

SENATE BILL NO. 203

INTRODUCED BY E. BUTTREY

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A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; REQUIRING A REPORT; PROVIDING A FUNDING SOURCE; AND PROVIDING A TERMINATION DATE."

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

NEW SECTION. **Section 1. Enactment -- provisions.** The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into with all other jurisdictions joining in the compact in the form substantially as follows:

ARTICLE I
PURPOSE

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

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

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

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

(d) facilitating the on-time graduation of children of military families;

(e) providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact;

(f) providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact;

(g) promoting coordination between this compact and other compacts affecting military children; and

1 (h) promoting flexibility and cooperation between the educational system, parents, and the student in
2 order to achieve educational success for the student.

3 (2) The purpose of the legislation and the Interstate Compact is not to supersede the sovereignty of any
4 member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution
5 without federal intervention. No provision of the Interstate Compact may be construed as a waiver of any state's
6 sovereignty.

7 ARTICLE II

8 DEFINITIONS

9 As used in this compact, unless the context clearly requires a different construction, the following
10 definitions apply:

11 (1) "Active duty" means full-time duty status in the active uniformed service of the United States,
12 including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

13 (2) "Children of military families" means school-aged children enrolled in kindergarten through 12th
14 grade, in the household of an active duty member.

15 (3) "Compact commissioner" means the voting representative of each member state appointed pursuant
16 to Article VIII of this compact.

17 (4) "Deployment" means the period 1 month prior to the service member's departure from the service
18 member's home station on military orders though 6 months after return to the service member's home station.

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

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

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

30 (8) "Local education agency" means a public authority legally constituted by the state as an

1 administrative agency to provide control of and direction for kindergarten through 12th grade public educational
2 institutions.

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

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

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

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

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

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

17 (15) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
18 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S.
19 territory.

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

22 (17) "Transition" means:

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

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

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

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

29 ARTICLE III

30 APPLICABILITY

- 1 (1) Except as otherwise provided in subsection (3), this compact applies to the children of:
- 2 (a) active duty members of the uniformed services as defined in this compact, including members of the
- 3 national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
- 4 (b) members or veterans of the uniformed services who are severely injured and medically discharged
- 5 or retired for a period of 1 year after medical discharge or retirement; and
- 6 (c) members of the uniformed services who die on active duty or as a result of injuries sustained on
- 7 active duty for a period of 1 year after death.
- 8 (2) The provisions of this compact apply only to local education agencies as defined in this compact.
- 9 (3) The provisions of this compact do not apply to the children of:
- 10 (a) inactive members of the national guard and military reserves;
- 11 (b) members of the uniformed services now retired, except as provided in subsection (1);
- 12 (c) veterans of the uniformed services, except as provided in subsection (1); and
- 13 (d) other U.S. department of defense personnel and other federal agency civilian and contract employees
- 14 not defined as active duty members of the uniformed services.

15 ARTICLE IV

16 EDUCATIONAL RECORDS AND ENROLLMENT

- 17 (1) In the event that official education records cannot be released to the parents for the purpose of
- 18 transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set
- 19 of unofficial educational records from a local education facility, as defined by federal law, containing uniform
- 20 information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a
- 21 school in the receiving state, the school shall enroll and appropriately place the student based on the information
- 22 provided in the unofficial records, pending validation by the official records, as quickly as possible.
- 23 (2) Simultaneous with the enrollment and conditional placement of the student, the school in the
- 24 receiving state shall request the student's official education record from the school in the sending state. Upon
- 25 receipt of this request, the school in the sending state shall process and furnish the official education records to
- 26 the school in the receiving state within 10 days or within a time that is reasonably determined under the rules
- 27 promulgated by the Interstate Commission.
- 28 (3) Receiving states shall give 30 days from the date of enrollment or a time as is reasonably determined
- 29 under the rules promulgated by the Interstate Commission for students to obtain any immunizations required by
- 30 the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within

1 a time that is reasonably determined under the rules promulgated by the Interstate Commission.

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

9 ARTICLE V

10 PLACEMENT AND ATTENDANCE

11 (1) When the student transfers before or during the school year, the receiving state school shall initially
12 honor placement of the student in educational courses based on the student's enrollment in the sending state
13 school, educational assessments conducted at the school in the sending state, or both, if the courses are offered
14 and space is available. Course placement includes but is not limited to honors, international baccalaureate,
15 advanced placement, and vocational, technical, and career pathways courses. Continuing the student's academic
16 program from the previous school and promoting placement in academically and career challenging courses
17 should be paramount when considering placement. This does not preclude the school in the receiving state from
18 performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in
19 the courses.

