

THE HOUSE OF REPRESENTATIVES

Tuesday, March 4, 2008

House Bill No. 2507

HOUSE BILL NO. 2507 - By: COODY of the House.

An Act relating to education; providing for entry into the Interstate Compact on Educational Opportunity for Military Children; providing short title; stating purpose of Compact; defining terms; stating applicability of Compact to certain children; providing exceptions; providing for release and transmission of educational records; providing for immunizations; providing for enrollment; providing for placement of children in courses, educational programs and special education services; requiring placement flexibility; allowing absences as related to deployment activities; providing for eligibility for enrollment and extracurricular participation; establishing graduation procedures and requirements; requiring creations of a State Council; requiring certain membership; requiring appointment of a military family education liaison; providing for a state compact commissioner; creating Interstate Commission on Educational Opportunity for Military Children; providing for membership of Commission; prescribing procedures of Commission; authorizing establishment of executive committee of Commission; stating duties and authority of certain committee; authorizing Commission to promulgate rules and adopt bylaws; requiring certain notice of meetings; providing for closure of a meeting; requiring collection of certain data; requiring Commission to establish reporting process for military official and parents; stating powers and duties of Commission; requiring adoption of bylaws within certain time period; providing for election of officers; stating powers and duties of the executive committee; authorizing certain personnel; providing certain immunity; requiring the Commission to promulgate rules; requiring adherence to certain laws; providing for certain oversight and enforcement of the Compact; providing for default and suspension or termination of member states; providing penalties and remedies for default on Compact; authorizing Commission to levy and collect annual assessments from Compacting States; requiring certain auditing procedures; making all state eligible; providing effective date of Compact; providing for withdrawal from Compact; providing for termination of Compact; providing for severability and construction of provisions of Compact; stating effect of Compact on certain state laws; creating

the Oklahoma State Council for Educational Opportunity for Military Children; providing for membership and officers; stating terms; exempting members of Council from dual office holding prohibitions; providing for removal of members and appointment of vacant positions; requiring compliance by Council with Oklahoma Open Meeting Act, Oklahoma Open Records Act, and Administrative Procedures Act; authorizing reimbursement for certain expenses; stating duties and powers of Council; authorizing Council to promulgate certain rules; authorizing selection of state employee as Compact Commissioner and Military Family Education Liaison; requiring employment of Compact Commissioner and Military Family Education Liaison; designating Compact Commissioner as commissioner on certain commission; authorizing substitute appointment for certain purpose; making certain position unclassified; delaying implementation of certain provision; providing for codification; providing an effective date; and declaring an emergency.

BE IT ENACTED BY THE PEOPLE OF THE STATE OF OKLAHOMA:

1 SECTION 1. NEW LAW A new section of law to be codified in the Oklahoma
2 Statutes as Section 510.1 of Title 70, unless there is created a duplication in numbering,
3 reads as follows:

4 This act shall be known and may be cited as the “Interstate Compact on
5 Educational Opportunity for Military Children.”

6 SECTION 2. NEW LAW A new section of law to be codified in the Oklahoma
7 Statutes as Section 510.2 of Title 70, unless there is created a duplication in numbering,
8 reads as follows:

1 The Interstate Compact on Educational Opportunity for Military Children is hereby
2 enacted into law and entered into with all jurisdictions legally joining therein, in the
3 form substantially as follows:

4 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
5 FOR MILITARY CHILDREN

6 ARTICLE I PURPOSE

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

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

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

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

18 4. Facilitating the on-time graduation of children of military families;

19 5. Providing for the promulgation and enforcement of administrative rules
20 implementing the provisions of this compact;

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

1 7. Promoting coordination between this compact and other compacts affecting
2 military children; and

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

5 ARTICLE II. DEFINITIONS

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

7 1. "Active duty" means full-time duty status in the active uniformed service of the
8 United States, including members of the National Guard and Military Reserve on active
9 duty orders pursuant to 10 U.S.C., Sections 1209 and 1211;

