

AMENDED IN ASSEMBLY JUNE 1, 2009

AMENDED IN ASSEMBLY APRIL 29, 2009

AMENDED IN ASSEMBLY APRIL 14, 2009

CALIFORNIA LEGISLATURE—2009—10 REGULAR SESSION

ASSEMBLY BILL

No. 343

**Introduced by Assembly Member Saldana
(Coauthors: Assembly Members Adams, Jeffries, Lieu, and Niello)**

February 19, 2009

An act to add Chapter 11 (commencing with Section 49700) to Part 27 of Division 4 of Title 2 of the Education Code, relating to pupils.

LEGISLATIVE COUNSEL'S DIGEST

AB 343, as amended, Saldana. Pupils: military families.

(1) Existing law authorizes a school district of choice, as defined, to give priority for attendance to children of military personnel, if the school district elected to accept transfer pupils by a resolution adopted by the governing board of the school district prior to April 1, 2005.

This bill would ratify the Interstate Compact on Educational Opportunity for Military Children to, among other things, facilitate the enrollment, placement, advancement, and transfer of the academic records of the children of military families for the purpose of removing barriers to their educational success due to the frequent moves and deployment of their parents. The compact would establish the Interstate Commission on Educational Opportunity for Military Children to provide for dispute resolution among member states, promulgate rules, and take other actions necessary for the administration of the compact. The compact would only become effective upon ratification by a minimum of 10 states.

The bill would authorize the Superintendent of Public Instruction to accept nonstate funding, to be available upon appropriation, to offset the cost of the annual assessment required by the charter.

The bill would require the Superintendent to reconvene a task force initially convened pursuant to a provision of existing law to review, and make recommendations regarding, the Interstate Compact on Educational Opportunity for Military Children. The bill would require this task force to be reconvened on or after July 1, 2012, and on or before September 1, 2012, and to issue a final report of findings and conclusions on prescribed topics to the appropriate policy and fiscal committees of both houses of the Legislature no later than December 1, 2012.

By requiring local educational agencies to perform additional duties regarding the children of military families, this bill would impose a state-mandated local program.

(2) The California Constitution requires the state to reimburse local agencies and school districts for certain costs mandated by the state. Statutory provisions establish procedures for making that reimbursement.

This bill would provide that, if the Commission on State Mandates determines that the bill contains costs mandated by the state, reimbursement for those costs shall be made pursuant to these statutory provisions.

Vote: majority. Appropriation: no. Fiscal committee: yes.
State-mandated local program: yes.

The people of the State of California do enact as follows:

1 SECTION 1. Chapter 11 (commencing with Section 49700)
2 is added to Part 27 of Division 4 of Title 2 of the Education Code,
3 to read:

4

5 CHAPTER 11. INTERSTATE COMPACT ON EDUCATIONAL
6 OPPORTUNITY FOR MILITARY CHILDREN

7

8 49700. The Legislature finds and declares that the purpose of
9 the Interstate Compact on Educational Opportunity for Military
10 Children is to remove barriers to educational success imposed on
11 children of military families due to the frequent moves and
12 deployment of their parents by doing all of the following:

1 (a) Facilitating the timely enrollment of children of military
2 families and ensuring that they are not placed at a disadvantage
3 due to difficulty in the transfer of educational records from the
4 previous school district or variations in entrance or age
5 requirements.

6 (b) Facilitating the pupil placement process through which
7 children of military families are not disadvantaged by variations
8 in attendance requirements, scheduling, sequencing, grading, course
9 content, or assessment.

10 (c) Facilitating the qualification and eligibility of children of
11 military families for enrollment, educational programs, and
12 participation in extracurricular academic, athletic, and social
13 activities.

14 (d) Facilitating the on-time graduation of children of military
15 families.

16 (e) Providing for the promulgation and enforcement of
17 administrative rules implementing the provisions of the compact.

18 (f) Providing for the uniform collection and sharing of
19 information between and among member states, schools, and
20 military families pursuant to the compact.

