

Senate Bill 691

Sponsored by Senator GELSER, Representative NOSSE; Senator ROBLAN, Representative KOTEK

SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Exempts, for purposes of state law, dishonorable discharges from Armed Forces of the United States that are based solely on sexual orientation.

Declares emergency, effective on passage.

A BILL FOR AN ACT

1
2 Relating to dishonorable discharges from the Armed Forces of the United States; amending ORS
3 135.881, 166.291, 238.005, 238.156, 238.157, 238.160, 332.114, 351.656, 352.375, 407.087, 407.582,
4 408.010, 408.225, 408.240, 408.450 and 805.100 and section 1, chapter 110, Oregon Laws 2014; and
5 declaring an emergency.

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

7 **SECTION 1.** ORS 135.881 is amended to read:

8 135.881. As used in ORS 135.881 to 135.901:

9 (1) "District attorney" has the meaning given that term in ORS 131.005.

10 (2) "Diversion" means referral of a defendant in a criminal case to a supervised performance
11 program prior to adjudication.

12 (3) "Diversion agreement" means the specification of formal terms and conditions which a de-
13 fendant must fulfill in order to have the charges against the defendant dismissed.

14 (4) "Servicemember" means a person who:

15 (a) Is a member of the Armed Forces of the United States, the reserve components of the Armed
16 Forces of the United States or the National Guard; or

17 (b)(A) Served as a member of the Armed Forces of the United States, the reserve components
18 of the Armed Forces of the United States or the National Guard; and

19 (B) Received an honorable discharge, a general discharge under honorable conditions, [*or*] a
20 discharge under other than honorable conditions **or a dishonorable discharge solely on the basis**
21 **of sexual orientation.**

22 **SECTION 2.** ORS 238.005, as amended by section 2, chapter 107, Oregon Laws 2014, is amended
23 to read:

24 238.005. For purposes of this chapter:

25 (1) "Active member" means a member who is presently employed by a participating public em-
26 ployer in a qualifying position and who has completed the six-month period of service required by
27 ORS 238.015.

28 (2) "Annuity" means payments for life derived from contributions made by a member as provided
29 in this chapter.

30 (3) "Board" means the Public Employees Retirement Board.

31 (4) "Calendar year" means 12 calendar months commencing on January 1 and ending on De-

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

1 cember 31 following.

2 (5) "Continuous service" means service not interrupted for more than five years, except that
3 such continuous service shall be computed without regard to interruptions in the case of:

4 (a) An employee who had returned to the service of the employer as of January 1, 1945, and
5 who remained in that employment until having established membership in the Public Employees
6 Retirement System.

7 (b) An employee who was in the armed services on January 1, 1945, and returned to the service
8 of the employer within one year of the date of being [otherwise] **other** than dishonorably
9 discharged, **or dishonorably discharged solely on the basis of sexual orientation**, and remained
10 in that employment until having established membership in the Public Employees Retirement System.

11 (6) "Creditable service" means any period of time during which an active member is being paid
12 a salary by a participating public employer and for which benefits under this chapter are funded by
13 employer contributions and earnings on the fund. For purposes of computing years of "creditable
14 service," full months and major fractions of a month shall be considered to be one-twelfth of a year
15 and shall be added to all full years. "Creditable service" includes all retirement credit received by
16 a member.

17 (7) "Earliest service retirement age" means the age attained by a member when the member
18 could first make application for retirement under the provisions of ORS 238.280.

19 (8) "Employee" includes, in addition to employees, public officers, but does not include:

20 (a) Persons engaged as independent contractors.

21 (b) Seasonal, emergency or casual workers whose periods of employment with any public em-
22 ployer or public employers do not total 600 hours in any calendar year.

23 (c) Persons provided sheltered employment or made-work by a public employer in an employment
24 or industries program maintained for the benefit of such persons.

25 (d) Persons employed and paid from federal funds received under a federal program intended
26 primarily to alleviate unemployment. However, any such person shall be considered an "employee"
27 if not otherwise excluded by paragraphs (a) to (c) of this subsection and the public employer elects
28 to have the person so considered by an irrevocable written notice to the board.

29 (e) Persons who are employees of a railroad, as defined in ORS 824.020, and who, as such em-
30 ployees, are included in a retirement plan under federal railroad retirement statutes. This paragraph
31 shall be deemed to have been in effect since the inception of the system.

32 (9) "Final average salary" means whichever of the following is greater:

33 (a) The average salary per calendar year paid by one or more participating public employers to
34 an employee who is an active member of the system in three of the calendar years of membership
35 before the effective date of retirement of the employee, in which three years the employee was paid
36 the highest salary. The three calendar years in which the employee was paid the largest total salary
37 may include calendar years in which the employee was employed for less than a full calendar year.
38 If the number of calendar years of active membership before the effective date of retirement of the
39 employee is three or fewer, the final average salary for the employee is the average salary per cal-
40 endar year paid by one or more participating public employers to the employee in all of those years,
41 without regard to whether the employee was employed for the full calendar year.

42 (b) One-third of the total salary paid by a participating public employer to an employee who is
43 an active member of the system in the last 36 calendar months of active membership before the ef-
44 fective date of retirement of the employee.

45 (10) "Firefighter" does not include a volunteer firefighter, but does include:

- 1 (a) The State Fire Marshal, the chief deputy fire marshal and deputy state fire marshals; and
 2 (b) An employee of the State Forestry Department who is certified by the State Forester as a
 3 professional wildland firefighter and whose primary duties include the abatement of uncontrolled
 4 fires as described in ORS 477.064.
- 5 (11) "Fiscal year" means 12 calendar months commencing on July 1 and ending on June 30 fol-
 6 lowing.
- 7 (12) "Fund" means the Public Employees Retirement Fund.
- 8 (13) "Inactive member" means a member who is not employed in a qualifying position, whose
 9 membership has not been terminated in the manner described by ORS 238.095 and who is not retired
 10 for service or disability.
- 11 (14) "Institution of higher education" means a public university listed in ORS 352.002, the
 12 Oregon Health and Science University and a community college, as defined in ORS 341.005.
- 13 (15) "Member" means a person who has established membership in the system and whose mem-
 14 bership has not been terminated as described in ORS 238.095. "Member" includes active, inactive
 15 and retired members.
- 16 (16) "Member account" means the regular account and the variable account.
- 17 (17) "Normal retirement age" means:
- 18 (a) For a person who establishes membership in the system before January 1, 1996, as described
 19 in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or firefighter
 20 or 58 years of age if the employee retires at that age as other than a police officer or firefighter.
- 21 (b) For a person who establishes membership in the system on or after January 1, 1996, as de-
 22 scribed in ORS 238.430, 55 years of age if the employee retires at that age as a police officer or
 23 firefighter or 60 years of age if the employee retires at that age as other than a police officer or
 24 firefighter.
- 25 (18) "Pension" means annual payments for life derived from contributions by one or more public
 26 employers.
- 27 (19) "Police officer" includes:
- 28 (a) Employees of institutions defined in ORS 421.005 as Department of Corrections institutions
 29 whose duties, as assigned by the Director of the Department of Corrections, include the custody of
 30 persons committed to the custody of or transferred to the Department of Corrections and employees
 31 of the Department of Corrections who were classified as police officers on or before July 27, 1989,
 32 whether or not such classification was authorized by law.
- 33 (b) Employees of the Department of State Police who are classified as police officers by the
 34 Superintendent of State Police.
- 35 (c) Employees of the Oregon Liquor Control Commission who are classified as liquor enforce-
 36 ment inspectors by the administrator of the commission.
- 37 (d) Sheriffs and those deputy sheriffs or other employees of a sheriff whose duties, as classified
 38 by the sheriff, are the regular duties of police officers or corrections officers.
- 39 (e) Police chiefs and police personnel of a city who are classified as police officers by the
 40 council or other governing body of the city.
- 41 (f) Police officers who are commissioned by a university under ORS 352.383 or 353.125 and who
 42 are classified as police officers by the university.
- 43 (g) Parole and probation officers employed by the Department of Corrections, parole and pro-
 44 bation officers who are transferred to county employment under ORS 423.549 and adult parole and
 45 probation officers, as defined in ORS 181.610, who are classified as police officers for the purposes

1 of this chapter by the county governing body. If a county classifies adult parole and probation offi-
2 cers as police officers for the purposes of this chapter, and the employees so classified are repres-
3 ented by a labor organization, any proposal by the county to change that classification or to cease
4 to classify adult parole and probation officers as police officers for the purposes of this chapter is
5 a mandatory subject of bargaining.

6 (h) Police officers appointed under ORS 276.021 or 276.023.

7 (i) Employees of the Port of Portland who are classified as airport police by the Board of Com-
8 missioners of the Port of Portland.

9 (j) Employees of the State Department of Agriculture who are classified as livestock police of-
10 ficers by the Director of Agriculture.

11 (k) Employees of the Department of Public Safety Standards and Training who are classified by
12 the department as other than secretarial or clerical personnel.

13 (L) Investigators of the Criminal Justice Division of the Department of Justice.

14 (m) Corrections officers as defined in ORS 181.610.

15 (n) Employees of the Oregon State Lottery Commission who are classified by the Director of the
16 Oregon State Lottery as enforcement agents pursuant to ORS 461.110.

17 (o) The Director of the Department of Corrections.

18 (p) An employee who for seven consecutive years has been classified as a police officer as de-
19 fined by this section, and who is employed or transferred by the Department of Corrections to fill
20 a position designated by the Director of the Department of Corrections as being eligible for police
21 officer status.

22 (q) An employee of the Department of Corrections classified as a police officer on or prior to
23 July 27, 1989, whether or not that classification was authorized by law, as long as the employee
24 remains in the position held on July 27, 1989. The initial classification of an employee under a sys-
25 tem implemented pursuant to ORS 240.190 does not affect police officer status.

26 (r) Employees of a school district who are appointed and duly sworn members of a law
27 enforcement agency of the district as provided in ORS 332.531 or otherwise employed full-time as
28 police officers commissioned by the district.

29 (s) Employees at youth correction facilities and juvenile detention facilities under ORS 419A.050,
30 419A.052 and 420.005 to 420.915 who are required to hold valid Oregon teaching licenses and who
31 have supervisory, control or teaching responsibilities over juveniles committed to the custody of the
32 Department of Corrections or the Oregon Youth Authority.

33 (t) Employees at youth correction facilities as defined in ORS 420.005 whose primary job de-
34 scription involves the custody, control, treatment, investigation or supervision of juveniles placed
35 in such facilities.

36 (u) Employees of the Oregon Youth Authority who are classified as juvenile parole and pro-
37 bation officers.

38 (20) "Prior service credit" means credit provided under ORS 238.442 or under ORS 238.225 (2)
39 to (6) (1999 Edition).

40 (21) "Public employer" means the state, one of its agencies, any city, county, or municipal or
41 public corporation, any political subdivision of the state or any instrumentality thereof, or an agency
42 created by one or more such governmental organizations to provide governmental services. For
43 purposes of this chapter, such agency created by one or more governmental organizations is a gov-
44 ernmental instrumentality and a legal entity with power to enter into contracts, hold property and
45 sue and be sued.

1 (22) "Qualifying position" means one or more jobs with one or more participating public em-
 2 ployers in which an employee performs 600 or more hours of service in a calendar year, excluding
 3 any service in a job for which a participating public employer does not provide benefits under this
 4 chapter pursuant to an application made under ORS 238.035.

5 (23) "Regular account" means the account established for each active and inactive member un-
 6 der ORS 238.250.

7 (24) "Retired member" means a member who is retired for service or disability.

8 (25) "Retirement credit" means a period of time that is treated as creditable service for the
 9 purposes of this chapter.