10 2. "Children of military families" means a school-aged child(ren), enrolled in
11 Kindergarten through Twelfth grade, in the household of an active duty member;

12 3. "Compact commissioner" means the voting representative of each compacting
13 state appointed pursuant to Article VIII of this compact;

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

17 5. "Education(al) records" means those official records, files, and data directly
18 related to a student and maintained by the school or local education agency including,
19 but not limited to, records encompassing all the material kept in the student's
20 cumulative folder such as general identifying data, records of attendance and of academic
21 work completed, records of achievement and results of evaluative tests, health data,
22 disciplinary status, test protocols, and individualized education programs;

1 6. “Extracurricular activities” means a voluntary activity sponsored by the school
2 or local education agency or an organization sanctioned by the local education agency.
3 Extracurricular activities include, but are not limited to, preparation for and
4 involvement in public performances, contests, athletic competitions, demonstrations,
5 displays, and club activities;

6 7. “Interstate Commission on Educational Opportunity for Military Children”
7 means the commission that is created under Article IX of this compact, which is
8 generally referred to as Interstate Commission;

9 8. “Local education agency” means a public authority legally constituted by the state
10 as an administrative agency to provide control of and direction for Kindergarten through
11 Twelfth grade public educational institutions;

12 9. “Member state” means a state that has enacted this compact;

13 10. “Military installation” means a base, camp, post, station, yard, center, homeport
14 facility for any ship, or other activity under the jurisdiction of the Department of
15 Defense, including any leased facility, which is located within any of the several states,
16 the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
17 Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.
18 Such term does not include any facility used primarily for civil works, rivers and harbors
19 projects, or flood control projects;

20 11. “Nonmember state” means a state that has not enacted this compact;

21 12. “Receiving state” means the state to which a child of a military family is sent,
22 brought, or caused to be sent or brought;

1 13. “Rule” means a written statement by the Interstate Commission promulgated
2 pursuant to Article XII of this compact that is of general applicability, implements,
3 interprets or prescribes a policy or provision of the Compact, or an organizational,
4 procedural, or practice requirement of the Interstate Commission, and has the force and
5 effect of statutory law in a member state, and includes the amendment, repeal, or
6 suspension of an existing rule;

7 14. “Sending state” means the state from which a child of a military family is sent,
8 brought, or caused to be sent or brought;

9 15. “State” means a state of the United States, the District of Columbia, the
10 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
11 Northern Marianas Islands and any other U.S. Territory;

12 16. “Student” means the child of a military family for whom the local education
13 agency receives public funding and who is formally enrolled in Kindergarten through
14 Twelfth grade;

15 17. “Transition” means:

- 16 a. the formal and physical process of transferring from school to school, or
17 b. the period of time in which a student moves from one school in the
18 sending state to another school in the receiving state;

19 18. “Uniformed service(s)” means the Army, Navy, Air Force, Marine Corps, Coast
20 Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric
21 Administration, and Public Health Services; and

1 4. Other United States Department of Defense personnel and other federal agency
2 civilian and contract employees not defined as active duty members of the uniformed
3 services.

4 ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT

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

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

20 C. Immunizations – Compacting states shall give thirty (30) days from the date of
21 enrollment or within such time as is reasonably determined under the rules promulgated
22 by the Interstate Commission, for students to obtain any immunization(s) required by

1 the receiving state. For a series of immunizations, initial vaccinations must be obtained
2 within thirty (30) days or within such time as is reasonably determined under the rules
3 promulgated by the Interstate Commission.

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

13 ARTICLE V. PLACEMENT & ATTENDANCE

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

1 subsequent evaluations to ensure appropriate placement and continued enrollment of the
2 student in the course(s).

