

2011 HOUSE EDUCATION

HB 1248

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol


HB 1248

02/02/11

13852

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1248.

Rep. Kim Koppelman: Sponsor: Attachment 1. The bill before you is similar to a bill you heard last session. The bill is an interstate compact on educational opportunity for military children. The purpose is to ensure that when military families are transferred, their children aren't subject to hardships caused by meeting extended requirements. Let's say a student is an honor student in North Dakota and they get transferred to California and California says to graduate they need to make up all these classes that is required there. Some is understandable for curriculums to include but some is not. This does a fast track to make sure some of these students graduate on time and ensure they are properly cared for. A compact is reciprocal. This not only affects students coming in to North Dakota, it also protects our North Dakota students that may have been here for their entire academic career and all of a sudden when they are in high school and transferred somewhere else, I would submit that we ought to have as much care for those people as they leave our state as their parents serve our nation as we do for them while they are here. This compact would protect them as well. The compact has been adopted by 35 other states, and I heard 8 others have it under consideration along with us right now. When compacts are introduced, the refrain that we hear from some of our colleagues is: aren't we given up some of our state sovereignty when we enter into a compact? I say we are not. We are gaining sovereignty over what we could never do before. It is precisely because we don't want the US congress to intervene, we are doing this compact. Let me walk you through some of the changes that were made (refer to attachment 1). You will be hearing testimony from some people that have experience with this and can give you examples of how this can work. I'm suspecting that 50 states will end up becoming a part of this.

Chairman RaeAnn Kelsch: Who do you envision being the compact commissioner and what will they be paid?

Rep. Kim Koppelman: On page 20 it talks about what the compact voting members would consist of and what nonvoting members would be. I'm not sure it addresses compensation. Maybe some of the people from DOD can answer that.

Chairman RaeAnn Kelsch: With the state council, there is no appropriation in here regarding reimbursement for meetings. Was that intentional? Is this strictly a voluntary board?

Rep. Kim Koppelman: It wasn't my intention. It could be a voluntary board. I think that could be to the discretion of this committee. I'm not sure if any of the compacts deal with that specificity or not.

Chairman RaeAnn Kelsch: Questions? Support?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: My purpose in being here today is to try to communicate two things. One is the incredible amount of support the Department of Defense has for this issue. I am also here to answer questions. We are interested in keeping good people in the military. When people sit around the kitchen table to decide whether or not to stay in the military, the wellbeing of their children becomes a significant factor in that decision. They may get out of the military if they fear it may be troublesome for their kids and then we end up losing good people. That is the basis in why we wanted to pick this up. The main thing is coordination because children can move from school to school numerous times in their k-12 career. We know that is happening here in North Dakota. The key issue is not as much what is happening when they are here but when they leave here. There is no mechanism outside of an interstate compact or congressional intervention that would protect that child in terms of the transition process. It is important that North Dakota be part of the compact. It is as much the treatment in the state as it is a linkage between the states. The compact asks for a reasonable accommodation for these students. They would now that if they transfer, their transcript will be to that school within 10 days. It offers assurance. The compact has some fence posts outside of which the policy cannot intrude so it doesn't impact education policy. It doesn't talk about curriculum. It talks about the transition process. The commissioner sometimes is an appointment by the governor. Primarily it is a senior education official that is the commissioner. The commission meets once a year. In terms of the state council, that is typically voluntary. Some states did appropriate reimbursements for council when they had to come together physically.

Chairman RaeAnn Kelsch: The state fees are based on the number military children or families?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: Active duty military children. The active duty community is the one that moves in and out of states and so the assessment from the commission is based on the number of active duty military children and it is 1 dollar per child.

Chairman RaeAnn Kelsch: The state would pay, according to Rep. Koppelman 3,500, every year to belong to that compact? What benefits do we get for belong to the compact and specifically what are the state dues used for?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: They are used to pay for the administration of the compact commission. There is a staff

that deals with questions from the states. The total budget if all 50 states are in is about 600,000 dollars.

Chairman RaeAnn Kelsch: Per year?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: Yes. Right now they are doing fine. Some states pay more and some pay less depending on number of active duty military students.

Rep. Bob Hunsakor: Our neighboring states, are they part of the compacts?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: South Dakota is part of the compact. Montana and Wyoming are about to become a part of it. Minnesota is not in the compact.

Chairman RaeAnn Kelsch: If we could have a list provided of the states that are in it and the years they joined that would be helpful.

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: We can do that.

Rep. Dennis Johnson: We are talking states here, what about overseas?

Thomas Hinton – Senior State Liaison, Office of the Under Secretary of Defense: That is a tremendous question. No we don't have that.

Chairman RaeAnn Kelsch: Questions? Support?

Col. Julian Tolbert – USAF/5BW: I am from Minot on the Minot Air Force Base. Minot Air Force Base represents over half of a billion dollars of economic impact to North Dakota including millions of dollars of impact aid that transfers to school systems based on the enrollment of our active duty children. Our military families face numerous challenges associated with the frequent moves and numerous deployments. In fact as previously mentioned, on average a child might attend six to nine different school systems by the time they are a senior in high school. Some of these challenges include inconsistent curriculum requirements, grading systems, special needs services may vary from state to state, and varying honors programs. Parents who come to a new location may lack the knowledge and skill to effectively interact with the teachers and principals to ensure their children are taken care of. Ultimately from my perspective, such stresses can impact the readiness of those that serve. One way the states can show same commitment to our children is to agree to the compact. As previously described, it is designed to provide uniformity and consistent treatment. Thirty-five states have joined and eight other are considering it. Now is the time for North Dakota. I'd like to acknowledge Minot School District. They have coordinated very well and provided outstanding consideration of some of the placement needs of my children. I think the interstate compact will further enable such commitment and consideration to establish a consistent treatment for all children. So on behalf of the Fifth Bomb Wing, the United States Air Force, and military families of North Dakota, I urge this great state to show its commitment to our children by joining the interstate compact.

Vice Chair Lisa Meier: The area that you and your family will be moving to, are they part of the compact?

Col. Julian Tolbert – USAF/5BW: I'm not sure of my assignment yet. I would hope it would be a state that perhaps would.

Rep. Karen Rohr: I just want to thank you for your service.

Col. Julian Tolbert – USAF/5BW: Thank you very much.

Vice Chair Lisa Meier: Further testimony in support of 1248?

Tracie Lindquist – Minot Air Force Base: I have three children that attend schools in different districts in North Dakota. I have a seventeen year old son who is a senior at Tioga Public Schools, a fifteen year old daughter who attends Minot Public Schools, and a thirteen year old son who attends Glenburn Public Schools. My story focuses on my two sons. Nicholas was in a gifted program in New Jersey. Since North Dakota doesn't have a gifted program he was left in a regular classroom and became very bored and very angry. His test scores stayed high while his academic scored dropped. We moved him to a smaller district where he was given more challenging course work. He will graduate this year with honors from that school district. My younger son Zachary has an auditory processing disorder. He was on IEP in New Jersey. When we got to North Dakota he was retested by an audiologist in Grand Forks who found the same findings that he still had this. Because he scored high on your testing scores in the state, he did not get help. He struggled and he became a below average student. It stayed that way until he moved into Glenburn. This fall Zachary is in eighth grade. In January of this year he was finally put on the 504 plan. Last week Zachary received his first B. We have twenty months left here. My concern and fear is if we move him to another state and we don't have that compact, he won't get the help he needs. We pride ourselves on taking care of our military families.

Vice Chair Lisa Meier: Questions? Support?

Suzanne Larson – School Liaison Officer, Minot Air Force Base: Attachment 2. One of the examples that happened in the past is a particular mother had a gifted child that was accepted into the gifted program in the state of Virginia. When they were transferred to Missouri, he had to go through the five part tests which had already been in Virginia before he was able to start the program in Missouri. This particular mother said she had transition issues. Since he was repeating some of the classes he had taken at the previous school. Moving from place to place is very difficult.

Vice Chair Lisa Meier: Questions?

Rep. Karen Rohr: Can you speak on who endures the costs of all the redone testing?

Jolene Tolbert: The Virginia school system would have had the parent pay for the retesting. The Missouri school paid for the retesting.

Vice Chair Lisa Meier: Further testimony on HB 1248?

Capt. Michelle Hagel – Office of the Adjutant General: I'm here to voice support of this bill. As stated early, as members of the National Guard this doesn't have as big of an impact as it does on our active duty counter parts, but it does have an impact on us. When we are activated to title ten, which happens quite frequently, this compact would come into play when our spouses take our children and maybe move closer to family and other support or, what happened several times in the National Guard, when we have both parents activated and children have to go live with family. This educational compact would provide continuity, consistency and unity for our children's education and provide some piece of mind at a very difficult time for our families.

Rep. Karen Karls: During the interim when we had a committee meeting I was invited to attend a support group for family of those deployed. I was urged to get involved with this compact. I'm glad to see you are here. Thank you.

Capt. Michelle Hagel – Office of the Adjutant General: Thank you. I'm glad to be here.

Chairman RaeAnn Kelsch: Questions? Further testimony in support? Opposition?

David Looyesen – Superintendent, Minot Public Schools: I am in opposition of this. I have to clarify things. I am proud to say I am the Superintendent of Schools for the Minot Air Force Base. Being opposed to this bill doesn't mean I am opposed to anything other than that. I am opposed to page eight through twenty of this bill. If you go through pages one through seven, it talks about timely enrollment of children in the placement process etc. Minot Public Schools is extremely proud of what we do for our military when they are in our district. We feel we meet all the guidelines that are here in this section. I have struggled with this. The compact itself, I have had years to look at. When I studied the bill and compact I couldn't find anything that the Minot Public Schools doesn't do. We try to make sure that they graduate and they do. We bend the rules but we do help to make sure kids graduate on time. In Minot and in Grand Fork we are doing things right.

Rep. Phillip Mueller: What specifically don't you like about pages eight through twenty?

David Looyesen – Superintendent, Minot Public Schools: When I looked at that and thought about the meetings that could come from that. I just think there is an awful lot of bureaucracy in how we handle our children.

Rep. Brenda Heller: I understand that North Dakota is doing a good job, but then what do you say to the people that say they don't stay in North Dakota forever and need to leave? What do you say to them when they say there needs to be uniformity between states?

David Looyesen – Superintendent, Minot Public Schools: When we transfer students, we make sure to follow up and make sure records get where they need to be going. We make sure we do our part. I don't know the experiences they have in other states.

Chairman RaeAnn Kelsch: The difference is, and this is something that we can't address here in the state and the compact can't either, until we go to perhaps a common core

standard across the board, you won't be able to receive the same content of education across the states. So you may have those children that come into North Dakota that aren't actually at the grade level that they have been told they are at by another state. I think that one of the instances that was talked about didn't apply to North Dakota because it was in two different states but it had to do with gifted and talented. Does Minot have a gifted and talented program?

David Looyesen – Superintendent, Minot Public Schools: Yes but it's not the same as other states.

Chairman RaeAnn Kelsch: Are you funding the gifted and talented program yourself?

David Looyesen – Superintendent, Minot Public Schools: We are funding most of it.

Chairman RaeAnn Kelsch: If for instance in Grand Forks or Minot you have students transferring in and want a gifted and talented program, what do you have to provide? With the compact are you obligated to provide a program like that?

David Looyesen – Superintendent, Minot Public Schools: I didn't read it that way. I think you just have to provide what is available and if it's not available you don't have to create it. I don't think the compact would make you provide one or the other.

Chairman RaeAnn Kelsch: I think I'd have a huge exception to the federal government mandating what is taught in every state and in every class.

David Looyesen – Superintendent, Minot Public Schools: I agree.

Rep. Bob Hunskor: You talked about pages eight through twenty and how you're already doing those things, so then your opposition is that it could stay in the bill?

David Looyesen – Superintendent, Minot Public Schools: I didn't see anything we need to change, but the bureaucracy that comes with the meetings is a problem. There is a lot of clarity I would need before I could jump on to something like this.

Chairman RaeAnn Kelsch: Questions? Opposition?

Mark Vollmer – Principal, Minot High School, Magic City Campus: Testimony attachment 3.

Rep. Karen Rohr: In previous testimony about the child with the auditory trouble in that state prior to moving to North Dakota, would your school system have repeated all those tests for that child?

Mark Vollmer – Principal, Minot High School, Magic City Campus: My understanding at the high school level is that we would not repeat the testing. We would look at those testing results the student would come into the school system with and act with IEP. Questions may arise if there is an effect on the forming process and that may be addressed but the initial contact would be made through special education.

Chairman RaeAnn Kelsch: Further opposition?

Bev Nielson - NDSBA: I would have to say that our opposition is toward the bureaucracy of the compact and not toward the waivers and accommodations they are asking for. I think that to assume that this bill would go through without a fiscal note is a binder because there is going to be considerable work done here. If you haven't read word for word pages eight through twenty-three I suggest you do. If you read what is entailed in the compact itself, we have to name a state council, it names who has to be on that council, we have to name a state liaison, we have to name a commissioner. There are costs involved in all of those. They want uniform reporting on the treatment of the military children. If we have to somehow accommodate a new formatting for this, there is tremendous time and costs involved in those types of things as well. We have questions about the closing of meetings. Does that comply with North Dakota law when there are open meetings in our state laws? The compact says the compact overrides state laws. I have read very carefully every word of this. In reading the accommodations they want for the students, our association would not oppose that and we could codify those waivers in our North Dakota codes specifically for the military children as defined here. To voluntarily pay to jump into another layer of bureaucracy that is going to monitor us and have authority over us, you will notice in the context of the bill it says that whatever rules they make have the effective law. They are a corporate body, can provide sanctions and suits against states. We would have concern whether they could sanction or provide suits against individual school districts. My point is that I don't believe we need the layers of bureaucracy. My way of thinking is that if you don't join the compact, the compact states won't treat our children right. This is the worst for m of bullying and I don't take well to that.

Chairman RaeAnn Kelsch: Questions? Further opposition? We will close on HB 1248.

Submitted testimony: Attachment 4.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
02/16/11
14606

☐ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman RaeAnn Kelsch: We will open the hearing on HB 1248 which deals with the military compact.

Vice Chair Lisa Meier: Last session for those of us that were here, if you recall there weren't a lot of state that had joined up with this compact. There were some big concerns with joining this because basically they can set rules and laws. North Dakota would then be part of this compact in which rules and laws are being set and forced on us. What we wanted to do is address military children that are transferring in and out of the state so I worked with Anita Thomas on an amendment to at least address the concerns that the needs of the kids that are part of military families are being met. I think the amendment before you basically does that. It will hog house the bill and it will state that if a child of a military family transfers into the state the superintendent of the receiving school district, whenever discretion or judgment is possible, shall apply the provisions of title 15.1 and any rules adopted to implement title 15.1 in a matter that is the least restrictive and most conducive to facilitating the student's educational advancement as well as the student's participation in all extracurricular academic, athletic, and social activities. I think this does address some of the concerns that were brought before us. As we heard I don't know that there is an issue with educating our military kids but I think what happens with this compact is there is a lot of issues with other states. With that I will move the amendment.

Rep. Phillip Mueller: Second.

Chairman RaeAnn Kelsch: Discussion on the amendment.

Rep. Karen Karls: We will not be joining the compact with this?

Vice Chair Lisa Meier: It does mean we won't be joining the compact. I have concerns with joining the compact. That compact actually can continue making rules and once you are part of that compact you continue to be a part of it. There was a small cost that was attached to that compact also and there is nothing saying that with hiring additional staff, which I believe in joining we would have to do, eventually we would have a pretty good cost attached to that.

Chairman RaeAnn Kelsch: When we asked the question about where this money goes because we do have to pay fees to belong to the compact. There is a cost. I've asked for a fiscal note several times but haven't got one. We know there are costs because it states that in the bill. What that money goes for is to pay for the overall commissioner. It pays his/her salary. If there are meetings it was a little unclear whether those moneys would be used to cover travel for our members to go to these compact meetings or if you would have to incur cost to go to it.

Rep. Mark Sanford: I believe that Rep. Koppelman shared a handout where there were 9 numbered criticisms. He has changed the bill that was brought in two years ago so that it has the state's powers and rights intact. He has used models from other states to do this and what he has done, in my opinion, has taken care of those concerns. The other thing I want to say is we do a good job in North Dakota. We are one of the few states that did the initial work that was done on what it would look like. Essentially it wasn't codified at that time. There were agreements that didn't have much authority. They didn't have much reach. The dues for North Dakota would be about 2,900 dollars per year so it is not a big fiscal amount. My concern has been, as you've heard from the Pentagon, that this is very important to military people. I originally thought we didn't really need this but to the people at the Grand Forks Air Force Base thought this was very important, it was a high priority and they thought they needed this. I think it would mean a lot to them.

Rep. Lyle Hanson: I know this bill and amendment deals with military families. But do we have the same problem with the transfers into Williston, Tioga, Dickinson, or Minot with the oil industry?

Chairman RaeAnn Kelsch: Potentially anytime you have students coming into the state you are going to have these exact same issues as far as is that student actually at the grade level that their transcripts say they are from another state. You will always run into those issues regardless if military or these new kids that are coming in.

Rep. Lyle Hanson: So really it is up to the school district to honor the classes the kids already have.

Chairman RaeAnn Kelsch: The way the compact is written is it would no longer give discretion to the school districts. It would say you have to accept that transcript. There might be a little wiggle room in there. This affects Minot and Grand Forks perhaps more so than the other school districts because they are the ones that get the military students predominantly.

Rep. Dennis Johnson: After listening to Rep. Sanford, I think the decision we have to make is if we want to belong to the compact or not. What amendment does here, listening to the superintendents, I think we are already doing. We won't be able to legislate what other states do.

Chairman RaeAnn Kelsch: And that is the questions so if you go along with the compact really what you are doing is growing government because you do have to set up the advisory council. There are costs for us to join the compact and there are also consequences if we chose to withdraw from the compact. It says we have a year to be able

to withdraw and it has to be voted on by the full body to get out. There are some issues here. We've heard it on the floor and about compacts we are into right now and whether that was the right thing to do. I do want you to understand what it is that you are voting on.

Rep. David Rust: I thought it was interesting when we had the testimony from Minot Public Schools. They have a great relationship with the Minot Air Force Base and yet they were opposed to the bill. The part I object to for the most part is you are giving up state rights by joining compacts because their rules and regulations will supersede yours.

Vice Chair Lisa Meier: That is exactly my objection to joining the compact. They can continue to set policy forward and if we join it we will have to adhere to it.

Rep. Bob Hunskor: For my part there are two issues here. The ease of the transition process for students going between military bases and then what is best for the kids. One of the principals from Minot was concerned with the legislation requiring an overseeing state commission. What are the advantages of joining the compact? What do we gain if Minot and Grand Forks are already saying things are going pretty good and it's not hurting military kids when they go from one base to another?

Rep. Karen Rohr: My notes say that we might be doing well in the state but when students go out of state is when we encounter problems.

Rep. Bob Hunskor: Is that valid? Anything that would hurt the students it seems like we would want to be in the compact but I guess I don't know if that is true.

Rep. Mark Sanford: It seems to me that what you do when you join the compact, if you look at what Rep. Koppelman presented, he has preserved North Dakota's rights. All these kinds of things he is trying to address in his new format here. I think the critical things is we can say we are doing well here but that is in the eye of the beholder and it start with that family unit when they say I'm going to get transferred to Grand Forks Air Force Base in North Dakota. That family unit is probably going to look up Grand Forks Air Force Base and the school district and our being a member of the compact. Over time military families will appreciate it.

Rep. Bob Hunskor: Is there a figure for the small cost?

Chairman RaeAnn Kelsch: Each year you are assessed per military student. Right now the number looks like it is 3,500 dollars so we would have to send that or up to 5,000 dollars per year to the compact. When you withdraw from the compact you have to pay up to a maximum of 5,000 multiplied by the number of years that the state has been a member of the compact. So you'd pay 10,000 dollars a year to belong to the compact and then if you withdraw in 5 years you'd have to pay back to them 25,000 dollars. Then you have the expenses of the commission you'd be formulating. The other expenses would be that of travel to meet as a whole with the compact commission.

Rep. Brenda Heller: When you were reading that you said 5 and 10. Can you clarify that?

Chairman RaeAnn Kelsch: I was saying you pay yearly dues to a maximum of 5,000 so 10,000 is what we would budget for the biennium. The 5,000 dollars is the amount we would be assessed times the years that we had been in the compact and that is what we would have to pay to get out of the compact.

Rep. Mark Sanford: I have a copy of an email that was sent back from the Pentagon to Rep. Koppelman. Organizations involved in developing a state compact include National Association of Elementary Principals, National Military Family Association, Military Child Education Association, National School Boards Association, National PTA, National Association of State Boards of Education, Education Commission of the States, Council and State Governments, and the United States Department of Defense. That is pretty good company.

Chairman RaeAnn Kelsch: Except one group is missing and that is the National Conference of State Legislatures. That wasn't included in there right? It seems to me that they have had that as a resolution and it hasn't passed because it gives up states' rights. They are typically against compacts because they give up states' rights.

Rep. Mark Sanford: She also goes on to say that this does not impact general education policy or curriculum. All the 35 current member states have found low significant conflict with their state education codes.

Chairman RaeAnn Kelsch: We have the amendment before us and we will take a roll call on the amendment.

Roll call vote: 8 yeas, 7 nays, 0 absent. Motion carries.

Chairman RaeAnn Kelsch: We have the bill before us as amended. What are the wishes of the committee?

Vice Chair Lisa Meier: I move a do pass as amended.

Rep. Joe Heilman: Second.

Chairman RaeAnn Kelsch: Discussion?

Rep. Mark Sanford: I want to note that I appreciate that a substitute was made rather than killing the bill. It still indicates intent to do our best.

Chairman RaeAnn Kelsch: Further discussion? Hearing none we will take the roll on a do pass as amended on HB 1248. We will close on HB 1248.

11 YEAS 3 NAYS 0 ABSENT DO PASS as Amended
CARRIER: Vice Chair Lisa Meier

FISCAL NOTE
Requested by Legislative Council
04/25/2011

Amendment to: Engrossed
HB 1248

1A. State fiscal effect: *Identify the state fiscal effect and the fiscal effect on agency appropriations compared to funding levels and appropriations anticipated under current law.*

	2009-2011 Biennium		2011-2013 Biennium		2013-2015 Biennium	
	General Fund	Other Funds	General Fund	Other Funds	General Fund	Other Funds
Revenues	\$0	\$0	\$0	\$0	\$0	\$0
Expenditures	\$0	\$0	\$7,000	\$0	\$0	\$0
Appropriations	\$0	\$0	\$0	\$0	\$0	\$0

1B. County, city, and school district fiscal effect: *Identify the fiscal effect on the appropriate political subdivision.*

2009-2011 Biennium			2011-2013 Biennium			2013-2015 Biennium		
Counties	Cities	School Districts	Counties	Cities	School Districts	Counties	Cities	School Districts
\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0	\$0

2A. Bill and fiscal impact summary: *Provide a brief summary of the measure, including description of the provisions having fiscal impact (limited to 300 characters).*

It is a state to state compact regarding the education of our military children. Cost to participate is one dollar per child. The Adjutant General is responsible for all costs associated with the compact.

