

1-1 By: Van de Putte S.B. No. 1536
 1-2 (In the Senate - Filed March 8, 2013; March 19, 2013, read
 1-3 first time and referred to Committee on Veteran Affairs and
 1-4 Military Installations; April 23, 2013, reported adversely, with
 1-5 favorable Committee Substitute by the following vote: Yeas 4,
 1-6 Nays 0; April 23, 2013, sent to printer.)

1-7 COMMITTEE VOTE

	Yea	Nay	Absent	PNV
1-8				
1-9	X			
1-10			X	
1-11	X			
1-12	X			
1-13	X			

1-14 COMMITTEE SUBSTITUTE FOR S.B. No. 1536 By: Van de Putte

1-15 A BILL TO BE ENTITLED
 1-16 AN ACT

1-17 relating to the Texas military; imposing criminal penalties;
 1-18 authorizing fees.

1-19 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

1-20 ARTICLE 1. TEXAS MILITARY

1-21 SECTION 1.01. Subtitle C, Title 4, Government Code, is
 1-22 amended by adding Chapter 437 to read as follows:

1-23 CHAPTER 437. TEXAS MILITARY

1-24 SUBCHAPTER A. GENERAL PROVISIONS

1-25 Sec. 437.001. DEFINITIONS. In this chapter:

1-26 (1) "Active military service" means state active duty
 1-27 service, federally funded state active duty service, or federal
 1-28 active duty service. The term does not include service performed
 1-29 exclusively for training, such as basic combat training, advanced
 1-30 individual training, annual training, inactive duty training, and
 1-31 special training periodically made available to service members.

1-32 (2) "Adjutant general" means the military commander of
 1-33 the Texas military forces.

1-34 (3) "Department" means the Texas Military Department.

1-35 (4) "Employee" has the meaning assigned by Section
 1-36 21.002, Labor Code.

1-37 (5) "Employer" has the meaning assigned by Section
 1-38 21.002, Labor Code.

1-39 (6) "Executive director" means the administrative
 1-40 head of the department.

1-41 (7) "Military duty" means any activity of a service
 1-42 member performing a duty under a lawful military order, including
 1-43 training.

1-44 (8) "Service member" means a member or former member
 1-45 of the state military forces or a component of the United States
 1-46 armed forces, including a reserve component.

1-47 (9) "State active duty" means the performance of
 1-48 military or emergency service for this state at the call of the
 1-49 governor or the governor's designee.

1-50 (10) "State military forces" means the Texas military
 1-51 forces.

1-52 (11) "State training and other duty" means the service
 1-53 and training typically performed by service members in preparation
 1-54 for state active duty. The term includes training for man-made and
 1-55 natural disaster response and maintenance of equipment and
 1-56 property.

1-57 (12) "Temporary state employee" means a service member
 1-58 who is not a full-time or part-time state employee and who is on
 1-59 state active duty.

1-60 (13) "Texas Military Department" means the state

2-1 agency charged with administrative activities in support of the
 2-2 Texas military forces.

2-3 (14) "Texas military forces" means the Texas National
 2-4 Guard, the Texas State Guard, and any other military force
 2-5 organized under state law.

2-6 (15) "Texas National Guard" means the Texas Army
 2-7 National Guard and the Texas Air National Guard.

2-8 (16) "Texas State Guard" means the volunteer military
 2-9 forces that provide community service and emergency response
 2-10 activities for this state, as organized under the Second Amendment
 2-11 to the United States Constitution, and operating as a defense force
 2-12 authorized under 32 U.S.C. Section 109.

2-13 (17) "Unit" means any organized group of the Texas
 2-14 military forces that has a designated commander.

2-15 (18) "Unit fund" means:

2-16 (A) money held by a military unit to support the
 2-17 service members in the military unit while serving in the Texas
 2-18 military forces;

2-19 (B) the state post exchange services account; or

2-20 (C) the billeting account.

2-21 Sec. 437.0011. REFERENCE IN OTHER LAW. A reference in other
 2-22 law to the adjutant general's department means the Texas Military
 2-23 Department.

2-24 Sec. 437.002. COMMANDER-IN-CHIEF. (a) The governor is the
 2-25 commander-in-chief of the Texas military forces, except any portion
 2-26 of those forces in the service of the United States. The governor
 2-27 has full control and authority over all matters relating to the
 2-28 Texas military forces, including organization, equipment, and
 2-29 discipline.

2-30 (b) If the governor is unable to perform the duties of
 2-31 commander-in-chief, the adjutant general shall command the Texas
 2-32 military forces, unless the state constitution or other state law
 2-33 requires the lieutenant governor or the president of the senate to
 2-34 perform the duties of governor.

2-35 Sec. 437.003. GOVERNOR'S MILITARY APPOINTMENTS. (a) The
 2-36 governor, with the advice and consent of the senate, shall appoint
 2-37 an adjutant general to a two-year term expiring February 1 of each
 2-38 even-numbered year. The adjutant general is responsible for
 2-39 leading and managing the Texas military forces. The adjutant
 2-40 general is subordinate only to the governor in matters pertaining
 2-41 to the Texas military forces. The adjutant general's rank is
 2-42 assigned at the discretion of the governor and may not exceed
 2-43 lieutenant general. Federal recognition is at the rank authorized
 2-44 by the National Guard Bureau. The adjutant general may be referred
 2-45 to as the commanding general of the Texas military forces.

2-46 (b) On recommendation of the adjutant general, the governor
 2-47 shall appoint a deputy adjutant general for army, a deputy adjutant
 2-48 general for air, and the commander of the Texas State Guard. The
 2-49 deputy adjutants general and commander serve until replaced. To be
 2-50 qualified for appointment as a deputy adjutant general, a service
 2-51 member must have the qualifications required for appointment as
 2-52 adjutant general.

2-53 (c) The governor shall appoint, commission, and assign the
 2-54 Texas State Guard general officers. The governor may remove or
 2-55 reassign an officer. To be eligible for appointment as a general
 2-56 officer, a service member must have:

2-57 (1) been a federally recognized officer of not less
 2-58 than field grade of the Texas National Guard or a regular or reserve
 2-59 component of the United States military or served at least 15 years
 2-60 of combined service as a commissioned officer in the Texas military
 2-61 forces or a regular or reserve component of the United States
 2-62 military; and

2-63 (2) served at least three years as a commissioned
 2-64 officer in the Texas State Guard.

2-65 (d) The governor may delegate the powers granted by
 2-66 Subsection (c) to the adjutant general.

2-67 Sec. 437.004. REGULATING TEXAS MILITARY FORCES. (a) The
 2-68 governor shall make and publish regulations, according to existing
 2-69 federal and state law, to govern the Texas military forces. The

3-1 regulations must address general orders and forms for the
 3-2 performance of duties of service members on military duty,
 3-3 including provisions governing courts-martial.

3-4 (b) The governor may reorganize and provide regulations
 3-5 relating to the organization of any portion of the Texas National
 3-6 Guard, Texas State Guard, emergency militia, or other military
 3-7 force organized under state law.

3-8 (c) The governor may obtain from the United States
 3-9 government the arms, equipment, munitions, or other military
 3-10 supplies to which the state is entitled for use by the Texas
 3-11 military forces.

3-12 (d) The governor, as the governor determines to be in this
 3-13 state's best interest, shall designate the locations for storage of
 3-14 arms, equipment, munitions, or other military property owned by or
 3-15 under the control of this state.

3-16 (e) The governor may delegate the powers granted by this
 3-17 section to the adjutant general.

3-18 Sec. 437.005. AUTHORITY FOR STATE ACTIVE DUTY, STATE
 3-19 TRAINING, AND OTHER DUTY. (a) The governor may activate all or
 3-20 part of the Texas military forces to state active duty or for state
 3-21 training and other duty. The governor may delegate all or part of
 3-22 the authority granted by this section to the adjutant general.

3-23 (b) On delegation of the authority by the governor, the
 3-24 adjutant general may order all or part of the Texas military forces
 3-25 to state training and other duty if funding has been provided in the
 3-26 General Appropriations Act or volunteer resources are available.

3-27 (c) On delegation of the authority by the governor, the
 3-28 adjutant general may order all or part of the Texas military forces
 3-29 to state training and other duty if requested by a federal, state,
 3-30 or local governmental entity and the entity authorizes
 3-31 reimbursement of the costs to this state.

3-32 (d) A service member called to state active duty or to state
 3-33 training and other duty has the rights, privileges, duties,
 3-34 functions, and authorities conferred or imposed by state law.

3-35 Sec. 437.006. OFFICERS. (a) The governor shall appoint
 3-36 and commission officers of the Texas National Guard. To be eligible
 3-37 for appointment, a service member must be qualified under United
 3-38 States law and regulations.

3-39 (b) The adjutant general shall appoint and commission
 3-40 officers, other than a general officer, in the Texas State Guard.
 3-41 To be eligible for appointment, a service member must be qualified
 3-42 under state guard regulations and be recommended for appointment by
 3-43 the commander of the state guard.

3-44 (c) An officer appointed under this section shall take and
 3-45 subscribe the official oath.

3-46 Sec. 437.007. ENLISTMENT AND APPOINTMENT. (a) Federal law
 3-47 prescribes the terms and the qualifications and requirements for
 3-48 enlistment and appointment in the Texas National Guard. The
 3-49 governor and legislature may prescribe additional terms,
 3-50 qualifications, and requirements that do not conflict with federal
 3-51 law.

3-52 (b) Enlistment in the Texas State Guard is prescribed by
 3-53 Subchapter G.

3-54 Sec. 437.008. MILITARY FACILITIES PROJECTS: MATCHING
 3-55 FEDERAL FUNDS. If the governor, after consulting with the adjutant
 3-56 general, determines that the state is eligible for federal matching
 3-57 funds for projects at military facilities in this state, the
 3-58 governor may direct that money appropriated for another purpose be
 3-59 used to obtain the federal matching funds if the appropriation
 3-60 authorizes the money to be used for that purpose.

3-61 SUBCHAPTER B. TEXAS MILITARY DEPARTMENT

3-62 Sec. 437.051. SUNSET PROVISION. The department is subject
 3-63 to Chapter 325 (Texas Sunset Act). Unless continued in existence as
 3-64 provided by that chapter, the department is abolished and this
 3-65 subchapter expires September 1, 2019.

3-66 Sec. 437.052. ADJUTANT GENERAL: JURISDICTION, DIVISION OF
 3-67 RESPONSIBILITIES, AND QUALIFICATIONS. (a) The adjutant general
 3-68 exercises the jurisdiction and powers conferred by this subtitle.
 3-69 The adjutant general is the governing officer, policy maker, and

4-1 head of the department.

4-2 (b) The adjutant general shall adopt and implement
 4-3 regulations or policies that clearly separate the adjutant
 4-4 general's responsibilities from the administrative
 4-5 responsibilities of the department's executive director and staff.

4-6 (c) To be eligible for appointment as adjutant general, a
 4-7 service member must:

4-8 (1) at the time of appointment, be serving as a
 4-9 federally recognized officer of not less than colonel in the Texas
 4-10 National Guard;

4-11 (2) have previously served on active duty or active
 4-12 duty for training with the United States Army or Air Force;

4-13 (3) meet for the year the appointment is made the
 4-14 submission requirements of the General Officer Federal Recognition
 4-15 Board or its successor; and

4-16 (4) have completed at least 15 years of service as a
 4-17 federally recognized reserve or active duty commissioned officer
 4-18 with an active unit of the United States Army or Air Force, the
 4-19 National Guard, or the Texas National Guard, including at least
 4-20 five years with the Texas National Guard.

4-21 (d) The appointment of the adjutant general shall be made
 4-22 without regard to the race, color, disability, sex, religion, age,
 4-23 or national origin of the appointee.

4-24 Sec. 437.053. ADJUTANT GENERAL: DUTIES. The adjutant
 4-25 general shall:

4-26 (1) perform duties assigned by the governor relating
 4-27 to the military affairs of this state;

4-28 (2) assume responsibility for the overall leadership,
 4-29 management, accountability, and operations of the Texas military
 4-30 forces, including the transportation of troops, munitions,
 4-31 military equipment, and property in this state;

4-32 (3) oversee the preparation of returns and reports
 4-33 required of this state by the United States;

4-34 (4) maintain a register of all officers of the Texas
 4-35 military forces;

4-36 (5) publish at state expense, when necessary, state
 4-37 military law and regulations;

4-38 (6) make available annual reports concerning the Texas
 4-39 military forces;

4-40 (7) establish reasonable and necessary fees for the
 4-41 administration of this subtitle;

4-42 (8) employ and arm, as the adjutant general determines
 4-43 appropriate, persons licensed under Title 10, Occupations Code, to
 4-44 protect property that is under the adjutant general's authority and
 4-45 to satisfy applicable security requirements;

4-46 (9) define and prescribe the kind and amount of
 4-47 supplies, including operational munitions for use in this state, to
 4-48 be purchased for the Texas military forces;

4-49 (10) prescribe general regulations for the
 4-50 maintenance of supplies and for the transportation and distribution
 4-51 of supplies from the place of purchase to camps, stations,
 4-52 companies, or other necessary places of safekeeping;

4-53 (11) have supplies, whether the property of the United
 4-54 States or this state, properly cared for and kept in good order and
 4-55 ready for use; and

4-56 (12) as the adjutant general determines appropriate,
 4-57 sell or destroy property and supplies or exchange property and
 4-58 supplies for other military property and supplies.

4-59 Sec. 437.0531. EQUAL EMPLOYMENT OPPORTUNITY POLICY
 4-60 STATEMENT. The adjutant general shall adopt a written policy
 4-61 statement to implement a program of equal employment opportunity
 4-62 under which all personnel transactions are made without regard to
 4-63 race, color, disability, sex, religion, age, or national origin.
 4-64 The policy statement must include:

4-65 (1) personnel policies, including policies relating
 4-66 to recruitment, evaluation, selection, appointment, training, and
 4-67 promotion of personnel that comply with Chapter 21, Labor Code;

4-68 (2) a comprehensive analysis of the department's
 4-69 workforce that meets federal and state laws, rules, and regulations

5-1 and instructions directly adopted from those laws, rules, and
 5-2 regulations;

5-3 (3) procedures for determining the extent of underuse
 5-4 in the department's workforce of persons for whom federal or state
 5-5 laws, rules, and regulations and instructions directly adopted from
 5-6 those laws, rules, and regulations encourage a more equitable
 5-7 balance; and

5-8 (4) reasonable methods to appropriately address the
 5-9 areas of underuse described in Subdivision (3).

5-10 Sec. 437.054. ADJUTANT GENERAL: GENERAL POWERS. (a) The
 5-11 adjutant general is the decision-making authority on all matters
 5-12 concerning the location and maintenance of military forces and
 5-13 facilities in this state. The adjutant general may set priorities
 5-14 for the construction, renovation, repair, and maintenance of Texas
 5-15 military forces armories, facilities, and improvements owned or
 5-16 leased by this state. The adjutant general in this capacity is a
 5-17 public authority and a body politic and corporate and has all powers
 5-18 necessary for the acquisition, construction, rental, control,
 5-19 maintenance, operation, and disposition of Texas military forces
 5-20 facilities and real property and all associated property and
 5-21 equipment.

5-22 (b) The adjutant general may execute the cooperative
 5-23 agreements with the National Guard Bureau and an interagency
 5-24 military agreement with a federal, state, or local governmental or
 5-25 quasi-governmental agency.

5-26 (c) The adjutant general may delegate the authority granted
 5-27 under this section in whole or in part.

5-28 Sec. 437.055. SEAL. The seal of the adjutant general
 5-29 consists of a five-pointed star with "Adjutant General, State of
 5-30 Texas" around the margin.

5-31 Sec. 437.056. MANDATORY TRAINING FOR ADJUTANT GENERAL.

5-32 (a) Before the adjutant general may assume the duties of the
 5-33 office and before the adjutant general may be confirmed by the
 5-34 senate, the adjutant general must complete at least one course of
 5-35 the training program established under this section.

5-36 (b) A training program established under this section must
 5-37 provide information to the adjutant general regarding:

5-38 (1) this chapter;

5-39 (2) the federal and state programs operated by the
 5-40 department;

5-41 (3) the federal and state roles and functions of the
 5-42 department;

5-43 (4) the regulations of the department, with an
 5-44 emphasis on disciplinary and investigatory authority regulations;

5-45 (5) the current budget for the department, with
 5-46 emphasis on state and federal funds;

5-47 (6) the results of the most recent formal federal and
 5-48 state audits of the department;

5-49 (7) the requirements of:

5-50 (A) Chapter 552; and

5-51 (B) the federal Freedom of Information Act (5
 5-52 U.S.C. Section 552);

5-53 (8) the requirements of the conflict-of-interest laws
 5-54 and other laws relating to public officials;

5-55 (9) any applicable ethics policies adopted by the
 5-56 department or the Texas Ethics Commission; and

5-57 (10) the requirements and development of the Master
 5-58 Cooperative Agreements between this state and the federal
 5-59 government.

5-60 Sec. 437.057. DEPUTY ADJUTANTS GENERAL. (a) A deputy
 5-61 adjutant general has the rank prescribed by the governor, not to
 5-62 exceed the grade authorized for federal recognition in the
 5-63 position. A deputy adjutant general may not be promoted to a rank
 5-64 higher than that of the adjutant general. A deputy adjutant general
 5-65 is entitled to the rights, privileges, amenities, and immunities
 5-66 granted officers of that rank in the Texas National Guard. A deputy
 5-67 adjutant general may be removed from office by the governor.

5-68 (b) A deputy adjutant general shall assist the adjutant
 5-69 general by performing assigned duties. If the adjutant general is

6-1 dead, absent, or unable to act, the deputy adjutant general who is
 6-2 designated in the adjutant general's succession plan shall perform
 6-3 the duties of the adjutant general.

6-4 (c) Each deputy adjutant general must complete the training
 6-5 required of the adjutant general as prescribed by Section 437.056
 6-6 not later than the 60th day after the date of appointment.

6-7 Sec. 437.058. GENERAL OFFICERS. (a) The adjutant general
 6-8 may appoint as general officers an assistant deputy adjutant
 6-9 general for army, an assistant deputy adjutant general for air, an
 6-10 assistant deputy adjutant general for homeland security, and an
 6-11 assistant deputy adjutant general for government affairs.

6-12 (b) A general officer may not be promoted to a rank higher
 6-13 than that of the adjutant general.

6-14 (c) A general officer appointed under this section is
 6-15 responsible to and serves at the pleasure of the adjutant general.

6-16 (d) The assistant deputy adjutant general for the army shall
 6-17 support the deputy adjutant general for the army, represent the
 6-18 command staff at events as needed, and manage the activities
 6-19 assigned by the adjutant general or the deputy adjutant general for
 6-20 the army.