21 (g) Promoting coordination between the compact and other
22 compacts affecting military children.

23 (h) Promoting flexibility and cooperation between the
24 educational system, parents, and the pupil in order to achieve
25 educational success for the pupil.

26 49700.5. The Legislature of the State of California hereby
27 ratifies the Interstate Compact on Educational Opportunity for
28 Military Children as set forth in Section 49701.

29 49701. The provisions of the Interstate Compact on Educational
30 Opportunity for Military Children are as follows:

31
32 Article I. Purpose
33

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

37 (A) Facilitating the timely enrollment of children of military
38 families and ensuring that they are not placed at a disadvantage
39 due to difficulty in the transfer of education records from the

1 previous school district(s) or variations in entrance/age
2 requirements.

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

7 (C) Facilitating the qualification and eligibility for enrollment,
8 educational programs, and participation in extracurricular
9 academic, athletic, and social activities.

10 (D) Facilitating the on-time graduation of children of military
11 families.

12 (E) Providing for the promulgation and enforcement of
13 administrative rules implementing the provisions of this compact.

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

17 (G) Promoting coordination between this compact and other
18 compacts affecting military children.

19 (H) Promoting flexibility and cooperation between the
20 educational system, parents and the student in order to achieve
21 educational success for the student.

22

23 Article II. Definitions

24

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

27 (A) “Active duty” means: full-time duty status in the active
28 uniformed service of the United States, including members of the
29 National Guard and Reserve on active duty orders pursuant to 10
30 U.S.C. Sections 1209 and 1211.

31 (B) “Children of military families” means: a school-aged child
32 or children, enrolled in Kindergarten through Twelfth (12th) grade,
33 in the household of an active duty member.

34 (C) “Compact commissioner” means: the voting representative
35 of each compacting state appointed pursuant to Article VIII of this
36 compact.

37 (D) “Deployment” means: the period one (1) month prior to the
38 service members’ departure from their home station on military
39 orders though six (6) months after return to their home station.

1 (E) “Educational records” means: those official records, files,
2 and data directly related to a student and maintained by the school
3 or local education agency, including, but not limited to, records
4 encompassing all the material kept in the student’s cumulative
5 folder such as general identifying data, records of attendance and
6 of academic work completed, records of achievement and results
7 of evaluative tests, health data, disciplinary status, test protocols,
8 and individualized education programs.

9 (F) “Extracurricular activities” means: a voluntary activity
10 sponsored by the school or local education agency or an
11 organization sanctioned by the local education agency.
12 Extracurricular activities include, but are not limited to, preparation
13 for and involvement in public performances, contests, athletic
14 competitions, demonstrations, displays, and club activities.

15 (G) “Interstate Commission on Educational Opportunity for
16 Military Children” means: the commission that is created under
17 Article IX of this compact, which is generally referred to as
18 Interstate Commission.

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

23 (I) “Member state” means: a state that has enacted this compact.

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

33 (K) “Non-member state” means: a state that has not enacted
34 this compact.

35 (L) “Receiving state” means: the state to which a child of a
36 military family is sent, brought, or caused to be sent or brought.

37 (M) “Rule” means: a written statement by the Interstate
38 Commission promulgated pursuant to Article XII of this compact
39 that is of general applicability, implements, interprets, or prescribes
40 a policy or provision of the Compact, or an organizational,

1 procedural, or practice requirement of the Interstate Commission,
2 and has the force and effect of statutory law in a member state,
3 and includes the amendment, repeal, or suspension of an existing
4 rule.

5 (N) “Sending state” means: the state from which a child of a
6 military family is sent, brought, or caused to be sent or brought.

7 (O) “State” means: a state of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
9 Islands, Guam, American Samoa, the Northern Marianas Islands,
10 and any other U.S. Territory.

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

14 (Q) “Transition” means: 1) the formal and physical process of
15 transferring from school to school or 2) the period of time in which
16 a student moves from one school in the sending state to another
17 school in the receiving state.