3 B. Educational program placement – The receiving state school shall initially honor
4 placement of the student in educational programs based on current educational
5 assessments conducted at the school in the sending state or participation/placement in like
6 programs in the sending state. Such programs shall include, but are not limited to:

- 7 1. Gifted and talented programs; and
- 8 2. English as a second language (ESL).

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

11 C. Special education services.

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

16 2. In compliance with the requirements of Section 504 of the Rehabilitation Act, 29
17 U.S.C.A., Section 794, and with Title II of the Americans with Disabilities Act, 42
18 U.S.C.A., Sections 12131 through 12165, the receiving state shall make reasonable
19 accommodations and modifications to address the needs of incoming students with
20 disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal
21 access to education.

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

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

6 E. Absence as related to deployment activities – A student whose parent or legal
7 guardian is an active duty member of the uniformed services, as defined by the compact,
8 and has been called to duty for, is on leave from, or immediately returned from
9 deployment to a combat zone or combat support posting, shall be granted additional
10 excused absences at the discretion of the local education agency superintendent to visit
11 with his or her parent or legal guardian relative to such leave or deployment of the
12 parent or guardian.

13 ARTICLE VI. ELIGIBILITY

14 A. Eligibility for enrollment.

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

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

1 c. alternative testing in lieu of testing requirements for graduation in the
2 receiving state.

3 In the event the above alternatives cannot be accommodated by the receiving state
4 for a student transferring in his or her Senior year, then the provisions of subsection C of
5 this article shall apply.

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

14 ARTICLE VIII. STATE COORDINATION

15 A. Each member state shall, through the creation of a State Council or use of an
16 existing body or board, provide for the coordination among its agencies of government,
17 local education agencies and military installations concerning the state’s participation in,
18 and compliance with, this compact and Interstate Commission activities. While each
19 member state may determine the membership of its own State Council, its membership
20 must include at least:

- 21 1. The State Superintendent of Public Instruction;

UNDERLINED language denotes Amendments to present Statutes.
BOLD FACE CAPITALIZED language denotes Committee Amendments.
~~Strike thru~~ language denotes deletion from present Statutes.

1 2. The superintendent of a school district with a high concentration of military
2 children;

3 3. A representative from a military installation;

4 4. One representative each from the legislative and executive branches of
5 government; and

6 5. Other offices and stakeholder groups the State Council deems appropriate.

7 B. A member state that does not have a school district deemed to contain a high
8 concentration of military children may appoint a superintendent from another school
9 district to represent local education agencies on the State Council.

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

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

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

19 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL
20 OPPORTUNITY FOR MILITARY CHILDREN

21 The member states hereby create the “Interstate Commission on Educational
22 Opportunity for Military Children.” The activities of the Interstate Commission are the

1 formation of public policy and are a discretionary state function. The Interstate
2 Commission shall:

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

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

9 a. each member state represented at a meeting of the Interstate
10 Commission is entitled to one vote,

11 b. a majority of the total member states shall constitute a quorum for the
12 transaction of business, unless a larger quorum is required by the
13 bylaws of the Interstate Commission,

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

19 d. The bylaws may provide for meetings of the Interstate Commission to
20 be conducted by telecommunication or electronic communication;

21 3. Consist of ex officio, nonvoting representatives who are members of interested
22 organizations. Such ex officio members, as defined in the bylaws, may include, but not be

1 limited to, members of the representative organizations of military family advocates,
2 local education agency officials, parent and teacher groups, the United States
3 Department of Defense, the Education Commission of the States, the Interstate
4 Agreement on the Qualification of Educational Personnel and other interstate compacts
5 affecting the education of children of military members;

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

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

20 6. Establish bylaws and rules that provide for conditions and procedures under
21 which the Interstate Commission shall make its information and official records
22 available to the public for inspection or copying. The Interstate Commission may exempt

1 from disclosure information or official records to the extent they would adversely affect
2 personal privacy rights or proprietary interests;