B. Fiscal impact sections: *Identify and provide a brief description of the sections of the measure which have fiscal impact. Include any assumptions and comments relevant to the analysis.*

The cost is one dollar per military child, and we have 3500, the cost for the Adjutant General is \$3,500 per year. The Adjutant General must pay all associated costs and it is not anticipated to have any additional costs.

3. State fiscal effect detail: *For information shown under state fiscal effect in 1A, please:*

A. Revenues: *Explain the revenue amounts. Provide detail, when appropriate, for each revenue type and fund affected and any amounts included in the executive budget.*

N/A

B. Expenditures: *Explain the expenditure amounts. Provide detail, when appropriate, for each agency, line item, and fund affected and the number of FTE positions affected.*

Seven thousand dollars per biennium out of the operating budget using general funds. Approximate 2 state FTE will be affected.

C. Appropriations: *Explain the appropriation amounts. Provide detail, when appropriate, for each agency and fund affected. Explain the relationship between the amounts shown for expenditures and appropriations. Indicate whether the appropriation is also included in the executive budget or relates to a continuing appropriation.*

No general funds were appropriated, the costs are coming out of the Adjutant General's budget.

Name:	Holly Gaugler	Agency:	Adjutant General
Phone Number:	701-333-2079	Date Prepared:	04/25/2011

VK
2/16/11

PROPOSED AMENDMENTS TO HOUSE BILL NO. 1248

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to educational transfers involving children of military families.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Child of a military family - Educational transfer.

If the child of a military family transfers into this state, the superintendent of the receiving school district, whenever discretion or judgment is possible, shall apply the provisions of title 15.1 and any rules adopted to implement title 15.1 in a manner that is the least restrictive and the most conducive to facilitating the student's educational advancement, as well as the student's participation in all extracurricular academic, athletic, and social activities."

Renumber accordingly

Date: 02-16-11
Roll Call Vote #: 1

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1248

House EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☐ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By VICECHAIR MEIER Seconded By REP. MUELLER

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman		X	Rep. Mock	X	
Rep. Heller		X	Rep. Mueller	X	
Rep. Johnson		X			
Rep. Karls		X			
Rep. Rohr		X			
Rep. Rust	X				
Rep. Sanford		X			
Rep. Schatz		X			
Rep. Wall	X				

Total (Yes) 8 No 7

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

ROLL CALL VOTE ON AMENDMENT

MOTION CARRIES

Date: 02-16-11
Roll Call Vote #: 2

2011 HOUSE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1248

House EDUCATION

Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number: _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt
Amendment

☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By VICE CHAIR MEIER Seconded By REP. HEILMAN

Representatives	Yes	No	Representatives	Yes	No
Chairman Kelsch	X		Rep. Hanson	X	
Vice Chairman Meier	X		Rep. Hunsakor	X	
Rep. Heilman	X		Rep. Mock	X	
Rep. Heller			Rep. Mueller	X	
Rep. Johnson	X				
Rep. Karls		X			
Rep. Rohr		X			
Rep. Rust	X				
Rep. Sanford	X				
Rep. Schatz		X			
Rep. Wall	X				

Total (Yes) 11 No 3

Absent 0

Floor Assignment VICE CHAIR MEIER

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1248: Education Committee (Rep. R. Kelsch, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (11 YEAS, 3 NAYS, 1 ABSENT AND NOT VOTING). HB 1248 was placed on the Sixth order on the calendar.

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact a new section to chapter 15.1-19 of the North Dakota Century Code, relating to educational transfers involving children of military families.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. A new section to chapter 15.1-19 of the North Dakota Century Code is created and enacted as follows:

Child of a military family - Educational transfer.

If the child of a military family transfers into this state, the superintendent of the receiving school district, whenever discretion or judgment is possible, shall apply the provisions of title 15.1 and any rules adopted to implement title 15.1 in a manner that is the least restrictive and the most conducive to facilitating the student's educational advancement, as well as the student's participation in all extracurricular academic, athletic, and social activities."

Renumber accordingly

2011 SENATE EDUCATION

HB 1248

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

HB 1248
March 21, 2011
15711

☐ Conference Committee

Committee Clerk Signature



Explanation or reason for introduction of bill/resolution:

Relating to educational transfers for children of military families

Minutes:

See "attached testimony."

Chairman Freborg opened the hearing on HB 1248; no fiscal note attached. He explained the "ground rules" for the hearing and how long the hearing would last.

Representative Kopplemann, District 13 introduced the bill and presented an 18 page amendment (#1 Attachment--The original bill was 23 pages and the House amended it down to ½ page). 11.0204.02001 is simply the bill as it was introduced in the House. Because of some questions they had it was amended to a single paragraph. Think those questions have been thoroughly dealt with and he will discuss. This document is the Interstate Compact on Educational Opportunity for the Children of Military Families. What the compact is for is deal with opportunity that these children have as they transfer from state to state, and often educational requirements are different in one state to the other. Gave examples of what could happen. This compact would also affect National Guard families; has a wide impact.

(#2 Military Coalition support letter; #3 information from Rick Masters; #4 information on the compact)

They introduced this compact two years ago; was turned into a study resolution but didn't get selected for study so are back with compact again. Have made some changes that were the cause of some questions that came up last time (#3) with research by Anita Thomas. Just to avoid confusion—this is not a CSG compact; this is a compact the military has asked the states for help putting together. Another important thing to recognize—the federal government could easily have gone to Congress and asked them to pass a law to fix this; the military wanted to work with the states to solve problem. If you look at the changes under Article 5—refer to attachment 3 for changes and clarifications.

Representative Sanford, District 17 testified in support of the bill (#5 Grand Forks article) He has been a principal at Minot High School for 5 years, superintendent of schools in Grand Forks for 31 years so has spent a lot of time working with military families and their children. Brief comments about the two bases—Minot Air Force Base & Grand Forks Air Force Base are unique in the realm of the military. Both of them are coterminous school districts; means they have a base school system. North Dakota legislature created the

opportunity for military installations to create school districts; that was done in 1989 at Grand Forks and 1990 at Minot. They are stand alone districts; both have elected to have a joint powers agreement with the city schools. This makes them unique in the military school system—only seven of those arrangements in the country. Not only is the school district 15 miles from the governing school district, it creates another body they have to deal with and be concerned about.

Over the years the school districts (he feels) have tried hard to accommodate military families and their children. Local level can try to do everything right and still have to have partnerships all throughout the system. School districts with air force bases got together and tried to do this informally; worked on an arrangement. Did better things but were still faced with things that just didn't work. This has now risen to the highest level in the Pentagon; gets a lot of recognition and can say from experience that this would be a very good piece of legislation that could standardize to a greater degree all of the challenges and the responses to them that military families face.

Senator Flakoll: There is a section in the amendments that the school district may not charge tuition for some students; will that prevent the school district from receiving the money they normally would get behind each military student? Isn't tuition paid to those school districts on behalf of those children from government funds? **Representative Sanford:** The joint powers agreement that the two districts does deal with the sharing of funds that the two districts receive and the role of the two governing bodies relative to those expenditures. No tuition agreement, no computation like with other districts. All covered under the joint powers agreement.

Representative Karls, District 35 testified in favor of the bill. (#6 Testimony) These women urged her to get involved with this compact; they looked at that as a very important issue for them.

Senator Heckaman: Does this also apply to international movement of students; coming back from Germany or wherever? **Representative Karls:** Not sure; others here can answer that question better.

Jason Pabelico, MAFB is in favor of the full bill as introduced; currently has four kids in the Minot school system and this is his second tour to Minot. Requested to come back due the great school system. Read testimony from commanders as they could not attend hearing (#6 Testimony)

Senator Heckaman: Have there been any identified problems in the Minot school district that have not been addressed? **Jason Pabelico:** Doesn't have all the details of that; for himself personally they have been great both times he has transferred.

Senator Flakoll: Just to clarify—you would prefer that we adopt the amendments? **Jason Pabelico:** Yes.

Chairman Freborg: Just a reminder for those testifying—be aware that your testimony evidently is on the amendment and for the record, make sure you clarify you are testifying

on the amendment and not the engrossed bill. Assuming you are all testifying for the amendment?

Colonel Sean Patterson, Deputy Commander, 319 Air Base Wing Mission Support Group testified in favor of the engrossed bill and amendments. (#8 Testimony & #9 letter from Kelly Painter, GFAFB School Liaison Officer)

Tom Hinton, Sr. State Liaison, Washington DC testified in support of the bill and amendments. The number of families and spouses in the room is heartening to see. By being here they are indicating how much this means to them. His purpose here today is to answer questions specific to the compact; he was involved in the drafting from the very beginning and was the Department of Defense principal staff in the drafting of the compact and working with the Council of State Governments. There was a movement among federal government folks to pass a bill and tell the states what to do. In his department, Defense State Liaison Office whose job is to go ask states what they can do to help these families, not to tell them what to do. Told them we want to work with the states because education is a state issue and should be solved by the states. If we have an interstate challenge, the reason for interstate compacts, it should be solved by states. Had people from 18 different organizations and experts and over time put the compact together. What are the core challenges that military families face when they move. Came up with four areas to work on: 1) enrollment/transcripts—getting into the district right away; 2) eligibility for activities and programs; 3) placement in courses; 4) graduation. Does not affect curriculum or general education policy; only addresses the transition process. There are 35 states in thus far; the compact started with the Bush administration. This is a very important issue for the military.

Chairman Freborg: In one handout, it says that North Dakota could reword whatever provisions of the compact gave it concern. Is that a fact statement that we can change whatever we want to? **Tom Hinton:** You can't change whatever you want; it can be tweaked. A number of states have had these questions; it can't be substantially changed but some things can be added, because it is a contract between states. Legal counsel looked and assisted with the amendments to make sure they would be in compliance.

Senator Heckaman: Does the receiving state have to abide by this if not in the compact?

Tom Hinton: Not if they are not in the compact that's why they would like to get all 50 in.

Senator Luick: Seems like a good idea; can a state get out of the compact if it doesn't work for them? **Tom Hinton:** They can get out; same way they got in. In North Dakota case the compact calls for a year before actually out, but for all practical purposes you are out. If you just say we're not doing this anymore, you are out. Counsel saw that as North Dakota wanting out right away with a vote as not being a practical difference or a substantial deviation from the rest of the states. Most states would be a year.

Senator Schaible: Under Article V it was clarified that a school district does not have to create a program for a military student transferring in. What about a spot in a class; a high demand class that might be a prerequisite or something, a class already full with students on a waiting list? **Tom Hinton:** On the face of it, the school district would not be required to create something that didn't exist. The compact calls for reasonable accommodation

standards; if not a burden to put a student in a class that is what it calls for. Doesn't think there is any legal obligation if there isn't room in a class.

Senator Flakoll: Is this specifically about graduation and matriculation? Would it get into the specific graduation requirements, etc to qualify for the North Dakota Scholarship? **Tom Hinton:** On the face of it, saying NO; can't really answer that.

Senator Flakoll: Trying to figure out the financial aspect—there is the ability to have an executive director, lease/own land, assessments, etc. What involvement will there be from various entities—federal government, the state expectation—particularly not understanding the "up to \$5,000 per year times the number of years" part. Does that mean the first year it is \$5,000, then the tenth year it is \$50,000? **Tom Hinton:** That is the cap, the limit that North Dakota has capped the amount. Some states have put in caps that puts a limit on the amount of money they are going to be charged. Can say now that the commission is very please with \$1 per child, it is working well, states are paying their dues, and they are functioning. They do have staff in order to manage the compact and answer questions—lots of questions and hundreds of thousands of students involved. At this moment they are very delighted with \$1 per child, and don't anticipate it going up. Even if it did, it would go up too much. Thinks the cap is a nice protection but don't see North Dakota getting anywhere near those numbers.

Senator Flakoll: Just to follow up—it has an escalator on it per year. Is it \$2 second year, \$3 third year? Confusion in the language. **Tom Hinton:** No, thinks it just intended to be a cap—not where the fees would go; that WILL NOT happen because the fees are set by the commission and the commission has set it at \$1 per child. He would be greatly surprised if it went to \$2 per child.

Senator Flakoll: In North Dakota we have, by many measures, one of the best educational systems for K-12 in the United States. Also have a constitutional obligation to have a uniform system of education. What can quell concerns that this may take away states rights, may diminish our ability and give our power to away and have a more centralized system that is kind of ran out of Washington DC? **Tom Hinton:** Because of the nature of interstate compacts. They are designed to be state functions; the Department of Defense, although are represented at the commission table, are ex-officio and can't vote. Just there for information; have resisted giving them money other than for start-up. Want to make sure this is completely state run. The legal structure of interstate compacts that the signatories are part of it and those who are not—ARE NOT. This is completely run by the states; can tell from attending the commission meetings that there is an incredible sensitivity to the federal government intruding here. Even department of defense schools are not in as they are not a state. At the same time they have gone on record that they will treat all students as if they were members of the interstate compact even though they are not.

Michele Hagel, representing the office of the Adjutant General to voice support to the amended version as presented by Representative Koppelman. The compact would affect guard members while they move their families on a Title X status. This doesn't happen frequently, but does happen. This compact would ensure cooperation, continuity and unity in the educational community to ensure the children of military members get the

opportunities that they deserve. It is a little piece of mind in a difficult and challenging time for a military family. They recommend a Do Pass with the amendments.

Doug Johnson, North Dakota Council of Educational Leaders supports the engrossed version as it came from the House. They have issues with the original bill as presented in the House; have not seen the amendments proposed so cannot respond. Thinks from what Representative Kopplemann said they may have addressed many of the concerns they had. One of the concerns with the funding is that it requires that a state council be established which could include up to nine members and that the council would be responsible to hire a military liaison or appoint one. Also requires the appointment of a compact commissioner by the Governor; obviously would be at least one meeting so see some cost for that. Rough estimate probably \$75,000 for the biennium to put into place—but just a guess. The only part of concern that may have been addressed is if you decide to withdraw it does require one year notice and in the original bill requires legislative action, so if June 30, 2013 the state decides to withdraw, we'd have to wait two years before withdrawing with a legislative action to take place. Those are their concerns, and perhaps the amendments have taken addressed that. Would like a little time to look it over.

Senator Freborg: Would you let us know when you have looked them over? (yes)

Jon Martinson, North Dakota School Boards Association testified in support of the engrossed HB 1248; opposed the bill in the House. Also have not seen the amendments to know if issues were addressed. At this point they only support the engrossed bill.

Feel that the schools already do an excellent job of easing the transition of the military families and are flexible in adjusting the course placement and graduation requirements. As was testified today, a member of the military from Minot was very happy with their experience.

John McMartin, President, Minot Area Chamber of Commerce—on record supporting the amendment proposed. The state chamber is also on record as supporting the amendments. Have talked about Minot & Grand Forks; there is also Cavalier Air Station whose students would be affected. (Active duty station) Communities are always asking the Air Force to do something for us; come volunteer, do this/do that, we are going to Congress and asking for money to build something on the bases. This is something the Air Force has asked the citizens of North Dakota to help with and think for what the active duty Air Force do, the compact is a small thank you. The compact comes up in meetings with high military officials; important to them at all levels. The air force recruiters say "recruit the member, retain the family". If the family isn't happy we will lose active duty personnel.

Suzanne Larson, Acting School Liaison Officer MAFB presented testimony on behalf of two families who are in favor of the amendment. (#10 Testimony)

Tracie Lindquist, parent testified in support of the amendments (#11 Testimony)

(Other written testimony #12 Michael Shelley, Vice President, Air Force Sergeants Association Chapter 959 Magic City Chapter)

No further testimony in favor; no opposition. Hearing closed.

Chairman Freborg: Thinks a committee to work on this bill and look at the amendments would be a good idea. **Senator Heckaman:** Thinks a committee would be good; some parts on there that are confusing. Remember Senator Flakoll asking about the \$5,000 and the way the bill is written it says "times the number of years" so think it needs to be clarified. There would be other questions that hopes a committee would look at also. (#13 attachment)

Chairman Freborg: Anyone else? Let's have Senators Heckaman, Flakoll, and Gary Lee get together and look this over. Recommendations could range from Do Not Pass to some major amendments; knows you will look into it and come up with something.

Senator Flakoll: May vote for some amendments if they have a sunset after two years so have to revisit the issue automatically—just one thought.

Chairman Freborg: Think the committee needs to make sure that the amendment that you received before the hearing is the same language as the original bill. Not sure because the original bill is 23 pages and the amendment is 18. See what those differences are; things to look at—says somewhere it takes legislative action to get out of it which would be if there is a sunset on it. Several things to take a look at.

Senator Heckaman: Why doesn't this have a fiscal note or anything because there is money involved over \$5,000 either way? Was there one on the original bill? (no) **Senator Flakoll:** Thinks that if any amendments are adopted, it will trigger the fiscal note. Need to get a handle on the fiscal nature of this. With the \$5,000 escalator, the person the Governor appoints, meetings, etc. **Chairman Freborg:** Did Mr. Hinton not testify that that could go up drastically? **Senator Flakoll:** Think that came from Doug Johnson.

Senator Gary Lee: Is there other issues that should be looked at? Just had a few minutes to look this over. Anything other than cost and legislative sunsets? **Chairman Freborg:** His main concern with the amendment, if you read the amendment it sounds a lot more restrictive than what they testified.

Senator Heckaman: Is what's in the engrossed bill now considered a compact?

Chairman Freborg: Not an agreement with any other states.

Senator Luick: Concern is that there are going to be X # of states so the continuity between that is going to get confusing. Also international involvement; do the classes they take in Japan, wherever, how do those play in.

Senator Flakoll: Just going to be a whole lot of issues that we'll have to sort through. Maybe we "shall" study this; going to require a lot of Anita Thomas work on this. Also what are the legal ramifications too as far as what takes precedence—the commission's work or legislative actions. How can the federal government control what we do; raised a bit of a flag when someone testified that they wanted more days off from school for their child. (That is state law beyond local control; child can only miss so many days)

Senator Heckaman: She called three different buildings in the Minot area this morning before the hearing. Asked them about difficulties they saw whether we went into the compact or not because one of the people is very familiar with the compact and had testified in the House hearing. Said that there are positive and negative things in the compact. Most of the things that go on in the schools are similar to others—everyone makes an attempt to do the best they can. Most of the parents hand travel with unofficial documents which they use until the official documents get there. Military parents know to do this, and hasn't been a problem with them. The elementary and middle school person said it hasn't been a problem for them; one was on the air base school and the other off. Accommodations and transfers have gone smoothly; one had some issues with the number of credits for a student to graduate, they were in correspondence with the sending school (thinks California) worked out an agreement. Do not have to board action to accommodate these students right now. Can do it on an administrative basis.

Chairman Freborg: Were you saying we couldn't adopt some of these things as state law in North Dakota or as a compact we would agree to? **Senator Heckaman:** Guess the understanding was there are some parts already being done in the state, but there are some they would have question on. As administrators in the district had some concern about the money, and what it would cost the state. Got the feeling from Minot that nothing would change for them.

Senator Luick: Does the military have a scholarship program? **Chairman Freborg:** Would have to qualify for the North Dakota Scholarship just like all North Dakota residents. Can't tell you what the military offers.

Senator Heckaman: Just want to note that all three people she visited with did not want to be construed as being antimilitary because they certainly aren't. They are very positive about the kids that come into their school districts, very positive about working with the military personnel and the families. Seems like that notion got conveyed in the House testimony; that if they didn't agree to this they were antimilitary—and are definitely not!

Chairman Freborg: We all know that isn't true; whether you favor the bill or not doesn't make you antimilitary. Committee has some ideas of what to do; make any recommendations you think is good.

2011 SENATE STANDING COMMITTEE MINUTES

Senate Education Committee
Missouri River Room, State Capitol

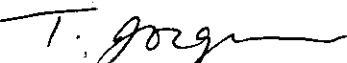
Committee Work on HB 1248

March 22, 2011

15796

☐ Conference Committee

Committee Clerk Signature



Minutes:

See attached amendment.

Senator Flakoll: North Dakota School Boards Association and North Dakota Council of Educational Leaders compared the original bill and the proposed amendments and they line up almost exactly (almost the same word for word). They also look at HB 1309 from last session that was introduced it had a fiscal note of approximately \$425,000 for delivery of the program as detailed in the bill. It was decided to offer an amendment to add to the bottom of Engrossed HB 1248 a study resolution that it "shall" study it; if we don't have enough votes to "shall study" it then the issue will be dead anyway. As the amendment references (#1 Attachment)—administration enforcement cost, impact on North Dakota laws, school districts, schools, and children of both military and civilian families, with a view of determining if North Dakota should participate as a member of the compact.

Chairman Freborg: So this is in addition to the bill? **Senator Flakoll:** Yes, added below line 11 of the engrossed bill. The committee didn't feel comfortable taking the other language out; it was our intention to doing the work by the parties involved. Felt that there were more questions than answers regarding the compact; not enough time to look into. **Chairman Freborg:** The bill wouldn't go into effect until after the study and they'd have to recommend it? **Senator Flakoll:** The amendments proposed at the hearing will not be in the bill at all; the bill as introduced will not be in the bill at all. It will just be lines 4-11 and the study amendment added. If the interim committee so chooses to forward a bill draft, they can do that.

Senator Heckaman: The subcommittee looked at the fiscal note from before and now there is none. In looking into those several pages of amendments offered, there is definitely a fiscal impact. Thinks that the schools in the Minot area are comfortable with what they are doing now; feel things are going well, do a good job of accommodating. She wasn't able to get a hold of someone in Grand Forks to discuss with them. Maybe the study would give an idea of what the compact will do. Support the amendment.

Senator Gary Lee: Just a "me too"! The engrossed bill doesn't do too much, but concurs with that we are doing a good job and the schools want to continue to do a good job; provide a smooth transition for the military families as they come in here. That is important to us as a state to provide that kind of service to them as they come. The compact itself is pretty extensive legislation and thinks before we sign into an agreement with the defense department or whoever this is with, should know what is in there and what it does. Think the interim could find those answers that everyone seems to have questions to.

