

Enrolled Senate Bill 1100

Sponsored by Senator COURTNEY, Representatives MINNIS, NELSON; Senators BROWN, DEVLIN, FERRIOLI, Representatives ANDERSON, BARNHART, BEYER, BOONE, BRUUN, BUCKLEY, BURLEY, BUTLER, ESQUIVEL, FARR, GALIZIO, HANNA, HUNT, KITTS, KOMP, KRUMMEL, MERKLEY, RICHARDSON, RILEY, ROBLAN, SCHAUFLEER, SCOTT, THATCHER, TOMEI, WHISNANT, WITT

CHAPTER

AN ACT

Relating to benefits for performing military service; creating new provisions; amending ORS 305.749 and 305.753 and sections 2, 5 and 8, chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575); appropriating money; and prescribing an effective date.

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

SECTION 1. Sections 2 to 5 of this 2005 Act are added to and made a part of ORS chapter 406.

SECTION 2. (1) The Director of Veterans' Affairs shall establish a program to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410.

(2) The program shall:

(a) Conduct outreach and provide veterans and their spouses and dependents with:

(A) Information regarding veterans' benefit programs and other benefit programs; and

(B) Assistance by trained representatives who are certified by the state in applying for all federal and state veterans' benefits and aid to which veterans and their spouses and dependents may be entitled on account of their military service and in appealing any denial of veterans' benefits or aid;

(b) Develop and offer informational materials and training opportunities for county veterans' service officers;

(c) Develop a comprehensive and coordinated statewide network of information and referral resources for veterans and their spouses and dependents;

(d) Ensure that the receipt of veterans' benefits or aid does not adversely impact other benefits or aid that a veteran or the spouse or dependent of a veteran may be receiving or may be eligible to receive; and

(e) Facilitate coordination of computer systems to ensure the seamless transfer of information.

SECTION 3. The Director of Veterans' Affairs may establish by rule a state certification program for veterans' service officers appointed under ORS 408.410 and other individuals providing similar services to ensure their competency. The program curriculum shall provide the training and education necessary to allow veterans' service officers and other individuals to assist veterans and their spouses and dependents in applying for all federal and state

veterans' benefits and aid to which veterans and their spouses and dependents may be entitled and in appealing any denial of veterans' benefits or aid. The curriculum shall include, but need not be limited to, training and education in the following areas:

(1) Applicable federal, state and local laws providing benefits or aid for veterans and their spouses and dependents and other benefits or aid for which veterans or their spouses or dependents may be eligible;

(2) Skills necessary to provide quality representation and advocacy on behalf of veterans or their spouses or dependents, including case preparation and handling of administrative hearings and appeals;

(3) Effective communication skills;

(4) Health care, human services and referral resources; and

(5) Claims management.

SECTION 4. (1) The Director of Veterans' Affairs shall adopt by rule a formula to distribute to county governing bodies funds appropriated to the director to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410. In developing the distribution formula, the director shall consider factors that include, but need not be limited to:

(a) The number of veterans residing in each county;

(b) A base amount to be distributed equally among counties;

(c) Retention of an amount, not to exceed six percent of the total amount appropriated to the director for the purposes of section 2 of this 2005 Act, that would otherwise be distributed to a county governing body if the county governing body has not appointed county veterans' service officers; and

(d) Criteria for withholding funds from a county governing body.

(2) Funds retained under subsection (1)(c) and (d) of this section must be spent on:

(a) Training costs of veterans' service officers and other individuals providing similar services; and

(b) The coordination of computer systems and technology to facilitate efficient delivery of services to veterans and their spouses and dependents.

SECTION 5. The Director of Veterans' Affairs shall adopt rules to implement sections 2, 3 and 4 of this 2005 Act. The rules shall include, but need not be limited to:

(1) Development and implementation of a distribution formula;

(2) Establishment of reporting and data collection requirements for county veterans' service officers including, but not limited to, the number of interviews conducted, the number of veterans and spouses and dependents of veterans served by the program, the number of claims filed, the outcomes of claims filed and the outreach activities conducted; and

(3) Establishment of service outcomes for county veterans' service officers.