3 7. Public notice shall be given by the Interstate Commission of all meetings, and all
4 meetings shall be open to the public, except as set forth in the rules or as otherwise
5 provided in the compact. The Interstate Commission and its committees may close a
6 meeting, or portion thereof, where it determines by two-thirds (2/3) vote that an open
7 meeting would be likely to:

- 8 a. relate solely to the Interstate Commission's internal personnel
9 practices and procedures,
- 10 b. disclose matters specifically exempted from disclosure by federal and
11 state statute,
- 12 c. disclose trade secrets or commercial or financial information which is
13 privileged or confidential,
- 14 d. involve accusing a person of a crime, or formally censuring a person,
- 15 e. disclose information of a personal nature where disclosure would
16 constitute a clearly unwarranted invasion of personal privacy,
- 17 f. disclose investigative records compiled for law enforcement purposes,
18 or
- 19 g. specifically relate to the Interstate Commission's participation in a
20 civil action or other legal proceeding;

21 8. For a meeting, or portion of a meeting, closed pursuant to this provision, the
22 Interstate Commission's legal counsel or designee shall certify that the meeting may be

1 closed and shall reference each relevant exemptible provision. The Interstate
2 Commission shall keep minutes which shall fully and clearly describe all matters
3 discussed in a meeting and shall provide a full and accurate summary of actions taken,
4 and the reasons therefore, including a description of the views expressed and the record
5 of a roll call vote. All documents considered in connection with an action shall be
6 identified in such minutes. All minutes and documents of a closed meeting shall remain
7 under seal, subject to release by a majority vote of the Interstate Commission;

8 9. The Interstate Commission shall collect standardized data concerning the
9 educational transition of the children of military families under this compact as directed
10 through its rules which shall specify the data to be collected, the means of collection and
11 data exchange and reporting requirements. Such methods of data collection, exchange
12 and reporting shall, insofar as is reasonably possible, conform to current technology and
13 coordinate its information functions with the appropriate custodian of records as
14 identified in the bylaws and rules; and

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

21 **ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

22 The Interstate Commission shall have the following powers:

UNDERLINED language denotes Amendments to present Statutes.
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- 1 1. To provide for dispute resolution among member states;
- 2 2. To promulgate rules and take all necessary actions to effect the goals, purposes
- 3 and obligations as enumerated in this compact. The rules shall have the force and effect
- 4 of statutory law and shall be binding in the compact states to the extent and in the
- 5 manner provided in this compact;
- 6 3. To issue, upon request of a member state, advisory opinions concerning the
- 7 meaning or interpretation of the interstate compact, its bylaws, rules and actions;
- 8 4. To enforce compliance with the compact provisions, the rules promulgated by the
- 9 Interstate Commission, and the bylaws, using all necessary and proper means including,
- 10 but not limited to, the use of judicial process;
- 11 5. To establish and maintain offices which shall be located within one or more of
- 12 the member states;
- 13 6. To purchase and maintain insurance and bonds;
- 14 7. To borrow, accept, hire or contract for services of personnel;
- 15 8. To establish and appoint committees including, but not limited to, an executive
- 16 committee as required by paragraph 5 of Article IX, which shall have the power to act on
- 17 behalf of the Interstate Commission in carrying out its powers and duties hereunder;
- 18 9. To elect or appoint such officers, attorneys, employees, agents, or consultants,
- 19 and to fix their compensation, define their duties and determine their qualifications; and
- 20 to establish the Interstate Commission's personnel policies and programs relating to
- 21 conflicts of interest, rates of compensation, and qualifications of personnel;