Senate Education Committee
Committee Work on HB 1248
March 22, 2011
Page 2

Senator Flakoll: move the amendment for the study; second by **Senator Heckaman**.
Motion carried 7-0-0 (Vote 1A)

Senator Flakoll: Move a Do Pass as amended to Engrossed HB 1248; second by
Senator Heckaman. Motion carried 7-0-0 (Vote 1B) Senator **Flakoll** will carry the bill.

AN ACT to provide for a legislative council study, relating to educational transfers involving children of military families and joining the compact on educational opportunity for military children is entered with all jurisdictions legally joining therein

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN - STUDY. During the 2011-12 interim, the legislative council shall study the Interstate Compact on Educational Opportunity for Military Children, as well as its administration, enforcement, cost, and its impact on North Dakota laws, school districts, schools, and children of both military and civilian families, with a view to determining whether North Dakota should become a participating member of the compact. The legislative council shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly.

DRAFT

Date: 3/22/11
Roll Call Vote # 1A

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1248

Senate Education Committee

☐ Check here for Conference Committee 11.0204.02003
Legislative Council Amendment Number Flakoll study amendment

Action Taken: ☒ Do Pass ☐ Do Not Pass ☐ Amended ☒ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	<input checked="" type="checkbox"/>		Senator Joan Heckaman	<input checked="" type="checkbox"/>	
Vice Chair Donald Schaible	<input checked="" type="checkbox"/>		Senator Richard Marcellais	<input checked="" type="checkbox"/>	
Senator Tim Flakoll	<input checked="" type="checkbox"/>				
Senator Gary A. Lee	<input checked="" type="checkbox"/>				
Senator Larry Luick	<input checked="" type="checkbox"/>				

Total (Yes) 7 No 0

Absent 0

Floor Assignment _____

If the vote is on an amendment, briefly indicate intent:

Interim Committee to study the Compact to determine whether ND should join.

Date: 3/22/11
Roll Call Vote # 1B

2011 SENATE STANDING COMMITTEE ROLL CALL VOTES
BILL/RESOLUTION NO. 1248

Senate Education Committee

☐ Check here for Conference Committee

Legislative Council Amendment Number _____

Action Taken: ☒ Do Pass ☐ Do Not Pass ☒ Amended ☐ Adopt Amendment
☐ Rerefer to Appropriations ☐ Reconsider

Motion Made By Sen. Flakoll Seconded By Sen. Heckaman

Senators	Yes	No	Senators	Yes	No
Chairman Layton Freborg	X		Senator Joan Heckaman	X	
Vice Chair Donald Schaible	X		Senator Richard Marcellais	X	
Senator Tim Flakoll	X				
Senator Gary A. Lee	X				
Senator Larry Luick	X				

Total (Yes) 7 No 0

Absent 0

Floor Assignment Sen. Flakoll

If the vote is on an amendment, briefly indicate intent:

REPORT OF STANDING COMMITTEE

HB 1248, as engrossed: Education Committee (Sen. Freborg, Chairman) recommends **AMENDMENTS AS FOLLOWS** and when so amended, recommends **DO PASS** (7 YEAS, 0 NAYS, 0 ABSENT AND NOT VOTING). Engrossed HB 1248 was placed on the Sixth order on the calendar.

Page 1, line 2, after "families" insert "; and to provide for a legislative management study of the interstate compact on educational opportunity for military children"

Page 1, after line 11, insert:

**"SECTION 2. LEGISLATIVE MANAGEMENT STUDY - INTERSTATE
COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**

During the 2011-12 interim, the legislative management shall consider studying the interstate compact on educational opportunity for military children, as well as its administration, enforcement, cost, and its impact on North Dakota laws, school districts, schools, and children of both military and civilian families, with a view to determining whether North Dakota should become a participating member of the compact. The legislative management shall report its findings and recommendations, together with any legislation required to implement the recommendations, to the sixty-third legislative assembly."

Renumber accordingly

2011 HOUSE EDUCATION

CONFERENCE COMMITTEE

HB 1248

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/11/11
16461

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: We will call the conference committee on HB 1248 to order. We have before us the 3000 version of HB 1248. Would the Senate like to give us their thoughts?

Sen. Gary Lee: The Senate added the second portion of the engrossed bill with Senate amendments. The amendment we added was to include a study of the compact that was presented during the course of our discussions. Rather than entertain more discussion on that and include that in the bill, we included the study option of "shall study." The interim would study what impact was included in the compact. There seemed to be a lot of questions on the compact. It seemed to be a time to look at that in depth and see if it was something we wanted to commit the state to. So the study option in section 2 is what the Senate added.

Chairman Karen Karls: Are there any comments from the House?

Rep. Bob Hunsakor: One of the things that all of us need to consider in dealing with this particular issue is that from time to time on the federal level there is a thought of base closures in North Dakota with Grand Forks and Minot. It would seem that being a part of the compact would possibly be taken into consideration when that issue would come up and the bases staying where they are at.

Rep. Mark Sanford: I'll cut right to the chase. I really believe the compact is an important piece of what we ought to do as a legislature during this particular session. We've seen some amended versions that I think respond to the concerns that have been raised over time. The new amendments we have seen would limit the amount of dues they can charge. They would limit the cost to exit the compact if it wasn't working for us. It seems to me with these kinds of amendments that there is little if any risk involved with joining this because it is very easy to exit under some of the potential amendments that could be placed on this. The upside of this is that we decided to stand together with other states that are hosts to military families in saying that we pledge to ease the transitions these families and their children face. About 10 years ago this didn't exist. There was discussion and concern about the transitions the families were facing and about 10 districts in the air force got together and asked how they could help with the transition with the groups they were working with and the Grand Forks Air Force Base happened to be one of those districts that was part of

that process. I think it helped and worked but it certainly wasn't nation or statewide. We had a lot of pieces that were missing. The compact is a way that you can take all of these families and say in a unified voice that we are committed to making these transitions as consistent as possible. I place myself in the shoes of a military family and if we get word that we are going to be going to Grand Forks Air Force Base and right away I am going to look to see what this means. Where I am going and what kind of schools do they have? Probably most importantly I would see if they are members of the compact. If they are members of the compact that very directly states that they will do their best to make the transitions possible. I can say from personal experience that we worked hard to make these transitions as easy as possible but I am not sure that we always succeeded. I believe we are missing a great opportunity to step up and say the right things for these families.

Chairman Karen Karls: Are there any comments from the Senate?

Sen. Gary Lee: It seems to me that the House defeated the original bill that had the compact in it and it came to us very limited and we added to it, but now we want to go back to the original bill. It seems like an unusual position. I believe there was some interest in terms of the discussion and the presenters that the compact be included back. We considered those discussions in terms of adding it back but felt there were more unanswered questions with including it and what it really meant to our state if we joined that. There is fee in there that seems to be limited but somebody is going to pick up that cost. What does it mean in terms of classes if they are full and all those kinds of things and it seemed there was a lot of cloudiness to how those things could be handled? The presentations that we had, with a couple of exceptions, said they were being handled very well and the issues at the local level were being handled very well. Both the military and the families seemed to say that Minot and Grand Forks seemed to handle those very well. There were a couple of exceptions where there seemed to be some issues with the level of placement but we just thought it was an important issue and entering into that compact seemed to be a pretty large step in terms of not having the kind of information we thought was important to have. We all support our military and its families and want them to transition easily.

Chairman Karen Karls: (Attachment). We saw this bill last session and we also put a study on it and it was not picked. We also had unanswered questions on the House side. I know that Rep. Koppelman has worked long and hard to tweak this bill. The two parts that are the biggest sticking points are addressed in pages 14 and 15 of the amendments I handed out to you where the annual assessment will be capped at 2 dollars per military child. It is at 1 dollar per child right now. The other one had to do with withdrawing and our duties and rights if we don't like the compact. As far as the funding I understand that Adjutant General Sprynczynatyk will find it in his budget to pay the costs. That would take care of the fiscal note.

Rep. Bob Hunsakor: From our committee I could let the Senate members know that at the time we heard the bill we had concerns and two of those were would be if it would be difficult to get out of the compact and the costs that might be involved. In my mind at least I think those issues have been resolved since. That may be some of the things that entered into the change in direction from when it was in the House. As I listen to the conversation here this is very good for military families and their children as they travel. Certainly there

are issues there that Sen. Lee addressed but do they measure up to the importance of entering into the compact and the benefit it would be to the military families? I am not sure there are answers for some of your concerns. I am not sure that our committee could even ask for answers to the senator's questions and maybe that is not the function of this committee at this point. I guess as I look at it and recognize the concerns it doesn't weigh up to the importance of the bill and our being a part of the compact.

Rep. Mark Sanford: I would add that I think the importance that is placed on this bill by our families and representatives of the military is obvious given the way they have worked to address issues here and they have persisted in their efforts. It hasn't been one individual carrying it; it has been across the board. They value it and think it is important and I think it is important that we see that with the follow up that has occurred. We had some issues and I think they have been answered. It is important to these families.

Sen. Donald Schaible: I have just a couple observations on this compact. It has some interesting ideas in it. First of all I think every school district wants to see our military students are placed and have an easy transition. One of the potential areas that might raise some concerns is that having this advantage for the military students might create a disadvantage for the students that are there. I know the compact said it will not create any classes but I did have questions about the potential for spots in the existing classes. An example would be a class of computer science that is full now and there is a waiting list of local students. My understating is with this compact a spot could be bumped in that. It seems to me that this compact gives exclusive powers that are beyond the advantages of what a student there would have. I don't have any problem bringing them up to the same level that our students have but when something goes above and beyond that it makes a disadvantage to the kids that are there. That is a concern for me. This does take a lot of your powers away and granted it is a certain clientele of students that come in but you are giving away your delegation, your school board powers, and your state powers. This compact gives the committee of the compact a lot of power where they can hire attorneys, build buildings, and you have a very limited voice on this compact when it comes into your area. There are potential issues with delegating the power you have now to somebody else. That is a pretty good sized concern. Some of the testimony we heard on this is that the extracurricular activities are a basis. This compact would make it exclusive. It would trump the rules that are already in place. The other thing is that I think the compact study is an excellent idea when you are going from a good school to a school that isn't as good. I believe the school systems in North Dakota are probably some of the best and the administrators and school boards in our area are doing an excellent job of transitioning them now. I don't see the advantage if a student comes from a lesser school that what we have here. The compact would work well if you were going from a good school to a poorer school. It seems we are already doing a good job and this is a huge step to solve the little problems that we have.

Rep. Bob Hunsakor: You talked about the disadvantage for the students that may be there, and the exclusive power that is in the compact, but I think that would be up to that school administrator to see that the playing field is kept level for the kids that are coming in from the military and for the local ones. One of the other concerns had to do with the compact having power of building buildings and so on but at the same time as we move down the road if we are not happy with the compact we have the ability with legislative action to get

out of it for a very minimal cost. I go back to the advantages of being in the compact for the military families and their kids. It outweighs the thinks that might not be so positive about it.

Sen. Donald Schaible: I have a comment on the powers that we are giving. It seems to me that the compact has the right to adjust or create the rules as they see fit. If we are part of the compact and a rule is written, according to this agreement it will happen regardless of what our local administrator or school board would say. I see that as a concerning issue. I think we are giving away some of our authority and elected rights that we have.

Sen. Richard Marcellais: During our testimony we didn't have any issues from either one of the areas we were talking about. They seemed to think the school boards up there have been cooperating with the military students and they don't seem to have any issues with that.

Chairman Karen Karls: I did place a folder at your desk with some of the emails I have been receiving that might give you a little more information. They show that the way isn't always smooth. I believe the beauty of the compact is that it not only helps the military students coming into North Dakota but it also helps the ones that are leaving our state.

Sen. Gary Lee: I don't disagree with that. In the one email I believe she was at our hearing and she was there several times but that is the only one we heard from on all of the students that are matriculating through the system. As I understand the compact we would be placing military students above any other students in terms of opportunities for classes, extracurricular activities, and maybe even some of our existing students that might be on waiting lists. I am a strong supporter of the military but I think we need to be careful as to what we are giving up in terms of what this means to our state. I think a lot of these things are already covered in state law. We are making another agreement with all these other states that has been suggested that we do a pretty good job in and that our standards are pretty high. Do we want to lessen them for a certain segment of students? Is that really to their advantage? How do we place, deal, and work with students with disabilities and so forth if we are bound by some compact that may be conflicting with the system that we already have? I think the issues need to be talked through. I think those issues need to be talked through. They may be just fine.

Rep. Mark Sanford: I appreciate that when one reads this it is lengthy and there is a lot of stuff to interpret. I am not sure that a study would have much value. This is one of those things where you almost have to wade in the water to see what it is like. The intent of this is to provide assurances to the military families on these transitions. In action there is still flexibility or authority that you would have at the local level. What you are assuring military families when you sign on to this is that not only are you aware of the transition challenges they have but you are also willing to work with them. In North Dakota we do have good schools and I think we work hard with the transitions but you don't really know what you are getting into when you transition here for the first time. I think unless we experience it, I am not sure we would learn anything more about it. It is new. I think it was 2006 when it was put in place. We have heard good things from the states that have participated and we have heard good things from the military families about how this has made a difference.

Rep. Bob Hunsakor: In addressing the concerns, have we heard in the Senate or our side from the states that are in the compact and the schools that may be involved with military children? Do they have that problem with military kids being put ahead or given special treatment? If that is not a concern in other states that are in the compact then it wouldn't seem like that should be a concern here. I don't know the answer to that but there probably is one.

Chairman Karen Karls: I know since we saw this last session about 30 states have joined. Once a state joins the compact it creates its own state council, each state retains the right to determine the authority of its state council, and each state appoints a commissioner to represent the state at the national commission. If a state disagrees with a rule crafted by a commission, there is an appeal process and if there is no possibility of a resolution, a state can withdraw from the compact. Right now 36 states are actually a part of the compact. There is another comment I read that the compact is designed to resolve recognized education transition issues. It is not intended to impact curriculum or local standards of education. It is a method for states and districts to communicate.

Rep. Mark Sanford: I would add that about three or four weeks ago there was an article that featured a story on the liaison officer at Grand Forks Air Force Base. The liaison officer was quoted in there as saying that she had high hopes that North Dakota would become part of the compact because it would make a significant difference in the work that she does if the families coming here knew that North Dakota was a part of the compact.

Chairman Karen Karls: Further comments? We will adjourn for today and schedule another meeting.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248

04/13/11

16533

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: We will call the conference committee to order on HB 1248. Do we have any new thoughts or ideas?

Rep. Bob Hunsakor: I have a request and it is based on the fact that we have three major players that would be involved in the pact if North Dakota was involved in it and that would be the two air force bases at Minot and Grand Forks and our National Guard. I do have a concern and I do know our Adjutant General did appear at our committee hearing on this particular subject and I think it is important enough to hear from him again if the chair would ok that situation. We could possibly hear the positives and the negatives of North Dakota being involved in the compact and how important it is to the troops that are under his command. That would be a request if it is allowable.

Chairman Karen Karls: I don't want to open this into a full hearing but since the Adjutant General is here we will have him come up.

David Sprynczynatyk – Adjutant General: I apologize that I wasn't able to be at the last conference committee to answer any questions. The HB 1248 is in essence a compact between the states to better protect and serve the young children of our military members that end up moving from one base to another in most instances on a three to four year cycle. For the military overall this is a huge quality of life issue. We ask an awful lot of our young soldiers so we want the children and the families to know that every state is going to take care of those people as they move into a state or out of a state. Nationwide we have over two million young military students. Here in North Dakota as we speak we have about thirty-five hundred military children that are stationed primarily at Grand Forks and Minot but we also have a handful of others in the National Guard. When we talk about the National Guard, my direct concern is that we do have people in the North Dakota National Guard that are now serving in Washington D.C., living in Maryland, Virginia, and others that are in Colorado. The other thing we often times face is we'll have both parents deployed and we have had their children go to other states to live with grandparents. To me as the Adjutant General, that is a direct impact on our family members and their children. As I look to the compact I see the compact as providing that level of protection, assurance, and comfort for our soldiers to know that their children are going to have the same opportunity elsewhere and are going to be treated fairly and as people come to North Dakota the same will be true. The other aspect from a state perspective is that we are very fortunate in that

we have two major air bases in the state at Grand Forks and Minot. Right now Minot continues to grow. Grand Forks on the other hand is at a low but right now there are plans for the future and we hope those plans materialize because that will bring new missions to Grand Forks. In 2005 the military went through a process called BRAC (Base Realignment and Closure). We fought hard to retain both Grand Forks and Minot because they do make a huge difference on the economy of those regions of North Dakota. We were fortunate but what we found through the process was we never knew what the BRAC commission was thinking, what it was going to do, or how it would make its decisions. When the decisions came out they were favorable to the most extent. There will be another BRAC process that is going to be initiated in all likelihood in 2012. This is what is being discussed in Washington and this is what we see in the near term. Once again we will do everything to argue for and to try to maintain those bases in North Dakota. They do have viable missions and we want to continue to have that as the case. I want to make sure North Dakota is military friendly as it pertains to the young children especially. I want to make sure that families don't have a perception that North Dakota isn't necessarily student friendly. The last thing I would ever want to do is have the BRAC commission take that into account and say North Dakota isn't a member of the military student compact. I hope the committee can see fit to reinstate the language that would allow North Dakota to be a part of the compact. I would also recommend that language be put in that would require the compact commissioner to report to the legislative council on a regular basis as to what events, progress, and issues there may be with the compact. The state always has the right to withdraw from the compact but that does take legislative action. I ask that you seriously consider allowing North Dakota to be a member of the compact. I know there have been some questions on costs and right now the cost to North Dakota would be approximately thirty-five hundred dollars per year which is one dollar per military student. There is a cap of two dollars but in the last several years one dollar has been the limit. I have indicated to the appropriations chair and others that the Office of the Adjutant General would be willing to find a way to cover the costs within its budget. I truly believe this is something that is very important to our military and to me as the commander of the North Dakota National Guard. We want to ensure that young people coming into North Dakota have a good feeling about the state and know that their students will be treated equally and fairly. It is not to say that we haven't done that in the past but if you have never been to North Dakota and you don't know North Dakota, the things you are going to look at is if North Dakota is a member of that military compact. I would be glad to answer any questions.

Sen. Donald Schaible: I have a question on the BRAC commission. If it is about the appearance of being a military friendly state, in the situation that we would join the compact early and find out it isn't what we wanted and then had to withdraw, how would that look to BRAC and would that be worse than going in too early and maybe joining later?

David Sprynczynatyk – Adjutant General: That is a very good question and it is one you have to make assumptions to the answer. The military education compact has been out there for about three or four years. We had the opportunity two years ago to join and we decided to do a study instead. The study was never done. Right now there are about thirty-six or thirty-seven states that have signed onto the compact. For the most part the ones that have it don't necessarily have a large federal presence. We do. I think you are correct that it would probably send the wrong message if we were to join and then back out and the timing was such that it might be a consideration of BRAC. Right now we are expecting the

BRAC process to begin as early as next year. That is the rumor on the street. If that is the case, between 2012 and the next legislative session they might very well look at that what the condition or situation in North Dakota is. I would like to be able to say we are a member of the compact and we do value and support the families and their children.

Sen. Gary Lee: I'd really hate to be the one that tried to make the argument that we aren't a military friendly state in terms of what we do in the communities that have military bases and how we treat military people, students, and veterans. That would be a very hard argument to make. I really don't like that side of trying to present to me that we are not a military friendly state.

David Sprynczynatyk – Adjutant General: I say time and time again that we are blessed in North Dakota and that we are a military friendly state. We do have support from the communities, legislature, and our Governor. I would never suggest that we are not military friendly. It is the perception that I am concerned about. Someone that has never been to North Dakota or doesn't know anything about North Dakota might look at the things that are easily available to them which might be if we are a member of the compact. Don't get me wrong, I am not suggesting we are not military friendly because my job is much easier than that of other adjutants general because of the support that we enjoy in this state.

Chairman Karen Karls: Further questions? Seeing none, thank you.

Rep. Mark Sanford: When I was superintendent in Grand Forks there was a joint powers agreement between the Grand Forks School District and the Grand Forks Air Force Base School District. The air base school district was created in 1989 to give those citizens the right to run their own school district and if they wanted they could have the high school out there and all those kinds of things. Some of the things that were always a challenge were the timing and the amount of federal dollars that supported the education of those children. We were pretty frustrated getting payments as much as four years late, never knowing what proration would happen, and so on. We formed what was called the Military Impacted Schools Association or MISA. The group has been effective at the federal level in helping with the needs of these particular families. I called two of the three main authors of the compact. I asked one how successful it has been, if anyone has left it, and what issues were there with it. That individual indicated that nobody had withdrawn, nobody had indicated an interest in withdrawing, and there hadn't been any issues with loss of state rights. It was mainly just focused on the issue of how to deal with these kids' transitions. There is always a new scenario that comes up. From my point of view this would be somebody that is certainly vested in the compact but also has tried hard to make it successful and they have not had anybody that has expressed major concerns about it. At least the track record since 2006 has been one of success and nobody has felt the need to withdraw.

Chairman Karen Karls: (Attachment). I handed out this map and it shows the states that have joined the compact and the ones that have not. The ones with stars have legislation pending on the compact. I called in to SD who recently joined and I haven't heard back from them yet on how it is working out there.

Rep. Bob Hunsakor: I know the Senators had two valid concerns and one had to do with the fact that military children might get preferential treatment. I did call Mark Vollmer who will be the new Superintendent of Minot Public Schools and he had read through the bill. He did have some minor concerns with the bill but he did indicate that even though he had some minor concerns, the positive impact for military families far outweighed the minor concerns that he had. In reading HB 1248 he didn't see anything in there that would mandate Minot Public Schools to give preferential treatment. I did not check with Grand Forks Air Force Base. The second concern had to do with the fact that the compact could be thought of as a bureaucracy and could very well control certain elements in our educational system beyond a degree that we would like. I think that all committee members received an email the Superintendent at Fort Carson in Colorado and she is also on the federal commission for the Interstate Compact for Educational Opportunities for Military Children. She said, "I do not think you should worry about losing control of being part of the compact. While some things may change for you there is nothing in the compact that should concern legislators in this area. Many of the issues people worry about are primarily due to misunderstanding what the compact says. For example, the compact does not say districts and state must reduce their graduation requirements. Instead it lays out a structure for how high schools can help military students graduate on time when they move and are on track to graduate."

Chairman Karen Karls: Any other comments?

Sen. Gary Lee: I talked to Grand Forks and you would think they would be excited for this opportunity if they thought there were a lot of problems and issues that they needed to resolve. I don't sense that from them. They feel their military students are being treated very well and so do their military students. This may be one of those things that if you are good state going to a poor state as a student, the challenges may be different than if you are coming from a poor state to a good state like ours in terms of educational advantage and opportunity. I am hearing that they work very hard to accommodate in any way they can to keep these students on track, to make sure they graduate on time, and to see that they are successful in their endeavors. They are just not looking to move away from what they are doing now because it seems to be a success for them. Those aren't exactly their words but I am not sensing or feeling the problems that this is trying to resolve. It may be the case for other states but I am not sensing that here.

