

1213--A

2013-2014 Regular Sessions

I N S E N A T E

(PREFILED)

January 9, 2013

Introduced by Sens. RANZENHOFER, DeFRANCISCO, LARKIN, MAZIARZ, O'MARA, ZELDIN -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to enacting the interstate compact on educational opportunity for military children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

1 Section 1. The education law is amended by adding a new article 66 to
2 read as follows:

3 ARTICLE 66

4 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

5 SECTION 3300. SHORT TITLE.

6 3301. PURPOSE.

7 3302. DEFINITIONS.

8 3303. APPLICABILITY.

9 3304. EDUCATIONAL RECORDS AND ENROLLMENT.

10 3305. PLACEMENT AND ATTENDANCE.

11 3306. ELIGIBILITY.

12 3307. GRADUATION.

13 3308. STATE COORDINATION.

14 3309. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILI-
15 TARY CHILDREN.

16 3310. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

17 3311. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

18 3312. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.

19 3313. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.

20 3314. FINANCING OF THE INTERSTATE COMMISSION.

EXPLANATION--Matter in *ITALICS* (underscored) is new; matter in brackets [] is old law to be omitted.

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3315. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

3316. WITHDRAWAL AND DISSOLUTION.

3317. SEVERABILITY AND CONSTRUCTION.

3318. BINDING EFFECT OF COMPACT AND OTHER LAWS.

S 3300. SHORT TITLE. THIS ARTICLE SHALL BE KNOWN AND MAY BE CITED AS THE "INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN".

S 3301. 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:

1. 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 OR DISTRICTS OR VARIATIONS IN ENTRANCE/AGE REQUIREMENTS.

2. 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.

3. FACILITATING THE QUALIFICATION AND ELIGIBILITY FOR ENROLLMENT, EDUCATIONAL PROGRAMS, AND PARTICIPATION IN EXTRACURRICULAR ACADEMIC, ATHLETIC, AND SOCIAL ACTIVITIES.

4. FACILITATING THE ON-TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES.

5. PROMOTING FLEXIBILITY AND COOPERATION BETWEEN THE EDUCATIONAL SYSTEM, PARENTS AND THE STUDENT IN ORDER TO ACHIEVE EDUCATIONAL SUCCESS FOR THE STUDENT.

S 3302. DEFINITIONS. AS USED IN THIS COMPACT, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT MEANING:

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. SECTIONS 1209 AND 1211.

2. "CHILDREN OF MILITARY FAMILIES" MEANS A SCHOOL-AGED CHILD OR CHILDREN, ENROLLED IN KINDERGARTEN THROUGH TWELFTH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER.

3. "EDUCATION RECORDS" OR "EDUCATIONAL 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.

4. "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 AN INVOLVEMENT IN PUBLIC PERFORMANCES, CONTESTS, ATHLETIC COMPETITIONS, DEMONSTRATIONS, DISPLAYS, AND CLUB ACTIVITIES.

5. "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 GRADE PUBLIC EDUCATIONAL INSTITUTIONS.

6. "MILITARY INSTALLATION" 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 FACILI-

TY, WHICH IS LOCATED WITHIN ANY OF THE SEVERAL STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE UNITED STATES VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER UNITED STATES TERRITORY. SUCH TERM DOES NOT INCLUDE ANY FACILITY USED PRIMARILY FOR CIVIL WORKS, RIVERS AND HARBORS PROJECTS, OR FLOOD CONTROL PROJECTS.

7. "RECEIVING DISTRICT" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT.

8. "SENDING DISTRICT" MEANS THE 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 NORTHERN MARIANAS ISLANDS AND ANY OTHER UNITED STATES TERRITORY.

10. "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 GRADE.

11. "TRANSITIONING MILITARY CHILD" MEANS (A) THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL AS A RESULT OF MILITARY ORDERS OR (B) THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE. THE TRANSITIONING PHASE WILL COMMENCE ON THE DAY THAT THE CHILD WITHDRAWS FROM THE SENDING STATE AND CONCLUDE ON THE DATE THEY ENROLL AT THE RECEIVING STATE.

12. "UNIFORMED SERVICE" OR "UNIFORMED SERVICES" 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.

13. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

14. "BOARD OF EDUCATION" MEANS THE DULY ELECTED GOVERNING BODY OF A SCHOOL DISTRICT/LOCAL EDUCATION AGENCY AS SPECIFIED IN LAW AND REGULATIONS.

15. "SUPERINTENDENT OF SCHOOLS" MEANS THE CHIEF EXECUTIVE OFFICER OF A SCHOOL DISTRICT/LOCAL EDUCATION AGENCY AS SPECIFIED IN LAW AND REGULATIONS.

16. "PRINCIPAL" MEANS A SCHOOL BUILDING LEVEL ADMINISTRATOR OF A SCHOOL DISTRICT/LOCAL EDUCATION AGENCY.