6-21 (e) The assistant deputy adjutant general for the Army
 6-22 National Guard or the Air National Guard, as determined by the
 6-23 adjutant general, shall:

6-24 (1) coordinate with other state agencies in matters
 6-25 pertaining to homeland security to ensure state emergency services
 6-26 are provided and organized to support the state operations center;
 6-27 and

6-28 (2) coordinate homeland security actions taken by the
 6-29 National Guard Bureau in this state.

6-30 (f) The assistant deputy adjutant general for the Army
 6-31 National Guard or the Air National Guard, as determined by the
 6-32 adjutant general, shall coordinate activities of the Texas military
 6-33 forces with the National Guard Bureau to ensure funding and
 6-34 coordination with other federal, state, and local jurisdictions and
 6-35 officials in matters relating to the operations of the Texas
 6-36 military forces occurring in the assistant deputy adjutant
 6-37 general's jurisdiction or oversight.

6-38 (g) The Texas military forces shall have at least one
 6-39 traditional Texas Air National Guard general officer and two
 6-40 traditional Texas Army National Guard general officers to support
 6-41 the operation and command of the Texas National Guard.

6-42 Sec. 437.059. ADJUTANT GENERAL APPOINTMENTS. The adjutant
 6-43 general, as the adjutant general determines appropriate and with
 6-44 available funds, may appoint full-time employees of the department,
 6-45 traditional national guard members, state guard volunteers, or
 6-46 federal employees.

6-47 Sec. 437.060. CONFLICT OF INTEREST PROVISIONS. (a) A
 6-48 person may not be appointed adjutant general, a deputy adjutant
 6-49 general, a general officer, judge advocate general, or executive
 6-50 director if the person is required to register as a lobbyist under
 6-51 Chapter 305 because of the person's activities for compensation on
 6-52 behalf of a profession related to the operation of the department.

6-53 (b) An officer, employee, or paid consultant of a Texas
 6-54 trade association in the field of defense or veterans affairs may
 6-55 not be appointed adjutant general, a deputy adjutant general, a
 6-56 general officer, judge advocate general, or executive director.

6-57 (c) A person who is the spouse of an officer, manager, or
 6-58 paid consultant of a Texas trade association in the field of defense
 6-59 or veterans affairs may not be appointed adjutant general, a deputy
 6-60 adjutant general, a general officer, judge advocate general, or
 6-61 executive director.

6-62 (d) For the purposes of this section, a Texas trade
 6-63 association is a nonprofit, cooperative, and voluntarily joined
 6-64 association in this state designed to assist its members and its
 6-65 industry or profession in dealing with mutual business or
 6-66 professional problems and in promoting their common interest.

6-67 Sec. 437.061. REMOVAL PROVISIONS FOR ADJUTANT GENERAL.

6-68 (a) It is a ground for removal that the adjutant general:

6-69 (1) does not have at the time of appointment the

7-1 qualifications for service required by this chapter;
7-2 (2) does not maintain the qualifications for service
7-3 required by this chapter;
7-4 (3) does not obtain approval of the General Officer
7-5 Federal Recognition Board or its successors;
7-6 (4) is found to have violated ethical standards of
7-7 conduct of the federal government, this state, or the department;
7-8 or
7-9 (5) cannot discharge the duties required by the
7-10 position because of illness or disability.
7-11 (b) The validity of an action of the adjutant general is not
7-12 affected by the fact that it is taken when a ground for removal
7-13 exists.
7-14 (c) If a potential ground for removal exists, the deputy
7-15 adjutant general with the longest tenure in that position in the
7-16 department shall notify the governor that a potential ground for
7-17 removal exists.
7-18 Sec. 437.062. SALARIES. (a) The adjutant general is
7-19 entitled to a salary in the amount designated in the General
7-20 Appropriations Act.
7-21 (b) A deputy adjutant general, general officer, or
7-22 executive director employed under this chapter is entitled to a
7-23 salary subject to the classification and salary schedule provisions
7-24 defined in the General Appropriations Act.
7-25 SUBCHAPTER C. TEXAS MILITARY DEPARTMENT OPERATIONS
7-26 Sec. 437.101. EXECUTIVE DIRECTOR. (a) The executive
7-27 director is an employee of the department and serves at the pleasure
7-28 of the adjutant general.
7-29 (b) Subject to Sections 437.052 and 437.054, the executive
7-30 director may enter into contracts related to the purposes or duties
7-31 of the department and may have and use a corporate seal.
7-32 (c) The executive director is responsible for the daily
7-33 administration of the department and the operational compliance
7-34 with the cooperative agreements between the department and the
7-35 National Guard Bureau.
7-36 Sec. 437.102. DEPARTMENT PERSONNEL. (a) The executive
7-37 director may hire employees as necessary to carry on the operations
7-38 of the department.
7-39 (b) The executive director or the executive director's
7-40 designee shall provide to the adjutant general and to department
7-41 employees, as often as necessary, information regarding the
7-42 requirements for office or employment under this chapter, including
7-43 information regarding a person's responsibilities under applicable
7-44 laws relating to standards of conduct for state officers or
7-45 employees.
7-46 Sec. 437.103. STATE GUARD ADMINISTRATIVE PERSONNEL.
7-47 (a) Except as provided by Subsection (b), to be eligible to hold a
7-48 position relating to the daily operations and coordination of the
7-49 Texas State Guard, an employee must maintain membership in the
7-50 Texas State Guard.
7-51 (b) For good cause, the adjutant general may exempt a
7-52 position from the requirement under Subsection (a) by placing a
7-53 letter stating the reason for the exemption in the state human
7-54 resources files at the department.
7-55 Sec. 437.104. CAREER LADDER PROGRAM; PERFORMANCE
7-56 EVALUATIONS. (a) The executive director shall develop a career
7-57 ladder program. The program must require intra-agency postings of
7-58 all non-entry level positions concurrently with any public posting.
7-59 (b) The executive director shall develop a system of
7-60 employee performance evaluations. The system must require that
7-61 evaluations be conducted at least annually. All merit pay for
7-62 department employees must be based on the system established under
7-63 this subsection.
7-64 Sec. 437.105. AUTHORITY TO MAKE DIFFERENTIAL PAYMENTS. The
7-65 department may pay an employee additional compensation for duty
7-66 hours other than Monday through Friday normal business hours or for
7-67 the ability to legally carry weapons if required for the position.
7-68 The department shall adopt regulations to establish the
7-69 classification, procedures, and amount of the additional

8-1 compensation. The department may make differential payments only
8-2 if money is available to pay those amounts.

8-3 Sec. 437.106. HISTORICAL PRESERVATION OF RECORDS AND
8-4 PROPERTY. Except as provided by other law and in accordance with
8-5 all applicable federal and state requirements, the department shall
8-6 preserve all historically significant military records or property
8-7 in the Texas Military Forces Museum.

8-8 Sec. 437.107. REPORTS. (a) The department annually shall
8-9 submit to the governor and the presiding officer of each house of
8-10 the legislature a complete and detailed written report accounting
8-11 for all funds received and disbursed by the department during the
8-12 preceding fiscal year. The report must be in the form and reported
8-13 in the time provided by the General Appropriations Act.

8-14 (b) The department shall provide to the governor in December
8-15 of each even-numbered year:

8-16 (1) an account of all arms, ammunition, and other
8-17 military property owned by or in possession of this state and its
8-18 present condition;

8-19 (2) a statement of the number, condition, and
8-20 organization of the Texas military forces;

8-21 (3) suggestions important to the military interests
8-22 and conditions of this state;

8-23 (4) a list and description of all Texas military
8-24 forces missions that are in progress; and

8-25 (5) a statement of department plans to obtain and
8-26 maintain future Texas National Guard missions, including proposed
8-27 missions that are consistent with the United States Department of
8-28 Defense's strategies.

8-29 (c) Information relating to any current, proposed, or
8-30 planned mission that the adjutant general considers to be
8-31 classified or sensitive in nature is exempt from the reporting
8-32 requirement of Subsection (b).

8-33 Sec. 437.108. TECHNOLOGY POLICY. The department shall
8-34 develop and implement a policy requiring the executive director and
8-35 department's employees to research and propose appropriate
8-36 technological solutions to improve the department's ability to
8-37 perform its functions. The technological solutions must:

8-38 (1) ensure that the public is able to easily find
8-39 information about the department on the Internet;

8-40 (2) ensure that persons who want to use the
8-41 department's services are able to:

8-42 (A) interact with the department through the
8-43 Internet; and

8-44 (B) access any service that can be provided
8-45 effectively through the Internet; and

8-46 (3) be cost-effective and developed through the
8-47 department's planning processes.

8-48 Sec. 437.109. EXEMPTION FROM CERTAIN STATE ACTIVITIES.
8-49 (a) The department is exempt from the provisions of Chapter 2054
8-50 relating to the oversight of information resources and information
8-51 resource manager provisions to the extent the National Guard Bureau
8-52 and the United States Department of Defense provide information
8-53 technology and communications support to the department.

8-54 (b) Notwithstanding any other law, a service member
8-55 considered to be a temporary state employee is not considered to be
8-56 an employee of the department for the purpose of counting the number
8-57 of full-time equivalent positions authorized for the department in
8-58 the General Appropriations Act.

8-59 Sec. 437.110. POST EXCHANGES ON STATE MILITARY PROPERTY.
8-60 (a) The department may establish and contract for the operation of
8-61 not more than three military-type post exchanges similar to those
8-62 operated by the armed forces of the United States on any real
8-63 property under the management and control of the department. A post
8-64 exchange may sell, lease, or rent goods and services, including
8-65 firearms, tobacco products, prepared foods, and beer and wine but
8-66 not distilled spirits. The department may designate facilities
8-67 located on state property to use for purposes of this section.

8-68 (b) The adjutant general shall adopt regulations to govern
8-69 post exchanges established under this section that are similar to

9-1 the procedures, policies, and restrictions governing exchanges of
 9-2 the Army and Air Force Exchange Service, including regulations that
 9-3 require an individual to show identification indicating the
 9-4 individual is qualified to buy, lease, or rent goods at the post
 9-5 exchange.
 9-6 (c) The department shall contract with a person to operate a
 9-7 post exchange created under this section.
 9-8 (d) A post exchange may sell, lease, or rent goods and
 9-9 services only to:
 9-10 (1) active, retired, and reserve members of the United
 9-11 States armed services;
 9-12 (2) active and retired members of the state military
 9-13 forces;
 9-14 (3) full-time employees of the adjutant general's
 9-15 department; and
 9-16 (4) dependents of an individual described by this
 9-17 subsection.
 9-18 (e) The post exchange services account is a unit fund under
 9-19 Section 437.211. For purposes of Section 437.211, the commander is
 9-20 the installation commander. The post exchange services account is
 9-21 exempt from the application of Sections 403.095 and 404.071. The
 9-22 account consists of:
 9-23 (1) money received from the operation of post
 9-24 exchanges created under this section; and
 9-25 (2) all interest attributable to money held in the
 9-26 account.
 9-27 (f) A post exchange created under this section may sell
 9-28 goods and services, including beer and wine but not distilled
 9-29 spirits, for off-premises consumption if the operator of the
 9-30 exchange holds the appropriate license or permit issued by the
 9-31 Texas Alcoholic Beverage Commission. The licensee or permittee
 9-32 shall comply in all respects with the Alcoholic Beverage Code and
 9-33 the rules of the Texas Alcoholic Beverage Commission.
 9-34 (g) Chapter 94, Human Resources Code, does not apply to
 9-35 vending facilities operated at a post exchange.
 9-36 Sec. 437.111. DONATIONS. (a) Except as provided by
 9-37 Subsections (d) and (e), all money paid to the department under this
 9-38 chapter is subject to Subchapter F, Chapter 404.
 9-39 (b) The department may accept funds, property, or services
 9-40 donated by any public or private entity, including:
 9-41 (1) a state agency or department;
 9-42 (2) a political subdivision, including a county,
 9-43 municipality, or public school district; or
 9-44 (3) a special purpose district or authority.
 9-45 (c) The department may solicit and accept gifts, grants, or
 9-46 donations from any private or public entity to support the Texas
 9-47 military forces or the Texas Military Forces Museum and may spend
 9-48 the proceeds consistent with donor limitations and for the use of
 9-49 the Texas military forces, the museum, or the department.
 9-50 (d) The department may accept a donation or transfer of
 9-51 funds from the federal government directly or through another
 9-52 agency or from an agency or political subdivision of this state.
 9-53 The funds shall be deposited with the comptroller. The funds may be
 9-54 used for the legal purposes of the department as provided in the
 9-55 donation or transfer. The comptroller shall make payments from the
 9-56 funds on a properly drawn warrant issued by the comptroller on
 9-57 request of the adjutant general and approval of the governor under
 9-58 rules adopted by the comptroller.
 9-59 (e) A unit may accept funds for the benefit of a particular
 9-60 military unit in a unit fund as prescribed in Section 437.211.
 9-61 Sec. 437.112. INFORMATION OF INTEREST; COMPLAINTS.
 9-62 (a) The department shall prepare information of public interest
 9-63 describing the functions of the department and the procedures by
 9-64 which complaints are filed with and resolved by the department. The
 9-65 department shall make the information available to the public and
 9-66 appropriate state agencies.
 9-67 (b) The adjutant general shall adopt policies to establish
 9-68 methods for notifying the public and members of the Texas National
 9-69 Guard of the department's name, mailing address, and telephone

10-1 number for the purpose of directing complaints to the department.
10-2 (c) The department shall maintain a file on each written
10-3 complaint filed with the department. The file must include:
10-4 (1) the name of the person who filed the complaint;
10-5 (2) the date the complaint is received by the
10-6 department;
10-7 (3) the subject matter of the complaint;
10-8 (4) the name of each person contacted in connection
10-9 with the complaint;
10-10 (5) a summary of the results of the review or
10-11 investigation of the complaint; and
10-12 (6) an explanation of the reason the file was closed,
10-13 if the department closed the file without taking action other than
10-14 to investigate the complaint.
10-15 (d) The department shall provide to the person filing the
10-16 complaint and to each person who is the subject of the complaint a
10-17 copy of the department's policies and procedures relating to
10-18 complaint investigation and resolution unless the notice would
10-19 jeopardize an undercover investigation.
10-20 (e) The department, at least quarterly until final
10-21 disposition of the complaint, shall notify the person filing the
10-22 complaint and each person who is the subject of the complaint of the
10-23 status of the investigation unless the notice would jeopardize an
10-24 undercover investigation.
10-25 Sec. 437.113. ALTERNATIVE DISPUTE RESOLUTION PROCEDURES.
10-26 (a) The department shall develop and implement a policy to
10-27 encourage the use of appropriate alternative dispute resolution
10-28 procedures under Chapter 2009 to assist in the resolution of
10-29 internal and external disputes within the department's
10-30 jurisdiction.
10-31 (b) The department's procedures relating to alternative
10-32 dispute resolution must conform, to the extent possible, to any
10-33 model guidelines issued by the State Office of Administrative
10-34 Hearings for the use of alternative dispute resolution by state
10-35 agencies.
10-36 (c) The department shall designate a trained person to:
10-37 (1) coordinate the implementation of the policy
10-38 adopted under Subsection (a);
10-39 (2) serve as a resource for any training needed to
10-40 implement the procedures for negotiated rulemaking or alternative
10-41 dispute resolution; and
10-42 (3) collect data concerning the effectiveness of those
10-43 procedures, as implemented by the department.
10-44 Sec. 437.114. SUPPLIES. (a) The department may purchase
10-45 from money appropriated to the department and keep ready for use,
10-46 store, or issue a necessary amount of ordnance, subsistence,
10-47 medical, signal, engineering, and other supplies.
10-48 (b) The department may dispose of or exchange supplies owned
10-49 by this state that are unfit for further use as the department
10-50 determines is in the best interest of the Texas military forces.
10-51 (c) The department shall provide each state military unit
10-52 with the arms, equipment, instruction and record books, and other
10-53 supplies necessary for performance of the duties required of the
10-54 unit by this chapter. The unit shall keep the property in proper
10-55 repair and good condition. The department may execute bonds in the
10-56 name of this state as necessary to obtain this property.
10-57 Sec. 437.115. BIDS. The department shall adopt rules
10-58 governing the preparation, submission, and opening of bids for
10-59 contracts.
10-60 Sec. 437.116. PROGRAM ACCESSIBILITY. The department shall
10-61 comply with federal and state laws related to program
10-62 accessibility. The department shall also prepare and maintain a
10-63 written plan that describes how a person who does not speak English
10-64 can be provided reasonable access to the department's programs and
10-65 services.
10-66 Sec. 437.117. TEXAS CHALLENGE ACADEMY. (a) For each
10-67 student enrolled in the Texas Challenge Academy, the department is
10-68 entitled to allotments from the Foundation School Program under
10-69 Chapter 42, Education Code, as if the academy were a school district

11-1 without a tier one local share for purposes of Section 42.253,
 11-2 Education Code.

11-3 (b) The department shall contract with an appropriate
 11-4 school district for the provision of educational services for
 11-5 students enrolled in the academy. The school district with which
 11-6 the department contracts shall be responsible for ensuring
 11-7 compliance with any applicable regulatory requirements imposed
 11-8 under the Education Code and enforced by the commissioner of
 11-9 education and the Texas Education Agency.

11-10 Sec. 437.118. USE OF FUNDS TO SUPPORT MILITARY HOUSING AND
 11-11 TRAINING. (a) The department may use appropriated money to
 11-12 purchase food and beverages for charged military housing and
 11-13 training functions required of the Texas military forces.

11-14 (b) The department shall maintain and operate charged
 11-15 military housing in accordance with policies and regulations
 11-16 adopted by the adjutant general and published on the department's
 11-17 Internet website. The department shall deposit room fees in a
 11-18 billeting account.

11-19 SUBCHAPTER D. REAL PROPERTY MANAGEMENT

11-20 Sec. 437.151. REAL PROPERTY ADVISORY COUNCIL. (a) The
 11-21 real property advisory council is composed of the following eight
 11-22 members:

11-23 (1) two deputy adjutants general;

11-24 (2) the executive director; and

11-25 (3) five public members who are not actively serving
 11-26 in the Texas National Guard and who have experience in
 11-27 architecture, construction management, engineering, property
 11-28 management, facilities maintenance management, real estate
 11-29 services, or real property law.

11-30 (b) The public members of the advisory council are appointed
 11-31 to staggered three-year terms by the adjutant general.

11-32 (c) The adjutant general shall adopt regulations specifying
 11-33 the requirements, term limits, and expectations for the advisory
 11-34 council.

