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HOUSE BILL 24

49TH LEGISLATURE - STATE OF NEW MEXICO - SECOND SESSION, 2010

INTRODUCED BY

Nathan P. Cote

FOR THE MILITARY AND VETERANS' AFFAIRS COMMITTEE

AN ACT

RELATING TO EDUCATION; ENACTING THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; CREATING THE
MILITARY CHILDREN EDUCATION COMPACT STATE COUNCIL; PROVIDING
POWERS AND DUTIES; PROVIDING COORDINATION AMONG STATES TO MEET
THE EDUCATIONAL NEEDS OF MILITARY CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

Section 1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN--ENTERED INTO.--The "Interstate Compact
on Educational Opportunity for Military Children" is enacted
into law and entered into with all other jurisdictions legally
joining therein in the form substantially as follows:

"INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
CHILDREN

ARTICLE 1

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PURPOSE

It is the purpose of the Interstate Compact on Educational Opportunity for Military Children 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 or variations in entrance and age requirements;

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

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

D. facilitating the on-time graduation of children of military families;

E. providing for the promulgation and enforcement of administrative rules implementing the provisions of that compact;

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

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1 G. promoting coordination between that compact and
2 other compacts affecting military children; and

3 H. promoting flexibility and cooperation between
4 the educational system, parents and the student in order to
5 achieve educational success for the student.

6 ARTICLE 2

7 DEFINITIONS

8 As used in the Interstate Compact on Educational
9 Opportunity for Military Children:

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

14 B. "children of military families" means
15 school-aged children enrolled in kindergarten through twelfth
16 grade in the household of an active duty member;

17 C. "compact commissioner" means the voting
18 representative of each compacting state appointed pursuant to
19 Article 8 of the Interstate Compact on Educational Opportunity
20 for Military Children;

21 D. "deployment" means the period one month prior to
22 the service members' departures from their home stations on
23 military orders through six months after return to their home
24 stations;

25 E. "education records" means records, files and

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1 data that are directly related to a student and maintained by a
2 school or local education agency, including records
3 encompassing all the material kept in a student's cumulative
4 folder such as general identifying data, records of attendance
5 and of academic work completed, records of achievement and
6 results of evaluative tests, health data, disciplinary status,
7 test protocols and individualized education programs;

8 F. "extracurricular activity" means a voluntary
9 activity sponsored by a school or local education agency or an
10 organization sanctioned by a local education agency.

11 "Extracurricular activity" includes preparation for and
12 involvement in public performances, contests, athletic
13 competitions, demonstrations, displays and club activities;

14 G. "interstate commission" means the interstate
15 commission on educational opportunity for military children
16 that is created under Article 9 of the Interstate Compact on
17 Educational Opportunity for Military Children;

18 H. "local education agency" means a public
19 authority legally constituted by the state as an administrative
20 agency to provide control of and direction for kindergarten
21 through twelfth grade public educational institutions;

22 I. "member state" means a state that has enacted
23 the Interstate Compact on Educational Opportunity for Military
24 Children;

25 J. "military installation" means a base, camp,

1 post, station, yard, center or homeport facility for any ship
2 or other activity under the jurisdiction of the United States
3 department of defense, including any leased facility, that is
4 located within any of the several states, the District of
5 Columbia, the commonwealth of Puerto Rico, the United States
6 Virgin Islands, Guam, American Samoa, the Northern Marianas
7 Islands and any other United States territory. The term does
8 not include any facility used primarily for civil works, rivers
9 and harbors projects or flood control projects;

10 K. "non-member state" means a state that has not
11 enacted the Interstate Compact on Educational Opportunity for
12 Military Children;

13 L. "receiving state" means the state to which a
14 child of a military family is sent or brought or caused to be
15 sent or brought;

16 M. "rule" means a written statement by the
17 interstate commission promulgated pursuant to Article 12 of the
18 Interstate Compact on Educational Opportunity for Military
19 Children that is of general applicability, implements,
20 interprets or prescribes a policy or provision of that compact
21 or an organizational, procedural or practice requirement of the
22 interstate commission and includes the amendment, repeal or
23 suspension of an existing rule;

24 N. "sending state" means the state from which a
25 child of a military family is sent or brought or caused to be

1 sent or brought;

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

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

10 Q. "transition" means:

11 (1) the formal and physical process of
12 transferring from school to school; or

13 (2) the period of time in which a student
14 moves from one school in the sending state to another school in
15 the receiving state;

16 R. "uniformed services" means the army, navy, air
17 force, marine corps, coast guard and the commissioned corps of
18 the national oceanic and atmospheric administration and United
19 States public health service; and

20 S. "veteran" means a person who served in the
21 uniformed services and who was discharged or released from the
22 uniformed services under conditions other than dishonorable.