SECTION 6. (1) A county governing body that receives funds under section 4 of this 2005 Act may not use the funds to supplant moneys appropriated by the county governing body for county veterans' service officers.

(2)(a) Notwithstanding subsection (1) of this section, if a county governing body reduces appropriations to county programs, the county governing body may reduce the amount of moneys appropriated for county veterans' service officers by an amount not greater than the average percentage reduction imposed on all county programs for the same period of time.

(b) A county governing body that reduces the amount of moneys appropriated for county veterans' services officers under paragraph (a) of this subsection shall certify to the Director of Veterans' Affairs that the amount of the reduction is not greater than the average percentage reduction imposed on all county programs for the same period of time.

(3) Notwithstanding subsection (1) of this section, if the amount of moneys distributed to a county governing body by the Director of Veterans' Affairs to enhance and expand the services provided by county veterans' service officers appointed under ORS 408.410 for biennia beginning after June 30, 2007, is less than the amount of moneys distributed to the

county governing body for the 2005-2007 biennium, the county governing body may reduce the amount of moneys appropriated by the county governing body for county veterans' service officers by an amount not greater than the same percentage of reduction.

SECTION 7. (1) Moneys appropriated to the Director of Veterans' Affairs for the purposes described in section 2 of this 2005 Act must be distributed to county governing bodies and expended for the purposes of section 2 of this 2005 Act and may not be used to supplant moneys currently budgeted by the director for services provided by county veterans' service officers.

(2) Notwithstanding subsection (1) of this section, the director may reduce the amount of moneys distributed to county governing bodies for county veterans' service officers if there is a decrease in the amount of General Fund revenues appropriated to the director for the purposes described in section 2 of this 2005 Act for the same period of time.

SECTION 8. The Director of Veterans' Affairs shall carry out the provisions of sections 2, 3, 4 and 5 of this 2005 Act in consultation with the Association of Oregon Counties.

SECTION 9. (1) The Oregon Military Emergency Financial Assistance Program is created in the Oregon Military Department. The purpose of the program is to provide hardship grants and loans to members and immediate family of members of the Oregon National Guard on active duty.

(2) The department shall adopt regulations implementing subsection (1) of this section, including but not limited to establishing procedures for applying for a hardship grant or loan and criteria for determining eligibility to receive a hardship grant or loan.

(3) As used in this section, "immediate family" means a spouse, child or stepchild.

SECTION 10. The Oregon Military Emergency Financial Assistance Fund is established in the State Treasury, separate and distinct from the General Fund. The Oregon Military Emergency Financial Assistance Fund shall consist of moneys appropriated to the fund by the Legislative Assembly and moneys contributed through the charitable checkoff program described in section 11 of this 2005 Act. Moneys in the fund are continuously appropriated to the Oregon Military Department for the purposes of funding hardship grants and loans described in section 9 of this 2005 Act. Interest earned by the fund shall be credited to the fund.

SECTION 11. (1) Personal income taxpayers who file an Oregon income tax return and who will receive a tax refund from the Department of Revenue may designate that a contribution of all or a portion of the refund be made to the Oregon Military Emergency Financial Assistance Program by marking the appropriate box printed on the return pursuant to subsection (2) of this section.

(2)(a) Subject to paragraph (b) of this subsection, the Department of Revenue shall print on the face of the Oregon personal income tax return form a space for a taxpayer to designate that a contribution be made to the Oregon Military Emergency Financial Assistance Program from the taxpayer's income tax refund. The space for designating the contribution shall provide for checkoff boxes as indicated under ORS 305.749.

(b) If space limitations make listing the Oregon Military Emergency Financial Assistance Program on the return form impracticable without the removal of a checkoff program listing described in ORS 316.490, 316.493 or 496.380, the Oregon Military Emergency Financial Assistance Program may be given an instruction listing as described in ORS 305.727. ORS 305.727 (3) does not apply to the Oregon Military Emergency Financial Assistance Program.

(3) Moneys contributed to the Oregon Military Emergency Financial Assistance Program through the checkoff program described in subsection (1) of this section shall be deposited in the Oregon Military Emergency Financial Assistance Fund.

