

E AND R AMENDMENTS TO LB 575

Introduced by Larson, 40, Chairperson Enrollment and Review

1 1. Strike the original sections and all amendments
2 thereto and insert the following new sections:

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

7 Interstate Compact on Educational
8 Opportunity for Military Children

9 ARTICLE I

10 PURPOSE

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

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

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

23 C. Facilitating the qualification and eligibility

1 for enrollment, educational programs, and participation in
2 extracurricular academic, athletic, and social activities.

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

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

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

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

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

15 ARTICLE II

16 DEFINITIONS

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

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

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

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

1 compact.

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

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

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

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

25 H. "Local education agency" means a public authority
26 legally constituted by the state as an administrative agency to
27 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. "Nonmember 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
26 rule.

27 N. "Sending state" means the state from which a child

1 of a military family is sent, brought, or caused to be sent or
2 brought.

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

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

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

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

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

21 ARTICLE III

22 APPLICABILITY

23 A. Except as otherwise provided in Section B, this
24 compact shall apply to the children of:

25 1. active duty members of the uniformed services as
26 defined in this compact, including members of the National Guard
27 and Reserve on active duty orders pursuant to 10 U.S.C. 1209 and

1 1211;

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

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

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

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

12 1. inactive members of the National Guard and military
13 reserves;

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

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

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

21 ARTICLE IV

22 EDUCATIONAL RECORDS AND ENROLLMENT

23 A. Unofficial or "hand-carried" education records -- In
24 the event that official education records cannot be released to
25 the parents for the purpose of transfer, the custodian of the
26 records in the sending state shall prepare and furnish to the
27 parent a complete set of unofficial educational records containing

1 uniform information as determined by the Interstate Commission.
2 Upon receipt of the unofficial education records by a school in the
3 receiving state, the school shall enroll and appropriately place
4 the student based on the information provided in the unofficial
5 records pending validation by the official records, as quickly as
6 possible.

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

16 C. Immunizations -- Compacting states shall give thirty
17 days from the date of enrollment or within such time as is
18 reasonably determined under the rules promulgated by the Interstate
19 Commission, for students to obtain any immunizations required
20 by the receiving state. For a series of immunizations, initial
21 vaccinations must be obtained within thirty days or within such
22 time as is reasonably determined under the rules promulgated by the
23 Interstate Commission.

24 D. Kindergarten and first grade entrance age -- Students
25 shall be allowed to continue their enrollment at grade level in
26 the receiving state commensurate with their grade level (including
27 kindergarten) from a local education agency in the sending state

1 at the time of transition, regardless of age. A student that
2 has satisfactorily completed the prerequisite grade level in the
3 local education agency in the sending state shall be eligible for
4 enrollment in the next highest grade level in the receiving state,
5 regardless of age. A student transferring after the start of the
6 school year in the receiving state shall enter the school in the
7 receiving state on their validated level from an accredited school
8 in the sending state.

9 ARTICLE V

10 PLACEMENT AND ATTENDANCE

11 A. Course placement -- When the student transfers before
12 or during the school year, the receiving state school shall
13 initially honor placement of the student in educational courses
14 based on the student's enrollment in the sending state school or
15 educational assessments conducted at the school in the sending
16 state if the courses are offered. Course placement includes, but
17 is not limited to, Honors, International Baccalaureate, Advanced
18 Placement, vocational, technical, and career pathways courses.
19 Continuing the student's academic program from the previous school
20 and promoting placement in academically and career challenging
21 courses should be paramount when considering placement. This does
22 not preclude the school in the receiving state from performing
23 subsequent evaluations to ensure appropriate placement and
24 continued enrollment of the student in the courses.

25 B. Educational program placement -- The receiving
26 state school shall initially honor placement of the student in
27 educational programs based on current educational assessments

1 conducted at the school in the sending state or participation or
2 placement in like programs in the sending state. Such programs
3 include, but are not limited to: (1) gifted and talented programs;
4 and (2) English as a second language. This does not preclude
5 the school in the receiving state from performing subsequent
6 evaluations to ensure appropriate placement of the student.