23 ARTICLE 3

24 APPLICABILITY

25 A. Except as otherwise provided in Subsection B of
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1 this article, the Interstate Compact on Educational Opportunity
2 for Military Children shall apply to the children of:

3 (1) active duty members of the uniformed
4 services, including members of the national guard and reserve
5 on active duty orders pursuant to 10 U.S.C. Sections 1209 and
6 1211;

7 (2) members or veterans of the uniformed
8 services who are severely injured and medically discharged or
9 retired for a period of one year after medical discharge or
10 retirement; and

11 (3) members of the uniformed services who die
12 on active duty or as a result of injuries sustained while on
13 active duty and extending for a period of one year after death.

14 B. The provisions of the Interstate Compact on
15 Educational Opportunity for Military Children shall only apply
16 to local education agencies.

17 C. The provisions of the Interstate Compact on
18 Educational Opportunity for Military Children shall not apply
19 to the children of:

20 (1) inactive members of the national guard and
21 military reserves;

22 (2) members of the uniformed services now
23 retired, except as provided in Subsection A of this article;

24 (3) veterans of the uniformed services, except
25 as provided in Subsection A of this article; and

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1 (4) other United States department of defense
2 personnel and other federal agency civilian and contract
3 employees not defined as active duty members of the uniformed
4 services.

5 ARTICLE 4

6 EDUCATIONAL RECORDS AND ENROLLMENT

7 A. In the event that official education records
8 cannot be released to the parents for the purpose of transfer,
9 the custodian of the records in the sending state shall prepare
10 and furnish to the parent a complete set of unofficial
11 education records containing uniform information as determined
12 by the interstate commission. Upon receipt of the unofficial
13 education records by a school in the receiving state, the
14 school shall enroll and appropriately place the student based
15 on the information provided in the unofficial records, pending
16 validation by the official records, as quickly as possible.

17 B. Simultaneous with the enrollment and conditional
18 placement of the student, the school in the receiving state
19 shall request the student's official education record from the
20 school in the sending state. Upon receipt of this request, the
21 school in the sending state shall process and furnish the
22 official education records to the school in the receiving state
23 within ten days or within such time as is reasonably determined
24 under the rules promulgated by the interstate commission.

25 C. Compacting states shall give thirty days from

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1 the date of enrollment or within such time as is reasonably
2 determined under the rules promulgated by the interstate
3 commission for students to obtain any immunizations required by
4 the receiving state. For a series of immunizations, initial
5 vaccinations must be obtained within thirty days or within such
6 time as is reasonably determined under the rules promulgated by
7 the interstate commission.

8 D. Students shall be allowed to continue their
9 enrollment at a grade level in the receiving state commensurate
10 with their grade level, including kindergarten, from a local
11 education agency in the sending state at the time of
12 transition, regardless of age. A student that has
13 satisfactorily completed the prerequisite grade level in the
14 local education agency in the sending state shall be eligible
15 for enrollment in the next highest grade level in the receiving
16 state, regardless of age. A student transferring after the
17 start of the school year in the receiving state shall enter the
18 school in the receiving state on the student's validated level
19 from an accredited school in the sending state.

20 ARTICLE 5

21 PLACEMENT AND ATTENDANCE

22 A. When a student transfers before or during the
23 school year, the receiving state school shall initially honor
24 placement of the student in educational courses based on the
25 student's enrollment in the sending state school or educational

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1 assessments conducted at the school in the sending state if the
2 courses are offered. Course placement includes honors,
3 international baccalaureate, advanced placement, vocational,
4 technical and career pathways courses. Continuing the
5 student's academic program from the previous school and
6 promoting placement in academically and career-challenging
7 courses should be paramount when considering placement. This
8 subsection does not preclude the school in the receiving state
9 from performing subsequent evaluations to ensure appropriate
10 placement and continued enrollment of the student in the
11 courses.

12 B. The receiving state school shall initially honor
13 placement of the student in educational programs based on
14 current educational assessments conducted at the school in the
15 sending state or participation or placement in like programs in
16 the sending state. Such programs include gifted and talented
17 programs and English as a second language. This subsection
18 does not preclude the school in the receiving state from
19 performing subsequent evaluations to ensure appropriate
20 placement of the student.