10 (26)(a) "Salary" means the remuneration paid an employee in cash out of the funds of a public
 11 employer in return for services to the employer, plus the monetary value, as determined by the
 12 Public Employees Retirement Board, of whatever living quarters, board, lodging, fuel, laundry and
 13 other advantages the employer furnishes the employee in return for services.

14 (b) "Salary" includes but is not limited to:

15 (A) Payments of employee and employer money into a deferred compensation plan, which are
 16 deemed salary paid in each month of deferral;

17 (B) The amount of participation in a tax-sheltered or deferred annuity, which is deemed salary
 18 paid in each month of participation;

19 (C) Retroactive payments described in ORS 238.008; and

20 (D) Wages of a deceased member paid to a surviving spouse or dependent children under ORS
 21 652.190.

22 (c) "Salary" or "other advantages" does not include:

23 (A) Travel or any other expenses incidental to employer's business which is reimbursed by the
 24 employer;

25 (B) Payments for insurance coverage by an employer on behalf of employee or employee and
 26 dependents, for which the employee has no cash option;

27 (C) Payments made on account of an employee's death;

28 (D) Any lump sum payment for accumulated unused sick leave;

29 (E) Any accelerated payment of an employment contract for a future period or an advance
 30 against future wages;

31 (F) Any retirement incentive, retirement severance pay, retirement bonus or retirement
 32 gratuitous payment;

33 (G) Payments for periods of leave of absence after the date the employer and employee have
 34 agreed that no future services qualifying pursuant to ORS 238.015 (3) will be performed, except for
 35 sick leave and vacation;

36 (H) Payments for instructional services rendered to public universities listed in ORS 352.002 or
 37 the Oregon Health and Science University when such services are in excess of full-time employment
 38 subject to this chapter. A person employed under a contract for less than 12 months is subject to
 39 this subparagraph only for the months to which the contract pertains; or

40 (I) Payments made by an employer for insurance coverage provided to a domestic partner of an
 41 employee.

42 (27) "School year" means the period beginning July 1 and ending June 30 next following.

43 (28) "System" means the Public Employees Retirement System.

44 (29) "Variable account" means the account established for a member who participates in the
 45 Variable Annuity Account under ORS 238.260.

1 (30) "Vested" means being an active member of the system in each of five calendar years.

2 (31) "Volunteer firefighter" means a firefighter whose position normally requires less than 600
3 hours of service per year.

4 **SECTION 3.** ORS 238.156 is amended to read:

5 238.156. (1) Notwithstanding any other provision of this chapter, but subject to subsection (4)
6 of this section, an employee who leaves a qualifying position for the purpose of performing service
7 in the uniformed services is entitled to receive contributions, benefits and service credit for the
8 period under rules adopted by the Public Employees Retirement Board pursuant to subsection (2)
9 of this section.

10 (2) The board shall adopt rules establishing contributions, benefits and service credit for any
11 period of service in the uniformed services by an employee described in subsection (1) of this sec-
12 tion. For the purpose of adopting rules under this subsection, the board shall consider and take into
13 account all federal law relating to contributions, benefits and service credit for any period of service
14 in the uniformed services. Contributions, benefits and service credit under rules adopted by the
15 board pursuant to this subsection may not exceed contributions, benefits and service credit required
16 under federal law for periods of service in the uniformed services.

17 (3) Subject to subsection (4) of this section, an employee who leaves a qualifying position for the
18 purpose of entering or reentering active service in the Armed Forces shall acquire retirement credit
19 for the period during which the employee served in the Armed Forces if:

20 (a) The employee returns to the service of the employer who employed the employee immediately
21 before commencing service in the Armed Forces in a qualifying position;

22 (b) The employee returns to that employment within one year after being [otherwise] **other** than
23 dishonorably discharged, **or dishonorably discharged solely on the basis of sexual orientation**,
24 from the Armed Forces and within five years after the date that the employee entered or reentered
25 active service in the Armed Forces; and

26 (c) After returning to employment and before retirement, the employee pays to the Public Em-
27 ployees Retirement Board in a lump sum six percent of the salary that would have been paid to the
28 member during the period of military service in the Armed Forces based on the employee's salary
29 rate at the time the employee entered or reentered the Armed Forces, as though the employee had
30 remained in the employment of the employer. Any lump sum contribution made under this paragraph
31 shall be added to the employee's regular account and in all respects shall be considered as though
32 made by payroll deduction.

33 (4) An employee may not receive benefits under both subsections (1) and (3) of this section for
34 the same period of service in the Armed Forces or uniformed services. If an employee is entitled to
35 benefits under both subsections (1) and (3) of this section by the terms of those provisions, the em-
36 ployee shall receive benefits under the subsection that provides the greater benefit.

37 (5) For the purposes of this section, "Armed Forces" means the Army, Navy, Air Force, Marine
38 Corps and Coast Guard.

39 **SECTION 4.** ORS 238.157 is amended to read:

40 238.157. (1) Any person who entered or reentered active service in the Armed Forces of the
41 United States after January 1, 1950, for other than active duty for training, or who was in active
42 service in the Armed Forces of the United States on January 1, 1950, for other than active duty for
43 training, and who, after being other than dishonorably discharged [therefrom], **or dishonorably**
44 **discharged solely on the basis of sexual orientation**, entered the employ of an employer partic-
45 ipating in the Public Employees Retirement System, may acquire retirement credit for up to four

1 years of active service in the Armed Forces by paying in a lump sum to the Public Employees Re-
 2 tirement Board within 90 days of the member's effective date of retirement an amount determined
 3 by the board to represent the full cost to the system of providing the retirement credit to the
 4 member, including all administrative costs incurred by the system in processing the application for
 5 acquisition of the retirement credit.

6 (2) No person shall receive retirement credit under this section for any period of service with
 7 the Armed Forces of the United States for which that person receives credit under the provisions
 8 of ORS 238.156 or for which the person is receiving or entitled to receive a pension or retirement
 9 pay under a public retirement system established by the United States for the performance of service
 10 in the Armed Forces.

11 (3) Any person acquiring retirement credit under this section may elect to have the service re-
 12 tirement allowance of the person determined under any calculation for which the person is eligible
 13 under ORS 238.300, even if the calculation does not produce the largest service retirement allow-
 14 ance. An election under this subsection must be made within 90 days of the member's effective date
 15 of retirement.

16 **SECTION 5.** ORS 238.160 is amended to read:

17 238.160. Any employee of an employer participating in the system shall receive retirement
 18 credit, subject to the limitations of this chapter, for the period of employment with the participating
 19 employer prior to July 1, 1946, and for employment in any branch or department of the United States
 20 Government, and for military service in the Armed Forces of the United States, as though the person
 21 had been an employee of the participating employer throughout such period of employment or ser-
 22 vice, if within 40 days from and after separation from such civilian employment with the United
 23 States Government, or within one year after being [*otherwise*] **other** than dishonorably discharged,
 24 **or dishonorably discharged solely on the basis of sexual orientation**, from military service in
 25 the Armed Forces of the United States, the person returned to the employment of the participating
 26 employer from which the person was transferred or loaned, provided that such employee comes
 27 within either of the following descriptions:

28 (1) Prior to employment with the United States Government, the person was employed by the
 29 participating employer and was transferred or loaned to a branch or department of the United States
 30 Government pursuant to an agreement between such participating employer and such branch or
 31 department of the United States Government for the transfer or loan of any departmental unit of
 32 such participating employer to the federal government during the war emergency.

33 (2) Served in any branch of the Armed Forces of the United States while on military leave of
 34 absence from a position in federal government employment as set forth in subsection (1) of this
 35 section.

36 **SECTION 6.** ORS 332.114 is amended to read:

37 332.114. (1) A person who meets the requirements under subsection (3) of this section may re-
 38 quest a school district to issue the person a high school diploma if the person resides within the
 39 boundaries of the school district or is a resident of this state and attended a high school of the
 40 school district.

41 (2) A representative of a deceased person who meets the requirements under subsection (3) of
 42 this section may request a school district to issue a high school diploma on behalf of the deceased
 43 person if the deceased person resided within the boundaries of the school district at the time of
 44 death or was a resident of this state at the time of death and attended a high school of the school
 45 district.

1 (3) Notwithstanding the requirements for a high school diploma established under ORS 329.451
 2 and by the State Board of Education and school districts, a school district that receives a request
 3 under subsection (1) or (2) of this section shall issue a high school diploma to a person if the person:

4 (a) Attended a high school before serving in the Armed Forces of the United States;

5 (b) Did not graduate from a high school because the person was serving in the Armed Forces
 6 of the United States;

7 (c) Was discharged or released under honorable conditions, **or was dishonorably discharged**
 8 **solely on the basis of sexual orientation**, from the Armed Forces of the United States;

9 (d) Served in the Armed Forces of the United States as described in subsection (4) of this sec-
 10 tion; and

11 (e)(A) Has received a General Educational Development (GED) certificate;

12 (B) Has received a post-secondary degree from a community college, public university listed in
 13 ORS 352.002 or other generally accredited institution of higher education; or

14 (C) Has received a minimum score on the Armed Services Vocational Aptitude Battery (ASVAB),
 15 as established by the Oregon Military Department.

16 (4) The provisions of subsection (3) of this section apply to a person who:

17 (a) Served in the Armed Forces of the United States at any time during:

18 (A) World War I;

19 (B) World War II;

20 (C) The Korean Conflict; or

21 (D) The Vietnam War;

22 (b) Served in the Armed Forces of the United States and was physically present in:

23 (A) Operation Urgent Fury (Grenada);

24 (B) Operation Just Cause (Panama);

25 (C) Operation Desert Shield/Desert Storm (the Persian Gulf War);

26 (D) Operation Restore Hope (Somalia);

27 (E) Operation Enduring Freedom (Afghanistan); or

28 (F) Operation Iraqi Freedom (Iraq); or

29 (c) Served in the Armed Forces of the United States in an area designated as a combat zone by
 30 the President of the United States.

31 **SECTION 7.** ORS 351.656 is amended to read:

32 351.656. (1) As used in this section:

33 (a) "Child" means a child, adopted child or stepchild of either a service member or a Purple
 34 Heart recipient.

35 (b) "Eligible post-secondary institution" means:

36 (A) A public university listed in ORS 352.002; and

37 (B) The Oregon Health and Science University.

38 (c) "Purple Heart recipient" means a person, alive or deceased, who:

39 (A) Was relieved or discharged from service in the Armed Forces of the United States with ei-
 40 ther an honorable discharge, [or] a general discharge under honorable conditions **or a dishonorable**
 41 **discharge solely on the basis of sexual orientation**; and

42 (B) Was awarded the Purple Heart in 2001 or thereafter for wounds received in combat.

43 (d) "Qualified student" means a child, a spouse or an unremarried surviving spouse of a service
 44 member or a child of a Purple Heart recipient.

45 (e) "Service member" means a person who:

1 (A) As a member of the Armed Forces of the United States, died on active duty;

2 (B) As a member of the Armed Forces of the United States, died as a result of a military service
3 connected disability; or

4 (C) Is 100 percent disabled as the result of a military service connected disability, as certified
5 by the United States Department of Veterans Affairs or any branch of the Armed Forces of the
6 United States.

7 (2) Subject to subsections (3) to (7) of this section, an eligible post-secondary institution shall
8 waive tuition for a qualified student for courses that may lead to a baccalaureate degree or a
9 master's degree. A qualified student who received a tuition waiver for a baccalaureate degree may
10 also qualify for a tuition waiver for a master's degree.

11 (3)(a) The maximum waiver granted under this section shall be as follows:

12 (A) For a baccalaureate degree, the total number of credit hours that equals four years of full-
13 time attendance at an eligible post-secondary institution.