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

22 (S) “Veteran” means: a person who served in the uniformed
23 services and who was discharged or released therefrom under
24 conditions other than dishonorable.

25 26 Article III. Applicability

27
28 (A) Except as otherwise provided in Section B, this compact
29 shall apply to the children of:

30 (1) Active duty members of the uniformed services as defined
31 in this compact, including members of the National Guard and
32 Military Reserve on active duty orders pursuant to 10 U.S.C.
33 Sections 1209 and 1211;

34 (2) Members or veterans of the uniformed services who are
35 severely injured and medically discharged or retired for a period
36 of one (1) year after medical discharge or retirement; and

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

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

3 (C) The provisions of this compact shall not apply to the children
4 of:

5 (1) Inactive members of the National Guard and Military
6 Reserve;

7 (2) Members of the uniformed services now retired, except as
8 provided in Section A;

9 (3) Veterans of the uniformed services, except as provided in
10 Section A; and

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

14
15 Article IV. Educational Records and Enrollment
16

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

28 (B) Official education records/transcripts – Simultaneous with
29 the enrollment and conditional placement of the student, the school
30 in the receiving state shall request the student’s official education
31 record from the school in the sending state. Upon receipt of this
32 request, the school in the sending state will process and furnish
33 the official education records to the school in the receiving state
34 within ten (10) days or within such time as is reasonably
35 determined under the rules promulgated by the Interstate
36 Commission to the extent practicable in each case.

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

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

5 (D) Kindergarten and First (1st) grade entrance age – Students
6 shall be allowed to continue their enrollment at grade level in the
7 receiving state commensurate with their grade level (including
8 Kindergarten) from a local education agency in the sending state
9 at the time of transition, regardless of age. A student that has
10 satisfactorily completed the prerequisite grade level in the local
11 education agency in the sending state shall be eligible for
12 enrollment in the next highest grade level in the receiving state,
13 regardless of age. A student transferring after the start of the school
14 year in the receiving state shall enter the school in the receiving
15 state on his or her validated level from an accredited school in the
16 sending state.

17 Article V. Placement and Attendance

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19
20 (A) Course placement – When the student transfers before or
21 during the school year, the receiving state school shall initially
22 honor placement of the student in educational courses based on
23 the student's enrollment in the sending state school and/or
24 educational assessments conducted at the school in the sending
25 state if the courses are offered and there is space available, as
26 determined by the school district. Course placement includes, but
27 is not limited to, Honors, International Baccalaureate, Advanced
28 Placement, vocational, technical and career pathways courses.
29 Continuing the student's academic program from the previous
30 school and promoting placement in academically and career
31 challenging courses should be paramount when considering
32 placement. This does not preclude the school in the receiving state
33 from performing subsequent evaluations to ensure appropriate
34 placement and continued enrollment of the student in the course(s).

35 (B) Educational program placement – The receiving state school
36 shall initially honor placement of the student in educational
37 programs based on current educational assessments conducted at
38 the school in the sending state or participation/placement in like
39 programs in the sending state, provided that the program exists in
40 the school and there is space available, as determined by the school

1 district. Such programs include, but are not limited to: 1) gifted
2 and talented programs; and 2) English as a second language (ESL).
3 This does not preclude the school in the receiving state from
4 performing subsequent evaluations to ensure appropriate placement
5 of the student.

6 (C) Special education services – 1) In compliance with the
7 federal requirements of the Individuals with Disabilities Education
8 Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state
9 shall initially provide comparable services to a student with
10 disabilities based on his/her current Individualized Education
11 Program (IEP); and 2) In compliance with the requirements of
12 Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794,
13 and with Title II of the Americans with Disabilities Act, 42
14 U.S.C.A. Sections 12131-12165, the receiving state shall make
15 reasonable accommodations and modifications to address the needs
16 of incoming students with disabilities, subject to an existing Section
17 504 or Title II Plan, to provide the student with equal access to
18 education. This does not preclude the school in the receiving state
19 from performing subsequent evaluations to ensure appropriate
20 placement of the student.