21 C. In compliance with the federal requirements of
22 the Individuals with Disabilities Education Act, 20 U.S.C.
23 Section 1400 et seq., the receiving state shall initially
24 provide comparable services to a student with disabilities
25 based on the student's current individualized education

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1 program. In compliance with the requirements of Section 504 of
2 the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and with
3 Title II of the Americans with Disabilities Act of 1990, 42
4 U.S.C. Sections 12131-12165, the receiving state shall make
5 reasonable accommodations and modifications to address the
6 needs of incoming students with disabilities, subject to an
7 existing 504 or Title II plan, to provide the student with
8 equal access to education. This subsection does not preclude
9 the school in the receiving state from performing subsequent
10 evaluations to ensure appropriate placement of the student.

11 D. Local education agency administrative officials
12 shall have flexibility in waiving course or program
13 prerequisites or other preconditions for placement in courses
14 or programs offered under the jurisdiction of the local
15 education agency.

16 E. A student whose parent or legal guardian is an
17 active duty member of the uniformed services and has been
18 called to duty for, is on leave from or has immediately
19 returned from deployment to a combat zone or combat support
20 posting shall be granted additional excused absences, at the
21 discretion of the local education agency superintendent, to
22 visit with the student's parent or legal guardian.

23 ARTICLE 6

24 ELIGIBILITY

25 A. Special power of attorney, relative to the

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1 guardianship of a child of a military family and executed under
2 applicable law, shall be sufficient for the purposes of
3 enrollment and all other actions requiring parental
4 participation and consent.

5 B. A local education agency shall be prohibited
6 from charging local tuition to a military child who is in
7 transition and is placed in the care of a noncustodial parent
8 or other person standing in loco parentis who lives in a
9 jurisdiction other than that of the custodial parent.

10 C. A military child who is in transition and is
11 placed in the care of a noncustodial parent or other person
12 standing in loco parentis who lives in a jurisdiction other
13 than that of the custodial parent may continue to attend the
14 school in which the child was enrolled while residing with the
15 custodial parent.

16 D. State and local education agencies shall
17 facilitate the opportunity for transitioning military
18 children's inclusion in extracurricular activities, regardless
19 of application deadlines, to the extent they are otherwise
20 qualified.

21 ARTICLE 7

22 GRADUATION

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

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

10 B. receiving states shall accept exit or
11 end-of-course exams required for graduation from the sending
12 state, national norm-referenced achievement tests or
13 alternative testing in lieu of testing requirements for
14 graduation in the receiving state. In the event the
15 alternatives in this subsection and Subsection A of this
16 article cannot be accommodated by the receiving state for a
17 student transferring in the student's senior year, then the
18 provisions of Subsection C of this article shall apply; and

19 C. if a military student transferring at the
20 beginning of or during the military student's senior year is
21 ineligible to graduate from the receiving local education
22 agency after all alternatives have been considered, the sending
23 and receiving local education agencies shall ensure the receipt
24 of a diploma from the sending local education agency if the
25 student meets the graduation requirements of the sending local

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1 education agency. In the event that one of the states in
2 question is not a member of the Interstate Compact on
3 Educational Opportunity for Military Children, the member state
4 shall use best efforts to facilitate the on-time graduation of
5 the student in accordance with Subsections A and B of this
6 article.

7 ARTICLE 8

8 STATE COORDINATION

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

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1 agencies on the state council.

2 B. The state council of each member state shall
3 appoint or designate a military family education liaison to
4 assist military families and the state in facilitating the
5 implementation of the Interstate Compact on Educational
6 Opportunity for Military Children.

7 C. The compact commissioner responsible for the
8 administration and management of the state's participation in
9 the Interstate Compact on Educational Opportunity for Military
10 Children shall be appointed by the governor or as otherwise
11 determined by each member state.

12 D. The compact commissioner and the military family
13 education liaison designated in this article shall be ex-
14 officio nonvoting members of the state council, unless either
15 is already a full voting member of the state council.