- 1 10. To accept any and all donations and grants of money, equipment, supplies,
2 materials, and services, and to receive, utilize, and dispose of it;
- 3 11. To lease, purchase, accept contributions or donations of, or otherwise to own,
4 hold, improve or use any property, real, personal, or mixed;
- 5 12. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise
6 dispose of any property, real, personal or mixed;
- 7 13. To establish a budget and make expenditures;
- 8 14. To adopt a seal and bylaws governing the management and operation of the
9 Interstate Commission;
- 10 15. To report annually to the Legislatures, Governors, judiciary, and State Councils
11 of the member states concerning the activities of the Interstate Commission during the
12 preceding year. Such reports shall also include any recommendations that may have
13 been adopted by the Interstate Commission;
- 14 16. To coordinate education, training and public awareness regarding the compact,
15 its implementation and operation for officials and parents involved in such activity;
- 16 17. To establish uniform standards for the reporting, collecting and exchanging of
17 data;
- 18 18. To maintain corporate books and records in accordance with the bylaws;
- 19 19. To perform such functions as may be necessary or appropriate to achieve the
20 purposes of this compact; and
- 21 20. To provide for the uniform collection and sharing of information between and
22 among member states, schools and military families under this compact.

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

7 C. Executive Committee, Officers, and Personnel.

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

- 10 a. managing the affairs of the Interstate Commission in a manner
11 consistent with the bylaws and purposes of the Interstate Commission,
12 b. overseeing an organizational structure within, and appropriate
13 procedures for the Interstate Commission to provide for the creation of
14 rules, operating procedures, and administrative and technical support
15 functions, and
16 c. planning, implementing, and coordinating communications and
17 activities with other state, federal and local government organizations
18 in order to advance the goals of the Interstate Commission.

19 2. The executive committee may, subject to the approval of the Interstate
20 Commission, appoint or retain an executive director for such period, upon such terms and
21 conditions and for such compensation, as the Interstate Commission may deem
22 appropriate. The executive director shall serve as secretary to the Interstate

1 Commission, but shall not be a member of the Interstate Commission. The executive
2 director shall hire and supervise such other persons as may be authorized by the
3 Interstate Commission.

4 D. 1. The Interstate Commission's executive director and its employees shall be
5 immune from suit and liability, either personally or in their official capacity, for a claim
6 for damage to or loss of property or personal injury or other civil liability caused or
7 arising out of or relating to an actual or alleged act, error, or omission that occurred, or
8 that such person had a reasonable basis for believing occurred, within the scope of
9 Interstate Commission employment, duties, or responsibilities; provided, that such
10 person shall not be protected from suit or liability for damage, loss, injury, or liability
11 caused by the intentional or willful and wanton misconduct of such person.

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

21 3. The Interstate Commission shall defend the executive director and its employees
22 and, subject to the approval of the Attorney General or other appropriate legal counsel of

1 the member state represented by an Interstate Commission representative, shall defend
2 such Interstate Commission representative in any civil action seeking to impose liability
3 arising out of an actual or alleged act, error or omission that occurred within the scope of
4 Interstate Commission employment, duties or responsibilities, or that the defendant had
5 a reasonable basis for believing occurred within the scope of Interstate Commission
6 employment, duties, or responsibilities; provided, that the actual or alleged act, error, or
7 omission did not result from intentional or willful and wanton misconduct on the part of
8 such person.

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

18 ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

19 A. The Interstate Commission shall promulgate reasonable rules in order to
20 effectively and efficiently achieve the purposes of this Compact. Notwithstanding the
21 foregoing, in the event the Interstate Commission exercises its rulemaking authority in a
22 manner that is beyond the scope of the purposes of this act, or the powers granted

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1 hereunder, then such an action by the Interstate Commission shall be invalid and have
2 no force or effect.

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

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

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

17 ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

18 A. Oversight.

19 1. The executive, legislative and judicial branches of state government in each
20 member state shall enforce this compact and shall take all actions necessary and
21 appropriate to effectuate the compact’s purposes and intent. The provisions of this
22 compact and the rules promulgated hereunder shall have standing as statutory law.

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

5 3. The Interstate Commission shall be entitled to receive all service of process in
6 any such proceeding and shall have standing to intervene in the proceeding for all
7 purposes. Failure to provide service of process to the Interstate Commission shall render
8 a judgment or order void as to the Interstate Commission, this compact or promulgated
9 rules.