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

26 (E) Absence as related to deployment activities – A student
27 whose parent or legal guardian is an active duty member of the
28 uniformed services, as defined by the compact, and has been called
29 to duty for, is on leave from, or immediately returned from
30 deployment to a combat zone or combat support posting, shall be
31 granted additional excused absences at the discretion of the local
32 education agency superintendent to visit with his or her parent or
33 legal guardian relative to such leave or deployment of the parent
34 or guardian.

35
36 Article VI. Eligibility
37

38 (A) Eligibility for enrollment

39 (1) Special power of attorney, relative to the guardianship of a
40 child of a military family and executed under applicable law, shall

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

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

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

12 (B) Eligibility for extracurricular participation – State and local
13 education agencies shall facilitate the opportunity for transitioning
14 military children’s inclusion in extracurricular activities, regardless
15 of application deadlines, to the extent they are otherwise qualified
16 and space is available, as determined by the school district.

17 Article VII. Graduation

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19
20 In order to facilitate the on-time graduation of children of
21 military families, states and local education agencies shall
22 incorporate the following procedures:

23 (A) Waiver requirements – Local education agency
24 administrative officials shall use best efforts to waive specific
25 courses required for graduation if similar course work has been
26 satisfactorily completed in another local education agency or shall
27 provide reasonable justification for denial. Should a waiver not be
28 granted to a student who would qualify to graduate from the
29 sending school, the local education agency shall use best efforts
30 to provide an alternative means of acquiring required coursework
31 so that graduation may occur on time.

32 (B) Exit exams – States shall accept: 1) exit or end-of-course
33 exams required for graduation from the sending state; or 2) national
34 norm-referenced achievement tests; or 3) alternative testing, in
35 lieu of testing requirements for graduation in the receiving state;
36 or 4) in California, the passage of the exit examination adopted
37 pursuant to Section 60850 is required for the student to graduate
38 if the diploma is to be issued by a California public school, as long
39 as it is a requirement in California. In the event the above
40 alternatives cannot be accommodated by the receiving state for a

1 student transferring in his or her Senior year, then the provisions
2 of Section C of this Article shall apply.

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

14
15 Article VIII. State Coordination
16

17 (A) (1) Each member state shall, through the creation of a
18 State Council or use of an existing body or board, provide for the
19 coordination among its agencies of government, local education
20 agencies and military installations concerning the state's
21 participation in, and compliance with, this compact and Interstate
22 Commission activities. While each member state may determine
23 the membership of its own State Council, its membership must
24 include at least: the state superintendent of education,
25 superintendent of a school district with a high concentration of
26 military children, representative from a military installation, one
27 representative each from the legislative and executive branches of
28 government, and other offices and stakeholder groups the State
29 Council deems appropriate. A member state that does not have a
30 school district deemed to contain a high concentration of military
31 children may appoint a superintendent from another school district
32 to represent local education agencies on the State Council.

33 (2) In California, members of the State Council shall include
34 all of the following:

35 (a) The State Superintendent of Public Instruction or his or her
36 designee.

37 (b) A school district superintendent or his or her designee from
38 a school district with a high concentration of military children,
39 selected by the State Superintendent of Public Instruction.

40 (c) A representative from a military installation.

1 (d) A member of the Senate appointed by the Senate Committee
2 on Rules, or his or her designee, who represents a legislative district
3 with a high concentration of military children.

4 (e) A member of the Assembly appointed by the Speaker of the
5 Assembly, or his or her designee, who represents a legislative
6 district with a high concentration of military children.

7 (f) The Secretary for Education or his or her designee.

8 (g) Any other persons appointed by the State Superintendent of
9 Public Instruction.

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

14 (C) (1) The compact commissioner responsible for the
15 administration and management of the state's participation in the
16 compact shall be appointed by the Governor or as otherwise
17 determined by each member state.

18 (2) In California, the State Superintendent of Public Instruction
19 shall appoint the compact commissioner.