16 ARTICLE 9

17 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY
18 CHILDREN

19 The member states hereby create the "interstate commission
20 on educational opportunity for military children". The
21 activities of the interstate commission are the formation of
22 public policy and are a discretionary state function. The
23 interstate commission shall:

24 A. be a body corporate and joint agency of the
25 member states and shall have all the responsibilities, powers

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1 and duties set forth in the Interstate Compact on Educational
2 Opportunity for Military Children and such additional powers as
3 may be conferred upon it by a subsequent concurrent action of
4 the respective legislatures of the member states in accordance
5 with the terms of that compact;

6 B. consist of one voting representative from each
7 member state who shall be that state's compact commissioner.

8 (1) Each member state represented at a meeting
9 of the interstate commission is entitled to one vote.

10 (2) A majority of the total member states
11 shall constitute a quorum for the transaction of business,
12 unless a larger quorum is required by the bylaws of the
13 interstate commission.

14 (3) A representative shall not delegate a vote
15 to another member state. In the event the compact commissioner
16 is unable to attend a meeting of the interstate commission, the
17 governor or state council may delegate voting authority to
18 another person from the person's state for a specified meeting.

19 (4) The bylaws may provide for meetings of the
20 interstate commission to be conducted by telecommunication or
21 electronic communication;

22 C. consist of ex-officio nonvoting representatives
23 who are members of interested organizations. The ex-officio
24 members, as defined in the bylaws, may include members of the
25 representative organizations of military family advocates,

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1 local education agency officials, parent and teacher groups,
2 the United States department of defense, the education
3 commission of the states, the interstate agreement on
4 qualification of educational personnel and other interstate
5 compacts affecting the education of children of military
6 members;

7 D. meet at least once each calendar year. The
8 chair may call additional meetings and, upon the request of a
9 simple majority of the member states, shall call additional
10 meetings;

11 E. establish an executive committee whose members
12 shall include the officers of the interstate commission and
13 such other members of the interstate commission as determined
14 by the bylaws. Members of the executive committee shall serve
15 a one-year term. Members of the executive committee shall be
16 entitled to one vote each. The executive committee shall have
17 the power to act on behalf of the interstate commission, with
18 the exception of rulemaking, during periods when the interstate
19 commission is not in session. The executive committee shall
20 oversee the day-to-day activities of the administration of the
21 compact, including enforcement and compliance with the
22 provisions of the compact, its bylaws and rules and other such
23 duties as deemed necessary. The United States department of
24 defense shall serve as an ex-officio nonvoting member of the
25 executive committee;

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1 F. establish bylaws and rules that provide for
2 conditions and procedures under which the interstate commission
3 shall make its information and official records available to
4 the public for inspection or copying. The interstate
5 commission may exempt from disclosure information or official
6 records to the extent they would adversely affect personal
7 privacy rights or proprietary interests;

8 G. give public notice of all meetings and all
9 meetings shall be open to the public, except as set forth in
10 the rules or as otherwise provided in the Interstate Compact on
11 Educational Opportunity for Military Children. The interstate
12 commission and its committees may close a meeting, or a portion
13 of a meeting, if it determines by a two-thirds' vote that an
14 open meeting would be likely to:

15 (1) relate solely to the interstate
16 commission's internal personnel practices and procedures;

17 (2) disclose matters specifically exempted
18 from disclosure by federal and state statute;

19 (3) disclose trade secrets or commercial or
20 financial information that is privileged or confidential;

21 (4) involve accusing a person of a crime or
22 formally censuring a person;

23 (5) disclose information of a personal nature
24 if the disclosure would constitute a clearly unwarranted
25 invasion of personal privacy;

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1 (6) disclose investigative records compiled
2 for law enforcement purposes; or

3 (7) specifically relate to the interstate
4 commission's participation in a civil action or other legal
5 proceeding;

6 H. cause its legal counsel or designee to certify
7 that a meeting may be closed and shall reference each relevant
8 exemptible provision for any meeting, or portion of a meeting,
9 that is closed pursuant to this subsection. The interstate
10 commission shall keep minutes that shall fully and clearly
11 describe all matters discussed in a meeting and shall provide a
12 full and accurate summary of actions taken, and the reasons for
13 the actions, including a description of the views expressed and
14 the record of a roll call vote. All documents considered in
15 connection with an action shall be identified in the minutes.
16 All minutes and documents of a closed meeting shall remain
17 under seal, subject to release by a majority vote of the
18 interstate commission;

19 I. collect standardized data concerning the
20 educational transition of the children of military families
21 under the Interstate Compact on Educational Opportunity for
22 Military Children as directed through its rules, which shall
23 specify the data to be collected, the means of collection and
24 data exchange and reporting requirements. The methods of data
25 collection, exchange and reporting shall, insofar as is

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1 reasonably possible, conform to current technology and
2 coordinate its information functions with the appropriate
3 custodian of records as identified in the bylaws and rules; and

4 J. create a process that permits military
5 officials, education officials and parents to inform the
6 interstate commission if and when there are alleged violations
7 of the Interstate Compact on Educational Opportunity for
8 Military Children or its rules or when issues subject to the
9 jurisdiction of the compact or its rules are not addressed by
10 the state or local education agency. This subsection shall not
11 be construed to create a private right of action against the
12 interstate commission or any member state.