Rep. Bob Hunsakor: I don't think that there is anything we are working with here that would be negative to what is happening within our state. I think we all agree that this is a military friendly state and what is going on in the public schools in Grand Forks and Minot is very positive and very much on track. The concern on my part is that the transitioning needs to be made as easy as possible for kids and families as they move from one state to another.

Chairman Karen Karls: Any other comments? We will adjourn and schedule another meeting.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/15/11
16670

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: We will the committee on HB 1248 to order. (Amendment 02004, attachment). We have a new member. Sen. Schaible is chairing this meeting and Sen. Luick is our new member. We are still dealing with the military compact for children. I did speak with Jon Martinson of the School Boards Association this week and I heard some of the concerns that they were having with the bill. I did speak Rep. R. Kelsch and we had a new version of an amendment drafted to address some of those concerns. It is a hog house. They were concerned about a apart of the compact that grants immunity to the commission and the compact staff but not the schools or the states, so if you look on page 9, subsection 12, according to Anita this will take care of that. Some of the other concerns that I was emailed about were already addressed in the last amendment which is basically this one. For instance, withdrawal costing us up to 5,000 per year as a state had been taken out in a previous amendment and capped it. Does anyone have anything to offer?

Rep. Mark Sanford: I'm trying to find the capping number.

Chairman Karen Karls: That is on page 15. There is one on page 14 that deals with the cost of the compact. At this point it is one dollar per child and they don't anticipate it to ever go up, but in that event we capped it at two dollars per child. Letter d on the other side deals with the withdrawal and that is also capped at 2 dollars per child so it will not cost us up to 5,000 dollars. I think our total number of children is around thirty-five hundred.

Sen. Larry Luick: On page 14, number 5, to withdraw from this program it is going to cost 5,000 dollars times the number of years you are in the in it. Is that right?

Chairman Karen Karls: I believe that is the maximum amount.

Sen. Larry Luick: Could you tell me why they multiply by the number of years?

Chairman Karen Karls: I couldn't answer that.

Sen. Donald Schaible: My understanding is that after you join this that the compact member state would have one vote. This language or whatever is the compact is subject o to the commission and then that language can be adjusted and changed to the will of that group. Is that correct?

Chairman Karen Karls: From what I understand is that it is a flexible agreement among the member states and if a state is unhappy they can withdraw.

Sen. Donald Schaible: I understand that but we are changing language of a compact. My understanding of that is that once you are a member you are adopting whatever language that group decides is the language. Is that incorrect?

Rep. Mark Sanford: My understanding is that other states have joined with amendments of their own that have been accepted by the compact members when that state was granted membership. In other words they amended it and said we want to join, here are amendments we have, and that would be the terms and conditions for us to join. I recall that kind of discussion in the hearing we had.

Sen. Donald Schaible: If North Dakota wants to join and we are unhappy with a certain section of this compact then we could do this two ways. Either we don't accept a section of this or we offer an amendment. First of all the thing is that we accept the compact except this position we don't agree with, or is it that we don't like this portion of it so that is what we submit to the commission, they take it under advisement, but after they decided we still are up to what they agree. I am guessing we can say we don't like this section but if the majority of the compact members say we will comply with this, my understanding is that you would comply with that language. Is that correct or can we opt out of a section?

Rep. Mark Sanford: I think what you do is you amend it and you submit that with your membership application or candidacy and say we want to be a member but these are the terms under which we would join. My guess is if you are wiping out the entire compact that they wouldn't go for that but my understanding is that they have been contacted about the kinds of amendments North Dakota is considering and have said that it would be fine and that they would accept membership. There was a question on number 5 on the top of the other page and when I look now at D. on page 15 that limits the amount of money it would cost you to withdraw to the same as annual membership and no more than two dollars a student. My thinking would be that if we are in this process that we should but that same language up here in number 5 so there is no conflict between the portions. In other words our membership would set, withdrawal would be set, and if they were to expel you or whatever it would all be a consistent number.

Sen. Larry Luick: That is my concern. We want to be safe and protected here as far as if this compact doesn't work out. We were visiting a little bit ago about the other states. Is there a large variance in the contracts that they have already or is it just a few smaller items that are questionable?

Chairman Karen Karls: That is a great question. I asked Rep. Koppelman about that who is in contact with the Department of Defense. Compacts are not easily amended. Only slight amendments such as those improvements already made in the language before our committee and those made to the compact by other adopting states are permissible while maintaining uniformity. The language we used for this slight change today came from two other states that also had trouble with the aspect that the compact director and employees were immune from liabilities but the schools and the state were not. They were able to look

at the language some of the other states submitted and use that to form ours. Ours what formed to follow our constitution so all the graduation requirements are the same and such.

Sen. Donald Schaible: What I am getting at is unless they are adopted and passed by the majority, they do not go into effect. To follow up with that, if North Dakota is interested but has a problem with the statement of shall waive specific courses required in graduation requirements, and I am just using that as an example, the understanding of the flexibility in the compact is you have this statement that bothers North Dakota then we put an amendment in there. What happens is unless that is accepted by the majority that statement stays in there so we basically have to accept this or reject it on the total package. We can't opt in and out on sections, or adapt fine tool rules. I think that is the way it is. Is that correct or not?

Rep. Bob Hunskor: I don't know if this is the right answer but for discussion it would seem that if we are concerned with one section or one amendment and we expressed that and had that as part of our agreement, in my mind they will not accept us into the compact unless they agree to the amendment we have. I don't know if that is true or not but from the discussion we had here it sounds like if other states have had amendments that it has happened like that. So if there was just one part and we wanted to put an amendment on there and they looked at our application and said they would accept it then we wouldn't be bound to that.

Sen. Donald Schaible: The question is can a state opt out of a section while the other ones don't or is it that a state with an amendment is submitting that as a change and it is only changed if the majority adopts it? I guess we need to clarify that question.

Rep. Bob Hunskor: We do have Rep. Koppelman here and I don't know if he has any thoughts along this line but maybe he could provide some information.

Rep. Kim Koppelman: I am not necessarily an expert on this but listening to your discussion I think the answer would be that if you were going to opt out of entire sections that you would probably be on thin ice in terms of being a member of the compact. However, as the information I gave the chairman earlier indicated, if you make slight tweaking kinds of amendments, they have been accepted and the one you are considering today to clarify that we are not creating liability for local school boards etc. was accepted when North Carolina adopted that. I received an email that Mr. Martinson from the School Boards Association indicating some of the concerns and many of them had been dealt with already in previous amendments we did. When this was introduced a couple of years ago and was turned into a study that wasn't studied in the interim, the things that were raised as questions were things that I presented to the legislative council. I asked Rick Masters, who is probably the foremost legal council on compacts in the country, about this and Anita Thomas worked with him during the interim so some of the slight changes that have been presented in this year's bill have already dealt with a lot of those things. The two things we have changed this session are the cost issue and the liability question.

Sen. Donald Schaible: I understand that there are slight tweaks in the language but are those state specific or are those tweaks made for the whole compact?

Rep. Kim Koppelman: I believe they would be state specific in that they would govern how the states membership in the compact is dealt with. If they are substantial changes I think it would be deemed that you aren't really joining the compact because you haven't adopted it. That is why the tweaks have been acceptable. I would offer the committee two options. One option is what you have before you has passed muster in other states and legal counsel so I think we are safe in those areas. If there are other questions that are major concerns I think we could run those by the compact folks, the Department of Defense people, and the legal counsel for the Center for Interstate Compacts to find out if there are issues. On the specific issue you raised on page 6, item 1, as I read that I think the first blush might be that we are being required to waive course requirements but if you read on it says if similar coursework has been satisfactorily completed in a another district so that would give our districts discretion. They would be in the driver seat to judge whether that is similar and so on. I think some of the fears that have been raised aren't as big of an issue as they might at first appear to be.

Rep. Mark Sanford: If we were interested in doing this and had our version we could present that to the compact in our membership application as the terms and conditions we were interested in and we could limit it to that kind of reception from them so that it would be state specific for us and if they are unwilling then we wouldn't join. Legislatively we could control the parameters in advance so if it passed muster it would be fine and if it didn't then we wouldn't join.

Chairman Karen Karls: From what I understand is if a military student enters our state and cannot meet our requirements, the military compact people will work with the school district they came from and have them issue a diploma. That is one of the features of this.

Sen. Donald Schaible: This specific example I used was just an example for clarification but it is the language of shall honor placements, shall waive specific courses, must meet requirements, and that kind of language. This language can be adapted or changed as the commission wishes. It is not that it is bad because I can certainly see the benefit for the military students that would use this system. This is just exclusive language that school boards can't stand when you say you shall, you will, or you must. Would it be better to wait on this and jump into it later or to study it and go in after you are sure? It is not that I am questioning whether this is bad but there are things that put me on the guard a little bit. I certainly am not against helping military students and families.

Rep. Bob Hunsakor: In response to that I think we did talk about the fact that for the 36 states that are in the compact, the school boards in all of those situations have not had a concern. They said they were either neutral or happy with their involvement. If there is that many of them then they should have run into some problems and I certainly understand what you are saying.

Sen. Donald Schaible: It is relatively a new program and we have started to see that there are already several amendments coming in with some tweaking and changes. Granted there aren't going to be some big problems in retrospect but how many big problems have we had now without the compact? What is the urgency sometimes when it might be better to just look at it?

Rep. Mark Sanford: The reason that I am interested in this is simply that I think of all the military children that will be transitioning in and out of North Dakota and I know one of the first things they will look at is the schools. The thing that provides comfort to them is know what the rules are going to be and this kind of gives them that by saying this state are part of the compact and they are going to be fair in the way they deal with it. For me that is the primary thing. I think it is a nice piece for the families going through this. I agree with you that I think the districts in North Dakota have done a good job but those families don't necessarily know that when they are coming here. Another thing that comes to mind is that the Adjutant General reminded us about BRAC in a previous meeting. I know in that small time frame from when he mentioned BRAC that all of a sudden I am hearing from chambers in two communities in North Dakota.

Sen. Larry Luick: How is the compact commissioner from North Dakota placed? Is there a fiscal note that attaches to this and is the commissioner a fulltime FTE? How is this handled?

Chairman Karen Karls: We discussed this a couple meetings ago. The Adjutant General has stated that he will find it in his budget to pay for joining the compact. The commissioner is appointed by the Governor.

Sen. Larry Luick: Is it a fulltime position?

Chairman Karen Karls: No I believe that commissioner's only job is to attend the compact meetings and I think they meet once a year. It isn't very often. We have another hearing. Are there any other questions or motions?

Rep. Bob Hunsakor: My thoughts on the discussion is we hear nothing negative from the 36 states, from our Adjutant General here in North Dakota, and the Department of Defense. They see a great need for this. If there is something bad in here it costs us very little to get out of it. I don't find any real issues in here that would tell me that we should wait or not get involved. Everything seems positive with the fact that it is very simple to get out of this in two years for a minimal amount. Compare that to the good it could do for our military families as they transition.

Rep. Mark Sanford: I will try a motion. I would move that the Senate recede from its amendments and that this committee adopts the amendments as presented.

Rep. Bob Hunsakor: Second.

Chairman Karen Karls: Discussion?

Sen. Larry Luick: I would have to vote no on this. I think it is a fantastic thing but I would like more time to read through this. I can't just jump out and vote for this not knowing what I am voting on.

Chairman Karen Karls: Anything else? We will try a roll call vote.

Roll call vote: motion fails.

Chairman Karen Karls: We will meet again on HB 1248. We will close the meeting.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/18/11
16723

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: (Amendment, attachment). We will open the conference committee on HB 1248. As we left off we were looking at Rep. R. Kelsch's amendment and I sensed we had more work to do. Are there any new concerns, revelations, or enlightenment?

Sen. Donald Schaible: We are talking about a compact and I have a couple of observations. The first thing is that the bill that came out of the House was a five line statement about what we are talking about. When we got it we added a study to it and now we get to conference committee and everything is totally changed to a compact. If it was so important why wasn't it initially in there? What has changed between the versions that passed the House until we got to this point?

Chairman Karen Karls: I guess we saw the light in the House and I we wanted to salvage the bill and bring back the compact wording. We weren't successful last session and feel that because of the position that our base towns are in, we really do need to move forward with this.

Sen. Donald Schaible: Are these amendments state specific or are we just drafting a compact that the whole body will accept at some point? If we have our own amendments in there but the compact decides later on that they are not the best interest of the compact, do they have the right to change that by a vote of the majority of the member states?

Rep. Mark Sanford: My understanding is that our amendments are state specific in terms of the conditions of our willingness to join the compact and that we join under theses amended conditions. My understanding is that the folks that are in leadership positions with the compact are aware of the amendments and the nature of the amendments and they don't see a major issue with them. Certainly when you are in a compact you would have representation there. I think it would be naive of me assume that there wouldn't be issues that they would vote on and we would have one vote at the table out of the membership. I think it is important we did spend time limiting the costs related to both membership and withdrawal.

Sen. Larry Luick: How many school districts are wrestling with this right now?

Chairman Karen Karls: Grand Forks and Minot for sure. I did receive an email from Douglas that has had some impact and they are in support of the compact.

Sen. Larry Luick: All of the districts that are involved in this at the current time are supportive of this compact or is it just some of them?

Chairman Karen Karls: I believe the city of Minot and Grand Forks are supportive.

Rep. Bob Hunsakor: I can speak to the Minot end of it. I did speak to the Superintendent of Minot Public Schools and there were some things in the compact that he wasn't too keen about. However the portions in there that dealt with the families, children, transitions, and all of those things had more good in there than concerns and he did support it for that reason.

Chairman Karen Karls: I would like to add that I went to the amendment and it talks about chapter 15.1-04.1. There is another compact there presently. It is the Education Commission of the States. It is very similar to this one so you might want to take a look at that.

Rep. Mark Sanford: It was my privilege to be a North Dakota representative for the Education Commission of the States for a few years. There is a lot to be gained by being a part of that. We focused a lot on what the potential is if things go wrong. The other of it is what is the potential we get when we join? The first Commission of the States meeting I went to I was sitting next to Governor Shaheen and she happened to be the chair of the Education Commission of the State. I got in on a great table and great opportunities to visit with people from the get go. Back to this particular one, I also visited with the superintendent in the Grand Forks area and they are supportive. It really is about who the schools are serving. It is about who are customers are. In one of our first meetings I distributed an article from the Grand Forks Herald. They have a school liaison officer that spends a lot of time with schools. There was a nice article in the paper about this position and this person and she is quoted in there as saying that they really would like to have this happen and that it would ease the work that the liaison officer does on a day to day basis. It could have changed from when I was superintendent there but in that set up in Grand Forks, it is two separate districts. They have a joint powers agreement they operate under. Their district really is Grand Forks Air Force Base School District. They have this joint powers agreement that permits them to send their high school students to Grand Forks and it also is an operating agreement that they share their resources and essentially are more efficient. The important this about this liaison officer is that this is someone that meets with the base commander at least once a day. They are really representing what the leadership of the base is thinking. The people at the base want it and that is a big thing to me.

Sen. Larry Luick: I agree that it sounds like it is a very viable and promising program. My concerns are probably the concerns of fiscal responsibility, if this compact can supersede what our state laws are as far as the requirements for our educational services, and the total cost of the state. I guess our last meeting I had brought up the question about the 5,000 dollars and I was told about the 2 dollar per head limit on that. In article 10 and 11 of the compact in this draft of the amendment, does the power of the commission itself have the authority to go above and beyond that 2 dollar per head limit? Let's say they want to

build a building somewhere else, and then is that part of this 2 dollar per head maximum or can they go above and beyond that? Is this cost going to be prohibitive of what we want to get involved with?

Rep. Bob Hunsakor: If I could address Sen. Luick's concerns a little bit. I hear you talk about the compact superseding state law, costs, and certainly those are legitimate concerns. As I listen to the discussion, we don't want to get our focus off the families and the kids. That is the important part of this entire issue. I have an email here that you may have received from liaison officer at Ellsworth Air Force Base. My concern deals with are these minor things we have to deal with more important than the good of kids involved and the parents of those kids? The liaison officer at Ellsworth Air Force Base said, "As you know military children move on an average from 6 to 9 times during their K-12 years. These transitions can be difficult for both the student and the parent, but things are compounded when the family has to deal with different school policies and requirements from one state to the next. The compact gives schools more flexibility when working with military families and helps make the family's transition smoother. It also ensures military children have the same opportunities for educational success as other students and are not penalized or delayed because of their frequent moves." In the next paragraph he goes to say, "I think that in large part because South Dakota joined the compact and our schools quickly embraced the compact's measures, however I have heard many transition horror from military members in other states where the compact is not in place." That is our neighbor to the south and his thoughts on the compact.

Sen. Donald Schaible: Of all the concerns we have I think the misunderstanding is that we are not in favor of giving the military student every opportunity that a regular student would have. I think that is all of our goals and if that was all there was to it then there wouldn't be a problem. I think your minimum standard should be that the military student has the same or equal opportunity as a student or resident that is already there. I don't think any of us are questioning that. The concerns are other than that. A concern is if they have exclusive or more rights. The erosion of the powers that we have as school board members, administrators, and legislatures is another concern. If that was all protected then I think it is a good situation. I think we are all on the same page when it comes to our military students. I guess the question that we have is the deterioration of some of the power we are giving away by joining a compact or if this is an exclusive right that might be taken away from a student that is there. I want to make sure we are clear on that. I think all of us believe the standard should be the same for everybody. It is the concerns beyond that that we are worried about.

Sen. Larry Luick: How many students are involved with this?

Chairman Karen Karls: Approximately 3,500.

Sen. Larry Luick: Approximately how many problems have we had in the past years?

Chairman Karen Karls: I read the testimony from your hearing in the Senate and I saw letters from three or four people.

Sen. Larry Luick: I was just wondering if there were more.

Chairman Karen Karls: Part of this too is our military children that go to other states. We want to make sure that they are taken care of there. With the concern about the cost, The Adjutant General is going to find in his budget a way to cover that per pupil fee. The commission itself isn't a real formal body. They meet about twice a year and you can do it online so it is a virtual meeting versus flying somewhere and paying hotel rooms and that sort of thing. The School Boards Association asked me to find out some information on which state agency is responsible for the implementation and I emailed out Adjutant General and he said it could be the Office of the Adjutant General or DPI. If the Adjutant General is named then the issue of paying the expenses is easily handled since he said they would find a way to do so. As far as the state military family liaison, he is researching that for us. Every military base currently has a school liaison officer. The air force recently funded and SLO for every base to help with the important issues of military children's education. If you would like more information I can call the Adjutant General up.

David Sprynczynatyk – Adjutant General: I think the office of the Adjutant General or DPI could be the implementing agency. I indicated earlier that we would be more than willing to find the funds within our budget based on what we know today. Those costs would be approximately 3,500 dollars per year based on what is being done within the compact commission nationwide today. As far as the state military liaison officer, that individual is appointed by the commission created within the state. I would suspect that it would be an individual that is either a state employee now that works in that area. It could be a school district employee or whomever the commission within the state feels is most appropriate.

Chairman Karen Karls: Do you see this compact as something that could possibly override North Dakota state law?

David Sprynczynatyk – Adjutant General: No. The compacts are a vehicle for states to join together with the approval of the legislature of those states and with Congress too. That is the only way states can join together in this country. Compacts cannot have any more authority than what is delegated to it by the member states. On page 7 of the amendments it says the commission is a body corporate and joint agency of the member states and has all of the responsibilities, powers, and duties set forth herein. The compact cannot have any more authority than what the member states, through their legislative process, are willing to give to the compact. I haven't seen anything in there that takes away from anything that we do here in North Dakota. As you look at the purpose it talks about not placing military students coming into our state at a disadvantage and that is what I have heard from the committee members this morning. We don't want to elevate military students coming into the state over and above our own students but what the compact says is that we are asking the states to not place them at a disadvantage and I think that is important.

Sen. Larry Luick: On page 17, section 2, which is a part of the Century Code and amendment number 4. There is change in that verbiage there. Why is that section necessary?

David Sprynczynatyk – Adjutant General: Are you referring to why section 4 is necessary?

Sen. Larry Luick: Correct.

David Sprynczynatyk – Adjutant General: My fear is it was written by a lawyer and I am not a lawyer.

Chairman Karen Karls: I believe it deals with kindergarten.

David Sprynczynatyk – Adjutant General: As I read it I think what it says is that the requirements of the section above aren't applicable if there is a conflict with the enrollment provisions that are agreed to within the state. As I would read this it would almost appear that this is protection so that the requirements of this section not applicable to those children to the extent that it conflicts with enrollment provision otherwise agreed to by the state.

Chairman Karen Karls: What I am thinking is if your child is enrolled in mandatory kindergarten in another state and they move here, we maybe have a different requirement. They wouldn't have to repeat kindergarten if they didn't need to. I think that is the type of situation that part addresses.

David Sprynczynatyk – Adjutant General: I would have to read that whole section again to see how that fits together. On the surface it appears as though that it is not applicable to the extent that the requirements conflict with enrollment provisions otherwise provided for within the state.

Sen. Larry Luick: The reason I question that is because it seems like we already have in code some age limits and it almost appears that section 4 is just trying to circumvent what we have in code.

Chairman Karen Karls: I will have to ask Anita Thomas to clarify that. Are there any other questions for General Sprynczynatyk? Seeing none thank you. I have an email to Anita to ask her some of the concerns that Bev gave me a list of - the formation and expenses of the state council. I think the feeling is that a lot of the members will already be state employees and since this counsel is very informal and has virtual meetings not necessarily face to face, the expenses would be limited. The military family liaison is the one we are still searching for.

Rep. Bob Hunsakor: Are we at the point where we would consider possible amendments? You talked about something that might make this more acceptable and hopefully the compact would accept that in allowing us to be a part of it if we so choose to do that.

Sen. Donald Schaible: I guess right now the position I have is that I have concerns with a compact and the ability of that compact to change the rules as they want. I am not quite sure how you can submit changes to a compact and have it accepted by the whole body. I would have to look at that a little more. It is the issue that we are changing a bunch of stuff just to make it palatable when the whole idea is that it should be good on its own. That is why we looked at the study to begin with. We wanted to study all the issues and concerns to get a better understanding. I am not questioning the benefit to the military or the

advantages to the people that have to work with that. I can see where that would be a plus. It is the concerns we have been discussing in the last several meetings and quite a few of them still haven't been answered as far as the concerns. That was the reason for the holdup. I don't know if you can make a watered down version of the compact, if that is what we want, or if that would be accepted right now.