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

24
25 Article IX. Interstate Commission on Educational Opportunity
26 for Military Children
27

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

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

38 (B) Consist of one Interstate Commission voting representative
39 from each member state, who shall be that state's compact
40 commissioner.

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

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

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

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

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

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

26 (E) Establish an executive committee, whose members shall
27 include the officers of the Interstate Commission and such other
28 members of the Interstate Commission as determined by the
29 bylaws. Members of the executive committee shall serve a one
30 year term. Members of the executive committee shall be entitled
31 to one vote each. The executive committee shall have the power
32 to act on behalf of the Interstate Commission, with the exception
33 of rulemaking, during periods when the Interstate Commission is
34 not in session. The executive committee shall oversee the
35 day-to-day activities of the administration of the compact, including
36 enforcement and compliance with the provisions of the compact,
37 its bylaws and rules, and other such duties as deemed necessary.
38 The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting
39 member of the executive committee.

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

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

14 (1) Relate solely to the Interstate Commission's internal
15 personnel practices and procedures;

16 (2) Disclose matters specifically exempted from disclosure by
17 federal and state statute;

18 (3) Disclose trade secrets or commercial or financial information
19 which is privileged or confidential;

20 (4) Involve accusing a person of a crime, or formally censuring
21 a person;

22 (5) Disclose information of a personal nature where disclosure
23 would constitute a clearly unwarranted invasion of personal
24 privacy;

25 (6) Disclose investigative records compiled for law enforcement
26 purposes; or

27 (7) Specifically relate to the Interstate Commission's
28 participation in a civil action or other legal proceeding.

29 (H) For a meeting, or portion of a meeting, closed pursuant to
30 this provision, the Interstate Commission's legal counsel or
31 designee shall certify that the meeting may be closed and shall
32 reference each relevant exemptible provision. The Interstate
33 Commission shall keep minutes which shall fully and clearly
34 describe all matters discussed in a meeting and shall provide a full
35 and accurate summary of actions taken, and the reasons therefor,
36 including a description of the views expressed and the record of
37 a roll call vote. All documents considered in connection with an
38 action shall be identified in such minutes. All minutes and
39 documents of a closed meeting shall remain under seal, subject to
40 release by a majority vote of the Interstate Commission.

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

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

Article X. Powers and Duties of the Interstate Commission

The Interstate Commission shall have the following powers:

(A) To provide for dispute resolution among member states.

(B) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as ~~enumerated in~~ *specifically set forth in Articles IV, V, VI, and VII of this compact*. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact.

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

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

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

(F) To purchase and maintain insurance and bonds.

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

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

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

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

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

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

20 (M) To establish a budget and make expenditures.

21 (N) To adopt a seal and bylaws governing the management and
22 operation of the Interstate Commission.

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

28 (P) To coordinate education, training, and public awareness
29 regarding the compact, its implementation and operation for
30 officials and parents involved in such activity.

31 (Q) To establish uniform standards for the reporting, collecting,
32 and exchanging of data.

33 (R) To maintain corporate books and records in accordance with
34 the bylaws.

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

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

Article XI. Organization and Operation of the Interstate
Commission

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

- (1) Establishing the fiscal year of the Interstate Commission;
- (2) Establishing an executive committee, and such other committees as may be necessary;
- (3) Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
- (4) Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
- (5) Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
- (6) Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
- (7) Providing “start up” rules for initial administration of the compact.

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

(C) Executive Committee, Officers and Personnel

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

1 (a) Managing the affairs of the Interstate Commission in a
2 manner consistent with the bylaws and purposes of the Interstate
3 Commission;

4 (b) Overseeing an organizational structure within, and
5 appropriate procedures for the Interstate Commission to provide
6 for the creation of rules, operating procedures, and administrative
7 and technical support functions; and

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

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

20 (D) The Interstate Commission's executive director and its
21 employees shall be immune from suit and liability, either personally
22 or in their official capacity, for a claim for damage to or loss of
23 property or personal injury or other civil liability caused or arising
24 out of or relating to an actual or alleged act, error, or omission that
25 occurred, or that such person had a reasonable basis for believing
26 occurred, within the scope of Interstate Commission employment,
27 duties, or responsibilities; provided, that such person shall not be
28 protected from suit or liability for damage, loss, injury, or liability
29 caused by the intentional or willful and wanton misconduct of such
30 person.

