



# House of Representatives

General Assembly

**File No. 487**

February Session, 2008

Substitute House Bill No. 5545

*House of Representatives, April 7, 2008*

The Committee on Education reported through REP. FLEISCHMANN of the 18th Dist., Chairperson of the Committee on the part of the House, that the substitute bill ought to pass.

***AN ACT CONCERNING THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.***

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Interstate Compact on  
2 Educational Opportunity for Military Children.

3 ARTICLE I

4 PURPOSE

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

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

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

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

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

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

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

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

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

31 ARTICLE II

32 DEFINITIONS

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

35 A. "Active duty" means full-time duty status in the active uniformed  
36 service of the United States, including members of the National Guard  
37 and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209  
38 and 1211.

39 B. "Children of military families" means school-aged children,

40 enrolled in kindergarten through twelfth grade, in the household of an  
41 active duty member.

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

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

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

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

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

64 H. "Local education agency" means a public authority legally  
65 constituted by the state as an administrative agency to provide control  
66 of and direction for kindergarten through twelfth grade public  
67 educational institutions.

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

69 J. "Military installation" means a base, camp, post, station, yard,

70 center, homeport facility for any ship, or other activity under the  
71 jurisdiction of the Department of Defense, including any leased  
72 facility, which is located within any of the several states, the District of  
73 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,  
74 Guam, American Samoa, the Northern Marianas Islands and any other  
75 U.S. Territory. Such term does not include any facility used primarily  
76 for civil works, rivers and harbors projects, or flood control projects.

77 K. "Nonmember state" means a state that has not enacted this  
78 compact.

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

81 M. "Rule" means a written statement by the Interstate Commission  
82 promulgated pursuant to Article XII of this compact that is of general  
83 applicability, implements, interprets or prescribes a policy or provision  
84 of the Compact, or an organizational, procedural or practice  
85 requirement of the Interstate Commission, and has the force and effect  
86 of statutory law in a member state, and includes the amendment,  
87 repeal or suspension of an existing rule.

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

90 O. "State" means a state of the United States, the District of  
91 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,  
92 Guam, American Samoa, the Northern Marianas Islands and any other  
93 U.S. territory.

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

97 Q. "Transition" means (1) the formal and physical process of  
98 transferring from school to school, or (2) the period of time in which a  
99 student moves from one school in the sending state to another school  
100 in the receiving state.

101 R. "Uniformed services" means the Army, Navy, Air Force, Marine  
102 Corps, Coast Guard as well as the Commissioned Corps of the  
103 National Oceanic and Atmospheric Administration, and Public Health  
104 Services.

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

108 ARTICLE III

109 APPLICABILITY

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

112 1. Active duty members of the uniformed services as defined in this  
113 compact, including members of the National Guard and Reserve on  
114 active duty orders pursuant to 10 USC Section 1209 and 1211;

115 2. Members or veterans of the uniformed services who are severely  
116 injured and medically discharged or retired for a period of one year  
117 after medical discharge or retirement; and

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

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

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

124 1. Inactive members of the national guard and military reserves;

125 2. Members of the uniformed services now retired, except as  
126 provided in Section A;

127 3. Veterans of the uniformed services, except as provided in Section

128 A of this Article; and

129 4. Other U.S. Dept. of Defense personnel and other federal agency  
130 civilian and contract employees not defined as active duty members of  
131 the uniformed services.

132 ARTICLE IV

133 EDUCATIONAL RECORDS & ENROLLMENT

134 A. In the event that official education records cannot be released to  
135 the parents for the purpose of transfer, the custodian of the records in  
136 the sending state shall prepare and furnish to the parent a complete set  
137 of unofficial educational records containing uniform information as  
138 determined by the Interstate Commission. Upon receipt of the  
139 unofficial education records by a school in the receiving state, the  
140 school shall enroll and appropriately place the student based on the  
141 information provided in the unofficial records pending validation by  
142 the official records, as quickly as possible.

143 B. Simultaneous with the enrollment and conditional placement of  
144 the student, the school in the receiving state shall request the student's  
145 official education record from the school in the sending state. Upon  
146 receipt of this request, the school in the sending state will process and  
147 furnish the official education records to the school in the receiving  
148 state within ten days or within such time as is reasonably determined  
149 under the rules promulgated by the Interstate Commission.

150 C. Compacting states shall give thirty days from the date of  
151 enrollment or within such time as is reasonably determined under the  
152 rules promulgated by the Interstate Commission, for students to obtain  
153 any immunizations required by the receiving state. For a series of  
154 immunizations, initial vaccinations must be obtained within thirty  
155 days or within such time as is reasonably determined under the rules  
156 promulgated by the Interstate Commission.

157 D. Students shall be allowed to continue their enrollment at grade  
158 level in the receiving state commensurate with their grade level,

159 including kindergarten, from a local education agency in the sending  
160 state at the time of transition, regardless of age. A student that has  
161 satisfactorily completed the prerequisite grade level in the local  
162 education agency in the sending state shall be eligible for enrollment in  
163 the next highest grade level in the receiving state, regardless of age. A  
164 student transferring after the start of the school year in the receiving  
165 state shall enter the school in the receiving state on their validated  
166 level from an accredited school in the sending state.

167       ARTICLE V

168       PLACEMENT & ATTENDANCE

169       A. When the student transfers before or during the school year, the  
170 receiving state school shall initially honor placement of the student in  
171 educational courses based on the student's enrollment in the sending  
172 state school and educational assessments conducted at the school in  
173 the sending state if the courses are offered. Course placement includes,  
174 but is not limited to, Honors, International Baccalaureate, Advanced  
175 Placement, vocational, technical and career pathways courses.  
176 Continuing the student's academic program from the previous school  
177 and promoting placement in academically and career challenging  
178 courses should be paramount when considering placement. This does  
179 not preclude the school in the receiving state from performing  
180 subsequent evaluations to ensure appropriate placement and  
181 continued enrollment of the student in the courses.

182       B. The receiving state school shall initially honor placement of the  
183 student in educational programs based on current educational  
184 assessments conducted at the school in the sending state or  
185 participation and placement in like programs in the sending state.  
186 Such programs include, but are not limited to: (1) Gifted and talented  
187 programs; and (2) English as a second language. This does not  
188 preclude the school in the receiving state from performing subsequent  
189 evaluations to ensure appropriate placement of the student.

