

1 HOUSE BILL NO. 118

2 INTRODUCED BY E. BUTTREY, D. BEDEY, L. JONES, J. KASSMIER, D. LOGE

3
4 A BILL FOR AN ACT ENTITLED: "AN ACT GENERALLY REVISING THE INTERSTATE COMPACT ON
5 EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; CLARIFYING THE COMMISSION'S
6 AUTHORITY TO DETERMINE AN ANNUAL ASSESSMENT IN AN AMOUNT EQUAL TO A PER-STUDENT
7 AMOUNT MULTIPLIED BY THE NUMBER OF CHILDREN IN MILITARY FAMILIES IN MONTANA; REVISING
8 CITATIONS TO THE UNITED STATES CODE; AMENDING SECTION 20-1-230, MCA; AND PROVIDING AN
9 IMMEDIATE EFFECTIVE DATE."

10
11 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

12
13 **Section 1.** Section 20-1-230, MCA, is amended to read:

14 **"20-1-230. Enactment -- Interstate Compact on Educational Opportunity for Military Children --**
15 **provisions.** The Interstate Compact on Educational Opportunity for Military Children is enacted into law and
16 entered into with all other jurisdictions joining in the compact in the form substantially as follows:

17 ARTICLE I

18 PURPOSE

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

21 (a) facilitating the timely enrollment of children of military families and ensuring that they are not
22 placed at a disadvantage due to difficulty in the transfer of education records from the previous school districts
23 or variations in entrance or age requirements;

24 (b) facilitating the student placement process through which children of military families are not
25 disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or
26 assessment;

27 (c) facilitating the qualification and eligibility for enrollment, educational programs, and participation
28 in extracurricular academic, athletic, and social activities;

- 1 (d) facilitating the on-time graduation of children of military families;
- 2 (e) providing for the promulgation and enforcement of administrative rules implementing the
- 3 provisions of this compact;
- 4 (f) providing for the uniform collection and sharing of information between and among member
- 5 states, schools, and military families under this compact;
- 6 (g) promoting coordination between this compact and other compacts affecting military children;
- 7 and
- 8 (h) promoting flexibility and cooperation between the educational system, parents, and the student
- 9 in order to achieve educational success for the student.

10 (2) The purpose of the legislation and the Interstate Compact is not to supersede the sovereignty

11 of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a

12 uniform solution without federal intervention. No provision of the Interstate Compact may be construed as a

13 waiver of any state's sovereignty.

14 ARTICLE II

15 DEFINITIONS

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

17 definitions apply:

18 (1) "Active duty" means full-time duty status in the active uniformed service of the United States,

19 including members of the national guard and reserve on active duty orders pursuant to ~~40 U.S.C. 12301(d)~~ and

20 42304 Title 10, chapters 1209 and 1211, of the United States Code.

21 (2) "Children of military families" means school-aged children enrolled in kindergarten through 12th

22 grade, in the household of an active duty member.

23 (3) "Compact commissioner" means the voting representative of each member state appointed

24 pursuant to Article VIII of this compact.

25 (4) "Deployment" means the period 1 month prior to the service member's departure from the

26 service member's home station on military orders though 6 months after return to the service member's home

27 station.

28 (5) "Education records" means those official records, files, and data directly related to a student

1 and maintained by the school or local education agency, including but not limited to records encompassing all
2 the material kept in the student's cumulative folder, such as general identifying data, records of attendance and
3 of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary
4 status, test protocols, and individualized education programs.

5 (6) "Extracurricular activities" means voluntary activities sponsored by the school or local
6 education agency or an organization sanctioned by the local education agency. Extracurricular activities include
7 but are not limited to preparation for and involvement in public performances, contests, athletic competitions,
8 demonstrations, displays, and club activities.

9 (7) "Interstate Commission on Educational Opportunity for Military Children" or "Interstate
10 Commission" means the commission that is created under Article IX of this compact.

11 (8) "Local education agency" means a public authority legally constituted by the state as an
12 administrative agency to provide control of and direction for kindergarten through 12th grade public educational
13 institutions.

14 (9) "Member state" means a state that has enacted this compact.

15 (10) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any
16 ship, or other facility under the jurisdiction of the department of defense, including any leased facility, that is
17 located within any state.

18 (11) "Nonmember state" means a state that has not enacted this compact.