14 (B) For a master's degree, the total number of credit hours that equals two years of full-time
15 attendance at an eligible post-secondary institution.

16 (b) Notwithstanding paragraph (a) of this subsection, a waiver may not exceed the total number
17 of credit hours the qualified student needs to graduate with a baccalaureate degree or a master's
18 degree.

19 (4) A waiver may be granted under this section only for credit hours for courses that are offered
20 by an eligible post-secondary institution and are available for enrollment.

21 (5) A qualified student may receive a waiver under this section if the student:

22 (a) At the time of application for a waiver, is considered a resident of this state for the purpose
23 of determining tuition to be paid at an eligible post-secondary institution; and

24 (b) Has been admitted to an eligible post-secondary institution for a baccalaureate degree pro-
25 gram or has been admitted to a master's degree program at an eligible post-secondary institution.

26 (6)(a) A child who applies for a waiver under this section must be 23 years of age or younger
27 at the time the child applies for a waiver.

28 (b) Notwithstanding paragraph (a) of this subsection, a child who is older than 23 years of age
29 is eligible for a waiver for a master's degree if the child:

30 (A) Applied for and received a waiver for a baccalaureate degree when the child was 23 years
31 of age or younger; and

32 (B) Applied for a waiver for a master's degree within 12 months of receiving a baccalaureate
33 degree.

34 (7)(a) The amount of tuition waived under this section may be reduced by the amount of any
35 federal aid scholarships or grants, awards from the Oregon Opportunity Grant program established
36 under ORS 348.205, or any other aid from the eligible post-secondary institution, received by the
37 qualified student.

38 (b) The amount of tuition waived under this section may not be reduced by the amount of any
39 Survivors' and Dependents' Educational Assistance under 38 U.S.C. chapter 35 paid to a qualified
40 student.

41 **SECTION 8.** ORS 352.375, as amended by section 1, chapter 28, Oregon Laws 2014, is amended
42 to read:

43 352.375. (1) A public university listed in ORS 352.002 or a community college shall charge an
44 enrolled student who is not a resident of this state and who is attending classes as an undergraduate
45 or graduate student on a public university or community college campus in this state tuition and

1 fees no greater than the resident rate if the student:

2 (a) Served in the Armed Forces of the United States;

3 (b) Was relieved or discharged from that service with either an honorable discharge, [or] a
4 general discharge under honorable conditions **or a dishonorable discharge solely on the basis of**
5 **sexual orientation**; and

6 (c) Provides proof that the student has established a physical presence in Oregon within 12
7 months of being enrolled at the public university or community college.

8 (2) A person who served in the Armed Forces of the United States and who receives federal
9 tuition benefits in excess of the tuition and fees the person is charged under subsection (1) of this
10 section at a public university listed in ORS 352.002 or a community college where the person is
11 enrolled shall pay tuition and fees equal to the federal tuition benefits received.

12 (3) Distance education and self-support courses as identified by each public university listed in
13 ORS 352.002 and community college are exempt from the tuition reduction provisions of this section.

14 (4) If a nonresident student otherwise eligible for tuition benefits under this section is receiving
15 federal vocational rehabilitation education benefits, that student shall pay full nonresident tuition
16 and fees charged by a public university listed in ORS 352.002 or a community college.

17 **SECTION 9.** ORS 407.087 is amended to read:

18 407.087. (1) As used in Article XI-A, section 3, of the Oregon Constitution, “veteran” means a
19 person who:

20 (a) Served on active duty with the Armed Forces of the United States:

21 (A) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and
22 was discharged or released from active duty under honorable conditions;

23 (B) For a period of more than 178 consecutive days beginning after January 31, 1955, and was
24 discharged or released from active duty under honorable conditions;

25 (C) For 178 days or less and was discharged or released from active duty under honorable con-
26 ditions because of a service-connected disability;

27 (D) For 178 days or less and was discharged or released from active duty under honorable con-
28 ditions and has a disability rating from the United States Department of Veterans Affairs; or

29 (E) For at least one day in a combat zone and was discharged or released from active duty under
30 honorable conditions;

31 (b) Received a combat, expeditionary or campaign ribbon or medal for service in the Armed
32 Forces of the United States and was discharged or released from active duty under honorable con-
33 ditions; or

34 (c) Is receiving a nonservice-connected pension from the United States Department of Veterans
35 Affairs.

36 (2) As used in subsection (1) of this section, “honorable conditions” has the meaning given that
37 term in rules adopted by the Department of Veterans’ Affairs **and shall include a dishonorable**
38 **discharge based solely on sexual orientation.**

39 **SECTION 10.** ORS 407.582 is amended to read:

40 407.582. (1) As used in this section:

41 (a) “Deployment” means an act in which a person was ordered to active duty and was deployed
42 outside the United States.

43 (b) “Mobilization” means an act in which a person left the person’s home station and was
44 transferred to a mobilization site for federal service.

45 (c) “Small business” means a business that:

1 (A) Is a corporation, partnership, sole proprietorship or other legal entity licensed and located
2 in Oregon and formed for the purpose of making a profit, and that is independently owned and op-
3 erated from all other businesses; and

4 (B) Employs 50 or fewer persons.

5 (d) "Veteran" means a person who owns a controlling interest in a small business and who, at
6 the time of the person's mobilization or deployment, is:

7 (A) A member of the Oregon National Guard; or

8 (B) A member of the reserves of the Army, Navy, Air Force, Marine Corps or Coast Guard of
9 the United States and a resident of Oregon.

10 (2) There is established in the Department of Veterans' Affairs the Veterans' Small Business
11 Repair Loan Program. The purpose of the program is to assist any veteran whose small business,
12 due to the veteran's absence, incurred a setback during the veteran's mobilization or deployment
13 by providing an interest-free loan to the veteran upon the veteran's return from mobilization or de-
14 ployment. The loan shall be used by the veteran to restore the veteran's small business, to the ex-
15 tent feasible, to the condition the small business was in prior to the veteran's mobilization or
16 deployment.

17 (3) A veteran may receive a maximum of two loans under the program. Each loan may not ex-
18 ceed \$20,000. Application for a loan must be made within 12 months after demobilization.

19 (4) The department shall adopt by rule:

20 (a) Criteria that a small business must meet to qualify as having incurred a business setback
21 while the veteran was mobilized or deployed;

22 (b) The application process and any necessary forms;

23 (c) Terms of loan repayment; and

24 (d) Other criteria and processes necessary to carry out the purposes of the program.

25 (5) If a veteran is deceased as a result of the veteran's mobilization or deployment, the
26 unremarried surviving spouse of the deceased veteran is eligible to apply for and receive a loan to
27 continue the veteran's small business.

28 (6) If a veteran is at the time of the loan application no longer a member of the Oregon National
29 Guard or the reserves, the veteran must have been discharged under honorable conditions **or**
30 **dishonorably discharged solely on the basis of sexual orientation.**

31 (7) The Department of Veterans' Affairs, in consultation with the Oregon Business Development
32 Department, shall review and reject or approve loan applications submitted by veterans.

33 (8) Repayments of loans made under this section shall be deposited in the Veterans' Small
34 Business Repair Loan Fund established under ORS 407.585.

35 **SECTION 11.** ORS 408.010 is amended to read:

36 408.010. As used in ORS 408.010 to 408.090, unless otherwise required by the context, "benefici-
37 ary" means any person who served in the active Armed Forces of the United States on or after June
38 25, 1950, who was relieved or discharged from that service under honorable conditions, **or who was**
39 **dishonorably discharged solely on the basis of sexual orientation**, and who was also a resident
40 of Oregon at the time the person applied for benefits under ORS 408.010 to 408.090. "Beneficiary"
41 does not include an alien, an alien enemy, a person who avoided combat service by claiming to be
42 a conscientious objector, a person who served less than 90 days in the Armed Forces of the United
43 States or a person inducted or enlisted in the military or naval service who received civilian pay
44 for civilian work.

45 **SECTION 12.** ORS 408.225 is amended to read:

1 408.225. (1) As used in ORS 408.225 to 408.237:

2 (a)(A) "Civil service position" means any position for which a hiring or promotion decision is
3 made or required to be made based on the results of a merit based, competitive process that in-
4 cludes, but is not limited to, consideration of an applicant's or employee's relative ability, knowl-
5 edge, experience and other skills.

6 (B) A "civil service position" need not be labeled a "civil service position."

7 (b) "Combat zone" means an area designated by the President of the United States by executive
8 order in which, on the dates designated by executive order, the Armed Forces of the United States
9 are or have engaged in combat.

10 (c) "Disabled veteran" means a person who has a disability rating from the United States De-
11 partment of Veterans Affairs, a person whose discharge or release from active duty was for a disa-
12 bility incurred or aggravated in the line of duty or a person who was awarded the Purple Heart for
13 wounds received in combat.

14 (d) "Honorable conditions" has the meaning given that term in rules adopted by the Department
15 of Veterans' Affairs **and shall include a dishonorable discharge based solely on sexual orien-**
16 **tation.**

17 (e) "Public employer" means a public body, as that term is defined in ORS 174.109, and any
18 person authorized to act on behalf of the public body, with respect to control, management or
19 supervision of any employee.

20 (f) "Veteran" means a person who:

21 (A) Served on active duty with the Armed Forces of the United States:

22 (i) For a period of more than 90 consecutive days beginning on or before January 31, 1955, and
23 was discharged or released under honorable conditions;

24 (ii) For a period of more than 178 consecutive days beginning after January 31, 1955, and was
25 discharged or released from active duty under honorable conditions;

26 (iii) For 178 days or less and was discharged or released from active duty under honorable
27 conditions because of a service-connected disability;

28 (iv) For 178 days or less and was discharged or released from active duty under honorable
29 conditions and has a disability rating from the United States Department of Veterans Affairs; or

30 (v) For at least one day in a combat zone and was discharged or released from active duty under
31 honorable conditions;

32 (B) Received a combat or campaign ribbon or an expeditionary medal for service in the Armed
33 Forces of the United States and was discharged or released from active duty under honorable con-
34 ditions; or

35 (C) Is receiving a nonservice-connected pension from the United States Department of Veterans
36 Affairs.

37 (2) As used in subsection (1)(f) of this section, "active duty" does not include attendance at a
38 school under military orders, except schooling incident to an active enlistment or a regular tour of
39 duty, or normal military training as a reserve officer or member of an organized reserve or a Na-
40 tional Guard unit.

41 **SECTION 13.** ORS 408.240 is amended to read:

42 408.240. (1) Whenever any public officer or employee leaves a position, whether voluntarily or
43 involuntarily, in order to perform military duty, such office or position may not become vacant, nor
44 shall the officer or employee be subject to removal as a consequence thereof. Unless the officer or
45 employee dies, resigns or is relieved or discharged from such duty under other than honorable con-

1 ditions, **or is dishonorably discharged solely on the basis of sexual orientation**, during the term
 2 for which the officer or employee was elected, appointed or employed, such officer or employee shall
 3 be deemed absent on leave until release from such active service has permitted the officer or em-
 4 ployee to resume the duties of the office or position. While so absent on leave, the officer or em-
 5 ployee may not receive the pay or other emolument of such office or position, nor become liable,
 6 as such officer or employee, on an official bond or otherwise, for the acts or omissions of any other
 7 person.