SECTION 12. ORS 305.753 is amended to read:

305.753. (1) The State Treasurer may solicit and accept from private and public sources and cause to be credited and paid to any entity gifts, grants and other donations, in money or otherwise, if the entity is currently listed or entitled to be listed on the Oregon tax return for checkoff.

(2) In accordance with ORS chapter 183, the Department of Revenue may adopt rules to carry out the purposes of ORS 305.690 to 305.753.

(3) Except ORS 305.749, ORS 305.690 to 305.753 do not apply to the Nongame Wildlife Fund established under ORS 496.385, the Alzheimer's Disease Research Fund established under section 3, chapter 902, Oregon Laws 1987, the subaccount created pursuant to section 36 (2), chapter 1084, Oregon Laws 1999, or its successor, **the Oregon Military Emergency Financial Assistance Fund established under section 10 of this 2005 Act** or other checkoff program established by statute other than ORS 305.690 to 305.753.

SECTION 13. ORS 305.749 is amended to read:

305.749. Except ORS 305.690 to 305.753 and as otherwise specifically provided, the following are applicable to the various checkoff programs established under ORS 496.380 **and section 11 of this 2005 Act** and ORS chapter 316:

(1) Subject to subsection (4) of this section, the dollar amounts of contributions made by taxpayer checkoff on Oregon tax returns shall be remitted by the Department of Revenue to the State Treasurer who shall deposit them to a suspense account established under ORS 293.445.

(2) Of the contributions so deposited, a portion is continuously appropriated for use to reimburse the General Fund for costs incurred in administering the various checkoff programs. No more than 10 percent of the moneys generated by each checkoff program per fiscal year ending June 30 may be appropriated under this subsection.

(3) The remainder of the contributions shall be credited by the department to each checkoff program in proportion to the total amounts checked off for the tax year, the proportions to be determined on the basis of tax returns processed as of the June 30 following the tax year. The amounts so credited to each of the checkoff programs are continuously appropriated to the department for payment to the checkoff designee, or shall be transferred by the department to the checkoff designee, as specified under the law governing the particular checkoff program. The department may adopt rules governing the crediting and payment or transfer of checkoff moneys. In addition to any other provision, if adopted, the rules shall specify the time that the contributions to a program so credited are to be paid or transferred by the department.

(4)(a) Space for designating the dollar amount of a contribution made to each checkoff program shall be printed on the Oregon tax return. The space shall provide for checkoff boxes for the program in the amounts of \$1, \$5, \$10 or other dollar amount.

(b) Overpayments of tax that are insufficient, due to ORS 293.250 or otherwise, to satisfy the total amount of checkoffs designated on a tax return shall be allocated among the designees on a pro rata basis as provided under ORS 305.745 (3).

(5)(a) If, as of June 30 of the calendar year immediately following the calendar year in which a particular tax year begins, the department determines that the total amount checked off for that tax year for a checkoff program is \$50,000 or less, the department shall notify a person administering the program or other appropriate person.

(b) If, as determined by the department under paragraph (a) of this subsection, the total amount checked off for a particular checkoff program is \$50,000 or less for each year in a period of two consecutive tax years, a checkoff line and appropriate box for that program shall not be provided on the Oregon individual tax return for the tax year immediately following the later year of the two-year period nor for any tax year thereafter, except as otherwise provided by law.

(c) As used in this subsection, "total amount checked off" means the total amount checked off by taxpayers as reflected by tax returns for the tax year processed as of June 30 before any deduction for administrative costs as required under subsection (2) of this section has occurred but after any proration under subsection (4) of this section.

SECTION 14. **Section 11 of this 2005 Act and the amendments to ORS 305.749 and 305.753 by sections 12 and 13 of this 2005 Act apply to biennial years, as defined in ORS 305.690, beginning on or after the effective date of this 2005 Act.**

SECTION 15. Section 2, chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), is amended to read:

Sec. 2. (1) A student at a community college who is a member of the [*active Oregon National Guard*] **military** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the community college's practice for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in section 3 of this 2005 Act for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the community college, the right to be readmitted and reenrolled at the community college within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the community college or the Oregon Student Assistance Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the community college may not:

(a) Give the student academic credit for the course from which the student withdraws;

(b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or

(c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) Boards of education of community college districts shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