190       C. (1) In compliance with the federal requirements of the

191 Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400 et  
192 seq., the receiving state shall initially provide comparable services to a  
193 student with disabilities based on his current Individualized Education  
194 Program; and (2) In compliance with the requirements of Section 504 of  
195 the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the  
196 Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the  
197 receiving state shall make reasonable accommodations and  
198 modifications to address the needs of incoming students with  
199 disabilities, subject to an existing 504 or Title II Plan, to provide the  
200 student with equal access to education. This does not preclude the  
201 school in the receiving state from performing subsequent evaluations  
202 to ensure appropriate placement of the student.

203 D. Local education agency administrative officials shall have  
204 flexibility in waiving course and program prerequisites, or other  
205 preconditions for placement in courses and programs offered under  
206 the jurisdiction of the local education agency.

207 E. A student whose parent or legal guardian is an active duty  
208 member of the uniformed services, as defined by the compact, and has  
209 been called to duty for, is on leave from, or immediately returned from  
210 deployment to a combat zone or combat support posting, shall be  
211 granted additional excused absences at the discretion of the local  
212 education agency superintendent to visit with his parent or legal  
213 guardian relative to such leave or deployment of the parent or  
214 guardian.

215 ARTICLE VI

216 ELIGIBILITY

217 A. Eligibility for enrollment

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

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

226 3. A transitioning military child, placed in the care of a noncustodial  
227 parent or other person standing in loco parentis who lives in a  
228 jurisdiction other than that of the custodial parent, may continue to  
229 attend the school in which he was enrolled while residing with the  
230 custodial parent.

231 B. State and local education agencies shall facilitate the opportunity  
232 for transitioning military children's inclusion in extracurricular  
233 activities, regardless of application deadlines, to the extent they are  
234 otherwise qualified.

235 ARTICLE VII

236 GRADUATION

237 In order to facilitate the on-time graduation of children of military  
238 families states and local education agencies shall incorporate the  
239 following procedures:

240 A. Local education agency administrative officials shall waive  
241 specific courses required for graduation if similar course work has  
242 been satisfactorily completed in another local education agency or  
243 shall provide reasonable justification for denial. Should a waiver not  
244 be granted to a student who would qualify to graduate from the  
245 sending school, the local education agency shall provide an alternative  
246 means of acquiring required coursework so that graduation may occur  
247 on time.

248 B. States shall accept: (1) Exit or end-of-course exams required for  
249 graduation from the sending state; or (2) national norm-referenced  
250 achievement tests; or (3) alternative testing, in lieu of testing  
251 requirements for graduation in the receiving state. In the event the  
252 above alternatives cannot be accommodated by the receiving state for a

253 student transferring in his senior year, then the provisions of Article  
254 VII, Section C shall apply.

255 C. Should a military student transferring at the beginning or during  
256 his or her senior year be ineligible to graduate from the receiving local  
257 education agency after all alternatives have been considered, the  
258 sending and receiving local education agencies shall ensure the receipt  
259 of a diploma from the sending local education agency, if the student  
260 meets the graduation requirements of the sending local education  
261 agency. In the event that one of the states in question is not a member  
262 of this compact, the member state shall use best efforts to facilitate the  
263 on-time graduation of the student in accordance with Sections A and B  
264 of this Article.

265 ARTICLE VIII

266 STATE COORDINATION

267 A. Each member state shall, through the creation of a State Council  
268 or use of an existing body or board, provide for the coordination  
269 among its agencies of government, local education agencies and  
270 military installations concerning the state's participation in, and  
271 compliance with, this compact and Interstate Commission activities.  
272 While each member state may determine the membership of its own  
273 State Council, its membership must include at least: The state  
274 superintendent of education, superintendent of a school district with a  
275 high concentration of military children, representative from a military  
276 installation, one representative each from the legislative and executive  
277 branches of government, and other offices and stakeholder groups the  
278 State Council deems appropriate. A member state that does not have a  
279 school district deemed to contain a high concentration of military  
280 children may appoint a superintendent from another school district to  
281 represent local education agencies on the State Council.

282 B. The State Council of each member state shall appoint or designate  
283 a military family education liaison to assist military families and the  
284 state in facilitating the implementation of this compact.

285 C. The compact commissioner responsible for the administration  
286 and management of the state's participation in the compact shall be  
287 appointed by the Governor or as otherwise determined by each  
288 member state.

289 D. The compact commissioner and the military family education  
290 liaison designated herein shall be ex-officio members of the State  
291 Council, unless either is already a full voting member of the State  
292 Council.

293 ARTICLE IX

294 INTERSTATE COMMISSION ON EDUCATIONAL

295 OPPORTUNITY FOR MILITARY CHILDREN

296 The member states hereby create the "Interstate Commission on  
297 Educational Opportunity for Military Children". The activities of the  
298 Interstate Commission are the formation of public policy and are a  
299 discretionary state function. The Interstate Commission shall:

300 A. Be a body corporate and joint agency of the member states and  
301 shall have all the responsibilities, powers and duties set forth herein,  
302 and such additional powers as may be conferred upon it by a  
303 subsequent concurrent action of the respective legislatures of the  
304 member states in accordance with the terms of this compact.

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

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

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

312 3. A representative shall not delegate a vote to another member  
313 state. In the event the compact commissioner is unable to attend a

314 meeting of the Interstate Commission, the Governor or State Council  
315 may delegate voting authority to another person from their state for a  
316 specified meeting.

317 4. The bylaws may provide for meetings of the Interstate  
318 Commission to be conducted by telecommunication or electronic  
319 communication.

320 C. Consist of ex-officio, nonvoting representatives who are members  
321 of interested organizations. Such ex-officio members, as defined in the  
322 bylaws, may include, but not be limited to, members of the  
323 representative organizations of military family advocates, local  
324 education agency officials, parent and teacher groups, the U.S.  
325 Department of Defense, the Education Commission of the States, the  
326 Interstate Agreement on the Qualification of Educational Personnel  
327 and other interstate compacts affecting the education of children of  
328 military members.

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

332 E. Establish an executive committee, whose members shall include  
333 the officers of the Interstate Commission and such other members of  
334 the Interstate Commission as determined by the bylaws. Members of  
335 the executive committee shall serve a one-year term. Members of the  
336 executive committee shall be entitled to one vote each. The executive  
337 committee shall have the power to act on behalf of the Interstate  
338 Commission, with the exception of rulemaking, during periods when  
339 the Interstate Commission is not in session. The executive committee  
340 shall oversee the day-to-day activities of the administration of the  
341 compact including enforcement and compliance with the provisions of  
342 the compact, its bylaws and rules, and other such duties as deemed  
343 necessary. The U.S. Dept. of Defense, shall serve as an ex-officio,  
344 nonvoting member of the executive committee.

