

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

**LEGISLATIVE BILL 73**

Introduced by Cornett, 45; Avery, 28; Karpisek, 32.

Read first time January 8, 2009

Committee: Education

A BILL

1 FOR AN ACT relating to education; to ratify the Interstate Compact  
2 on Educational Opportunity for Military Children on  
3 behalf of the State of Nebraska with any other state  
4 legally joining thereon; to create the State Council on  
5 Educational Opportunity for Military Children and the  
6 positions of compact commissioner and military family  
7 education liaison within the Department of Veterans'  
8 Affairs as prescribed.  
9 Be it enacted by the people of the State of Nebraska,

1           Section 1. The Interstate Compact on Educational  
 2 Opportunity for Military Children is hereby enacted into law and  
 3 entered into with all other jurisdictions legally joining therein  
 4 in the form substantially as follows:

5           Interstate Compact on Educational  
 6 Opportunity for Military Children

7           ARTICLE I

8           PURPOSE

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

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

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

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

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

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

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

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

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

11           ARTICLE II

12           DEFINITIONS

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

15           A. "Active duty" means full-time duty status in the  
16 active uniformed service of the United States, including members of  
17 the National Guard and Reserve on active duty orders pursuant to 10  
18 U.S.C. 1209 and 1211.

19           B. "Children of military families" means school-aged  
20 children, enrolled in kindergarten through twelfth grade, in the  
21 household of an active duty member.

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

25           D. "Deployment" means the period one month prior to the

1 service members' departure from their home station on military  
2 orders through six months after return to their home station.

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

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

19 G. "Interstate Commission on Educational Opportunity for  
20 Military Children" means the commission that is created under  
21 Article IX of this compact, which is generally referred to as  
22 Interstate Commission.

23 H. "Local education agency" means a public authority  
24 legally constituted by the state as an administrative agency to  
25 provide control of and direction for kindergarten through twelfth

1 grade public educational institutions.

2 I. "Member state" means a state that has enacted this  
3 compact.

4 J. "Military installation" means a base, camp, post,  
5 station, yard, center, homeport facility for any ship, or other  
6 activity under the jurisdiction of the United States Department of  
7 Defense, including any leased facility, which is located within any  
8 of the several states, the District of Columbia, the Commonwealth  
9 of Puerto Rico, the United States Virgin Islands, Guam, American  
10 Samoa, the Northern Mariana Islands, and any other United States  
11 territory. Such term does not include any facility used primarily  
12 for civil works, rivers and harbors projects, or flood control  
13 projects.

14 K. "Non-member state" means a state that has not enacted  
15 this compact.

16 L. "Receiving state" means the state to which a child  
17 of a military family is sent, brought, or caused to be sent or  
18 brought.

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

1 rule.

2 N. "Sending state" means the state from which a child  
3 of a military family is sent, brought, or caused to be sent or  
4 brought.

5 O. "State" means a state of the United States, the  
6 District of Columbia, the Commonwealth of Puerto Rico, the United  
7 States Virgin Islands, Guam, American Samoa, the Northern Mariana  
8 Islands, and any other United States territory.

9 P. "Student" means the child of a military family for  
10 whom the local education agency receives public funding and who is  
11 formally enrolled in kindergarten through twelfth grade.

12 Q. "Transition" means 1) the formal and physical process  
13 of transferring from school to school or 2) the period of time  
14 in which a student moves from one school in the sending state to  
15 another school in the receiving state.

16 R. "Uniformed services" means the Army, Navy, Air Force,  
17 Marine Corps, Coast Guard as well as the Commissioned Corps of the  
18 National Oceanic and Atmospheric Administration, and Public Health  
19 Services.

20 S. "Veteran" means a person who served in the uniformed  
21 services and who was discharged or released therefrom under  
22 conditions other than dishonorable.

23 ARTICLE III

24 APPLICABILITY

25 A. Except as otherwise provided in Section B, this

1 compact shall apply to the children of:

2 1. active duty members of the uniformed services as  
3 defined in this compact, including members of the National Guard  
4 and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and  
5 1211;

6 2. members or veterans of the uniformed services who are  
7 severely injured and medically discharged or retired for a period  
8 of one year after medical discharge or retirement; and

9 3. members of the uniformed services who die on active  
10 duty or as a result of injuries sustained on active duty for a  
11 period of one year after death.

12 B. The provisions of this interstate compact shall only  
13 apply to local education agencies as defined in this compact.