S 3303. APPLICABILITY. 1. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION TWO OF THIS SECTION, THIS COMPACT SHALL APPLY TO THE CHILDREN OF:

(A) 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. SECTIONS 1209 AND 1211;

(B) MEMBERS OR VETERANS OF THE UNIFORMED SERVICES WHO ARE SEVERELY INJURED AND MEDICALLY DISCHARGED OR RETIRED FOR A PERIOD OF ONE YEAR AFTER MEDICAL DISCHARGE OR RETIREMENT; AND

(C) 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 YEAR AFTER DEATH.

2. THE PROVISIONS OF THIS INTERSTATE COMPACT SHALL ONLY APPLY TO LOCAL EDUCATION AGENCIES AS DEFINED IN THIS COMPACT.

3. THE PROVISIONS OF THIS COMPACT SHALL NOT APPLY TO THE CHILDREN OF:

(A) INACTIVE MEMBERS OF THE NATIONAL GUARD AND MILITARY RESERVES;

(B) MEMBERS OF THE UNIFORMED SERVICES NOW RETIRED, EXCEPT AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION;

(C) VETERANS OF THE UNIFORMED SERVICES, EXCEPT AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION; AND

(D) OTHER UNITED STATES DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

S 3304. EDUCATIONAL RECORDS AND ENROLLMENT. 1. 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. 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.

2. 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 DAYS.

3. PURSUANT TO SUBDIVISION ONE OF SECTION NINE HUNDRED FOURTEEN OF THIS CHAPTER AND SECTION TWENTY-ONE HUNDRED SIXTY-FOUR OF THE PUBLIC HEALTH LAW, PARENTS OF STUDENTS SHALL PROVIDE PROOF OF IMMUNIZATIONS WITHIN THIRTY DAYS OF ENROLLMENT.

4. STUDENTS SHALL BE CONDITIONALLY 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 BE CONDITIONALLY ALLOWED TO ENTER THE SCHOOL IN THE RECEIVING STATE ON THEIR VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.

S 3305. PLACEMENT AND ATTENDANCE. 1. WHEN THE STUDENT TRANSFERS BEFORE OR DURING THE SCHOOL YEAR, THE RECEIVING STATE SCHOOL SHALL CONDITIONALLY 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 RECEIVING SCHOOL IF THE COURSES ARE OFFERED. 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 COURSES.

2. THE RECEIVING STATE SCHOOL SHALL CONDITIONALLY 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. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO, GIFTED AND TALENTED PROGRAMS AND ENGLISH AS A SECOND LANGUAGE. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE STUDENT.

1 3. (A) IN COMPLIANCE WITH THE FEDERAL REQUIREMENTS OF THE INDIVIDUALS
2 WITH DISABILITIES EDUCATION ACT, 20 U.S.C.A. SECTION 1400 ET SEQ., THE
3 RECEIVING STATE SHALL INITIALLY PROVIDE COMPARABLE SERVICES TO A STUDENT
4 WITH DISABILITIES BASED ON HIS OR HER CURRENT INDIVIDUALIZED EDUCATION
5 PROGRAM; AND

6 (B) IN COMPLIANCE WITH THE REQUIREMENTS OF SECTION 504 OF THE REHABIL-
7 ITATION ACT, 29 U.S.C.A. SECTION 794, AND WITH TITLE II OF THE AMERICANS
8 WITH DISABILITIES ACT, 42 U.S.C.A. SECTIONS 12131-12165, THE RECEIVING
9 STATE SHALL MAKE REASONABLE ACCOMMODATIONS AND MODIFICATIONS TO ADDRESS
10 THE NEEDS OF INCOMING STUDENTS WITH DISABILITIES, SUBJECT TO AN EXISTING
11 504 OR TITLE II PLAN, TO PROVIDE THE STUDENT WITH EQUAL ACCESS TO EDUCA-
12 TION. THIS DOES NOT PRECLUDE THE SCHOOL IN THE RECEIVING STATE FROM
13 PERFORMING SUBSEQUENT EVALUATIONS TO ENSURE APPROPRIATE PLACEMENT OF THE
14 STUDENT.

15 4. LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXI-
16 BILITY IN WAIVING COURSE OR PROGRAM PREREQUISITES, OR OTHER PRECONDI-
17 TIONS FOR PLACEMENT IN COURSES OR PROGRAMS OFFERED UNDER THE JURISDIC-
18 TION OF THE LOCAL EDUCATION AGENCY.

19 5. A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER
20 OF THE UNIFORMED SERVICES, AS DEFINED BY THE COMPACT, AND HAS BEEN
21 CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM
22 DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT POSTING, SHALL BE GRANTED
23 ADDITIONAL EXCUSED ABSENCES AT THE DISCRETION OF THE LOCAL EDUCATION
24 AGENCY SUPERINTENDENT, IN CONSULTATION WITH THE BOARD OF EDUCATION AND
25 SCHOOL PRINCIPAL, TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN
26 RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.

27 S 3306. ELIGIBILITY. 1. (A) SPECIAL POWER OF ATTORNEY, RELATIVE TO
28 THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER
29 APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND
30 ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.