7 C. Special education services -- (1) In compliance with
8 the federal requirements of the Individuals with Disabilities
9 Education Act, 20 U.S.C. 1400 et seq., the receiving state
10 shall initially provide comparable services to a student with
11 disabilities based on his or her current Individualized Education
12 Program; and (2) In compliance with the requirements of Section
13 504 of the Rehabilitation Act, 29 U.S.C. 794, and with Title
14 II of the Americans with Disabilities Act, 42 U.S.C. 12131 to
15 12165, the receiving state shall make reasonable accommodations
16 and modifications to address the needs of incoming students with
17 disabilities, subject to an existing 504 or Title II Plan, to
18 provide the student with equal access to education. This does
19 not preclude the school in the receiving state from performing
20 subsequent evaluations to ensure appropriate placement of the
21 student.

22 D. Placement flexibility -- Local education agency
23 administrative officials shall have flexibility in waiving course
24 or program prerequisites, or other preconditions for placement in
25 courses or programs offered under the jurisdiction of the local
26 education agency.

27 E. Absence as related to deployment activities -- A

1 student whose parent or legal guardian is an active duty member of
2 the uniformed services, as defined by the compact, and has been
3 called to duty for, is on leave from, or immediately returned from
4 deployment to a combat zone or combat support posting, shall be
5 granted additional excused absences at the discretion of the local
6 education agency superintendent to visit with his or her parent or
7 legal guardian relative to such leave or deployment of the parent
8 or guardian.

9 ARTICLE VI

10 ELIGIBILITY

11 A. Eligibility for enrollment

12 1. Special power of attorney, relative to the
13 guardianship of a child of a military family and executed under
14 applicable law shall be sufficient for the purposes of enrollment
15 and all other actions requiring parental participation and consent.

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

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

26 B. Eligibility for extracurricular participation -- State
27 and local education agencies shall facilitate the opportunity

1 for transitioning military children's inclusion in extracurricular
2 activities, regardless of application deadlines, to the extent they
3 are otherwise qualified.

4 ARTICLE VII

5 GRADUATION

6 In order to facilitate the on-time graduation of children
7 of military families states and local education agencies shall
8 incorporate the following procedures:

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

17 B. Exit exams -- States shall accept: (1) exit or
18 end-of-course exams required for graduation from the sending state;
19 (2) national norm-referenced achievement tests; or (3) alternative
20 testing, in lieu of testing requirements for graduation in the
21 receiving state. In the event the above alternatives cannot be
22 accommodated by the receiving state for a student transferring in
23 his or her senior year, then the provisions of Article VII, Section
24 C shall apply.

25 C. Transfers during senior year -- Should a military
26 student transferring at the beginning or during his or her senior
27 year be ineligible to graduate from the receiving local education

1 agency after all alternatives have been considered, the sending and
2 receiving local education agencies shall ensure the receipt of a
3 diploma from the sending local education agency, if the student
4 meets the graduation requirements of the sending local education
5 agency. In the event that one of the states in question is not a
6 member of this compact, the member state shall use best efforts to
7 facilitate the on-time graduation of the student in accordance with
8 Sections A and B of this Article.

9 ARTICLE VIII

10 STATE COORDINATION

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

27 B. The state council of each member state shall appoint

1 or designate a military family education liaison to assist military
2 families and the state in facilitating the implementation of this
3 compact.

4 C. The compact commissioner responsible for the
5 administration and management of the state's participation in
6 the compact shall be appointed by the Governor or as otherwise
7 determined by each member state.

8 D. The compact commissioner and the military family
9 education liaison designated herein shall be ex-officio members of
10 the state council, unless either is already a full voting member of
11 the state council.