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

16 1. inactive members of the national guard and military  
17 reserves;

18 2. members of the uniformed services now retired, except  
19 as provided in Section A;

20 3. veterans of the uniformed services, except as provided  
21 in Section A; and

22 4. other United States Department of Defense personnel  
23 and other federal agency civilian and contract employees not  
24 defined as active duty members of the uniformed services.

25 ARTICLE IV

1                   EDUCATIONAL RECORDS AND ENROLLMENT

2                   A. Unofficial or "hand-carried" education records -- In  
3 the event that official education records cannot be released to  
4 the parents for the purpose of transfer, the custodian of the  
5 records in the sending state shall prepare and furnish to the  
6 parent a complete set of unofficial educational records containing  
7 uniform information as determined by the Interstate Commission.  
8 Upon receipt of the unofficial education records by a school in the  
9 receiving state, the school shall enroll and appropriately place  
10 the student based on the information provided in the unofficial  
11 records pending validation by the official records, as quickly as  
12 possible.

13                  B. Official education records and transcripts --  
14 Simultaneous with the enrollment and conditional placement of the  
15 student, the school in the receiving state shall request the  
16 student's official education record from the school in the sending  
17 state. Upon receipt of this request, the school in the sending  
18 state will process and furnish the official education records to  
19 the school in the receiving state within ten days or within such  
20 time as is reasonably determined under the rules promulgated by the  
21 Interstate Commission.

22                  C. Immunizations -- Compacting states shall give thirty  
23 days from the date of enrollment or within such time as is  
24 reasonably determined under the rules promulgated by the Interstate  
25 Commission, for students to obtain any immunizations required



1 by the receiving state. For a series of immunizations, initial  
2 vaccinations must be obtained within thirty days or within such  
3 time as is reasonably determined under the rules promulgated by the  
4 Interstate Commission.

5 D. Kindergarten and first grade entrance age -- Students  
6 shall be allowed to continue their enrollment at grade level in  
7 the receiving state commensurate with their grade level (including  
8 kindergarten) from a local education agency in the sending state  
9 at the time of transition, regardless of age. A student that  
10 has satisfactorily completed the prerequisite grade level in the  
11 local education agency in the sending state shall be eligible for  
12 enrollment in the next highest grade level in the receiving state,  
13 regardless of age. A student transferring after the start of the  
14 school year in the receiving state shall enter the school in the  
15 receiving state on their validated level from an accredited school  
16 in the sending state.

17 ARTICLE V

18 PLACEMENT AND ATTENDANCE

19 A. Course placement -- When the student transfers before  
20 or during the school year, the receiving state school shall  
21 initially honor placement of the student in educational courses  
22 based on the student's enrollment in the sending state school or  
23 educational assessments conducted at the school in the sending  
24 state if the courses are offered. Course placement includes, but  
25 is not limited to, Honors, International Baccalaureate, Advanced

1 Placement, vocational, technical, and career pathways courses.  
2 Continuing the student's academic program from the previous school  
3 and promoting placement in academically and career challenging  
4 courses should be paramount when considering placement. This does  
5 not preclude the school in the receiving state from performing  
6 subsequent evaluations to ensure appropriate placement and  
7 continued enrollment of the student in the courses.

8 B. Educational program placement -- The receiving  
9 state school shall initially honor placement of the student in  
10 educational programs based on current educational assessments  
11 conducted at the school in the sending state or participation or  
12 placement in like programs in the sending state. Such programs  
13 include, but are not limited to: 1) gifted and talented programs;  
14 and 2) English as a second language. This does not preclude  
15 the school in the receiving state from performing subsequent  
16 evaluations to ensure appropriate placement of the student.

17 C. Special education services -- 1) In compliance with  
18 the federal requirements of the Individuals with Disabilities  
19 Education Act, 20 U.S.C. 1400 et seq., the receiving state  
20 shall initially provide comparable services to a student with  
21 disabilities based on his or her current Individualized Education  
22 Program; and 2) In compliance with the requirements of Section  
23 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title  
24 II of the Americans with Disabilities Act, 42 U.S.C. 12131 to  
25 12165, the receiving state shall make reasonable accommodations

1 and modifications to address the needs of incoming students with  
2 disabilities, subject to an existing 504 or Title II Plan, to  
3 provide the student with equal access to education. This does  
4 not preclude the school in the receiving state from performing  
5 subsequent evaluations to ensure appropriate placement of the  
6 student.