8 (2) Subsection (1) of this section does not apply unless the officer or employee, upon the termi-
 9 nation of such military duty, is qualified to perform the duties of such position, and makes applica-
 10 tion within 90 days after the officer or employee is relieved from such military duty, or from
 11 hospitalization continuing after discharge for a period of not more than one year. If the officer or
 12 employee is not qualified to perform the duties of such position by reason of such service, but is
 13 qualified to perform the duties of any other public position, the officer or employee shall be restored
 14 to such other position, the duties of which the officer or employee is qualified to perform, as will
 15 provide the officer or employee like seniority, status and pay, or the nearest approximation thereof,
 16 consistent with the circumstances in the case.

17 (3) Except as otherwise provided in this subsection, subsection (1) of this section does not apply
 18 if the total of such military duty exceeds five years. Subsection (1) of this section is applicable with
 19 regard to military duty that exceeds five years if the period of additional duty was imposed by law
 20 or resulted from inability of the officer or employee to obtain orders relieving the officer or em-
 21 ployee from active duty.

22 (4) Notwithstanding subsection (1) of this section:

23 (a) The State of Oregon shall continue coverage under an employer-sponsored health plan to a
 24 public officer or employee of the State of Oregon and any other individual provided coverage under
 25 the officer's or employee's plan on the day before the date the officer or employee goes on leave for
 26 a period not exceeding a total of 24 months while the public officer or employee is absent on leave.

27 (b) An employer other than the State of Oregon may provide coverage under an employer-
 28 sponsored health plan to an officer or employee and any other individual provided coverage under
 29 the officer's or employee's plan on the day before the date the officer or employee goes on leave for
 30 the period during which the officer or employee is absent on leave.

31 (5)(a) Notwithstanding subsection (1) of this section, the State of Oregon, a county, a municipi-
 32 tality or other political subdivision of the state may establish and administer a donated leave pro-
 33 gram that:

34 (A) Allows an officer or employee who is absent on leave to receive donated leave; and

35 (B) Allows an officer or employee to voluntarily donate vacation time to an eligible officer or
 36 employee who is absent on leave.

37 (b) An officer or employee who is absent on leave and who receives donated leave under para-
 38 graph (a) of this subsection may receive an amount of donated leave that supplements any compen-
 39 sation received for performing military duty, but may not receive more than the amount of base
 40 salary the officer or employee was earning on the date the officer or employee began the leave of
 41 absence.

42 (c) This subsection does not apply to a leave of absence under ORS 408.290.

43 **SECTION 14.** ORS 408.450 is amended to read:

44 408.450. No person in the military or naval service of the United States, or any auxiliary corps
 45 thereof, while exercising any privilege in this state by virtue of having paid an annual license or

1 privilege fee to any state board or commission for the right to practice a profession or engage in a
 2 trade, shall lose such privilege because of failure to pay any such fee for any subsequent year during
 3 the period the person is in such service, unless dishonorably discharged therefrom **for a reason**
 4 **other than sexual orientation**. Upon being discharged from such service under honorable condi-
 5 tions, **or dishonorably discharged solely on the basis of sexual orientation**, and upon written
 6 application within 60 days of such discharge, every such person shall be restored to former status
 7 with respect to any such privilege without the necessity of paying the then current license fee.

8 **SECTION 15.** ORS 805.100 is amended to read:

9 805.100. (1) In the absence of just cause for refusal, the Department of Transportation shall
 10 provide for registration of any vehicle required to be registered by this state in a manner consistent
 11 with this section for persons who qualify as disabled veterans under this section. The special regis-
 12 tration provisions under this section are subject to all of the following:

13 (a) The fee is the one-time registration fee established by ORS 803.420 for vehicles registered
 14 under this section.

15 (b) The department may issue registrations for vehicles in a household under this section in a
 16 number equal to the number of persons in the household who qualify as disabled veterans under
 17 subsection (2) of this section.

18 (c) The department shall not register any commercial vehicle under this section.

19 (2) A person is a disabled veteran who qualifies for registration of a vehicle under this section
 20 if the person:

21 (a) Is a disabled veteran whose disability results from causes connected with service in the
 22 Armed Forces of the United States; and

23 (b) Has been a member of and discharged or released under honorable conditions, **or**
 24 **dishonorably discharged solely on the basis of sexual orientation**, from the Armed Forces of the
 25 United States, and whose service was for not less than 90 consecutive days or who was discharged
 26 or released on account of a service-connected injury or illness prior to the completion of the mini-
 27 mum period of service.

28 (3) A person qualifies as a disabled veteran under subsection (2) of this section if the person
 29 presents a letter from the United States Department of Veterans Affairs or any branch of the Armed
 30 Forces of the United States certifying that the person is a disabled veteran.

31 (4) Registration issued under this section is valid as provided in ORS 803.415. The registration
 32 period for vehicles registered under this section exempts the registration from any requirement to
 33 be renewed or to make payment of renewal fees. However, if any owner would be required to
 34 comply with ORS 815.310 upon issuance or renewal of regular registration for the vehicle, the owner
 35 must comply with ORS 815.310 in the same manner as for other vehicles or the department may
 36 suspend the registration of the vehicle until the owner submits proof of compliance.

37 (5) The department may suspend or revoke any registration issued under this section if the de-
 38 partment determines that the vehicle is owned by a person not qualified for registration under this
 39 section or the vehicle is a kind not qualified for registration under this section.

40 **SECTION 16.** Section 1, chapter 110, Oregon Laws 2014, is amended to read:

41 **Sec. 1.** The Interstate Compact on Educational Opportunity for Military Children is enacted
 42 into law and entered into on behalf of this state with all other jurisdictions legally joining therein
 43 in the form substantially as follows:
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ARTICLE I
PURPOSE

It is the purpose of this compact to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from a previous school district or variations in entrance or age requirements.

B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.

C. Facilitating the qualification and eligibility for enrollment, educational programs and participation in extracurricular academic, athletic and social activities.

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.

G. Promoting coordination between this compact and other compacts affecting military children.

H. Promoting flexibility and cooperation between the educational system, parents and the student in order to achieve educational success for the student.

ARTICLE II
DEFINITIONS

As used in this compact, unless the context clearly requires a different construction:

A. "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard or the military reserve forces who are on active duty orders pursuant to 10 U.S.C. chapters 1209 and 1211 and members described in 32 U.S.C. 502(f).

B. "Children of military families" means a school-aged child, enrolled in kindergarten through grade 12, in the household of an active duty member.

C. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. "Deployment" means the period one month prior to the service members' departure from their home station on military orders though six months after return to their home station.

E. "Education records" means official records, files and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols and individualized education programs.

F. "Extracurricular activities" means a voluntary activity sponsored by the school, the local education agency or an organization sanctioned by the local education agency. Extracurricular activities include, but are not limited to, preparation for and involvement in public performance, contests, athletic competitions, demonstrations, displays and club activities.

1 G. “Interstate Commission on Educational Opportunity for Military Children” means the com-
 2 mission that is created under Article IX of this compact, which is generally referred to as the
 3 Interstate Commission.

4 H. “Local education agency” means a local school district.

5 I. “Member state” means a state that has enacted this compact.

6 J. “Military installation” means a base, camp, post, station, yard, center, home port facility for
 7 any ship or other activity under the jurisdiction of the Department of Defense, including any leased
 8 facility, which is located within any of the several states, the District of Columbia, the Common-
 9 wealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern
 10 Marianas Islands and any other United States territory. The term does not include any facility used
 11 primarily for civil works, rivers and harbors projects or flood control projects.

12 K. “Nonmember state” means a state that has not enacted this compact.

13 L. “Receiving state” means the state to which a child of a military family is sent, brought or
 14 caused to be sent or brought.

15 M. “Rule” means a written statement by the Interstate Commission promulgated pursuant to
 16 Article XII of this compact that is of general applicability, that implements, interprets or prescribes
 17 a policy or provision of this compact, or that is an organizational, procedural or practice require-
 18 ment of the Interstate Commission, and that has the force and effect of statutory law in a member
 19 state, and includes the amendment, repeal or suspension of an existing rule.

20 N. “Sending state” means the state from which a child of a military family is sent, brought or
 21 caused to be sent or brought.

22 O. “State” means a state of the United States, the District of Columbia, the Commonwealth of
 23 Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Is-
 24 lands and any other United States territory.

25 P. “State education agency” means the Department of Education.

26 Q. “Student” means the child of a military family for whom the local education agency receives
 27 public funding and who is formally enrolled in kindergarten through grade 12.

28 R. “Transition” means:

- 29 1. The formal and physical process of transferring from school to school; or
- 30 2. The period of time in which a student moves from one school in the sending state to another
 31 school in the receiving state.

32 S. “Uniformed service” means the Army, Navy, Air Force, Marine Corps, Coast Guard, the
 33 commissioned corps of the National Oceanic and Atmospheric Administration and the commissioned
 34 corps of the United States Public Health Service.

35 T. “Veteran” means a person who served in the uniformed services and who was discharged or
 36 released from the uniformed services under conditions other than dishonorable **or was dishonorably**
 37 **discharged solely on the basis of sexual orientation.**

38
 39 ARTICLE III
 40 APPLICABILITY

41
 42 A. Except as otherwise provided in Section B of this Article, this compact shall apply to the
 43 children of:

- 44 1. Active duty members of the uniformed services as defined in this compact, including members
 45 of the National Guard or the military reserve forces who are on active duty orders pursuant to 10

1 U.S.C. chapters 1209 and 1211 and members described in 32 U.S.C. 502(f);

2 2. Members or veterans of the uniformed services who are severely injured and medically dis-
 3 charged or retired for a period of one year after medical discharge or retirement; and

4 3. Members of the uniformed services who die on active duty or as a result of injuries sustained
 5 on active duty for a period of one year after death.

6 B. The provisions of this compact shall only apply to local education agencies as defined in this
 7 compact.

8 C. The provisions of this compact shall not apply to the children of:

9 1. Inactive members of the National Guard or the military reserve forces;

10 2. Members of the uniformed services now retired, except as provided in Section A of this Ar-
 11 ticle;

12 3. Veterans of the uniformed services, except as provided in Section A of this Article; and

13 4. Other Department of Defense personnel and other federal agency civilian and contract em-
 14 ployees not defined as active duty members of the uniformed services.

15
 16 ARTICLE IV
 17 EDUCATION RECORDS AND ENROLLMENT
 18

19 A. Unofficial or hand-carried education records. In the event that official education records
 20 cannot be released to the parents for the purpose of transfer, the custodian of the records in the
 21 sending state shall prepare and furnish to the parent a complete set of unofficial education records
 22 containing uniform information as determined by the Interstate Commission. Upon receipt of the
 23 unofficial education records by a school in the receiving state, the school shall enroll and appro-
 24 priately place the student based on the information provided in the unofficial records pending vali-
 25 dation by the official records, as quickly as possible.

26 B. Official education records and transcripts. Simultaneous with the enrollment and conditional
 27 placement of the student, the school in the receiving state shall request the student's official edu-
 28 cation record from the school in the sending state. Upon receipt of this request, the school in the
 29 sending state will process and furnish the official education records to the school in the receiving
 30 state within 10 days or within such time as is reasonably determined under the rules promulgated
 31 by the Interstate Commission.

32 C. Immunizations. Compacting states shall give 30 days from the date of enrollment, or within
 33 such time as is reasonably determined under the rules promulgated by the Interstate Commission,
 34 for students to obtain any immunizations required by the receiving state. For a series of immuniza-
 35 tions, initial vaccinations must be obtained within 30 days or within such time as is reasonably de-
 36 termined under the rules promulgated by the Interstate Commission.

37 D. Kindergarten and first grade entrance age. Students shall be allowed to continue their en-
 38 rollment at grade level in the receiving state commensurate with their grade level, including
 39 kindergarten, from a local education agency in the sending state at the time of transition, regardless
 40 of age. A student that has satisfactorily completed the prerequisite grade level in the local education
 41 agency in the sending state shall be eligible for enrollment in the next highest grade level in the
 42 receiving state, regardless of age. A student transferring after the start of the school year in the
 43 receiving state shall enter the school in the receiving state on their validated level from an ac-
 44 credited school in the sending state.