345 F. Establish bylaws and rules that provide for conditions and

346 procedures under which the Interstate Commission shall make its  
347 information and official records available to the public for inspection  
348 or copying. The Interstate Commission may exempt from disclosure  
349 information or official records to the extent they would adversely  
350 affect personal privacy rights or proprietary interests.

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

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

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

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

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

364 5. Disclose information of a personal nature where disclosure would  
365 constitute a clearly unwarranted invasion of personal privacy;

366 6. Disclose investigative records compiled for law enforcement  
367 purposes; or

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

370 H. Cause its legal counsel or designee to certify that a meeting may  
371 be closed and shall reference each relevant exemptible provision for  
372 any meeting, or portion of a meeting, which is closed pursuant to this  
373 provision. The Interstate Commission shall keep minutes which shall  
374 fully and clearly describe all matters discussed in a meeting and shall

375 provide a full and accurate summary of actions taken, and the reasons  
376 therefore, including a description of the views expressed and the  
377 record of a roll call vote. All documents considered in connection with  
378 an action shall be identified in such minutes. All minutes and  
379 documents of a closed meeting shall remain under seal, subject to  
380 release by a majority vote of the Interstate Commission.

381 I. Collect standardized data concerning the educational transition of  
382 the children of military families under this compact as directed  
383 through its rules which shall specify the data to be collected, the means  
384 of collection and data exchange and reporting requirements. Such  
385 methods of data collection, exchange and reporting shall, in so far as is  
386 reasonably possible, conform to current technology and coordinate its  
387 information functions with the appropriate custodian of records as  
388 identified in the bylaws and rules.

389 J. Create a process that permits military officials, education officials  
390 and parents to inform the Interstate Commission if and when there are  
391 alleged violations of the compact or its rules or when issues subject to  
392 the jurisdiction of the compact or its rules are not addressed by the  
393 state or local education agency. This section shall not be construed to  
394 create a private right of action against the Interstate Commission or  
395 any member state.

396 ARTICLE X

397 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

398 The Interstate Commission shall have the following powers:

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

400 B. To promulgate rules and take all necessary actions to effect the  
401 goals, purposes and obligations as enumerated in this compact. The  
402 rules shall have the force and effect of statutory law and shall be  
403 binding in the compact states to the extent and in the manner provided  
404 in this compact.

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

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

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

414 F. To purchase and maintain insurance and bonds.

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

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

420 I. To elect or appoint such officers, attorneys, employees, agents, or  
421 consultants, and to fix their compensation, define their duties and  
422 determine their qualifications; and to establish the Interstate  
423 Commission's personnel policies and programs relating to conflicts of  
424 interest, rates of compensation, and qualifications of personnel.

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

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

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

433 M. To establish a budget and make expenditures.

434 N. To adopt a seal and bylaws governing the management and  
435 operation of the Interstate Commission.

436 O. To report annually to the legislatures, governors, judiciary, and  
437 state councils of the member states concerning the activities of the  
438 Interstate Commission during the preceding year. Such reports shall  
439 also include any recommendations that may have been adopted by the  
440 Interstate Commission.

441 P. To coordinate education, training and public awareness  
442 regarding the compact, its implementation and operation for officials  
443 and parents involved in such activity.

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

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

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

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

453 ARTICLE XI

454 ORGANIZATION AND OPERATION OF THE INTERSTATE  
455 COMMISSION

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

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

462 2. Establishing an executive committee, and such other committees  
463 as may be necessary;

464 3. Providing for the establishment of committees and for governing  
465 any general or specific delegation of authority or function of the  
466 Interstate Commission;

467 4. Providing reasonable procedures for calling and conducting  
468 meetings of the Interstate Commission, and ensuring reasonable notice  
469 of each such meeting;

470 5. Establishing the titles and responsibilities of the officers and staff  
471 of the Interstate Commission;

472 6. Providing a mechanism for concluding the operations of the  
473 Interstate Commission and the return of surplus funds that may exist  
474 upon the termination of the compact after the payment and reserving  
475 of all of its debts and obligations.

476 7. Providing start-up rules for initial administration of the compact.

477 B. The Interstate Commission shall, by a majority of the members,  
478 elect annually from among its members a chairperson, a vice-  
479 chairperson, and a treasurer, each of whom shall have such authority  
480 and duties as may be specified in the bylaws. The chairperson or, in  
481 the chairperson's absence or disability, the vice-chairperson, shall  
482 preside at all meetings of the Interstate Commission. The officers so  
483 elected shall serve without compensation or remuneration from the  
484 Interstate Commission provided that, subject to the availability of  
485 budgeted funds, the officers shall be reimbursed for ordinary and  
486 necessary costs and expenses incurred by them in the performance of  
487 their responsibilities as officers of the Interstate Commission.

488 C. Executive Committee, Officers and Personnel

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

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

493 b. Overseeing an organizational structure within, and appropriate  
494 procedures for the Interstate Commission to provide for the creation of  
495 rules, operating procedures, and administrative and technical support  
496 functions; and

497 c. Planning, implementing, and coordinating communications and  
498 activities with other state, federal and local government organizations  
499 in order to advance the goals of the Interstate Commission.

500 2. The executive committee may, subject to the approval of the  
501 Interstate Commission, appoint or retain an executive director for such  
502 period, upon such terms and conditions and for such compensation, as  
503 the Interstate Commission may deem appropriate. The executive  
504 director shall serve as secretary to the Interstate Commission, but shall  
505 not be a member of the Interstate Commission. The executive director  
506 shall hire and supervise such other persons as may be authorized by  
507 the Interstate Commission.

508 D. The Interstate Commission's executive director and its employees  
509 shall be immune from suit and liability, either personally or in their  
510 official capacity, for a claim for damage to or loss of property or  
511 personal injury or other civil liability caused or arising out of or  
512 relating to an actual or alleged act, error, or omission that occurred, or  
513 that such person had a reasonable basis for believing occurred, within  
514 the scope of Interstate Commission employment, duties, or  
515 responsibilities provided, such person shall not be protected from suit  
516 or liability for damage, loss, injury, or liability caused by the  
517 intentional or willful and wanton misconduct of such person.

518 1. The liability of the Interstate Commission's executive director and  
519 employees or Interstate Commission representatives, acting within the  
520 scope of such person's employment or duties for acts, errors, or  
521 omissions occurring within such person's state may not exceed the  
522 limits of liability set forth under the Constitution and laws of that state

523 for state officials, employees, and agents. The Interstate Commission is  
524 considered to be an instrumentality of the states for the purposes of  
525 any such action. Nothing in this subsection shall be construed to  
526 protect such person from suit or liability for damage, loss, injury, or  
527 liability caused by the intentional or willful and wanton misconduct of  
528 such person.