7 D. Placement flexibility -- Local education agency  
8 administrative officials shall have flexibility in waiving course  
9 or program prerequisites, or other preconditions for placement in  
10 courses or programs offered under the jurisdiction of the local  
11 education agency.

12 E. Absence as related to deployment activities -- A  
13 student whose parent or legal guardian is an active duty member of  
14 the uniformed services, as defined by the compact, and has been  
15 called to duty for, is on leave from, or immediately returned from  
16 deployment to a combat zone or combat support posting, shall be  
17 granted additional excused absences at the discretion of the local  
18 education agency superintendent to visit with his or her parent or  
19 legal guardian relative to such leave or deployment of the parent  
20 or guardian.

21 ARTICLE VI

22 ELIGIBILITY

23 A. Eligibility for enrollment

24 1. Special power of attorney, relative to the  
25 guardianship of a child of a military family and executed under

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

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

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

13 B. Eligibility for extracurricular participation -- State  
14 and local education agencies shall facilitate the opportunity  
15 for transitioning military children's inclusion in extracurricular  
16 activities, regardless of application deadlines, to the extent they  
17 are otherwise qualified.

18 ARTICLE VII

19 GRADUATION

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

23 A. Waiver requirements -- Local education agency  
24 administrative officials shall waive specific courses required for  
25 graduation if similar course work has been satisfactorily completed

1 in another local education agency or shall provide reasonable  
2 justification for denial. Should a waiver not be granted to a  
3 student who would qualify to graduate from the sending school,  
4 the local education agency shall provide an alternative means of  
5 acquiring required coursework so that graduation may occur on time.

6 B. Exit exams -- States shall accept: 1) exit or  
7 end-of-course exams required for graduation from the sending state;  
8 2) national norm-referenced achievement tests; or 3) alternative  
9 testing, in lieu of testing requirements for graduation in the  
10 receiving state. In the event the above alternatives cannot be  
11 accommodated by the receiving state for a student transferring in  
12 his or her Senior year, then the provisions of Article VII, Section  
13 C shall apply.

14 C. Transfers during Senior year -- Should a military  
15 student transferring at the beginning or during his or her senior  
16 year be ineligible to graduate from the receiving local education  
17 agency after all alternatives have been considered, the sending and  
18 receiving local education agencies shall ensure the receipt of a  
19 diploma from the sending local education agency, if the student  
20 meets the graduation requirements of the sending local education  
21 agency. In the event that one of the states in question is not a  
22 member of this compact, the member state shall use best efforts to  
23 facilitate the on-time graduation of the student in accordance with  
24 Sections A and B of this Article.

25 ARTICLE VIII

1           STATE COORDINATION

2           A. Each member state shall, through the creation of  
3 a state council or use of an existing body or board, provide  
4 for the coordination among its agencies of government, local  
5 education agencies and military installations concerning the  
6 state's participation in, and compliance with, this compact and  
7 Interstate Commission activities. While each member state may  
8 determine the membership of its own State Council, its membership  
9 must include at least: the state superintendent of education,  
10 superintendent of a school district with a high concentration of  
11 military children, representative from a military installation, one  
12 representative each from the legislative and executive branches  
13 of government, and other offices and stakeholder groups the state  
14 council deems appropriate. A member state that does not have a  
15 school district deemed to contain a high concentration of military  
16 children may appoint a superintendent from another school district  
17 to represent local education agencies on the state council.

18           B. The state council of each member state shall appoint  
19 or designate a military family education liaison to assist military  
20 families and the state in facilitating the implementation of this  
21 compact.

22           C. The compact commissioner responsible for the  
23 administration and management of the state's participation in  
24 the compact shall be appointed by the Governor or as otherwise  
25 determined by each member state.

1           D. The compact commissioner and the military family  
2 education liaison designated herein shall be ex-officio members of  
3 the state council, unless either is already a full voting member of  
4 the state council.

5           ARTICLE IX

6           INTERSTATE COMMISSION ON EDUCATIONAL

7           OPPORTUNITY FOR MILITARY CHILDREN

8           The member states hereby create the "Interstate  
9 Commission on Educational Opportunity for Military Children." The  
10 activities of the Interstate Commission are the formation of public  
11 policy and are a discretionary state function. The Interstate  
12 Commission shall:

13           A. Be a body corporate and joint agency of the member  
14 states and shall have all the responsibilities, powers, and duties  
15 set forth herein, and such additional powers as may be conferred  
16 upon it by a subsequent concurrent action of the respective  
17 legislatures of the member states in accordance with the terms of  
18 this compact.