31 (B) A LOCAL EDUCATION AGENCY MAY WAIVE A TUITION CHARGE IF, AFTER
32 CONSULTING WITH THE PARENT OR PARENTS, IT IS DETERMINED THAT IT IS IN
33 THE BEST INTEREST OF THE CHILD TO ATTEND SCHOOL IN THAT JURISDICTION.

34 (C) A TRANSITIONING MILITARY CHILD, PLACED IN THE CARE OF A NON-CUSTO-
35 DIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A
36 JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT, MAY CONTINUE TO
37 ATTEND THE SCHOOL IN WHICH HE OR SHE WAS ENROLLED WHILE RESIDING WITH
38 THE CUSTODIAL PARENT.

39 2. STATE AND LOCAL EDUCATION AGENCIES SHALL FACILITATE THE OPPORTUNITY
40 FOR TRANSITIONING MILITARY CHILDREN'S INCLUSION IN EXTRACURRICULAR
41 ACTIVITIES TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.

42 S 3307. GRADUATION. IN ORDER TO FACILITATE THE ON-TIME GRADUATION OF
43 CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATION AGENCIES SHALL
44 INCORPORATE THE FOLLOWING PROCEDURES:

45 1. LOCAL EDUCATION AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIF-
46 IC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSEWORK HAS BEEN SATIS-
47 FACTORILY COMPLETED IN ANOTHER LOCAL EDUCATION AGENCY OR SHALL PROVIDE
48 REASONABLE JUSTIFICATION FOR DENIAL. SHOULD A WAIVER NOT BE GRANTED TO A
49 STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE LOCAL
50 EDUCATION AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING
51 REQUIRED COURSEWORK SO THAT GRADUATION MAY OCCUR ON TIME INCLUDING BUT
52 NOT LIMITED TO TRANSFER OF CREDITS EARNED BACK TO THE SENDING DISTRICT
53 TO ENSURE ON TIME GRADUATION FROM THE SENDING DISTRICT.

54 2. STATES SHALL ACCEPT (A) EXIT OR END-OF-COURSE EXAMS REQUIRED FOR
55 GRADUATION FROM THE SENDING STATE, (B) NATIONAL NORM REFERENCED ACHIEVE-
56 MENT TESTS OR (C) 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 SUBDIVISION THREE OF THIS SECTION SHALL APPLY.

3. 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 SUBDIVISIONS ONE AND TWO OF THIS SECTION.

S 3308. STATE COORDINATION. 1. 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, THE COMMISSIONER OF EDUCATION, THE SUPERINTENDENT OF A SCHOOL DISTRICT WITH A HIGH CONCENTRATION OF MILITARY CHILDREN, A REPRESENTATIVE FROM A MILITARY FAMILY EDUCATION LIAISON, AND A REPRESENTATIVE FROM A MILITARY INSTALLATION. 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.

2. THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION IN THE COMPACT SHALL BE APPOINTED BY THE COMMISSIONER OR AS OTHERWISE DETERMINED BY EACH MEMBER STATE.

S 3309. 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:

1. BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS AND DUTIES SET FORTH HEREIN.

2. CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.

(A) EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.

(B) 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.

(C) 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 STATE COUNCIL MAY DELEGATE VOTING AUTHORITY TO ANOTHER PERSON FROM THEIR STATE FOR A SPECIFIED MEETING.

(D) THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.

3. 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

1 ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATION AGENCY OFFI-
2 CIALS, PARENT AND TEACHER GROUPS, THE UNITED STATES DEPARTMENT OF
3 DEFENSE, THE EDUCATION COMMISSION OF THE STATES, THE INTERSTATE AGREE-
4 MENT ON THE QUALIFICATION OF EDUCATIONAL PERSONNEL AND OTHER INTERSTATE
5 COMPACTS AFFECTING THE EDUCATION OF CHILDREN OF MILITARY MEMBERS.

6 4. MEET AT LEAST ONCE EACH CALENDAR YEAR. THE CHAIRPERSON MAY CALL
7 ADDITIONAL MEETINGS AND, UPON THE REQUEST OF A SIMPLE MAJORITY OF THE
8 MEMBER STATES, SHALL CALL ADDITIONAL MEETINGS.

9 5. ESTABLISH AN EXECUTIVE COMMITTEE, WHOSE MEMBERS SHALL INCLUDE THE
10 OFFICERS OF THE INTERSTATE COMMISSION AND SUCH OTHER MEMBERS OF THE
11 INTERSTATE COMMISSION AS DETERMINED BY THE BYLAWS. MEMBERS OF THE EXECU-
12 TIVE COMMITTEE SHALL SERVE A ONE YEAR TERM. MEMBERS OF THE EXECUTIVE
13 COMMITTEE SHALL BE ENTITLED TO ONE VOTE EACH. THE EXECUTIVE COMMITTEE
14 SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION, WITH
15 THE EXCEPTION OF RULEMAKING, DURING PERIODS WHEN THE INTERSTATE COMMIS-
16 SION IS NOT IN SESSION. THE EXECUTIVE COMMITTEE SHALL OVERSEE THE
17 DAY-TO-DAY ACTIVITIES OF THE ADMINISTRATION OF THE COMPACT INCLUDING
18 ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THE COMPACT, ITS
19 BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE UNITED
20 STATES DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX-OFFICIO, NON-VOTING
21 MEMBER OF THE EXECUTIVE COMMITTEE.

