

Stricken language would be deleted from and underlined language would be added to present law.
Act 146 of the Regular Session

State of Arkansas
89th General Assembly
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As Engrossed: S1/15/13 S1/17/13 S2/4/13

A Bill

SENATE BILL 15

By: Senators E. Williams, J. English

By: Representatives Perry, *House*, S. Malone

For An Act To Be Entitled

AN ACT TO ADOPT THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES; AND FOR OTHER PURPOSES.

Subtitle

TO ADOPT THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN AND TO REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6, Chapter 24, is amended to add an additional subchapter to read as follows:

6-4-301. Title.

This subchapter is known and may be cited as the "Interstate Compact on Educational Opportunity for Military Children".

6-4-302. Adoption of compact.

The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into with all other jurisdictions legally joining in this compact in the form substantially as follows:

Interstate Compact on Educational Opportunity for Military Children

ARTICLE I



PURPOSE

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

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

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

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

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

E. Providing for the adoption and enforcement of administrative rules implementing the provisions of this compact.

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

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

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

ARTICLE II

DEFINITIONS

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

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

B. "Children of military families" means: a school-aged child(ren), enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

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

D. "Deployment" means: the period one (1) month prior to the service members' departure from their home station on military orders though six (6) months after return to their home station.

E. "Education(al) records" means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to 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.

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

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

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

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

J. "Military installation" means: means a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

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

L. "Receiving state" means: the state to which a child of a military

family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the Compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of rules promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or any successor law, and includes the amendment, repeal, or suspension of an existing rule.

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

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

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

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

R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.

S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.

ARTICLE III

APPLICABILITY

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

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

2. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after

medical discharge or retirement; and

3. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

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

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

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

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

3. Veterans of the uniformed services, except as provided in Section A; and

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

ARTICLE IV

EDUCATIONAL RECORDS AND ENROLLMENT

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

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

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under

the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and First grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT AND ATTENDANCE

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student’s enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered and there is space available, as determined by the school district. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student’s academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement – The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state provided that the program exists in the school and there is space available, as determined by the school district. Such programs include, but are not limited to: 1) gifted and

talented programs; and 2) English as a second language (ESL).

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

C. Special education services.

1. In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and

2. In compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall 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 the student with equal access to education.

This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall 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.

ARTICLE VI

ELIGIBILITY

A. Eligibility for enrollment

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be

sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

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

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

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

ARTICLE VII

GRADUATION

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

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

B. Exit exams - States shall accept:

1. Exit or end-of-course exams required for graduation from the sending state; or

2. National norm-referenced achievement tests; or

3. Alternative testing, in lieu of testing requirements for graduation in the receiving state.

In the event the above alternatives cannot be accommodated by the receiving state for a student transferring in his or her Senior year, then the provisions of Article VII, Section C shall apply.

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

ARTICLE VIII

STATE COORDINATION

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education or his or her designee, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member 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 State Council.

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

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

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

ARTICLE IX

INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

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

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

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

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the

Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive committee.

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

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

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;
2. Disclose matters specifically exempted from disclosure by federal and state statute;
3. Disclose trade secrets or commercial or financial information that is privileged or confidential;
4. Involve accusing a person of a crime, or formally censuring a person;
5. Disclose information of a personal nature 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 Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to this

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

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

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

ARTICLE X

POWERS AND DUTIES OF THE INTERSTATE COMMISSION

The Interstate Commission shall have the following powers:

- A. To provide for dispute resolution among member states.
- B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of rules promulgated under the Arkansas Administrative Procedure Act, § 25-15-201 et seq., or any successor law, and shall be binding in the compact states to the extent and in the manner provided in this compact.
- C. To issue, upon request of a member state, advisory opinions

concerning the meaning or interpretation of the interstate compact, its bylaws, rules and actions.

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

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

F. To purchase and maintain insurance and bonds.

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

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

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

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

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

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

M. To establish a budget and make expenditures.

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

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

P. To coordinate education, training and public awareness regarding the compact, its implementation and operation for officials and parents

involved in such activity.

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

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

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

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

ARTICLE XI

ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;

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

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

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

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

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

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice-chairperson, and

a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers and Personnel

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

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

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

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

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

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

injury, or liability caused by the intentional or willful and wanton misconduct of such person.

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

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative 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 Interstate Commission employment, duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such person.

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

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

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

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

3. The Interstate Commission shall be entitled to receive all

service of process in any such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate Commission shall render a judgment or order void as to the Interstate Commission, this compact or promulgated rules.

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

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

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

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

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

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

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

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

C. Dispute Resolution

1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that may arise among member states and between member and non-member states.

