

**FIRST ENGROSSMENT  
with Conference Committee Amendments  
ENGROSSED HOUSE BILL NO. 1248**

Introduced by

Representatives Koppelman, Karls, Sanford, Delmore

Senators Wardner, Nelson

1 A BILL for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code,  
2 relating to entry into the compact on educational opportunity for military children; to amend and  
3 reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the  
4 North Dakota Century Code, relating to the age of school admission, the issuance of high  
5 school diplomas, and the charging of tuition; to provide for a report; to provide a funding source;  
6 and to provide an expiration date.

7 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

8 **SECTION 1.** Chapter 15.1-04.1 of the North Dakota Century Code is created and enacted  
9 as follows:

10 **15.1-04.1-01. Compact on educational opportunity for military children.**

11 The compact on educational opportunity for military children is entered with all jurisdictions  
12 legally joining therein, in the form substantially as follows:

13 ARTICLE I. PURPOSE

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

- 16 1. Facilitating the timely enrollment of children of military families and ensuring that they  
17 are not placed at a disadvantage due to difficulty in the transfer of educational records  
18 from a sending to a receiving school district or variations in entrance or age  
19 requirements;  
20 2. Facilitating the student placement process to ensure that children of military families  
21 are not disadvantaged by variations in attendance requirements, scheduling,  
22 sequencing, grading, course content, or assessment;

- 1       3. Facilitating the qualification and eligibility of children of military families for enrollment,
- 2       educational programs, and participation in extracurricular academic, athletic, and
- 3       social activities;
- 4       4. Facilitating the on-time graduation of children of military families;
- 5       5. Providing for the promulgation and enforcement of administrative rules implementing
- 6       this compact;
- 7       6. Providing for the uniform collection and sharing of information among member states,
- 8       school districts, and military families under this compact;
- 9       7. Promoting coordination between this compact and other compacts affecting the
- 10      children of military families; and
- 11      8. Promoting flexibility and cooperation between the educational system, parents, and
- 12      the student in order to achieve educational success for the children of military
- 13      families.

#### ARTICLE II. DEFINITIONS

As used in this compact, unless the context otherwise requires:

- 16      1. "Active duty" means full-time duty status in the active uniformed services of the United
- 17      States, including members of the national guard and reserve on active duty orders
- 18      pursuant to 10 U.S.C. 1209 and 1211.
- 19      2. "Children of military families" means school-aged children, enrolled in kindergarten
- 20      through grade twelve, in the household of an active duty member.
- 21      3. "Commission" means the commission that is created under article IX of this compact.
- 22      4. "Compact commissioner" means the voting representative of each compacting state
- 23      appointed pursuant to article VIII of this compact.
- 24      5. "Deployment" means the period one month before the service member's departure
- 25      from the home station on military orders through six months after return to the home
- 26      station.
- 27      6. "Educational records" means official records, files, and data directly related to a
- 28      student and maintained by the student's school or school district, including records
- 29      encompassing all the material kept in the student's cumulative folder such as general
- 30      identifying data, records of attendance and of academic work completed, records of

1           achievement and results of evaluative tests, health data, disciplinary status, test  
2           protocols, and individualized education programs.

3        7.   "Extracurricular activities" means a voluntary activity sponsored by the school or  
4           school district or an organization sanctioned by the school district, including  
5           preparation for involvement in public performances, contests, athletic competitions,  
6           demonstrations, displays, and club activities.

7        8.   "Member state" means a state that has enacted this compact.

8        9.   "Military installation" means a base, camp, post, station, yard, center, homeport facility  
9           for any ship, or other facility under the jurisdiction of the department of defense,  
10          including any leased facility that is located within a state. The term does not include  
11          any facility used primarily for civil works, rivers and harbors projects, or flood control  
12          projects.

13       10.  "Nonmember state" means a state that has not enacted this compact.

14       11.  "Receiving state" means the state to which a child of a military family is sent, brought,  
15          or caused to be sent or brought.

16       12.  "Rule" means a written statement by the commission promulgated pursuant to  
17          article XII of this compact which:

18           a.   Is of general applicability;

19           b.   Implements, interprets, or prescribes a policy or provision of the compact;

20           c.   Is an organizational, procedural, or practice requirement of the commission;

21           d.   Has the force and effect of law in a member state; and

22           e.   Includes the amendment, repeal, or suspension of an existing rule.