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

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

24           2. A majority of the total member states shall constitute  
25 a quorum for the transaction of business, unless a larger quorum is

1 required by the bylaws of the Interstate Commission.

2 3. A representative shall not delegate a vote to another  
3 member state. In the event the compact commissioner is unable to  
4 attend a meeting of the Interstate Commission, the Governor or  
5 state council may delegate voting authority to another person from  
6 their state for a specified meeting.

7 4. The bylaws may provide for meetings of the Interstate  
8 Commission to be conducted by telecommunication or electronic  
9 communication.

10 C. Consist of ex officio, nonvoting representatives  
11 who are members of interested organizations. Such ex officio  
12 members, as defined in the bylaws, may include, but not be  
13 limited to, members of the representative organizations of military  
14 family advocates, local education agency officials, parent and  
15 teacher groups, the United States Department of Defense, the  
16 Education Commission of the States, the Interstate Agreement on  
17 the Qualification of Educational Personnel, and other interstate  
18 compacts affecting the education of children of military members.

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

22 E. Establish an executive committee, whose members shall  
23 include the officers of the Interstate Commission and such other  
24 members of the Interstate Commission as determined by the bylaws.  
25 Members of the executive committee shall serve a one-year term.



1 Members of the executive committee shall be entitled to one vote  
2 each. The executive committee shall have the power to act on behalf  
3 of the Interstate Commission, with the exception of rulemaking,  
4 during periods when the Interstate Commission is not in session.  
5 The executive committee shall oversee the day-to-day activities  
6 of the administration of the compact including enforcement and  
7 compliance with the provisions of the compact, its bylaws and  
8 rules, and other such duties as deemed necessary. The United States  
9 Department of Defense, shall serve as an ex officio, nonvoting  
10 member of the executive committee.

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

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

23 1. Relate solely to the Interstate Commission's internal  
24 personnel practices and procedures;

25 2. Disclose matters specifically exempted from disclosure

1 by federal and state statute;

2 3. Disclose trade secrets or commercial or financial  
3 information which is privileged or confidential;

4 4. Involve accusing a person of a crime, or formally  
5 censuring a person;

6 5. Disclose information of a personal nature where  
7 disclosure would constitute a clearly unwarranted invasion of  
8 personal privacy;

9 6. Disclose investigative records compiled for law  
10 enforcement purposes; or

11 7. Specifically relate to the Interstate Commission's  
12 participation in a civil action or other legal proceeding.

13 H. Shall cause its legal counsel or designee to certify  
14 that a meeting may be closed and shall reference each relevant  
15 exemptible provision for any meeting, or portion of a meeting,  
16 which is closed pursuant to this provision. The Interstate  
17 Commission shall keep minutes which shall fully and clearly  
18 describe all matters discussed in a meeting and shall provide  
19 a full and accurate summary of actions taken, and the reasons  
20 therefore, including a description of the views expressed and the  
21 record of a roll call vote. All documents considered in connection  
22 with an action shall be identified in such minutes. All minutes and  
23 documents of a closed meeting shall remain under seal, subject to  
24 release by a majority vote of the Interstate Commission.

25 I. Shall collect standardized data concerning the

1 educational transition of the children of military families under  
2 this compact as directed through its rules which shall specify the  
3 data to be collected, the means of collection, and data exchange  
4 and reporting requirements. Such methods of data collection,  
5 exchange, and reporting shall, in so far as is reasonably possible,  
6 conform to current technology and coordinate its information  
7 functions with the appropriate custodian of records as identified  
8 in the bylaws and rules.

9 J. Shall create a process that permits military  
10 officials, education officials, and parents to inform the  
11 Interstate Commission if and when there are alleged violations of  
12 the compact or its rules or when issues subject to the jurisdiction  
13 of the compact or its rules are not addressed by the state or local  
14 education agency. This section shall not be construed to create a  
15 private right of action against the Interstate Commission or any  
16 member state.

17 ARTICLE X

18 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

19 The Interstate Commission shall have the following  
20 powers:

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

22 B. To promulgate rules and take all necessary actions to  
23 effect the goals, purposes, and obligations as enumerated in this  
24 compact. The rules shall have the force and effect of statutory law  
25 and shall be binding in the compact states to the extent and in the

1 manner provided in this compact.