19 (12) "Receiving state" means the state to which a child of a military family is sent, brought, or
20 caused to be sent or brought.

21 (13) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article
22 XII of this compact that is of general applicability, that implements, interprets, or prescribes a policy or provision
23 of the compact, or that is an organizational, procedural, or practice requirement of the Interstate Commission
24 and has the force and effect of statutory law in a member state. The term includes the amendment, repeal, or
25 suspension of an existing rule.

26 (14) "Sending state" means the state from which a child of a military family is sent, brought, or
27 caused to be sent or brought.

28 (15) "State" means a state of the United States, the District of Columbia, the Commonwealth of

1 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other
2 U.S. territory.

3 (16) "Student" means the child of a military family for whom the local education agency receives
4 public funding and who is formally enrolled in kindergarten through 12th grade.

5 (17) "Transition" means:

6 (a) the formal and physical process of transferring from school to school; or

7 (b) the period of time during which a student moves from one school in the sending state to
8 another school in the receiving state.

9 (18) "Uniformed service" means the army, navy, air force, marine corps, or coast guard.

10 (19) "Veteran" means a person who served in the uniformed services and who was discharged or
11 released from service under conditions other than dishonorable.

12 ARTICLE III

13 APPLICABILITY

14 (1) Except as otherwise provided in subsection (3), this compact applies to the children of:

15 (a) active duty members of the uniformed services as defined in this compact, including members
16 of the national guard and reserve on active duty orders pursuant to ~~40 U.S.C. 12301(d) and 12304~~ Title 10,
17 chapters 1209 and 1211, of the United States Code;

18 (b) members or veterans of the uniformed services who are severely injured and medically
19 discharged or retired for a period of 1 year after medical discharge or retirement; and

20 (c) members of the uniformed services who die on active duty or as a result of injuries sustained
21 on active duty for a period of 1 year after death.

22 (2) The provisions of this compact apply only to local education agencies as defined in this
23 compact.

24 (3) The provisions of this compact do not apply to the children of:

25 (a) inactive members of the national guard and military reserves;

26 (b) members of the uniformed services now retired, except as provided in subsection (1);

27 (c) veterans of the uniformed services, except as provided in subsection (1); and

28 (d) other U.S. department of defense personnel and other federal agency civilian and contract

1 employees not defined as active duty members of the uniformed services.

2 ARTICLE IV

3 EDUCATIONAL RECORDS AND ENROLLMENT

4 (1) In the event that official education records cannot be released to the parents for the purpose of
5 transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set
6 of unofficial educational records from a local education facility, as defined by federal law, containing uniform
7 information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a
8 school in the receiving state, the school shall enroll and appropriately place the student based on the
9 information provided in the unofficial records, pending validation by the official records, as quickly as possible.

10 (2) Simultaneous with the enrollment and conditional placement of the student, the school in the
11 receiving state shall request the student's official education record from the school in the sending state. Upon
12 receipt of this request, the school in the sending state shall process and furnish the official education records to
13 the school in the receiving state within 10 days or within a time that is reasonably determined under the rules
14 promulgated by the Interstate Commission.

15 (3) Receiving states shall give 30 days from the date of enrollment or a time as is reasonably
16 determined under the rules promulgated by the Interstate Commission for students to obtain any immunizations
17 required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30
18 days or within a time that is reasonably determined under the rules promulgated by the Interstate Commission.

19 (4) Students must be allowed to continue their enrollment at grade level in the receiving state
20 commensurate with their grade level, including kindergarten, from a local education agency in the sending state
21 at the time of transition regardless of age. A student that has satisfactorily completed the prerequisite grade
22 level in the local education agency in the sending state must be eligible for enrollment in the next highest grade
23 level in the receiving state regardless of age. A student transferring after the start of the school year in the
24 receiving state shall enter the school in the receiving state on the student's validated level from a school in the
25 sending state.

26 ARTICLE V

27 PLACEMENT AND ATTENDANCE

28 (1) When the student transfers before or during the school year, the receiving state school shall

1 initially honor placement of the student in educational courses based on the student's enrollment in the sending
2 state school, educational assessments conducted at the school in the sending state, or both, if the courses are
3 offered and space is available. Course placement includes but is not limited to honors, international
4 baccalaureate, advanced placement, and vocational, technical, and career pathways courses. Continuing the
5 student's academic program from the previous school and promoting placement in academically and career
6 challenging courses should be paramount when considering placement. This does not preclude the school in
7 the receiving state from performing subsequent evaluations to ensure appropriate placement and continued
8 enrollment of the student in the courses.