529 2. The Interstate Commission shall defend the executive director  
530 and its employees and, subject to the approval of the Attorney General  
531 or other appropriate legal counsel of the member state represented by  
532 an Interstate Commission representative, shall defend such Interstate  
533 Commission representative in any civil action seeking to impose  
534 liability arising out of an actual or alleged act, error or omission that  
535 occurred within the scope of Interstate Commission employment,  
536 duties or responsibilities, or that the defendant had a reasonable basis  
537 for believing occurred within the scope of Interstate Commission  
538 employment, duties, or responsibilities, provided that the actual or  
539 alleged act, error, or omission did not result from intentional or willful  
540 and wanton misconduct on the part of such person.

541 3. To the extent not covered by the state involved, member state, or  
542 the Interstate Commission, the representatives or employees of the  
543 Interstate Commission shall be held harmless in the amount of a  
544 settlement or judgment, including attorney's fees and costs, obtained  
545 against such persons arising out of an actual or alleged act, error, or  
546 omission that occurred within the scope of Interstate Commission  
547 employment, duties, or responsibilities, or that such persons had a  
548 reasonable basis for believing occurred within the scope of Interstate  
549 Commission employment, duties, or responsibilities, provided that the  
550 actual or alleged act, error, or omission did not result from intentional  
551 or willful and wanton misconduct on the part of such persons.

552 ARTICLE XII

553 RULEMAKING FUNCTIONS OF THE INTERSTATE  
554 COMMISSION

555 A. The Interstate Commission shall promulgate reasonable rules in  
556 order to effectively and efficiently achieve the purposes of this  
557 Compact. Notwithstanding the foregoing, in the event the Interstate  
558 Commission exercises its rulemaking authority in a manner that is  
559 beyond the scope of the purposes of this compact, or the powers  
560 granted hereunder, then such an action by the Interstate Commission  
561 shall be invalid and have no force or effect.

562 B. Rules shall be made pursuant to a rulemaking process that  
563 substantially conforms to the "Model State Administrative Procedure  
564 Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as  
565 amended, as may be appropriate to the operations of the Interstate  
566 Commission.

567 C. Not later than thirty days after a rule is promulgated, any person  
568 may file a petition for judicial review of the rule provided, the filing of  
569 such a petition shall not stay or otherwise prevent the rule from  
570 becoming effective unless the court finds that the petitioner has a  
571 substantial likelihood of success. The court shall give deference to the  
572 actions of the Interstate Commission consistent with applicable law  
573 and shall not find the rule to be unlawful if the rule represents a  
574 reasonable exercise of the Interstate Commission's authority.

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

579 ARTICLE XIII

580 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

581 A. Oversight

582 1. The executive, legislative and judicial branches of state  
583 government in each member state shall enforce this compact and shall  
584 take all actions necessary and appropriate to effectuate the compact's  
585 purposes and intent. The provisions of this compact and the rules

586 promulgated hereunder shall have standing as statutory law.

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

591       3. The Interstate Commission shall be entitled to receive all service  
592 of process in any such proceeding, and shall have standing to  
593 intervene in the proceeding for all purposes. Failure to provide service  
594 of process to the Interstate Commission shall render a judgment or  
595 order void as to the Interstate Commission, this compact or  
596 promulgated rules.

597       B. If the Interstate Commission determines that a member state has  
598 defaulted in the performance of its obligations or responsibilities  
599 under this compact, or the bylaws or promulgated rules, the Interstate  
600 Commission shall:

601       1. Provide written notice to the defaulting state and other member  
602 states of the nature of the default, the means of curing the default and  
603 any action taken by the Interstate Commission. The Interstate  
604 Commission shall specify the conditions by which the defaulting state  
605 must cure its default.

606       2. Provide remedial training and specific technical assistance  
607 regarding the default.

608       3. If the defaulting state fails to cure the default, the defaulting state  
609 shall be terminated from the compact upon an affirmative vote of a  
610 majority of the member states and all rights, privileges and benefits  
611 conferred by this compact shall be terminated from the effective date  
612 of termination. A cure of the default does not relieve the offending  
613 state of obligations or liabilities incurred during the period of the  
614 default.

615       4. Suspension or termination of membership in the compact shall be  
616 imposed only after all other means of securing compliance have been

617 exhausted. Notice of intent to suspend or terminate shall be given by  
618 the Interstate Commission to the Governor, the majority and minority  
619 leaders of the defaulting state's legislature, and each of the member  
620 states.

621 5. The state which has been suspended or terminated is responsible  
622 for all assessments, obligations and liabilities incurred through the  
623 effective date of suspension or termination including obligations, the  
624 performance of which extends beyond the effective date of suspension  
625 or termination.

626 6. The Interstate Commission shall not bear any costs relating to any  
627 state that has been found to be in default or which has been suspended  
628 or terminated from the compact, unless otherwise mutually agreed  
629 upon in writing between the Interstate Commission and the defaulting  
630 state.

631 7. The defaulting state may appeal the action of the Interstate  
632 Commission by petitioning the U.S. District Court for the District of  
633 Columbia or the federal district where the Interstate Commission has  
634 its principal offices. The prevailing party shall be awarded all costs of  
635 such litigation including reasonable attorney's fees.

#### 636 C. Dispute Resolution

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

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

#### 644 D. Enforcement

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

647 2. The Interstate Commission may, by majority vote of the members,  
648 initiate legal action in the United States District Court for the District of  
649 Columbia or, at the discretion of the Interstate Commission, in the  
650 federal district where the Interstate Commission has its principal  
651 offices, to enforce compliance with the provisions of the compact, its  
652 promulgated rules and bylaws, against a member state in default. The  
653 relief sought may include both injunctive relief and damages. In the  
654 event judicial enforcement is necessary the prevailing party shall be  
655 awarded all costs of such litigation including reasonable attorney's  
656 fees.

657 3. The remedies herein shall not be the exclusive remedies of the  
658 Interstate Commission. The Interstate Commission may avail itself of  
659 any other remedies available under state law or the regulation of a  
660 profession.

661 ARTICLE XIV

662 FINANCING OF THE INTERSTATE COMMISSION

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

666 B. The Interstate Commission may levy on and collect an annual  
667 assessment from each member state to cover the cost of the operations  
668 and activities of the Interstate Commission and its staff which must be  
669 in a total amount sufficient to cover the Interstate Commission's  
670 annual budget as approved each year. The aggregate annual  
671 assessment amount shall be allocated based upon a formula to be  
672 determined by the Interstate Commission, which shall promulgate a  
673 rule binding upon all member states.