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

25       14.  "State" means a state of the United States, the District of Columbia, the  
26          Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American  
27          Samoa, the Northern Marianas Islands, and any other United States territory.

28       15.  "Student" means the child of a military family who is formally enrolled in kindergarten  
29          through grade twelve and for whom a school district receives public funding.

30       16.  "Transition" means:

31           a.   The formal and physical process of transferring from one school to another; or



- 1 information as determined by the commission. Upon receipt of the unofficial  
2 educational records by a school in the receiving state, the school shall enroll and  
3 appropriately place the student based on the information provided in the unofficial  
4 records pending validation by the official records, as quickly as possible.
- 5 2. Simultaneous with the enrollment and conditional placement of the student, the school  
6 in the receiving state shall request the student's official educational records from the  
7 school in the sending state. Upon receipt of this request, the school in the sending  
8 state shall process and furnish the official educational records to the school in the  
9 receiving state within ten days or within the time determined to be reasonable under  
10 the rules promulgated by the commission.
- 11 3. Compacting states shall give thirty days from the date of enrollment, or the time  
12 determined to be reasonable under the rules promulgated by the commission, for  
13 students to obtain any immunization required by the receiving state. For a series of  
14 immunizations, initial vaccinations must be obtained within thirty days or within the  
15 time determined to be reasonable under the rules promulgated by the commission.
- 16 4. Students must be allowed to continue their enrollment at grade level in the receiving  
17 state commensurate with their grade level in the sending state at the time of transition,  
18 regardless of age. A student who satisfactorily has completed the prerequisite grade  
19 level in the sending state is eligible for enrollment in the next highest grade level in the  
20 receiving state, regardless of age. A student transferring after the start of the school  
21 calendar in the receiving state shall enter the school in the receiving state on the  
22 validated level from the school in the sending state.

23 ARTICLE V. PLACEMENT AND ATTENDANCE

- 24 1. When a student transfers before or during the regular school calendar, the receiving  
25 state school shall initially honor placement of the student in educational courses based  
26 on the student's enrollment in the sending school or educational assessments  
27 conducted at the school in the sending state, if the courses are offered. Course  
28 placement includes honors, international baccalaureate, advanced placement, and  
29 career and technical education courses. Continuing the student's academic program  
30 from the sending school and promoting placement in challenging courses should be  
31 paramount when considering placement. This does not preclude the school in the

1           receiving state from performing subsequent evaluations to ensure appropriate  
2           placement and continued enrollment of the student in the course.

3        2.    a.   The receiving school initially shall honor placement of the student in educational  
4           programs based on current educational assessments conducted at the sending  
5           school or based on placement in like programs in the sending school. Such  
6           programs include gifted and talented programs and English language learner  
7           programs. This does not preclude the receiving school from performing  
8           subsequent evaluations to ensure appropriate placement of the student.

9        b.    This subsection does not require a school district to create programs or offer  
10           services that were not in place before the enrollment of the student unless the  
11           programs or services are required by federal law.

12       3.    a.   In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400  
13           et seq.], the receiving school initially shall provide comparable services to a  
14           student with disabilities based on the student's current individualized education  
15           program; and

16        b.    In compliance with the requirements of section 504 of the Rehabilitation Act  
17           [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131  
18           et seq.], the receiving school shall make reasonable accommodations and  
19           modifications to address the needs of incoming students with disabilities, subject  
20           to an existing 504 or title II plan, to provide the student with equal access to  
21           education. This does not preclude the receiving school from performing  
22           subsequent evaluations to ensure appropriate placement of the student.

23       4.    School district administrators have flexibility in waiving course or program  
24           prerequisites and other preconditions for placement in courses or programs offered by  
25           the district.

26       5.    A student whose parent or legal guardian is an active duty member of the uniformed  
27           services and has been called to duty for, is on leave from, or has immediately returned  
28           from deployment to a combat zone or a combat support posting must be granted  
29           additional excused absences by the school district superintendent to visit with the  
30           student's parent or legal guardian relative to the leave or deployment of the parent or  
31           guardian.

ARTICLE VI. ELIGIBILITY

1. Eligibility for enrollment:

- a. A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
- b. A school district may not charge tuition to a transitioning military child placed in the care of a noncustodial parent or other individual standing in loco parentis who lives in a school district other than that of the custodial parent.
- c. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.