22 6. ESTABLISH BYLAWS AND RULES THAT PROVIDE FOR CONDITIONS AND PROCE-
23 DURES UNDER WHICH THE INTERSTATE COMMISSION SHALL MAKE ITS INFORMATION
24 AND OFFICIAL RECORDS AVAILABLE TO THE PUBLIC FOR INSPECTION OR COPYING.
25 THE INTERSTATE COMMISSION MAY EXEMPT FROM DISCLOSURE INFORMATION OR
26 OFFICIAL RECORDS TO THE EXTENT THEY WOULD ADVERSELY AFFECT PERSONAL
27 PRIVACY RIGHTS OR PROPRIETARY INTERESTS.

28 7. GIVE PUBLIC NOTICE OF ALL MEETINGS AND ALL MEETINGS SHALL BE OPEN
29 TO THE PUBLIC, EXCEPT AS SET FORTH IN THE RULES OR AS OTHERWISE PROVIDED
30 IN THE COMPACT. THE INTERSTATE COMMISSION AND ITS COMMITTEES MAY CLOSE A
31 MEETING, OR PORTION THEREOF, WHERE IT DETERMINES BY TWO-THIRDS VOTE THAT
32 AN OPEN MEETING WOULD BE LIKELY TO:

33 (A) RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL
34 PRACTICES AND PROCEDURES;

35 (B) DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL
36 AND STATE STATUTE;

37 (C) DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION
38 WHICH IS PRIVILEGED OR CONFIDENTIAL;

39 (D) INVOLVE ACCUSING A PERSON OF A CRIME, OR FORMALLY CENSURING A
40 PERSON;

41 (E) DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD
42 CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

43 (F) DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT
44 PURPOSES; OR

45 (G) SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S PARTICIPATION
46 IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

47 8. SHALL CAUSE ITS LEGAL COUNSEL OR DESIGNEE TO CERTIFY THAT A MEETING
48 MAY BE CLOSED AND SHALL REFERENCE EACH RELEVANT EXEMPTIBLE PROVISION FOR
49 ANY MEETING, OR PORTION OF A MEETING, WHICH IS CLOSED PURSUANT TO THIS
50 PROVISION. THE INTERSTATE COMMISSION SHALL KEEP MINUTES WHICH SHALL
51 FULLY AND CLEARLY DESCRIBE ALL MATTERS DISCUSSED IN A MEETING AND SHALL
52 PROVIDE A FULL AND ACCURATE SUMMARY OF ACTIONS TAKEN, AND THE REASONS
53 THEREFOR, INCLUDING A DESCRIPTION OF THE VIEWS EXPRESSED AND THE RECORD
54 OF A ROLL CALL VOTE. ALL DOCUMENTS CONSIDERED IN CONNECTION WITH AN
55 ACTION SHALL BE IDENTIFIED IN SUCH MINUTES. ALL MINUTES AND DOCUMENTS OF

1 A CLOSED MEETING SHALL REMAIN UNDER SEAL, SUBJECT TO RELEASE BY A MAJOR-
2 ITY VOTE OF THE INTERSTATE COMMISSION.

3 S 3310. POWERS AND DUTIES OF THE INTERSTATE COMMISSION. THE INTERSTATE
4 COMMISSION SHALL HAVE THE FOLLOWING POWERS:

5 1. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES.

6 2. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE
7 GOALS, PURPOSES AND OBLIGATIONS AS ENUMERATED IN THIS COMPACT. THE RULES
8 SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER
9 PROVIDED IN THIS COMPACT.

10 3. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS
11 CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMPACT, ITS
12 BYLAWS, RULES AND ACTIONS.

13 4. TO ESTABLISH AND MAINTAIN OFFICES WHICH SHALL BE LOCATED WITHIN ONE
14 OR MORE OF THE MEMBER STATES.

15 5. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS.

16 6. TO BORROW, ACCEPT, HIRE OR CONTRACT FOR SERVICES OF PERSONNEL.

17 7. TO ESTABLISH AND APPOINT COMMITTEES INCLUDING, BUT NOT LIMITED TO,
18 AN EXECUTIVE COMMITTEE AS REQUIRED BY SUBDIVISION FIVE OF SECTION THIR-
19 TY-THREE HUNDRED NINE OF THIS ARTICLE WHICH SHALL HAVE THE POWER TO ACT
20 ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND
21 DUTIES HEREUNDER.