2 C. To issue, upon request of a member state, advisory  
3 opinions concerning the meaning or interpretation of the interstate  
4 compact, its bylaws, rules, and actions.

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

9 E. To establish and maintain offices which shall be  
10 located within one or more of the member states.

11 F. To purchase and maintain insurance and bonds.

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

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

19 I. To elect or appoint such officers, attorneys,  
20 employees, agents, or consultants, and to fix their compensation,  
21 define their duties, and determine their qualifications; and  
22 to establish the Interstate Commission's personnel policies and  
23 programs relating to conflicts of interest, rates of compensation,  
24 and qualifications of personnel.

25 J. To accept any and all donations and grants of money,

1 equipment, supplies, materials, and services, and to receive,  
2 utilize, and dispose of it.

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

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

9 M. To establish a budget and make expenditures.

10 N. To adopt a seal and bylaws governing the management  
11 and operation of the Interstate Commission.

12 O. To report annually to the legislatures, governors,  
13 judiciary, and state councils of the member states concerning the  
14 activities of the Interstate Commission during the preceding year.  
15 Such reports shall also include any recommendations that may have  
16 been adopted by the Interstate Commission.

17 P. To coordinate education, training, and public  
18 awareness regarding the compact, its implementation, and operation  
19 for officials and parents involved in such activity.

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

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

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

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

4           ARTICLE XI

5           ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

11           1. Establishing the fiscal year of the Interstate  
12 Commission;

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

15           3. Providing for the establishment of committees and  
16 for governing any general or specific delegation of authority or  
17 function of the Interstate Commission;

18           4. Providing reasonable procedures for calling and  
19 conducting meetings of the Interstate Commission and ensuring  
20 reasonable notice of each such meeting;

21           5. Establishing the titles and responsibilities of the  
22 officers and staff of the Interstate Commission;

23           6. Providing a mechanism for concluding the operations of  
24 the Interstate Commission and the return of surplus funds that may  
25 exist upon the termination of the compact after the payment and

1 reserving of all of its debts and obligations; and

2 7. Providing "start up" rules for initial administration  
3 of the compact.

4 B. The Interstate Commission shall, by a majority of  
5 the members, elect annually from among its members a chairperson,  
6 a vice-chairperson, and a treasurer, each of whom shall have  
7 such authority and duties as may be specified in the bylaws.  
8 The chairperson or, in the chairpersons's absence or disability,  
9 the vice-chairperson, shall preside at all meetings of the  
10 Interstate Commission. The officers so elected shall serve without  
11 compensation or remuneration from the Interstate Commission;  
12 provided that, subject to the availability of budgeted funds,  
13 the officers shall be reimbursed for ordinary and necessary  
14 costs and expenses incurred by them in the performance of their  
15 responsibilities as officers of the Interstate Commission.

16 C. Executive Committee, Officers, and Personnel

17 1. The executive committee shall have such authority and  
18 duties as may be set forth in the bylaws, including, but not  
19 limited to:

20 a. Managing the affairs of the Interstate Commission in  
21 a manner consistent with the bylaws and purposes of the Interstate  
22 Commission;

23 b. Overseeing an organizational structure within, and  
24 appropriate procedures for the Interstate Commission to provide for  
25 the creation of rules, operating procedures, and administrative and

1 technical support functions; and

2 c. Planning, implementing, and coordinating  
3 communications and activities with other state, federal, and local  
4 government organizations in order to advance the goals of the  
5 Interstate Commission.

6 3. The executive committee may, subject to the approval  
7 of the Interstate Commission, appoint or retain an executive  
8 director for such period, upon such terms and conditions and  
9 for such compensation, as the Interstate Commission may deem  
10 appropriate. The executive director shall serve as secretary to the  
11 Interstate Commission, but shall not be a Member of the Interstate  
12 Commission. The executive director shall hire and supervise such  
13 other persons as may be authorized by the Interstate Commission.

14 D. The Interstate Commission's executive director and  
15 its employees shall be immune from suit and liability, either  
16 personally or in their official capacity, for a claim for damage  
17 to or loss of property or personal injury or other civil liability  
18 caused or arising out of or relating to an actual or alleged  
19 acts, error, or omission that occurred, or that such person  
20 had a reasonable basis for believing occurred, within the scope  
21 of Interstate Commission employment, duties, or responsibilities;  
22 provided, that such person shall not be protected from suit or  
23 liability for damage, loss, injury, or liability caused by the  
24 intentional or willful and wanton misconduct of such person.