2. The superintendent of public instruction, school districts, and the North Dakota high school activities association shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII. GRADUATION

To facilitate the on-time graduation of children of military families, the superintendent of public instruction and school district administrators shall incorporate the following procedures:

1. School district administrators shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the receiving school district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
2. States must accept exit or end-of-course examinations required for graduation from the sending state, national norm-referenced achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in the student's senior year, then subsection 3 applies.



- 1       4. The compact commissioner and the military family education liaison are ex officio  
2       members of the state council, unless either is already a full voting member of the state  
3       council.

4                               ARTICLE IX. INTERSTATE COMMISSION ON  
5                               EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

- 6       1. The interstate commission on educational opportunity for military children is created.  
7       2. The activities of the commission are the formation of public policy and are a  
8       discretionary state function.  
9       3. The commission is a body corporate and joint agency of the member states and has  
10      all the responsibilities, powers, and duties set forth herein, and any additional powers  
11      as may be conferred upon it by a subsequent concurrent action of the respective  
12      legislatures of member states in accordance with the terms of this compact.  
13      4. The commission consists of one commission voting representative from each member  
14      state who must be that state's compact commissioner.  
15      a. Each member state represented at a meeting of the commission is entitled to  
16      one vote.  
17      b. A majority of the total member states constitutes a quorum for the transaction of  
18      business unless a larger quorum is required by the bylaws of the commission.  
19      c. A representative may not delegate a vote to another member state. If the  
20      compact commissioner is unable to attend a meeting of the commission, the  
21      governor or state council may delegate voting authority to another person from  
22      the state for a specified meeting.  
23      d. The bylaws may provide for meetings of the commission to be conducted by  
24      telecommunications or electronic communication.  
25      5. The commission consists of ex officio, nonvoting representatives who are members of  
26      interested organizations. Ex officio members, as defined in the bylaws, may include  
27      members of the representative organizations of military family advocates, school  
28      district officials, parent and teacher groups, the department of defense, the education  
29      commission of the states, the interstate agreement on the qualification of educational  
30      personnel, and other interstate compacts affecting the education of children of military  
31      members.

- 1       6. The commission shall meet at least once each calendar year. The chairman may call  
2       additional meetings and, upon the request of a majority of the member states, shall  
3       call additional meetings.
- 4       7. The commission shall establish an executive committee, whose members must  
5       include the officers of the commission and any other members of the commission as  
6       determined by the bylaws. Members of the executive committee shall serve a  
7       one-year term. Members of the executive committee are entitled to one vote each. The  
8       executive committee may act on behalf of the commission, with the exception of  
9       rulemaking, during periods when the commission is not in session. The executive  
10      committee shall oversee the day-to-day activities of the administration of the compact,  
11      including enforcement and compliance with the compact, its bylaws and rules, and  
12      other such duties as determined necessary. The department of defense is an ex officio  
13      nonvoting member of the executive committee.
- 14      8. The commission shall establish bylaws and rules that provide for conditions and  
15      procedures under which the commission shall make its information and official records  
16      available to the public for inspection or copying. The commission may exempt from  
17      disclosure information or official records to the extent they would adversely affect  
18      personal privacy rights or proprietary interests.
- 19      9. The commission shall give public notice of all meetings and all meetings shall be open  
20      to the public, except as set forth in the rules or as otherwise provided in the compact.  
21      The commission and its committees may close a meeting, or portion thereof, when it  
22      determines by two-thirds vote that an open meeting would be likely to:
- 23      a. Relate solely to the commission's internal personnel practices and procedures;  
24      b. Disclose matters specifically exempted from disclosure by federal and state  
25      statute;
- 26      c. Disclose trade secrets or commercial or financial information that is privileged or  
27      confidential;
- 28      d. Involve accusing a person of a crime or formally censuring a person;  
29      e. Disclose information of a personal nature when disclosure would constitute a  
30      clearly unwarranted invasion of personal privacy;
- 31      f. Disclose investigative records compiled for law enforcement purposes; or

1           g. Specifically relate to the commission's participation in a civil action or other legal  
2           proceeding.

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

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

19       12. The commission shall create a process that permits military officials, education  
20       officials, and parents to inform the commission if and when there are alleged violations  
21       of the compact or its rules or when issues subject to the jurisdiction of the compact or  
22       its rules are not addressed by the state or local education agency. This subsection  
23       does not create a private right of action against the commission, any member state, or  
24       any school district.