Chairman Karen Karls: Rep. Sanford what has your experience been as part of the compact on the Education Commission of the States? Is it a hard fast rule? Frankly I hardly ever hear about it.

Rep. Mark Sanford: It has a broader purpose. One of the reasons for the Education Commission of the States is to have state agree on issues that are affecting all of them for study. Rather than you studying one thing and you studying another thing and so on, they agree on two or three issues and each governor, as they rotate through the chair of that commission, has the freedom to suggest what the research topic will be for this year or for the next two years. For example when North Dakota made the decision to go to all day kindergarten, which was an issue that had been studied by the Education Commission of the States. There was a lot of research on it and it was shared with all of the states so we all had access to the same research, rationale, and issues that were out there. Another issue we studied while I was there was the various ways that states finance education and there are some differences there. Really the purpose of that particular commission was to see what benefit you could gain by pooling your resources to build background on issues that were confronting legislators across the country. That compact obviously didn't require that you had to adopt anything; it was more of a research arm. As such, when the research was in, they would suggest policies or model policies that a state might agree to as a way to fund schools, deal with all day kindergarten, and deal with different issues. That compact was really designed to create efficiencies for the states and provide broad background, researched based policy.

Sen. Donald Schaible: Does that compact have language in it that says adopting rules that will have the force and the effect of law in it?

Chairman Karen Karls: Yes it does.

Rep. Mark Sanford: I never had any experience with that. I don't think we adopted any rules at all. It was more for policy and research.

Chairman Karen Karls: Maybe for homework we should read 15.1-04.1. I will try to reschedule another meeting. We will adjourn.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/19/11
16755

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: (Amendment, attachment). We will call the conference committee on HB 1248 to order. You all have the new amendment 2005 and I also handed out a sheet that highlights what we changed since yesterday.

Rep. Mark Sanford: I would move the amendment 02005.

Rep. Bob Hunsakor: Second.

Chairman Karen Karls: Discussion?

Rep. Mark Sanford: It seems to me that what you have done is you have clarified the make-up of the state committee and who will do the appointing or selecting of the members and that you also clarified the role of adjutant general. One role is fiscal and the part is the appointing for the state committee. I think that is constant from what we had discussed in the last meeting so that is why I moved the amendment.

Chairman Karen Karls: Are there any comments? One of the think that was brought up the other day was that we hadn't worked out the funding source. We now have identified it and named it in the bill. That was one major change.

Sen. Donald Schaible: That was one question we had. I did look up the compact that we are currently involved with and there was discussion about the language and duties of that commission and the language of that other commission is vastly different and not limiting at all. For example the compact commission for education recommends for public policy, provides a clearing house of information, encourages and promotes local and state initiatives, directs and limits, and formulates suggestion polices and recommends what is available. That is the question we have had with the differences. I can see why the language in the other one is acceptable because that is exactly the kinds of concerns that we have. You have clarified some of the financial points but I don't know how the Adjutant General can have exclusive power over this commission when you are also affecting schools and other kids. I think DPI will have to be involved in a compact of some force because it is not only the military education that is involved. Regardless if it is a benefit it still has an effect on the kids that are there and the school district involved. Regardless who is mandating the commission, DPI, school boards, and administrators are still going to be

involved at the local level. One of the other concerns with any kind of language is the language of adopting rules that will have the force and effect of law which is very stringent language of a commission whose bylaws and rules can change yearly. That is a vast difference between the two commissions. That is the concern we have. Your potential rights to regulate your schools and your laws are given away because this commission has the effect and force of law. That to me is a concern that we definitely have. The point I made before was that you can water down that language but then you get to the point where the commission itself is ineffective. That is another concern we have. You can adjust it or change it to make it palatable to some things but then it contradicts the force of the commission.

Chairman Karen Karls: I've had that same conversation our bill sponsor and he can explain that part better than I can. Rep. Koppelman would you mind stepping forth to address the issue of the full force of law and the effect that this has with this compact?

Rep. Kim Koppelman: I appreciate the question. As one who has been sentenced to serve on the Administrative Rules Committee in all 16 years I have been in the legislature, I understand rules very well and they do carry the force of law. All the administrative rules do. The rules that we allow the executive branch agencies of government to promulgate carry the force of law. However it is important to understand how that pecking order works. They carry the force of law and they have to in order to be enforceable. If you had a rule that didn't have any force behind it then it would be a suggestion and not a rule. However, rules are always subservient to statutes. The rules carry the force of law to the extent that they are enforceable for their purpose but if the legislature passes a law saying it is going to be something different then it is the law that governs and not the rule. It is important to recognize that in any of these cases I think it is true that different compacts and commissions are structured differently. I am aware of several compacts that the state of North Dakota is a part of that have very similar provisions to this one. I think what the state of North Dakota has recognized in passing these compacts is that while you could make the case that we are giving something up here, we are gaining far more authority than we are losing. This is by its nature a function that goes beyond our state boards. As such, it is preemptable by Congress. In this case there was a discussion about introducing legislation in Congress to do exactly what this compact does or something more stringent and then force our school districts all over the country to do whatever Washington told them to do. I am a believer in states' rights and prerogatives of states. Congress had that authority but to their credit the Department of Defense said they didn't want to do it that way and that they wanted states to cooperate, work together, and engage. We gain far more authority than we lose because we are gaining influence over what happens with the education of military children as they move from state to state. We don't have that authority now. We have the authority to do whatever we want to in our school districts and make it as good as we can make it, but if they came from Alabama and Alabama won't give us the transcript that proves that the kid had taken algebra, then there is nothing we can do about that. If we are part of the compact we can. The rules are there and the other point to make is that they are very narrow. The commission can only make rules within the parameters of the authority that the compact gives it. If the commission decides to medal in other areas of education or anything that is outside the bounds of the compact, that would be null and void. They don't have the statutory authority by which the compact gives them to do that.

Chairman Karen Karls: Are there any questions for Rep. Koppelman? Seeing none thank you.

Rep. Mark Sanford: When I read the section that deals with rules it seems to me that it applies to the sections that just precede it and essentially those sections define where the compact would work. In other words it works in terms of educational records and enrollment when you are going between school districts. It has a section that deals with placement and attendance. The common rules that would relate to these would be graduation and then state coordination so that the rules would be in this narrow area where the compact is formed around.

Chairman Karen Karls: Any other comments?

Rep. Bob Hunsakor: I have a comment on the concern over giving rights to a commission. If there was any indication from the other 36 states that it was a problem, then that would be easy to say that we should put the brakes on but from the info I have that is not true.

Chairman Karen Karls: The other question that was raised was whether the control rests with the Adjutant General or DPI. This still is within our education section of the code. I envision them sharing. I believe the DPI superintendent is one of the members of the commission.

Sen. Donald Schaible: As it was this could have been a directive from Congress in saying that we have to do this. They have given us the right to chose if we want to go in or not go in. I'm not saying that it is a good thing. The initial status we had was to look at this and to address the concerns before jumping in. I'm not saying that any of this is totally bad or good. They do raise some questions and the thing that I don't like is that it seems like we have to do it now and then we can fix things later. Our position has been why do we have to go so quickly? We can study it, look at it, and then go in. There is no reason why you cannot wait two years, look at it, and see. As far as the other states having no problem, being a relatively young program the problems are probably yet to be resolved. Another thing is that the rules really haven't changed from the initial starting point but that doesn't mean that they aren't going to as other things change also. It isn't like these are absolute signs that I don't want to be a part of it, it is just that there are potential problems in there. Both the Senate and the House had hearing on this issue and both rejected them in the committees and they came out with this not included in it. There were concerns on both sides. The Senate took that same position from the initial onset that it sounds like a good idea but there are concerns that need to be addressed. Tweaking them a little bit does help but it doesn't address the issues completely. That is the position I am on.

Rep. Mark Sanford: I think a couple of things have happened. I think by the very nature of this discussion and the number of times that this has been brought up that we have learned a lot about the compact and the potential it has for the state. I think another thing we have learned is that military families and the military in general are very committed to this. They didn't just show up at the first hearing. They have been very persistent. It is a top priority at the highest levels of the military in our country. It probably took a while for that to sink in but that is a fact. To me that elevates the need to rethink what we did initially and look at this membership. As we mentioned last week, those four letters BRAC got everyone's attention

in at least 2 communities in this state. I think what I am saying is we have progressed a long way in terms of a better understanding and I think we know significantly more about this and understand it better than we did at the beginning of the session. Personally I think we a great amount of information. There is huge potential for us if we joining this. There a few unknowns but I think we fixed most of that with the capacity to get out quickly and at a very low costs.

Rep. Bob Hunskor: I certainly respect the senator's position to want to clean this up in a manner that they would feel more comfortable with and I certainly respect the statements you have made to support the military through this. When the final bill comes down, in the next two years there is going to be a lot of movement of military people and children from one base to another. The good that will be done, the peace that they will feel, the encouragement they would have, the support we would give them, and the ease of their transition outweighs the other option in my way of thinking. If this is not a good bill but we have helped families out in that move I think it is worth it because if in two years the compact isn't the right way to go, we can get out for a minimal cost.

Sen. Donald Schaible: I know how important this is to the military. The issue for military families is understandable and we do want to do every opportunity that they deserve. It does bother me that when this Base Realignment and Closure issue comes up that it is one of the main issues for this. There are a lot of good reasons to accept it and most of them are not part of this. It seems backwards to me because if there are a lot of good reasons to do something then it should be the words that are in here. Most of the concerns that I have are the words that are in here. Do I want to see a base closure or hinder or hurt a military student of family? Absolutely not. These are all wonderful reasons to do that but it is questions that actually having this and doing something that raises concerns.

Sen. Larry Luick: I have to concur with Sen. Schaible on those statements. None of us want to see harm done to any of these students of their families of the military. I believe this a very progressive and beneficial program but there are a tremendous amount of questions that need to be sorted out by the compact themselves. There are a lot of people in favor of it and the rush seems to be there. I am confused about that and if it has been working very well in the last several years in the districts that are involved in the state. Maybe just to make that work for another two years and do a study on this, I would be supportive of that. It seems there is a rush on this and I am not gathering that the importance is there for that rush.

Rep. Bob Hunskor: I'm wondering if the senators would have specifics in mind with the bill about what would need to be done specifically with those issues to make them more acceptable.

Sen. Donald Schaible: I can only speak for myself. I think our military children and families should have every opportunity that any other student has. I don't know if you can fix that with a language change. It is confusing to me that you can change a compact language to make it acceptable to a state then be accepted by the compact. It seems to me that you join the compact with the idea of what is there. That part troubles me. Some of the language that does concern me about some of these things is the potential for exclusive rights that are beyond what a normal student would have. We have several transition type

students coming into different districts whether they are oil workers, migrant workers, law enforcement and so on and none of them have compacts and those are exactly the same issues. Some of the language in here would give exclusive rights to certain things that no other student has. There is a potential for that kind of stuff. My idea is we should be protecting the rights of all of our students regardless of which area they come in and move from. The rights and the opportunities should be the same up and down the line and I think we try to do that here. This is exclusive for one thing and that raises some concerns.

Rep. Mark Sanford: I think those are valid concerns and the way I look at this that this is a group that by the very nature of their employment for our country is subject to repeated transfers and over a long period of time the realities of that form of employment have grown to become so clear and they are consistent in the transition from credits to graduations and they will happen with these transfers. To the credit of the folks that put together the compact, I don't think they are looking for anything special and I don't think the compact gives anything special to any of these students other than it just simply says we recognize that it is part of the job for these people and these kids are the ones effected by it. All we are going to do is we are going to try and make sure they get equal treatment because sometimes it is hard to do that. If a student transfers in the middle of a course and it is a yearlong class that is not offered when they come to your school, what do you do? In my view that student should receive credit for a semester of work or whatever it is that has been completed because we can't offer it to them. I think we would do that with other students as well and we should do that with other students as well. All this group has done is simply said this is a reality for us and we just want to have an agreement. There is a consistent body of district that they transfer to. It isn't like they are going all over the country. It is a very compact set of schools that are involved in the transfer issues. It is unique in that respect.

Sen. Donald Schaible: I want to elaborate on the example and something that concerns me is if a military student is placed in a class that transcript says is appropriate and once that student is in the class, that student starts struggling. What happens then? It seemed to me that the reading in one of the versions said that the school would help that student succeed which is fine but to me, I am wondering if that is the same standard that we would use for any other student. In some cases it wouldn't be. Once we placed them in a class it seems to me that the student will succeed with extra tutors, help, work, and considerations. That was a concern that it would be above and beyond what a normal student would have. It is those types of issues. Honestly I think superintendents do a good job to make any situation work and that is part of the other concern. We do a good job in North Dakota.

Chairman Karen Karls: We have a motion on the table. So we are clear this is amendment 2005. We will take the roll.

Roll call vote: motion fails.

Chairman Karen Karls: What are the wishes of the committee? Should we keep trying?

Sen. Larry Luick: I make a motion to consider a study on this. I make the motion that the House accede to Senate amendments.

Sen. Donald Schaible: Second.

Chairman Karen Karls: Discussion?

Sen. Larry Luick: I think we all can agree that there is a tremendous amount of value to what we are looking at here. I guess I feel that there is enough information that we still need to sort out with the compact. I don't think we are capable of nailing all that down in the time we have. I am hoping and praying that there is mutual consent among the school districts to make this work for another two years so that this can function properly. I know it is a terrible ordeal to get all the work done for the students that are jumping from district to district whether it be from 15 miles away or from across the country. I am wholeheartedly behind this but I want it to happen in the proper form.

Chairman Karen Karls: The reality of it is we tried that last session and the study didn't get picked. Even though we have thought about it for two years we did not study it.

Sen. Donald Schaible: I have a question on the motion that we have. Being relatively inexperienced, we are voting to leave the bill as it passed the Senate and I don't see that on the list of choices for a motion.

Chairman Karen Karls: It would be that the House accedes to the Senate amendments.

Sen. Larry Luick: I would stress that it shall be studied not may be studied.

Chairman Karen Karls: That is correct. That is what the language says. We have a motion in front of us. We will take the roll.

Roll call vote: motion fails.

Chairman Karen Karls: We will meet again. Meeting adjourned.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/21/11
16813

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: We will call the conference committee on HB 1248 to order. Do we have any comments or anything for the good of the order?

Sen. Donald Schaible: We did research some amendments and they are not complete yet but I would like to offer a potential solution. If we come to an agreement then maybe we could look at putting it in a written form. I guess there are concerns about some of the language and it seems as we delved into the language we seemed find solutions and there was always potential for more of that. We thought the study was important. We see that sometimes studies are used just to get rid of a problem and sometimes they have no effect. In the interest of moving this process forward, we would propose that we would accept this last version of the compact but we would like to add a couple items. One is that it would have to be reported to the education interim committee. Minot Air Force Base and Grand Forks Air Force Base, which are the two largest school districts that are involved, would have to report the effects of this compact. A part of the issue there is when and how many times they need to report but I guess the summer of 2012 is when they would do that. We would also like to put a sunset on there. The issue is that if problems come up it would force us to revisit it. We could then continue it if we wanted to or it would stop it if there was a problem. We are going to do the compact, we are going to see how it works, we are going to have a report on the situation, and then that sunset would force us to revisit it. That would force us to look at it and it would give us the opportunity to correct the language in any problems we would find. We would accept the compact and the language that is there. We would put a sunset of August 1, 2013, and we would also add language in there that any school that has this issue could also report but we would want to make sure that Minot and Grand Forks school districts would report to the interim education committee. I don't have a written version of the amendment yet.

Chairman Karen Karls: Are there any other comment?

Sen. Gary Lee: I think this is a common ground solution in terms of putting it in place so the issues of it not being there in terms of some of the things that may affect the military bases in a negative way are dealt with. It also requires that the legislature be satisfied with the issues that may be there for those school districts that are involved. By putting the sunset in, it requires us to deal with it again. I think there is something in it for everyone in terms of moving it forward.

Rep. Mark Sanford: The suggestion I would make I don't know that it is appropriate to have the Grand Forks Air Force Base school district, the Minot Air Force Base school district, the city districts, or maybe all four of them because they have these joint powers agreements.

Rep. Bob Hunskor: I appreciate the thoughts of the senators and I am certainly open to dealing with the amendments once they get it them completed.

Sen. Donald Schaible: That is the reason we tried to get some language in place in some written versions but there were so many questions about who should report, who they should report to, how often they should report, and then the dates that would make this reasonable. That is why I brought it up this way so maybe we could discuss some of these things and propose a final version. I'm not sure how Grand Forks school district works but if a military child is involved then they should report, at least in those two areas. Any other school district that has children into that effect has the right to report and should but we wanted to make sure that our two largest bases have to report. I think it is the education interim committee that would be the appropriate place to report to.

Chairman Karen Karls: Thank you for bringing that to the table. My only concern is if they will allow us into the compact with a sunset.

Rep. Kim Koppelman: I did introduce an interstate compact several years ago in the legislature that we passed with a sunset and we came back two years later and reauthorized it. There weren't any problems and it was working fine. The two questions I would have are we have to remember to come back and I think there has been enough discussion on this that there would be enough members of the legislature that would do that. Secondly I know when I did that there were some serious questions about the issue of being allowed into the compact with a sunset. I have confirmed with the folks and I think the preference would be a report and not a sunset but to be completely frank with you, I think if we had a sunset I don't think it would impede our acceptance. I believe there is one other state that has done that so I think it is permissible. I do want to state that I appreciate the movement of the committee and the valuable discussions that you had.

Chairman Karen Karls: With your permission I will get together with Anita. How should we decide which bodies will be the reporting entities?

Rep. Mark Sanford: I would suggest that all four districts relative to those report back because the high school students go to the city district and the high schools there. Some of them go to surrounding districts as well. It makes sense to have all four districts report.

Rep. Bob Hunskor: If I understand right we have assurances that if there is a sunset we will not be denied permission to be in the compact. Am I hearing that right? If the sunset is on this bill and we are denied permission into the compact then we are out again.

Rep. Kim Koppelman: I think the preference of the compact would be that there not be a sunset but I don't know that there is a real practical difference in the form that you have discussed with having a sunset or not. Either way with the reporting you are talking about

next legislative session this is going to be discussed unless everything is wonderful and it doesn't need to be discussed. I am sure if there are concerns or problems brought forward there will be a discussion. Extracting North Dakota from the compact would be the same procedure. I think it would look better to them if we had the reporting and not the sunset but I can't tell you that they would deny our admission if there was a sunset.

Rep. Bob Hunsakor: With the sunset in there we don't have assurances that they won't deny this. That is what I am hearing you say.

Rep. Kim Koppelman: I believe there is one other state that has adopted a sunset so if they have accepted them then I think that would imply that they would accept us. If the committee would like I can certainly check that with the compact folks.

Chairman Karen Karls: Please do.

Sen. Donald Schaible: Without the sunset that would put our concerns back up there. It is the language and the potential problems that is the Senate's concern. Without the sunset we would have a different position. It is a pretty important factor for us.

Sen. Gary Lee: I would agree. That is what we discussed. Those provisions of the reporting should really be there so we can define what the issues might be if there were some. We would be reassured that it would be looked at in 2013. That is an important provision to us.

Chairman Karen Karls: We are assuring that it will get studied by the fact that we are requiring the reporting. We don't have to count on legislative management to pick our study.

Rep. Bob Hunsakor: In just a short period of time are we able to get answers so we know for sure?

Rep. Kim Koppelman: Yes.

Chairman Karen Karls: We will try to meet again this afternoon or tomorrow morning.

Sen. Donald Schaible: Another issue we had was how to put language in statute and then make tweaks to it. I guess you have to go somewhere with it and that is also why you want a sunset to revisit it in the next session. I think you have to do this as an amendment form and I don't think we want to spend a bunch of time on language that is going to jeopardize your status of getting accepted or not. It gets us to the next step and also gets us to the point of answering questions about potential problems. It gives time for some of us to do our own study and find out some information. This seems to be the best fit.

Sen. Gary Lee: I have a suggestion. When you go see Anita maybe Sen. Schaible and yourself could go to make sure the language is put together correctly so there isn't any questions afterward that we have to deal with.

Chairman Karen Karls: Are we looking at yet another hog house amendment from the original hog house amendment?

Sen. Donald Schaible: We haven't accepted any other amendments so regardless what we do, it will be a hog house. It would be a total amendment and it can basically come from either side as long as we are on the same issues.

Rep. Mark Sanford: In your opening statements you said we would work off the latest version.

Sen. Donald Schaible: That is version five. That was the last one.

Chairman Karen Karls: I will try to get some time with Anita for us.

Rep. Bob Hunskor: If we go ahead with our discussion we will be putting ourselves in the position to join the compact if we are accepted, there will be a review of this by next summer by appropriate parties, and a sunset. Is that the way it is?

Sen. Donald Schaible: That is the minimum standards of reporting at least once. I think you want to leave the opportunity to report more often in other schools.

Chairman Karen Karls: We will adjourn.

2011 HOUSE STANDING COMMITTEE MINUTES

House Education Committee
Pioneer Room, State Capitol

HB 1248
04/22/11
16839

☒ Conference Committee

Committee Clerk Signature



MINUTES:

Chairman Karen Karls: (Amendment, attachment). We will call the conference committee on HB 1248 to order. You have before you amendment 02008. You will notice there is also a sheet that has some highlighting on it. That is Anita's way of highlighting what was changed since the last version. One comment I want to make is when Sen. Schaible and I met with Anita, there had been some changes made on an amendment that I had that I didn't pass out because Sen. Schaible brought forth his amendments and I didn't want to muddy the water. When we met with Anita, because of the changes in my amendment that you never saw were at the request of the School Boards Association, we agreed that we would work off the 02006 version. I have those changes so you can see what they are. It had to do with those questions we had about liability. If they wanted to build a building we limited that. It also talks about if we withdraw and it limits that. I believe amendment 02008 covers every possibility. Rep. Sanford has a question about the language in section 6.

Rep. Mark Sanford: I would just suggest in section 6 that it be the Minot Air Force Base school district and the Grand Forks Air Force Base school district. Right now it just says the base.

Chairman Karen Karls: I think we can work with Anita on that. It is just a housekeeping thing. Are there any comments or questions from anyone?