ARTICLE V
 PLACEMENT AND ATTENDANCE

1
 2
 3
 4 A. Course placement. When the student transfers before or during the school year, the receiving
 5 state school shall initially honor placement of the student in educational courses based on the
 6 student’s enrollment in the sending state school or educational assessments conducted at the school
 7 in the sending state if the courses are offered. Course placement includes but is not limited to
 8 honors, International Baccalaureate, advanced placement, vocational, technical and career pathways
 9 courses. Continuing the student’s academic program from the previous school and promoting place-
 10 ment in academically and career challenging courses should be paramount when considering place-
 11 ment. This does not preclude the school in the receiving state from performing subsequent
 12 evaluations to ensure appropriate placement and continued enrollment of the student in a course.

13 B. Educational program placement. The receiving state school shall initially honor placement
 14 of the student in educational programs based on current educational assessments conducted at the
 15 school in the sending state or based on participation or placement in like programs in the sending
 16 state. Such programs include, but are not limited to, talented and gifted programs and English as a
 17 second language programs. This does not preclude the school in the receiving state from performing
 18 subsequent evaluations to ensure appropriate placement of the student.

19 C. Special education services.

20 1. In compliance with the federal requirements of the Individuals with Disabilities Education
 21 Act, 20 U.S.C. 1400 et seq., the receiving state shall initially provide comparable services to a stu-
 22 dent with disabilities based on the student’s current individualized education program. This does not
 23 preclude the school in the receiving state from performing subsequent evaluations to ensure appro-
 24 priate placement of the student.

25 2. In compliance with the requirements of section 504 of the Rehabilitation Act, 29 U.S.C. 794,
 26 and with Title II of the Americans with Disabilities Act, 42 U.S.C. 12131-12165, the receiving state
 27 shall make reasonable accommodations and modifications to address the needs of incoming students
 28 with disabilities, subject to an existing section 504 or Title II plan, to provide the student with equal
 29 access to education. This does not preclude the school in the receiving state from performing sub-
 30 sequent evaluations to ensure appropriate placement of the student.

31 D. Placement flexibility. Local education agency administrative officials shall have flexibility in
 32 waiving course or program prerequisites, or other preconditions for placement in courses or pro-
 33 grams offered under the jurisdiction of the local education agency.

34 E. Absence as related to deployment activities. A student whose parent or legal guardian is an
 35 active duty member of the uniformed services, as defined by this compact, and has been called to
 36 duty for, is on leave from, or immediately returned from deployment to a combat zone or combat
 37 support posting, shall be granted additional excused absences at the discretion of the local education
 38 agency superintendent to visit with the student’s parent or legal guardian relative to such leave or
 39 deployment of the parent or guardian.

40
 41 ARTICLE VI
 42 ELIGIBILITY
 43

44 A. Eligibility for enrollment.

45 1. Special power of attorney, relative to the guardianship of a child of a military family and

1 executed under applicable law, shall be sufficient for the purposes of enrollment and all other
 2 actions requiring parental participation and consent.

3 2. A local education agency shall be prohibited from charging local tuition to a transitioning
 4 military child placed in the care of a noncustodial parent or other person standing in loco parentis
 5 who lives in a jurisdiction other than that of the custodial parent.

6 3. A transitioning military child, placed in the care of a noncustodial parent or other person
 7 standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may
 8 continue to attend the school in which the child was enrolled while residing with the custodial
 9 parent.

10 B. Eligibility for extracurricular participation. State and local education agencies shall facilitate
 11 the opportunity for transitioning military children’s inclusion in extracurricular activities, regard-
 12 less of application deadlines, to the extent they are otherwise qualified.

13
 14 ARTICLE VII
 15 GRADUATION
 16

17 In order to facilitate the on-time graduation of children of military families, states and local educa-
 18 tion agencies shall incorporate the following procedures:

19 A. Waiver requirements. Local education agency administrative officials shall waive specific
 20 courses required for graduation if similar course work has been satisfactorily completed in another
 21 local education agency or shall provide reasonable justification for denial. Should a waiver not be
 22 granted to a student who would qualify to graduate from the sending school, the local education
 23 agency shall provide an alternative means of acquiring required coursework so that graduation may
 24 occur on time.

25 B. Exit exams. States shall accept exit or end-of-course exams required for graduation from the
 26 sending state, national norm-referenced achievement tests or alternative testing that is given in lieu
 27 of testing requirements for graduation in the receiving state. In the event the above alternatives
 28 cannot be accommodated by the receiving state for a student transferring in the student’s senior
 29 year, then the provisions of Section C of this Article shall apply.

30 C. Transfers during senior year. Should a military student transferring at the beginning or dur-
 31 ing the student’s senior year be ineligible to graduate from the receiving local education agency
 32 after all alternatives have been considered, the sending and receiving local education agencies shall
 33 ensure the receipt of a diploma from the sending local education agency, if the student meets the
 34 graduation requirements of the sending local education agency. In the event that one of the states
 35 in question is not a member of this compact, the member state shall use best efforts to facilitate the
 36 on-time graduation of the student in accordance with Sections A and B of this Article.

37
 38 ARTICLE VIII
 39 STATE COORDINATION
 40

41 A. Each member state shall, through the creation of a State Council or use of an existing body
 42 or board, provide for the coordination among its agencies of government, local education agencies
 43 and military installations concerning the state’s participation in, and compliance with, this compact
 44 and Interstate Commission activities. While each member state may determine the membership of its
 45 own State Council, its membership may include at least: the state superintendent of education, a

1 superintendent of a school district with a high concentration of military children, a representative
 2 from a military installation, one representative each from the legislative and executive branches of
 3 government, and other offices and stakeholder groups the State Council deems appropriate. A
 4 member state that does not have a school district deemed to contain a high concentration of military
 5 children may appoint a superintendent from another school district to represent local education
 6 agencies on the State Council.

7 B. The Governor of each member state shall appoint or designate a military family education
 8 liaison to assist military families and the state in facilitating the implementation of this compact.
 9 The individual appointed to this position must be a member of the uniformed service. The Depart-
 10 ment of Education of the State of Oregon shall assist the military family education liaison in the
 11 performance of the duties of the position.

12 C. The compact commissioner responsible for the administration and management of the state's
 13 participation in the compact shall be appointed by the Governor or as otherwise determined by each
 14 member state. The individual appointed to this position must have experience in the education of
 15 military children.

16 D. The compact commissioner and the military family education liaison designated herein shall
 17 be ex officio members of the State Council.

18
 19 ARTICLE IX
 20 INTERSTATE COMMISSION ON
 21 EDUCATIONAL OPPORTUNITY
 22 FOR MILITARY CHILDREN
 23

24 The member states hereby create the Interstate Commission on Educational Opportunity for Mili-
 25 tary Children. The activities of the Interstate Commission are the formation of public policy and are
 26 a discretionary state function. The Interstate Commission shall:

27 A. Be a body corporate and joint agency of the member states and shall have all the responsi-
 28 bilities, powers and duties set forth herein, and such additional powers as may be conferred upon
 29 it by a subsequent concurrent action of the respective legislatures of the member states in accord-
 30 ance with the terms of this compact.

31 B. Consist of one Interstate Commission voting representative from each member state who shall
 32 be that state's compact commissioner.

33 1. Each member state represented at a meeting of the Interstate Commission is entitled to one
 34 vote.

35 2. A majority of the total member states shall constitute a quorum for the transaction of busi-
 36 ness, unless a larger quorum is required by the bylaws of the Interstate Commission.

37 3. A representative may not delegate a vote to another member state. In the event the compact
 38 commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State
 39 Council may delegate voting authority to another person from their state for a specified meeting.

40 4. The bylaws may provide for meetings of the Interstate Commission to be conducted by tele-
 41 communication or electronic communication.

42 C. Consist of ex officio, nonvoting representatives who are members of interested organizations.
 43 Such ex officio members, as defined in the bylaws, may include but not be limited to members of the
 44 representative organizations of military family advocates, local education agency officials, parent
 45 and teacher groups, the Department of Defense, the Education Commission of the States, the Inter-

1 state Agreement on the Qualification of Educational Personnel and other interstate compacts af-
2 fecting the education of children of military members.

3 D. Meet at least once each calendar year. The chairperson may call additional meetings and,
4 upon the request of a simple majority of the member states, shall call additional meetings.

5 E. Establish an executive committee, whose members shall include the officers of the Interstate
6 Commission and such other members of the Interstate Commission as determined by the bylaws.
7 Members of the executive committee shall serve a one-year term. Members of the executive com-
8 mittee shall be entitled to one vote each. The executive committee shall have the power to act on
9 behalf of the Interstate Commission, with the exception of rule making, during periods when the
10 Interstate Commission is not in session. The executive committee shall oversee the day-to-day ac-
11 tivities of the administration of this compact, including enforcement and compliance with the pro-
12 visions of this compact, its bylaws and rules, and other such duties as deemed necessary. The
13 Department of Defense shall serve as an ex officio, nonvoting member of the executive committee.

14 F. Establish bylaws and rules that provide for conditions and procedures under which the
15 Interstate Commission shall make its information and official records available to the public for in-
16 spection or copying. The Interstate Commission may exempt from disclosure information or official
17 records to the extent they would adversely affect personal privacy rights or proprietary interests.

18 G. Give public notice of all meetings and all meetings shall be open to the public, except as set
19 forth in the rules or as otherwise provided in this compact. The Interstate Commission and its
20 committees may close a meeting, or portion thereof, when it determines by a two-thirds vote that
21 an open meeting would be likely to:

- 22 1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
- 23 2. Disclose matters specifically exempted from disclosure by federal and state statute;
- 24 3. Disclose trade secrets or commercial or financial information that is privileged or confiden-
25 tial;
- 26 4. Involve accusing a person of a crime or formally censuring a person;
- 27 5. Disclose information of a personal nature if disclosure would constitute a clearly unwarranted
28 invasion of personal privacy;
- 29 6. Disclose investigative records compiled for law enforcement purposes; or
- 30 7. Specifically relate to the Interstate Commission's participation in a civil action or other legal
31 proceeding.

32 H. Cause its legal counselor designee to certify that a meeting may be closed and shall reference
33 each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursu-
34 ant to this provision. The Interstate Commission shall keep minutes that shall fully and clearly de-
35 scribe all matters discussed in a meeting and shall provide a full and accurate summary of actions
36 taken, and the reasons therefore, including a description of the views expressed and the record of
37 a roll call vote. All documents considered in connection with an action shall be identified in such
38 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release
39 by a majority vote of the Interstate Commission.

40 I. Collect standardized data concerning the educational transition of the children of military
41 families under this compact as directed through its rules, which shall specify the data to be col-
42 lected, the means of collection and data exchange and reporting requirements. Such methods of data
43 collection, exchange and reporting shall, in so far as is reasonably possible, conform to current
44 technology and coordinate its information functions with the appropriate custodian of records as
45 identified in the bylaws and rules.

1 J. Create a process that permits military officials, education officials and parents to inform the
 2 Interstate Commission if and when there are alleged violations of this compact or its rules or when
 3 issues subject to the jurisdiction of this compact or its rules are not addressed by the state or local
 4 education agency. This section shall not be construed to create a private right of action against the
 5 Interstate Commission or any member state.