12 ARTICLE IX

13 INTERSTATE COMMISSION ON EDUCATIONAL

14 OPPORTUNITY FOR MILITARY CHILDREN

15 The member states hereby create the "Interstate
16 Commission on Educational Opportunity for Military Children." The
17 activities of the Interstate Commission are the formation of public
18 policy and are a discretionary state function. The Interstate
19 Commission shall:

20 A. Be a body corporate and joint agency of the member
21 states and shall have all the responsibilities, powers, and duties
22 set forth herein, and such additional powers as may be conferred
23 upon it by a subsequent concurrent action of the respective
24 legislatures of the member states in accordance with the terms of
25 this compact.

26 B. Consist of one Interstate Commission voting
27 representative from each member state who shall be that state's

1 compact commissioner.

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

4 2. A majority of the total member states shall constitute
5 a quorum for the transaction of business, unless a larger quorum is
6 required by the bylaws of the Interstate Commission.

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

12 4. The bylaws may provide for meetings of the Interstate
13 Commission to be conducted by telecommunication or electronic
14 communication.

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

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

27 E. Establish an executive committee, whose members shall

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

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

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

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

1 2. Disclose matters specifically exempted from disclosure
2 by federal and state statute;

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

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

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

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

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

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

26 I. Collect standardized data concerning the educational
27 transition of the children of military families under this compact

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

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

16 ARTICLE X

17 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

18 The Interstate Commission shall have the following
19 powers:

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

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

26 C. To issue, upon request of a member state, advisory
27 opinions concerning the meaning or interpretation of the interstate

1 compact, its bylaws, rules, and actions.

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

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

8 F. To purchase and maintain insurance and bonds.

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

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

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

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

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

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

4 M. To establish a budget and make expenditures.

5 N. To adopt a seal and bylaws governing the management
6 and operation of the Interstate Commission.

7 O. To report annually to the legislatures, governors,
8 judiciary, and state councils of the member states concerning the
9 activities of the Interstate Commission during the preceding year.
10 Such reports shall also include any recommendations that may have
11 been adopted by the Interstate Commission.

12 P. To coordinate education, training, and public
13 awareness regarding the compact, its implementation and operation
14 for officials and parents involved in such activity.

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

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

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

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

24 ARTICLE XI

25 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

26 A. The Interstate Commission shall, by a majority of the
27 members present and voting, within twelve months after the first

1 Interstate Commission meeting, adopt bylaws to govern its conduct
2 as may be necessary or appropriate to carry out the purposes of the
3 compact, including, but not limited to:

4 1. Establishing the fiscal year of the Interstate
5 Commission;

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

8 3. Providing for the establishment of committees and
9 for governing any general or specific delegation of authority or
10 function of the Interstate Commission;

11 4. Providing reasonable procedures for calling and
12 conducting meetings of the Interstate Commission and ensuring
13 reasonable notice of each such meeting;

14 5. Establishing the titles and responsibilities of the
15 officers and staff of the Interstate Commission;

16 6. Providing a mechanism for concluding the operations of
17 the Interstate Commission and the return of surplus funds that may
18 exist upon the termination of the compact after the payment and
19 reserving of all of its debts and obligations; and

20 7. Providing "start up" rules for initial administration
21 of the compact.

22 B. The Interstate Commission shall, by a majority of
23 the members, elect annually from among its members a chairperson,
24 a vice-chairperson, and a treasurer, each of whom shall have
25 such authority and duties as may be specified in the bylaws.
26 The chairperson or, in the chairperson's absence or disability,
27 the vice-chairperson, shall preside at all meetings of the

1 Interstate Commission. The officers so elected shall serve without
2 compensation or remuneration from the Interstate Commission;
3 provided that, subject to the availability of budgeted funds,
4 the officers shall be reimbursed for ordinary and necessary
5 costs and expenses incurred by them in the performance of their
6 responsibilities as officers of the Interstate Commission.

7 C. Executive Committee, Officers, and Personnel

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

11 a. Managing the affairs of the Interstate Commission in
12 a manner consistent with the bylaws and purposes of the Interstate
13 Commission;

14 b. Overseeing an organizational structure within, and
15 appropriate procedures for the Interstate Commission to provide for
16 the creation of rules, operating procedures, and administrative and
17 technical support functions; and

18 c. Planning, implementing, and coordinating
19 communications and activities with other state, federal, and local
20 government organizations in order to advance the goals of the
21 Interstate Commission.