9 (2) The receiving state school shall initially honor placement of the student in educational
10 programs based on space availability and current educational assessments conducted at the school in the
11 sending state or participation or placement in like programs in the sending state. Such programs include but are
12 not limited to gifted and talented programs. This does not preclude the school in the receiving state from
13 performing subsequent evaluations to ensure appropriate placement of the student. This section does not
14 require a local education agency to create programs or offer services that were not in place prior to the
15 enrollment of the student unless the programs or services are required by federal or state law.

16 (3) (a) In compliance with the federal requirements of the Individuals with Disabilities Education
17 Act, 20 U.S.C. 1400, et seq., the receiving state shall initially provide comparable services to a student with
18 disabilities based on the student's current individualized education program.

19 (b) In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C.
20 794, and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 through 12165, the
21 receiving state shall make reasonable accommodations and modifications to address the needs of incoming
22 students with disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to
23 education. This does not preclude the school in the receiving state from performing subsequent evaluations to
24 ensure appropriate placement of the student.

25 (4) Local education agency administrative officials have flexibility in waiving course or program
26 prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the
27 local education agency.

28 (5) A student whose parent or legal guardian is an active duty member of the uniformed services,

1 as defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from
2 deployment to a combat zone or combat support posting must be granted additional excused absences at the
3 discretion of the local education agency superintendent to visit with the student's parent or legal guardian
4 relative to the leave or deployment of the parent or guardian.

5 ARTICLE VI

6 ELIGIBILITY

7 (1) A special power of attorney, relative to the guardianship of a child of a military family and
8 executed under applicable law, is sufficient for the purposes of enrollment and all other actions requiring
9 parental participation and consent.

10 (2) A local education agency is prohibited from charging local tuition to a transitioning military child
11 placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction
12 other than that of the custodial parent.

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

16 (4) State and local education agencies shall facilitate the opportunity for transitioning military
17 children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are
18 otherwise qualified.

19 ARTICLE VII

20 GRADUATION

21 In order to facilitate the on-time graduation of children of military families, states and local education
22 agencies shall incorporate the following procedures:

23 (1) Local education agency administrative officials shall waive specific courses required for
24 graduation if similar course work has been satisfactorily completed in another local education agency or shall
25 provide reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate
26 from the sending state, the local education agency shall provide an alternative means of acquiring required
27 coursework so that graduation may occur on time.

28 (2) (a) In lieu of testing requirements for graduation in the receiving state, states shall accept:

1 (i) exit or end-of-course exams required for graduation from the sending state;

2 (ii) national norm-referenced achievement tests; or

3 (iii) alternative testing.

4 (b) In the event that the above alternatives cannot be accommodated by the receiving state for a
5 student transferring to the school during the student's senior year, the provisions of subsection (3) of this article
6 apply.

7 (3) If a military student transferring at the beginning of or during the student's senior year is
8 ineligible to graduate from the receiving local education agency after all alternatives have been considered, the
9 sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local
10 education agency if the student meets the graduation requirements of the sending local education agency. In
11 the event that one of the states in question is not a member of this compact, the member state shall use best
12 efforts to facilitate the on-time graduation of the student in accordance with subsections (1) and (2) of this
13 article.

14 ARTICLE VIII

15 STATE COORDINATION

16 (1) Each member state shall, through the creation of a state council or use of an existing body or
17 board, provide for the coordination among its agencies of government, local education agencies, and military
18 installations concerning the state's participation in and compliance with this compact and Interstate Commission
19 activities. While each member state may determine the membership of its own state council, its membership
20 must, at a minimum, include the state superintendent of public instruction, a superintendent of a school district
21 with a high concentration of military children, a representative from a military installation, one representative
22 each from the legislative and executive branches of government, and other offices and stakeholder groups that
23 the state council considers appropriate.

24 (2) The state council of each member state shall appoint or designate a military family education
25 liaison to assist military families and the state in facilitating the implementation of this compact.

26 (3) The compact commissioner responsible for the administration and management of the state's
27 participation in the compact must be appointed by the governor or as otherwise determined by each member
28 state.