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

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

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

19 3. If the defaulting state fails to cure the default, the defaulting state shall be
20 terminated from the compact upon an affirmative vote of a majority of the member states
21 and all rights, privileges and benefits conferred by this compact shall be terminated from

1 the effective date of termination. A cure of the default does not relieve the offending
2 state of obligations or liabilities incurred during the period of the default;

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

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

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

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

20 C. Dispute Resolution.

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

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

6 D. Enforcement.

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

9 2. The Interstate Commission may, by majority vote of the members, initiate legal
10 action in the United State District Court for the District of Columbia or, at the discretion
11 of the Interstate Commission, in the federal district where the Interstate Commission
12 has its principal offices, to enforce compliance with the provisions of the compact, its
13 promulgated rules and bylaws, against a member state in default. The relief sought may
14 include both injunctive relief and damages. In the event judicial enforcement is
15 necessary, the prevailing party shall be awarded all costs of such litigation including
16 reasonable attorney fees.

17 3. The remedies herein shall not be the exclusive remedies of the Interstate
18 Commission. The Interstate Commission may avail itself of any other remedies available
19 under state law or the regulation of a profession.

20 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

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

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

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

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

17 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

19 B. The compact shall become effective and binding upon legislative enactment of
20 the compact into law by no less than ten of the states. The effective date shall be no
21 earlier than December 1, 2007. Thereafter it shall become effective and binding as to any
22 other member state upon enactment of the compact into law by that state. The governors

1 of nonmember states or their designees shall be invited to participate in the activities of
2 the Interstate Commission on a nonvoting basis prior to adoption of the compact by all
3 states.

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

8 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

9 A. Withdrawal.

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

13 2. Withdrawal from this compact shall be by the enactment of a statute repealing
14 the same, but shall not take effect until one (1) year after the effective date of such
15 statute and until written notice of the withdrawal has been given by the withdrawing
16 state to the Governor of each other member jurisdiction.

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

1 4. The withdrawing state is responsible for all assessments, obligations and
2 liabilities incurred through the effective date of withdrawal, including obligations, the
3 performance of which extends beyond the effective date of withdrawal.

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

7 B. Dissolution of Compact.

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

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

14 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

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

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

22 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

1 A. Other Laws.

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

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

6 B. Binding Effect of the Compact.

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

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

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

14 SECTION 3. NEW LAW A new section of law to be codified in the Oklahoma
15 Statutes as Section 510.3 of Title 70, unless there is created a duplication in numbering,
16 reads as follows:

17 A. There is hereby created the Oklahoma State Council for Educational
18 Opportunity for Military Children in accordance with Article VIII of the Interstate
19 Compact on Educational Opportunity for Military Children. The State Council shall
20 consist of:

21 1. The compact commissioner and military family education liaison who shall be
22 nonvoting members;

1 2. The State Superintendent of Public Instruction or a designee; and

2 3. Six appointed members as follows:

- 3 a. one member of the Senate, who shall serve an initial term of three (3)
- 4 years, who shall be appointed by the President Pro Tempore,
- 5 b. one member of the House of Representatives, who shall serve an initial
- 6 term of three (3) years, who shall be appointed by the Speaker of the
- 7 House of Representatives,
- 8 c. two superintendents of school districts with a high concentration of
- 9 military children, who shall service an initial term of two (2) years, one
- 10 of whom shall be appointed by the Speaker of the House of
- 11 Representatives and one of whom shall be appointed by the President
- 12 Pro Tempore of the Senate,
- 13 d. a representative of a military installation located in the state, who
- 14 shall serve an initial term of one (1) year, who shall be appointed by
- 15 the Governor, and
- 16 e. a member of the State Board of Education, who shall serve an initial
- 17 term of one (1) year, who shall be appointed by the Governor.