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

ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

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

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

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

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

ARTICLE XVMEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

ARTICLE XVIWITHDRAWAL AND DISSOLUTIONA. Withdrawal

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact specifically repealing the statute, which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, and shall take effect upon the effective date of the repealing statute.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations and liabilities incurred through the effective date of the repealing statute.

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

B. Dissolution of Compact

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one (1) member state.

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

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

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

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

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

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other Laws. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.

B. Binding Effect of the Compact

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

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

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

6-4-303. Compact Commissioner for Arkansas.

(a) Under the compact established under this subchapter, the Compact Commissioner for Arkansas shall be the Commissioner of Education or his or her designee.

(b) The Compact Commissioner for Arkansas is responsible for the administration and management of the state participation in the Interstate Compact on Educational Opportunity for Military Children adopted under this subchapter.

(c) The Compact Commissioner for Arkansas shall cooperate with all departments, agencies, and officers of and in government of this state as well as all school districts and political subdivisions of this state for the administration of this compact or supplementary agreements entered into by the state.

6-4-304. Creation of the State Council.

(a) There is created the State Council for the Interstate Compact on Educational Opportunity for Military Children to be composed of the following members:

(1) The Commissioner of Education or his or her designee, serving as Compact Commissioner for Arkansas as provided under § 6-4-303;

(2) The superintendent of the school district with the greatest number of military children from a military installation;

(3) One (1) member to be appointed by the President Pro Tempore of the Senate from a list of three (3) nominees submitted by the Executive Director of the Arkansas Education Association;

(4) One (1) member to be appointed by the Speaker of the House of Representatives from a list of three (3) nominees submitted by the Executive Director of the Arkansas Association of Educational Administrators;

(5) One (1) member appointed by the Governor from a list of three (3) nominees submitted by the Arkansas School Boards Association;

(6) The charter school leader of the open-enrollment public charter school with the greatest number of military children from a military installation; and

(7) A representative from a military installation in Arkansas who will serve as a nonvoting, exofficio member.

(b)(1) Each appointed member shall have a background or interest in the education of military children.

(2)(A) The terms for the initial appointees to the council shall be staggered as determined by lot with:

(i) One (1) member serving a term of three (3)

years;

(ii) One (1) member serving a term of four (4)

years; and

(iii) One (1) member serving a term of five (5)

years.

(B) Each succeeding appointment to the council shall be for a term of five (5) years, but the member appointed shall serve until the member's successor is appointed.

(3)(A) If a vacancy occurs in an appointed position for any reason, the vacancy shall be filled by appointment by the official that made the appointment.

(B) The new appointee shall serve for the remainder of the unexpired term.

(c)(1) The council shall meet at least quarterly or as decided upon by a majority of its members.

(2) The council shall conduct its meetings in Pulaski County or via teleconference or web conference as technology becomes available and as desired to allow for scheduling flexibility for its members.

(d)(1) A majority of the members of the council shall constitute a quorum for transacting business of the council.

(2) All actions of the council shall be by a quorum.

(e) The Commissioner of Education or his or her designee serving as Compact Commissioner for Arkansas shall be the chair of the council and be a full-voting member.

(f) Appointments to the council shall be for a term of four (4) years.

(g) All state agencies, school districts, and political subdivisions of the state shall furnish to the council any information and assistance the council may reasonably request.

6-4-305. Duties of the State Council.

(a) Within thirty (30) days from the date the appointments are initially made, the members of the State Council for the Interstate Compact on Educational Opportunity for Military Children shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the Interstate Compact on Educational Opportunity for Military Children adopted under this subchapter.

(b) The council may promulgate rules for the administration of this subchapter.

6-4-306. Military family education liaison.

(a) The military family education liaison shall be an exofficio member of the State Council for the Interstate Compact on Educational Opportunity for Military Children.

(b) The military family education liaison shall have specialized knowledge related to the educational needs of military children and the obstacles that military children face in obtaining an education.

(c) The military family education liaison shall serve a term of four (4) years.

6-4-307. Fees.

Under the compact established under this subchapter and using the definitions in the compact:

(1) The minimum fee for a member state is two thousand dollars (\$2,000);

(2) The maximum fee for each member state is two dollars (\$2.00) per student who is a child of an active duty military family; and

(3) The fees paid or owed shall not exceed the amount appropriated for the payment of fees under this compact for each fiscal year by the General Assembly.

6-4-308. Immunity not affected.

(a) This subchapter shall not affect the immunity from suit granted to state officials and employees under § 19-10-305 or to the state and its official agencies under Ark. Const., Art. 5, § 20.

(b) The exercise of the powers and performance of duties provided for in this chapter by the Compact Commissioner for Arkansas, the State Council for Arkansas, and the military family education liaison for Arkansas and its officers, agents, and employees are declared to be public and governmental functions, exercised for a public purpose and matters of public necessity, conferring upon each authority governmental immunity from suit in tort.