(4) The compact commissioner and the military family education liaison designated herein are ex-officio members of the state council unless either is already a full voting member of the state council.

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN

The member states hereby create the Interstate Commission on Educational Opportunity for Military Children. The activities of the Interstate Commission are the formation of public policy and are a discretionary state function.

(1) The Interstate Commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein and additional powers that may be conferred upon it by a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms of this compact.

(2) (a) The Interstate Commission consists of one voting representative from each member state who is that state's compact commissioner.

(b) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

(c) A majority of the total member states constitute a quorum for the transaction of business unless a larger quorum is required by the bylaws of the Interstate Commission.

(d) A representative may not delegate a vote to another member state. In the event that the compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.

(e) The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

(3) The Interstate Commission consists of ex-officio, nonvoting representatives who are members of interested organizations. The ex-officio members, as defined in the bylaws, may include but may not be limited to members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. department of defense, the education commission of the states, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting

1 the education of children of military members.

2 (4) The Interstate Commission shall meet at least once each calendar year. The chairperson may
3 call additional meetings and, upon the request of a simple majority of the member states, shall call additional
4 meetings.

5 (5) The Interstate Commission shall establish an executive committee, whose members must
6 include the officers of the Interstate Commission and any other members of the Interstate Commission as
7 determined by the bylaws. Members of the executive committee shall serve 1-year terms. Members of the
8 executive committee are entitled to one vote each. The executive committee has the power to act on behalf of
9 the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is
10 not in session. The executive committee shall oversee the day-to-day activities of the administration of the
11 compact, including enforcement and compliance with the provisions of the compact and its bylaws and rules
12 and other duties considered necessary. The U.S. department of defense shall serve as an ex-officio, nonvoting
13 member of the executive committee.

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

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

- 22 (a) relate solely to the Interstate Commission's internal personnel;
23 (b) disclose matters specifically exempted from disclosure by federal and state statute;
24 (c) disclose trade secrets or commercial or financial information that is privileged or confidential;
25 (d) involve accusing a person of a crime or formally censuring a person;
26 (e) disclose information of a personal nature when disclosure would constitute a clearly
27 unwarranted invasion of personal privacy;
28 (f) disclose investigative records compiled for law enforcement purposes; or

(g) specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

(8) For a meeting or portion of a meeting closed pursuant to this provision, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting, and shall provide a full and accurate summary of actions taken and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

(9) The Interstate Commission shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection, and data exchange and reporting requirements. The methods of data collection, exchange, and reporting must, in so far as is reasonably possible, conform to current technology, and the Interstate Commission shall coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.

(10) The Interstate Commission shall create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section may not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission may:

- (1) provide for dispute resolution among member states;
- (2) adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;

- 1 (3) issue, upon request of a member state, advisory opinions concerning the meaning or
2 interpretation of the interstate compact and its bylaws, rules, and actions;
- 3 (4) monitor compliance with the compact provisions, the rules adopted by the commission, and the
4 bylaws;
- 5 (5) establish and maintain offices, which must be located within one or more of the member states;
- 6 (6) purchase and maintain insurance and bonds;
- 7 (7) borrow, accept, hire, or contract for services of personnel;
- 8 (8) establish and appoint committees, including but not limited to an executive committee as
9 required by subsection (5) of Article IX of this compact, which has the power to act on behalf of the Interstate
10 Commission in carrying out its powers and duties under this compact;
- 11 (9) elect or appoint officers, attorneys, employees, agents, or consultants, fix their compensation,
12 define their duties, and determine their qualifications, and establish the Interstate Commission's personnel
13 policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
- 14 (10) accept any and all donations and grants of money, equipment, supplies, materials, and
15 services and receive, utilize, and dispose of it;
- 16 (11) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use
17 any property, whether real, personal, or mixed;
- 18 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
19 property, whether real, personal, or mixed;
- 20 (13) establish a budget and make expenditures;
- 21 (14) adopt a seal and bylaws governing the management and operation of the Interstate
22 Commission;
- 23 (15) report annually to the legislatures, governors, judiciary, and state councils of the member states
24 concerning the activities of the Interstate Commission during the preceding year. The reports must also include
25 any recommendations that may have been adopted by the Interstate Commission.
- 26 (16) coordinate education, training, and public awareness regarding the compact and its
27 implementation and operation for officials and parents involved in such activity;
- 28 (17) establish uniform standards for the reporting, collecting, and exchanging of data;

1 (18) maintain corporate books and records in accordance with the bylaws;

2 (19) perform functions that may be necessary or appropriate to achieve the purposes of this
3 compact;

4 (20) provide for the uniform collection and sharing of information between and among member
5 states, schools, and military families under this compact.