22 8. TO ELECT OR APPOINT SUCH OFFICERS, ATTORNEYS, EMPLOYEES, AGENTS, OR
23 CONSULTANTS, AND TO FIX THEIR COMPENSATION, DEFINE THEIR DUTIES AND
24 DETERMINE THEIR QUALIFICATIONS; AND TO ESTABLISH THE INTERSTATE COMMIS-
25 SION'S PERSONNEL POLICIES AND PROGRAMS RELATING TO CONFLICTS OF INTER-
26 EST, RATES OF COMPENSATION, AND QUALIFICATIONS OF PERSONNEL.

27 9. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT,
28 SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE
29 OF IT.

30 10. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR
31 OTHERWISE TO OWN, HOLD, IMPROVE OR USE ANY PROPERTY, REAL, PERSONAL, OR
32 MIXED.

33 11. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR
34 OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED.

35 12. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES.

36 13. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION
37 OF THE INTERSTATE COMMISSION.

38 14. TO REPORT ANNUALLY TO THE STATE COUNCILS OF THE MEMBER STATES
39 CONCERNING THE ACTIVITIES OF THE INTERSTATE COMMISSION DURING THE
40 PRECEDING YEAR. SUCH REPORTS SHALL ALSO INCLUDE ANY RECOMMENDATIONS THAT
41 MAY HAVE BEEN ADOPTED BY THE INTERSTATE COMMISSION.

42 15. TO COORDINATE EDUCATION, TRAINING AND PUBLIC AWARENESS REGARDING
43 THE COMPACT, ITS IMPLEMENTATION AND OPERATION FOR OFFICIALS AND PARENTS
44 INVOLVED IN SUCH ACTIVITY.

45 16. TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING AND
46 EXCHANGING OF DATA.

47 17. TO MAINTAIN CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE
48 BYLAWS.

49 18. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO
50 ACHIEVE THE PURPOSES OF THIS COMPACT.

51 19. TO PROVIDE FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION
52 BETWEEN AND AMONG MEMBER STATES, SCHOOLS AND MILITARY FAMILIES UNDER
53 THIS COMPACT.

54 S 3311. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. 1.
55 THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT
56 AND VOTING, WITHIN TWELVE MONTHS AFTER THE FIRST INTERSTATE COMMISSION

1 MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR
2 APPROPRIATE TO CARRY OUT THE PURPOSES OF THE COMPACT, INCLUDING, BUT NOT
3 LIMITED TO:

4 (A) ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

5 (B) ESTABLISHING AN EXECUTIVE COMMITTEE, AND SUCH OTHER COMMITTEES AS
6 MAY BE NECESSARY;

7 (C) PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING
8 ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE
9 INTERSTATE COMMISSION;

10 (D) PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEET-
11 INGS OF THE INTERSTATE COMMISSION, AND ENSURING REASONABLE NOTICE OF
12 EACH SUCH MEETING;

13 (E) ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND
14 STAFF OF THE INTERSTATE COMMISSION;

15 (F) PROVIDING A MECHANISM FOR CONCLUDING THE OPERATIONS OF THE INTER-
16 STATE COMMISSION AND THE RETURN OF SURPLUS FUNDS THAT MAY EXIST UPON THE
17 TERMINATION OF THE COMPACT AFTER THE PAYMENT AND RESERVING OF ALL OF ITS
18 DEBTS AND OBLIGATIONS; AND

19 (G) PROVIDING "START UP" RULES FOR INITIAL ADMINISTRATION OF THE
20 COMPACT.

21 2. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS,
22 ELECT ANNUALLY FROM AMONG ITS MEMBERS A CHAIRPERSON, A VICE-CHAIRPERSON,
23 AND A TREASURER, EACH OF WHOM SHALL HAVE SUCH AUTHORITY AND DUTIES AS
24 MAY BE SPECIFIED IN THE BYLAWS. THE CHAIRPERSON OR, IN THE CHAIRPERSON'S
25 ABSENCE OR DISABILITY, THE VICE-CHAIRPERSON, SHALL PRESIDE AT ALL MEET-
26 INGS OF THE INTERSTATE COMMISSION. THE OFFICERS SO ELECTED SHALL SERVE
27 WITHOUT COMPENSATION OR REMUNERATION FROM THE INTERSTATE COMMISSION;
28 PROVIDED THAT, SUBJECT TO THE AVAILABILITY OF BUDGETED FUNDS, THE OFFI-
29 CERS SHALL BE REIMBURSED FOR ORDINARY AND NECESSARY COSTS AND EXPENSES
30 INCURRED BY THEM IN THE PERFORMANCE OF THEIR RESPONSIBILITIES AS OFFI-
31 CERS OF THE INTERSTATE COMMISSION.

32 3. (A) THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS
33 MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:

34 (I) MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER
35 CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;

36 (II) OVERSEEING AN ORGANIZATIONAL STRUCTURE WITHIN, AND APPROPRIATE
37 PROCEDURES FOR THE INTERSTATE COMMISSION TO PROVIDE FOR THE CREATION OF
38 RULES, OPERATING PROCEDURES, AND ADMINISTRATIVE AND TECHNICAL SUPPORT
39 FUNCTIONS; AND

40 (III) PLANNING, IMPLEMENTING, AND COORDINATING COMMUNICATIONS AND
41 ACTIVITIES WITH OTHER STATE, FEDERAL AND LOCAL GOVERNMENT ORGANIZATIONS
42 IN ORDER TO ADVANCE THE GOALS OF THE INTERSTATE COMMISSION.