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

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

30 (b) In compliance with the requirements of section 504 of the Rehabilitation Act of 1973, 29 U.S.C. 794,

1 and with Title II of the Americans with Disabilities Act of 1990, 42 U.S.C. 12131 through 12165, the receiving state
2 shall make reasonable accommodations and modifications to address the needs of incoming students with
3 disabilities, subject to an existing 504 or Title II plan, to provide the student with equal access to education. This
4 does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate
5 placement of the student.

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

9 (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as
10 defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from
11 deployment to a combat zone or combat support posting must be granted additional excused absences at the
12 discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative
13 to the leave or deployment of the parent or guardian.

14 ARTICLE VI

15 ELIGIBILITY

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

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

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

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

28 ARTICLE VII

29 GRADUATION

30 In order to facilitate the on-time graduation of children of military families, states and local education

1 agencies shall incorporate the following procedures:

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

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

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

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

10 (iii) alternative testing.

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

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

19 ARTICLE VIII

20 STATE COORDINATION

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

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

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

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

6 ARTICLE IX

7 INTERSTATE COMMISSION ON EDUCATIONAL

8 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

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

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

1 education of children of military members.

2 (4) The Interstate Commission shall meet at least once each calendar year. The chairperson may call
3 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 include
6 the officers of the Interstate Commission and any other members of the Interstate Commission as determined
7 by the bylaws. Members of the executive committee shall serve 1-year terms. Members of the executive
8 committee are entitled to one vote each. The executive committee has the power to act on behalf of the Interstate
9 Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.
10 The executive committee shall oversee the day-to-day activities of the administration of the compact, including
11 enforcement and compliance with the provisions of the compact and its bylaws and rules and other duties
12 considered necessary. The U.S. department of defense shall serve as an ex-officio, nonvoting member of the
13 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 the
16 public for inspection or copying. The Interstate Commission may exempt from disclosure information or official
17 records to the extent they would adversely affect personal privacy rights or proprietary interests.

18 (7) Public notice must be given by the Interstate Commission of all meetings, and all meetings must be
19 open to the public except as set forth in the rules or as otherwise provided in the compact. The Interstate
20 Commission and its committees may close a meeting or portion thereof if it determines by a two-thirds vote that
21 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 unwarranted
27 invasion of personal privacy;
- 28 (f) disclose investigative records compiled for law enforcement purposes; or
- 29 (g) specifically relate to the Interstate Commission's participation in a civil action or other legal
30 proceeding.

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

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

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

19 ARTICLE X

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

21 The Interstate Commission may:

22 (1) provide for dispute resolution among member states;

23 (2) adopt rules that have the force and effect of law and are binding in the compact states to the extent
24 and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and
25 obligations as enumerated in this compact;

26 (3) issue, upon request of a member state, advisory opinions concerning the meaning or interpretation
27 of the interstate compact and its bylaws, rules, and actions;

28 (4) monitor compliance with the compact provisions, the rules adopted by the commission, and the
29 bylaws;

30 (5) establish and maintain offices, which must be located within one or more of the member states;

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

27 ARTICLE XI

28 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

- 29 (1) The Interstate Commission shall, by a majority of the members present and voting, within 12 months
30 after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may be necessary or

- 1 appropriate to carry out the purposes of the compact, including but not limited to:
- 2 (a) establishing the fiscal year of the Interstate Commission;
- 3 (b) establishing an executive committee and other committees as may be necessary;
- 4 (c) providing for the establishment of committees and for governing any general or specific delegation
5 of authority or function of the Interstate Commission;
- 6 (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission
7 and ensuring reasonable notice of each meeting;
- 8 (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
- 9 (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of
10 surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its
11 debts and obligations;
- 12 (g) providing startup rules for initial administration of the compact.
- 13 (2) The Interstate Commission shall, by a majority of the members, elect annually from among its
14 members a chairperson, a vice chairperson, and a treasurer, each of whom has authority and duties as specified
15 in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside
16 at all meetings of the Interstate Commission. The officers shall serve without compensation or remuneration from
17 the Interstate Commission. However, subject to the availability of budgeted funds, the officers must be reimbursed
18 for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as
19 officers of the Interstate Commission.
- 20 (3) The executive committee has authority and duties as set forth in the bylaws, including but not limited
21 to:
- 22 (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and
23 purposes of the Interstate Commission;
- 24 (b) overseeing an organizational structure and appropriate procedures for the Interstate Commission
25 to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
- 26 (c) planning, implementing, and coordinating communications and activities with other state, federal, and
27 local government organizations in order to advance the goals of the Interstate Commission.
- 28 (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain
29 an executive director for a period, upon terms and conditions, and for compensation as the Interstate Commission
30 considers appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not