25 1. The liability of the Interstate Commission's executive



1 director and employees or Interstate Commission representatives,  
2 acting within the scope of such person's employment or duties for  
3 acts, errors, or omissions occurring within such person's state may  
4 not exceed the limits of liability set forth under the Constitution  
5 and laws of that state for state officials, employees, and agents.  
6 The Interstate Commission is considered to be an instrumentality of  
7 the states for the purposes of any such action. Nothing in this  
8 subsection shall be construed to protect such person from suit  
9 or liability for damage, loss, injury, or liability caused by the  
10 intentional or willful and wanton misconduct of such person.

11 2. The Interstate Commission shall defend the executive  
12 director and its employees and, subject to the approval of the  
13 Attorney General or other appropriate legal counsel of the member  
14 state represented by an Interstate Commission representative, shall  
15 defend such Interstate Commission representative in any civil  
16 action seeking to impose liability arising out of an actual or  
17 alleged act, error, or omission that occurred within the scope of  
18 Interstate Commission employment, duties or responsibilities, or  
19 that the defendant had a reasonable basis for believing occurred  
20 within the scope of Interstate Commission employment, duties, or  
21 responsibilities, provided that the actual or alleged act, error,  
22 or omission did not result from intentional or willful and wanton  
23 misconduct on the part of such person.

24 3. To the extent not covered by the state involved,  
25 member state, or the Interstate Commission, the representatives or

1 employees of the Interstate Commission shall be held harmless in  
2 the amount of a settlement or judgment, including attorney's fees  
3 and costs, obtained against such persons arising out of an actual  
4 or alleged act, error, or omission that occurred within the scope  
5 of Interstate Commission employment, duties, or responsibilities,  
6 or that such persons had a reasonable basis for believing occurred  
7 within the scope of Interstate Commission employment, duties, or  
8 responsibilities, provided that the actual or alleged act, error,  
9 or omission did not result from intentional or willful and wanton  
10 misconduct on the part of such persons.

11 ARTICLE XII

12 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

13 A. Rulemaking Authority -- The Interstate Commission  
14 shall promulgate reasonable rules in order to effectively and  
15 efficiently achieve the purposes of this Compact. Notwithstanding  
16 the foregoing, in the event the Interstate Commission exercises its  
17 rulemaking authority in a manner that is beyond the scope of the  
18 purposes of this Act, or the powers granted hereunder, then such an  
19 action by the Interstate Commission shall be invalid and have no  
20 force or effect.

21 B. Rulemaking Procedure -- Rules shall be made pursuant  
22 to a rulemaking process that substantially conforms to the  
23 "Model State Administrative Procedure Act" of 1981, Uniform Laws  
24 Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate  
25 to the operations of the Interstate Commission.

1           C. Not later than thirty days after a rule is  
2 promulgated, any person may file a petition for judicial review of  
3 the rule; provided, that the filing of such a petition shall not  
4 stay or otherwise prevent the rule from becoming effective unless  
5 the court finds that the petitioner has a substantial likelihood  
6 of success. The court shall give deference to the actions of the  
7 Interstate Commission consistent with applicable law and shall not  
8 find the rule to be unlawful if the rule represents a reasonable  
9 exercise of the Interstate Commission's authority.

10           D. If a majority of the legislatures of the compacting  
11 states rejects a Rule by enactment of a state or resolution in the  
12 same manner used to adopt the compact, then such rule shall have no  
13 further force and effect in any compacting state.

14           ARTICLE XIII

15           OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

16           A. Oversight

17           1. The executive, legislative, and judicial branches  
18 of state government in each member state shall enforce this  
19 compact and shall take all actions necessary and appropriate  
20 to effectuate the compact's purposes and intent. The provisions  
21 of this compact and the rules promulgated hereunder shall have  
22 standing as statutory law.

23           2. All courts shall take judicial notice of the compact  
24 and the rules in any judicial or administrative proceeding in  
25 a member state pertaining to the subject matter of this compact

1 which may affect the powers, responsibilities, or actions of the  
2 Interstate Commission.

3 3. The Interstate Commission shall be entitled to receive  
4 all service of process in any such proceeding, and shall have  
5 standing to intervene in the proceeding for all purposes. Failure  
6 to provide service of process to the Interstate Commission shall  
7 render a judgment or order void as to the Interstate Commission,  
8 this compact, or promulgated rules.