(a) The Oregon National Guard or the National Guard of any other state or territory; or

(b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 16. Section 5, chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), is amended to read:

Sec 5. (1) A student at a state institution of higher education who is a member of the [*active Oregon National Guard*] **military** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the practice of the state institution of higher education for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in section 6 of this 2005 Act for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the state institution of higher education, the right to be readmitted and reenrolled at the state institution of higher education within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the state institution of higher education or the Oregon Student Assistance Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the state institution of higher education may not:

(a) Give the student academic credit for the course from which the student withdraws;

(b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or

(c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) The State Board of Higher Education shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

(a) The Oregon National Guard or the National Guard of any other state or territory; or

(b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 17. Section 8, chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), is amended to read:

Sec 8. (1) A student at the Oregon Health and Science University who is a member of the [*active Oregon National Guard*] **military** and who is ordered to federal or state active duty for more than 30 consecutive days has the following rights:

(a) With regard to a course in which the student is enrolled and for which the student has paid tuition and fees, the right to:

(A) Withdraw from the course, subject to the provisions of subsection (2) of this section;

(B) Receive a grade of incomplete and, upon release from active duty, complete the course in accordance with the practice of the university for completion of incomplete courses; or

(C) Continue and complete the course for full credit, subject to the provisions of subsection (3) of this section;

(b) The right to a credit described in section 9 of this 2005 Act for all amounts paid for room, board, tuition and fees;

(c) If the student elects to withdraw from the university, the right to be readmitted and reenrolled at the university within one year after release from active duty without a requirement of redetermination of admission eligibility; and

(d) The right to continuation of scholarships and grants awarded to the student that were funded by the university or the Oregon Student Assistance Commission before the student was ordered to active duty.

(2) If the student elects to withdraw from a course under subsection (1)(a)(A) of this section, the university may not:

- (a) Give the student academic credit for the course from which the student withdraws;
- (b) Give the student a failing grade or a grade of incomplete or make any other negative annotation on the student's record; or
- (c) Alter the student's grade point average due to the student's withdrawal from the course.

(3) A student who elects to continue and complete a course for full credit under subsection (1)(a)(C) of this section is subject to the following conditions:

(a) Course sessions the student misses due to active duty shall be counted as excused absences and may not adversely impact the student's grade for the course or rank in the student's class.

(b) The student may not be automatically excused from completing course assignments due during the period the student serves on active duty.

(c) A letter grade or a grade of pass may be awarded only if, in the opinion of the teacher of the course, the student completes sufficient work and demonstrates sufficient progress toward meeting course requirements to justify the grade.

(4) The Oregon Health and Science University Board of Directors shall adopt rules for the administration of this section.

(5) As used in this section, "member of the military" means a person who is a member of:

- (a) The Oregon National Guard or the National Guard of any other state or territory; or
- (b) The reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of the United States.

SECTION 18. (1) The amendments to sections 2, 5 and 8, chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), by sections 15, 16 and 17 of this 2005 Act first apply to students who withdraw from a course at a community college, a state institution of higher education or the Oregon Health and Science University or from a community college, a state institution of higher education or the Oregon Health and Science University in the 2004-2005 academic year.

(2) Notwithstanding sections 3 (1)(c), 6 (1)(c) and 9 (1)(c), chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), a student who is ordered to active duty after the beginning of the 2004-2005 academic year and before the effective date of this 2005 Act is entitled to the credit allowed under section 2 (1)(b), 5 (1)(b) or 8 (1)(b), chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), and may make the election required under section 3 (1)(c), 6 (1)(c) or 9 (1)(c), chapter 170, Oregon Laws 2005 (Enrolled Senate Bill 575), within 30 days after release from active duty.

SECTION 19. This 2005 Act takes effect on the 91st day after the date on which the regular session of the Seventy-third Legislative Assembly adjourns sine die.

Passed by Senate July 30, 2005

Repassed by Senate August 3, 2005

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Secretary of Senate

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President of Senate

Passed by House August 2, 2005

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Speaker of House

Received by Governor:

.....M,....., 2005

Approved:

.....M,....., 2005

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Governor

Filed in Office of Secretary of State:

.....M,....., 2005

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Secretary of State