43 (B) THE EXECUTIVE COMMITTEE MAY, SUBJECT TO THE APPROVAL OF THE INTER-
44 STATE COMMISSION, APPOINT OR RETAIN AN EXECUTIVE DIRECTOR FOR SUCH PERI-
45 OD, UPON SUCH TERMS AND CONDITIONS AND FOR SUCH COMPENSATION, AS THE
46 INTERSTATE COMMISSION MAY DEEM APPROPRIATE. THE EXECUTIVE DIRECTOR SHALL
47 SERVE AS SECRETARY TO THE INTERSTATE COMMISSION, BUT SHALL NOT BE A
48 MEMBER OF THE INTERSTATE COMMISSION. THE EXECUTIVE DIRECTOR SHALL HIRE
49 AND SUPERVISE SUCH OTHER PERSONS AS MAY BE AUTHORIZED BY THE INTERSTATE
50 COMMISSION.

51 4. THE INTERSTATE COMMISSION'S EXECUTIVE DIRECTOR AND ITS EMPLOYEES
52 SHALL BE IMMUNE FROM ANY ACTION TAKEN REASONABLY AND IN GOOD FAITH WHICH
53 RESULTS IN SUIT AND LIABILITY, EITHER PERSONALLY OR IN THEIR OFFICIAL
54 CAPACITY, FOR A CLAIM FOR DAMAGE TO OR LOSS OF PROPERTY OR PERSONAL
55 INJURY OR OTHER CIVIL LIABILITY CAUSED OR ARISING OUT OF OR RELATING TO
56 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.

(A) 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 SECTION 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.

(B) 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.

(C) 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.

S 3312. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION. 1. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS COMPACT. NOTWITHSTANDING THE FOREGOING, IN THE EVENT THE INTERSTATE COMMISSION EXERCISES ITS RULEMAKING AUTHORITY IN A MANNER THAT IS BEYOND THE SCOPE OF THE PURPOSES OF THIS ARTICLE, OR THE POWERS GRANTED HEREUNDER, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE OR EFFECT.

2. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO SECTION TWO HUNDRED TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.

3. NOT LATER THAN THIRTY 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

1 ACTIONS OF THE INTERSTATE COMMISSION CONSISTENT WITH APPLICABLE LAW AND
2 SHALL NOT FIND THE RULE TO BE UNLAWFUL IF THE RULE REPRESENTS A REASON-
3 ABLE EXERCISE OF THE INTERSTATE COMMISSION'S AUTHORITY.

4 4. IF A MAJORITY OF THE LEGISLATURES OF THE COMPACTING STATES REJECTS
5 A RULE BY ENACTMENT OF A STATUTE OR RESOLUTION IN THE SAME MANNER USED
6 TO ADOPT THE COMPACT, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND
7 EFFECT IN ANY COMPACTING STATE.

8 S 3313. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION. 1. (A) THE
9 EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH
10 MEMBER STATE SHALL ENFORCE THIS COMPACT AND SHALL TAKE ALL ACTIONS
11 NECESSARY AND APPROPRIATE TO EFFECTUATE THE COMPACT'S PURPOSES AND
12 INTENT. THE PROVISIONS OF THIS COMPACT AND THE RULES PROMULGATED HERE-
13 UNDER SHALL HAVE STANDING AS STATUTORY LAW.

14 (B) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THE COMPACT AND THE RULES
15 IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAIN-
16 ING TO THE SUBJECT MATTER OF THIS COMPACT WHICH MAY AFFECT THE POWERS,
17 RESPONSIBILITIES OR ACTIONS OF THE INTERSTATE COMMISSION.

18 (C) THE INTERSTATE COMMISSION SHALL BE ENTITLED TO RECEIVE ALL SERVICE
19 OF PROCESS IN ANY SUCH PROCEEDING, AND SHALL HAVE STANDING TO INTERVENE
20 IN THE PROCEEDING FOR ALL PURPOSES. FAILURE TO PROVIDE SERVICE OF PROC-
21 ESS TO THE INTERSTATE COMMISSION SHALL RENDER A JUDGMENT OR ORDER VOID
22 AS TO THE INTERSTATE COMMISSION, THIS COMPACT OR PROMULGATED RULES.

23 2. IF THE INTERSTATE COMMISSION DETERMINES THAT A MEMBER STATE HAS
24 DEFAULTED IN THE PERFORMANCE OF ITS OBLIGATIONS OR RESPONSIBILITIES
25 UNDER THIS COMPACT, OR THE BYLAWS OR PROMULGATED RULES, THE INTERSTATE
26 COMMISSION SHALL:

27 (A) PROVIDE WRITTEN NOTICE TO THE DEFAULTING STATE AND OTHER MEMBER
28 STATES, OF THE NATURE OF THE DEFAULT, THE MEANS OF CURING THE DEFAULT
29 AND ANY ACTION TAKEN BY THE INTERSTATE COMMISSION. THE INTERSTATE
30 COMMISSION SHALL SPECIFY THE CONDITIONS BY WHICH THE DEFAULTING STATE
31 MUST CURE ITS DEFAULT.