9 B. Default, Technical Assistance, Suspension, and  
10 Termination -- If the Interstate Commission determines that a  
11 member state has defaulted in the performance of its obligations or  
12 responsibilities under this compact, or the bylaws or promulgated  
13 rules, the Interstate Commission shall:

14 1. Provide written notice to the defaulting state and  
15 other member states, of the nature of the default, the means  
16 of curing the default, and any action taken by the Interstate  
17 Commission. The Interstate Commission shall specify the conditions  
18 by which the defaulting state must cure its default.

19 2. Provide remedial training and specific technical  
20 assistance regarding the default.

21 3. If the defaulting state fails to cure the default,  
22 the defaulting state shall be terminated from the compact upon  
23 an affirmative vote of a majority of the member states and all  
24 rights, privileges, and benefits conferred by this compact shall  
25 be terminated from the effective date of termination. A cure of

1 the default does not relieve the offending state of obligations or  
2 liabilities incurred during the period of the default.

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

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

14 6. The Interstate Commission shall not bear any costs  
15 relating to any state that has been found to be in default or which  
16 has been suspended or terminated from the compact, unless otherwise  
17 mutually agreed upon in writing between the Interstate Commission  
18 and the defaulting state.

19 7. The defaulting state may appeal the action of the  
20 Interstate Commission by petitioning the U.S. District Court  
21 for the District of Columbia or the federal district where the  
22 Interstate Commission has its principal offices. The prevailing  
23 party shall be awarded all costs of such litigation including  
24 reasonable attorney's fees.

25 C. Dispute Resolution

1           1. The Interstate Commission shall attempt, upon the  
2 request of a member state, to resolve disputes which are subject  
3 to the compact and which may arise among member states and between  
4 member and nonmember states.

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

8           D. Enforcement

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

12           2. The Interstate Commission, may by majority vote  
13 of the members, initiate legal action in the United States  
14 District Court for the District of Columbia or, at the discretion  
15 of the Interstate Commission, in the federal district where  
16 the Interstate Commission has its principal offices, to enforce  
17 compliance with the provisions of the compact, its promulgated  
18 rules and bylaws, against a member state in default. The relief  
19 sought may include both injunctive relief and damages. In the  
20 event judicial enforcement is necessary the prevailing party shall  
21 be awarded all costs of such litigation including reasonable  
22 attorney's fees.

23           3. The remedies herein shall not be the exclusive  
24 remedies of the Interstate Commission. The Interstate Commission  
25 may avail itself of any other remedies available under state law or

1 the regulation of a profession.

2 ARTICLE XIV

3 FINANCING OF THE INTERSTATE COMMISSION

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

7 B. The Interstate Commission may levy on and collect an  
8 annual assessment from each member state to cover the cost of  
9 the operations and activities of the Interstate Commission and its  
10 staff which must be in a total amount sufficient to cover the  
11 Interstate Commission's annual budget as approved each year. The  
12 aggregate annual assessment amount shall be allocated based upon a  
13 formula to be determined by the Interstate Commission, which shall  
14 promulgate a rule binding upon all member states.

15 C. The Interstate Commission shall not incur obligations  
16 of any kind prior to securing the funds adequate to meet the same;  
17 nor shall the Interstate Commission pledge the credit of any of  
18 the member states, except by and with the authority of the member  
19 state.

20 D. The Interstate Commission shall keep accurate accounts  
21 of all receipts and disbursements. The receipts and disbursements  
22 of the Interstate Commission shall be subject to the audit and  
23 accounting procedures established under its bylaws. However, all  
24 receipts and disbursements of funds handled by the Interstate  
25 Commission shall be audited yearly by a certified or licensed

1 public accountant and the report of the audit shall be included in  
2 and become part of the annual report of the Interstate Commission.

3 ARTICLE XV

4 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

6 B. The compact shall become effective and binding upon  
7 legislative enactment of the compact into law by no less than ten  
8 of the states. The effective date shall be no earlier than December  
9 1, 2007. Thereafter it shall become effective and binding as to  
10 any other member state upon enactment of the compact into law by  
11 that state. The governors of non-member states or their designees  
12 shall be invited to participate in the activities of the Interstate  
13 Commission on a nonvoting basis prior to adoption of the compact by  
14 all states.