6
 7 ARTICLE X
 8 POWERS AND DUTIES OF
 9 THE INTERSTATE COMMISSION
 10

11 The Interstate Commission shall have the following powers:

12 A. To provide for dispute resolution among member states.

13 B. To promulgate rules and take all necessary actions to effect the goals, purposes and obli-
 14 gations as enumerated in this compact. The rules shall have the force and effect of statutory law
 15 and shall be binding in the compact states to the extent and in the manner provided in this compact.

16 C. To issue, upon request of a member state, advisory opinions concerning the meaning or in-
 17 terpretation of this compact, its bylaws, rules and actions.

18 D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate
 19 Commission and the bylaws, using all necessary and proper means, including but not limited to the
 20 use of the judicial process.

21 E. To establish and maintain offices that shall be located within one or more of the member
 22 states.

23 F. To purchase and maintain insurance and bonds.

24 G. To borrow, accept, hire or contract for services of personnel.

25 H. To establish and appoint committees, including but not limited to an executive committee as
 26 required by Article IX, Section E of this compact, which shall have the power to act on behalf of
 27 the Interstate Commission in carrying out its powers and duties hereunder.

28 I. To elect or appoint such officers, attorneys, employees, agents or consultants, and to fix their
 29 compensation, define their duties and determine their qualifications, and to establish the Interstate
 30 Commission's personnel policies and programs relating to conflicts of interest, rates of compensation
 31 and qualifications of personnel.

32 J. To accept any and all donations and grants of money, equipment, supplies, materials and
 33 services, and to receive, utilize and dispose of it.

34 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve
 35 or use any property, real, personal or mixed.

36 L. To sell, convey, mortgage, pledge, lease, exchange, abandon or otherwise dispose of any
 37 property, real, personal or mixed.

38 M. To establish a budget and make expenditures.

39 N. To adopt a seal and bylaws governing the management and operation of the Interstate Com-
 40 mission.

41 O. To report annually to the legislatures, governors, judiciary and state councils of the member
 42 states concerning the activities of the Interstate Commission during the preceding year. Such re-
 43 ports shall also include any recommendations that may have been adopted by the Interstate Com-
 44 mission.

45 P. To coordinate education, training and public awareness regarding this compact, its imple-

1 mentation and operation for officials and parents involved in such activity.

2 Q. To establish uniform standards for the reporting, collecting and exchanging of data.

3 R. To maintain corporate books and records in accordance with the bylaws.

4 S. To perform such functions as may be necessary or appropriate to achieve the purposes of this
5 compact.

6 T. To provide for the uniform collection and sharing of information between and among member
7 states, schools and military families under this compact.

8

9

ARTICLE XI
ORGANIZATION AND OPERATION OF
THE INTERSTATE COMMISSION

10

11

12

13 A. The Interstate Commission shall, by a majority of the members present and voting, within
14 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may
15 be necessary or appropriate to carry out the purposes of this compact, including but not limited to:

16 1. Establishing the fiscal year of the Interstate Commission;

17 2. Establishing an executive committee and such other committees as may be necessary;

18 3. Providing for the establishment of committees and for governing any general or specific del-
19 egation of authority or function of the Interstate Commission;

20 4. Providing reasonable procedures for calling and conducting meetings of the Interstate Com-
21 mission, and ensuring reasonable notice of each such meeting;

22 5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commis-
23 sion;

24 6. Providing a mechanism for concluding the operations of the Interstate Commission and the
25 return of surplus funds that may exist upon the termination of this compact after the payment and
26 reserving of all of its debts and obligations; and

27 7. Providing start-up rules for initial administration of this compact.

28 B. The Interstate Commission shall, by a majority of the members, elect annually from among
29 its members a chairperson, a vice chairperson and a treasurer, each of whom shall have such au-
30 thority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's ab-
31 sence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission.
32 The officers so elected shall serve without compensation or remuneration from the Interstate Com-
33 mission provided that, subject to the availability of budgeted funds, the officers shall be reimbursed
34 for ordinary and necessary costs and expenses incurred by them in the performance of their re-
35 sponsibilities as officers of the Interstate Commission.

36 C. Executive committee, officers and personnel.

37 1. The executive committee shall have such authority and duties as may be set forth in the by-
38 laws, including but not limited to:

39 a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws
40 and purposes of the Interstate Commission;

41 b. Overseeing an organizational structure within, and appropriate procedures for, the Interstate
42 Commission to provide for the creation of rules, operating procedures and administrative and tech-
43 nical support functions; and

44 c. Planning, implementing and coordinating communications and activities with other state,
45 federal and local government organizations in order to advance the goals of the Interstate Commis-

1 sion.

2 2. The executive committee may, subject to the approval of the Interstate Commission, appoint
 3 or retain an executive director for such period, upon such terms and conditions and for such com-
 4 pensation, as the Interstate Commission may deem appropriate. The executive director shall serve
 5 as secretary to the Interstate Commission, but shall not be a member of the Interstate Commission.
 6 The executive director shall hire and supervise such other persons as may be authorized by the
 7 Interstate Commission.

8 D. The Interstate Commission’s executive director and its employees shall be immune from suit
 9 and liability, either personally or in their official capacity, for a claim for damage to or loss of
 10 property or personal injury or other civil liability caused or arising out of or relating to an actual
 11 or alleged act, error or omission that occurred, or that such person had a reasonable basis for be-
 12 lieving occurred, within the scope of Interstate Commission employment, duties or responsibilities,
 13 provided that such person shall not be protected from suit or liability for damage, loss, injury or
 14 liability caused by the intentional or willful and wanton misconduct of such person.

15 1. The liability of the Interstate Commission’s executive director and employees or Interstate
 16 Commission representatives, acting within the scope of such person’s employment or duties for acts,
 17 errors or omissions occurring within such person’s state may not exceed the limits of liability set
 18 forth under the Constitution and laws of that state for state officials, employees and agents. The
 19 Interstate Commission is considered to be an instrumentality of the states for the purposes of any
 20 such action. Nothing in this subsection shall be construed to protect such person from suit or li-
 21 ability for damage, loss, injury or liability caused by the intentional or willful and wanton miscon-
 22 duct of such person.

23 2. The Interstate Commission shall defend the executive director and its employees and, subject
 24 to the approval of the Attorney General or other appropriate legal counsel of the member state re-
 25 presented by an Interstate Commission representative, shall defend such Interstate Commission
 26 representative in any civil action seeking to impose liability arising out of an actual or alleged act,
 27 error or omission that occurred within the scope of Interstate Commission employment, duties or
 28 responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope
 29 of Interstate Commission employment, duties or responsibilities, provided that the actual or alleged
 30 act, error or omission did not result from intentional or willful and wanton misconduct on the part
 31 of such person.

32 3. To the extent not covered by the state involved, a member state, the Interstate Commission
 33 or the representatives or employees of the Interstate Commission shall be held harmless in the
 34 amount of a settlement or judgment, including attorney’s fees and costs, obtained against such per-
 35 sons arising out of an actual or alleged act, error or omission that occurred within the scope of
 36 Interstate Commission employment, duties or responsibilities, or that such persons had a reasonable
 37 basis for believing occurred within the scope of Interstate Commission employment, duties or re-
 38 sponsibilities, provided that the actual or alleged act, error or omission did not result from inten-
 39 tional or willful and wanton misconduct on the part of such persons.

40
 41 ARTICLE XII
 42 RULEMAKING FUNCTIONS OF
 43 THE INTERSTATE COMMISSION
 44

45 A. Rulemaking authority. The Interstate Commission shall promulgate reasonable rules in order

1 to effectively and efficiently achieve the purposes of this compact. Notwithstanding the foregoing,
 2 in the event the Interstate Commission exercises its rulemaking authority in a manner that is be-
 3 yond the scope of the purposes of this compact, or the powers granted hereunder, then such an
 4 action by the Interstate Commission shall be invalid and have no force or effect.

5 B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substan-
 6 tially conforms to the “Model State Administrative Procedure Act,” of 1981, Uniform Laws Anno-
 7 tated, Vol. 15, p. I (2000), as amended, as may be appropriate to the operations of the Interstate
 8 Commission.

9 C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial
 10 review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the
 11 rule from becoming effective unless the court finds that the petitioner has a substantial likelihood
 12 of success. The court shall give deference to the actions of the Interstate Commission consistent
 13 with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable
 14 exercise of the Interstate Commission’s authority.

15 D. If a majority of the legislatures of the compacting states rejects a rule by enactment of a
 16 statute or resolution in the same manner used to adopt this compact, then such rule shall have no
 17 further force and effect in any compacting state.

18
 19 ARTICLE XIII
 20 OVERSIGHT, ENFORCEMENT
 21 AND DISPUTE RESOLUTION
 22

23 A. Oversight.

24 1. The executive, legislative and judicial branches of state government in each member state
 25 shall enforce this compact and shall take all actions necessary and appropriate to effectuate this
 26 compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder
 27 shall have standing as statutory law.

28 2. All courts shall take judicial notice of this compact and the rules in any judicial or adminis-
 29 trative proceeding in a member state pertaining to the subject matter of this compact that may af-
 30 fect the powers, responsibilities or actions of the Interstate Commission.

31 3. The Interstate Commission shall be entitled to receive all service of process in any such
 32 proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to pro-
 33 vide service of process to the Interstate Commission shall render a judgment or order void as to the
 34 Interstate Commission, this compact or promulgated rules.

35 B. Default, technical assistance, suspension and termination.

36 1. If the Interstate Commission determines that a member state has defaulted in the performance
 37 of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the
 38 Interstate Commission shall provide written notice to the defaulting state and other member states
 39 of the nature of the default, the means of curing the default and any action taken by the Interstate
 40 Commission. The Interstate Commission shall specify the conditions by which the defaulting state
 41 must cure its default.

42 2. If a member state has defaulted, the Interstate Commission shall provide remedial training
 43 and specific technical assistance regarding the default.

44 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from
 45 this compact upon an affirmative vote of a majority of the member states and all rights, privileges

1 and benefits conferred by this compact shall be terminated from the effective date of termination.
 2 A cure of the default does not relieve the offending state of obligations or liabilities incurred during
 3 the period of the default.

4 4. Suspension or termination of membership in this compact shall be imposed only after all other
 5 means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall
 6 be given by the Interstate Commission to the Governor, the majority and minority leaders of the
 7 defaulting state's legislature and each of the member states.

8 5. The state that has been suspended or terminated is responsible for all assessments, obligations
 9 and liabilities incurred through the effective date of suspension or termination including obligations,
 10 the performance of which extends beyond the effective date of suspension or termination.

11 6. The Interstate Commission shall not bear any costs relating to any state that has been found
 12 to be in default or that has been suspended or terminated from this compact, unless otherwise mu-
 13 tually agreed upon in writing between the Interstate Commission and the defaulting state.

14 7. The defaulting state may appeal the action of the Interstate Commission by petitioning the
 15 United States District Court for the District of Columbia or the federal district where the Interstate
 16 Commission has its principal offices. The prevailing party shall be awarded all costs of such liti-
 17 gation including reasonable attorney fees.

18 C. Dispute resolution.

19 1. The Interstate Commission shall attempt, upon the request of a member state, to resolve dis-
 20 putes that are subject to this compact and that may arise among member states and between mem-
 21 ber and nonmember states.

22 2. The Interstate Commission shall promulgate a rule providing for both mediation and binding
 23 dispute resolution for disputes as appropriate.

24 D. Enforcement.

25 1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the
 26 provisions and rules of this compact.

27 2. The Interstate Commission may, by majority vote of the members, initiate legal action in the
 28 United State District Court for the District of Columbia or, at the discretion of the Interstate
 29 Commission, in the federal district where the Interstate Commission has its principal offices, to en-
 30 force compliance with the provisions of this compact, its promulgated rules and bylaws, against a
 31 member state in default. The relief sought may include both injunctive relief and damages. In the
 32 event judicial enforcement is necessary, the prevailing party shall be awarded all costs of such liti-
 33 gation, including reasonable attorney fees.