25                   ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

26       The commission may:

- 27       1. Provide for dispute resolution among member states;  
28       2. Adopt rules that have the force and effect of law and are binding in the compact states  
29       to the extent and in the manner provided in this compact and take all necessary  
30       actions to effect the goals, purposes, and obligations as enumerated in this compact;

- 1        3. Issue, upon request of a member state, advisory opinions concerning the meaning or
- 2            interpretation of the interstate compact, its bylaws, rules, and actions;
- 3        4. Monitor compliance with the compact provisions, the rules adopted by the
- 4            commission, and the bylaws;
- 5        5. Establish and maintain offices within one or more of the member states;
- 6        6. Purchase and maintain insurance and bonds;
- 7        7. Borrow, accept, hire, or contract for services of personnel;
- 8        8. Establish and appoint committees, including an executive committee as required by
- 9            article IX, which may act on behalf of the commission in carrying out its powers and
- 10          duties;
- 11        9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their
- 12          compensation; define their duties; determine their qualifications; and establish the
- 13          commission's personnel policies and programs relating to conflicts of interest, rates of
- 14          compensation, and qualifications of personnel;
- 15        10. Accept, receive, use, and dispose of donations and grants of money, equipment,
- 16          supplies, materials, and services;
- 17        11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold,
- 18          improve, or use any property, real, personal, or mixed;
- 19        12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
- 20          any property;
- 21        13. Establish a budget and make expenditures;
- 22        14. Adopt a seal and bylaws governing the management and operation of the commission;
- 23        15. Report annually to the legislatures, governors, judiciary, and state councils of the
- 24          member states concerning the activities of the commission during the preceding year
- 25          and include any recommendations that were adopted by the commission;
- 26        16. Coordinate education, training, and public awareness regarding the compact, its
- 27          implementation, and operation for officials and parents involved in such activity;
- 28        17. Establish uniform standards for the reporting, collecting, and exchanging of data;
- 29        18. Maintain corporate books and records in accordance with the bylaws;
- 30        19. Perform such functions as may be necessary or appropriate to achieve the purpose of
- 31          this compact; and

1        20. Provide for the uniform collection and sharing of information between and among  
2        member states, schools, and military families under this compact.

3                ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

4        1. The commission, by a majority of the members present and voting, within twelve  
5        months after the first commission meeting, shall adopt bylaws to govern its conduct  
6        as may be necessary or appropriate to carry out the purposes of the compact,  
7        including:

8                a. Establishing the fiscal year of the commission;

9                b. Establishing an executive committee and such other committees as may be  
10               necessary;

11               c. Providing for the establishment of committees and for governing any general or  
12               specific delegation of authority or function of the commission;

13               d. Providing reasonable procedures for calling and conducting meetings of the  
14               commission and ensuring reasonable notice of each meeting;

15               e. Establishing the titles and responsibilities of the officers and staff of the  
16               commission;

17               f. Providing a mechanism for concluding the operations of the commission and the  
18               return of surplus funds that may exist upon the termination of the compact after  
19               the payment and reserving of all its debts and obligations; and

20               g. Providing startup rules for initial administration of the compact.

21        2. The commission, by a majority of the members, shall elect annually from among its  
22        members a chairman, a vice chairman, and a treasurer, each of whom has the  
23        authority and duties specified in the bylaws. The chairman or, in the chairman's  
24        absence or disability, the vice chairman shall preside at all meetings of the  
25        commission. The officers so elected serve without compensation or remuneration from  
26        the commission; provided that, subject to the availability of budgeted funds, the  
27        officers are entitled to be reimbursed for ordinary and necessary costs and expenses  
28        incurred by them in the performance of their responsibilities as officers of the  
29        commission.

30        3. a. The executive committee has the authority and duties set forth in the bylaws,  
31        including:

- 1           (1) Managing the affairs of the commission in a manner consistent with the  
2           bylaws and purposes of the commission;
- 3           (2) Overseeing an organizational structure and appropriate procedures for the  
4           commission to provide for the creation of rules, operating procedures, and  
5           administrative and technical support functions; and
- 6           (3) Planning, implementing, and coordinating communications and activities  
7           with other state, federal, and local government organizations in order to  
8           advance the goals of the commission.
- 9           b. The executive committee, subject to the approval of the commission, may  
10          appoint or retain an executive director for such period, upon such terms and  
11          conditions, and for such compensation as the commission determines  
12          appropriate. The executive director shall serve as secretary to the commission  
13          but may not be a member of the commission. The executive director shall hire  
14          and supervise such other persons as may be authorized by the commission.
- 15          4. The commission's executive director and its employees are immune from suit and  
16          liability, either personally or in their official capacity, for a claim for damage to or loss of  
17          property or personal injury or other civil liability caused or arising out of or relating to  
18          an actual or alleged act, error, or omission that occurred, or that such person had a  
19          reasonable basis for believing occurred, within the scope of commission employment,  
20          duties, or responsibilities; provided, those individuals are not protected from suit or  
21          liability for damage, loss, injury, or liability caused by their intentional or willful and  
22          wanton misconduct.
- 23          a. The liability of the commission's executive director and employees or commission  
24          representatives, acting within the scope of that individual's employment or duties  
25          for acts, errors, or omissions occurring within that individual's state, may not  
26          exceed the limits of liability set forth under the constitution and laws of that state  
27          for state officials, employees, and agents. The commission is considered to be an  
28          instrumentality of the states for the purposes of any such action. This subsection  
29          does not protect an individual from suit or liability for damage, loss, injury, or  
30          liability caused by the intentional or willful and wanton misconduct of the  
31          individual.

1           b. The commission shall defend the executive director and its employees and,  
2           subject to the approval of the attorney general or other appropriate legal counsel  
3           of the member state represented by a commission representative, shall defend a  
4           commission representative in any civil action seeking to impose liability arising  
5           out of an actual or alleged act, error, or omission that occurred within the scope  
6           of commission employment, duties, or responsibilities, or that the defendant had  
7           a reasonable basis for believing occurred within the scope of commission  
8           employment, duties, or responsibilities, provided that the actual or alleged act,  
9           error, or omission did not result from intentional or willful and wanton misconduct  
10           on the part of the individual.

11           c. To the extent not covered by the state involved, member state, or the  
12           commission, the representatives or employees of the commission must be held  
13           harmless in the amount of a settlement or judgment, including attorney's fees and  
14           costs, obtained against the individuals arising out of an actual or alleged act,  
15           error, or omission that occurred within the scope of commission employment,  
16           duties, or responsibilities, or that those individuals had a reasonable basis for  
17           believing occurred within the scope of commission employment, duties, or  
18           responsibilities, provided that the actual or alleged act, error, or omission did not  
19           result from intentional or willful and wanton misconduct on the part of those  
20           individuals.

## 21           ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

- 22           1. The commission shall adopt reasonable rules in order to effectively and efficiently  
23           achieve the purposes of this compact. If the commission exercises its rulemaking  
24           authority in a manner that is beyond the scope of the purposes of this compact, or the  
25           powers granted by this compact, then such an action by the commission is invalid and  
26           has no force or effect.
- 27           2. Rules must be made pursuant to a rulemaking process that substantially conforms to  
28           the Model State Administrative Procedure Act of the national conference of  
29           commissioners on uniform state laws, as may be appropriate to the operations of the  
30           commission.

- 1       3. Within thirty days after a rule is adopted, any person may file a petition for judicial  
2       review of the rule; provided, that the filing of the petition does not stay or otherwise  
3       prevent the rule from becoming effective unless the court finds that the petitioner has a  
4       substantial likelihood of success. The court shall give deference to the actions of the  
5       commission consistent with applicable law and shall not find the rule to be unlawful if  
6       the rule represents a reasonable exercise of the commission's authority.  
7       4. If a majority of the legislatures of the compacting states rejects a rule by enactment of  
8       a statute or resolution in the same manner used to adopt the compact, then the rule  
9       has no further force and effect in any compacting state.

10       ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

- 11       1. a. Each member state shall enforce this compact to effectuate the compact's  
12       purposes and intent. The provisions of this compact and the rules promulgated  
13       hereunder have standing as statutory law.  
14       b. Courts shall take judicial notice of the compact and the rules in any judicial or  
15       administrative proceeding in a member state pertaining to the subject matter of  
16       this compact which may affect the powers, responsibilities, or actions of the  
17       commission.  
18       c. The commission is entitled to receive all service of process in any proceeding  
19       and has standing to intervene in the proceeding for all purposes. Failure to  
20       provide service of process to the commission renders a judgment or order void  
21       as to the commission, this compact, or adopted rules.  
22       2. If the commission determines that a member state has defaulted in the performance of  
23       its obligations or responsibilities under this compact, or the bylaws or adopted rules,  
24       the commission shall:  
25       a. Provide written notice to the defaulting state and other member states of the  
26       nature of the default, the means of curing the default, and any action taken by  
27       the commission, and specify the conditions by which the defaulting state must  
28       cure its default; and  
29       b. Offer technical assistance to the member state.  
30       3. If the defaulting state fails to cure the default, the defaulting state shall terminate from  
31       the compact upon an affirmative vote of a majority of the member states and all rights,