11-35 (d) The adjutant general shall designate one of the public
 11-36 members of the advisory council as the presiding officer of the
 11-37 advisory council to serve in that capacity at the pleasure of the
 11-38 adjutant general.

11-39 (e) The director of the facilities management office is
 11-40 responsible for administration and coordination of council
 11-41 meetings and preparation of materials with input from the council
 11-42 membership.

11-43 (f) The council shall meet at least two times each fiscal
 11-44 year to advise the department on:

11-45 (1) the facility master plan;

11-46 (2) the long-range construction plan;

11-47 (3) the selection of architecture and engineering
 11-48 firms;

11-49 (4) requests for bonding authority for state military
 11-50 facilities;

11-51 (5) the disposal or sale of department property;

11-52 (6) surface leases of department property;

11-53 (7) natural resources management plans; and

11-54 (8) environmental studies and agreements.

11-55 (g) Each public member of the advisory council is entitled
 11-56 to a per diem as provided by the General Appropriations Act for each
 11-57 day that the member engages in the business of the council.

11-58 (h) Each member of the advisory council is entitled to
 11-59 reimbursement for meals, lodging, transportation, and incidental
 11-60 expenses:

11-61 (1) under the rules for reimbursement that apply to
 11-62 the member's office or employment, if the member is a state officer
 11-63 or employee; or

11-64 (2) as provided by the General Appropriations Act if
 11-65 the member is not a state officer or employee.

11-66 (i) The advisory council is not subject to Chapter 2110.

11-67 Sec. 437.152. PUBLIC COMMENT. The advisory council shall
 11-68 develop and implement policies that provide the public with a
 11-69 reasonable opportunity to at least annually appear before the

12-1 council and speak on any issue related to the construction, repair,
 12-2 and maintenance of Texas military forces armories, facilities, and
 12-3 improvements under the jurisdiction of the department.

12-4 Sec. 437.153. BORROWING MONEY; ISSUING AND SELLING BONDS.

12-5 (a) The department may borrow money in the amount and under
 12-6 circumstances allowed by the Texas Constitution and may request the
 12-7 Texas Public Finance Authority, on behalf of the department, to
 12-8 issue and sell fully negotiable bonds to acquire, construct, remodel,
 12-9 repair, or equip one or more facilities.

12-10 (b) The Texas Public Finance Authority may sell the bonds in
 12-11 any manner it determines to be in the best interest of the
 12-12 department, except that it may not sell a bond that has not been
 12-13 approved by the attorney general and registered with the
 12-14 comptroller.

12-15 Sec. 437.154. REPORT OF MILITARY USE OF PROPERTY. (a) If
 12-16 the department receives notice from the General Land Office as
 12-17 provided by Section 31.156, Natural Resources Code, the department
 12-18 shall produce a report evaluating the military use of any real
 12-19 property under the management and control of the department.

12-20 (b) Not later than August 1 of the year in which the
 12-21 commissioner of the General Land Office submits a report as
 12-22 provided by Section 31.157, Natural Resources Code, the department
 12-23 shall submit a preliminary report of the report required under
 12-24 Subsection (a) to the commissioner of the General Land Office
 12-25 identifying the real property used for military purposes. Not
 12-26 later than September 1 of the year in which the commissioner of the
 12-27 General Land Office submits a report as provided by Section 31.157,
 12-28 Natural Resources Code, the department shall submit the final
 12-29 report as required by Subsection (a) to:

12-30 (1) the governor;

12-31 (2) the presiding officer of each house of the
 12-32 legislature;

12-33 (3) the Legislative Budget Board; and

12-34 (4) the governor's budget office.

12-35 Sec. 437.155. ACQUISITION; MANAGEMENT; PLEDGE OF RENTS,
 12-36 ISSUES, AND PROFITS. (a) The department by gift, lease, or
 12-37 purchase may acquire real property, including leasehold estates in
 12-38 real property, for any purpose the department considers necessary
 12-39 for the use of the Texas military forces.

12-40 (b) The department may acquire furniture and equipment
 12-41 suitable for facility purposes by gift, purchase, or construction.

12-42 (c) The department may:

12-43 (1) hold, manage, or maintain the property;

12-44 (2) after the analysis required under Section
 12-45 437.163(b), if applicable, lease or sell the property; and

12-46 (3) pledge all or part of the rents, issues, and
 12-47 profits of the property.

12-48 (d) The department may own and operate or contract with a
 12-49 vendor to provide temporary lodging facilities for use of military
 12-50 and retired military personnel. The department shall publish
 12-51 information on the department's Internet website outlining the
 12-52 operation, use, and fee structure for temporary lodging facilities.
 12-53 Out of the money received for operating the temporary lodging
 12-54 facilities, the department may procure the necessary furnishings,
 12-55 goods, and services to manage and operate the temporary lodging
 12-56 facilities.

12-57 (e) The adjutant general, deputy adjutant general for the
 12-58 air, and deputy adjutant general for the army may reside in
 12-59 state-owned housing and are exempt from paying housing costs. The
 12-60 department may allocate existing department housing to other
 12-61 department employees who demonstrate a need based on location and
 12-62 job description at a rate in accordance with the General
 12-63 Appropriations Act.

12-64 (f) The department shall deposit proceeds from any land
 12-65 lease or other revenue under this section, other than daily fee
 12-66 deposits that qualify as unit funds, into the state treasury to the
 12-67 credit of the department for the use and benefit of the facilities
 12-68 of the Texas military forces. If any part of these funds remains
 12-69 unexpended and unobligated at the end of the state fiscal year, that

13-1 amount is dedicated for the same purposes in the subsequent year.
 13-2 Money in the fund may not be diverted for any other purpose.

13-3 Sec. 437.156. CONSTRUCTION; FURNISHING AND EQUIPMENT.

13-4 (a) The department may construct buildings on real property held
 13-5 by the department in fee simple or otherwise. The department may
 13-6 furnish and equip the buildings.

13-7 (b) The department may construct a building on land
 13-8 comprising a site licensed or otherwise provided to this state by
 13-9 the federal government. If the department constructs a building on
 13-10 that site, the site becomes the property of the department for all
 13-11 purposes of this chapter as if the site had been acquired by gift to
 13-12 or purchase by the department.

13-13 (c) Department buildings that are constructed or undergoing
 13-14 major renovations must include information distribution system
 13-15 provisions in the contract.

13-16 Sec. 437.157. LEASE OF PROPERTY. (a) In this section,
 13-17 "lease" includes a sublease.

13-18 (b) After the analysis required under Section 437.163(b),
 13-19 if applicable, the department may lease property to any person.

13-20 (c) The law requiring notice and competitive bids does not
 13-21 apply to a lease under this section.

13-22 Sec. 437.158. TRANSFER TO STATE. When property that the
 13-23 Texas Public Finance Authority owns in accordance with Section
 13-24 437.159 is fully paid for and free of liens and all obligations
 13-25 incurred in connection with the acquisition and construction of the
 13-26 property have been fully paid, the Texas Public Finance Authority
 13-27 shall donate and transfer the property to the department by
 13-28 appropriate instruments of transfer. The instruments of transfer
 13-29 shall be kept in the custody of the department.

13-30 Sec. 437.159. PROPERTY FINANCED BY BONDS. Notwithstanding
 13-31 any other provision of this chapter, property used by this state for
 13-32 military purposes that was acquired, constructed, remodeled, or
 13-33 repaired using money from bonds and that has not yet been
 13-34 transferred under Section 437.158 is owned by the Texas Public
 13-35 Finance Authority and a reference to the department in this chapter
 13-36 in relation to that ownership means the Texas Public Finance
 13-37 Authority until the property is transferred.

13-38 Sec. 437.160. DONATION OF PROPERTY. The governing body of a
 13-39 county or municipality, on behalf of the county or municipality,
 13-40 may donate real property to the department for use as a Texas
 13-41 military forces facility. The donation may be in fee simple or
 13-42 otherwise.

13-43 Sec. 437.161. TAX STATUS OF PROPERTY. Property held by the
 13-44 department and rents, issues, and profits from the property are
 13-45 exempt from taxation by the state, a municipality, a county or other
 13-46 political subdivision, or a taxing district of this state.

13-47 Sec. 437.162. FACILITY ACCESSIBILITY. The department for
 13-48 new facility construction shall comply with federal and state laws
 13-49 related to facility accessibility.

13-50 Sec. 437.163. DISPOSAL OF CERTAIN SURPLUS REAL PROPERTY.
 13-51 (a) When department property that is owned or transferred to this
 13-52 state is fully paid for and free of liens incurred in connection
 13-53 with the acquisition and construction of the property, the
 13-54 department may, after conducting the analysis required under this
 13-55 section, if applicable, properly dispose of the property that is
 13-56 designated by the adjutant general as surplus.

13-57 (b) Before granting or conveying an interest in real
 13-58 property under this subchapter, the department must conduct an
 13-59 analysis to determine whether the disposal of property is in the
 13-60 best interests of the Texas military forces and evaluate whether
 13-61 each unit of the Texas military forces has adequate facility space
 13-62 to ensure that ongoing operations are maintained.

13-63 (c) To accomplish the purposes of Subsection (a), the
 13-64 department may remove, dismantle, or sever any of the property or
 13-65 authorize its removal, dismantling, or severance.

13-66 (d) If property under this section is designated as surplus,
 13-67 the department may sell the property to the highest and best bidder
 13-68 for cash using either sealed bid or public auction. The department
 13-69 may reject any or all bids. If the site is considered historical,

14-1 the department may evaluate other factors relating to ensuring the
 14-2 long-term care of the site when selecting the winning bidder.

14-3 (e) If property under this section is designated for
 14-4 exchange, the department may exchange the property for one or more
 14-5 parcels of land equal to or exceeding the value of the property to
 14-6 be exchanged.

14-7 (f) A sale, deed, or exchange made under this section must
 14-8 reserve to this state a one-sixteenth mineral interest free of cost
 14-9 of production.

14-10 (g) The department may:

14-11 (1) reconvey to the original grantor or donor all
 14-12 rights, title, and interests, including mineral interests, to all
 14-13 or part of the land conveyed by that person; and

14-14 (2) convey to the original grantor or donor, on a
 14-15 negotiated basis at fair market value, improvements constructed on
 14-16 the land reconveyed.

14-17 (h) The department shall deposit proceeds of sales under
 14-18 this section in the state treasury to the credit of the department
 14-19 for the use and benefit of the Texas military forces.

14-20 SUBCHAPTER E. TEXAS MILITARY FORCES

14-21 Sec. 437.201. CERTIFICATION OF MILITARY UNITS. The
 14-22 adjutant general shall issue each unit a certificate stating that
 14-23 the unit has been duly organized according to the laws and
 14-24 regulations of the Texas military forces and is entitled to the
 14-25 rights, powers, privileges, amenities, and immunities conferred by
 14-26 law and military regulation. The certificate is evidence in a state
 14-27 court that the unit is duly incorporated.

14-28 Sec. 437.202. LEAVE OF ABSENCE FOR PUBLIC OFFICERS AND
 14-29 EMPLOYEES. (a) Except as provided by Subsections (b) and (c), a
 14-30 person who is an officer or employee of this state, a municipality,
 14-31 a county, or another political subdivision of this state and who is
 14-32 a member of the Texas military forces, a reserve component of the
 14-33 armed forces, or a member of a state or federally authorized urban
 14-34 search and rescue team is entitled to a paid leave of absence from
 14-35 the person's duties on a day on which the person is engaged in
 14-36 authorized training or duty ordered or authorized by proper
 14-37 authority for not more than 15 workdays in a fiscal year. During a
 14-38 leave of absence, the person may not be subjected to loss of time,
 14-39 efficiency rating, personal time, sick leave, or vacation time.

14-40 (b) An officer or employee of this state is entitled to
 14-41 carry forward from one fiscal year to the next the net balance of
 14-42 unused accumulated leave under Subsection (a) that does not exceed
 14-43 45 workdays.

14-44 (c) A member of the legislature is entitled to pay for all
 14-45 days that the member is absent from a session of the legislature and
 14-46 engaged in training or duty as provided by Subsection (a).

14-47 (d) A state employee who is a member of the Texas military
 14-48 forces, a reserve component of the armed forces, or a member of a
 14-49 state or federally authorized urban search and rescue team and who
 14-50 is ordered to duty by proper authority is entitled, when relieved
 14-51 from duty, to be restored to the position that the employee held
 14-52 when ordered to duty.

14-53 Sec. 437.203. DUAL OFFICE HOLDING. A position in or
 14-54 membership in the Texas military forces is not considered to be a
 14-55 civil office of emolument.

14-56 Sec. 437.204. REEMPLOYMENT OF SERVICE MEMBER CALLED TO
 14-57 TRAINING OR DUTY. (a) An employer may not terminate the
 14-58 employment of an employee who is a member of the state military
 14-59 forces of this state or any other state because the employee is
 14-60 ordered to authorized training or duty by a proper authority. The
 14-61 employee is entitled to return to the same employment held when
 14-62 ordered to training or duty and may not be subjected to loss of
 14-63 time, efficiency rating, vacation time, or any benefit of
 14-64 employment during or because of the absence. The employee, as soon
 14-65 as practicable after release from duty, must give written or actual
 14-66 notice of intent to return to employment.

14-67 (b) A violation of this section is an unlawful employment
 14-68 practice. A person injured by a violation of this section may file
 14-69 a complaint with the Texas Workforce Commission civil rights

15-1 division under Subchapter I.

15-2 Sec. 437.205. OATH. (a) A commissioned officer of the
 15-3 Texas military forces may administer oaths for purposes of military
 15-4 administration. The officer's signature, without seal, and the
 15-5 title of the officer's assignment is prima facie evidence of the
 15-6 officer's authority.

15-7 (b) A person appointed, enlisted, or drafted in the Texas
 15-8 military forces shall take and subscribe an oath prescribed by the
 15-9 adjutant general.

15-10 Sec. 437.206. COMMISSIONS. (a) An initial state
 15-11 commission in the Texas military forces must be:

15-12 (1) in the name and by authority of this state;

15-13 (2) sealed with the state seal;

15-14 (3) signed by the governor and attested by the
 15-15 secretary of state;

15-16 (4) recorded by the Texas military forces; and

15-17 (5) conferred without fee.

15-18 (b) On the recommendation of the commanding officer or
 15-19 noncommissioned officer of the Texas military forces, the governor
 15-20 may confer on the officer or noncommissioned officer a brevet of a
 15-21 grade higher than the ordinary commission or brevet held by the
 15-22 officer or noncommissioned officer for gallant conduct or
 15-23 meritorious military service. The adjutant general shall specify
 15-24 the criteria for gallant conduct or meritorious military service.

15-25 (c) The governor may confer on an officer in active service
 15-26 in the Texas military forces who has previously served in the forces
 15-27 of the United States during a war a brevet of a grade equal to the
 15-28 highest grade in which the officer previously served.

15-29 (d) A commission under Subsection (b) or (c) carries only
 15-30 the privileges or rights allowed for similar commissions in the
 15-31 military service of the United States.

15-32 (e) The governor, without examination, may appoint and
 15-33 confer a brevet of second lieutenant on an enlisted service member
 15-34 who has served well and faithfully in the Texas military forces for
 15-35 25 years or more. The service member shall immediately be placed on
 15-36 the retired list.

15-37 (f) The governor may delegate the powers granted by this
 15-38 section to the adjutant general.

15-39 Sec. 437.207. MILITARY UNIT AS CORPORATE BODY. (a) A
 15-40 military unit in the Texas military forces is, from the time of its
 15-41 creation, a body politic and corporate and may:

15-42 (1) take, purchase, own, hold, transfer, pledge, and
 15-43 convey under its corporate name property of a total value, when
 15-44 acquired, of not more than \$200,000;

15-45 (2) sue and be sued, plead and be impleaded, and
 15-46 prosecute and defend in court under its corporate name;

15-47 (3) have and use a common seal in a form it adopts;

15-48 (4) adopt bylaws to govern and regulate its affairs,
 15-49 consistent with state law and United States law and the orders and
 15-50 regulations of the governor; and

15-51 (5) otherwise act as necessary and proper to carry out
 15-52 its purpose.

15-53 (b) The officers of the unit are its directors. The senior
 15-54 officer is its president.

15-55 (c) The power of a unit to hold or handle property is not
 15-56 affected by a natural increase in the property's value after it is
 15-57 acquired.

15-58 Sec. 437.208. ORGANIZATION PROHIBITED. (a) Except as
 15-59 provided by Subsection (b), a body of persons other than the
 15-60 regularly organized Texas military forces, the armed forces of the
 15-61 United States, or the active militia of another state may not
 15-62 associate as a military company or organization or parade in public
 15-63 with firearms in a municipality of the state.

15-64 (b) With the consent of the governor, students in an
 15-65 educational institution at which military science is a prescribed
 15-66 part of the course of instruction may drill and perform ceremonies
 15-67 with firearms in public. The governor may delegate the powers
 15-68 granted by this subsection to the adjutant general.

15-69 Sec. 437.209. FOREIGN TROOPS. A military force from

16-1 another state, territory, or district, except a force that is on
 16-2 federal orders and acting as a part of the United States armed
 16-3 forces, may not enter this state without the permission of the
 16-4 governor. The governor may delegate the powers granted by this
 16-5 section to the adjutant general.

16-6 Sec. 437.210. INTERFERENCE WITH TEXAS MILITARY FORCES.

16-7 (a) A person commits an offense if the person physically and
 16-8 intentionally hinders, delays, or obstructs or intentionally
 16-9 attempts to hinder, delay, or obstruct a portion of the Texas
 16-10 military forces on active duty in performance of a military duty.

16-11 (b) An offense under Subsection (a) is a Class B
 16-12 misdemeanor.

16-13 (c) The commanding officer of a portion of the Texas
 16-14 military forces parading or performing a military duty in a street
 16-15 or highway may require a person in the street or highway to yield
 16-16 the right-of-way to the forces, except that the commanding officer
 16-17 may not interfere with the carrying of the United States mail, a
 16-18 legitimate function of the police, or the progress or operation of
 16-19 an emergency medical services provider or fire department.

16-20 (d) During an occasion of duty, a commanding officer may
 16-21 detain a person who:

16-22 (1) trespasses on a place of duty;

16-23 (2) interrupts or molests the orderly discharge of
 16-24 duty by those under orders; or

16-25 (3) disturbs or prevents the passage of troops going
 16-26 to or coming from duty.

16-27 (e) The commanding officer shall make a reasonable effort to
 16-28 forward detained individuals to civil authorities as soon as
 16-29 practicable.