18 B. Except for the initial appointments, appointed members shall be appointed for

19 three-year terms. The members appointed to initial terms shall serve staggered terms as

20 prescribed in this section. Terms of office shall expire on June 30. Members may be

21 reappointed as deemed appropriate by the appointing authority. Members may be

22 removed by the appointing authority for incompetence, willful neglect of duty, corruption

1 in office, or malfeasance in office. Vacancies shall be filled in the same manner as the
2 original appointment. The members of the Council shall not be subject to the dual office
3 holding prohibitions set forth in Section 6 of Title 51 of the Oklahoma Statutes.

4 C. The members of the State Council shall elect from their membership a chair and
5 vice-chair to serve for one-year terms. A majority of the members shall constitute a
6 quorum for the purpose of conducting the business of the Council. The Council shall
7 meet at least annually and at the call of the chair.

8 D. The Council shall comply with the Oklahoma Open Meeting Act, the Oklahoma
9 Open Records Act, and the Administrative Procedures Act.

10 E. Members of the Council, except the compact commissioner and military family
11 education liaison, shall serve without compensation but shall be reimbursed by their
12 appointing authorities for expenses incurred in the performance of their duties as
13 provided in the State Travel Reimbursement Act until the Council is funded.

14 F. The Council shall oversee and administer this state's participation in the
15 Compact. The Council may promulgate rules to implement operations and procedures
16 necessary for administration of the Compact.

17 G. Until the Compact becomes effective upon its adoption by ten states, the Council
18 may select two persons who are employed by a state agency, subject to the assent of the
19 administrative head of the agency, to serve as the compact commissioner and military
20 family education liaison. The agency that employs the compact commissioner and
21 military family education liaison shall pay the salaries of the compact commissioner and
22 military family education liaison and any expenses the compact commissioner and

1 military family education liaison incur in fulfilling duties related to the Compact. The
2 Council and the administrative head of the agency shall determine what portion of the
3 employee's time shall be devoted to Compact activities. The compact commissioner shall
4 serve as this state's commissioner on the Interstate Commission on Educational
5 Opportunity for Military Children. In the event the compact commissioner cannot attend
6 a meeting of the Interstate Commission, the Council shall appoint a Council member to
7 represent this state at the meeting.

8 SECTION 4. NEW LAW A new section of law to be codified in the Oklahoma
9 Statutes as Section 510.4 of Title 70, unless there is created a duplication in numbering,
10 reads as follows:

11 Upon the effectiveness of the Interstate Compact on Educational Opportunity for
12 Military Children through adoption by ten states, the Oklahoma State Council for
13 Educational Opportunity for Military Children, created in Section 3 of this act, shall
14 employ a compact commissioner to oversee the organization and activities of the Council
15 and to administer this state's participation in the Compact and shall employ a military
16 family education liaison to assist military families and the state in facilitating the
17 implementation of the Compact, subject to the direction of the Council. The compact
18 commissioner shall serve as this state's commissioner on the Interstate Commission on
19 Educational Opportunity for Military Children. In the event the compact commissioner
20 cannot attend a meeting of the Interstate Commission, the Council shall appoint a
21 Council member to represent this state at the meeting. The salaries of the compact
22 commissioner and military family education liaison shall be set by law. The positions of

1 compact commissioner and military family education liaison shall be unclassified
2 positions.

3 SECTION 5. The implementation of Section 4 of this act shall be delayed until the
4 Compact becomes effective upon its adoption by ten states.

5 SECTION 6. This act shall become effective July 1, 2008.

6 SECTION 7. It being immediately necessary for the preservation of the public
7 peace, health and safety, an emergency is hereby declared to exist, by reason whereof
8 this act shall take effect and be in full force from and after its passage and approval.

9 COMMITTEE REPORT BY: COMMITTEE ON EDUCATION dated 03-03-08 - DO PASS.