1 privileges, and benefits conferred by this compact are terminated from the effective  
2 date of termination. A cure of the default does not relieve the offending state of  
3 obligations or liabilities incurred during the period of the default, except that in the  
4 event of a default by this state, its total financial responsibility is limited to the amount  
5 of its most recent annual assessment.

6 4. Suspension or termination of membership in the compact may be imposed only after  
7 all other means of securing compliance have been exhausted. Notice of intent to  
8 suspend or terminate must be given by the commission to the governor, the majority  
9 and minority leaders of the defaulting state's legislature, and each member state.

10 5. The state that has been suspended or terminated is responsible for all assessments,  
11 obligations, and liabilities incurred through the effective date of suspension or  
12 termination, to a maximum of five thousand dollars multiplied by the number of years  
13 that the state has been a member of the compact. In the event that this state is  
14 suspended or terminated, its total financial responsibility is limited to the amount of its  
15 most recent annual assessment.

16 6. The commission may not bear any costs relating to any state that has been found to  
17 be in default or which has been suspended or terminated from the compact, unless  
18 otherwise mutually agreed upon in writing between the commission and the defaulting  
19 state.

20 7. The defaulting state may appeal the action of the commission by petitioning the United  
21 States district court for the District of Columbia or the federal district where the  
22 commission has its principal offices. The prevailing party must be awarded all costs of  
23 such litigation, including reasonable attorney's fees.

24 8. The commission shall attempt, upon the request of a member state, to resolve  
25 disputes that are subject to the compact and which may arise among member states  
26 and between member and nonmember states. The commission shall adopt a rule  
27 providing for mediation and binding dispute resolution for disputes as appropriate.

#### ARTICLE XIV. FINANCING OF THE COMMISSION

28  
29 1. The commission shall pay, or provide for the payment of, the reasonable expenses of  
30 its establishment, organization, and ongoing activities.

- 1       2.   a.   The commission may levy on and collect an annual assessment from each  
2               member state to cover the cost of the operations and activities of the commission  
3               and its staff which must be in a total amount sufficient to cover the commission's  
4               annual budget as approved each year.
- 5       b.   The aggregate annual assessment amount must be allocated based upon a  
6               formula to be determined by the commission, which shall adopt a rule binding  
7               upon all member states.
- 8       c.   The annual assessment applicable to this state may not exceed an amount equal  
9               to two dollars multiplied by the latest available number of children of military  
10              families in this state.
- 11      d.   This state may not be held liable for the payment of any special assessment or  
12              any assessment other than the annual assessment in the amount established by  
13              this subsection.
- 14      3.   The commission may not incur obligations of any kind prior to securing the funds  
15              adequate to meet the same; nor may the commission pledge the credit of any of the  
16              member states, except by and with the authority of the member state.
- 17      4.   The commission shall keep accurate accounts of all receipts and disbursements. The  
18              receipts and disbursements of the commission are subject to the audit and accounting  
19              procedures established under its bylaws. However, all receipts and disbursements of  
20              funds handled by the commission must be audited yearly by a certified or licensed  
21              public accountant and the report of the audit must be included in and become part of  
22              the annual report of the commission.

23              ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

- 24      1.   Any state is eligible to become a member state.
- 25      2.   The compact becomes effective and binding upon legislative enactment of the  
26              compact into law by no less than ten states. The effective date may not be earlier than  
27              December 1, 2007. Thereafter, the compact becomes effective and binding as to any  
28              other member state upon enactment of the compact into law by that state. The  
29              governors of nonmember states or their designees must be invited to participate in the  
30              activities of the commission on a nonvoting basis prior to adoption of the compact by  
31              all states.

1       3. The commission may propose amendments to the compact for enactment by the  
2       member states. No amendment may become effective and binding upon the  
3       commission and the member states until the amendment is enacted into law by  
4       unanimous consent of the member states.