15 C. The Interstate Commission may propose amendments to  
16 the compact for enactment by the member states. No amendment shall  
17 become effective and binding upon the Interstate Commission and the  
18 member states unless and until it is enacted into law by unanimous  
19 consent of the member states.

20 ARTICLE XVI

21 WITHDRAWAL AND DISSOLUTION

22 A. Withdrawal

23 1. Once effective, the compact shall continue in force  
24 and remain binding upon each and every member state; provided  
25 that a member state may withdraw from the compact by specifically



1 repealing the statute, which enacted the compact into law.

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

7 3. The withdrawing state shall immediately notify  
8 the chairperson of the Interstate Commission in writing upon  
9 the introduction of legislation repealing this compact in the  
10 withdrawing state. The Interstate Commission shall notify the other  
11 member states of the withdrawing state's intent to withdraw within  
12 sixty days of its receipt thereof.

13 4. The withdrawing state is responsible for all  
14 assessments, obligations and liabilities incurred through  
15 the effective date of withdrawal, including obligations, the  
16 performance of which extend beyond the effective date of  
17 withdrawal.

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

21 B. Dissolution of Compact

22 1. This compact shall dissolve effective upon the date  
23 of the withdrawal or default of the member state which reduces the  
24 membership in the compact to one member state.

25 2. Upon the dissolution of this compact, the compact

1 becomes null and void and shall be of no further force or effect,  
2 and the business and affairs of the Interstate Commission shall be  
3 concluded and surplus funds shall be distributed in accordance with  
4 the bylaws.

5 ARTICLE XVII

6 SEVERABILITY AND CONSTRUCTION

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

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

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

16 ARTICLE XVIII

17 BINDING EFFECT OF COMPACT AND OTHER LAWS

18 A. Other Laws

19 1. Nothing herein prevents the enforcement of any other  
20 law of a member state that is not inconsistent with this compact.

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

23 B. Binding Effect of the Compact

24 1. All lawful actions of the Interstate Commission,  
25 including all rules and bylaws promulgated by the Interstate

1 Commission, are binding upon the member states.

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

4 3. In the event any provision of this compact exceeds  
5 the constitutional limits imposed on the legislature of any member  
6 state, such provision shall be ineffective to the extent of the  
7 conflict with the constitutional provision in question in that  
8 member state.

9 Sec. 2. As used in the compact, with reference to this  
10 state, the term local education agency means the State Department  
11 of Education and the term state superintendent of education means  
12 the Commissioner of Education.

13 Sec. 3. (1) The State Council on Educational Opportunity  
14 for Military Children is created within the Department of Veterans'  
15 Affairs. The council shall consist of the following members:

16 (a) The Commissioner of Education;

17 (b) The superintendent of a school district that has a  
18 high concentration of children of military families, appointed by  
19 the Governor;

20 (c) A representative of a military installation located  
21 in this state, appointed by the Governor;

22 (d) The Director of Veterans' Affairs;

23 (e) The chairperson of the Education Committee of the  
24 Legislature;

25 (f) The chairperson of the Government, Military and

1 Veterans Affairs Committee of the Legislature;

2 (g) The compact commissioner appointed under section 4 of  
3 this act; and

4 (h) The military family education liaison appointed under  
5 section 5 of this act.

6 Vacancies in the council shall be filled in the manner  
7 of the initial appointments. The members of the council appointed  
8 under subdivisions (e) through (h) of this subsection shall be  
9 nonvoting, ex officio members of the council. The members of the  
10 council shall be reimbursed for their actual and necessary expenses  
11 as provided in sections 81-1174 to 81-1177.

12 (2) The council shall oversee and provide coordination  
13 for the state's participation in and compliance with the Interstate  
14 Compact on Educational Opportunity for Military Children.

15 (3) The Department of Veterans' Affairs shall provide  
16 staff support for the council.

17 (4) As used in this section, children of military  
18 families and military installation have the same meaning as in  
19 Article II of the compact.

20 Sec. 4. The Governor shall appoint a compact commissioner  
21 responsible for administering the state's participation in  
22 the Interstate Compact on Educational Opportunity for Military  
23 Children. The Department of Veterans' Affairs shall provide staff  
24 support for the commissioner.

25 Sec. 5. The State Council on Educational Opportunity for

1 Military Children shall appoint a military family education liaison  
2 to assist families and the state in implementing the Interstate  
3 Compact on Educational Opportunity for Military Children. The  
4 Department of Veterans' Affairs shall provide staff support for the  
5 liaison.