16-30 Sec. 437.211. MANAGEMENT OF UNIT FUNDS. (a) The
 16-31 commanding officer of each unit is the custodian of the unit fund.
 16-32 The commanding officer shall:

16-33 (1) receive, keep, properly disburse, and document the
 16-34 use of the money in the fund; and

16-35 (2) submit to the department an itemized statement of
 16-36 money received and disbursed during the preceding reporting period:

16-37 (A) on September 1 of each year; and

16-38 (B) when there is a change of the commanding
 16-39 officer of the unit.

16-40 (b) The unit fund consists of:

16-41 (1) donations made to the fund;

16-42 (2) rental income from state facilities under the
 16-43 management of the unit that are leased for less than three days;

16-44 (3) revenue received from the sale of goods or
 16-45 services to members of the unit and visitors; and

16-46 (4) depository interest and investment income earned
 16-47 on amounts in the fund.

16-48 (c) A unit fund is a special fund held outside the state
 16-49 treasury to be administered by the commanding officer of the unit
 16-50 without further appropriation. A unit fund is not subject to
 16-51 Chapter 2256. The department shall develop policies and procedures
 16-52 concerning the administration of the funds. If any part of the fund
 16-53 remains unexpended and unobligated at the end of the state fiscal
 16-54 year, that amount is dedicated for the same purposes in the
 16-55 subsequent year. Money in the fund may not be diverted for any
 16-56 other purpose.

16-57 (d) Chapter 94, Human Resources Code, does not apply to
 16-58 vending facilities operated for the benefit of a unit fund.

16-59 Sec. 437.212. PAY AND BENEFITS FOR STATE ACTIVE DUTY, STATE
 16-60 TRAINING, AND OTHER DUTY. (a) This state may make suitable
 16-61 provision for the pay, transportation, subsistence, and housing of
 16-62 service members on state active duty or state training and other
 16-63 duty as necessary to accomplish the mission.

16-64 (b) Pay and benefits received by service members of the
 16-65 Texas military forces under this chapter are not a gratuity, but are
 16-66 compensation for services provided as a condition of membership in
 16-67 the Texas military forces.

16-68 (c) Service members who are state employees when called by
 16-69 proper authority into a state active duty status or for state

17-1 training and other duty status are entitled to the regular benefits
 17-2 provided by the employing agency and a paid leave of absence as
 17-3 provided by Section 437.202.

17-4 (d) A service member who is not a state employee when called
 17-5 by proper authority into a state active duty status or state
 17-6 training and other duty status becomes a temporary state employee
 17-7 when in this status and is limited to the benefits specified in this
 17-8 chapter. A temporary state employee status does not apply to a
 17-9 service member who is a federal civil servant or on active guard
 17-10 reserve status, including a member serving on orders issued under
 17-11 Title 10 or 32, United States Code.

17-12 (e) A service member compensated under this section is
 17-13 eligible for state workers' compensation coverage under Chapter
 17-14 501, Labor Code.

17-15 (f) A volunteer in the Texas State Guard who is not a
 17-16 full-time or part-time state employee and who has been on state
 17-17 active duty or on state training or other duty for more than 90 days
 17-18 is eligible to participate in the state group benefits program
 17-19 under Chapter 1551, Insurance Code, to purchase health or dental
 17-20 insurance coverage, subject to the following requirements:

17-21 (1) the participant must be a member of the Texas State
 17-22 Guard at the time of enrollment in the group benefits program;

17-23 (2) the participant must pay the full cost of health or
 17-24 dental insurance coverage under the group benefits program and may
 17-25 not receive a state contribution for premiums; and

17-26 (3) an application under this subsection for group
 17-27 benefit health or dental insurance coverage must be submitted in
 17-28 accordance with procedures established by the Employees Retirement
 17-29 System of Texas.

17-30 (g) The adjutant general and the Employees Retirement
 17-31 System of Texas shall coordinate and consult to implement the
 17-32 benefits program provided by Subsection (f) and shall adopt a
 17-33 memorandum of understanding to establish:

17-34 (1) the procedures that a member of the Texas State
 17-35 Guard may use to elect to participate in the state group benefits
 17-36 program; and

17-37 (2) an appropriate method to annually confirm
 17-38 continuing eligibility to participate in the group benefits
 17-39 program.

17-40 (h) A service member who is on active guard reserve status,
 17-41 including a member serving on orders issued under Title 10 or 32,
 17-42 United States Code, may not receive state active duty pay or state
 17-43 training and other duty pay.

17-44 (i) A service member who is a federal technician in a paid
 17-45 status may not receive state active duty pay or pay for state
 17-46 training and other duty unless the member is on a military leave or
 17-47 leave without pay status from the federal employment.

17-48 Sec. 437.213. CERTAIN BENEFITS AND PROTECTIONS FOR STATE
 17-49 SERVICE. A service member of the Texas military forces who is
 17-50 ordered to state active duty or to state training and other duty by
 17-51 the governor, the adjutant general, or another proper authority
 17-52 under the law of this state is entitled to the same benefits and
 17-53 protections provided to persons:

17-54 (1) performing service in the uniformed services as
 17-55 provided by 38 U.S.C. Sections 4301-4313 and 4316-4319, as that law
 17-56 existed on April 1, 2003; and

17-57 (2) in the military service of the United States as
 17-58 provided by 50 App. U.S.C. Sections 501-536, 560, and 580-594, as
 17-59 that law existed on April 1, 2003.

17-60 Sec. 437.214. MILITARY FUNERALS AND HONORS. (a) On the
 17-61 request of a person listed in Subsection (b), the Texas military
 17-62 forces may provide a military funeral and honor service for a
 17-63 decedent who served in the Texas military forces.

17-64 (b) The following persons may request a military funeral and
 17-65 honor service from the Texas military forces:

17-66 (1) the decedent's spouse;

17-67 (2) the decedent's adult children, if there is no
 17-68 spouse;

17-69 (3) the decedent's parents, if there is no spouse or

18-1 adult child;
 18-2 (4) the decedent's brothers or sisters, if there is no
 18-3 spouse, adult child, or parent; or
 18-4 (5) the executor or administrator of the decedent's
 18-5 estate, if there is no spouse, adult child, parent, or brother or
 18-6 sister.
 18-7 (c) A service member is not eligible for a military funeral
 18-8 and honor service under this section if the service member is
 18-9 eligible for a military funeral and honor service under federal
 18-10 law.
 18-11 (d) The Texas military forces shall model the military
 18-12 funeral and honor service after the service provided by the federal
 18-13 government.
 18-14 Sec. 437.215. GRAVE MARKERS FOR STATE MILITARY PERSONNEL.
 18-15 (a) On the request of a person listed in Subsection (b), the
 18-16 department shall provide a grave marker for a decedent who served in
 18-17 the Texas military forces.
 18-18 (b) The grave marker may be requested from the department by
 18-19 a person described by Section 437.214(b).
 18-20 (c) A service member is not eligible for a grave marker
 18-21 under this section if the service member is eligible for a grave
 18-22 marker under federal law.
 18-23 (d) The department shall model the grave markers after the
 18-24 grave markers provided by the federal government.
 18-25 (e) The department shall publish information about its
 18-26 grave marker program on the department's Internet website.
 18-27 Sec. 437.216. SERVICE REFERRAL PROGRAM. (a) The Texas
 18-28 military forces shall develop a program to provide referrals to
 18-29 service members for reintegration services.
 18-30 (b) The program shall:
 18-31 (1) identify and make referrals to community-based
 18-32 organizations that have existing programs that provide
 18-33 reintegration services to service members and their families;
 18-34 (2) focus on early intervention and appropriate
 18-35 referral to promote the health of service members and the children
 18-36 and other family members of the service members;
 18-37 (3) promote family cohesion and sustainability;
 18-38 (4) be based on evidence-based best practices related
 18-39 to meeting the needs of service members and the children and other
 18-40 family members of the service members;
 18-41 (5) be provided, when appropriate, in a community
 18-42 setting through peer counseling and other means effective for
 18-43 community outreach;
 18-44 (6) use existing service delivery facilities,
 18-45 including churches, National Guard Bureau family education
 18-46 facilities, and veterans centers and support facilities;
 18-47 (7) use community-based and faith-based
 18-48 organizations;
 18-49 (8) be developed and administered in a manner that
 18-50 promotes collaboration of service providers and results in the
 18-51 referral of service members, their children, and other family
 18-52 members to the appropriate federal, state, and community services
 18-53 for which they are eligible; and
 18-54 (9) provide information and referral services
 18-55 regarding the risks and consequences of trauma, including
 18-56 post-traumatic stress disorder, traumatic brain injury, and other
 18-57 conditions for which service members are at risk.
 18-58 (c) The Texas military forces shall ensure that:
 18-59 (1) each person who provides referrals to service
 18-60 members under the referral program has received sufficient training
 18-61 to ensure that service members receive accurate information; and
 18-62 (2) service members are notified in a timely manner
 18-63 about the service referral program.
 18-64 (d) In developing the referral program, the Texas military
 18-65 forces shall consult with the National Guard Bureau, the United
 18-66 States Veterans Health Administration, the Health and Human
 18-67 Services Commission, the Texas A&M Health Science Center College of
 18-68 Medicine, and The University of Texas Health Science Center at San
 18-69 Antonio.

19-1 Sec. 437.217. EXEMPTION FROM FEES FOR DEPLOYED MILITARY
19-2 PERSONNEL. (a) A member of the National Guard on federal active
19-3 duty, or a member of the armed forces of the United States on active
19-4 duty, who is preparing to be deployed to serve in a hostile fire
19-5 zone as designated by the United States secretary of defense is
19-6 exempt from paying the following state or local governmental fees
19-7 the member incurs because of the deployment to arrange the member's
19-8 personal affairs:

19-9 (1) fees for obtaining copies of:

- 19-10 (A) a birth certificate;
- 19-11 (B) a recorded marriage license;
- 19-12 (C) a divorce decree;
- 19-13 (D) a child support order;
- 19-14 (E) guardianship documents; and
- 19-15 (F) property tax records;

19-16 (2) fees for issuing a marriage license or duplicate
19-17 marriage license; and

19-18 (3) fees for transferring title to real or personal
19-19 property.

19-20 (b) The governmental entity responsible for collecting a
19-21 fee described by Subsection (a) may rely on a letter issued by the
19-22 commander of the service member's unit for purposes of providing an
19-23 exemption under Subsection (a).

19-24 Sec. 437.218. TAX EXEMPTION. (a) An officer or enlisted
19-25 service member in the Texas military forces who complies with the
19-26 service member's military duties as prescribed by this chapter is
19-27 exempt from payment of a road or street tax.

19-28 (b) To obtain the exemption, a service member must file in
19-29 the county tax assessor-collector's office an affidavit, sworn to
19-30 before a notary public or other person authorized to administer
19-31 oaths in this state, in the following form:

19-32 "I, _____, do hereby solemnly swear or affirm that I am a
19-33 service member in good standing of the Texas military forces of the
19-34 State of Texas.

19-35 Subscribed to and sworn to before me this _____ day of

19-36 _____
19-37 SEAL

19-39 Notary Public in and for
19-40 _____
19-41 County, Texas"

19-42 (c) The county tax assessor-collector may rely on a letter
19-43 issued by the commander of the service member's unit for purposes of
19-44 providing the exemption under this section.

19-45 Sec. 437.219. COMPENSATION. (a) Except as provided by
19-46 Section 437.220, a member of the Texas military forces who performs
19-47 training or other military duty under authority of the United
19-48 States Code may not receive pay or allowances from this state for
19-49 that duty.

19-50 (b) When orders are issued for state active duty or state
19-51 training or other duty, a National Guard service member of the Texas
19-52 military forces performing the duty or training is entitled, during
19-53 the period of the duty or training, to receive pay and allowances as
19-54 provided by law for the United States armed forces. Pay is a
19-55 stipend for duty or training and is salary or base pay. The pay may
19-56 not be reduced because of food, shelter, or transportation that
19-57 this state pays or furnishes in connection with the duty or
19-58 training.

19-59 (c) The adjutant general shall set the daily pay rate and
19-60 allowance rate for state active duty and for state training and
19-61 other duty for Texas State Guard service members called to duty or
19-62 training under this chapter. The rate established by the adjutant
19-63 general may not exceed the meal and lodging rate set by the
19-64 comptroller by more than \$25 per day. The department shall publish
19-65 information about the established pay rates on the department's
19-66 Internet website.

19-67 (d) Duty or training by volunteers in the Texas State Guard
19-68 without pay is considered for insurance and state coverage purposes
19-69 as if it were duty or training for pay.

Sec. 437.220. SUPPLEMENTAL DUTY PAY FOR ECONOMIC HARDSHIP.

(a) A person who is called to military duty as a member of the Texas National Guard in the service of this state or the United States by proper federal or state authority and who suffers an economic hardship as a result of serving on military duty is eligible to receive supplemental pay for serving in accordance with this section. Payment under this subsection is subject to the availability of funds.

(b) The comptroller shall establish the Texas National Guard members' supplemental military duty pay account in the general revenue fund. Money in the account may be appropriated only for purposes of implementing this section. The comptroller, governor, or adjutant general may accept gifts and grants for deposit to the credit of the account. The legislature may transfer money into the account or may appropriate money to implement this section and the comptroller shall credit that money to the account.

(c) A member of the Texas National Guard described by Subsection (a) is eligible to receive supplemental pay under this section in an amount not to exceed the lesser of:

(1) the amount required to alleviate the economic hardship the member suffers as a result of serving on active duty; and

(2) the difference between the amount of income that the member has lost from civilian employment as a result of being called to military duty and the amount of military pay and allowances the member receives from state or federal sources while on military duty.

(d) The adjutant general shall determine whether a member is eligible to receive supplemental pay under this section and the amount of supplemental pay a member may receive. In determining the amount, the adjutant general shall consider the total amount that is available for supplemental pay during a period and the probable total need for supplemental pay during that period.

(e) The adjutant general may adopt regulations to implement this section, including regulations that prescribe the procedure for requesting supplemental pay and that prescribe evidence a member may or must present to demonstrate hardship. The comptroller, in consultation with the adjutant general, may adopt rules to govern the manner and method of paying supplemental pay under this section.

Sec. 437.221. OTHER DUTY AND COMMUNITY SERVICE MISSIONS. The governor or the adjutant general, if designated by the governor, may require other duty for officers and enlisted persons in the Texas military forces. The other duty may include community service missions.

Sec. 437.222. LIABILITY OF SERVICE MEMBER. (a) A service member of the Texas military forces ordered into service of this state by proper authority is not personally liable in the person's private capacity for any act performed or for any contract or other obligation entered into or undertaken in an official capacity in good faith and without intent to defraud in connection with the administration, management, or conduct of the department in business, programs, or other related affairs, under the limited waiver of governmental immunity provided by the Texas Tort Claims Act (Chapter 101, Civil Practice and Remedies Code).

(b) If a suit is instituted against a service member of the Texas military forces for an act of the service member in the service member's official capacity in the discharge of duty or against a person acting under the authority, order, or lawfully issued warrant of the service member, the court shall require the plaintiff to file security for the payment of court costs that may be awarded to the defendant. The defendant in the case may make a general denial and give the special matter in evidence. If the plaintiff is nonsuited or the verdict or judgment is against the plaintiff, the defendant is entitled to recover three times the court costs.

(c) If a service member of the Texas military forces is sued for injury to a person or property occurring in the performance of or an attempt to perform a duty required by law, the court shall

21-1 remove venue of the case to a court in another county not subject to
 21-2 disqualification if:

21-3 (1) the defendant applies for the removal; and
 21-4 (2) the application is supported by affidavit of two
 21-5 credible persons stating that they have good reason to believe the
 21-6 defendant cannot have a fair and impartial trial before the court.

21-7 Sec. 437.223. EXEMPTION FROM ARREST. (a) A member of the
 21-8 Texas military forces may not be arrested, except for treason,
 21-9 felony, or breach of the peace, while the person is going to or
 21-10 coming from a place that the person was required to be for military
 21-11 duty.

21-12 (b) This section does not prevent a peace officer from
 21-13 issuing a traffic summons or citation to appear in court at a later
 21-14 date that does not conflict with the member's duty hours.

21-15 Sec. 437.224. VOTING. (a) A unit, force, division, or
 21-16 command of the Texas military forces that is engaged in regular
 21-17 training on a day on which a primary, general, or special election
 21-18 for a state or federal office is held shall provide time off or
 21-19 arrange duty hours to permit all personnel to vote in the election.

21-20 (b) This section does not apply during war, invasion,
 21-21 insurrection, riot, or tumult, during imminent danger of one of
 21-22 those situations, or during annual active duty for training not
 21-23 exceeding 15 days.

21-24 Sec. 437.225. DISCHARGE. (a) A service member may be
 21-25 discharged from the Texas military forces according to regulations
 21-26 adopted by the adjutant general or by federal law or regulations.

21-27 (b) On termination of the appointment of an officer or
 21-28 enlistment of an enlisted service member in the Texas military
 21-29 forces, the officer or enlisted service member shall be given a
 21-30 certificate of discharge stating the character of the person's
 21-31 service.

21-32 Sec. 437.226. ASSISTANCE FOR TUITION AND FEES. (a) In
 21-33 this section, "institution of higher education" and "private or
 21-34 independent institution of higher education" have the meanings
 21-35 assigned by Section 61.003, Education Code.

21-36 (b) To be eligible for assistance for tuition and mandatory
 21-37 fees under this section, a person must:

21-38 (1) be a service member in good standing, as certified
 21-39 by the adjutant general, of the Texas military forces who is:

21-40 (A) an enlisted member;

21-41 (B) a warrant officer of a grade from Warrant
 21-42 Officer One through Chief Warrant Officer Three; or

21-43 (C) a commissioned officer of a grade from Second
 21-44 Lieutenant through Lieutenant Colonel; and

21-45 (2) meet any additional qualification established by
 21-46 the adjutant general to carry out the purposes of this section or to
 21-47 further the institutional needs of the Texas military forces.

21-48 (c) The adjutant general shall grant assistance for tuition
 21-49 and mandatory fees under this section to eligible service members,
 21-50 in an amount not to exceed the amount provided in the General
 21-51 Appropriations Act. The adjutant general may apportion the number
 21-52 of assistance awards among the components of the Texas military
 21-53 forces necessary to meet the recruitment and retention needs of
 21-54 those components. The number of assistance awards made to members
 21-55 of the Texas State Guard may not exceed 30 for any semester unless
 21-56 the adjutant general finds a compelling need for additional awards
 21-57 to members of the Texas State Guard.

21-58 (d) Assistance for tuition and mandatory fees may be awarded
 21-59 under this section for tuition and mandatory fees charged for any
 21-60 undergraduate or graduate course at an institution of higher
 21-61 education or private or independent institution of higher
 21-62 education, including a vocational or technical course.