22 2. The executive committee may, subject to the approval
23 of the Interstate Commission, appoint or retain an executive
24 director for such period, upon such terms and conditions and
25 for such compensation, as the Interstate Commission may deem
26 appropriate. The executive director shall serve as secretary to the
27 Interstate Commission, but shall not be a member of the Interstate

1 Commission. The executive director shall hire and supervise such
2 other persons as may be authorized by the Interstate Commission.

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

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

25 2. The Interstate Commission shall defend the executive
26 director and its employees and, subject to the approval of the
27 Attorney General or other appropriate legal counsel of the member

1 state represented by an Interstate Commission representative, shall
2 defend such Interstate Commission representative in any civil
3 action seeking to impose liability arising out of an actual or
4 alleged act, error, or omission that occurred within the scope of
5 Interstate Commission employment, duties, or responsibilities, or
6 that the defendant 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 person.

11 3. To the extent not covered by the state involved,
12 member state, or the Interstate Commission, the representatives or
13 employees of the Interstate Commission shall be held harmless in
14 the amount of a settlement or judgment, including attorney's fees
15 and costs, obtained against such persons arising out of an actual
16 or alleged act, error, or omission that occurred within the scope
17 of Interstate Commission employment, duties, or responsibilities,
18 or that such persons had a reasonable basis for believing occurred
19 within the scope of Interstate Commission employment, duties, or
20 responsibilities, provided that the actual or alleged act, error,
21 or omission did not result from intentional or willful and wanton
22 misconduct on the part of such persons.

23 ARTICLE XII

24 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

25 A. Rulemaking Authority -- The Interstate Commission
26 shall promulgate reasonable rules in order to effectively and
27 efficiently achieve the purposes of this compact. Notwithstanding

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

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

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

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

24 ARTICLE XIII

25 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

26 A. Oversight

27 1. The executive, legislative, and judicial branches

1 of state government in each member state shall enforce this
2 compact and shall take all actions necessary and appropriate
3 to effectuate the compact's purposes and intent. The provisions
4 of this compact and the rules promulgated hereunder shall have
5 standing as statutory law.

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

11 3. The Interstate Commission shall be entitled to receive
12 all service of process in any such proceeding, and shall have
13 standing to intervene in the proceeding for all purposes. Failure
14 to provide service of process to the Interstate Commission shall
15 render a judgment or order void as to the Interstate Commission,
16 this compact, or promulgated rules.

17 B. Default, Technical Assistance, Suspension, and
18 Termination -- If the Interstate Commission determines that a
19 member state has defaulted in the performance of its obligations or
20 responsibilities under this compact, or the bylaws or promulgated
21 rules, the Interstate Commission shall:

22 1. Provide written notice to the defaulting state and
23 other member states, of the nature of the default, the means
24 of curing the default, and any action taken by the Interstate
25 Commission. The Interstate Commission shall specify the conditions
26 by which the defaulting state must cure its default.

27 2. Provide remedial training and specific technical

1 assistance regarding the default.

2 3. If the defaulting state fails to cure the default,
3 the defaulting state shall be terminated from the compact upon
4 an affirmative vote of a majority of the member states and all
5 rights, privileges, and benefits conferred by this compact shall
6 be terminated from the effective date of termination. A cure of
7 the default does not relieve the offending state of obligations or
8 liabilities incurred during the period of the default.

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

15 5. The state which has been suspended or terminated
16 is responsible for all assessments, obligations and liabilities
17 incurred through the effective date of suspension or termination
18 including obligations, the performance of which extends beyond the
19 effective date of suspension or termination.

20 6. The Interstate Commission shall not bear any costs
21 relating to any state that has been found to be in default or which
22 has been suspended or terminated from the compact, unless otherwise
23 mutually agreed upon in writing between the Interstate Commission
24 and the defaulting state.