SECTION 2. Arkansas Code Title 6, Chapter 27, Subchapter 1 is

repealed.

~~6-27-101. Findings.~~

~~The General Assembly finds that:~~

~~(1) Access to education is challenging for a child of a military family due to frequent moves and deployment of his or her parents;~~

~~(2) A child of a military family encounters difficulties due to the transfer of education records and variations in entrance and age requirements;~~

~~(3) The student placement process should aid a child of a military family in attendance requirements, scheduling, sequencing, grading, course content, and assessment;~~

~~(4) Qualification and eligibility guidelines should be consistent so that a child of a military family may continue his or her educational experience;~~

~~(5) On-time graduation of a child of a military family is necessary and possible;~~

~~(6) The uniform collection and sharing of information between states, schools, and military families will enable a smooth transition and successful matriculation for the student; and~~

~~(7) Flexibility and cooperation between the educational system, the parent, and the student are essential to the academic success of a child of a military family.~~

~~6-27-102. Definitions.~~

~~As used in this chapter:~~

~~(1) "Active duty" means full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. § 12301 et seq. and 10 U.S.C. § 12401 et seq. as they existed on January 29, 2009;~~

~~(2) "Child of a military family" means a school-aged child in the household of a person on active duty who is enrolled in kindergarten through grade twelve (K-12);~~

~~(3) "Deployment" means the period one (1) month before departure of the person on active duty from his or her home station on military orders through six (6) months after return to his or her home station;~~

~~(4) "Education" records means the official records, files, and~~

~~data maintained by the local education agency and kept in the student's cumulative folder, including general identifying data, records of attendance and academic work completed, records of achievement, and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs;~~

~~(5) "Extracurricular activities" means voluntary activities sponsored by the school, local education agency, or an organization sanctioned by the local education agency, including preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities;~~

~~(6) "Local education agency" means a public authority legally recognized by the state as an administrative agency to provide control and direction for kindergarten through grade twelve (K-12) public education;~~

~~(7) "Receiving school" means the school in a state to which a child of a military family is sent, brought, or caused to be sent or brought;~~

~~(8) "Sending school" means the school in a state from which a child of a military family is sent, brought, or caused to be sent or brought;~~

~~(9) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Commonwealth of Northern Marianas Islands, and any other United States territory;~~

~~(10) "Student" means the child of a military family enrolled in kindergarten through grade twelve (K-12);~~

~~(11) "Transition" means:~~

~~(A) The formal and physical process of transferring from the sending school to the receiving school; or~~

~~(B) The period of time in which a student moves from the sending school in a state to a receiving school in a state;~~

~~(12) "Uniformed services" means the United States Army, Navy, Air Force, Marine Corps, and Coast Guard; and~~

~~(13) "Veteran" means a person who served in the uniformed services and who was discharged or released under conditions other than dishonorable.~~

~~6-27-103. Applicability.~~

~~(a)(1) This chapter shall apply to a child of:~~

~~(A) An active duty member of the uniformed services, including a member of the National Guard and Reserve;~~

~~(B) A member of the uniformed services who is severely injured and medically discharged;~~

~~(C) A member of the uniformed services who is severely injured and retired; and~~

~~(D) A member of the uniformed services who dies on active duty or as a result of injuries sustained on active duty.~~

~~(2) This chapter shall apply to a child under subdivisions (a)(1)(B)-(D) of this section for a period of one (1) year after the medical discharge, retirement, or death of the member of the uniformed services.~~

~~(b) This chapter shall not apply to a child of:~~

~~(1) An inactive member of the National Guard and Reserve;~~

~~(2) A retired member of the uniformed services, except as provided in subsection (a) of this section;~~

~~(3) A veteran of the uniformed services, except as provided in subsection (a) of this section; and~~

~~(4) Any other United States Department of Defense personnel or any other federal agency civilian and contract employee not defined as an active duty member of the uniformed services.~~

~~(c) This chapter shall apply only to local education agencies as defined in this chapter.~~

~~6-27-104. Receiving school—Education records.~~

~~(a) To satisfy records requirements upon a student's enrollment at a receiving school, a receiving school shall accept a student's:~~

~~(1) Official education record; or~~

~~(2) Unofficial education record, if the official education record is unavailable at the time of enrollment.~~

~~(b) Upon receipt of the unofficial education record by a receiving school, the receiving school shall enroll and appropriately place the student based on the information provided in the unofficial record pending validation by the official education records.~~

~~(c) Simultaneous with the enrollment and conditional placement of the student submitting an unofficial education record, the receiving school shall request and work to obtain the student's official education record from the~~

~~sending school.~~

~~6-27-105. Receiving school—Required immunizations.~~

~~The receiving school shall allow thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Department of Education for the student to:~~