Sen. Donald Schaible: I guess we also talked about three things we were looking at other than the language. It was the start date and this will become effective August 1. Another thing was the sunset clause and if this is not brought back and readdressed it will sunset at the date prescribed. The other thing was the forced reporting requirements. This was the minimum standard. If there are more schools or more meetings required, the chairman of the committee can also request that and that was left vague for that reason. This was just the minimum standards and these were the issues we talked about with Anita. We wanted to do that so these schools can report more often if they want or the chairman can require more reports if they want. This is just the minimum standard. Looking through the language there was obviously some other things on it but I guess that was the idea of the sunset and the reason for bringing it back. If we wanted to go through and fix all the language it would probably take a lot more time than we had. We thought it would be best to see what happens with it and if there are some corrections we can do it at that time. That

is why we were in favor of a sunset on this so it is forced to be brought back. I have a question on the wording change in section 6. Did we change some language in section 6?

Chairman Karen Karls: According to Rep. Sanford, he would just like to clarify that it is the Air Force Base school district for both of them. I will have Anita look at that. It shouldn't be a problem.

Sen. Donald Schaible: With that I will motion that the Senate recede from its amendments and further amend with amendment 11.0204.02008 with the wording changes to the Minot and Grand Forks Air Force Base school districts.

Sen. Gary Lee: Second.

Chairman Karen Karls: We have a motion and a second. Is there any discussion? Seeing none we will take the roll. Thank you for all your hard work committee members. We will adjourn.

6 YEAS 0 NAYS 0 ABSENT Senate recede from Senate amendments and amend.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

That the Senate recede from its amendments as printed on page 1203 of the House Journal and page 904 of the Senate Journal and that Engrossed House Bill No. 1248 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill for "for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; and to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;

6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.

11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

- b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
- 2. This compact only applies to school districts as defined in this compact.
- 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

- 1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- 2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
- 3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
- 4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the

receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly, one representative of the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.
2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.

- c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
- 5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
- 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
- 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
- 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;

- e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

- 1. Provide for dispute resolution among member states;
- 2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
- 3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
- 4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
- 5. Establish and maintain offices within one or more of the member states;

6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

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

- a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3.
 - a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for

damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national

conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.

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

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1. a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.

5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact are severable and if any phrase, clause, sentence, or provision is determined unenforceable, the remaining provisions of the compact are enforceable.
2. This compact must be liberally construed to effectuate its purposes.

3. Nothing in this compact prohibits the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

1.
 - a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
 - b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.

- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student."

Renumber accordingly

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 4-15-11

Roll Call Vote #: _____

Action Taken

- ☐ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: REP. SANFORD Seconded by: REP. HUNSKOR

Representatives				Yes	No	Senators				Yes	No
REP. KARLS				X		SEN. SCHAIBLE					X
REP. SANFORD				X		SEN. MARCELLAIS				X	
REP. HUNSKOR				X		SEN. LUICK					X

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION FAILS

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

That the Senate recede from its amendments as printed on page 1203 of the House Journal and page 904 of the Senate Journal and that Engrossed House Bill No. 1248 be amended as follows:

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition; and to provide a funding source.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;

6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.

11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

- b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
- 2. This compact only applies to school districts as defined in this compact.
- 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

- 1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- 2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
- 3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
- 4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the

receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2. a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3. a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.
2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.

- b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
- 5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
- 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
- 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
- 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;

- c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;
 - e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

- 1. Provide for dispute resolution among member states;
- 2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
- 3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;

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

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3.
 - a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as

secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.

4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.
 - a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
 - b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
 - c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of

the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.

2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1.
 - a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.

4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the

commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1. a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
b. Withdrawal from this compact must be by the enactment of a statute repealing the compact.
c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

1.
 - a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence

shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.

- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.

SECTION 5.

Adjutant general - Provision of funding - Source.

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

Renumber accordingly

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.
2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.

shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.

- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.

SECTION 5:

Adjutant general - Provision of funding - Source.

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

Renumber accordingly

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 04-19-11

Roll Call Vote #: 1

Action Taken

☒ **ADOPT AMENDMENT**

- ☐ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) --

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: REP. SANFORD Seconded by: REP. HUNSKOR

Representatives				Yes	No		Senators				Yes	No
REP. KARLS				X			SEN. SCHAIKLE					X
REP. SANFORD				X			SEN. LUICK					X
REP. HUNSKOR				X			SEN. MARCELLAIS				X	

Vote Count Yes: 4 No: 2 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

ROLL CALL ON AMENDMENT 02005: MOTION FAILS

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 4-19-11

Roll Call Vote #: _____

Action Taken

- ☒ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: SEN. LUICK Seconded by: SEN. SCHAIBLE

Representatives				Yes	No	Senators				Yes	No
REP. KARLS	x				X	SEN. SCHAIBLE	x			X	
REP. SANFORD	x				X	SEN. LUICK	x			X	
REP. HUNSKOR	x				X	SEN. MARCELLAIS	x			X	

Vote Count Yes: 3 No: 3 Absent: 0

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

MOTION FAILS

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 4-11-11/4-13-11

Roll Call Vote #: _____

Action Taken

- ☐ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: _____ Seconded by: _____

Representatives	4-11-11	4-13-11	Yes	No		Senators	4-11-11	4-13-11	Yes	No
REP. KARLS	X	X				SEN. G. LEE	X	X		
REP. SANFORD	X	X				SEN. SCHAIKLE	X	X		
REP. HUNSKOR	X	X				SEN. MARCELLAIS	Y	X		

Vote Count Yes: _____ No: _____ Absent: _____

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 4-15-11 / 4-18-11 / 4-19-11

Roll Call Vote #: _____

Action Taken

- ☐ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☐ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) _____

- ☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: _____ Seconded by: _____

Representatives	4-15-11	4-18-11	4-19-11	Yes	No		Senators	4-15-11	4-18-11	4-19-11	Yes	No
REP. KARLS	X	X	X				SEN. SCHAIBLE	X	X	X		
REP. SANFORD	X	X	X				SEN. LUICK	X	X	X		
REP. HUNSKOR	X	X	X				SEN. MARCELLAIS	X	X	X		

Vote Count Yes: _____ No: _____ Absent: _____

House Carrier _____ Senate Carrier _____

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

April 22, 2011

Y/C
4/22/11
146 19

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

That the Senate recede from its amendments as printed on page 1202 and 1203 of the House Journal and page 904 of the Senate Journal and that Engrossed House Bill No. 1248 be amended as follows:

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;

- 201
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
 7. Promoting coordination between this compact and other compacts affecting the children of military families; and
 8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.

11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

- 48
- b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
 - 2. This compact only applies to school districts as defined in this compact.
 - 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

- 1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- 2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
- 3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
- 4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the

receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.
2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.

- b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
- 5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
- 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
- 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
- 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;

- c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;
 - e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

- 1. Provide for dispute resolution among member states;
- 2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
- 3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;

- 1070
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
 5. Establish and maintain offices within one or more of the member states;
 6. Purchase and maintain insurance and bonds;
 7. Borrow, accept, hire, or contract for services of personnel;
 8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
 9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
 10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
 11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
 12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
 13. Establish a budget and make expenditures;
 14. Adopt a seal and bylaws governing the management and operation of the commission;
 15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
 16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
 17. Establish uniform standards for the reporting, collecting, and exchanging of data;
 18. Maintain corporate books and records in accordance with the bylaws;
 19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
 20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3.
 - a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as

secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.

4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.
 - a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
 - b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
 - c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of

the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.

2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1.
 - a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a

default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.

4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.

- 17 u
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
 4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a

1671

maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.

- e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
- 2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

- 1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;

- d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
- a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

- 1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
- 2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.

- 180'
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
 4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;

- 19 of 17
- b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

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

SECTION 5.

Adjutant general - Provision of funding - Source.

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

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

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

Renumber accordingly

2011 HOUSE CONFERENCE COMMITTEE ROLL CALL VOTES

Committee: HOUSE EDUCATION

Bill/Resolution No. HB 1248 as (re) engrossed

Date: 4-21-11 / 4-22-11

Roll Call Vote #: _____

Action Taken

- ☐ HOUSE accede to Senate amendments
☐ HOUSE accede to Senate amendments and further amend
☐ SENATE recede from Senate amendments
☒ SENATE recede from Senate amendments and amend as follows

House/Senate Amendments on HJ/SJ page(s) 1203

☐ Unable to agree, recommends that the committee be discharged and a new committee be appointed

((Re) Engrossed) _____ was placed on the Seventh order of business on the calendar

Motion Made by: SEN. SCHAIBLE Seconded by: SEN. G. LEE

Representatives	4-21-11	4-22-11	Yes	No		Senators	4-21-11	4-22-11	Yes	No
REP. KARLS	X	X	X			SEN. SCHAIBLE	X	X	X	
REP. SANFORD	X	X	X			SEN. G. LEE	X	X	X	
REP. HUNSEKOR	X	X	X			SEN. MARCELLAIS	X	X	X	

Vote Count Yes: 6 No: 0 Absent: 0

House Carrier REP. KARLS Senate Carrier SEN. SCHAIBLE

LC Number _____ of amendment

LC Number _____ of engrossment

Emergency clause added or deleted

Statement of purpose of amendment

REPORT OF CONFERENCE COMMITTEE

HB 1248, as engrossed: Your conference committee (Sens. Schaible, G. Lee, Marcellais and Reps. Karls, Sanford, Hunsakor) recommends that the **SENATE RECEDE** from the Senate amendments as printed on HJ page 1203, adopt amendments as follows, and place HB 1248 on the Seventh order:

That the Senate recede from its amendments as printed on page 1202 and 1203 of the House Journal and page 904 of the Senate Journal and that Engrossed House Bill No. 1248 be amended as follows:

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and

8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.
11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;

- c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
- 13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
- 14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
- 15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
- 16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
- 17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
- 18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

- 1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
 - b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
- 2. This compact only applies to school districts as defined in this compact.
- 3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;

- c. Veterans of the uniformed services, except as provided in subsection 1; and
- d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

- 1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- 2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
- 3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
- 4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

- 1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
- 2. a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and

- talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
- b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
 3. a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
 5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.
2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.

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

ARTICLE IX. INTERSTATE COMMISSION ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as

determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.

8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;
 - e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;

17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct, as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3. a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of

rules, operating procedures, and administrative and technical support functions; and

(3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.

b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.

4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.

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

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

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1.
 - a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a

default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.

4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same, nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.

2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and

2. The following nonvoting members:

- a. The compact commissioner appointed under section 15.1-04.1-03; and
- b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

- 1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
- 2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
- 3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
- 4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

1.
 - a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the

board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.

- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.

SECTION 5.

Adjutant general - Provision of funding - Source.

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

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

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

Renumber accordingly

Engrossed HB 1248 was placed on the Seventh order of business on the calendar.

2011 TESTIMONY

HB 1248

ATTACHMENT 1

1. Under Article V - Placement and Attendance (Pages 5-6) Clarify that a school district doesn't have to create a program for a military student transferring in, unless that program is required by federal law. E.g. If a military student was in a gifted and talented program, a ND school district doesn't have to create a gifted and talented program. However, if the student was special ed or ELL, the school district would have to provide the services in accordance with federal law.
2. Under Article X - Powers and Duties of the Commission (Pages 11-12) Follow Utah's example and provide that the Commission may "monitor" compliance rather than "enforce" it and remove the directive that the Commission may use "all necessary and proper means, including but not limited to the use of judicial process."
3. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Pages 16-18) Follow Utah's example and provide that "each member state shall enforce the compact" rather than stating that the "executive, legislative, and judicial branches of state government" shall enforce the compact.
4. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Page 17) Follow Utah's example and provide that ND's liability in the case of a suspension or termination is limited to \$5000 x the number of years it was in the compact.
5. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Page 18) Follow Utah's example and remove Page 18, lines 8 -20, regarding the initiation of legal action against a member state by the commission.
6. Under Article XIV - Financing of the Commission (Pages 18-19) Follow Utah's example and limit the amount of the annual state assessment to \$5000 x the number of years it was in the compact. (By rule, the Commission has determined that each state is to be charged \$1 for each military child in the state. Rick thought this was about \$3500 for ND.) Compact is not clear on how elaborate the Commission's operations and activities might be.
7. Under Article XVI - Withdrawal and Dissolution (Pages 19-20) Follow Utah's example and provide that withdrawal from the compact requires a statutory repeal but remove the language providing that it will take a year+ to extricate ourselves from the compact.
8. Under Article XVI - Withdrawal and Dissolution (Page 20) Follow Utah's example and provide that the state's liability upon withdrawal is limited to \$5000 x the number of years it was in the compact.
9. Because the Compact literally supersedes state laws, Representative Koppelman wanted to ensure that there would be no confusion in applying the compact to military students. (I suggested that it would be preferable to mention the compact in statute, thereby saving people from having to remember that it exists and might provide different direction.) So, with his permission, we added several amendments to existing state laws:
 - a. Amendment to 15.1-06-01 to clarify that the current age requirements for Kindergarten and grade 1 could be affected by the compact.
 - b. Amendment to 15.1-21-02.1 to clarify that the compact allows for high school diplomas to be issued by a sending district if the student under certain circumstances can't meet the graduation requirements of the receiving district.
 - c. Amendment to 15.1-29-13 to clarify that the compact prohibits the charging of tuition in cases where students are not attending school in their districts of residence.

ATTACHMENT 2

INFORMATION PAPER

SUBJECT: Interstate Compact on Educational Opportunity for Military Children

BACKGROUND:

- Military families encounter significant school challenges when dealing with enrollment, eligibility, placement, and graduation of their children due to frequent relocations in the course of their service.
 - Most military children will move six to nine different times during their kindergarten to 12th grade experience.
- Working through the Council of State Governments' National Center for Interstate Compacts, the Department of Defense assisted in the development of an interstate compact that deals with these issues.
 - The Compact reflects input from policy experts and stakeholders from 18 different organizations, including representatives of parents, teachers, school administrators, military families, and federal, state, and local officials.
 - The Compact provides for the uniform treatment, at the state and local district level, of military children transferring between states (details available).
- Participation by states is completely voluntary, but to participate, a state must adopt the Compact through legislation.

DISCUSSION:

- Once activated (adopted by 10 states), each Compact state appointed representation to an on-going governing Commission which functions to enact necessary rules and give oversight, training, and direction to the Compact's implementation.
 - The Compact was adopted by the 11 states in 2008.
 - The initial meeting of the Interstate Commission occurred in late Oct 08 and the second occurred in mid-Nov 09.
 - Only member-state commissioners have voting authority, though interested organizations and impacted groups, such as DoD, may serve as ex-officio advisors.
- In 2009, an additional 15 states (Alabama, Alaska, California, Hawaii, Indiana, Iowa, Maine, Maryland, Mississippi, Louisiana, Nevada, Ohio, Texas, Virginia, and Washington) adopted the Compact bringing the total number of member states to 26.
- Because the Compact is actually a contract agreement between states, the enabling legislation enacted in each state must be essentially identical in substance.
- All states are part of at least 20 interstate compacts currently, and so are generally familiar with them as a multi-state controlled vehicle for addressing interstate challenges, short of federal intervention or mandates,

Summary: Interstate Compact on Educational Opportunity for Military Children

Applicability

The Compact applies to the children of:

- Active duty members of the uniformed services, including members of the National Guard and Reserve on active duty orders;
- Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and
- Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.

The Compact does not apply to children of:

- Inactive members of the national guard and military reserves;
- Members of the uniformed services now retired not covered above;
- Veterans of the uniformed services not covered above; and
- Other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

Enrollment

Educational Records - the Compact provides that schools must share records in a timely manner in order to expedite the proper enrollment and placement of students. If the sending school cannot provide the parent a copy of the official record, an unofficial copy will be provided that may be hand carried to the school in lieu of the official record. This unofficial record can then be used for preliminary placement while the school sends for the official record. Once requested, the sending school has 10 days to provide the official record to the receiving school.

- Immunizations - the Compact provides for specific timelines, in this case 30 days from the date of enrollment, for students to obtain required immunizations in the receiving state.
- Age of Enrollment/Course Continuation - the Compact requires, absent a new enrollment in Kindergarten, that a student shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level from the sending state. For example, if a student is enrolled and attends Kindergarten at the age of 5 in State A and transfers to State B, the student would be allowed to continue in Kindergarten despite State B's entrance age of 6 years. Further, the compact allows for such continuity of enrollment when a student has completed Kindergarten and is ready for enrollment in First Grade. For example, if a student has completed Kindergarten in State A and transfers to State B, the student would be allowed to enter First Grade despite State B's entrance age of 6 or 7 years.

Eligibility

- Power of Attorney - special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

- Tuition - a local education agency shall be prohibited from charging local tuition to a military child placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
- Non-custodial parents - a military child, placed in the care of a non-custodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the school in which he/she was enrolled while residing with the custodial parent.
- Extracurricular activities - state and local education agencies shall facilitate the opportunity for military children's inclusion in extracurricular activities to the extent they are otherwise qualified.

Placement

- Course placement / Educational Program placement - when the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).
- Special education services - 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide comparable services to a student with disabilities based on his/her current Individualized Education Program (IEP); and 2) In compliance with the requirements of Section 504 of the Rehabilitation Act and with Title II of the Americans with Disabilities Act, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.
- Placement flexibility - local education agency administrative officials shall have flexibility in waiving course/program prerequisites, or other preconditions for placement in courses/programs offered under the jurisdiction of the local education agency.
- Absence as related to deployment activities - a student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian prior to leave or deployment of the parent or guardian.

Graduation

- Waiver requirements - local education agency administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency 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 local education agency shall provide an alternative means of acquiring required coursework so that graduation may occur on-time.

- Exit exams - states shall accept: 1) exit or end-of-course exams required for graduation from the sending state; 2) national norm-referenced achievement tests or 3) alternative testing, in lieu of testing requirements for graduation in the receiving state. In the event the receiving state cannot in good faith accommodate the above alternatives, it shall use best efforts, while working with the sending state, to assure that the student receives a diploma from the sending local education agency, assuming the student meets all graduation requirements of the latter agency. Within 12 months of the effective date of this Compact, the Interstate Commission shall adopt a rule addressing the acceptance of exit exams.
- Transfers during Senior year – Should a military student transferring in his or her Senior year be ineligible to graduate from the receiving local education agency after all alternatives have been considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this Compact, the member state shall use best efforts to facilitate the on-time graduation of the student.

State Coordination

- State Council – each state will be required to develop a State Council to provide for the coordination among its agencies of government, local education agencies and military installations concerning the state's participation in, and compliance with, this Compact. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of the school district with a high concentration of military children, representative from a military installation, one representative from the legislative, and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate.
- Military Family Education Liaison - the State Council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this Compact.

National Coordination

- Interstate Commission – the governing body of the Compact composed of representatives from each member state as well as various ex-officio members representing impacted stakeholder groups, the Interstate Commission will provide general oversight of the agreement, creates and enforces rules governing the Compact's operation and promotes training and compliance with the Compact's requirements. Each state will be allowed one vote on Compact matters and the Commission will maintain a variety of policy and operations committees. Rather than states operating under an interstate agreement without any national coordination, the Interstate Commission will provide the venue for solving interstate issues and disputes.
- Rulemaking – the Interstate Commission, through its member states, will draft and enforce rules for the operation of the Compact. While the interstate compact mechanism provides the skeletal structure of the agreement, the rules are the muscles or actuators of the contract. The Compact is basic in its scope and intent, therefore compelling the rules and rulemaking process to be dynamic in its ability to respond to changing issues without rewriting the Compact at every turn.

- Enforcement — the Interstate Commission will have the ability to enforce the provision of the Compact and its rules on states and school districts. Without enforcement and compliance power, the Compact becomes a toothless tiger — a set of good ideas under which no one feels compelled to abide. With enforcement capacity, the Compact can force states and districts to comply for the good of military children. Of course, such action could only be undertaken by the Commission itself, i.e. the state members.

TESTIMONY ATTACHMENT 3

TESTIMONY ON HB 1248
HOUSE EDUCATION COMMITTEE
February 2, 2011
Mark Vollmer, Principal
Minot High School – Magic City Campus
701-857-4500

Madam Chairman and Members of the Committee:

My name is MARK VOLLMER and I am Principal of Minot High School - Magic City Campus. I have served as an administrator at Magic City Campus for nine years. In my tenure, I have worked with over 1,300 military dependents and their families. I would like to take a few minutes today to explain our process for transitioning students to and from Minot High School.

As educators, we recognize the difficult nature of student transition. Movement to a new community can be a challenge for many families. Our transition protocols have been developed to promote positive interaction within the school community. Our goal is to encourage a seamless transition for all students. Our procedures are designed to ensure this happens.

One potential derailer for a student in transition is curriculum. As an NCA-AdvancED school district, we monitor our curriculum on a regular basis to ensure course offerings meet the most stringent requirements. We often evaluate our curriculum to ensure we are paralleled with DoDDS (Department of Defense Dependent Schools) curriculum. Bi-annual parent/student meetings are hosted at the

Minot Air Force Base to discuss transition issues. Students at Minot High School also participate in student focus groups. The results of these focus groups have helped formulate our transition program – a program that we feel is very successful.

When students arrive at Magic City Campus, we work with sending schools to ensure they are placed in the appropriate level or curriculum. This is done by reviewing data from the sending school, the use of online curriculum descriptions, email, fax & phone, as well as providing additional assessments as needed. Our goal is to ensure the student is placed in a curriculum that is parallel to his/her experience in the sending school. This type of data driven decision-making is beneficial for the student, and promotes student success.

Article V: Section 1 of HB 1248 states, the receiving school district . . . “will honor placement of the student in educational courses based on the student’s enrollment in the sending school or educational assessments conducted at the school in the sending state.” This language causes concern. While initial review of this language seems to promote common sense, it should be noted that curriculum could vary from school to school. For example, a student in Advanced Algebra in the sending state may not be prepared for Advanced Algebra at Minot High School. In this case, the student would be assessed and placed in the appropriate math level. Our current evaluation system promotes accurate placement in the curriculum. Such

language could potentially tie the hands of school officials and may hamper the student's academic progress.

We strongly believe that curricular cohesiveness is only a part of the transition process. We work diligently with parents and families to ensure the transition to Minot High School is a socially positive experience. Each year, our Operation Orientation team welcomes new students at Minot High School – Magic City Campus. This group of dedicated student volunteers welcomes new students, provide tours of the campus, make sure no new student eats lunch alone during the first week of school, and hosts a new student pizza party.

Military dependent students are encouraged to participate in high school activities. In many cases, our military dependent children are aware of the upcoming transfer to Minot, and work with coaches and advisors before their arrival. Many of our coaches assist transitioning students with workout, strength training and conditioning programs. Much of this communication is done through email and other forms of technology. Students who plan on participating in our AP curriculum are mailed copies of the summer readings to ensure they are ready for class when they arrive at Minot Air Force Base. When a student notifies the counseling office that he/she plans on transferring to another school, the counselor works with students, parents and the arriving school to ensure the current student schedule meets

graduation requirements, as well as aligning with their curriculum for a seamless transition.