21-63 (e) A service member may not receive assistance for tuition
 21-64 under this section for more than 12 semester credit hours in any
 21-65 semester.

21-66 (f) A service member may not receive assistance for tuition
 21-67 and mandatory fees under this section for more than 5 academic years
 21-68 or 10 semesters, whichever occurs first for the service member.

21-69 (g) Before each semester, the department must certify to the

22-1 appropriate public and private institutions of higher education a
 22-2 list of the service members to whom the adjutant general has awarded
 22-3 assistance for tuition and mandatory fees under this section for
 22-4 that semester. The amount of assistance awarded by the adjutant
 22-5 general under this section may not exceed the amount of money
 22-6 available to fund the assistance awards.

22-7 (h) From money appropriated for purposes of this section,
 22-8 the department shall authorize the comptroller to reimburse an
 22-9 institution of higher education in an amount equal to the amount of
 22-10 the exemption from tuition and mandatory fees the institution
 22-11 grants to a person under Section 54.345, Education Code.

22-12 (i) From money appropriated for purposes of this section,
 22-13 the department shall authorize the comptroller to make a grant to a
 22-14 service member attending a private or independent institution of
 22-15 higher education to whom the adjutant general has awarded
 22-16 assistance for tuition and mandatory fees for the semester under
 22-17 this section. The amount of a grant under this subsection is an
 22-18 amount equal to the average amount of reimbursement the department
 22-19 estimates will be paid per student for the same semester under
 22-20 Subsection (h).

22-21 Sec. 437.227. COMPENSATION FOR DEATH OR INJURY. A member of
 22-22 the Texas military forces who is on state active duty, on state
 22-23 training or other duty, or traveling to or from the member's duty
 22-24 location and who is killed or injured while engaged in authorized
 22-25 duty, training, or travel is entitled to receive compensation and
 22-26 protections under Title 5, Labor Code.

22-27 Sec. 437.228. ISSUANCE AND USE OF UNIFORM AND OTHER
 22-28 MILITARY PROPERTY. (a) A service member to whom the department
 22-29 issues a uniform or other military property shall give a receipt for
 22-30 the uniform or property. The adjutant general shall prescribe the
 22-31 manner in which the uniform and property shall be accounted for and
 22-32 kept.

22-33 (b) The uniform or other property may be used only for
 22-34 military purposes. An officer or enlisted service member of the
 22-35 Texas military forces who is responsible for public property may
 22-36 not lend the property for private use or permit it to be used for a
 22-37 purpose for which it was not intended.

22-38 Sec. 437.229. UNIFORM. (a) Except as provided by
 22-39 Subsection (b), the uniform of the officers and enlisted service
 22-40 members of the Texas military forces is the uniform prescribed for
 22-41 the United States armed forces with modifications that the
 22-42 governor, or adjutant general if delegated the authority, considers
 22-43 necessary.

22-44 (b) The Texas State Guard shall wear uniforms that differ
 22-45 significantly from the uniform of the National Guard, as required
 22-46 by National Guard regulations.

22-47 Sec. 437.230. EXEMPTION FROM LEVY AND SALE. Arms,
 22-48 equipment, clothing, and other military supplies issued by the
 22-49 department to units or service members of the Texas military forces
 22-50 for military purposes are exempt from levy and sale because of
 22-51 execution for debt or other legal proceedings.

22-52 Sec. 437.231. SEIZURE. (a) On a finding by the adjutant
 22-53 general that a person unlawfully possesses, and refuses or fails to
 22-54 deliver up, arms, equipment, or other military property issued by
 22-55 the department for use of the Texas military forces, the governor
 22-56 may by warrant command the sheriff of the county in which the person
 22-57 resides or is located to seize the arms, equipment, or other
 22-58 military property and keep the property subject to the governor's
 22-59 further order. The sheriff in executing the warrant may invoke the
 22-60 power of the county.

22-61 (b) Each sheriff may collect military arms or property
 22-62 issued by the department that is liable to loss or in the hands of
 22-63 unauthorized persons and safely keep the arms and property subject
 22-64 to order of the governor. The sheriff shall make a report of the
 22-65 collection to the governor. The sheriff's official bond covers
 22-66 faithful performance of duties under this subchapter.

22-67 SUBCHAPTER F. TEXAS NATIONAL GUARD

22-68 Sec. 437.251. COMPOSITION. The Texas National Guard may
 22-69 not exceed half of one percent of the population of the state except

23-1 in case of war, insurrection, or invasion, the prevention of
 23-2 invasion, the suppression of riot, or the aiding of civil
 23-3 authorities to execute state law.

23-4 Sec. 437.252. LOCAL GOVERNMENTAL ASSISTANCE. Funds, other
 23-5 property, or services may be donated to a unit of the Texas National
 23-6 Guard by any public or private entity, including:

23-7 (1) a state agency or department;

23-8 (2) a political subdivision, including a county,
 23-9 municipality, or public school district; or

23-10 (3) a special purpose district or authority.

23-11 Sec. 437.253. PROPERTY FORFEITURE. When the National Guard
 23-12 Counterdrug Program assists a federal law enforcement agency in
 23-13 enforcing drug laws, the National Guard Counterdrug Program is
 23-14 considered to be a law enforcement agency of this state for the
 23-15 purpose of participating in the sharing of property seized or
 23-16 forfeited to the United States under federal law.

23-17 Sec. 437.254. EMPLOYEES IN TEXAS MILITARY FORCES; EMERGENCY
 23-18 LEAVE. (a) A state employee called to state active duty as a
 23-19 member of the Texas military forces by the governor or other
 23-20 appropriate authority in response to a natural or man-made disaster
 23-21 is entitled to receive paid emergency leave without loss of
 23-22 military leave under Section 437.202 or annual leave.

23-23 (b) A state employee called to federal active duty for the
 23-24 purpose of providing assistance to civil authorities in a declared
 23-25 emergency or for training for that purpose is entitled to receive
 23-26 paid emergency leave for not more than 22 workdays without loss of
 23-27 military leave under Section 437.202 or annual leave.

23-28 (c) The duty or training under Subsection (b) does not
 23-29 include duty or training carried out under Section 437.202.

23-30 SUBCHAPTER G. TEXAS STATE GUARD

23-31 Sec. 437.301. COMMANDER. The commander of the Texas State
 23-32 Guard is responsible:

23-33 (1) for the welfare, strength, and management of the
 23-34 Texas State Guard;

23-35 (2) for the organization, training, and
 23-36 administration of all Texas State Guard components;

23-37 (3) to the adjutant general to ensure the Texas State
 23-38 Guard missions remain relevant and responsive as a force provider
 23-39 to this state; and

23-40 (4) to field and staff the volunteer components of the
 23-41 Texas State Guard.

23-42 Sec. 437.302. COMPOSITION. (a) The Texas State Guard is
 23-43 composed of units the governor, or adjutant general if delegated
 23-44 the authority, considers advisable.

23-45 (b) To serve in the Texas State Guard, a person:

23-46 (1) must be a resident of this state for at least 180
 23-47 days;

23-48 (2) must be a citizen of the United States or a person
 23-49 who has been lawfully admitted to the United States for permanent
 23-50 residence under the Immigration and Nationality Act (8 U.S.C.
 23-51 Section 1101 et seq.);

23-52 (3) must be at least 18 years of age and not older than
 23-53 70 years of age;

23-54 (4) must undergo a criminal history check;

23-55 (5) must not be a registered sex offender; and

23-56 (6) must be acceptable to and approved by the governor
 23-57 or adjutant general under the governor's direction.

23-58 Sec. 437.303. GOVERNOR'S AUTHORITY. (a) The governor has
 23-59 full control and authority over the Texas State Guard.

23-60 (b) The governor may adopt regulations governing
 23-61 enlistment, organization, administration, uniforms, equipment,
 23-62 maintenance, command, training, and discipline of the Texas State
 23-63 Guard. The regulations to the extent practicable and desirable
 23-64 must conform to law and regulations governing the Texas National
 23-65 Guard.

23-66 (c) The governor may delegate the powers granted by this
 23-67 section to the adjutant general.

23-68 Sec. 437.304. ASSISTANCE. (a) Funds or other property or
 23-69 services may be solicited by or donated to a unit in the Texas State

24-1 Guard by any public or private entity, including:
 24-2 (1) a state agency or department;
 24-3 (2) a political subdivision, including a county,
 24-4 municipality, or public school district; or
 24-5 (3) a special purpose district or authority.
 24-6 (b) A public school district may permit the Texas State
 24-7 Guard to use a school building.
 24-8 (c) The assistance solicited or received under this section
 24-9 is governed by the policies and regulations adopted by the adjutant
 24-10 general.
 24-11 Sec. 437.305. EMPLOYEES IN STATE GUARD; EMERGENCY LEAVE. A
 24-12 state employee called to state active duty as a member of the Texas
 24-13 State Guard by the governor or other appropriate authority in
 24-14 response to a natural or man-made disaster is entitled to receive
 24-15 paid emergency leave without loss of military leave under Section
 24-16 437.202 or annual leave.
 24-17 Sec. 437.306. USE OUTSIDE STATE; FRESH PURSUIT FROM OR INTO
 24-18 STATE. (a) Except as provided by Subsections (b) and (c), the
 24-19 Texas State Guard may not be required to serve outside the state.
 24-20 (b) The governor, on request of the governor of another
 24-21 state, may order all or part of the Texas State Guard to assist a
 24-22 military or civil authority of that state in defending that state.
 24-23 The governor may recall these forces.
 24-24 (c) If authorized by the law of another state, an
 24-25 organization, unit, or detachment of the Texas State Guard, on
 24-26 order of the officer in immediate command, may continue in fresh
 24-27 pursuit of an insurrectionist, a saboteur, an enemy, or enemy
 24-28 forces into that state until the apprehension or capture of the
 24-29 person or forces pursued or until military or police forces of that
 24-30 state or the United States have had a reasonable opportunity to
 24-31 apprehend, capture, or take up the pursuit of the person or forces.
 24-32 The Texas State Guard without unnecessary delay shall surrender a
 24-33 person apprehended or captured in another state to the military or
 24-34 police forces of that state or the United States. This surrender is
 24-35 not a waiver by this state of a right to extradite or prosecute the
 24-36 person for a crime committed in this state.
 24-37 (d) Military forces of another state may continue a fresh
 24-38 pursuit into this state in the same manner permitted the Texas State
 24-39 Guard under Subsection (c). The military forces of the other state
 24-40 shall without unnecessary delay surrender a person captured or
 24-41 arrested in this state to the military or police forces of this
 24-42 state to be dealt with according to law. This subsection does not
 24-43 prohibit an arrest in this state permitted by other law.
 24-44 Sec. 437.307. FEDERAL SERVICE. This chapter does not
 24-45 authorize the calling, ordering, or drafting of all or part of the
 24-46 Texas State Guard into military service of the United States. A
 24-47 person is not exempted by enlistment or commission in the Texas
 24-48 State Guard from military service under federal law.
 24-49 Sec. 437.308. RECORDS; ARMS; EQUIPMENT. (a) The commander
 24-50 of the Texas State Guard shall maintain and preserve the individual
 24-51 and unit records of the Texas State Guard and the Texas State Guard
 24-52 Honorary Reserve.
 24-53 (b) The governor may request for use of the Texas State
 24-54 Guard arms and equipment that the United States government
 24-55 possesses and can spare. The governor, or the adjutant general if
 24-56 delegated the authority by the governor, may make available to the
 24-57 Texas State Guard state armories and available state property.
 24-58 Sec. 437.309. TEXAS STATE GUARD HONORARY RESERVE. (a) The
 24-59 governor, or adjutant general under the governor's authority and
 24-60 direction, may transfer to the Texas State Guard Honorary Reserve
 24-61 an officer or enlisted service member of the Texas State Guard who:
 24-62 (1) is physically disabled;
 24-63 (2) is at least 60 years of age; or
 24-64 (3) has served the federal or state military
 24-65 satisfactorily for at least 20 years.
 24-66 (b) The governor may advance the service member one grade or
 24-67 rank at the time of the transfer into the honorary reserve. For a
 24-68 service member who is not a general officer, the adjutant general
 24-69 may advance the service member one grade or rank at the time of the

25-1 transfer into the honorary reserve.

25-2 Sec. 437.310. TEXAS STATE GUARD UNIFORM AND INSIGNIA FUND.

25-3 (a) A special revolving fund is established outside the state
 25-4 treasury to be known as the Texas State Guard uniform and insignia
 25-5 fund. The fund may be used only to purchase uniforms and insignia
 25-6 to be used by members of the Texas State Guard. The fund shall be
 25-7 administered in accordance with Section 437.211.

25-8 (b) The fund consists of:

25-9 (1) donations made to the fund;

25-10 (2) revenue received by the Texas State Guard from the
 25-11 sale of uniforms and insignia to members of the guard; and

25-12 (3) depository interest and investment income earned
 25-13 on money in the fund.

25-14 (c) If any part of the fund remains unexpended and
 25-15 unobligated at the end of the state fiscal year, that amount is
 25-16 dedicated for the same purposes in the subsequent year. Money in
 25-17 the fund may not be diverted for any other purpose.

25-18 SECTION 1.02. Subchapter J, Chapter 431, Government Code,
 25-19 is transferred to Chapter 437, Government Code, as added by this
 25-20 Act, redesignated as Subchapter H, Chapter 437, Government Code,
 25-21 and amended to read as follows:

25-22 SUBCHAPTER H [J]. AWARDS

25-23 Sec. 437.351 [431.131]. TEXAS LEGISLATIVE MEDAL OF HONOR.

25-24 (a) The Texas Legislative Medal of Honor shall be awarded to a
 25-25 member of the state or federal military forces designated by
 25-26 concurrent resolution of the legislature who voluntarily performs a
 25-27 deed of personal bravery or self-sacrifice involving risk of life
 25-28 that is so conspicuous as to clearly distinguish the service member
 25-29 [person] for gallantry and intrepidity above the service member's
 25-30 [person's] comrades. Awarding of the medal shall be considered on
 25-31 the standard of extraordinary merit. The medal may be awarded only
 25-32 on incontestable proof of performance of the deed. To be eligible
 25-33 for the Texas Legislative Medal of Honor, a service member [person]
 25-34 must:

25-35 (1) have been born in this state;

25-36 (2) reside in this state or have been a resident of
 25-37 this state on the service member's [person's] death; or

25-38 (3) have been a resident of this state when the service
 25-39 member [person] entered military service.

25-40 (b) A service member [person] is not ineligible for the
 25-41 Texas Legislative Medal of Honor because the service member
 25-42 [person] has received any other medal or award for military
 25-43 service, including a medal or award made by the United States.

25-44 (c) To receive the Texas Legislative Medal of Honor, a
 25-45 service member [person] must be nominated during a regular session
 25-46 of the legislature by majority vote of all the members of a
 25-47 nominating committee consisting of:

25-48 (1) the adjutant general or the adjutant general's
 25-49 designated representative;

25-50 (2) the lieutenant governor or the lieutenant
 25-51 governor's designated representative;

25-52 (3) the speaker of the house of representatives or the
 25-53 speaker's designated representative; and

25-54 (4) the chair of the standing committee of each house
 25-55 of the legislature with primary jurisdiction over military and
 25-56 veterans affairs.

25-57 (d) The legislature by concurrent resolution may direct the
 25-58 governor to award the Texas Legislative Medal of Honor to a service
 25-59 member [person] nominated by the nominating committee. The
 25-60 committee chairs serving on the nominating committee shall jointly
 25-61 prepare a concurrent resolution directing the governor to award the
 25-62 medal to a service member [person] nominated. The legislature may
 25-63 direct the medal to be awarded only during a regular session and may
 25-64 not, during a regular session, direct the medal to be awarded to
 25-65 more than:

25-66 (1) one service member for service in the state or
 25-67 federal military forces during the period beginning after 1835 but
 25-68 before 1956; and

25-69 (2) one service member for service in the state or

26-1 federal military forces after 1955 [~~person during a regular~~
 26-2 ~~session~~].

26-3 Sec. 437.352 [~~431.132~~]. LONE STAR MEDAL OF VALOR. The Lone
 26-4 Star Medal of Valor shall be awarded to a member of the military
 26-5 forces of this state, another state, or the United States who
 26-6 performs specific acts of bravery or outstanding courage, or who
 26-7 performs within an exceptionally short period a closely related
 26-8 series of heroic acts, if the acts involve personal hazard or danger
 26-9 and the voluntary risk of life and result in an accomplishment so
 26-10 exceptional and outstanding as to clearly set the person apart from
 26-11 the person's comrades or from other persons in similar
 26-12 circumstances. Awarding of the medal requires a lesser degree of
 26-13 gallantry than awarding of the Texas Legislative Medal of Honor,
 26-14 but requires that the acts be performed with marked distinction.