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

678 D. The Interstate Commission shall keep accurate accounts of all  
679 receipts and disbursements. The receipts and disbursements of the  
680 Interstate Commission shall be subject to the audit and accounting  
681 procedures established under its bylaws. However, all receipts and  
682 disbursements of funds handled by the Interstate Commission shall by  
683 audited yearly by a certified or licensed public accountant and the  
684 report of the audit shall be included in and become part of the annual  
685 report of the Interstate Commission.

686 ARTICLE XV

687 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

689 B. The compact shall become effective and binding upon legislative  
690 enactment of the compact into law by no less than ten of the states. The  
691 effective date shall be no earlier than December 1, 2007. Thereafter it  
692 shall become effective and binding as to any other member state upon  
693 enactment of the compact into law by that state. The governors of  
694 nonmember states or their designees shall be invited to participate in  
695 the activities of the Interstate Commission on a nonvoting basis prior  
696 to adoption of the compact by all states.

697 C. The Interstate Commission may propose amendments to the  
698 compact for enactment by the member states. No amendment shall  
699 become effective and binding upon the Interstate Commission and the  
700 member states unless and until it is enacted into law by unanimous  
701 consent of the member states.

702 ARTICLE XVI

703 WITHDRAWAL AND DISSOLUTION

704 A. Withdrawal

705 1. Once effective, the compact shall continue in force and remain  
706 binding upon each and every member state provided a member state

707 may withdraw from the compact by specifically repealing the statute,  
708 which enacted the compact into law.

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

714 3. The withdrawing state shall immediately notify the chairperson  
715 of the Interstate Commission in writing upon the introduction of  
716 legislation repealing this compact in the withdrawing state. The  
717 Interstate Commission shall notify the other member states of the  
718 withdrawing state's intent to withdraw within sixty days of its receipt  
719 thereof.

720 4. The withdrawing state is responsible for all assessments,  
721 obligations and liabilities incurred through the effective date of  
722 withdrawal, including obligations, the performance of which extend  
723 beyond the effective date of withdrawal.

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

#### 727 B. Dissolution of Compact

728 1. This compact shall dissolve effective upon the date of the  
729 withdrawal or default of the member state which reduces the  
730 membership in the compact to one member state.

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

#### 735 ARTICLE XVII

736 SEVERABILITY AND CONSTRUCTION

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

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

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

745 ARTICLE XVIII

746 BINDING EFFECT OF COMPACT AND OTHER LAWS

747 A. Other Laws

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

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

752 B. Binding Effect of the Compact

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

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

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

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

<b>VA</b>	<i>Joint Favorable Subst. C/R</i>	HED
<b>HED</b>	<i>Joint Favorable Subst. C/R</i>	ED
<b>ED</b>	<i>Joint Favorable</i>	

The following fiscal impact statement and bill analysis are prepared for the benefit of members of the General Assembly, solely for the purpose of information, summarization, and explanation, and do not represent the intent of the General Assembly or either chamber thereof for any purpose:

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**OFA Fiscal Note**

**State Impact:** None

**Municipal Impact:**

<b>Municipalities</b>	<b>Effect</b>	<b>FY 09 \$</b>	<b>FY 10 \$</b>
Local and Regional School Districts	None	None	None

**Explanation**

The provisions contained in the compact are procedural in nature and therefore result in no fiscal impact to local and regional school districts.

**OLR Bill Analysis**

**sHB 5545**

***AN ACT CONCERNING THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.***

**SUMMARY:**

This bill (1) enacts and commits Connecticut to the terms of the Interstate Compact on Educational Opportunity for Military Children and (2) creates an Interstate Commission on Educational Opportunity for Military Children to administer and enforce the compact.

The compact provides a legal mechanism, and creates uniform standards, for schools and local education agencies to use to facilitate placement, enrollment, graduation, data collection, and other decisions involving children in kindergarten through grade 12 when they move to other states because their parents are deployed on active duty in the U.S. Armed Services. The compact's stated purpose is to remove barriers to educational success imposed on such children because of their parents' frequent moves and deployment.

The compact applies to children of (1) active-duty armed forces members, including National Guard members and reservists on active duty under Title 10 of federal law; (2) veterans severely injured and medically discharged or retired, for one year after discharge or retirement; and (3) service members who die on active duty or from active duty injuries, for one year after death.

The compact outlines the commission's purposes, powers and duties, organizational structure, operating procedures, rulemaking functions and requirements; liability issues; and other subjects. It requires open meetings and public inspection of the commission's official records. Its rules have the force and effect of statutory law and are binding on all states. It may levy an annual assessment on member

states to cover the cost of its operations, activities, and staff.

Any state may join the compact. Any member state may withdraw by repealing the enacting legislation. The compact takes effect when 10 states have enacted it. It supersedes conflicting laws in member states. (To date, no state has adopted this compact.)

EFFECTIVE DATE: Upon passage

### **COMPACT'S PURPOSE**

The compact's stated purpose is to remove barriers to educational success imposed on children of military families because of their parents frequent moves and deployment. It aims to:

1. facilitate their timely enrollment and ensure that they are not placed at a disadvantage because of (a) variations in entrance or age requirements or (b) the difficulty in transferring education records from the previous school districts;
2. facilitate their placement so that they are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. facilitate their qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. facilitate on-time graduation.
5. provide for promulgation and enforcement of administrative implementing rules;
6. provide for uniform collection and sharing of information among member states, schools, and military families;
7. promote coordination with other compacts affecting military children; and
8. promote flexibility and cooperation between the educational

systems, parents, and students to achieve educational success for the students.

### **ARTICLE III—APPLICABILITY**

#### ***Children***

The compact applies to children, in kindergarten through 12<sup>th</sup> grade, of:

1. active-duty members of the uniformed services (U.S. Army, Navy, Air Force, Marine Corps, Coast Guard, commissioned corps of the National Oceanic and Atmospheric Administration, and Public Health Services), including guard members and reservists on active duty under Title 10 of federal law;
2. members or veterans of the uniformed services severely injured and medically discharged or retired, for one year after such discharge or retirement; and
3. members of the uniformed services who die on active duty or from active-duty injuries, for one year after death.

The compact specifically excludes from its coverage children of (1) inactive guard members and reservists, (2) veterans and retired members of the uniformed services not included above, and (3) other U.S. Department of Defense (DOD) personnel and other federal agency civilian and contract employees not defined as active-duty members of the uniformed services.