25 7. The defaulting state may appeal the action of the
26 Interstate Commission by petitioning the United States District
27 Court for the District of Columbia or the federal district where

1 the Interstate Commission has its principal offices. The prevailing
2 party shall be awarded all costs of such litigation including
3 reasonable attorney's fees.

4 C. Dispute Resolution

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

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

12 D. Enforcement

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

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

27 3. The remedies herein shall not be the exclusive

1 remedies of the Interstate Commission. The Interstate Commission
2 may avail itself of any other remedies available under state law or
3 the regulation of a profession.

4 ARTICLE XIV

5 FINANCING OF THE INTERSTATE COMMISSION

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

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

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

22 D. The Interstate Commission shall keep accurate accounts
23 of all receipts and disbursements. The receipts and disbursements
24 of the Interstate Commission shall be subject to the audit and
25 accounting procedures established under its bylaws. However, all
26 receipts and disbursements of funds handled by the Interstate
27 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 nonmember 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
26 repealing the statute, which enacted the compact into law.

27 2. Withdrawal from this compact shall be by the enactment

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

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

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

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

19 B. Dissolution of Compact

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

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

1 ARTICLE XVII

2 SEVERABILITY AND CONSTRUCTION

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

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

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

12 ARTICLE XVIII

13 BINDING EFFECT OF COMPACT AND OTHER LAWS

14 A. Other Laws

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

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

19 B. Binding Effect of the Compact

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

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

25 3. In the event any provision of this compact exceeds
26 the constitutional limits imposed on the legislature of any member
27 state, such provision shall be ineffective to the extent of the

1 conflict with the constitutional provision in question in that
2 member state.

3 Sec. 2. For purposes of the Interstate Compact on
4 Educational Opportunity for Military Children and sections 2 to
5 6 of this act:

6 (1) Council means the State Council on Educational
7 Opportunity for Military Children;

8 (2) Department means the State Department of Education;

9 (3) Local education agency means a school district as
10 defined in section 79-101; and

11 (4) State superintendent of education means the
12 Commissioner of Education.

13 Sec. 3. The department shall oversee and provide
14 coordination for the state's participation in and compliance with
15 the Interstate Compact on Educational Opportunity for Military
16 Children. The department shall provide staff support for the
17 council created in section 4 of this act.

18 Sec. 4. (1) The State Council on Educational Opportunity
19 for Military Children is created within the department. The council
20 shall consist of:

21 (a) The following ex officio members:

22 (i) The Commissioner of Education;

23 (ii) The chairperson of the Education Committee of the
24 Legislature, who shall serve as a nonvoting member of the council;

25 (iii) The compact commissioner appointed pursuant to
26 section 5 of this act; and

27 (iv) The military family education liaison, who shall

1 serve as a member of the council after his or her appointment
2 pursuant to subsection (3) of this section; and

3 (b) The following members appointed by the State Board of
4 Education:

5 (i) The superintendent of a school district that has a
6 high concentration of children of military families; and

7 (ii) A representative of a military installation located
8 in this state.

9 (2) The members of the council appointed by the State
10 Board of Education shall serve three-year terms. Vacancies in
11 the council shall be filled in the same manner as the initial
12 appointments. The members of the council shall be reimbursed for
13 their actual and necessary expenses as provided in sections 81-1174
14 to 81-1177.

15 (3) The council shall have the following duties:

16 (a) To advise the department with regard to the state's
17 participation in and compliance with the Interstate Compact on
18 Educational Opportunity for Military Children; and

19 (b) To appoint a military family education liaison to
20 assist families and the state in implementing the compact.

21 Sec. 5. The deputy commissioner of education shall
22 serve as the compact commissioner and shall be responsible for
23 administering the state's participation in the Interstate Compact
24 on Educational Opportunity for Military Children.

25 Sec. 6. The department may accept a devise, donation, or
26 bequest to pay for any or all of the cost of administering the
27 Interstate Compact on Educational Opportunity for Military Children

1 under the authority given to the State Board of Education under
2 section 79-318.