26-15 [~~Sec. 431.133. LONE STAR DISTINGUISHED SERVICE MEDAL. The~~
 26-16 ~~Lone Star Distinguished Service Medal shall be awarded to a member~~
 26-17 ~~of the military forces of this state, another state, or the United~~
 26-18 ~~States for exceptionally outstanding achievement or service to the~~
 26-19 ~~state in performance of a duty of great responsibility while~~
 26-20 ~~serving with the state military forces.~~

26-21 [~~Sec. 431.134. OTHER AWARDS. (a) The adjutant general may~~
 26-22 ~~adopt rules and regulations relating to the:~~

26-23 [~~(1) Texas Faithful Service Medal, which shall be~~
 26-24 ~~awarded to a member of the state military forces who has completed~~
 26-25 ~~five years of honorable service during which the person has shown~~
 26-26 ~~fidelity to duty, efficient service, and great loyalty to the~~
 26-27 ~~state;~~

26-28 [~~(2) Federal Service Medal, which shall be awarded to~~
 26-29 ~~a person who was inducted into federal service from the state~~
 26-30 ~~military forces between June 15, 1940, and January 1, 1946, or after~~
 26-31 ~~June 1, 1950, if the service was for more than 90 days;~~

26-32 [~~(3) Texas Medal of Merit, which may be presented to a~~
 26-33 ~~member of the military forces of this state, another state, or the~~
 26-34 ~~United States who performs outstanding service or attains~~
 26-35 ~~extraordinary achievement in behalf of the state or United States;~~

26-36 [~~(4) Texas Outstanding Service Medal, which may be~~
 26-37 ~~presented to a member of the military forces of this state, another~~
 26-38 ~~state, or the United States who has performed service in a superior~~
 26-39 ~~and clearly outstanding manner;~~

26-40 [~~(5) Texas State Guard Service Medal, which shall be~~
 26-41 ~~awarded to a person who completes three consecutive years of~~
 26-42 ~~honorable service in the Texas State Guard during which the person~~
 26-43 ~~has shown fidelity to duty, efficient service, and great loyalty to~~
 26-44 ~~the state;~~

26-45 [~~(6) Texas Desert Shield/Desert Storm Campaign Medal,~~
 26-46 ~~which shall be awarded to a person who was inducted into federal~~
 26-47 ~~service from the Texas National Guard after August 1, 1990, in~~
 26-48 ~~support of Operation Desert Shield or Operation Desert Storm,~~
 26-49 ~~without regard to the place that the person was deployed while~~
 26-50 ~~serving on active federal military duty;~~

26-51 [~~(7) Texas Humanitarian Service Medal, which shall be~~
 26-52 ~~awarded to a person who:~~

26-53 [~~(A) does not meet the criteria for an award of~~
 26-54 ~~the federal Humanitarian Service Medal;~~

26-55 [~~(B) is a member of the state military forces;~~
 26-56 ~~and~~

26-57 [~~(C) while serving on state active duty or active~~
 26-58 ~~duty under state authority in accordance with Title 32 of the United~~
 26-59 ~~States Code, participates satisfactorily in defense support to a~~
 26-60 ~~mission under civilian authority to protect life or property during~~
 26-61 ~~or soon after a natural disaster or civil unrest in the state;~~

26-62 [~~(8) Texas Cavalry Medal, which shall be awarded to a~~
 26-63 ~~person who:~~

26-64 [~~(A) served on or after September 11, 2001, in~~
 26-65 ~~the 124th Cavalry, Texas Army National Guard; and~~

26-66 [~~(B) served in a hostile fire zone as designated~~
 26-67 ~~by the United States secretary of defense;~~

26-68 [~~(9) Texas Combat Service Ribbon, which shall be~~
 26-69 ~~awarded to a member of the Texas National Guard who served, after~~

27-1 ~~September 11, 2001, in a hostile fire zone as designated by the~~
 27-2 ~~United States secretary of defense;~~
 27-3 ~~[(10) Texas Purple Heart Medal, which shall be awarded~~
 27-4 ~~to a person who, after September 11, 2001:~~
 27-5 ~~[(A) was inducted into federal service from the~~
 27-6 ~~Texas National Guard; and~~
 27-7 ~~[(B) meets the criteria for an award of the~~
 27-8 ~~federal Purple Heart Medal;~~
 27-9 ~~[(11) Texas Superior Service Medal, which shall be~~
 27-10 ~~awarded to:~~
 27-11 ~~[(A) a member of the state military forces who~~
 27-12 ~~has:~~
 27-13 ~~[(i) completed 30 or more years of~~
 27-14 ~~honorable state service or a combination of state and federal~~
 27-15 ~~service; and~~
 27-16 ~~[(ii) continually demonstrated superior~~
 27-17 ~~performance and service while assigned to key leadership positions~~
 27-18 ~~demanding responsibility; or~~
 27-19 ~~[(B) a civilian who has contributed significant~~
 27-20 ~~service to the state military forces;~~
 27-21 ~~[(12) Texas Homeland Defense Service Medal, which~~
 27-22 ~~shall be awarded to a member of the state military forces who~~
 27-23 ~~served:~~
 27-24 ~~[(A) on or after September 11, 2001;~~
 27-25 ~~[(B) on state active duty or active duty under~~
 27-26 ~~state authority in accordance with Title 32 of the United States~~
 27-27 ~~Code; and~~
 27-28 ~~[(C) satisfactorily in defense support to a~~
 27-29 ~~mission in the state under civilian authority;~~
 27-30 ~~[(13) Texas Iraqi Campaign Medal, which shall be~~
 27-31 ~~awarded to a person who was inducted into federal service from the~~
 27-32 ~~Texas National Guard, without regard to the place that the person~~
 27-33 ~~was deployed while serving on active federal military duty, after:~~
 27-34 ~~[(A) March 19, 2003, in support of Operation~~
 27-35 ~~Iraqi Freedom; or~~
 27-36 ~~[(B) August 31, 2010, in support of Operation New~~
 27-37 ~~Dawn; and~~
 27-38 ~~[(14) Texas Afghanistan Campaign Medal, which shall be~~
 27-39 ~~awarded to a person who was inducted into federal service from the~~
 27-40 ~~Texas National Guard after October 6, 2001, in support of Operation~~
 27-41 ~~Enduring Freedom, without regard to the place that the person was~~
 27-42 ~~deployed while serving on active federal military duty.~~
 27-43 ~~[(b) A member of the state military forces or a civilian~~
 27-44 ~~described by Subsection (a)(11) may be awarded the Texas Superior~~
 27-45 ~~Service Medal only one time.]~~
 27-46 ~~Sec. 437.353 [431.135]. RECOMMENDATIONS. (a) A~~
 27-47 ~~recommendation for award of the Texas Legislative Medal of Honor~~
 27-48 ~~or [7] Lone Star Medal of Valor [7, or Lone Star Distinguished Service~~
 27-49 ~~Medal] shall be forwarded through military channels to the adjutant~~
 27-50 ~~general. An individual having personal knowledge of an act or~~
 27-51 ~~achievement or exceptional service believed to warrant the award of~~
 27-52 ~~one of these medals may submit a letter of recommendation to the~~
 27-53 ~~adjutant general.~~
 27-54 ~~(b) A letter of recommendation for award of the Texas~~
 27-55 ~~Legislative Medal of Honor or Lone Star Medal of Valor must give an~~
 27-56 ~~account of the occurrence and statements of eyewitnesses, extracts~~
 27-57 ~~from official records, sketches, maps, diagrams, or photographs to~~
 27-58 ~~support and amplify the stated facts.~~
 27-59 ~~(c) [A letter of recommendation for award of the Lone Star~~
 27-60 ~~Distinguished Service Medal must give an account of the exceptional~~
 27-61 ~~service or achievement, facts, and extracts from official documents~~
 27-62 ~~and photographs to support and amplify the facts.~~
 27-63 ~~[(d)] If the adjutant general determines that a case meets~~
 27-64 ~~the criteria established by Section 437.352 [this subchapter] for~~
 27-65 ~~award of the Lone Star Medal of Valor [the awarding of one of these~~
 27-66 ~~medals], the adjutant general shall by endorsement recommend to the~~
 27-67 ~~governor the awarding of the [appropriate] medal.~~
 27-68 ~~Sec. 437.354 [431.136]. AWARDING. The governor awards the~~
 27-69 ~~Texas Legislative Medal of Honor as directed by the legislature~~

28-1 under Section 437.351 [~~431.131~~]. The governor awards the Lone Star
 28-2 Medal of Valor [~~Lone Star Distinguished Service Medal, or any~~
 28-3 ~~other award authorized by this subchapter~~] on recommendation of the
 28-4 adjutant general.

28-5 Sec. 437.355. OTHER AWARDS. (a) The governor or adjutant
 28-6 general, if delegated the authority, may adopt policies and
 28-7 regulations relating to awarding:

28-8 (1) the Texas Purple Heart Medal, which shall be
 28-9 awarded to a service member who, after September 11, 2001:

28-10 (A) was inducted into federal service from the
 28-11 Texas National Guard; and

28-12 (B) meets the criteria for an award of the
 28-13 federal Purple Heart Medal;

28-14 (2) the Texas Superior Service Medal, which shall be
 28-15 awarded to:

28-16 (A) a service member of the Texas military forces
 28-17 who has:

28-18 (i) completed 30 or more years of honorable
 28-19 state service or a combination of state and federal service; and

28-20 (ii) continually demonstrated superior
 28-21 performance and service while assigned to key leadership positions
 28-22 demanding responsibility; or

28-23 (B) a civilian who has contributed significant
 28-24 service to the Texas military forces;

28-25 (3) the Lone Star Distinguished Service Medal, which
 28-26 shall be awarded to a member of the military forces of this state,
 28-27 another state, or the United States for exceptionally outstanding
 28-28 achievement or service to this state in performance of a duty of
 28-29 great responsibility while serving with the Texas military forces
 28-30 for whom the department receives a letter of recommendation for
 28-31 award of the Lone Star Distinguished Service Medal that:

28-32 (A) gives an account of the exceptional
 28-33 achievement or service; and

28-34 (B) includes facts and photographs, and extracts
 28-35 from official documents to support and amplify the facts;

28-36 (4) the Texas Outstanding Service Medal, which shall
 28-37 be awarded to a service member of the military forces of this state,
 28-38 another state, or the United States who has performed service in a
 28-39 superior and clearly outstanding manner;

28-40 (5) the Texas Humanitarian Service Medal, which shall
 28-41 be awarded to a service member who:

28-42 (A) does not meet the criteria for an award of the
 28-43 federal Humanitarian Service Medal;

28-44 (B) is a member of the Texas military forces; and

28-45 (C) while serving on state active duty or active
 28-46 duty under state authority in accordance with Title 32, United
 28-47 States Code, participates satisfactorily in defense support to a
 28-48 mission under civilian authority to protect life or property during
 28-49 or soon after a natural disaster or civil unrest in the state;

28-50 (6) the Texas Homeland Defense Service Medal, which
 28-51 shall be awarded to a service member of the Texas military forces
 28-52 who served:

28-53 (A) on or after September 11, 2001;

28-54 (B) on state active duty or active duty under
 28-55 state authority in accordance with Title 32, United States Code;
 28-56 and

28-57 (C) satisfactorily in defense support to a
 28-58 mission in the state under civilian authority;

28-59 (7) the Federal Service Medal, which shall be awarded
 28-60 to a service member who was inducted into federal service from the
 28-61 Texas military forces between June 15, 1940, and January 1, 1946, or
 28-62 after June 1, 1950, if the service was for more than 90 days;

28-63 (8) the Texas Combat Service Ribbon, which shall be
 28-64 awarded to a service member of the Texas National Guard who served,
 28-65 after September 11, 2001, in a hostile fire zone as designated by
 28-66 the United States secretary of defense;

28-67 (9) the Texas Faithful Service Medal, which shall be
 28-68 awarded to a member of the Texas military forces who has completed
 28-69 five years of honorable service during which the service member has

29-1 shown fidelity to duty, efficient service, and great loyalty to
 29-2 this state;

29-3 (10) the Texas Medal of Merit, which shall be awarded
 29-4 to a member of the military forces of this state, another state, or
 29-5 the United States who performs outstanding service or attains
 29-6 extraordinary achievement in behalf of the state or United States;

29-7 (11) the Texas State Guard Service Medal, which shall
 29-8 be awarded to a service member who completes three consecutive
 29-9 years of honorable service in the Texas State Guard during which the
 29-10 service member has shown fidelity to duty, efficient service, and
 29-11 great loyalty to this state;

29-12 (12) the Texas Desert Shield/Desert Storm Campaign
 29-13 Medal, which shall be awarded to a service member who was inducted
 29-14 into federal service from the Texas National Guard after August 1,
 29-15 1990, in support of Operation Desert Shield or Operation Desert
 29-16 Storm, without regard to the place that the service member was
 29-17 deployed while serving on active federal military duty;

29-18 (13) the Texas Iraqi Campaign Medal, which shall be
 29-19 awarded to a service member who was inducted into federal service
 29-20 from the Texas National Guard, without regard to the place that the
 29-21 service member was deployed while serving on active federal
 29-22 military duty, after:

29-23 (A) March 19, 2003, in support of Operation Iraqi
 29-24 Freedom; or

29-25 (B) August 31, 2010, in support of Operation New
 29-26 Dawn; and

29-27 (14) the Texas Afghanistan Campaign Medal, which shall
 29-28 be awarded to a service member who was inducted into federal service
 29-29 from the Texas National Guard after October 6, 2001, in support of
 29-30 Operation Enduring Freedom, without regard to the place that the
 29-31 service member was deployed while serving on active federal
 29-32 military duty.

29-33 (b) A person may be awarded only one Texas Superior Service
 29-34 Medal.

29-35 Sec. 437.356 [431.137]. POSTHUMOUS AWARDS. An award may be
 29-36 made to a person who has died in the same manner as an award to a
 29-37 living person, except the orders and citation must indicate that
 29-38 the award is made posthumously.

29-39 Sec. 437.357 [431.138]. DESIGN; RIBBONS. (a) The
 29-40 department [adjutant general] shall design and have manufactured
 29-41 the medals, awards, decorations, and ribbons awarded under this
 29-42 subchapter and others that the adjutant general has approved for
 29-43 award.

29-44 (b) The department may purchase or replace medals, awards,
 29-45 decorations, and ribbons authorized under this subchapter for the
 29-46 recipient, the decedent's family, and nonprofit and governmental
 29-47 entities honoring the recipient or decedent.

29-48 (c) The adjutant general shall adopt [rules and]
 29-49 regulations prescribing when a ribbon may be appropriately worn
 29-50 instead of the medal it symbolizes.

29-51 SECTION 1.03. Subchapter K, Chapter 431, Government Code,
 29-52 is transferred to Chapter 437, Government Code, as added by this
 29-53 Act, redesignated as Subchapter I, Chapter 437, Government Code,
 29-54 and amended to read as follows:

29-55 SUBCHAPTER I [K]. ADMINISTRATIVE REVIEW AND JUDICIAL ENFORCEMENT

29-56 Sec. 437.401 [431.151]. DEFINITIONS. In this subchapter:

29-57 (1) "Commission" means the Texas Workforce Commission
 29-58 civil rights division.

29-59 (2) "Complainant" means an individual who brings an
 29-60 action or proceeding under this subchapter.

29-61 (3) "Respondent" means the person charged in a
 29-62 complaint filed under this subchapter.

29-63 Sec. 437.402 [431.152]. FILING OF COMPLAINT; FORM AND
 29-64 CONTENT; SERVICE. (a) A person claiming to be aggrieved by an
 29-65 unlawful employment practice under Section 437.204 [431.006] or the
 29-66 person's agent may file a complaint with the commission.

29-67 (b) The complaint must be in writing and made under oath.

29-68 (c) The complaint must state:

29-69 (1) that an unlawful employment practice under Section

30-1 437.204 [~~431.006~~] has been committed;

30-2 (2) the facts on which the complaint is based,
30-3 including the date, place, and circumstances of the alleged
30-4 unlawful employment practice; and

30-5 (3) facts sufficient to enable the commission to
30-6 identify the respondent.

30-7 (d) The commission shall serve the respondent with a copy of
30-8 the perfected complaint not later than the 10th day after the date
30-9 the complaint is filed.

30-10 (e) A complaint may be amended to cure technical defects or
30-11 omissions, including a failure to verify the complaint or to
30-12 clarify and amplify an allegation made in the complaint.

30-13 (f) An amendment to a complaint alleging additional facts
30-14 that constitute an unlawful employment practice under Section
30-15 437.204 [~~431.006~~] relating to or arising from the subject matter of
30-16 the original complaint relates back to the date the complaint was
30-17 first received by the commission.

30-18 Sec. 437.403 [~~431.153~~]. ALTERNATIVE DISPUTE RESOLUTION.
30-19 The use of alternative means of dispute resolution, including
30-20 settlement negotiations, conciliation, facilitation, mediation,
30-21 fact-finding, minitrials, and arbitration, is encouraged to
30-22 resolve disputes arising under Section 437.204 [~~431.006~~]. The
30-23 settlement of a disputed claim under this subchapter that results
30-24 from the use of traditional or alternative means of dispute
30-25 resolution is binding on the parties to the claim.

30-26 Sec. 437.404 [~~431.154~~]. INVESTIGATION BY COMMISSION. The
30-27 commission shall investigate a complaint arising under Section
30-28 437.204 [~~431.006~~] and determine if there is reasonable cause to
30-29 believe that the respondent engaged in an unlawful employment
30-30 practice as alleged in the complaint.

30-31 Sec. 437.405 [~~431.155~~]. LACK OF REASONABLE CAUSE;
30-32 DISMISSAL OF COMPLAINT. (a) If, after investigation, the
30-33 commission determines that reasonable cause does not exist to
30-34 believe that the respondent engaged in an unlawful employment
30-35 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
30-36 the commission shall issue a written determination incorporating
30-37 the finding that the evidence does not support the complaint and
30-38 dismissing the complaint.

30-39 (b) The commission shall serve a copy of the determination
30-40 on the complainant, the respondent, and other agencies as required
30-41 by law.

30-42 Sec. 437.406 [~~431.156~~]. DETERMINATION OF REASONABLE CAUSE;
30-43 REVIEW BY PANEL. If, after investigation, the commission
30-44 determines that there is reasonable cause to believe that the
30-45 respondent engaged in an unlawful employment practice under Section
30-46 437.204 [~~431.006~~] as alleged in a complaint, the commission shall:

30-47 (1) issue a written determination incorporating the
30-48 finding that the evidence supports the complaint; and

30-49 (2) serve a copy of the determination on the
30-50 complainant, the respondent, and other agencies as required by law.

30-51 Sec. 437.407 [~~431.157~~]. RESOLUTION BY INFORMAL METHODS.
30-52 (a) If a determination of reasonable cause is made, the commission
30-53 shall endeavor to eliminate the alleged unlawful employment
30-54 practice arising under Section 437.204 [~~431.006~~] by informal
30-55 methods of conference, conciliation, and persuasion.

30-56 (b) Without the written consent of the complainant and
30-57 respondent, the commission, its executive director, or its other
30-58 officers or employees may not disclose to the public information
30-59 about the efforts in a particular case to resolve an alleged
30-60 unlawful employment practice by conference, conciliation, or
30-61 persuasion, regardless of whether there is a determination of
30-62 reasonable cause.

30-63 Sec. 437.408 [~~431.158~~]. NOTICE OF DISMISSAL OR UNRESOLVED
30-64 COMPLAINT. If the commission dismisses a complaint or does not
30-65 resolve the complaint, the commission shall inform the complainant
30-66 of the dismissal or failure to resolve the complaint in writing by
30-67 certified mail.

30-68 Sec. 437.409 [~~431.159~~]. TEMPORARY INJUNCTIVE RELIEF.
30-69 (a) If the commission concludes from a preliminary investigation

31-1 of an unlawful employment practice arising under Section 437.204
31-2 [~~431.006~~] alleged in a complaint that prompt judicial action is
31-3 necessary, the commission shall file a petition seeking appropriate
31-4 temporary relief against the respondent pending final
31-5 determination of a proceeding under this subchapter.

31-6 (b) The petition shall be filed in a district court in a
31-7 county in which:

31-8 (1) the alleged unlawful employment practice that is
31-9 the subject of the complaint occurred; or

31-10 (2) the respondent resides.