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

8 (1) The Interstate Commission shall, by a majority of the members present and voting, within 12
9 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary
10 or appropriate to carry out the purposes of the compact, including but not limited to:

11 (a) establishing the fiscal year of the Interstate Commission;

12 (b) establishing an executive committee and other committees as may be necessary;

13 (c) providing for the establishment of committees and for governing any general or specific
14 delegation of authority or function of the Interstate Commission;

15 (d) providing reasonable procedures for calling and conducting meetings of the Interstate
16 Commission and ensuring reasonable notice of each meeting;

17 (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

18 (f) providing a mechanism for concluding the operations of the Interstate Commission and the
19 return of surplus funds that may exist upon the termination of the compact after the payment and reserving of
20 all of its debts and obligations;

21 (g) providing startup rules for initial administration of the compact.

(2) The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom has authority and duties as specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers shall serve without compensation or remuneration from the Interstate Commission. However, subject to the availability of budgeted funds, the officers must be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

1 (3) The executive committee has authority and duties as set forth in the bylaws, including but not
2 limited to:

3 (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and
4 purposes of the Interstate Commission;

5 (b) overseeing an organizational structure and appropriate procedures for the Interstate
6 Commission to provide for the creation of rules, operating procedures, and administrative and technical support
7 functions; and

8 (c) planning, implementing, and coordinating communications and activities with other state,
9 federal, and local government organizations in order to advance the goals of the Interstate Commission.

10 (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or
11 retain an executive director for a period, upon terms and conditions, and for compensation as the Interstate
12 Commission considers appropriate. The executive director shall serve as secretary to the Interstate
13 Commission, but may not be a member of the Interstate Commission. The executive director shall hire and
14 supervise other persons as authorized by the Interstate Commission.

15 (5) The Interstate Commission's executive director and its employees are immune from suit and
16 liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal
17 injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that
18 occurred or that the person had a reasonable basis for believing occurred within the scope of Interstate
19 Commission employment, duties, or responsibilities. However, that person is not protected from suit or liability
20 for damage, loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

21 (6) The liability of the Interstate Commission's executive director and employees or Interstate
22 Commission representatives, acting within the scope of their employment or duties for acts, errors, or omissions
23 occurring within their state, may not exceed the limits of liability set forth under the constitution and laws of that
24 state for state officials, employees, and agents. The Interstate Commission is considered to be an
25 instrumentality of the states for the purposes of any such action. Nothing in this subsection may be construed to
26 protect a person from suit or liability for damage, loss, injury, or liability caused by the person's intentional or
27 willful and wanton misconduct.

28 (7) The Interstate Commission shall defend the executive director and its employees and, subject

1 to the approval of the attorney general or other appropriate legal counsel of the member state represented by
2 an Interstate Commission representative, shall defend the Interstate Commission representative in any civil
3 action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within
4 the scope of Interstate Commission employment, duties, or responsibilities or that the defendant had a
5 reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or
6 responsibilities if the actual or alleged act, error, or omission did not result from intentional or willful and wanton
7 misconduct on the part of the person.

8 (8) To the extent not covered by the state involved, the member state, the Interstate Commission,
9 or the representatives or employees of the Interstate Commission must be held harmless in the amount of a
10 settlement or judgment, including attorney fees and costs, obtained against those persons arising out of an
11 actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment,
12 duties, or responsibilities or that the persons had a reasonable basis for believing occurred within the scope of
13 Interstate Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did
14 not result from intentional or willful and wanton misconduct on the part of the persons.

15 ARTICLE XII

16 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

17 (1) The Interstate Commission shall promulgate reasonable rules in order to effectively and
18 efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate
19 Commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this
20 compact or the powers granted under the compact, then such an action by the Interstate Commission is invalid
21 and has no force or effect.