31 (1) The liability of the Interstate Commission's executive
32 director and employees or Interstate Commission representatives,
33 acting within the scope of such person's employment or duties for
34 acts, errors, or omissions occurring within such person's state,
35 may not exceed the limits of liability set forth under the
36 Constitution and laws of that state for state officials, employees,
37 and agents. The Interstate Commission is considered to be an
38 instrumentality of the states for the purposes of any such action.
39 Nothing in this subsection shall be construed to protect such person

1 from suit or liability for damage, loss, injury, or liability caused
2 by the intentional or willful and wanton misconduct of such person.

3 (2) The Interstate Commission shall defend the executive
4 director and its employees and, subject to the approval of the
5 Attorney General or other appropriate legal counsel of the member
6 state represented by an Interstate Commission representative, shall
7 defend such Interstate Commission representative in any civil
8 action seeking to impose liability arising out of an actual or alleged
9 act, error or omission that occurred within the scope of Interstate
10 Commission employment, duties or responsibilities, or that the
11 defendant had a reasonable basis for believing occurred within the
12 scope of Interstate Commission employment, duties, or
13 responsibilities, provided that the actual or alleged act, error, or
14 omission did not result from intentional or willful and wanton
15 misconduct on the part of such person.

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

28
29 Article XII. Rulemaking Functions of the Interstate Commission
30

31 (A) Rulemaking Authority—The Interstate Commission shall
32 promulgate reasonable rules in order to effectively and efficiently
33 achieve the purposes of this ~~Compact~~ *compact, as specifically set*
34 *forth in Articles IV, V, VI, and VII.* Notwithstanding the foregoing,
35 in the event the Interstate Commission exercises its rulemaking
36 authority in a manner that is beyond the scope of the ~~purposes~~
37 *specific matters set forth in Articles IV, V, VI, and VII* of this Act,
38 or the powers granted hereunder, then such an action by the
39 Interstate Commission shall be invalid and have no force or effect.

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

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

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

19
20 Article XIII. Oversight, Enforcement, and Dispute Resolution
21

22 (A) Oversight

23 (1) The executive, legislative and judicial branches of state
24 government in each member state shall enforce this compact, and
25 shall take all actions necessary and appropriate to effectuate the
26 compact’s purposes and intent. The provisions of this compact and
27 the rules promulgated hereunder shall have standing as statutory
28 law.

29 (2) All courts shall take judicial notice of the compact and the
30 rules in any judicial or administrative proceeding in a member
31 state pertaining to the subject matter of this compact which may
32 affect the powers, responsibilities or actions of the Interstate
33 Commission.

34 (3) The Interstate Commission shall be entitled to receive all
35 service of process in any such proceeding, and shall have standing
36 to intervene in the proceeding for all purposes. Failure to provide
37 service of process to the Interstate Commission shall render a
38 judgment or order void as to the Interstate Commission, this
39 compact or promulgated rules.

1 (B) Default, Technical Assistance, Suspension and Termination
2 – If the Interstate Commission determines that a member state has
3 defaulted in the performance of its obligations or responsibilities
4 under this compact, or the bylaws or promulgated rules, the
5 Interstate Commission shall:

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

11 (2) Provide remedial training and specific technical assistance
12 regarding the default.

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

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

26 (5) The state which has been suspended or terminated is
27 responsible for all assessments, obligations and liabilities incurred
28 through the effective date of suspension or termination including
29 obligations, the performance of which extends beyond the effective
30 date of suspension or termination.

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

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

1 (C) Dispute Resolution

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

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

9 (D) Enforcement

10 (1) The Interstate Commission, in the reasonable exercise of its
11 discretion, shall enforce the provisions and rules of this compact.