3 Sec. 7. Section 79-318, Revised Statutes Cumulative
4 Supplement, 2010, is amended to read:

5 79-318 The State Board of Education shall:

6 (1) Appoint and fix the compensation of the Commissioner
7 of Education;

8 (2) Remove the commissioner from office at any time for
9 conviction of any crime involving moral turpitude or felonious act,
10 for inefficiency, or for willful and continuous disregard of his or
11 her duties as commissioner or of the directives of the board;

12 (3) Upon recommendation of the commissioner, appoint and
13 fix the compensation of a deputy commissioner and all professional
14 employees of the board;

15 (4) Organize the State Department of Education into such
16 divisions, branches, or sections as may be necessary or desirable
17 to perform all its proper functions and to render maximum service
18 to the board and to the state school system;

19 (5) Provide, through the commissioner and his or her
20 professional staff, enlightened professional leadership, guidance,
21 and supervision of the state school system, including educational
22 service units. In order that the commissioner and his or her
23 staff may carry out their duties, the board shall, through the
24 commissioner: (a) Provide supervisory and consultation services
25 to the schools of the state; (b) issue materials helpful in the
26 development, maintenance, and improvement of educational facilities
27 and programs; (c) establish rules and regulations which govern

1 standards and procedures for the approval and legal operation
2 of all schools in the state and for the accreditation of all
3 schools requesting state accreditation. All public, private,
4 denominational, or parochial schools shall either comply with
5 the accreditation or approval requirements prescribed in this
6 section and section 79-703 or, for those schools which elect not
7 to meet accreditation or approval requirements, the requirements
8 prescribed in subsections (2) through (6) of section 79-1601.
9 Standards and procedures for approval and accreditation shall
10 be based upon the program of studies, guidance services, the
11 number and preparation of teachers in relation to the curriculum
12 and enrollment, instructional materials and equipment, science
13 facilities and equipment, library facilities and materials, and
14 health and safety factors in buildings and grounds. Rules and
15 regulations which govern standards and procedures for private,
16 denominational, and parochial schools which elect, pursuant to the
17 procedures prescribed in subsections (2) through (6) of section
18 79-1601, not to meet state accreditation or approval requirements
19 shall be as described in such section; (d) institute a statewide
20 system of testing to determine the degree of achievement and
21 accomplishment of all the students within the state's school
22 systems if it determines such testing would be advisable;
23 (e) prescribe a uniform system of records and accounting for
24 keeping adequate educational and financial records, for gathering
25 and reporting necessary educational data, and for evaluating
26 educational progress; (f) cause to be published laws, rules,
27 and regulations governing the schools and the school lands and

1 funds with explanatory notes for the guidance of those charged
2 with the administration of the schools of the state; (g) approve
3 teacher education programs conducted in Nebraska postsecondary
4 educational institutions designed for the purpose of certificating
5 teachers and administrators; (h) approve certificated-employee
6 evaluation policies and procedures developed by school districts
7 and educational service units; and (i) approve general plans and
8 adopt educational policies, standards, rules, and regulations for
9 carrying out the board's responsibilities and those assigned to the
10 State Department of Education by the Legislature;

11 (6) Adopt and promulgate rules and regulations for
12 the guidance, supervision, accreditation, and coordination of
13 educational service units. Such rules and regulations for
14 accreditation shall include, but not be limited to, (a) a
15 requirement that programs and services offered to school districts
16 by each educational service unit shall be evaluated on a regular
17 basis, but not less than every seven years, to assure that
18 educational service units remain responsive to school district
19 needs and (b) guidelines for the use and management of funds
20 generated from the property tax levy and from other sources of
21 revenue as may be available to the educational service units,
22 to assure that public funds are used to accomplish the purposes
23 and goals assigned to the educational service units by section
24 79-1204. The State Board of Education shall establish procedures to
25 encourage the coordination of activities among educational service
26 units and to encourage effective and efficient educational service
27 delivery on a statewide basis;