~~(1) Obtain required immunizations; or~~

~~(2)(A) Receive an initial required immunization in a series of required immunizations.~~

~~(B) However, the student shall obtain the entirety of his or her required immunizations within twelve (12) months from the date of enrollment.~~

~~6-27-106. Receiving school—Course or program placement.~~

~~(a) A receiving school shall initially place the student in the equivalent grade, course, or program, including special education, until appropriate evaluations are performed by the receiving school to ensure appropriate placement based on education assessments conducted at the sending school including:~~

~~(1) Gifted and talented;~~

~~(2) English as a second language;~~

~~(3) Honors;~~

~~(4) International baccalaureate;~~

~~(5) Advanced placement; and~~

~~(6) Vocational, technical, and career pathways courses.~~

~~(b) A home-schooled student shall be placed according to the process outlined in § 6-15-501 et seq. for placement of a home-schooled student in a public school.~~

~~(c) The local education agency may waive course and program prerequisites or other preconditions for placement in courses or programs offered in the jurisdiction of the local education agency.~~

~~6-27-107. Receiving school—Grade placement.~~

~~A receiving school shall allow a student, regardless of age, to:~~

~~(1) Continue enrollment at the grade level in the receiving school commensurate with the grade level, including kindergarten, in the~~

~~sending school at the time of transition; or~~

~~(2) Enroll in the next highest grade if the student satisfactorily completed the prerequisite grade level at the sending school.~~

~~6-27-108. Receiving school—Special education services.~~

~~(a) A receiving school shall initially provide comparable services to a student with disabilities based on his or her current individualized education plan as required by the Individuals with Disabilities Education Act (IDEA), 20 U.S.C. § 1400 et seq., as it existed on February 1, 2009.~~

~~(b) A receiving school shall 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 the student with equal access to education as required by Section 504 of the Rehabilitation Act of 1973, 29 U.S.C. § 794 and Title II of the Americans with Disabilities Act, 42 U.S.C. §§ 12131-12165, as they existed on February 1, 2009.~~

~~6-27-109. Receiving school—Student transfer in grade twelve.~~

~~To facilitate the on-time graduation of a child of a military family transferring in grade twelve (12), a receiving school shall:~~

~~(1)(A) Waive specific courses required for graduation if similar course work has been satisfactorily completed at a sending school or shall provide reasonable justification for denial.~~

~~(B) If a waiver is not granted to a student who would qualify to graduate from the sending school, the local education agency shall provide an alternative means of completing required coursework so that graduation may occur on time;~~

~~(2) Accept exit exams, end-of-course exams, or alternative testing required for graduation from the sending school in lieu of testing requirements for graduation in the receiving school; and~~

~~(3)(A) Work with the sending school if the student transferring at the beginning or during grade twelve (12) is ineligible to graduate from the receiving school after all alternatives have been considered to ensure the receipt of a diploma from the sending school if the student meets the graduation requirements of the sending school.~~

~~(B) If the sending school fails to issue a diploma, the receiving school shall use best efforts to facilitate the on-time graduation~~

~~of the student in accordance with subdivisions (1) and (2) of this section.~~

~~6-27-110. Sending school—Education records.~~

~~(a) The sending school shall prepare and furnish to the parent of a student leaving the school:~~

~~(1) Official education records; or~~

~~(2) Unofficial education records, if official records cannot be released to the parent for the purpose of transfer.~~

~~(b) The sending school shall process and furnish the official education records to the receiving school within ten (10) days of receiving a request from the receiving school.~~

~~6-27-111. Sending school—Student transfer in grade twelve.~~

~~A sending school shall work with the receiving school to facilitate the on-time graduation of the student transferring at the beginning or during grade twelve (12) if the student is ineligible to graduate from the receiving school and ensure the receipt of a diploma from the sending school if the student meets the graduation requirements of the sending school.~~

~~6-27-112. Authorization for enrollment.~~

~~(a) A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law, shall be sufficient for enrollment and for all other actions requiring parental participation and consent if the parent is not available.~~

~~(b)(1) A student placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school in which he or she was enrolled while residing with the custodial parent.~~

~~(2) The cost of transporting the student to and from school shall be the responsibility of the student if the student resides outside the school district in which he or she attends school.~~

~~(c) State and local education agencies shall facilitate the opportunity for student inclusion in extracurricular activities, regardless of application deadlines, to the extent the student is otherwise qualified.~~

~~6-27-113. Absence due to military deployment.~~

~~A student shall be granted additional absences at the discretion of the local educational agency superintendent to visit with his or her parent or legal guardian if the parent or legal guardian is a member of the uniformed services and has:~~

~~(1) Been called to active duty or is on leave from active duty;~~

~~or~~

~~(2) Returned from deployment to a combat zone or combat support posting.~~

/s/E. Williams

APPROVED: 02/26/2013