13 ARTICLE 10

14 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

15 The interstate commission may:

16 A. provide for dispute resolution among member
17 states;

18 B. promulgate rules and take all necessary actions
19 to effect the goals, purposes and obligations as enumerated in
20 the Interstate Compact on Educational Opportunity for Military
21 Children. The rules shall be binding in the compact states to
22 the extent and in the manner provided in that compact;

23 C. issue, upon request of a member state, advisory
24 opinions concerning the meaning or interpretation of the
25 interstate compact and its bylaws, rules and actions;

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1 D. enforce compliance with the compact provisions,
2 the rules promulgated by the interstate commission and the
3 bylaws, using all necessary and proper means, including the use
4 of judicial process;

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

7 F. purchase and maintain insurance and bonds;

8 G. borrow, accept, hire or contract for services of
9 personnel;

10 H. establish and appoint committees, including an
11 executive committee as required by Subsection E of Article 9 of
12 the Interstate Compact on Educational Opportunity for Military
13 Children, that shall have the power to act on behalf of the
14 interstate commission in carrying out its powers and duties
15 under that compact;

16 I. elect or appoint officers, attorneys, employees,
17 agents or consultants and fix their compensation, define their
18 duties and determine their qualifications;

19 J. establish the interstate commission's personnel
20 policies and programs relating to conflicts of interest, rates
21 of compensation and qualifications of personnel;

22 K. accept donations and grants of money, equipment,
23 supplies, materials and services and receive, use and dispose
24 of them;

25 L. lease, purchase, accept contributions or

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1 donations of, or otherwise own, hold, improve or use, any
2 property, real, personal or mixed;

3 M. sell, convey, mortgage, pledge, lease, exchange,
4 abandon or otherwise dispose of any property, real, personal or
5 mixed;

6 N. establish a budget and make expenditures;

7 O. adopt a seal and bylaws governing the management
8 and operation of the interstate commission;

9 P. report annually to the legislatures, governors,
10 judiciaries and state councils of the member states concerning
11 the activities of the interstate commission during the
12 preceding year. The reports shall also include any
13 recommendations that may have been adopted by the interstate
14 commission;

15 Q. coordinate education, training and public
16 awareness regarding the Interstate Compact on Educational
17 Opportunity for Military Children, its implementation and
18 operation for officials and parents involved in such activity;

19 R. establish uniform standards for the reporting,
20 collecting and exchanging of data;

21 S. maintain corporate books and records in
22 accordance with the bylaws;

23 T. perform such functions as may be necessary or
24 appropriate to achieve the purposes of the Interstate Compact
25 on Educational Opportunity for Military Children; and

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1 U. provide for the uniform collection and sharing
2 of information between and among member states, schools and
3 military families under the Interstate Compact on Educational
4 Opportunity for Military Children.

5 ARTICLE 11

6 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

7 A. The interstate commission shall, by a majority
8 of the members present and voting, within twelve months after
9 the first interstate commission meeting, adopt bylaws to govern
10 its conduct as may be necessary or appropriate to carry out the
11 purposes of the Interstate Compact on Educational Opportunity
12 for Military Children, including:

13 (1) establishing the fiscal year of the
14 interstate commission;

15 (2) establishing an executive committee and
16 other committees as may be necessary;

17 (3) providing for the establishment of
18 committees and for governing any general or specific delegation
19 of authority or function of the interstate commission;

20 (4) providing reasonable procedures for
21 calling and conducting meetings of the interstate commission
22 and ensuring reasonable notice of each meeting;

23 (5) establishing the titles and
24 responsibilities of the officers and staff of the interstate
25 commission;

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1 (6) providing a mechanism for concluding the
2 operations of the interstate commission and the return of
3 surplus funds that may exist upon the termination of that
4 compact after paying and reserving all of its debts and
5 obligations; and

6 (7) providing start-up rules for initial
7 administration of the Interstate Compact on Educational
8 Opportunity for Military Children.