#### ***Education Agencies and Schools***

The compact applies to local education agencies. It defines these as public authorities constituted by the state to control and direct kindergarten to grade 12 schools (i.e., local and regional school boards).

### **ARTICLE IV—EDUCATIONAL RECORDS AND ENROLLMENT**

If a school cannot release official education records to parents for transfer purposes, the custodian of the records in the sending state

must give the parents a complete set of unofficial records containing uniform information as determined by the Interstate Commission. When the school in the receiving state gets the unofficial records, it must (1) place the student as quickly as possible, based on the unofficial records, pending validation by the official records, and (2) ask the sending state for the official records. Within 10 days of receiving the request, or within a reasonable time set by the commission, the school must provide the official records.

The compact defines “educational records” as the official records, files, and data directly related to a student and maintained by the school or local education agency, including records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

A receiving state must give students 30 days from the enrollment date, or a deadline set by the commission, to obtain any immunizations the state requires. For a series of immunizations, the initial vaccinations must be obtained within 30 days or a time reasonably determined under the commission’s rules.

Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level, including kindergarten, in the sending state at the time of transition, regardless of age. Students who satisfactorily complete the prerequisite grade level in the sending state may enroll in the next highest grade level in the receiving state, regardless of age. Students transferring after the start of the school year must enter schools in the receiving state on their validated level from an accredited school in the sending state.

#### **ARTICLE V—PLACEMENT AND ATTENDANCE**

When a student transfers before or during a school year, the

receiving school must initially place him or her in educational courses based on his or her enrollment in, and educational assessments conducted at, the sending school, if the courses are offered. Course placement includes Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. The paramount considerations for placement must be the student's academic program from the previous school and promoting placement in academically and career challenging courses. This does not preclude a school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

The receiving state school must initially honor placement of the student in educational programs based on (1) current educational assessments conducted at the school in the sending state or (2) participation and placement in like programs in the sending state. These include (1) gifted and talented programs and (2) English as a second language program. A school in the receiving state may perform subsequent evaluations to ensure appropriate placement of the student.

### ***Americans with Disabilities Act***

In compliance with this federal law, a receiving state must initially provide comparable services to a student with disabilities based on his current individualized education program.

In compliance with the Rehabilitation Act and the Americans with Disabilities Act, receiving states must make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide students with equal education access. This does not preclude the schools in the receiving state from performing subsequent evaluations to ensure appropriate student placement.

### ***Course Waivers***

The compact requires that local education agency administrative

officials be given flexibility to waive course and program prerequisites, or other preconditions, for placement in courses and programs offered under the jurisdiction of a local education agency.

### **School Absences**

A student whose parent or legal guardian is called to active duty for, is on leave from, or “immediately returned” from deployment in a combat or combat-support zone must be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian “relative to such leave or deployment of the parent or guardian.”

The compact defines deployment as the period one month before a service member’s departure on military orders to six months after he or she returns to his “home station.”

## **ARTICLE VI—ELIGIBILITY**

### **Children with Noncustodial Parents/Transitioning Military Children**

Under the compact, special power of attorney for the guardianship of a child of a military family, executed under applicable law, is sufficient for enrollment and other purposes requiring parental participation and consent.

A transitioning military child living with a noncustodial parent or other person standing *in loco parentis* in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while living with the custodial parent. A local education agency cannot charge local tuition to such children.

Education agencies must facilitate the inclusion of transitioning military children in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

## **ARTICLE VII—GRADUATION**

Local education agencies must incorporate the following procedures to facilitate the on-time graduation of military children. Agency

officials must (1) waive specific courses required for graduation if the child satisfactorily completed similar course work in another local education agency's jurisdiction or (2) provide reasonable justification for denial. If the agency does not grant the waiver to a student who would qualify to graduate from the sending school, it must provide an alternative means of completing the required coursework so the student can graduate on time.

A receiving state must accept (1) exit or end-of-course exams required for graduation from the sending state; (2) national norm-referenced achievement tests; or (3) alternative testing, instead of testing requirements for graduation in the receiving state. If the receiving state cannot accommodate these alternatives for a student transferring in his or her senior year, then the following provision applies.

If a military student who meets graduation requirements in his or her state transfers at the beginning or during his or her senior year and is ineligible to graduate after all alternatives are considered, the agencies in both jurisdictions must ensure that the student gets a diploma from the sending agency. If one of the states in is not a compact member, the member state must use its best efforts to facilitate the on-time graduation of the student in accordance with pertinent compact provisions.

#### **ARTICLE VIII—STATE COORDINATION**

Each member state must create a state council or use an existing body or board to coordinate the state's participation in, and compliance with, the compact and commission activities with government agencies, local education agencies, and military installations.

Each member state may determine its council membership. But it must include the state education superintendent, superintendent of a school district with a high concentration of military children, a military installation representative, one representative each from the legislative

and executive branches of government, and other offices and stakeholder groups the council deems appropriate. A state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the council.

### ***Military Family Education Liaison***

Each state's council must appoint or designate a military family education liaison to help military families and the state implement the compact.

### ***Compact Commissioner***

The governor, or other person determined by the state, must appoint a compact commissioner to administer and manage the state's participation in the compact. The commissioner and the military family education liaison are ex-officio members of the council, unless either is already a full voting member of the council.

## **ARTICLE IX—INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN**

The compact creates the Interstate Commission on Educational Opportunity for Military Children. Its activities are "the formation of public policy and are a discretionary state function." It is a body corporate and joint agency of the member states having all the responsibilities, powers, and duties under the compact and additional powers conferred upon it by a subsequent concurrent action of the participating states' respective legislatures in accordance with the compact.

### ***Membership***

The commission consists of voting and ex-officio, nonvoting, representatives who are members of interested organizations.

It must have one voting representative from each member state who is that state's compact commissioner. Each member state represented at a commission meeting has one vote. A majority of the total member states constitutes a quorum for the transaction of business, unless the

commission's bylaws set a larger quorum. A representative cannot delegate a vote to another member state, but if a commissioner cannot attend a meeting, the governor or state council may delegate voting authority to another person from the state for a specific meeting. The bylaws may provide for meetings of the commission to be conducted by telecommunication or electronic communication.

Ex-officio members, as defined in the bylaws, may include, among others, representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. DOD, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

### ***Executive Committee***

The commission must establish an executive committee, which must include commission officers and other commissioners determined by the bylaws. When the commission is not in session, the committee may act on its behalf, except to make rules. It must oversee the day-to-day activities of administering the compact, including enforcement and compliance with its provisions, bylaws and rules, and other such duties as deemed necessary.