1 (7) Submit a biennial report to the Governor and the
2 Clerk of the Legislature covering the actions of the board, the
3 operations of the State Department of Education, and the progress
4 and needs of the schools and recommend such legislation as may be
5 necessary to satisfy these needs;

6 (8) Prepare and distribute reports designed to acquaint
7 school district officers, teachers, and patrons of the schools with
8 the conditions and needs of the schools;

9 (9) Provide for consultation with professional educators
10 and lay leaders for the purpose of securing advice deemed necessary
11 in the formulation of policies and in the effectual discharge of
12 its duties;

13 (10) Make studies, investigations, and reports and
14 assemble information as necessary for the formulation of policies,
15 for making plans, for evaluating the state school program, and for
16 making essential and adequate reports;

17 (11) Submit to the Governor and the Legislature a
18 budget necessary to finance the state school program under its
19 jurisdiction, including the internal operation and maintenance of
20 the State Department of Education;

21 (12) Interpret its own policies, standards, rules, and
22 regulations and, upon reasonable request, hear complaints and
23 disputes arising therefrom;

24 (13) With the advice of the Department of Motor Vehicles,
25 adopt and promulgate rules and regulations containing reasonable
26 standards, not inconsistent with existing statutes, governing: (a)
27 The general design, equipment, color, operation, and maintenance

1 of any vehicle with a manufacturer's rated seating capacity of
2 eleven or more passengers used for the transportation of public,
3 private, denominational, or parochial school students; and (b)
4 the equipment, operation, and maintenance of any vehicle with a
5 capacity of ten or less passengers used for the transportation of
6 public, private, denominational, or parochial school students, when
7 such vehicles are owned, operated, or owned and operated by any
8 public, private, denominational, or parochial school or privately
9 owned or operated under contract with any such school in this
10 state, except for vehicles owned by individuals operating a school
11 which elects pursuant to section 79-1601 not to meet accreditation
12 or approval requirements. Similar rules and regulations shall be
13 adopted and promulgated for operators of such vehicles as provided
14 in section 79-607;

15 (14) Accept, on behalf of the Nebraska Center for the
16 Education of Children who are Blind or Visually Impaired, devises
17 of real property or donations or bequests of other property, or
18 both, if in its judgment any such devise, donation, or bequest
19 is for the best interest of the center or the students receiving
20 services from the center, or both, and irrigate or otherwise
21 improve any such real estate when in the board's judgment it would
22 be advisable to do so; and

23 (15) Accept, in order to administer the Interstate
24 Compact on Educational Opportunity for Military Children, any
25 devise, donation, or bequest received by the State Department of
26 Education pursuant to section 6 of this act; and

27 ~~(15)~~ (16) Upon acceptance of any devise, donation, or

1 bequest as provided in this section, administer and carry out
2 such devise, donation, or bequest in accordance with the terms
3 and conditions thereof. If not prohibited by the terms and
4 conditions of any such devise, donation, or bequest, the board
5 may sell, convey, exchange, or lease property so devised, donated,
6 or bequeathed upon such terms and conditions as it deems best and
7 remit all money derived from any such sale or lease to the State
8 Treasurer for credit to the State Department of Education Trust
9 Fund.

10 Each member of the Legislature shall receive a copy of
11 the report required by subdivision (7) of this section by making a
12 request for it to the commissioner.

13 None of the duties prescribed in this section shall
14 prevent the board from exercising such other duties as in its
15 judgment may be necessary for the proper and legal exercise of its
16 obligations.

17 Sec. 8. Original section 79-318, Revised Statutes
18 Cumulative Supplement, 2010, is repealed.

19 2. On page 1, strike beginning with "adopt" in line 1
20 through line 2 and insert "amend section 79-318, Revised Statutes
21 Cumulative Supplement, 2010; to adopt the Interstate Compact on
22 Educational Opportunity for Military Children; to define terms; to
23 provide powers and duties for the State Department of Education and
24 the State Board of Education; to create a council; to designate a
25 compact commissioner; and to repeal the original section.".