34 3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The
 35 Interstate Commission may avail itself of any other remedies available under state law or the reg-
 36 ulation of a profession.

37
 38 ARTICLE XIV
 39 FINANCING OF
 40 THE INTERSTATE COMMISSION
 41

42 A. The Interstate Commission shall pay, or provide for the payment of, the reasonable expenses
 43 of its establishment, organization and ongoing activities.

44 B. The Interstate Commission may levy on and collect an annual assessment from each member
 45 state to cover the cost of the operations and activities of the Interstate Commission and its staff,

1 which must be in a total amount sufficient to cover the Interstate Commission's annual budget as
 2 approved each year. The aggregate annual assessment amount shall be allocated based upon a for-
 3 mula to be determined by the Interstate Commission, which shall promulgate a rule binding upon
 4 all member states.

5 C. The Interstate Commission shall not incur obligations of any kind prior to securing the funds
 6 adequate to meet the same, nor shall the Interstate Commission pledge the credit of any of the
 7 member states, except by and with the authority of the member state.

8 D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements.
 9 The receipts and disbursements of the Interstate Commission shall be subject to the audit and ac-
 10 counting procedures established under its bylaws. However, all receipts and disbursements of funds
 11 handled by the Interstate Commission shall be audited yearly by a certified or licensed public ac-
 12 countant and the report of the audit shall be included in and become part of the annual report of
 13 the Interstate Commission.

14
 15 ARTICLE XV
 16 MEMBER STATES, EFFECTIVE DATE
 17 AND AMENDMENT
 18

19 A. Any state is eligible to become a member state.

20 B. This compact shall become effective and binding upon legislative enactment of this compact
 21 into law by no less than 10 of the states. The effective date may be no earlier than December 1,
 22 2007. Thereafter it shall become effective and binding as to any other member state upon enactment
 23 of this compact into law by that state. The governors of nonmember states or their designees shall
 24 be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior
 25 to adoption of this compact by all states.

26 C. The Interstate Commission may propose amendments to this compact for enactment by the
 27 member states. No amendment shall become effective and binding upon the Interstate Commission
 28 and the member states unless and until it is enacted into law by unanimous consent of the member
 29 states.

30
 31 ARTICLE XVI
 32 WITHDRAWAL AND DISSOLUTION
 33

34 A. Withdrawal.

35 1. Once effective, this compact shall continue in force and remain binding upon each and every
 36 member state provided that a member state may withdraw from this compact by specifically re-
 37 pealing the statute that enacted this compact into law.

38 2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but
 39 shall not take effect until one year after the effective date of such statute and until written notice
 40 of the withdrawal has been given by the withdrawing state to the Governor of each other member
 41 jurisdiction.

42 3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission
 43 in writing upon the introduction of legislation repealing this compact in the withdrawing state. The
 44 Interstate Commission shall notify the other member states of the withdrawing state's intent to
 45 withdraw within 60 days of its receipt thereof.

1 4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred
2 through the effective date of withdrawal, including obligations, the performance of which extend
3 beyond the effective date of withdrawal.

4 5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state
5 reenacting this compact or upon such later date as determined by the Interstate Commission.

6 B. Dissolution of compact.

7 1. This compact shall dissolve effective upon the date of the withdrawal or default of the mem-
8 ber state that reduces the membership in this compact to one member state.

9 2. Upon the dissolution of this compact, this compact becomes null and void and shall be of no
10 further force or effect, and the business and affairs of the Interstate Commission shall be concluded
11 and surplus funds shall be distributed in accordance with the bylaws.

12
13 ARTICLE XVII
14 SEVERABILITY AND CONSTRUCTION
15

16 A. The provisions of this compact shall be severable, and if any phrase, clause, sentence or
17 provision is deemed unenforceable, the remaining provisions of this compact shall be enforceable.

18 B. The provisions of this compact shall be liberally construed to effectuate its purposes.

19 C. Nothing in this compact shall be construed to prohibit the applicability of other interstate
20 compacts to which the states are members.

21
22 ARTICLE XVIII
23 BINDING EFFECT OF COMPACT
24 AND OTHER LAWS
25

26 A. Other laws.

27 1. Nothing herein prevents the enforcement of any other law of a member state that is not in-
28 consistent with this compact.

29 2. All member states' laws conflicting with this compact are superseded to the extent of the
30 conflict.

31 B. Binding effect of the compact.

32 1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated
33 by the Interstate Commission, are binding upon the member states.

34 2. All agreements between the Interstate Commission and the member states are binding in ac-
35 cordance with their terms.

36 3. In the event any provision of this compact exceeds the constitutional limits imposed on the
37 legislature of any member state, such provision shall be ineffective to the extent of the conflict with
38 the constitutional provision in question in that member state.

39
40
41 **SECTION 17.** ORS 166.291, as amended by section 1, chapter 62, Oregon Laws 2014, is amended
42 to read:

43 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
44 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
45 out in this section, shall issue the person a concealed handgun license if the person:

- 1 (a)(A) Is a citizen of the United States; or
- 2 (B) Is a legal resident alien who can document continuous residency in the county for at least
- 3 six months and has declared in writing to the United States Citizenship and Immigration Services
- 4 the intent to acquire citizenship status and can present proof of the written declaration to the
- 5 sheriff at the time of application for the license;
- 6 (b) Is at least 21 years of age;
- 7 (c) Is a resident of the county;
- 8 (d) Has no outstanding warrants for arrest;
- 9 (e) Is not free on any form of pretrial release;
- 10 (f) Demonstrates competence with a handgun by any one of the following:
- 11 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
- 12 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
- 13 of the course;
- 14 (B) Completion of any National Rifle Association firearms safety or training course if handgun
- 15 safety was a component of the course;
- 16 (C) Completion of any firearms safety or training course or class available to the general public
- 17 offered by law enforcement, community college, or private or public institution or organization or
- 18 firearms training school utilizing instructors certified by the National Rifle Association or a law
- 19 enforcement agency if handgun safety was a component of the course;
- 20 (D) Completion of any law enforcement firearms safety or training course or class offered for
- 21 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
- 22 cers if handgun safety was a component of the course;
- 23 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
- 24 ized shooting competition or military service;
- 25 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
- 26 revoked; or
- 27 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
- 28 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
- 29 was a component of the course;
- 30 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
- 31 of a felony;
- 32 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
- 33 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
- 34 conviction for the possession of marijuana as described in paragraph (L) of this subsection;
- 35 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;
- 36 (j) Has not been found to be a person with mental illness and is not subject to an order under
- 37 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
- 38 that mental illness;
- 39 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
- 40 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
- 41 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
- 42 volving violence, as defined in ORS 166.470;
- 43 (L) Has not been convicted of an offense involving controlled substances or participated in a
- 44 court-supervised drug diversion program, except this disability does not operate to exclude a person
- 45 if:

1 (A) The person can demonstrate that the person has been convicted only once of a marijuana
2 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
3 the offense, and has not completed a drug diversion program for a marijuana possession offense that
4 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

5 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
6 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
7 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
8 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

9 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
10 107.700 to 107.735 or 163.738;

11 (n) Has not received a dishonorable discharge from the Armed Forces of the United States, **or**
12 **was dishonorably discharged solely on the basis of sexual orientation;** and

13 (o) Is not required to register as a sex offender in any state.

14 (2) A person who has been granted relief under ORS 166.274 or 166.293 or section 5, chapter 826,
15 Oregon Laws 2009, or 18 U.S.C. 925(c) or has had the person’s record expunged under the laws of
16 this state or equivalent laws of other jurisdictions is not subject to the disabilities in subsection
17 (1)(g) to (L) of this section.

18 (3) Before the sheriff may issue a license:

19 (a) The application must state the applicant’s legal name, current address and telephone number,
20 date and place of birth, hair and eye color and height and weight. The application must also list the
21 applicant’s residence address or addresses for the previous three years. The application must contain
22 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
23 section. The application may include the Social Security number of the applicant if the applicant
24 voluntarily provides this number. The application must be signed by the applicant.

25 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
26 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
27 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
28 records check is necessary, the sheriff shall request the Department of State Police to conduct the
29 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
30 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
31 check and may not keep any record of the fingerprints. The Department of State Police shall report
32 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
33 Police shall also furnish the sheriff with any information about the applicant that the Department
34 of State Police may have in its possession including, but not limited to, manual or computerized
35 criminal offender information.

36 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-
37 quest. The forms shall be uniform throughout this state in substantially the following form:

38 _____
39
40 APPLICATION FOR LICENSE TO CARRY
41 CONCEALED HANDGUN

42 Date _____

43 I hereby declare as follows:

44 I am a citizen of the United States or a legal resident alien who can document continuous res-
45 idency in the county for at least six months and have declared in writing to the United States Cit-

1 izenship and Immigration Services my intention to become a citizen and can present proof of the
 2 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
 3 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
 4 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
 5 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
 6 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
 7 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
 8 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
 9 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
 10 volving controlled substances or completed a court-supervised drug diversion program. There are
 11 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
 12 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a
 13 person with mental illness and presently subject to an order prohibiting me from purchasing or
 14 possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I
 15 have been granted relief or wish to petition for relief from the disability under ORS 166.274 or
 16 166.293 or section 5, chapter 826, Oregon Laws 2009, or 18 U.S.C. 925(c) or have had the records
 17 expunged. I am not subject to a citation issued under ORS 163.735 or an order issued under ORS
 18 30.866, 107.700 to 107.735 or 163.738. I have never received a dishonorable discharge from the Armed
 19 Forces of the United States **or, if I received a dishonorable discharge, it was solely on the basis**
 20 **of sexual orientation.** I am not required to register as a sex offender in any state. I understand I
 21 will be fingerprinted and photographed.

22

23 Legal name _____
 24 Age _____ Date of birth _____
 25 Place of birth _____
 26 Social Security number _____

27 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
 28 thorized under ORS 166.291. It will be used only as a means of identification.)

29

30 Proof of identification (Two pieces of current identification are required, one of which must bear a
 31 photograph of the applicant. The type of identification and the number on the identification are to
 32 be filled in by the sheriff.):

- 33 1. _____
- 34 2. _____

35

36 Height _____ Weight _____
 37 Hair color _____ Eye color _____

38

39 Current address _____

40

(List residence addresses for the
 past three years on the back.)

41

42

43 City _____ County _____ Zip _____

44

44 Phone _____

45

1 I have read the entire text of this application, and the statements therein are correct and true.
2 (Making false statements on this application is a misdemeanor.)

3 _____
4 (Signature of Applicant)

5
6 Character references.

Name	Address
Name	Address

7
8
9
10
11
12 Approved _____ Disapproved _____ by _____

13
14 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

15 Date _____ Fee Paid _____

16 License No. _____
17 _____

18
19 (5)(a) Fees for concealed handgun licenses are:

20 (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.

21 (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.

22 (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.

23 (b) The sheriff may enter into an agreement with the Department of Transportation to produce
24 the concealed handgun license.

25 (6) No civil or criminal liability shall attach to the sheriff or any authorized representative en-
26 gaged in the receipt and review of, or an investigation connected with, any application for, or in the
27 issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful
28 performance of duties under those sections.

29 (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff
30 shall enter the applicant's name into the Law Enforcement Data System indicating that the person
31 is an applicant for a concealed handgun license or is a license holder.

32 (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section
33 for a resident of a contiguous state who has a compelling business interest or other legitimate
34 demonstrated need.