DOD must serve as an ex-officio, nonvoting member of the executive committee. Executive committee members serve one-year terms. Each has one vote.

### ***Bylaws and Information Disclosure***

The commission must establish bylaws and rules outlining conditions and procedures for making information and official records publicly available for inspection or copying. It may exempt from disclosure information or official records that would adversely affect personal privacy rights or proprietary interests.

### ***Meetings***

The commission must meet at least once each calendar year. Its chairperson may call additional meetings and must call additional

meetings if a majority of member states asks for one.

The commission must give public notice of all its meetings. The meetings must be open to the public, except as the rules or compact otherwise provides. The commission and its committees may close a meeting, or portion thereof, if it determines by two-thirds vote that an open meeting is likely to:

1. relate solely to internal personnel practices and procedures,
2. disclose matters specifically exempted from disclosure by federal and state statute,
3. disclose privileged or confidential trade secrets or commercial or financial information,
4. involve formally censuring or accusing a person of a crime,
5. disclose personal information where disclosure would constitute a clearly unwarranted invasion of personal privacy,
6. disclose investigative records compiled for law enforcement purposes, or
7. specifically relate to the commission's participation in a civil action or other legal proceeding.

The commission may direct its legal counsel or designee to certify that a meeting may be closed and cite each relevant criterion governing the closure of any meeting, or portion of a meeting, which is closed under to this provision. It must (1) keep minutes that fully and clearly describe all matters discussed in a meeting and (2) provide a full and accurate summary of actions taken, and the reasons for it, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must be sealed, subject to release by a majority vote of the commission.

**Data Collection**

The commission must collect standardized data on the educational transition of the children of military families under the compact as its rules direct. The rules must specify the data to be collected, collection method, and data exchange and reporting requirements. Such methods of data collection, exchange, and reporting must, as far as reasonably possible, conform to current technology and “coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.”

**Violation and Noncompliance Reports**

The commission must create a process for military officials, education officials, and parents to inform it when (1) any alleged violations of the compact or its rules occur or (2) a state or local education agencies do not address issues under the jurisdiction of the compact or its rules. This does not create a private right of action against the commission or member states.

**ARTICLE X—POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

The compact authorizes the commission to:

1. provide for dispute resolution among member states;
2. promulgate rules that have the force and effect of statutory law and are binding on all states, and take all necessary actions to achieve the compact’s goals, purposes, and obligations;
3. issue, upon request of a member state, advisory opinions on the meaning or interpretation of the compact, its bylaws, rules, and actions;
4. enforce compliance with the compact, commission rules and bylaws, using all necessary and proper means, including the judicial process;
5. establish and maintain offices in one of the member states;

6. buy and maintain insurance and bonds;
7. borrow, accept, hire, or contract for personnel services;
8. establish and appoint committees including an executive committee to act on its behalf;
9. elect or appoint such officers, attorneys, employees, agents, or consultants, and fix their compensation, define their duties, and determine their qualifications;
10. establish personnel policies and programs relating to conflicts of interest, compensation rates, and personnel qualifications;
11. accept, receive, use, and dispose of donations and grants of money, equipment, supplies, material, and services;
12. lease, buy, and accept contributions or donations of, or otherwise own, hold, improve, or use any property, real, personal, or mixed;
13. sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal or mixed;
14. establish a budget and make expenditures;
15. adopt a seal and bylaws governing its management and operation;
16. report annually to member states' legislatures, governors, judiciary, and state councils on its activities during the preceding year, including any recommendations it adopted;
17. coordinate education, training, and public awareness on the compact, its implementation, and operation for pertinent officials and parents;
18. establish uniform standards for reporting, collecting, and exchanging data;

19. maintain corporate books and records in accordance its bylaws;
20. perform functions necessary or appropriate to achieve the compact's purposes; and
21. provide for uniform collection and sharing of information among member states, schools, and military families under this compact.

#### **ARTICLE XI — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

The commission must, by a majority of the members present and voting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact. It must within 12 months after its first meeting, among other things:

1. establish its fiscal year;
2. establish an executive committee, and other committees as necessary;
3. provide for establishing committees and for governing any general or specific delegation of authority or commission function;
4. provide reasonable procedures for calling and conducting meetings and providing meeting notices;
5. establish titles and responsibilities of commission officers and staff;
6. provide a mechanism for terminating the commission and returning left over funds on the termination of the compact after debts and obligations are paid and reserved; and
7. provide start-up rules for initially administering the compact.

#### ***Commission Officers***

Annually, the commission, by a majority of its members, must elect

from its membership a chairperson, vice-chairperson, and treasurer, each having such authority and duties specified in the commission's bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, must preside at all of the commission's meetings. The officers serve without compensation or remuneration but, subject to the availability of budgeted funds, must be reimbursed for ordinary and necessary costs and expenses incurred performing commission business.

### ***Executive Committee, Officers, and Personnel***

The executive committee must have such authority and perform duties outlined in the bylaws. It must, among other things:

1. manage the commission's affairs consistent with its bylaws and purposes;
2. oversee "an organizational structure within, and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions;"
3. plan, implement, and coordinate communication and activities with other state, federal, and local government organizations in order to advance the commission's goals.

The committee may, subject to commission approval, appoint or retain an executive director for the period, upon the terms and conditions, and for the compensation, the commission considers appropriate. The executive director must (1) serve as secretary to the commission, but cannot be a member of it and (2) hire and supervise the other personnel the commission authorizes.

### ***Liability Issues***

The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacities, for property damage or personal injury or other civil liability claims caused or arising out of or relating to an actual or alleged act, error, or

omission that occurred, or that they had a reasonable basis for believing occurred, within the scope their employment. Any such liability may not exceed the liability limits under the Constitution and laws of the state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of such actions. The protections do not apply, and may not be construed to apply, in cases of intentional or willful and wanton misconduct.

The commission must defend the executive director, its employees, and commission representatives in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of the commission's employment or that the defendant had a reasonable basis for believing occurred within the scope of that employment. The defense is subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by the commission. It does not apply in cases involving intentional or willful and wanton misconduct.

To the extent not covered by the state involved, member state, or the commission, commission representatives or employees must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, arising out of an actual or alleged acts, errors, or omissions that occurred within the scope of their employment, or that they had a reasonable basis for believing occurred within such scope. The provision does not apply in cases resulting from intentional or willful and wanton misconduct on the part of such persons.