1 be a member of the Interstate Commission. The executive director shall hire and supervise other persons as
2 authorized by the Interstate Commission.

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

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

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

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

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

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

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

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

(4) The purpose of this compact is not to supersede the sovereignty of any member state but instead to facilitate the collective exercise of each state's sovereignty to allow a uniform solution without federal

1 intervention. No provision of the interstate compact may be construed as a waiver of a state's sovereignty.

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

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

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

9 (6) If the defaulting state fails to cure the default, the defaulting state must be terminated from the
10 compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits
11 conferred by this compact must be terminated from the effective date of termination. A cure of the default does
12 not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in
13 the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual
14 assessment.

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

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

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

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

30 (11) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes

1 that are subject to the compact and that may arise among member states and between member and nonmember
2 states.

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

5 ARTICLE XIV

6 FINANCING OF THE INTERSTATE COMMISSION

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

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

14 (3) The annual assessment applicable to this state may not exceed an amount equal to \$2 multiplied by
15 the latest available number of children of military families in this state.

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

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

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

26 (7) All expenditures for the state, including withdrawal or dissolution costs, or both, may not exceed an
27 amount of \$5,000 annually.

28 ARTICLE XV

29 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

30 (1) Any state is eligible to become a member state, except that in the case of this state, withdrawal from

1 the compact may also be accomplished by statutorily allowing for expiration of this section.

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

5 (3) The Interstate Commission may propose amendments to the compact for enactment by the member
6 states. An amendment may not become effective and binding upon the Interstate Commission and the member
7 states unless it is enacted into law by unanimous consent of the member states.

8 ARTICLE XVI

9 WITHDRAWAL AND DISSOLUTION

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

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

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

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

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

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

30 (b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force

1 or effect and the business and affairs of the Interstate Commission must be concluded and surplus funds must
2 be distributed in accordance with the bylaws.

3 ARTICLE XVII

4 SEVERABILITY AND CONSTRUCTION

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

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

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

10 ARTICLE XVIII

11 BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

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

22 ARTICLE XIX

23 STATE COUNCIL - CREATION

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

25 (1) the following voting members:

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

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

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

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

- 1 (e) a representative of the executive branch of government, appointed by the governor; and
- 2 (f) any other individuals recommended by a majority of the members of the state council listed in
- 3 subsections (1)(a) through (1)(e); and
- 4 (2) the following nonvoting members:
- 5 (a) the compact commissioner appointed under Article XX; and
- 6 (b) the military family education liaison, appointed under Article XXI.

7 ARTICLE XX

8 COMPACT COMMISSIONER - APPOINTMENT AND DUTIES

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

11 ARTICLE XXI

12 MILITARY FAMILY EDUCATION LIAISON - APPOINTMENT AND DUTIES

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

15 ARTICLE XXII

16 PROVISION OF FUNDING - ADJUTANT GENERAL

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

20
21 **NEW SECTION. Section 2. Report to legislature.** By July 1, 2014, representatives of the Great Falls
22 school district, the Helena school district, and a member of the military, as specified by the adjutant general, shall
23 provide, singly or jointly, a report to the senate president, the speaker of the house, and the education and local
24 government interim committee regarding the state's participation in the compact on educational opportunity for
25 military children established in [section 1].

26
27 **NEW SECTION. Section 3. Codification instruction.** [Section 1] is intended to be codified as an
28 integral part of Title 20, chapter 1, part 2, and the provisions of Title 20, chapter 1, part 2, apply to [section 1].

29
30 **NEW SECTION. Section 4. Termination.** [This act] terminates June 30, 2015.

31 - END -