35 (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the
36 person:

37 (a) Has a current Oregon driver license issued to the person showing a residence address in the
38 county;

39 (b) Is registered to vote in the county and has a voter notification card issued to the person
40 under ORS 247.181 showing a residence address in the county;

41 (c) Has documentation showing that the person currently leases or owns real property in the
42 county; or

43 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
44 tax year showing a residence address in the county.

45 (10) As used in this section, "drug diversion program" means a program in which a defendant

1 charged with a marijuana possession offense completes a program under court supervision and in
2 which the marijuana possession offense is dismissed upon successful completion of the diversion
3 program.

4 **SECTION 18.** ORS 166.291, as amended by section 10, chapter 826, Oregon Laws 2009, section
5 34, chapter 547, Oregon Laws 2011, section 5, chapter 243, Oregon Laws 2013, section 9, chapter 360,
6 Oregon Laws 2013, section 7, chapter 591, Oregon Laws 2013, and section 2, chapter 62, Oregon
7 Laws 2014, is amended to read:

8 166.291. (1) The sheriff of a county, upon a person's application for an Oregon concealed
9 handgun license, upon receipt of the appropriate fees and after compliance with the procedures set
10 out in this section, shall issue the person a concealed handgun license if the person:

11 (a)(A) Is a citizen of the United States; or

12 (B) Is a legal resident alien who can document continuous residency in the county for at least
13 six months and has declared in writing to the United States Citizenship and Immigration Services
14 the intent to acquire citizenship status and can present proof of the written declaration to the
15 sheriff at the time of application for the license;

16 (b) Is at least 21 years of age;

17 (c) Is a resident of the county;

18 (d) Has no outstanding warrants for arrest;

19 (e) Is not free on any form of pretrial release;

20 (f) Demonstrates competence with a handgun by any one of the following:

21 (A) Completion of any hunter education or hunter safety course approved by the State Depart-
22 ment of Fish and Wildlife or a similar agency of another state if handgun safety was a component
23 of the course;

24 (B) Completion of any National Rifle Association firearms safety or training course if handgun
25 safety was a component of the course;

26 (C) Completion of any firearms safety or training course or class available to the general public
27 offered by law enforcement, community college, or private or public institution or organization or
28 firearms training school utilizing instructors certified by the National Rifle Association or a law
29 enforcement agency if handgun safety was a component of the course;

30 (D) Completion of any law enforcement firearms safety or training course or class offered for
31 security guards, investigators, reserve law enforcement officers or any other law enforcement offi-
32 cers if handgun safety was a component of the course;

33 (E) Presents evidence of equivalent experience with a handgun through participation in organ-
34 ized shooting competition or military service;

35 (F) Is licensed or has been licensed to carry a firearm in this state, unless the license has been
36 revoked; or

37 (G) Completion of any firearms training or safety course or class conducted by a firearms in-
38 structor certified by a law enforcement agency or the National Rifle Association if handgun safety
39 was a component of the course;

40 (g) Has never been convicted of a felony or found guilty, except for insanity under ORS 161.295,
41 of a felony;

42 (h) Has not been convicted of a misdemeanor or found guilty, except for insanity under ORS
43 161.295, of a misdemeanor within the four years prior to the application, including a misdemeanor
44 conviction for the possession of marijuana as described in paragraph (L) of this subsection;

45 (i) Has not been committed to the Oregon Health Authority under ORS 426.130;

1 (j) Has not been found to be a person with mental illness and is not subject to an order under
 2 ORS 426.130 that the person be prohibited from purchasing or possessing a firearm as a result of
 3 that mental illness;

4 (k) Has been discharged from the jurisdiction of the juvenile court for more than four years if,
 5 while a minor, the person was found to be within the jurisdiction of the juvenile court for having
 6 committed an act that, if committed by an adult, would constitute a felony or a misdemeanor in-
 7 volving violence, as defined in ORS 166.470;

8 (L) Has not been convicted of an offense involving controlled substances or participated in a
 9 court-supervised drug diversion program, except this disability does not operate to exclude a person
 10 if:

11 (A) The person can demonstrate that the person has been convicted only once of a marijuana
 12 possession offense that constituted a misdemeanor or violation under the law of the jurisdiction of
 13 the offense, and has not completed a drug diversion program for a marijuana possession offense that
 14 constituted a misdemeanor or violation under the law of the jurisdiction of the offense; or

15 (B) The person can demonstrate that the person has only once completed a drug diversion pro-
 16 gram for a marijuana possession offense that constituted a misdemeanor or violation under the law
 17 of the jurisdiction of the offense, and has not been convicted of a marijuana possession offense that
 18 constituted a misdemeanor or violation under the law of the jurisdiction of the offense;

19 (m) Is not subject to a citation issued under ORS 163.735 or an order issued under ORS 30.866,
 20 107.700 to 107.735 or 163.738;

21 (n) Has not received a dishonorable discharge from the Armed Forces of the United States, **or**
 22 **was dishonorably discharged solely on the basis of sexual orientation;** and

23 (o) Is not required to register as a sex offender in any state.

24 (2) A person who has been granted relief under ORS 166.274 or 166.293 or 18 U.S.C. 925(c) or
 25 has had the person's record expunged under the laws of this state or equivalent laws of other ju-
 26 risdictions is not subject to the disabilities in subsection (1)(g) to (L) of this section.

27 (3) Before the sheriff may issue a license:

28 (a) The application must state the applicant's legal name, current address and telephone number,
 29 date and place of birth, hair and eye color and height and weight. The application must also list the
 30 applicant's residence address or addresses for the previous three years. The application must contain
 31 a statement by the applicant that the applicant meets the requirements of subsection (1) of this
 32 section. The application may include the Social Security number of the applicant if the applicant
 33 voluntarily provides this number. The application must be signed by the applicant.

34 (b) The applicant must submit to fingerprinting and photographing by the sheriff. The sheriff
 35 shall fingerprint and photograph the applicant and shall conduct any investigation necessary to
 36 corroborate the requirements listed under subsection (1) of this section. If a nationwide criminal
 37 records check is necessary, the sheriff shall request the Department of State Police to conduct the
 38 check, including fingerprint identification, through the Federal Bureau of Investigation. The Federal
 39 Bureau of Investigation shall return the fingerprint cards used to conduct the criminal records
 40 check and may not keep any record of the fingerprints. The Department of State Police shall report
 41 the results of the fingerprint-based criminal records check to the sheriff. The Department of State
 42 Police shall also furnish the sheriff with any information about the applicant that the Department
 43 of State Police may have in its possession including, but not limited to, manual or computerized
 44 criminal offender information.

45 (4) Application forms for concealed handgun licenses shall be supplied by the sheriff upon re-

1 quest. The forms shall be uniform throughout this state in substantially the following form:

2
3
4 APPLICATION FOR LICENSE TO CARRY
5 CONCEALED HANDGUN

6 Date _____

7 I hereby declare as follows:

8 I am a citizen of the United States or a legal resident alien who can document continuous res-
9 idency in the county for at least six months and have declared in writing to the United States Cit-
10 izenship and Immigration Services my intention to become a citizen and can present proof of the
11 written declaration to the sheriff at the time of this application. I am at least 21 years of age. I have
12 been discharged from the jurisdiction of the juvenile court for more than four years if, while a mi-
13 nor, I was found to be within the jurisdiction of the juvenile court for having committed an act that,
14 if committed by an adult, would constitute a felony or a misdemeanor involving violence, as defined
15 in ORS 166.470. I have never been convicted of a felony or found guilty, except for insanity under
16 ORS 161.295, of a felony in the State of Oregon or elsewhere. I have not, within the last four years,
17 been convicted of a misdemeanor or found guilty, except for insanity under ORS 161.295, of a
18 misdemeanor. Except as provided in ORS 166.291 (1)(L), I have not been convicted of an offense in-
19 volving controlled substances or completed a court-supervised drug diversion program. There are
20 no outstanding warrants for my arrest and I am not free on any form of pretrial release. I have not
21 been committed to the Oregon Health Authority under ORS 426.130, nor have I been found to be a
22 person with mental illness and presently subject to an order prohibiting me from purchasing or
23 possessing a firearm because of mental illness. If any of the previous conditions do apply to me, I
24 have been granted relief or wish to petition for relief from the disability under ORS 166.274 or
25 166.293 or 18 U.S.C. 925(c) or have had the records expunged. I am not subject to a citation issued
26 under ORS 163.735 or an order issued under ORS 30.866, 107.700 to 107.735 or 163.738. I have never
27 received a dishonorable discharge from the Armed Forces of the United States **or, if I received a**
28 **dishonorable discharge, it was solely on the basis of sexual orientation.** I am not required to
29 register as a sex offender in any state. I understand I will be fingerprinted and photographed.

30
31 Legal name _____

32 Age _____ Date of birth _____

33 Place of birth _____

34 Social Security number _____

35 (Disclosure of your Social Security account number is voluntary. Solicitation of the number is au-
36 thorized under ORS 166.291. It will be used only as a means of identification.)

37
38 Proof of identification (Two pieces of current identification are required, one of which must bear a
39 photograph of the applicant. The type of identification and the number on the identification are to
40 be filled in by the sheriff.):

41 1. _____

42 2. _____

43
44 Height _____ Weight _____

45 Hair color _____ Eye color _____

1 Current address _____

(List residence addresses for the
past three years on the back.)

5 City _____ County _____ Zip _____

6 Phone _____

8 I have read the entire text of this application, and the statements therein are correct and true.
9 (Making false statements on this application is a misdemeanor.)

(Signature of Applicant)

13 Character references.

Name:	Address

Name:	Address

19 Approved _____ Disapproved _____ by _____

21 Competence with handgun demonstrated by _____ (to be filled in by sheriff)

22 Date _____ Fee Paid _____

23 License No. _____

- (5)(a) Fees for concealed handgun licenses are:
 - (A) \$15 to the Department of State Police for conducting the fingerprint check of the applicant.
 - (B) \$50 to the sheriff for the issuance or renewal of a concealed handgun license.
 - (C) \$15 to the sheriff for the duplication of a license because of loss or change of address.
- (b) The sheriff may enter into an agreement with the Department of Transportation to produce the concealed handgun license.
- (6) No civil or criminal liability shall attach to the sheriff or any authorized representative engaged in the receipt and review of, or an investigation connected with, any application for, or in the issuance, denial or revocation of, any license under ORS 166.291 to 166.295 as a result of the lawful performance of duties under those sections.
- (7) Immediately upon acceptance of an application for a concealed handgun license, the sheriff shall enter the applicant's name into the Law Enforcement Data System indicating that the person is an applicant for a concealed handgun license or is a license holder.
- (8) The county sheriff may waive the residency requirement in subsection (1)(c) of this section for a resident of a contiguous state who has a compelling business interest or other legitimate demonstrated need.
- (9) For purposes of subsection (1)(c) of this section, a person is a resident of a county if the person:
 - (a) Has a current Oregon driver license issued to the person showing a residence address in the county;

1 (b) Is registered to vote in the county and has a voter notification card issued to the person
2 under ORS 247.181 showing a residence address in the county;

3 (c) Has documentation showing that the person currently leases or owns real property in the
4 county; or

5 (d) Has documentation showing that the person filed an Oregon tax return for the most recent
6 tax year showing a residence address in the county.

7 (10) As used in this section, “drug diversion program” means a program in which a defendant
8 charged with a marijuana possession offense completes a program under court supervision and in
9 which the marijuana possession offense is dismissed upon successful completion of the diversion
10 program.

11 **SECTION 19. This 2015 Act being necessary for the immediate preservation of the public**
12 **peace, health and safety, an emergency is declared to exist, and this 2015 Act takes effect**
13 **on its passage.**

14 _____