9 B. The interstate commission shall, by a majority
10 of the members, elect annually from among its members a chair,
11 a vice chair and a treasurer, each of whom shall have such
12 authority and duties as may be specified in the bylaws. The
13 chair or, in the chair's absence or disability, the vice chair
14 shall preside at all meetings of the interstate commission.
15 The officers so elected shall serve without compensation or
16 remuneration from the interstate commission, provided that,
17 subject to the availability of budgeted funds, the officers
18 shall be reimbursed for ordinary and necessary costs and
19 expenses incurred by them in the performance of their
20 responsibilities as officers of the interstate commission.

21 C. The executive committee shall have such
22 authority and duties as may be set forth in the bylaws,
23 including:

24 (1) managing the affairs of the interstate
25 commission in a manner consistent with the bylaws and purposes

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1 of the interstate commission;

2 (2) overseeing an organizational structure
3 within, and appropriate procedures for, the interstate
4 commission to provide for the creation of rules, operating
5 procedures and administrative and technical support functions;
6 and

7 (3) planning, implementing and coordinating
8 communications and activities with other state, federal and
9 local government organizations in order to advance the goals of
10 the interstate commission.

11 D. The executive committee may, subject to the
12 approval of the interstate commission, appoint or retain an
13 executive director for such period, upon such terms and
14 conditions and for such compensation as the interstate
15 commission may deem appropriate. The executive director shall
16 serve as secretary to the interstate commission but shall not
17 be a member of the interstate commission. The executive
18 director shall hire and supervise such other persons as may be
19 authorized by the interstate commission.

20 E. The interstate commission shall defend the
21 executive director and its employees and, subject to the
22 approval of the attorney general or other appropriate legal
23 counsel of the member state represented by an interstate
24 commission representative, shall defend the interstate
25 commission representative in any civil action seeking to impose

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1 liability arising out of an actual or alleged act, error or
2 omission that occurred within the scope of interstate
3 commission employment, duties or responsibilities or that the
4 defendant had a reasonable basis for believing occurred within
5 the scope of interstate commission employment, duties or
6 responsibilities, provided that the actual or alleged act,
7 error or omission did not result from intentional or willful
8 and wanton misconduct on the part of the person.

9 ARTICLE 12

10 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

11 A. The interstate commission shall promulgate
12 reasonable rules in order to effectively and efficiently
13 achieve the purposes of the Interstate Compact on Educational
14 Opportunity for Military Children. If the interstate
15 commission exercises its rulemaking authority in a manner that
16 is beyond the scope of the purposes of that compact, or the
17 powers granted under that compact, then such an action by the
18 interstate commission shall be invalid and have no force or
19 effect.

20 B. Rules shall be made pursuant to a rulemaking
21 process that substantially conforms to the "Model State
22 Administrative Procedure Act" (1981), Uniform Laws Annotated,
23 Vol. 15, p.1 (2000) as amended, as may be appropriate to the
24 operations of the interstate commission.

25 C. Not later than thirty days after the date a rule

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1 is promulgated, any person may file a petition for judicial
2 review of the rule, provided that the filing of the petition
3 shall not stay or otherwise prevent the rule from becoming
4 effective unless the court finds that the petitioner has a
5 substantial likelihood of success. The court shall give
6 deference to the actions of the interstate commission
7 consistent with applicable law and shall not find the rule to
8 be unlawful if the rule represents a reasonable exercise of the
9 interstate commission's authority.

10 D. If a majority of the legislatures of the
11 compacting states rejects a rule by enactment of a statute or
12 resolution in the same manner used to adopt the Interstate
13 Compact on Educational Opportunity for Military Children, then
14 the rule shall have no further force and effect in any
15 compacting state.

16 ARTICLE 13

17 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

18 A. All courts shall take judicial notice of the
19 Interstate Compact on Educational Opportunity for Military
20 Children and the rules promulgated under that compact in any
21 judicial or administrative proceeding in a member state
22 pertaining to the subject matter of that compact that may
23 affect the powers, responsibilities or actions of the
24 interstate commission.

25 B. The interstate commission shall be entitled to

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1 receive all service of process in any proceeding provided in
2 Subsection A of this article and shall have standing to
3 intervene in the proceeding for all purposes.

