the
25 federal government.

26 “(e) ‘Total compensation’ means the total of an employee’s base salary,
27 differentials and overtime.”.

28