5                                   ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

6       1. a. Once effective, the compact continues in force and remains binding upon each  
7       member state, provided that a member state may withdraw from the compact by  
8       specifically repealing the statute that enacted the compact into law, except that in  
9       the case of this state, withdrawal from the compact may also be accomplished by  
10       statutorily allowing for the expiration of this Act.

11       b. Withdrawal from this compact must be by the enactment of a statute repealing  
12       the compact, except that in the case of this state, withdrawal from the compact  
13       may also be accomplished by statutorily allowing for the expiration of this Act.

14       c. The withdrawing state immediately shall notify the chairman of the commission in  
15       writing upon the introduction of legislation repealing this compact in the  
16       withdrawing state, except that if this state elects to withdraw from the compact by  
17       statutorily allowing for the expiration of this Act, this state shall notify the  
18       chairman of the commission when it becomes evident that the expiration will take  
19       effect. The commission shall notify the other member states of the withdrawing  
20       state's intent to withdraw within sixty days of receiving the notice.

21       d. The withdrawing state is responsible for all assessments, obligations, and  
22       liabilities incurred through the effective date of withdrawal, to a maximum amount  
23       equal to two dollars multiplied by the latest available number of children of  
24       military families in this state.

25       e. Reinstatement following withdrawal of a member state occurs upon the  
26       withdrawing state reenacting the compact or upon such later date as determined  
27       by the commission.

28       2. This compact dissolves effective upon the date of the withdrawal or default of the  
29       member state which reduces the membership in the compact to one member state.  
30       Upon the dissolution of this compact, the compact becomes null and void and is of no

1 further force or effect, and the business and affairs of the commission must be  
2 concluded and surplus funds must be distributed in accordance with the bylaws.

3 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

- 4 1. The provisions of this compact are severable and if any phrase, clause, sentence, or  
5 provision is determined unenforceable, the remaining provisions of the compact are  
6 enforceable.
- 7 2. This compact must be liberally construed to effectuate its purposes.
- 8 3. Nothing in this compact prohibits the applicability of other interstate compacts to which  
9 the states are members.

10 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

- 11 1. Nothing in this compact prevents the enforcement of any other law of a member state  
12 that is not inconsistent with this compact. All member states' laws conflicting with this  
13 compact are superseded to the extent of the conflict.
- 14 2. a. All lawful actions of the commission, including all rules and bylaws promulgated  
15 by the commission, are binding upon the member states.
- 16 b. All agreements between the commission and the member states are binding in  
17 accordance with their terms.
- 18 c. If any provision of this compact exceeds the constitutional limits imposed on the  
19 legislature of any member state, the provision is ineffective to the extent of the  
20 conflict with the constitutional provision in question in that member state.

21 **15.1-04.1-02. Compact on educational opportunity for military children - State council**  
22 **- Appointment.**

23 The state council on educational opportunity for military children consists of:

- 24 1. The following voting members:
- 25 a. The superintendent of public instruction, who shall serve as the chairman;
- 26 b. The superintendent of a school district that includes a high concentration of  
27 military children, appointed by the governor;
- 28 c. A representative of a military installation, appointed by the governor;
- 29 d. One legislator, appointed by the chairman of the legislative management;
- 30 e. One representative of the executive branch of government, appointed by the  
31 governor; and

1           f. Any other individuals recommended by the members of the state council listed in  
2           subdivisions a through e; and

3           2. The following nonvoting members:

4           a. The compact commissioner appointed under section 15.1-04.1-03; and

5           b. The military family education liaison, appointed under section 15.1-04.1-04.

6           **15.1-04.1-03. Compact commissioner - Appointment - Duties.**

7           The governor shall appoint a compact commissioner who shall be responsible for the  
8 administration and management of the state's participation in the compact on educational  
9 opportunity for military children.

10          **15.1-04.1-04. Military family education liaison - Appointment - Duties.**

11          The state council on educational opportunity for military children shall appoint a military  
12 family education liaison to assist military families and the state in facilitating the implementation  
13 of the compact on educational opportunity for military children.

14          **SECTION 2. AMENDMENT.** Section 15.1-06-01 of the North Dakota Century Code is  
15 amended and reenacted as follows:

16          **15.1-06-01. Schools free and accessible - School ages.**

17          1. Each public school must be free, open, and accessible at all times to any child  
18 provided:

19           a. The child may not enroll in grade one unless the child reaches the age of six  
20 before August first of the year of enrollment;

21           b. The child may not enroll in kindergarten unless the child reaches the age of five  
22 before August first of the year of enrollment; and

23           c. The child has not reached the age of twenty-one before August first of the year of  
24 enrollment.