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

22 (3) The remedies herein shall not be the exclusive remedies of
23 the Interstate Commission. The Interstate Commission may avail
24 itself of any other remedies available under state law or the
25 regulation of a profession.

26

27 Article XIV. Financing of the Interstate Commission

28

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

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

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

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

14
15 Article XV. Member, States, Effective Date and Amendment
16

17 (A) Any state is eligible to become a member state.

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

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

32
33 Article XVI. Withdrawal and Dissolution
34

35 (A) Withdrawal

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

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

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

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

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

(B) Dissolution of Compact

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

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

Article XVII. Severability and Construction

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

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

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

Article XVIII. Binding Effect of Compact and Other Laws

(A) Other Laws

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

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

(B) Binding Effect of the Compact

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

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

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

49702. Notwithstanding any other provision of law, the Superintendent may accept nonstate funding to offset the cost of the annual assessment required by Section (B) of Article XIV of the Interstate Compact on Educational Opportunity for Military Children. These moneys shall be available, upon appropriation by the Legislature, for that purpose.

49703. The Superintendent may develop procedures for the training of employees of local educational agencies in the implementation of the Interstate Compact on Educational Opportunity for Military Children as part of the process developed pursuant to Article 4.5 (commencing with Section 51250) of Chapter 2 of Part 28.

49704. (a) On or after July 1, 2012, and on or before September 1, 2012, the Superintendent shall reconvene, with its original membership to the extent possible, the task force that was convened pursuant to Section 2 of Chapter 589 of the Statutes of 2008 for the purpose of reviewing and making recommendations regarding the Interstate Compact on Educational Opportunity for Military Children.

(b) The reconvened task force shall also include the military family education liaison and the compact commissioner, if the individuals serving in those roles were not members of the original task force.

1 (c) The reconvened task force shall review the impact of the
2 compact on California, its school districts and its students, and
3 issue a final report regarding these impacts that includes, at a
4 minimum, all of the following:

5 (1) The impacts on children of military families.

6 (2) The impacts on students who are not children of military
7 families.

8 (3) The impacts on schools and school districts.

9 (4) The nature of interactions between California school districts
10 and education agencies in other states.

11 (5) The nature of interactions between California, its schools
12 and school districts, and the Interstate Commission on Educational
13 Opportunity for Military Children.

14 (6) The extent and content of any regulatory or rulemaking
15 actions taken by the Interstate Commission on Educational
16 Opportunity for Military Children.

17 (7) The extent to which decisions made by the Interstate
18 Commission on Educational Opportunity for Military Children
19 have overridden or been in conflict with California law.

20 (8) Any unintended and unanticipated consequences to
21 California, or its students, schools or school districts, resulting
22 from entering into this compact.

23 (9) Any costs to the state or to districts, either as direct costs or
24 as reimbursements of state-mandated local costs.

25 (d) A member of the task force is subject to each of the
26 following requirements:

27 (1) He or she may use teleconferencing, phone conferencing,
28 or both, to participate in the reconvening of the task force.

29 (2) He or she shall not receive compensation for his or her
30 services as a member of the task force or reimbursement for
31 expenses.

32 (e) The task force shall present a final report of findings and
33 conclusions, including any recommendations for legislative action,
34 if necessary, to the appropriate policy and fiscal committees of
35 both houses of the Legislature no later than December 1, 2012.
36 The report shall be concise, and may be produced and submitted
37 solely in electronic format.

38 (f) This section shall remain in effect only until January 1, 2013,
39 and as of that date is repealed, unless a later enacted statute, that
40 is enacted before January 1, 2013, deletes or extends that date.

1 SEC. 2. If the Commission on State Mandates determines that
2 this act contains costs mandated by the state, reimbursement to
3 local agencies and school districts for those costs shall be made
4 pursuant to Part 7 (commencing with Section 17500) of Division
5 4 of Title 2 of the Government Code.

O