31-11 (c) A court may not issue temporary injunctive relief unless
31-12 the commission shows:

31-13 (1) a substantial likelihood of success on the merits;
31-14 and

31-15 (2) irreparable harm to the complainant in the absence
31-16 of the preliminary relief pending final determination on the
31-17 merits.

31-18 Sec. 437.410 [~~431.160~~]. CIVIL ACTION BY COMMISSION.

31-19 (a) The commission may bring a civil action against a respondent
31-20 if:

31-21 (1) the commission determines that there is reasonable
31-22 cause to believe that the respondent engaged in an unlawful
31-23 employment practice under Section 437.204 [~~431.006~~]; and

31-24 (2) the commission's efforts to resolve the
31-25 discriminatory practice to the satisfaction of the complainant and
31-26 respondent through informal methods have been unsuccessful.

31-27 (b) The complainant may intervene in a civil action brought
31-28 by the commission.

31-29 Sec. 437.411 [~~431.161~~]. NOTICE OF COMPLAINANT'S RIGHT TO

31-30 FILE CIVIL ACTION. (a) A complainant who receives notice under
31-31 Section 437.408 [~~431.158~~] that the complaint is dismissed or not
31-32 resolved is entitled to request from the commission a written
31-33 notice of the complainant's right to file a civil action.

31-34 (b) The complainant must request the notice in writing.

31-35 (c) The executive director of the commission may issue the
31-36 notice.

31-37 (d) Failure of the executive director of the commission to
31-38 issue the notice of a complainant's right to file a civil action
31-39 does not affect the complainant's right under this subchapter to
31-40 bring a civil action against the respondent.

31-41 Sec. 437.412 [~~431.162~~]. CIVIL ACTION BY COMPLAINANT.

31-42 Within 60 days after the date a notice of the right to file a civil
31-43 action is received, the complainant may bring a civil action
31-44 against the respondent.

31-45 Sec. 437.413 [~~431.163~~]. COMMISSION'S INTERVENTION IN CIVIL

31-46 ACTION BY COMPLAINANT. After receipt of a timely application, a
31-47 court may permit the commission to intervene in a civil action filed
31-48 under Section 437.412 [~~431.162~~] if:

31-49 (1) the commission certifies that the case is of
31-50 general public importance; and

31-51 (2) before commencement of the action, the commission
31-52 issued a determination of reasonable cause to believe that Section
31-53 437.204 [~~431.006~~] was violated.

31-54 Sec. 437.414 [~~431.164~~]. ASSIGNMENT TO EARLY HEARING. The

31-55 court shall set an action brought under this subchapter for hearing
31-56 at the earliest practicable date to expedite the action.

31-57 Sec. 437.415 [~~431.165~~]. INJUNCTION; EQUITABLE RELIEF.

31-58 (a) On finding that a respondent engaged in an unlawful employment
31-59 practice under Section 437.204 [~~431.006~~] as alleged in a complaint,
31-60 a court may:

31-61 (1) prohibit by injunction the respondent from
31-62 engaging in an unlawful employment practice under Section 437.204
31-63 [~~431.006~~]; and

31-64 (2) order additional equitable relief as may be
31-65 appropriate.

31-66 (b) Additional equitable relief may include:

31-67 (1) hiring or reinstating with or without back pay;

31-68 (2) upgrading an employee with or without pay; and

31-69 (3) paying court costs.

32-1 (c) Liability under a back pay award may not accrue for a
 32-2 date more than two years before the date a complaint is filed with
 32-3 the commission. Interim earnings, workers' compensation benefits,
 32-4 and unemployment compensation benefits received operate to reduce
 32-5 the back pay otherwise allowable.

32-6 Sec. 437.416 [~~431.166~~]. COMPENSATORY AND PUNITIVE DAMAGES.

32-7 (a) On finding that a respondent engaged in an intentional
 32-8 unlawful employment practice under Section 437.204 [~~431.006~~] as
 32-9 alleged in a complaint, a court may, as provided by this section,
 32-10 award:

- 32-11 (1) compensatory damages; and
- 32-12 (2) punitive damages.

32-13 (b) A complainant may recover punitive damages against a
 32-14 respondent, other than a respondent that is a governmental entity,
 32-15 if the complainant demonstrates that the respondent engaged in an
 32-16 unlawful employment practice under Section 437.204 [~~431.006~~] with
 32-17 malice or with reckless indifference to the state-protected rights
 32-18 of an aggrieved individual.

32-19 (c) Compensatory damages awarded under this section may not
 32-20 include:

- 32-21 (1) back pay;
- 32-22 (2) interest on back pay; or
- 32-23 (3) other relief authorized under Section 437.415(b)
 32-24 [~~431.165(b)~~].

32-25 (d) The sum of the amount of compensatory damages awarded
 32-26 under this section for future pecuniary losses, emotional pain,
 32-27 suffering, inconvenience, mental anguish, loss of enjoyment of
 32-28 life, and other nonpecuniary losses and the amount of punitive
 32-29 damages awarded under this section may not exceed, for each
 32-30 complainant:

- 32-31 (1) \$50,000 in the case of a respondent that has fewer
 32-32 than 101 employees;
- 32-33 (2) \$100,000 in the case of a respondent that has more
 32-34 than 100 and fewer than 201 employees;
- 32-35 (3) \$200,000 in the case of a respondent that has more
 32-36 than 200 and fewer than 501 employees; and
- 32-37 (4) \$300,000 in the case of a respondent that has more
 32-38 than 500 employees.

32-39 (e) For the purposes of Subsection (d), in determining the
 32-40 number of employees of a respondent, the requisite number of
 32-41 employees must be employed by the respondent for each of 20 or more
 32-42 calendar weeks in the current or preceding calendar year.

32-43 Sec. 437.417 [~~431.167~~]. ATTORNEY'S FEES; COSTS. (a) In a
 32-44 proceeding under this subchapter, a court may allow the prevailing
 32-45 party, other than the commission, a reasonable attorney's fee as
 32-46 part of the costs.

32-47 (b) The state, a state agency, or a political subdivision is
 32-48 liable for costs, including attorney's fees, to the same extent as a
 32-49 private person.

32-50 (c) In awarding costs and attorney's fees in an action or a
 32-51 proceeding under this subchapter, the court, in its discretion, may
 32-52 include reasonable expert fees.

32-53 Sec. 437.418 [~~431.168~~]. COMPELLED COMPLIANCE. If an
 32-54 employer fails to comply with a court order issued under this
 32-55 subchapter, a party to the action or the commission, on the written
 32-56 request of a person aggrieved by the failure, may commence
 32-57 proceedings to compel compliance with the order.

32-58 Sec. 437.419 [~~431.169~~]. TRIAL DE NOVO. (a) A judicial
 32-59 proceeding under this subchapter is by trial de novo.

32-60 (b) A commission finding, recommendation, determination, or
 32-61 other action is not binding on a court.

32-62 ARTICLE 2. TEXAS MILITARY CONFORMING CHANGES

32-63 SECTION 2.01. Subsection (a), Section 7.111, Education
 32-64 Code, is amended to read as follows:

32-65 (a) The board shall provide for the administration of high
 32-66 school equivalency examinations, including administration by the
 32-67 Texas Military Department [~~adjutant general's department~~] for
 32-68 students described by Subdivision (2)(C). A person who does not
 32-69 have a high school diploma may take the examination in accordance

33-1 with rules adopted by the board if the person is:

33-2 (1) over 17 years of age;

33-3 (2) 16 years of age or older and:

33-4 (A) is enrolled in a Job Corps training program

33-5 under the Workforce Investment Act of 1998 (29 U.S.C. Section 2801

33-6 et seq.), and its subsequent amendments;

33-7 (B) a public agency providing supervision of the

33-8 person or having custody of the person under a court order

33-9 recommends that the person take the examination; or

33-10 (C) is enrolled in the Texas Military

33-11 Department's [~~adjutant general's department's~~] Seaborne Challenge

33-12 Corps; or

33-13 (3) required to take the examination under a justice

33-14 or municipal court order issued under Article 45.054(a)(1)(C), Code

33-15 of Criminal Procedure.

33-16 SECTION 2.02. Subsection (b), Section 411.121, Government

33-17 Code, is amended to read as follows:

33-18 (b) The adjutant general is entitled to obtain from the

33-19 department criminal history record information maintained by the

33-20 department that relates to a person who is:

33-21 (1) a member of the Texas [~~state~~] military forces;

33-22 (2) an employee of the Texas Military Department

33-23 [~~adjutant general's department~~];

33-24 (3) an applicant for enlistment in the Texas [~~state~~]

33-25 military forces; or

33-26 (4) an applicant for employment with the Texas

33-27 Military Department [~~adjutant general's department~~].

33-28 SECTION 2.03. Subsection (a), Section 421.021, Government

33-29 Code, is amended to read as follows:

33-30 (a) The Homeland Security Council is composed of the

33-31 governor or the governor's designee, the speaker of the house of

33-32 representatives or the speaker's designee, the lieutenant governor

33-33 or the lieutenant governor's designee, and one representative of

33-34 each of the following entities, appointed by the single statewide

33-35 elected or appointed governing officer, administrative head, or

33-36 chair, as appropriate, of the entity:

33-37 (1) Department of Agriculture;

33-38 (2) office of the attorney general;

33-39 (3) General Land Office;

33-40 (4) Public Utility Commission of Texas;

33-41 (5) Department of State Health Services;

33-42 (6) Department of Information Resources;

33-43 (7) Department of Public Safety of the State of Texas;

33-44 (8) Texas Division of Emergency Management;

33-45 (9) Texas Military Department [~~adjutant general's~~

33-46 ~~department~~];

33-47 (10) Texas Commission on Environmental Quality;

33-48 (11) Railroad Commission of Texas;

33-49 (12) Texas [~~Strategic~~] Military Preparedness

33-50 [~~Planning~~] Commission;

33-51 (13) Texas Department of Transportation;

33-52 (14) Commission on State Emergency Communications;

33-53 (15) Office of State-Federal Relations;

33-54 (16) secretary of state;

33-55 (17) Senate Committee on Veterans Affairs and Military

33-56 Installations;

33-57 (18) Senate Committee on Agriculture, Rural Affairs

33-58 [~~Transportation~~] and Homeland Security;

33-59 (19) [~~(18)~~] House Committee on Defense and Veterans'

33-60 Affairs;

33-61 (20) House Committee on Homeland Security and Public

33-62 Safety;

33-63 (21) [~~(19)~~] Texas Animal Health Commission;

33-64 (22) [~~(20)~~] Texas Association of Regional Councils;

33-65 [~~(21)~~] Texas Commission on Law Enforcement Officer

33-66 Standards and Education;

33-67 (23) [~~(22)~~] state fire marshal's office;

33-68 (24) [~~(23)~~] Texas Education Agency;

33-69 (25) [~~(24)~~] Texas Commission on Fire Protection;

- 34-1 (26) [~~(25)~~] Parks and Wildlife Department;
- 34-2 (27) [~~(26)~~] Texas A&M Forest Service; and
- 34-3 (28) [~~(27)~~] Texas Water Development Board.

34-4 SECTION 2.04. Subsection (a), Section 432.072, Government
 34-5 Code, is amended to read as follows:

34-6 (a) A person not subject to this chapter commits an offense
 34-7 if the person:

34-8 (1) has been duly subpoenaed to appear as a witness or
 34-9 to produce books and records before a military court or before a
 34-10 military or civil officer or peace officer designated to take a
 34-11 deposition to be read in evidence before a court;

34-12 (2) has been duly paid or tendered by the Texas
 34-13 military forces [~~adjutant general's department~~] the fees and
 34-14 mileage of a witness at the rates allowed to witnesses under Section
 34-15 432.192; and

34-16 (3) wilfully neglects or refuses to appear, qualify as
 34-17 a witness, testify, or produce evidence that the person may have
 34-18 been legally subpoenaed to produce.

34-19 SECTION 2.05. Subsection (a), Section 432.109, Government
 34-20 Code, is amended to read as follows:

34-21 (a) The Texas Court of Military Appeals [~~located for~~
 34-22 ~~administrative purposes only in the adjutant general's~~
 34-23 ~~department,~~] consists of five judges appointed by the adjutant
 34-24 general on the advice and recommendation of the state judge
 34-25 advocate general for staggered six-year terms. A judge appointed
 34-26 to fill a vacancy occurring before the expiration of the term for
 34-27 which the judge's predecessor was appointed shall be appointed only
 34-28 for the unexpired term of his predecessor. The adjutant general, on
 34-29 the advice and recommendation of the state judge advocate general,
 34-30 shall appoint the chief judge of the court. A person is eligible
 34-31 for appointment to the court if the person:

34-32 (1) is a member of the State Bar of Texas;

34-33 (2) is a commissioned officer of the Texas [~~state~~]
 34-34 military forces, active or retired, or a retired commissioned
 34-35 officer in the reserves of the armed forces of the United States;
 34-36 and

34-37 (3) has been engaged in the active practice of law for
 34-38 at least five years and has at least five years' experience as a
 34-39 staff judge advocate, judge advocate, or legal officer with the
 34-40 Texas [~~state~~] military forces, except that the requirements of this
 34-41 subdivision are satisfied by equivalent experience or practice in
 34-42 the armed forces of the United States.

34-43 SECTION 2.06. Subsection (b), Section 432.192, Government
 34-44 Code, is amended to read as follows:

34-45 (b) A person not in the employ of this state and not
 34-46 belonging to its active military forces, who has been duly summoned
 34-47 to appear as a witness before a military court, is entitled to
 34-48 receive \$50 a day for each day actually in attendance on the court,
 34-49 and 12 cents a mile for going from his place of residence to the
 34-50 place of trial or hearing, and 12 cents a mile for returning.
 34-51 Civilian witnesses will be paid by the Texas military forces
 34-52 [~~adjutant general's department~~].

34-53 SECTION 2.07. Section 432.194, Government Code, is amended
 34-54 to read as follows:

34-55 Sec. 432.194. EXPENSES OF ADMINISTRATION. The adjutant
 34-56 general may pay all expenses incurred in the administration of
 34-57 state military justice, including the expenses of courts-martial
 34-58 and expenses incurred under Sections 432.109, 432.184, and 432.192,
 34-59 from any funds appropriated to the Texas military forces [~~adjutant~~
 34-60 ~~general's department~~].

34-61 SECTION 2.08. Section 434.153, Government Code, is amended
 34-62 to read as follows:

34-63 Sec. 434.153. COMPOSITION OF COUNCIL. The council is
 34-64 composed of the executive head of the following agencies, or that
 34-65 person's designated representative:

- 34-66 (1) the Texas Veterans Commission;
- 34-67 (2) the Veterans' Land Board;
- 34-68 (3) the Texas Military Department [~~adjutant general's~~
 34-69 ~~department~~];

- 35-1 (4) the Health and Human Services Commission; and
- 35-2 (5) the State Bar of Texas.

35-3 SECTION 2.09. Subsection (a), Section 1232.101, Government
35-4 Code, is amended to read as follows:

35-5 (a) With respect to all bonds authorized to be issued by or
35-6 on behalf of the Texas Military Department [~~adjutant general's~~
35-7 ~~department~~], Parks and Wildlife Department, Texas Agricultural
35-8 Finance Authority, Texas Low-Level Radioactive Waste Disposal
35-9 Authority, Midwestern State University, and Texas Southern
35-10 University, the authority has the exclusive authority to act on
35-11 behalf of those entities in issuing bonds on their behalf. In
35-12 connection with those issuances and with the issuance of refunding
35-13 bonds on behalf of those entities, the authority is subject to all
35-14 rights, duties, and conditions surrounding issuance previously
35-15 applicable to the issuing entity under the statute authorizing the
35-16 issuance. A reference in an authorizing statute to the entity on
35-17 whose behalf the bonds are being issued applies equally to the
35-18 authority in its capacity as issuer on behalf of the entity.

35-19 SECTION 2.10. Subsection (d), Section 161.552, Health and
35-20 Safety Code, is amended to read as follows:

35-21 (d) The department and commission shall develop and
35-22 maintain the directory in collaboration with local, state, and
35-23 national private and government organizations, including:

- 35-24 (1) the United States Veterans Health Administration;
- 35-25 (2) the United States Department of Defense;
- 35-26 (3) the Texas military forces [~~adjutant general's~~
35-27 ~~department~~];
- 35-28 (4) the Texas Veterans Commission; and
- 35-29 (5) other public and private national and
35-30 community-based organizations that provide support to
35-31 servicemembers and their families.

35-32 SECTION 2.11. Section 412.0128, Labor Code, is amended to
35-33 read as follows:

35-34 Sec. 412.0128. CONFIDENTIALITY OF [~~INJURY~~] INFORMATION.
35-35 Information in or derived from a workers' compensation claim file
35-36 regarding an employee, and information in or derived from a risk
35-37 management review related to facility security or continuity of
35-38 operations of the Texas military forces, is confidential and may
35-39 not be disclosed by the office except as provided by this subchapter
35-40 or other law. Classified or sensitive information of the Texas
35-41 military forces specifically preempted from disclosure by federal
35-42 law retains the confidentiality protection provided by this section
35-43 for all purposes, including disclosure to the office.

35-44 SECTION 2.12. Subsection (e), Section 31.156, Natural
35-45 Resources Code, is amended to read as follows:

35-46 (e) In any year that the division will evaluate real
35-47 property under the management and control of the Texas Military
35-48 Department [~~adjutant general's department~~], the division shall
35-49 notify the department before the division begins the evaluation.

35-50 SECTION 2.13. Subsection (d), Section 31.157, Natural
35-51 Resources Code, is amended to read as follows:

35-52 (d) If under the Texas Military Department's [~~adjutant~~
35-53 ~~general's~~] report submitted as provided by Section 437.154
35-54 [~~431.030~~], Government Code, the department [~~adjutant general~~]
35-55 determines that real property under the management and control of
35-56 the [~~adjutant general's~~] department is used for military purposes,
35-57 the commissioner may not recommend a real estate transaction
35-58 involving that real property in the final report submitted as
35-59 provided by Subsection (e).

35-60 SECTION 2.14. Subsections (b), (c), and (d), Section
35-61 74.404, Property Code, are amended to read as follows:

35-62 (b) A military award or decoration delivered to the
35-63 comptroller under this chapter:

35-64 (1) may not be sold under Section 74.401 or destroyed;
35-65 and

35-66 (2) shall be delivered by the comptroller to the Texas
35-67 military forces [~~adjutant general's department~~].