4 C. If the interstate commission determines that a
5 member state has defaulted in the performance of its
6 obligations or responsibilities under the Interstate Compact on
7 Educational Opportunity for Military Children or the bylaws or
8 promulgated rules, the interstate commission shall:

9 (1) provide written notice to the defaulting
10 state and other member states of the nature of the default, the
11 means of curing the default and any action taken by the
12 interstate commission. The interstate commission shall specify
13 the means by which the defaulting state shall cure its default;
14 and

15 (2) provide remedial training and specific
16 technical assistance regarding the default.

17 D. If the defaulting state fails to cure the
18 default, the defaulting state shall be terminated from the
19 Interstate Compact on Educational Opportunity for Military
20 Children upon an affirmative vote of a majority of the member
21 states, and all rights, privileges and benefits conferred by
22 that compact shall be terminated from the effective date of
23 termination. A cure of the default does not relieve the
24 offending state of obligations or liabilities incurred during
25 the period of the default.

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1 E. Suspension or termination of membership in the
2 Interstate Compact on Educational Opportunity for Military
3 Children shall be imposed only after all other means of
4 securing compliance have been exhausted. Notice of intent to
5 suspend or terminate shall be given by the interstate
6 commission to the governor, the majority and minority leaders
7 of the defaulting state's legislature and each of the member
8 states.

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

14 G. The interstate commission shall not bear any
15 costs relating to any state that has been found to be in
16 default or that has been suspended or terminated from the
17 Interstate Compact on Educational Opportunity for Military
18 Children unless otherwise mutually agreed upon in writing
19 between the interstate commission and the defaulting state.

20 H. The defaulting state may appeal the action of
21 the interstate commission by petitioning the United States
22 district court for the District of Columbia or the federal
23 district where the interstate commission has its principal
24 offices.

25 I. The interstate commission shall attempt, upon

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1 the request of a member state, to resolve disputes that are
2 subject to the Interstate Compact on Educational Opportunity
3 for Military Children and that may arise among member states
4 and between member and non-member states.

5 J. The interstate commission shall promulgate a
6 rule providing for both mediation and binding dispute
7 resolution for disputes as appropriate.

8 K. The interstate commission, in the reasonable
9 exercise of its discretion, shall enforce the provisions and
10 rules of the Interstate Compact on Educational Opportunity for
11 Military Children.

12 L. The interstate commission may, by majority vote
13 of the members, initiate legal action in the United States
14 district court for the District of Columbia or, at the
15 discretion of the interstate commission, in the federal
16 district where the interstate commission has its principal
17 offices to enforce compliance with the provisions of the
18 Interstate Compact on Educational Opportunity for Military
19 Children and its promulgated rules and bylaws against a member
20 state in default. The relief sought may include both
21 injunctive relief and damages.

22 M. The remedies in the Interstate Compact on
23 Educational Opportunity for Military Children shall not be the
24 exclusive remedies of the interstate commission. The
25 interstate commission may avail itself of any other remedies

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1 available under state law or under the regulation of a
2 profession.

3 ARTICLE 14

4 FINANCING OF THE INTERSTATE COMMISSION

5 A. The interstate commission shall pay or provide
6 for the payment of the reasonable expenses of its
7 establishment, organization and ongoing activities.

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

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

22 D. The interstate commission shall keep accurate
23 accounts of all receipts and disbursements. The receipts and
24 disbursements of the interstate commission shall be subject to
25 the audit and accounting procedures established under its

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1 bylaws. However, all receipts and disbursements of funds
2 handled by the interstate commission shall be audited yearly by
3 a certified or licensed public accountant, and the report of
4 the audit shall be included in and become part of the annual
5 report of the interstate commission.

6 ARTICLE 15

7 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

9 B. The Interstate Compact on Educational
10 Opportunity for Military Children shall become effective and
11 binding upon legislative enactment of that compact into law by
12 no less than ten of the states. The effective date shall be no
13 earlier than December 1, 2007. Thereafter, it shall become
14 effective and binding as to any other member state upon
15 enactment of that compact into law by that state. The
16 governors of non-member states or their designees shall be
17 invited to participate in the activities of the interstate
18 commission on a nonvoting basis prior to adoption of that
19 compact by all states.

20 C. The interstate commission may propose amendments
21 to the Interstate Compact on Educational Opportunity for
22 Military Children for enactment by the member states. No
23 amendment shall become effective and binding upon the
24 interstate commission and the member states unless and until it
25 is enacted into law by unanimous consent of the member states.