22 (2) Rules must be made pursuant to a rulemaking process that substantially conforms to the Model
23 State Administrative Procedure Act revised as of 2012 as may be appropriate to the operations of the Interstate
24 Commission.

25 (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial
26 review of the rule. However, the filing of a petition does not stay or otherwise prevent the rule from becoming
27 effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give
28 deference to the actions of the Interstate Commission consistent with applicable law and may not find the rule

1 to be unlawful if the rule represents a reasonable exercise of the Interstate Commission's authority.

2 (4) If a majority of the legislatures of the member states rejects a rule by enactment of a statute or
3 resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any
4 member state.

5 ARTICLE XIII

6 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

7 (1) Each member state shall enforce this compact to effectuate the compact's purposes and intent.

8 (2) All courts shall take judicial notice of the compact and the rules in any judicial or administrative
9 proceeding in a member state pertaining to the subject matter of this compact that may affect the powers,
10 responsibilities, or actions of the Interstate Commission.

11 (3) The Interstate Commission is entitled to receive all service of process in any such proceeding
12 and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the
13 Interstate Commission renders a judgment or order void as to the Interstate Commission, this compact, or
14 promulgated rules.

15 (4) The purpose of this compact is not to supersede the sovereignty of any member state but
16 instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal
17 intervention. No provision of the interstate compact may be construed as a waiver of a state's sovereignty.

18 (5) If the Interstate Commission determines that a member state has defaulted in the performance
19 of its obligations or responsibilities under this compact or the bylaws or promulgated rules, the Interstate
20 Commission shall:

21 (a) provide written notice to the defaulting state and other member states of the nature of the
22 default, the means of curing the default, and any action taken by the Interstate Commission. The Interstate
23 Commission shall specify the conditions by which the defaulting state is required to cure its default.

24 (b) provide remedial training and specific technical assistance regarding the default.

25 (6) If the defaulting state fails to cure the default, the defaulting state must be terminated from the
26 compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits
27 conferred by this compact must be terminated from the effective date of termination. A cure of the default does
28 not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in

1 the event of a default by this state, its total financial responsibility is limited to the amount of its most recent
2 annual assessment.

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

7 (8) The state that has been suspended or terminated is responsible for all assessments,
8 obligations, and liabilities incurred through the effective date of suspension or termination up to a maximum
9 amount of \$5,000 multiplied by the number of years that the state has been a member of the compact. In the
10 event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its
11 most recent annual assessment.

12 (9) The Interstate Commission may not bear any costs relating to any state that has been found to
13 be in default or that has been suspended or terminated from the compact unless otherwise mutually agreed
14 upon in writing between the Interstate Commission and the defaulting state.

15 (10) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S.
16 district court for the District of Columbia or the federal district where the Interstate Commission has its principal
17 offices. The prevailing party must be awarded all costs of litigation, including reasonable attorney fees.

18 (11) The Interstate Commission shall attempt, upon the request of a member state, to resolve
19 disputes that are subject to the compact and that may arise among member states and between member and
20 nonmember states.

21 (12) The Interstate Commission shall promulgate a rule providing for both mediation and binding
22 dispute resolution for disputes as appropriate.

23 ARTICLE XIV

24 FINANCING OF THE INTERSTATE COMMISSION

25 (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of
26 its establishment, organization, and ongoing activities.

27 (2) The Interstate Commission may levy on and collect an annual assessment from each member
28 state to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be

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

5 (3) The annual assessment applicable to this state may not exceed an amount equal to ~~\$2 the per-~~
6 student amount determined by the Interstate Commission multiplied by the latest available number of children
7 of military families in this state.

8 (4) This state may not be held liable for the payment of any special assessment or other
9 assessment other than the annual assessment in the amount established by subsection (3).

10 (5) The Interstate Commission may not incur obligations of any kind prior to securing the funds
11 adequate to meet those obligations, and the Interstate Commission may not pledge the credit of any of the
12 member states except by and with the authority of the member state.

13 (6) The Interstate Commission shall keep accurate accounts of all receipts and disbursements.
14 The receipts and disbursements of the Interstate Commission are subject to the audit and accounting
15 procedures established under its bylaws. However, all receipts and disbursements of funds handled by the
16 Interstate Commission must be audited yearly by a certified or licensed public accountant, and the report of the
17 audit must be included in and become part of the annual report of the Interstate Commission.