35-68 (c) The Texas military forces [~~adjutant general's~~
35-69 ~~department~~] shall conduct a reasonable search of public records to

36-1 locate the person to whom the military award or decoration was
 36-2 awarded. If the department cannot locate the person, the
 36-3 department shall attempt to locate the person's next of kin. If the
 36-4 department locates the person or the person's next of kin, the
 36-5 department shall deliver the award or decoration to the person or
 36-6 the person's next of kin, as applicable.

36-7 (d) If the Texas military forces [~~adjutant general's~~
 36-8 ~~department~~] cannot locate the person to whom a military award or
 36-9 decoration was awarded or the person's next of kin, the award or
 36-10 decoration shall be held in trust for the comptroller at:

- 36-11 (1) a museum established by the department; or
- 36-12 (2) if no museum exists, any other public facility
- 36-13 designated by the department.

36-14 ARTICLE 3. CONFORMING AMENDMENTS

36-15 SECTION 3.01. Subsection (a), Section 721.002, Business &
 36-16 Commerce Code, is amended to read as follows:

36-17 (a) A person commits an offense if the person uses, in an
 36-18 advertisement for a commercial purpose, the name of an individual
 36-19 who is an active duty or former member of the United States armed
 36-20 forces, who is a member or former member of a reserve component of
 36-21 the United States armed forces, or who is a member or former member
 36-22 of the state military forces, as defined by Section 437.001
 36-23 [~~431.001~~], Government Code, or a picture of the individual in
 36-24 uniform in which the individual is clearly identifiable, without
 36-25 obtaining the consent of:

- 36-26 (1) the individual, if the individual is living; or
- 36-27 (2) the individual's surviving spouse or personal
- 36-28 representative or a majority of the individual's adult heirs, if
- 36-29 the individual is deceased.

36-30 SECTION 3.02. Subsection (a), Section 54.345, Education
 36-31 Code, is amended to read as follows:

36-32 (a) For each semester, the adjutant general of the state
 36-33 military forces shall certify to institutions of higher education
 36-34 as described by Section 437.226 [~~431.090~~], Government Code,
 36-35 information identifying the persons to whom the adjutant general
 36-36 has awarded assistance for tuition and mandatory fees under that
 36-37 section.

36-38 SECTION 3.03. Subsection (a), Section 411.121, Government
 36-39 Code, is amended to read as follows:

- 36-40 (a) In this section:
- 36-41 (1) "Adjutant general" has the meaning assigned by
- 36-42 Section 437.001 [~~431.022~~].
- 36-43 (2) "State military forces" has the meaning assigned
- 36-44 by Section 437.001 [~~431.001~~].

36-45 SECTION 3.04. Subsection (a), Section 411.1881, Government
 36-46 Code, is amended to read as follows:

36-47 (a) Notwithstanding any other provision of this subchapter,
 36-48 a person may not be required to complete the range instruction
 36-49 portion of a handgun proficiency course to obtain or renew a
 36-50 concealed handgun license issued under this subchapter if the
 36-51 person:

- 36-52 (1) is currently serving in or is honorably discharged
- 36-53 from:

36-54 (A) the army, navy, air force, coast guard, or
 36-55 marine corps of the United States or an auxiliary service or reserve
 36-56 unit of one of those branches of the armed forces; or

36-57 (B) the Texas [~~state~~] military forces, as defined
 36-58 by Section 437.001 [~~431.001~~]; and

36-59 (2) has, within the five years preceding the date of
 36-60 the person's application for an original or renewed license, as
 36-61 applicable, completed a course of training in handgun proficiency
 36-62 or familiarization as part of the person's service with the armed
 36-63 forces or Texas [~~state~~] military forces.

36-64 SECTION 3.05. Subsection (a), Section 411.1951, Government
 36-65 Code, is amended to read as follows:

- 36-66 (a) In this section, "veteran" means a person who:
- 36-67 (1) has served in:
- 36-68 (A) the army, navy, air force, coast guard, or
- 36-69 marine corps of the United States;

37-1 (B) the Texas [~~state~~] military forces as defined
37-2 by Section 437.001 [~~431.001~~]; or

37-3 (C) an auxiliary service of one of those branches
37-4 of the armed forces; and

37-5 (2) has been honorably discharged from the branch of
37-6 the service in which the person served.

37-7 SECTION 3.06. Section 418.006, Government Code, is amended
37-8 to read as follows:

37-9 Sec. 418.006. CIVIL LIABILITY. An officer or employee of a
37-10 state or local agency, or a volunteer acting at the direction of an
37-11 officer or employee of a state or local agency, is considered for
37-12 purposes of Section 437.222 [~~431.085~~] to be a member of the Texas
37-13 [~~state~~] military forces ordered into active service of the state by
37-14 proper authority and is considered to be discharging a duty in that
37-15 capacity if the person is performing an activity related to
37-16 sheltering or housing individuals in connection with the evacuation
37-17 of an area stricken or threatened by disaster.

37-18 SECTION 3.07. Subsections (a), (b), and (d), Section
37-19 421.061, Government Code, are amended to read as follows:

37-20 (a) An officer or employee of a state or local agency
37-21 performing a homeland security activity or a volunteer performing a
37-22 homeland security activity at the request or under the direction of
37-23 an officer or employee of a state or local agency is considered for
37-24 purposes of Section 437.222 [~~431.085~~] to be a member of the Texas
37-25 [~~state~~] military forces ordered into active service of the state by
37-26 proper authority and is considered to be discharging a duty in that
37-27 capacity if:

37-28 (1) the officer, employee, or volunteer is performing
37-29 the homeland security activity under procedures prescribed or
37-30 circumstances described for the purpose of this section in the
37-31 governor's homeland security strategy;

37-32 (2) in the case of a volunteer, the volunteer is acting
37-33 within the course and scope of the request or direction of the
37-34 officer or employee of the state or local agency; and

37-35 (3) in the case of an officer or employee of a state or
37-36 local agency, the officer or employee is acting within the course
37-37 and scope of the person's authority.

37-38 (b) A person described by Subsection (a) is not immune from
37-39 civil liability under Section 437.222 [~~431.085~~] for damages
37-40 resulting from the performance of a homeland security activity if,
37-41 under the circumstances, the person's performance of the homeland
37-42 security activity was wilfully or wantonly negligent or done with
37-43 conscious indifference or reckless disregard for the safety of
37-44 persons this chapter is intended to protect.

37-45 (d) This section does not affect the application of Section
37-46 437.222 [~~431.085~~] on its own terms to a person who is a member of the
37-47 Texas [~~state~~] military forces ordered into active service of the
37-48 state by proper authority under other law.

37-49 SECTION 3.08. Section 661.903, Government Code, is amended
37-50 to read as follows:

37-51 Sec. 661.903. NATIONAL GUARD EMERGENCY. A state employee
37-52 who is called to state active duty as a member of the Texas [~~state~~]
37-53 military forces by the governor because of an emergency is entitled
37-54 to a leave of absence without a deduction in salary in accordance
37-55 with Section 437.254 [~~431.0825~~]. A state employee who is called to
37-56 federal active duty as a member of the Texas [~~state~~] military forces
37-57 may not receive the employee's state salary except as provided by
37-58 Sections 661.904(d) and (f) and 661.9041.

37-59 SECTION 3.09. Subsection (b), Section 1232.1025,
37-60 Government Code, is amended to read as follows:

37-61 (b) After receiving a request under Section 437.153
37-62 [~~431.0292 or 431.0302(c)~~], the board shall promptly issue and sell
37-63 bonds in the name of the authority to provide the requested
37-64 financing.

37-65 SECTION 3.10. Subdivision (2), Section 2308.251,
37-66 Government Code, is amended to read as follows:

37-67 (2) "Veteran" means a person who:

37-68 (A) has served in:

37-69 (i) the army, navy, air force, coast guard,

38-1 or marine corps of the United States or the United States Public
38-2 Health Service under 42 U.S.C. Section 201 et seq., as amended;

38-3 (ii) the Texas [~~state~~] military forces as
38-4 defined by Section 437.001 [~~431.001~~]; or

38-5 (iii) an auxiliary service of one of those
38-6 branches of the armed forces; and

38-7 (B) has been honorably discharged from the branch
38-8 of the service in which the person served.

38-9 SECTION 3.11. Subdivision (3), Section 161.551, Health and
38-10 Safety Code, is amended to read as follows:

38-11 (3) "Servicemember" means [~~a resident of this state~~
38-12 ~~who is~~] a member or former member of the state military forces or a
38-13 component of the United States armed forces, including a reserve
38-14 component. In this section, "state military forces" has the
38-15 meaning assigned by Section 437.001 [~~431.001~~], Government Code.

38-16 SECTION 3.12. Subsections (d) and (e), Section 775.039,
38-17 Health and Safety Code, are amended to read as follows:

38-18 (d) The differential pay provided by Subsection (a) begins
38-19 when the benefits allowed under Section 437.202 [~~431.005~~],
38-20 Government Code, are exhausted and continues until the employee's
38-21 active military duty terminates.

38-22 (e) The board may extend the insurance benefits provided by
38-23 the district to a district employee who is a member of the state
38-24 military forces or a reserve component of the United States armed
38-25 forces who is called to active duty and to the employee's
38-26 dependents. The extension period begins when the benefits allowed
38-27 under Section 437.202 [~~431.005~~], Government Code, are exhausted and
38-28 continues until the employee's active military duty terminates.

38-29 SECTION 3.13. Subsection (a), Section 1001.076, Health and
38-30 Safety Code, is amended to read as follows:

38-31 (a) In this section, "veteran" means a person who:

38-32 (1) has served in:

38-33 (A) the army, navy, air force, coast guard, or
38-34 marine corps of the United States;

38-35 (B) the state military forces as defined by
38-36 Section 437.001 [~~431.001~~], Government Code; or

38-37 (C) an auxiliary service of one of those branches
38-38 of the armed forces; and

38-39 (2) has been honorably discharged from the branch of
38-40 the service in which the person served.

38-41 SECTION 3.14. Subsection (a), Section 408.0445, Labor Code,
38-42 is amended to read as follows:

38-43 (a) For purposes of computing income benefits or death
38-44 benefits under Section 437.227 [~~431.104~~], Government Code, the
38-45 average weekly wage of a member of the state military forces as
38-46 defined by Section 437.001 [~~431.001~~], Government Code, who is
38-47 engaged in authorized training or duty is an amount equal to the sum
38-48 of the member's regular weekly wage at any employment the member
38-49 holds in addition to serving as a member of the state military
38-50 forces, disregarding any period during which the member is not
38-51 fully compensated for that employment because the member is engaged
38-52 in authorized military training or duty, and the member's regular
38-53 weekly wage as a member of the state military forces, except that
38-54 the amount may not exceed 100 percent of the state average weekly
38-55 wage as determined under Section 408.047.

38-56 SECTION 3.15. Subdivision (5), Section 501.001, Labor Code,
38-57 is amended to read as follows:

38-58 (5) "Employee" means a person who is:

38-59 (A) in the service of the state pursuant to an
38-60 election, appointment, or express oral or written contract of hire;

38-61 (B) paid from state funds but whose duties
38-62 require that the person work and frequently receive supervision in
38-63 a political subdivision of the state;

38-64 (C) a peace officer employed by a political
38-65 subdivision, while the peace officer is exercising authority
38-66 granted under:

38-67 (i) Article 2.12, Code of Criminal
38-68 Procedure; or

38-69 (ii) Articles 14.03(d) and (g), Code of

39-1 Criminal Procedure;

39-2 (D) a member of the state military forces, as

39-3 defined by Section 437.001 [~~431.001~~], Government Code, who is

39-4 engaged in authorized training or duty; or

39-5 (E) a Texas Task Force 1 member, as defined by

39-6 Section 88.301, Education Code, who is activated by the Texas

39-7 Division of Emergency Management or is injured during training

39-8 sponsored or sanctioned by Texas Task Force 1.

39-9 SECTION 3.16. Subsection (a), Section 392.067, Local

39-10 Government Code, is amended to read as follows:

39-11 (a) In this section, "veteran" means a person who has served

39-12 on active duty in the armed forces of the United States or in the

39-13 state military forces as defined by Section 437.001 [~~431.001~~],

39-14 Government Code.

39-15 SECTION 3.17. Subdivision (1), Section 1804.001,

39-16 Occupations Code, is amended to read as follows:

39-17 (1) "Veteran" means a person who has served on active

39-18 duty in the armed forces of the United States or in the state

39-19 military forces as defined by Section 437.001 [~~431.001~~], Government

39-20 Code.

39-21 SECTION 3.18. Subdivision (2), Subsection (a), Section

39-22 31.121, Parks and Wildlife Code, is amended to read as follows:

39-23 (2) "State military forces" has the meaning assigned

39-24 by Section 437.001 [~~431.001~~], Government Code.

39-25 SECTION 3.19. Subdivision (2), Subsection (a), Section

39-26 32.54, Penal Code, is amended to read as follows:

39-27 (2) "State military forces" has the meaning assigned

39-28 by Section 437.001 [~~431.001~~], Government Code.

39-29 SECTION 3.20. Subsections (b), (d), and (f), Section 46.15,

39-30 Penal Code, are amended to read as follows:

39-31 (b) Section 46.02 does not apply to a person who:

39-32 (1) is in the actual discharge of official duties as a

39-33 member of the armed forces or state military forces as defined by

39-34 Section 437.001 [~~431.001~~], Government Code, or as a guard employed

39-35 by a penal institution;

39-36 (2) is traveling;

39-37 (3) is engaging in lawful hunting, fishing, or other

39-38 sporting activity on the immediate premises where the activity is

39-39 conducted, or is en route between the premises and the actor's

39-40 residence, motor vehicle, or watercraft, if the weapon is a type

39-41 commonly used in the activity;

39-42 (4) holds a security officer commission issued by the

39-43 Texas Private Security Board, if the person is engaged in the

39-44 performance of the person's duties as an officer commissioned under

39-45 Chapter 1702, Occupations Code, or is traveling to or from the

39-46 person's place of assignment and is wearing the officer's uniform

39-47 and carrying the officer's weapon in plain view;

39-48 (5) acts as a personal protection officer and carries

39-49 the person's security officer commission and personal protection

39-50 officer authorization, if the person:

39-51 (A) is engaged in the performance of the person's

39-52 duties as a personal protection officer under Chapter 1702,

39-53 Occupations Code, or is traveling to or from the person's place of

39-54 assignment; and

39-55 (B) is either:

39-56 (i) wearing the uniform of a security

39-57 officer, including any uniform or apparel described by Section

39-58 1702.323(d), Occupations Code, and carrying the officer's weapon in

39-59 plain view; or

39-60 (ii) not wearing the uniform of a security

39-61 officer and carrying the officer's weapon in a concealed manner;

39-62 (6) is carrying a concealed handgun and a valid

39-63 license issued under Subchapter H, Chapter 411, Government Code, to

39-64 carry a concealed handgun of the same category as the handgun the

39-65 person is carrying;

39-66 (7) holds an alcoholic beverage permit or license or

39-67 is an employee of a holder of an alcoholic beverage permit or

39-68 license if the person is supervising the operation of the permitted

39-69 or licensed premises; or

40-1 (8) is a student in a law enforcement class engaging in
40-2 an activity required as part of the class, if the weapon is a type
40-3 commonly used in the activity and the person is:

40-4 (A) on the immediate premises where the activity
40-5 is conducted; or

40-6 (B) en route between those premises and the
40-7 person's residence and is carrying the weapon unloaded.

40-8 (d) The provisions of Section 46.02 prohibiting the
40-9 carrying of a firearm or carrying of a club do not apply to a public
40-10 security officer employed by the adjutant general under Section
40-11 437.053 [~~431.029~~], Government Code, in performance of official
40-12 duties or while traveling to or from a place of duty.

40-13 (f) Section 46.03(a)(6) does not apply to a person who
40-14 possesses a firearm or club while in the actual discharge of
40-15 official duties as:

40-16 (1) a member of the armed forces or state military
40-17 forces, as defined by Section 437.001 [~~431.001~~], Government Code;
40-18 or

40-19 (2) an employee of a penal institution.

40-20 SECTION 3.21. Section 151.344, Tax Code, is amended to read
40-21 as follows:

40-22 Sec. 151.344. POST EXCHANGES ON STATE MILITARY PROPERTY.

40-23 (a) A taxable item sold, leased, or rented to, or stored, used, or
40-24 consumed by, a post exchange under Section 437.110 [~~431.040~~],
40-25 Government Code, is exempt from the taxes imposed by this chapter.

40-26 (b) A taxable item sold, leased, or rented by a post
40-27 exchange under Section 437.110 [~~431.040~~], Government Code, is
40-28 exempt from the taxes imposed by this chapter.

40-29 SECTION 3.22. Subsection (a), Section 521.1235,
40-30 Transportation Code, is amended to read as follows:

40-31 (a) In this section, "veteran" means a person who:

40-32 (1) has served in:

40-33 (A) the army, navy, air force, coast guard, or
40-34 marine corps of the United States; or

40-35 (B) the Texas National Guard as defined by
40-36 Section 437.001 [~~431.001~~], Government Code; and

40-37 (2) has been honorably discharged from the branch of
40-38 the service in which the person served.

40-39 SECTION 3.23. Subsection (g), Section 36.354, Utilities
40-40 Code, is amended to read as follows:

40-41 (g) For the purposes of this section, the term "military
40-42 base" does not include a military base:

40-43 (1) that has been closed or realigned under the
40-44 Defense Base Closure and Realignment Act of 1990 (10 U.S.C. Section
40-45 2687) and its subsequent amendments;

40-46 (2) that is administered by an authority established
40-47 by a municipality under Chapter 379B [~~378~~], Local Government Code
40-48 [~~, as added by Chapter 1221, Acts of the 76th Legislature, Regular~~
40-49 ~~Session, 1999~~];

40-50 (3) that is operated by or for the benefit of the Texas
40-51 National Guard, as defined by Section 437.001 [~~431.001~~], Government
40-52 Code, unless the base is served by a municipally owned utility owned
40-53 by a city with a population of 650,000 or more; or

40-54 (4) for which a municipally owned utility has acquired
40-55 the electric distribution system under 10 U.S.C. Section 2688.

40-56 ARTICLE 4. REPEALER AND EFFECTIVE DATE

40-57 SECTION 4.01. The following provisions of the Government
40-58 Code are repealed:

40-59 (1) Sections 431.002, 431.003, 431.004, 431.005,
40-60 431.0055, 431.006, 431.007, 431.008, 431.009, 431.010, 431.011,
40-61 431.012, 431.013, 431.014, 431.015, 431.016, 431.017, 431.0175,
40-62 431.018, and 431.0185; and

40-63 (2) Subchapters B, C, D, F, G, and I, Chapter 431.

40-64 SECTION 4.02. This Act takes effect September 1, 2013.

40-65 * * * * *