Our transition process is ongoing. We monitor student progress, evaluate the needs of transitioning military dependent students, and work with families to ensure the academic, social and emotional needs of each student is met. Our mission, for all students at Minot Public Schools, is to “empower all learners to succeed in a changing world.” Our transition process is a vital component of our mission.

While I cannot speak for all schools that have the privilege of working with military dependent children, I am proud to say that at Minot Public Schools, we strive to place the needs of our students first. While I recognize the intent of such legislation, I feel that we are meeting the needs of our military dependent families under our current model of operation. Furthermore, I am concerned that legislation requiring an overseeing state commission may actually hamper the transition processes that are currently in place.

I thank you for your time and consideration, and will gladly stand for any questions you may have.

Air Force Sergeants Association
Grand Forks Chapter 964
Grand Forks AFB, ND 58205

JAN 10 2011

Dear Governor Dalrymple,

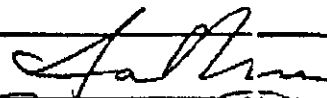
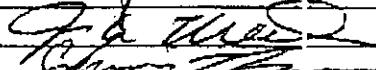
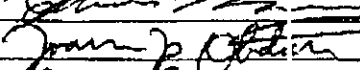
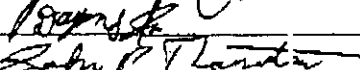

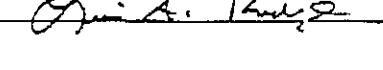


Sir, we write to you on behalf of the Air Force Sergeants Association, Chapter 964 at Grand Forks AFB, North Dakota. We are asking for your support in signing into law, the Interstate Compact on Educational Opportunities for Military Children in North Dakota.

We serve with thousands of other military professionals in North Dakota and all we want is for our children to have the same educational opportunities afforded to other children of non-military backgrounds. Failure to enact this bill will prolong a quality-of-life concern that I, along with other military members have, which impacts our readiness. Support of this legislation will allow states to work together to achieve cohesive educational goals, and assure military students are well prepared for success as they start college and their careers. It is imperative that we convey a message to all military parents in North Dakota that their children deserve to be guaranteed the same educational opportunities as any other American child. This bill assures your commitment to this pledge.

Many military children are faced with difficult situations, such as transferring into a new school where they are required to repeat courses already taken in another state or being prohibited from taking advance placement courses. They are also prohibited from serving as class valedictorian because they transferred into a new school. Another example is being prohibited from joining sports teams because the season already started, despite having participated at a previous school in the same season. These are some of the examples military children have faced and will continue to go through until this Interstate Compact is signed into law.

We thank you in advance for your support of this Interstate Compact in North Dakota so that our children, along with thousands of others are entitled to the same educational opportunities as Non-military children. The signatures below show our united support for this compact.

Sincerely,
GFAFB, Chapter 964

Printed Name/Rank	Squadron	Signature
MSgt Aaron R. Mulder	319 LRS	
MSgt Jason A. Reiter	319 FSS	
AK Muelz Edwin	319 LRS	
AIC JOANN P OLEMAN	319 LRS	
MC Dalong Ju	319 LRS	
SrA JOHN P. Thornton	319 LRS	
SrA Eric J. Hurtado	319 CONF	
BSG (Ret) Luis A. Rodriguez	319 CS	

CMSGT	DAVID E. CARLSON	319 ARW	DLG
TSgt	Thomas A. Wheeler	319 LES	Thomas Wheeler
MSGT	David L. Chaney	319 CES	David Chaney
TSgt	Angela Gorman	319 FSS	Angela Gorman
MSGT	Norman Becker	319 CES	Norman Becker
TSgt	Kelly E. Rodriguez	319 CS	Kelly Rodriguez
AIC	Steven Bridges II	319 LES	Steven Bridges II
MSGT	Ambera Morris Long	319 FSS	Ambera Morris Long

SUBMITTED TESTIMONY ATTACHMENT 4

Testimony on HB1248

By

Dr. M. Douglas Johnson, Executive Director—NDCEL

Madame Chair Kelsch and members of the House Education Committee, for the record my name is Doug Johnson and I am the executive director of the ND Council of Educational Leaders which represents North Dakota's school leaders. I am here to testify in opposition to **HB1248**.

I must first say that the intent of this legislation is praise-worthy. Further, the bill sponsors should be commended for their effort to help address of the needs the children of military families who often experience significant disruption to their education due to the multiple transfers occurring during the course of their K-12 education. However, I do have some major concerns with this bill should it be passed as it is currently written as this bill impacts how our state regulates local school districts in the handling of military children's educational records, enrollment, placement and attendance, eligibility for enrollment, and graduation. In addition, it would require state coordination for compliance through the development of a State Council for North Dakota.

There are several reasons why the NDCEL does not support **HB1248**. First, I have visited with several principals and superintendents who are directly deal with the students that would be benefit from this bill being adopted – those students who are transferred to their schools in the middle of the school year due to a military transfer. These educational leaders all responded that while they support the intent of **HB1248** they are already addressing most if not all of issues that this bill considers – the collecting and sharing of information, enrollment, placement, and graduation. None of those with whom I've visited see a need to establish another layer of bureaucracy to address an issue that is truly a non issue in our state.

Second, **HB1248** requires the establishment of a State Council which includes the Superintendent of Instruction, a superintendent from a school district with a high concentration of military children, a representative from a military installation, one representative from each legislative and executive branches of government, and other offices and stakeholders the State Council would deem appropriate. This council would appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of the compact. In addition, there would be a "compact commissioner" appointed by the governor who would be responsible for the administration and management of the compact. In essence, this bill establishes a State Council to address a problem which is not a problem in our state. Further,

Third, I am surprised that there is not a fiscal note for this bill as there certainly be a cost for the operation of the State Council as described in this bill. There would be the cost of convening of the State Council which at the very minimum would require travel expenses for at least nine members (assuming a parent from each affected base would be a member of the Council) meeting each year. The bill also requires the appointing or designating a military family education liaison to assist families and the state in implementation of the compact. One must assume that this individual will not donate their services, will require office space and support, and have some significant travel expenses the carrying out of their assigned duties. With two major air bases in our state the cost of **HB1248** could easily be \$75,000 for each year of the biennium.

A fourth and perhaps bigger concern I have with **HB1248** is that it would have a major impact on the state legislature's authority over North Dakota Century Code. The military compact agreement our state would sign, should this bill be passed, overrides all state code which conflicts with the language of the bill. Further, the Interstate Commission on Educational Opportunity for Military Children compact, which the state would be required to join, is given full power

to enforce compliance with the compact provisions, the rules and bylaws promulgated by the Commission as well as all necessary and proper means to enforce these rules and is not limited to use of judicial process. In addition, once the state enters into this compact it must give one year's prior notice of the state's intent to withdraw and must have the request to withdraw acted upon by their state legislators. With a state legislature which only meets every other year this could easily take three years should the state decide to withdraw from the Interstate Commission Compact. During that time our state would be 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" from the Commission.

Finally, the NDCEL supports the concept of this bill but believes that it would be much more prudent of the state have **HB1248** be referred to the Legislative Management as an interim study during the next biennium. This would be helpful to determine of the major fiscal impact and possible implications of joining the Interstate Commission on Educational Opportunity for Military Children compact will have on our state

Madame Chair Kelsch and members of the House Education Committee, I recommend that **HB1248** be referred to the Legislative Council as a interim study to further study the impacts **HB1248** will have on our state.

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; and to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and

8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.
11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:

- a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
- a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
- a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
 - b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.

3. This compact does not apply to the children of:
- a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors,

international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
- 3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

- 1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent

of public instruction, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly, one representative of the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the

bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.

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

10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection creates a private right of action against the commission or any member state.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;

9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;

- d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3. a. The executive committee has the authority and duties set forth in the bylaws, including:
- (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
- b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with

applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1.
 - a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact.

6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to a state may not exceed five thousand dollars multiplied by the number of years that the state has been a member of the compact.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the

compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.

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

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states'

laws conflicting with this compact are superseded to the extent of the conflict.

2.
 - a. All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
 - b. All agreements between the commission and the member states are binding in accordance with their terms.
 - c. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;

3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

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

Renumber accordingly



THE MILITARY COALITION

201 North Washington Street
Alexandria, Virginia 22314
(703) 838-8113

February 23, 2011

Dear State Legislator:

The Military Coalition (TMC), a consortium of nationally prominent military and veteran organizations, representing more than 5.5 million members plus their families and survivors, supports the Department of Defense (DoD) State Liaison Office's efforts in encouraging states to pass legislation to minimize school disruption for military children during transition and deployment.

The Military Coalition is pleased that your state is considering adopting the *Interstate Compact on Educational Opportunity for Military Children*. This important legislation allows for the uniform treatment of military children transferring between school districts and states. It recognizes that states, no matter how supportive they are of military children, can only control what happens within their individual borders. By uniting with other member states, each state can ensure that military children have the educational opportunities they deserve, even when they move to another state.

Developed by the Council of State Governments' National Center for Interstate Compacts, the Department of Defense, national associations, federal and state officials, departments of education, school administrators, and military families, the compact is designed to alleviate many of the challenges military children face when moving.

State support for service members and their families is crucial to the well-being of military families. By adopting this legislation, you are supporting both current and future military families within your state. Thank you for your support of our service members and their families.

Sincerely,

The Military Coalition
(Signatures enclosed)

#2 HB 1248

Michael M. D...
Air Force Association

Paul ...
Air Force Sergeants Association (AFSA)

Patricia K. Thompson
Air Force Women Officers
Associated

James B. King
AMVETS

Robert ...
Army Aviation Assn. of America

George K. Anderson
Assn. of Military Surgeons
of the United States

William B. Lopez
Assn. of the US Army

William ...
Association of the United States Navy

Am Sam
Commissioned Officers Assn. of
the US Public Health Service, Inc

Edward B. Shiff
CWO & WO Assn. US Coast Guard

John ...
Fleet Reserve Assn.

Martha M. Liddams
Gold Star Wives of America, Inc.

...
Iraq & Afghanistan Veterans
of America

...
Jewish War Veterans of the USA

Michael B...
Marine Corps League

...
Marine Corps Reserve Association

Mark Ryan
Military Officers Assn. of America

...
Military Order of the Purple Heart

...
National Guard Assn. of the US

...
National Military Family Assn.

...
Non Commissioned Officers Assn.
of the United States of America

...
Reserve Enlisted Assn. of the US

...
Reserve Officers Assn

...
Society of Medical Consultants
to the Armed Forces

...
The Retired Enlisted Assn.

...
USCG Chief Petty Officers Assn.

...
US Army Warrant Officers Assn.

...
Veterans of Foreign Wars of the US

At Representative Koppelman's request, I spoke with Rick Masters, Special Counsel for Interstate Compacts, CSG, (502)262-5881 rmasters@csq.org. The purpose of the conversation was to review some of the issues that had been problematic when Representative Koppelman tried to pass the compact in 2009.

(In 2008 Representative Koppelman had asked that we meet with the various education groups to get their input. Their concerns were addressed in a memo we prepared for Representative Koppelman. In September ~~2009~~²⁰¹⁰, he requested and we provided a copy of that 2008 memo to him.)

Rick Masters was exceedingly concerned with having every state pass the compact. He indicated that ND could reword whatever provisions gave it concern.

Rick Masters and I also discussed one of the serious legal concerns presented to Representative Koppelman in the 2008 memo - i.e. In this state, not only do we have military dependents who transfer between districts and transfer in from out-of-state, we also have native American students transferring and children of migrant workers. Rick argues that because the parents of the military children have sworn to protect and defend this country, there is a rational basis for arguing that they should and must be treated differently than other similarly situated children.

He did not address the other transferees -- i.e. native American children, migrant children, children of civilian transferees, and children of police officers (who I believe also swear to protect and defend . . .) except to say that ND could make whatever arrangements it wish for the children of these transferees.

Representative Koppelman and I met September 8, 2010 and discussed my conversation with Rick Masters. We also reviewed 2009 HB 1309, looked at wording changes that other states had made, and discussed changes that we could make to address the 2009 concerns.

Those changes included the following:

1. Under Article V - Placement and Attendance (Pages 5-6) Clarify that a school district doesn't have to create a program for a military student transferring in, unless that program is required by federal law. E.g. If a military student was in a gifted and talented program, a ND school district doesn't have to create a gifted and talented program. However, if the student was special ed or ELL, the school district would have to provide the services in accordance with federal law.
2. Under Article X - Powers and Duties of the Commission (Pages 11-12) Follow Utah's example and provide that the Commission may "monitor" compliance rather than "enforce" it and remove the directive that the Commission may use "all necessary and proper means, including but not limited to the use of judicial process."
3. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Pages 16-18) Follow Utah's example and provide that "each member state shall enforce the compact" rather than stating that the "executive, legislative, and judicial branches of state government" shall enforce the compact.
4. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Page 17) Follow Utah's example and provide that ND's liability in the case of a suspension or termination is limited to \$5000 x the number of years it was in the compact.

#3 HB 1248

5. Under Article XIII - Oversight, Enforcement, and Dispute Resolution (Page 18) Follow Utah's example and remove Page 18, lines 8 -20, regarding the initiation of legal action against a member state by the commission.

6. Under Article XIV - Financing of the Commission (Pages 18-19) Follow Utah's example and limit the amount of the annual state assessment to \$5000 x the number of years it was in the compact. (By rule, the Commission has determined that each state is to be charged \$1 for each military child in the state. Rick thought this was about \$3500 for ND.) Compact is not clear on how elaborate the Commission's operations and activities might be.

7. Under Article XVI - Withdrawal and Dissolution (Pages 19-20) Follow Utah's example and provide that withdrawal from the compact requires a statutory repeal but remove the language providing that it will take a year+ to extricate ourselves from the compact.

8. Under Article XVI - Withdrawal and Dissolution (Page 20) Follow Utah's example and provide that the state's liability upon withdrawal is limited to \$5000 x the number of years it was in the compact.

9. Because the Compact literally supersedes state laws, Representative Koppelman wanted to ensure that there would be no confusion in applying the compact to military students. (I suggested that it would be preferable to mention the compact in statute, thereby saving people from having to remember that it exists and might provide different direction.) So, with his permission, we added several amendments to existing state laws:

a. Amendment to 15.1-06-01 to clarify that the current age requirements for Kindergarten and grade 1 could be affected by the compact.

b. Amendment to 15.1-21-02.1 to clarify that the compact allows for high school diplomas to be issued by a sending district if the student under certain circumstances can't meet the graduation requirements of the receiving district.

c. Amendment to 15.1-29-13 to clarify that the compact prohibits the charging of tuition in cases where students are not attending school in their districts of residence.

10. Representative Koppelman and I did not discuss this, but it appears that the creation of the Commission should be in the bill - and people can then focus on its membership -- who appoints -- should there be term limits -- compensation for expenses - per diems, etc.

(This was done - Page 20.)

#3 HB 1248

- Some of the 18 organizations and experts involved in the development of the Interstate Compact on Educational Opportunity for Military Children
 - National Association of Elementary School Principals
 - National Military Family Association
 - Military Child Education Coalition
 - National School Boards Association
 - National PTA
 - National Association of State Boards of Education
 - Military Impacted Schools Association
 - Education Commission of the States
 - The Council of State Governments
 - The National Center for Interstate Compacts
 - The United States Department of Defense
- The purpose of the Compact is to help make transitions smoother for military children, who require frequent relocations between states due to their parent's service to our nation. The Compact's *scope is limited* only to transitional procedures relative to military children's movement between states (transcripts, immunizations, eligibility, placement, on-time graduations, duplicative coursework). It does not impact general education policy or curriculum, and all of the 35 current member-states have found no significant conflict with their state education codes.
- There were questions about the rulemaking process. It is one that will operate – though in a multi-state setting – just as any other state agency with rulemaking authority. Most importantly, the rules must be constructed within the limited parameters (the "fence posts", if you will) of the Compact provisions themselves. The rules must be approved by the Interstate Compact Commission, on which North Dakota would have a full vote and say. Any person may file a petition for judicial review of a rule, and the legislatures of a majority of member states may reject any rule. Furthermore, a change in any substantive nature of the Compact's provisions must have the approval of all the member-state legislatures to take effect. Finally, a state may withdraw from the Compact at any time, by vote of the legislature, and in ND's case, that withdrawal would be immediate.
- Ms ____ of NDSBA indicated a concern about individual school districts being liable for lawsuit. According to the nation's foremost expert on Interstate Compacts, and principal counsel in this Compact's language development, there is no "individual right of action" in the Compact that can be brought against an individual school district. And, since the agreement is between states and not between individual school districts, school districts are not liable for legal action of any kind directed from the Interstate Compact Commission.
- Because the challenges for military children's school transition – considered since 2004 as one of the Defense Department's top concerns – multi-state in nature, involving at least two sovereign states, the only Constitutionally-approved methods for solutions to such challenges is Congressional intervention OR an Interstate Compact such as this one.

#4 HB 1248

- Question raised about costs: The Interstate Compact Commission established the per-state share of operating the Interstate Compact Commission (including education, technical assistance and administration of the Compact) at \$1.00 per active-duty military child. This puts North Dakota's share currently at \$2,928. (Since the Compact also benefits the children of North Dakota's Guard and Reserve, the total potential benefit is actually to nearly 6,000 North Dakota children.) Some states have included dollars to cover the cost of 2-3 meetings per year of their Compact "State Council", which would meet to discuss the Compact's implementation in the state and to make recommendations to the State's Commissioner to carry forward to the Interstate Commissioner. Many states use telephonic means to conduct such meetings, making such costs negligible. All State Council members serve in other capacities as well, and are not compensated for their service on the Council.
- There is no expectation of "new hires" to implement the Compact. Only one state – Virginia, which has nearly 80,000 active duty military children – has appropriated money for a full time Military Family Education Liaison. Washington State (38,000 military children) appropriated .25 FTE. The state's Commissioner (representative to the administrative body, the Interstate Compact Commission) is usually a senior official, but in no case is compensated separately for their service.
- Some states assert that having a set of uniform guidelines to implement the transition process with military students as they come into the state will actually SAVE them money, providing greater efficiency where individual time and energy had previously been exerted in ad hoc fashion.
- State School Boards Associations in most states have been supportive or neutral relative to the Compact's passage. Montana's state school board association endorsed the Compact in recent hearings there. The MTSBA president testified that he appreciated that we were making an effort to work with the states, rather than work through Federal mandates, and the compact allowed the state that flexibility to avoid that and streamline some processes between state borders. SBA's in Colorado, Virginia, North Carolina, Illinois, Pennsylvania, Washington, and New Jersey all had questions about specifics, but all were addressed satisfactorily, and those states are all in the Compact or are actively considering passage (PA).
- Committee asked as to what states are currently in the Compact: The Compact was adopted by 11 states in 2008 (Kansas, Kentucky, Missouri, Delaware, North Carolina, Arizona, Connecticut, Florida, Michigan, Colorado, Oklahoma). 14 additional states in 2009 (Alabama, Alaska, Hawaii, Indiana, Iowa, Maine, Maryland, Mississippi, Louisiana, Nevada, Ohio, Texas, Virginia, and Washington), and another 10 in 2010 (California, Illinois, New Jersey, New Mexico, Rhode Island, South Carolina, South Dakota, Tennessee, Utah, and Wisconsin)

#4 HB 1248

EDUCATION

GFAFB school liaison eases transitions for new students

Because of technical difficulties, this story wasn't published in its entirety in Wednesday's Herald. Here is the full version.

By Lisa Gulya
Herald Staff Writer

As Grand Forks Air Force Base prepares for an influx of new airmen this spring, the base's school liaison is working to assure their children transfer smoothly into area schools.

The base expects 150 to 170 school-aged children to arrive between February and June or July, School Liaison Officer Kelly Painter said, accompanying family members involved in the base's new remotely piloted aircraft mission.

These students will join more than 600 military-connected youth studying in area public, private and home schools. Some incoming families already have relocated a time or two — military children move an average of six to nine times during their K-12 years — so not all parents ask for help. But since October, Painter has been available to explain families' options for schooling on and around the base.

"With six to nine moves, it's a lot of transitions," said Painter, a civilian who has worked on base for 18 years, previously as a child development trainer. "It's a lot of starting over and a lot of change that military kids have to go through, getting used to the new school or new busing or new friends or new curriculum."

"So, it's a lot of change, a lot of stress that can be caused by that. With the school lia-

prepare the families before they get here."

School liaisons are a new addition to Air Force bases, though they have been available in other branches of the military. In total, there are about 1.5 million school-age children connected to the country's military.

Painter answers questions for parents of older students about graduation requirements, credit transfers, grading scales, scholarships and state entrance or exit exams. Parents of younger students typically ask about registration and busing, Painter said.

"It's just constant that I get calls, as far as families that are moving in here," she said.

Painter's job would be a bit easier if North Dakota joined the Interstate Compact on Educational Opportunity for Military Children this legislative session, as proposed in House Bill 1248. Joining the Interstate Compact would mean policies of the state sending a child to North Dakota, such as graduation requirements, Advanced Placement and age of enrollment, would continue to apply to military children while they attend school here.

In addition to complying with different standards at different schools, the children of military members can face stress related to a parent's service that teachers or other adults don't always recognize.

"It could be that they're moving here with their mom, and the dad's deployed," Painter said. "There are a lot of different situations going on. Especially if you're an older middle school or high school kid, it can be a rough

anybody here."

To help older students transition more smoothly, Painter is working with two Twining Middle School who serve on the Grand Forks Youth Commission to start a peer sponsorship program. The program would pair an incoming military-affiliated student with a local student who could share an insider's view of the schools and the community. The student program would be modeled after a similar program for military members, Painter said.

"They could connect with that youth to find out about, you know, where can they hang out, what can they do when they come to Grand Forks, that kind of thing, before they get here, so it's not like, 'Oh, I'm going to Grand Forks, North Dakota,'" said Painter.

Even as she explained the stress and difficulties military children can face, Painter also emphasized the pride some feel from helping their families stay organized or living abroad when a parent is stationed overseas. Painter recalled a group of pre-school children whose parents had been stationed abroad discussing the different foods they had eaten and clothing and animals they had seen.

"It was just so amazing that 3- to 5-year-olds are talking about this," Painter said. "And I'm the adult, and I've lived in North Dakota all my life. I didn't have a lot to add to the 3- to 5-year-old conversation."

Gulya covers education. Reach her at (701) 780-1118; (800) 477-6572, ext. 118; or send e-mail to lgulya@gfherald.com.