18 (7) All expenditures for the state, including withdrawal or dissolution costs, or both, ~~may not~~
19 exceed an amount of \$5,000 annually will be determined by the Interstate Commission.

20 ARTICLE XV

21 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

22 (1) Any state is eligible to become a member state, except that in the case of this state, withdrawal
23 from the compact may also be accomplished by statutorily allowing for expiration of this section.

24 (2) Withdrawal from the compact must be by the enactment of a statute repealing the compact,
25 except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing
26 for the expiration of this section.

27 (3) The Interstate Commission may propose amendments to the compact for enactment by the
28 member states. An amendment may not become effective and binding upon the Interstate Commission and the

1 member states unless it is enacted into law by unanimous consent of the member states.

2 ARTICLE XVI

3 WITHDRAWAL AND DISSOLUTION

4 (1) Once effective, the compact continues in force and remains binding upon each and every
5 member state. However, a member state may withdraw from the compact by specifically repealing the statute
6 that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also
7 be accomplished by statutorily allowing for expiration of this section.

8 (2) Withdrawal from this compact must be by the enactment of legislation repealing the compact
9 except in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing
10 for the expiration of this section.

11 (3) The withdrawing state shall immediately notify the chairperson of the Interstate Commission in
12 writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this
13 state elects to withdraw from the compact by statutorily allowing for the expiration of this section, this state shall
14 notify the chairperson of the commission when it becomes evident that the expiration will take effect. The
15 Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within
16 60 days of its receipt of the notice.

17 (4) The withdrawing state is responsible for all assessments, obligations, and liabilities incurred
18 through the effective date of withdrawal up to a maximum amount equal to \$2 multiplied by the latest available
19 number of children of military families in this state.

20 (5) Reinstatement following withdrawal of a member state may occur upon the withdrawing state
21 reenacting the compact or upon a later date as determined by the Interstate Commission.

22 (6) (a) This compact dissolves on the date of the withdrawal or default of the member state that
23 reduces the membership in the compact to one member state.

24 (b) Upon the dissolution of this compact, the compact becomes null and void and is of no further
25 force or effect and the business and affairs of the Interstate Commission must be concluded and surplus funds
26 must be distributed in accordance with the bylaws.

27 ARTICLE XVII

28 SEVERABILITY AND CONSTRUCTION

(1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions of the compact are enforceable.

(2) The provisions of this compact must be liberally construed to effectuate its purposes.

(3) Nothing in this compact may be construed to prohibit the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

(1) Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.

(2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the Interstate Commission, are binding upon the member states.

(3) All agreements between the Interstate Commission and the member states are binding in accordance with their terms.

(4) In the event that any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

ARTICLE XIX

STATE COUNCIL - CREATION

The state council on educational opportunity for military children must be created and consist of:

(1) the following voting members:

(a) the superintendent of public instruction, who shall serve as the chairperson;

(b) the superintendent of a school district that includes a high concentration of military children, appointed by the governor;

(c) a representative of a military installation, appointed by the governor;

(d) a legislator, appointed by the senate president;

(e) a representative of the executive branch of government, appointed by the governor; and

(f) any other individuals recommended by a majority of the members of the state council listed in

1 subsections (1)(a) through (1)(e); and

2 (2) the following nonvoting members:

3 (a) the compact commissioner appointed under Article XX; and

4 (b) the military family education liaison, appointed under Article XXI.

5 ARTICLE XX

6 COMPACT COMMISSIONER - APPOINTMENT AND DUTIES

7 The governor shall appoint a compact commissioner who is responsible for the administration and
8 management of the state's participation in the compact on educational opportunity for military children.

9 ARTICLE XXI

10 MILITARY FAMILY EDUCATION LIAISON - APPOINTMENT AND DUTIES

11 The state council shall appoint a military family education liaison to assist military families and the state
12 in facilitating the implementation of the compact on educational opportunity for military children.

13 ARTICLE XXII

14 PROVISION OF FUNDING - ADJUTANT GENERAL

15 Each state's equivalent of a department of military affairs under the adjutant general shall pay all
16 expenses incurred by the state to participate in the compact on educational opportunity for military children,
17 including the reimbursement of actual and necessary expenses incurred by members of the state council."

18

19 NEW SECTION. **Section 2. Effective date.** [This act] is effective on passage and approval.

20 - END -