32 (B) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE
33 REGARDING THE DEFAULT.

34 (C) IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING
35 STATE SHALL BE TERMINATED FROM THE COMPACT UPON AN AFFIRMATIVE VOTE OF A
36 MAJORITY OF THE MEMBER STATES AND ALL RIGHTS, PRIVILEGES AND BENEFITS
37 CONFERRED BY THIS COMPACT SHALL BE TERMINATED FROM THE EFFECTIVE DATE OF
38 TERMINATION. A CURE OF THE DEFAULT DOES NOT RELIEVE THE OFFENDING STATE
39 OF OBLIGATIONS OR LIABILITIES INCURRED DURING THE PERIOD OF THE DEFAULT.

40 (D) SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE COMPACT SHALL BE
41 IMPOSED ONLY AFTER ALL OTHER MEANS OF SECURING COMPLIANCE HAVE BEEN
42 EXHAUSTED. NOTICE OF INTENT TO SUSPEND OR TERMINATE SHALL BE GIVEN BY
43 THE INTERSTATE COMMISSION.

44 (E) THE STATE WHICH HAS BEEN SUSPENDED OR TERMINATED IS RESPONSIBLE
45 FOR ALL ASSESSMENTS, OBLIGATIONS AND LIABILITIES INCURRED THROUGH THE
46 EFFECTIVE DATE OF SUSPENSION OR TERMINATION INCLUDING OBLIGATIONS, THE
47 PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR
48 TERMINATION.

49 (F) THE INTERSTATE COMMISSION SHALL NOT BEAR ANY COSTS RELATING TO ANY
50 STATE THAT HAS BEEN FOUND TO BE IN DEFAULT OR WHICH HAS BEEN SUSPENDED
51 OR TERMINATED FROM THE COMPACT, UNLESS OTHERWISE MUTUALLY AGREED UPON IN
52 WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

53 (G) THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE
54 COMMISSION.

55 3. (A) THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A
56 MEMBER STATE, TO RESOLVE DISPUTES WHICH ARE SUBJECT TO THE COMPACT AND

1 WHICH MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NON-MEMBER
2 STATES.

3 (B) THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR
4 BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRI-
5 ATE.

6 4. THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS
7 DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS COMPACT.

8 S 3314. FINANCING OF THE INTERSTATE COMMISSION. 1. THE INTERSTATE
9 COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE
10 EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION AND ONGOING ACTIVITIES.

11 2. THE INTERSTATE COMMISSION MAY LEVY ON AND COLLECT AN ANNUAL ASSESS-
12 MENT FROM EACH MEMBER STATE TO COVER THE COST OF THE OPERATIONS AND
13 ACTIVITIES OF THE INTERSTATE COMMISSION AND ITS STAFF WHICH MUST BE IN A
14 TOTAL AMOUNT SUFFICIENT TO COVER THE INTERSTATE COMMISSION'S ANNUAL
15 BUDGET AS APPROVED EACH YEAR. THE AGGREGATE ANNUAL ASSESSMENT AMOUNT
16 SHALL BE ALLOCATED BASED UPON A FORMULA TO BE DETERMINED BY THE INTER-
17 STATE COMMISSION, WHICH SHALL PROMULGATE A RULE BINDING UPON ALL MEMBER
18 STATES.

19 3. THE INTERSTATE COMMISSION SHALL NOT INCUR OBLIGATIONS OF ANY KIND
20 PRIOR TO SECURING THE FUNDS ADEQUATE TO MEET THE SAME; NOR SHALL THE
21 INTERSTATE COMMISSION PLEDGE THE CREDIT OF ANY OF THE MEMBER STATES,
22 EXCEPT BY AND WITH THE AUTHORITY OF THE MEMBER STATE.

23 4. THE INTERSTATE COMMISSION SHALL KEEP ACCURATE ACCOUNTS OF ALL
24 RECEIPTS AND DISBURSEMENTS. THE RECEIPTS AND DISBURSEMENTS OF THE INTER-
25 STATE COMMISSION SHALL BE SUBJECT TO THE AUDIT AND ACCOUNTING PROCEDURES
26 ESTABLISHED UNDER ITS BYLAWS. HOWEVER, ALL RECEIPTS AND DISBURSEMENTS OF
27 FUNDS HANDLED BY THE INTERSTATE COMMISSION SHALL BE AUDITED YEARLY BY A
28 CERTIFIED OR LICENSED PUBLIC ACCOUNTANT AND THE REPORT OF THE AUDIT
29 SHALL BE INCLUDED IN AND BECOME PART OF THE ANNUAL REPORT OF THE INTER-
30 STATE COMMISSION.