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ARTICLE 16

WITHDRAWAL AND DISSOLUTION

A. Once effective, the Interstate Compact on Educational Opportunity for Military Children shall continue in force and remain binding upon each and every member state, provided that a member state may withdraw from that compact by specifically repealing the statute that enacted that compact into law.

B. Withdrawal from the Interstate Compact on Educational Opportunity for Military Children shall be by the enactment of a statute repealing that compact. The withdrawal shall not take effect until one year after the effective date of the statute repealing that compact and until written notice of the withdrawal has been given by the withdrawing state to the governor of each other member jurisdiction.

C. The withdrawing state shall immediately notify the chair of the interstate commission in writing upon the introduction of legislation repealing the Interstate Compact on Educational Opportunity for Military Children in the withdrawing state. The interstate commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of its receipt of the notice.

D. The withdrawing state is responsible for all assessments, obligations and liabilities incurred on its behalf through the effective date of withdrawal, including obligations

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1 the performance of which extends beyond the effective date of
2 withdrawal.

3 E. Reinstatement following withdrawal of a member
4 state shall occur upon the withdrawing state reenacting the
5 Interstate Compact on Educational Opportunity for Military
6 Children or upon such later date as determined by the
7 interstate commission.

8 F. The Interstate Compact on Educational
9 Opportunity for Military Children shall dissolve effective upon
10 the date of the withdrawal or default of the member state that
11 reduces the membership in that compact to one member state.

12 G. Upon the dissolution of the Interstate Compact
13 on Educational Opportunity for Military Children, the compact
14 becomes null and void and shall be of no further force or
15 effect, and the business and affairs of the interstate
16 commission shall be concluded, and surplus funds shall be
17 distributed in accordance with the bylaws.

18 ARTICLE 17

19 SEVERABILITY AND CONSTRUCTION

20 A. The provisions of the Interstate Compact on
21 Educational Opportunity for Military Children shall be
22 severable, and if any phrase, clause, sentence or provision is
23 deemed unenforceable, the remaining provisions of that compact
24 shall be enforceable.

25 B. The provisions of the Interstate Compact on

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1 Educational Opportunity for Military Children shall be
2 liberally construed to effectuate its purposes.

3 C. Nothing in the Interstate Compact on Educational
4 Opportunity for Military Children shall be construed to
5 prohibit the applicability of other interstate compacts to
6 which the states are members.

7 ARTICLE 18

8 BINDING EFFECT OF COMPACT AND OTHER LAWS

9 A. Nothing in the Interstate Compact on Educational
10 Opportunity for Military Children prevents the enforcement of
11 any other law of a member state.

12 B. All lawful actions of the interstate commission,
13 including all rules and bylaws promulgated by the interstate
14 commission, are binding upon the member states.

15 C. All agreements between the interstate commission
16 and the member states are binding in accordance with their
17 terms.

18 D. In the event any provision of the Interstate
19 Compact on Educational Opportunity for Military Children
20 exceeds the constitutional limits imposed on the legislature of
21 any member state, such provision shall be ineffective to the
22 extent of the conflict with the constitutional provision in
23 question in that member state."

24 Section 2. MILITARY CHILDREN EDUCATION COMPACT STATE
25 COUNCIL--MILITARY FAMILY EDUCATION LIAISON--COMPACT

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1 COMMISSIONER.--

2 A. The "military children education compact state
3 council" is created to provide for the coordination among state
4 agencies, local education agencies and military installations
5 concerning the state's participation in and compliance with the
6 Interstate Compact on Educational Opportunity for Military
7 Children.

8 B. The military children education compact state
9 council shall designate a "military family education liaison"
10 to assist military families and the state in facilitating the
11 implementation of the Interstate Compact on Educational
12 Opportunity for Military Children. The military family
13 education liaison shall serve as an ex-officio nonvoting member
14 of the military children education compact state council,
15 unless the person designated as the liaison is already a voting
16 member of the council.

17 C. The governor shall appoint a compact
18 commissioner to administer the Interstate Compact on
19 Educational Opportunity for Military Children in New Mexico and
20 to represent the state on the interstate commission. The
21 compact commissioner shall serve as an ex-officio nonvoting
22 member of the military children education compact state
23 council, unless the person appointed as the compact
24 commissioner is already a voting member of the council.

25 D. Members of the military children education

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1 compact state council shall not receive per diem and mileage or
2 other compensation, perquisite or allowance.

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