#### **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

The commission must promulgate reasonable rules to effectively and efficiently achieve the compact's purposes. If it exercises rulemaking authority beyond the scope of such purposes or its powers under the compact, the action is invalid and has no legal effect.

Its rules must be made under a rulemaking process that substantially conforms to the 1991 federal "Model State Administrative

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Procedure Act,” *Uniform Laws Annotated*, Vol. 15, p. 1 (2000) as amended, as appropriate to the commission’s operations.

Anyone may petition for judicial review of a commission rule, within 30 days after it is promulgated. The filing of a petition does not stay or otherwise prevent the rule from taking effect, unless the court finds that the petitioner has a substantial likelihood of success. The court must give deference to the commission’s actions consistent with applicable law. It cannot find the rule unlawful if it represents a reasonable exercise of the commission’s authority.

If a majority of member states’ legislatures rejects a rule by enacting a statute or resolution in the same way it used to adopt the compact, the rule has no further force and effect in any member state.

## **ARTICLE XIII—OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

### ***Oversight***

The compact and implementing rules have the force of statutory law. The executive, legislative, and judicial branches of member states must enforce the compact and act as necessary and appropriate to accomplish its purposes and intent.

Courts must take judicial notice of the compact and its rules in any judicial or administrative proceeding in a member state on compact provisions that may affect the commission’s powers, responsibilities, or actions. The 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 commission renders a judgment or order void as to the commission, compact, or promulgated rules.

If the commission determines that a member state failed to perform its obligations or responsibilities under the compact, bylaws, or promulgated rules, it must (1) send written notice to the defaulting state and other member states of the nature of the default, the means to correct it, and any commission action, and (2) provide remedial

training and specific technical assistance on the default.

If the defaulting state fails to cure the default, its membership must be terminated by a majority of the member states, and all its rights, privileges, and benefits under the compact are ended from the effective date of the termination. Correcting the default does not relieve the state of obligations or liabilities it incurred when it was in default.

The commission may suspend or terminate a member state only after exhausting all other means of securing compliance. It must give notice of intent to suspend or terminate the state to the (1) state's governor and House and Senate majority and minority leaders and (2) each of the member states. The state is responsible for all assessments, obligations, and liabilities incurred through, and obligations that extend beyond, the effective date of suspension or termination.

The commission cannot bear costs for any state found to be in default or suspended or terminated, unless it and the state agree to this in writing.

A defaulting state may appeal commission actions by petitioning the U.S. District Court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all litigation costs, including reasonable attorney's fees.

### ***Dispute Resolution***

The commission must attempt, if asked by a member state, to resolve compact disputes involving member states and between member and nonmember states. Its rules must provide for both mediation and binding dispute resolution, as appropriate.

### ***Enforcement***

The commission, in the reasonable exercise of its discretion, must enforce the compact and its rules. To enforce compliance with the compact or commission rules and bylaws against a defaulting state, it may, by majority vote of the members, initiate legal action in the U.S.

District Court for the District of Columbia or, at its discretion, in the federal district where it has its principal offices. It may seek both injunctive relief and damages. If judicial enforcement is necessary, the prevailing party must be awarded all litigation costs, including reasonable attorney's fees. The compact's remedies are not exclusive; the commission may avail itself of any other remedies available under state law "or the regulation of a profession."

#### **ARTICLE XIV—FINANCING OF THE INTERSTATE COMMISSION**

The commission must pay, or make provisions to pay, reasonable the expenses of its establishment, organization, and ongoing activities. It may levy on, and collect from, member states an annual assessment to cover the cost of its operations, activities, and staff. The levy must be sufficient to cover its annual approved budget. The commission must use a formula to allocate the aggregate annual assessment and promulgate a rule binding upon all member states.

The commission cannot incur any obligations before securing adequate funds, and it cannot pledge the credit of any member state, unless the state authorizes it to do so. It must keep accurate accounts of receipts and disbursements, which must be (1) subject to audit and accounting procedures established under its bylaws and (2) audited yearly by a certified or licensed public accountant. It must include the audit report as part of its annual report.

#### **ARTICLE XV—EFFECTIVE DATE AND AMENDMENT**

Any state may join the compact, which takes effect and is binding when 10 states enact it. After that, it is effective and binding on any state that enacts it.

The commission may propose compact amendments for enactment by member states. An amendment takes effect and is binding upon the commission and member states when enacted into law by unanimous consent of the member states.

Governors of nonmember states or their designees must be invited to participate in commission activities as nonvoters.

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**ARTICLE XVI—WITHDRAWAL AND DISSOLUTION*****Withdrawal***

Once it takes effect, the compact continues in force and binds all member states. A state may withdraw by repealing the statute that enacted the compact. The withdrawal takes effect one year after the effective date of the repealing statute and written notification to the governor of each member jurisdiction.

The withdrawing state must immediately give the commission chairperson written notice of the introduction of the repealing legislation. The commission must notify other member states of the state's intent to withdraw within 60 days after it gets the notice.

The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective withdrawal date, including performance of any obligations that extend beyond that date.

A state may be reinstated upon reenacting the compact or on a later date as the commission determines.

***Dissolution***

The compact dissolves on the date when only one state remains a member. Upon dissolution, it becomes null and void and has no further force or effect. It must wind up its business and affairs and distribute any surplus funds in accordance with its bylaws.

**ARTICLE XVII—SEVERABILITY AND CONSTRUCTION**

The compact's provisions are severable and must be liberally construed to achieve their purposes. The compact does not prohibit the applicability of other interstate compacts to which the states are members. If any phrase, clause, sentence, or provision is deemed unenforceable, the remaining provisions are enforceable.

**ARTICLE XVIII—EFFECT OF COMPACT AND OTHER LAWS*****Other Laws***

The compact does not prevent the enforcement of any other law of a

member state that is not inconsistent with the compact. It supersedes conflicting laws in any member state.

***Binding Effect of the Compact***

All of the commission's lawful actions, including its rules and bylaws, are binding upon the member states. All agreements between the commission and the states are binding in accordance with their terms. If any compact provision exceeds the constitutional limits imposed on the legislature of any member state, the provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.

**COMMITTEE ACTION**

Select Committee on Veterans' Affairs

Joint Favorable Substitute Change of Reference  
Yea 10 Nay 0 (03/04/2008)

Higher Education and Employment Advancement Committee

Joint Favorable Substitute Change of Reference  
Yea 17 Nay 0 (03/11/2008)

Education Committee

Joint Favorable  
Yea 28 Nay 0 (03/18/2008)