31 S 3315. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. 1. ANY STATE IS
32 ELIGIBLE TO BECOME A MEMBER STATE.

33 2. THE COMPACT SHALL BECOME EFFECTIVE AND BINDING UPON LEGISLATIVE
34 ENACTMENT OF THE COMPACT INTO LAW BY NO LESS THAN TEN OF THE STATES.
35 THEREAFTER IT SHALL BECOME EFFECTIVE AND BINDING AS TO ANY OTHER MEMBER
36 STATE UPON ENACTMENT OF THE COMPACT INTO LAW BY THAT STATE.

37 3. THE INTERSTATE COMMISSION MAY PROPOSE AMENDMENTS TO THE COMPACT FOR
38 ENACTMENT BY THE MEMBER STATES. NO AMENDMENT SHALL BECOME EFFECTIVE AND
39 BINDING UPON THE INTERSTATE COMMISSION AND THE MEMBER STATES UNLESS AND
40 UNTIL IT IS ENACTED INTO LAW BY UNANIMOUS CONSENT OF THE MEMBER STATES.

41 S 3316. WITHDRAWAL AND DISSOLUTION. 1. (A) ONCE EFFECTIVE, THE COMPACT
42 SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER
43 STATE; PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM THE COMPACT BY
44 SPECIFICALLY REPEALING THE STATUTE, WHICH ENACTED THE COMPACT INTO LAW.

45 (B) WITHDRAWAL FROM THIS COMPACT SHALL BE BY THE ENACTMENT OF A STAT-
46 UTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL ONE YEAR AFTER
47 THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITH-
48 DRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE.

49 (C) THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF
50 THE INTERSTATE COMMISSION IN WRITING UPON THE ADOPTION OF A RESOLUTION
51 BY THE STATE COUNCIL REPEALING THIS COMPACT IN THE WITHDRAWING STATE.
52 THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE
53 WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN SIXTY DAYS OF ITS RECEIPT
54 THEREOF.

55 (D) THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLI-
56 GATIONS AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITH-

1 DRAWAL, INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND
2 THE EFFECTIVE DATE OF WITHDRAWAL.

3 (E) REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR
4 UPON THE WITHDRAWING STATE REENACTING THE COMPACT OR UPON SUCH LATER
5 DATE AS DETERMINED BY THE INTERSTATE COMMISSION.

6 2. (A) THIS COMPACT SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE
7 WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP
8 IN THE COMPACT TO ONE MEMBER STATE.

9 (B) UPON THE DISSOLUTION OF THIS COMPACT, THE COMPACT BECOMES NULL AND
10 VOID AND SHALL BE OF NO FURTHER FORCE OR EFFECT, AND THE BUSINESS AND
11 AFFAIRS OF THE INTERSTATE COMMISSION SHALL BE CONCLUDED AND SURPLUS
12 FUNDS SHALL BE DISTRIBUTED IN ACCORDANCE WITH THE BYLAWS.

13 S 3317. SEVERABILITY AND CONSTRUCTION. 1. THE PROVISIONS OF THIS
14 COMPACT SHALL BE SEVERABLE, AND IF ANY PHRASE, CLAUSE, SENTENCE OR
15 PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THE
16 COMPACT SHALL BE ENFORCEABLE.

17 2. THE PROVISIONS OF THIS COMPACT SHALL BE LIBERALLY CONSTRUED TO
18 EFFECTUATE ITS PURPOSES.

19 3. NOTHING IN THIS COMPACT SHALL BE CONSTRUED TO PROHIBIT THE APPLICA-
20 BILITY OF OTHER INTERSTATE COMPACTS TO WHICH THE STATES ARE MEMBERS.

21 S 3318. BINDING EFFECT OF COMPACT AND OTHER LAWS. 1. NOTHING HEREIN
22 PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT
23 INCONSISTENT WITH THIS COMPACT.

24 2. (A) ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL
25 RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING
26 UPON THE MEMBER STATES.

27 (B) ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER
28 STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

29 (C) IN THE EVENT ANY PROVISION OF THIS COMPACT EXCEEDS THE CONSTITU-
30 TIONAL LIMITS IMPOSED ON THE LEGISLATURE OF ANY MEMBER STATE, SUCH
31 PROVISION SHALL BE INEFFECTIVE TO THE EXTENT OF THE CONFLICT WITH THE
32 CONSTITUTIONAL PROVISION IN QUESTION IN THAT MEMBER STATE.

33 S 2. This act shall take effect immediately; provided that the commis-
34 sioner of education shall notify the legislative bill drafting commis-
35 sion upon the occurrence of the enactment of the interstate compact on
36 educational opportunity for military children, as added by section one
37 of this act, by the tenth state as provided for in section 3315 of such
38 compact in order that the commission may maintain an accurate and timely
39 effective data base of the official text of the laws of the state of New
40 York in furtherance of effectuating the provisions of section 44 of the
41 legislative law and section 70-b of the public officers law.