25          2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who  
26 is not six years old before August first, unless the child will be six years old before  
27 December first and:

28           a. The child, by means of developmental and readiness screening instruments  
29 approved by the superintendent of public instruction and administered by the  
30 school district, can demonstrate academic, social, and emotional readiness; or

31           b. The child has completed an approved kindergarten program.

1           3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child  
2           who is not five years old before August first unless the child will be five years old  
3           before December first and the child, by means of developmental and readiness  
4           screening instruments approved by the superintendent of public instruction and  
5           administered by the school district, can demonstrate academic, social, and emotional  
6           readiness.

7           4. The requirements of this section are not applicable to the children of military families,  
8           to the extent that the requirements conflict with enrollment provisions otherwise  
9           agreed to by the state in the compact on educational opportunity for military children.

10          **SECTION 3. AMENDMENT.** Section 15.1-21-02.1 of the North Dakota Century Code is  
11 amended and reenacted as follows:

12          **15.1-21-02.1. High school graduation - Diploma requirements.**

13          Except as provided in section 15.1-21-02.3 or as otherwise agreed to in the compact on  
14 educational opportunity for military children, before a school district, a nonpublic high school, or  
15 the center for distance education issues a high school diploma to a student, the student must  
16 have successfully completed the following twenty-two units of high school coursework:

- 17          1. Four units of English language arts from a sequence that includes literature,  
18             composition, and speech;
- 19          2. Three units of mathematics;
- 20          3. Three units of science, including:
  - 21             a. One unit of physical science;
  - 22             b. One unit of biology; and
  - 23             c. (1) One unit of any other science; or
  - 24                (2) Two one-half units of any other science;
- 25          4. Three units of social studies, including:
  - 26             a. One unit of United States history;
  - 27             b. (1) One-half unit of United States government and one-half unit of economics;
  - 28                or
  - 29             (2) One unit of problems of democracy; and

- 1 c. One unit or two one-half units of any other social studies, which may include
- 2 civics, civilization, geography and history, multicultural studies, North Dakota
- 3 studies, psychology, sociology, and world history;
- 4 5. a. One unit of physical education; or
- 5 b. One-half unit of physical education and one-half unit of health;
- 6 6. Three units of:
- 7 a. Foreign languages;
- 8 b. Native American languages;
- 9 c. Fine arts; or
- 10 d. Career and technical education courses; and
- 11 7. Any five additional units.

12 **SECTION 4. AMENDMENT.** Subsection 1 of section 15.1-29-13 of the North Dakota  
13 Century Code is amended and reenacted as follows:

- 14 1. a. Except as provided in this subsection or as otherwise agreed to in the compact  
15 on educational opportunity for military children, the board of a school district that  
16 admits a nonresident student shall charge and collect tuition for the student.  
17 Either the student's district of residence shall pay the tuition to the admitting  
18 district in accordance with section 15.1-29-12 or the student's parent shall pay  
19 the tuition to the admitting district in accordance with section 15.1-29-07.
- 20 b. A board may charge tuition for nonresident students enrolled in an approved  
21 alternative education program.
- 22 c. Except as otherwise provided, if a school district fails to charge and collect tuition  
23 for a nonresident student, the districts shall forfeit any state aid otherwise  
24 payable for the nonresident student.

25 **SECTION 5.**

26 **Adjutant general - Provision of funding - Source.**

27 The adjutant general shall pay all expenses incurred by the state to participate in the  
28 compact on educational opportunity for military children, including the reimbursement of actual  
29 and necessary expenses incurred by members of the state council, from the operating  
30 expenses line item in the appropriation bill for the adjutant general, as approved by the  
31 legislative assembly.

1       **SECTION 6. REPORT TO LEGISLATIVE MANAGEMENT.** Before July 1, 2012,  
2 representatives of the Grand Forks school district, the Minot school district, the Grand Forks air  
3 force base school district, and the Minot air force base school district shall provide, singly or  
4 jointly, a report to the legislative management regarding the state's participation in the compact  
5 on educational opportunity for military children.

6       **SECTION 7. EXPIRATION DATE.** This Act is effective through July 31, 2013, and after that  
7 date is ineffective.