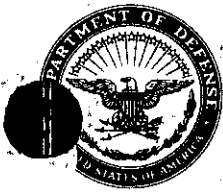
#5 HB1248

For the Record, my name is Karen Karls; I represent District 35 in Bismarck.

Last April I was invited to attend the Interservice Family Assistance Committee meeting here at the Capitol. This group meets quarterly around the state and involves military spouses and community leaders. This group has "10 Key Quality of Life Issues, Supporting Service Members & Families". Each meeting has a theme; at the particular meeting I attended the theme was "Focus on Kids". The one issue these military women urged support for that day was to:

4. "Minimize School Disruption for Military Children During Transition and Deployment. Military life creates challenges for children who attend 8 schools in 12 years plus endure the anxiety of parental separation during deployments. The desired outcome is that states participate in an interstate compact which establishes common guidelines for handling issues (class and course placement, records transfer, immunizations, graduation and extracurricular opportunities) that impact military children transitioning between schools." (www.USA4MilitaryFamilies.org)

#6 HB 1248



DEPARTMENT OF THE AIR FORCE

HEADQUARTERS 5TH BOMB WING (AFGSC)
MINOT AIR FORCE BASE NORTH DAKOTA

Written Testimony

House Bill 1248

Interstate Compact on Educational Opportunity for Military Children

Education Committee, North Dakota Senate

Monday, March 20, 2011

Ladies and Gentlemen of the Legislature, thank-you for the opportunity to testify in support of the full version of House Bill 1248, relating to entry into the Interstate Compact on Educational Opportunity for Military Children.

This testimony is presented on behalf of Colonel Doug Cox, Commander, 5th Bomb Wing, and Colonel Fred Stoss, Commander 91st Missile Wing, and the men, women and children of Minot Air Force Base.

The mission of Minot Air Force Base is to provide strategic deterrence and global strike capability for the nation. There are over 5,400 active duty Air Force members and an additional 6,000 dependents associated with base. The operations and activities of the two operational wings provide over half a billion dollars to the North Dakota economy, including more than 11 million dollars of impact aid funds to the Minot school system.

Military men and women change stations every several years. Those moves, along with lengthy deployments and high operational tempo at home station, place a significant burden on our children. Military Child Education Coalition studies show the average military child experiences 6-9 different school systems between grades K-12.

The challenges of frequent transition among schools of military children include:

- Inconsistent curriculum requirements
- Inconsistent grading systems
- Variation among special needs services
- Differences in Honors programs
- Disparity in grading systems
- Delayed graduation
- Negative impact to college application procedures
- Lost scholarship opportunities
- Unnecessary family stress

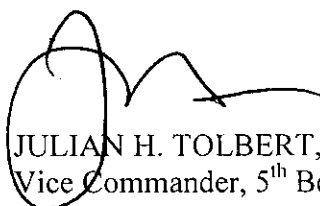
Often parents may lack the knowledge and skill to effectively advocate for their child in a new school system, and family separation can also limit parental involvement. From a national security perspective, military readiness can be degraded by the stresses of Airmen concerned over family moves and children's schooling.

#1 HB1248

We support the Interstate Compact on Educational Opportunity for Military Children because it addresses these challenges by allowing uniform treatment, at the state and local district level, of military children transferring between school districts and states. 35 states have joined the Compact, including most that the Airmen at Minot Air Force Base are likely to transfer from or to.

We recognize—and praise—the hard work and commitment of the Minot school board, superintendent, principals and teachers, to accommodate the needs of our military children. Minot's school district is genuinely committed to solid educational and extracurricular opportunities for all students, including military dependents. Still, there are issues that could be addressed by the Compact to provide greater consistency of treatment of military children moving in—and out—of the district. And we would like to see the same high standard of accomodation of our military children extended to districts across the state.

On behalf of the military families of North Dakota, I urge this great state to show its' commitment to our children by joining the Interstate Compact through passage of House Bill 1248 in its unammended form.



JULIAN H. TOLBERT, Colonel, USAF
Vice Commander, 5th Bomb Wing

#1. HB 1248

Talking Points
for North Dakota House Bill 1248
Interstate Compact on Educational Opportunity for Military Children

Col Sean Patterson

Lt Col Patterson is Deputy Commander, 319 Mission Support Group. He has been in active duty service since 1992. He is a career logistician, educator, and joint service qualified officer. His military assignment locations include California, Maryland, Texas, Oklahoma, Saudi Arabia, Florida, Hawaii, Japan, and North Dakota. He has deployed in support of Operational Iraqi Freedom/Enduring Freedom. He is a father of three children.

Testimony

Mr Chairman and members of this Committee, my name is Lt Col Sean Patterson, and on behalf of the Commander, 319 Air Base Wing, Grand Forks Air Force Base, I would like to thank you for the opportunity to submit testimony today on the Interstate Compact on Educational Opportunity for Military Children. I represent many members of the Grand Forks Air Force Base community whose lives and education are impacted by the inconsistent state standards highlighted by the nomadic nature of active duty service.

This May marks my 19th year on Active Duty status. On average I have moved every 2.1 years and lived in 7 different states (4 of which are Compact States California, Maryland, Texas, and Hawaii) and two countries. As many Airmen might tell you, I joined the Air Force to preserve democracy, see the world, and serve my country and its citizens. Certainly, I have seen the world and been a part of many communities, if only for a small number of years. I would like to provide a personal experience with you, occurring within the last three years, which might help illustrate exactly the challenges of serving with a family. In Jan 2008, I was reassigned from MacDill AFB, FL to Joint Base Hickam-Pearl Harbor, HI. I arrived in Hawaii Jan 29, 2009. Eight months later, I was reassigned to Yokota AB, Japan and reported by Oct 2, 2009. In the span of ten months, active duty service required me to move three times. My family was pulled in tow. Worry over education requirements created additional stress and burden to my wife and me in a period of tremendous upheaval and uncertainty. Consistency of educational systems, in this extreme or under other less extreme circumstances, not only plays a huge part in easing the transition of relocating and becoming an all-in member of local community. But ensures military children are not penalized for not growing up in a particular state educational system.

Educational consistency and standards are extremely important to ensure military children are not left behind or their parents engaged in struggles to fight for various subsets of issues in enrollment, eligibility, placement and graduation. I don't know how often you have moved, but I know you would all agree that moving is stressful. As I mentioned earlier, think about adding on top of all the stress, the requirement to negotiate and battle against inconsistent state standards. And after the dust settles and obstacles overcome, the military requires you to pack up and relocate where many face some of the same types of challenges all over again. Every child should have the same educational opportunity regardless of whether or not their parents choose to serve on active duty or choose a more sedentary profession.

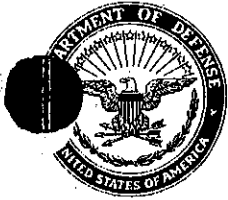
As the State House passed bill 1248, I am aware that the Compact language was removed. I am disappointed and concerned. Although from personal experience, I know that North Dakota cares and acknowledges its active duty military population, removing the compact language sends a very different message. It tells me that North Dakota is not all in. The Interstate Compact on Educational Opportunity for Military Children language needs to be added back in as it will benefit a large portion of active duty military children in the state of North Dakota.

Our Airmen live in the state and are totally infused into the local community, its economy, its recreational opportunities, and certainly its cultural offerings and heritage. In other words, I like to think our Airmen are all in, yet we still face barriers that impact how far and how much. You have the opportunity, by adding the compact language and voting for HB 1248; to address the inconsistency of educational opportunity in this state. You have an opportunity to ensure our Airmen are all in.

Again, Mr Chairman and committee, I thank you in advance for your time and energy and interest in investing in the educational future of the next generation of great Americans and future leaders of this nation.

Of course, I stand ready to answer any questions you may have.

#8 HB 1248



DEPARTMENT OF THE AIR FORCE
319TH FORCE SUPPORT SQUADRON (AMC)
GRAND FORKS AIR FORCE BASE, NORTH DAKOTA

MEMORANDUM FOR SENATOR FLAKOLL

FROM: Kelly Painter
School Liaison Officer Grand Forks AFB, ND

SUBJECT: Interstate Compact Testimony

I have been the School Liaison Officer at Grand Forks AFB, ND for the past 4 ½ months. In that time, I have had many calls from families who are moving to Grand Forks AFB due to the new mission that we acquired. Most families' first questions to me are, "How are the schools in your area?" or "Do the schools in your area work with military families who are new?" I am pleased to be able to tell them that the schools in my surrounding districts are supportive of military families. Even so, there are situations when military families find it necessary to advocate on behalf of their youth in order to explain/support transcripts from out of state or overseas schools. The interstate compact can be beneficial to youth in maintaining a smooth transition to their new school and ensuring that their earned educational achievements aren't overlooked.

There are over 2 million military connected youth from birth to age 21. 1.5 million of those youth are school aged (kindergarten through 12th grade). Over 80% of military connected youth are in public school systems in the United States. The average military connected youth moves 6-9 times in their school career. This compact can and will affect many youth for years to come.

North Dakota adopting the Interstate Compact will help families be able to cross off one of the items on their Permanent Change of Station (PCS) checklist. They will be able to feel comfortable in knowing that their child's education won't be a concern because North Dakota supports their youth. A mom or dad can go to their overseas assignment knowing that their child's education is taken care of. A family won't be split for months at a time due to the youth staying behind to complete requirements at their losing base before entering into the gaining base's school system. As Ralph Waldo Emerson stated "The secret of education lies in respecting the pupil." One way North Dakota schools can show this to military youth moving here is by adopting the Interstate Compact. By passing the Interstate Compact the state isn't giving up control of the educational process but is in fact enhancing it. We need to remember that the military connected youth "serve" just as much as their parents who wear the uniform. If we asked military connected youth about their experiences relocating to North Dakota schools, what would we hear?

KELLY L. PAINTER
School Liaison Officer

#9 HB1248

Mr. Chairman, and members of the committee, my name is Suzanne Larson. I am the Acting School Liaison Officer at Minot Air Force Base. I am presenting testimonies on behalf of two families who are in favor of this bill. The concerns they share are addressed in the Compact.

The first is from a Chief Master Sergeant who has a son in the Minot Public School system. He states:

"Our son had completed basic science requirements in Colorado. The course was accepted when he moved to Washington D.C., however it was not accepted in North Dakota. Their basic science requirement is "physical science". Our son had to go to summer school for one semester and finish the second semester during this school year."

The second is from the wife of a Technical Sergeant who has two sons, both have been in the Minot Public School System - one still is. She states:

"I am so relieved to hear that someone is doing something about this problem; I hope I have reached you in time. We first had a problem transferring our boys from a DoDDs school to Minot schools with our oldest son. He was just coming into Magic City at the end of his tenth grade year. When we met with his counselor she had his transcripts and set up a schedule for him for the next school year. We noticed that he had a history class in his schedule that he had done overseas but they told us he needed to take it here to graduate. When he got to his junior year the counselor then told us he would not have enough credits to graduate because he had repeated a class. The class he repeated was the history class that we were told in the beginning he needed to re-do. The school's response was basically "Oops, it was an accident." So my son had to work harder in order to meet the requirements to graduate on time.

10 HB 1248

We have also experienced problems with the school and their absence policy. My husband has deployed every year since our arrival here four years ago. The school will only allow so many absences before they start dropping their grades. If my son gets sick or has to miss school then he gets no time off to spend with his dad when he returns home. This year my son has been very sick and has already missed his "allowable" absences and then some, so when there was a death in the family a few weeks ago, my son didn't attend the funeral in fear of having his grades go down even farther. I am not sure if you are aware of the absence policy but once a child reaches the maximum "allowable" absences they will start taking percentages off of their grade for every absence over that. The child can then do a "credit buy back" which is spending two hours at the school for every one hour the child has missed. I think it's an absurd policy because most students have 6 to 7 classes a day, even if they missed one day over the allowed amount that's fourteen hours they would need to spend extra at the school just to get some of the credit back. Overseas, and at other schools he has been to, as long as his work was caught up and turned in then there were no other consequences and certainly not his grades that he earned. My son, as are we, is growing more and more frustrated.

#10 HB 1248

Testimony

for North Dakota House Bill 1248

Interstate Compact on Educational Opportunity for Military Children

^{Mr.}
Madam Chairman, and members of the committee, my name is Tracie Lindquist, I am from Minot AFB. I am in favor of this bill because military children face a real dilemma when moving from state to state. I have three children ages 17, 15 and 13 that attend schools within North Dakota. Two of my children have been affected by a lack of continuity in standards from state to state.

My oldest child was in a gifted program that is mandated in New Jersey but upon transfer to ND we were told that ND did not mandate gifted programming. His teacher at his sending school had written a letter that was in his file, stating he would be bored and unchallenged in a regular 6th grade classroom and recommended he be placed in the next higher grade. The letter and his test grades did not seem to matter; Nicholas was placed in a regular 6th grade classroom without the ability to perform higher level course work, unless we chose to place him in classes through the state's correspondence program. Nicholas became bored and angry about having to do "repeat" work and his grades fell. His testing scores were still extremely high, but his academic performance suffered because he felt it pointless to show he could do work he had already proven he could do. Nicholas will graduate this year with honors, but he did not receive course work to strengthen his abilities until high school when Advanced Placement classes are available. As a result he has not been challenged to reach his full potential academically, and may not receive the same higher educational opportunities as he would have possibly had in a state with mandated gifted programming for children K-12.

My youngest child, who has a central auditory processing disorder received services, such as title I in New Jersey, ensuring he had help with understanding his course work. Upon moving to North Dakota he was retested by an audiologist with the same findings, but was denied services because his test scores for special education services were too high; we were then told that North Dakota did not recognize Central Auditory Processing disorder. His grades dropped to well below average as he struggled with his course work to the point that we considered holding him back. Knowing he would be going into a much larger school setting after middle school and the high school he would have attended having more than 1,000 students between 9th and 10th grade; we pulled Zack from the district he attended and moved him to a smaller district hoping with smaller class sizes he would get more one on one help. Zachary, who loves music, dropped out of the 8th grade band this fall to give himself extra study time to understand his course work. He then went to the school's resource room to ask for help. In January of this year we had a meeting with the Special Education department and Zachary was finally put on a 504 plan. Zachary received his very first "B" on an English test last week; this would not have happened without the help he is currently receiving. Zachary wants to go to college and become an architect; we worry that if he does not receive services his chances of going to college will be greatly diminished as his academic scores will lessen his chances of being accepted.

#11 HB1248

In closing, I would like to thank you all for taking the time to listen to my children's stories. I am from North Dakota and I know that we pride ourselves on supporting the military; I hope, for the sake of the children who give up so much already, that you will pass this bill and help make their transitions both into and out of our state's schools successful.

#11 HB1248



Air Force Sergeants Association
Chapter 959
Magic City Chapter

21 March 2011

North Dakota Senate Education Committee

Re: House Bill 1248 with Amendments

Dear Mr. Chairman and Honorable Committee Members,

On behalf of the 475 members of the Magic City chapter and 120,000 International members of the Air Force Sergeants Association, we ask that you sign into state law the Interstate Compact on Educational Opportunity for Military Children. The 2009 National Defense Authorization Act, section 539, communicates the sense of the United States Congress and their support for this Act. Military parents, like all parents, consider the education of their children a top priority. We are also ever mindful that legislative action concerning the education of military children – a quality-of-life concern for military members – can have a direct impact on military readiness.

This Association represents the *Total Air Force* enlisted corps – active duty, retired, and veteran members of the Air Force Active Duty, Air National Guard, and the Air Force Reserve Command and their families, and we want to ensure their voice is heard.

The Interstate Compact on Educational Opportunity for Military Children works to correct the inequalities that military children face, as they transfer from one school (system) to another due to deployments or permanent change of station moves by their service member parent. The bill addresses important issues that arise between the sending and receiving schools:

- Timely transferring of records
- Extra time for immunizations
- Appropriate course placement
- Waiving minimum age requirements if already enrolled
- Facilitating on-time graduation through alternative methods of education
- Allowing students to participate in extracurricular activities and sports teams

Schools are asked to exercise flexibility with military children and to understand their unique situations. With the average military student moving six to nine times during their school years (K-12), it is imperative that schools quickly and smoothly transition students into the school system, so that they can begin to settle into a familiar routine. A child education is a critical quality of life measure for our military members and directly impacts military recruitment, assignment satisfaction, retention, and readiness.

#12 HB1248

Service members believe their children are entitled to the same education opportunities as the average, non-military American child, and that they should not be placed at a disadvantage when desiring higher education or entering a highly competitive, well-educated workforce. Many military children are faced with difficult situations, such as:

- Transferring into a new school and being asked to repeat courses already taken in another state, because it's a requirement in the new state (such as State history)
- Being told they cannot be class valedictorian because they transferred in
- Not being able to enroll in advanced placement courses, even though they have a more than adequate grade point average
- Being told they cannot join sports teams because the season already started (even though they were currently playing that season at a their prior school)

By implementing the Compact, States can work together to achieve cohesive education goals and assure military students are well prepared for success after high school graduation. We encourage your strong support for those who serve this Nation and ask that you take necessary measures to pass this Act in your state and implement this important program.

Sincerely,



Michael O. Shelley
Vice President, AFSA chapter 959

6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the

compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.

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

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - (*) d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states'

ATTACHMENT

11.0204.02002
Title.

Prepared by the Legislative Council staff for
Representative Koppelman
March 21, 2011

*Amendments
on pages
14-15*

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

Page 1, line 1, after "A BILL" replace the remainder of the bill with "for an Act to create and enact chapter 15.1-04.1 of the North Dakota Century Code, relating to entry into the compact on educational opportunity for military children; and to amend and reenact sections 15.1-06-01 and 15.1-21-02.1 and subsection 1 of section 15.1-29-13 of the North Dakota Century Code, relating to the age of school admission, the issuance of high school diplomas, and the charging of tuition.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and

8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.
11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:

- a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
- a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
- a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
 - b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.

3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors.

international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.

2. a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
 3. a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
 5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent

of public instruction, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly, one representative of the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the

bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.

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

10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection creates a private right of action against the commission or any member state.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;

9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;

- d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3. a. The executive committee has the authority and duties set forth in the bylaws, including:
- (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
- b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with

applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.

4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1.
 - a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact.

6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the

compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.

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

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states'

laws conflicting with this compact are superseded to the extent of the conflict.

2.
 - a. All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
 - b. All agreements between the commission and the member states are binding in accordance with their terms.
 - c. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
 - a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.
4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;

3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;
 - c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

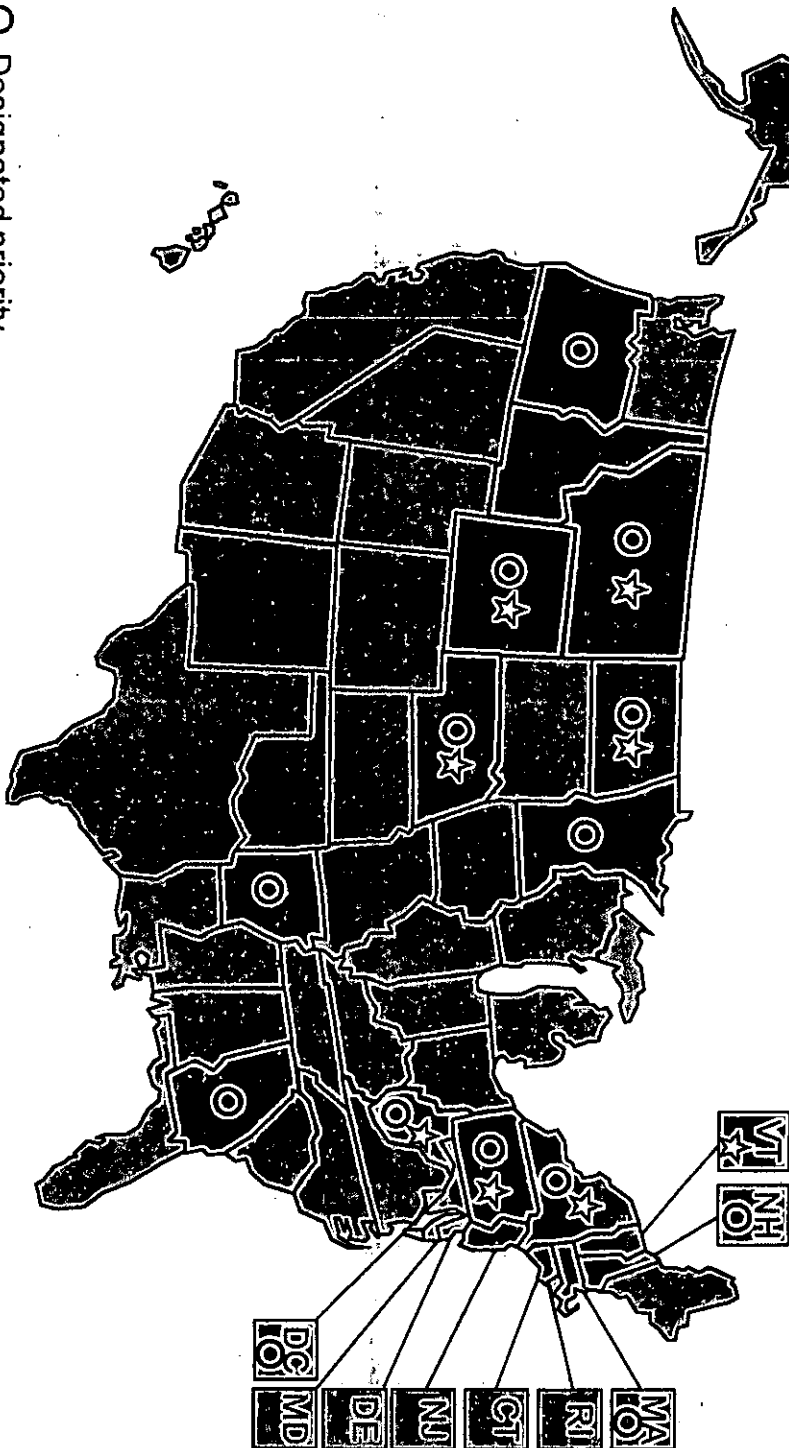
1.
 - a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall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

Renumber accordingly



Minimize School Disruption for Military Children during Transition and Deployment

- Designated priority
- ☆ Bill filed
- Approved the Interstate Compact
- Has not approved the Interstate Compact



the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.

2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1. a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a

default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.

4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.

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

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

SECTION 5.

Adjutant general - Provision of funding - Source.

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

SECTION 6. REPORT TO LEGISLATIVE MANAGEMENT. Before July 1, 2012, the adjutant general and the superintendent of public instruction, together with any other voting or nonvoting members of the state council whom they deem appropriate, shall provide a report to the legislative management regarding the state's participation in the compact on educational opportunity for military children."

Renumber accordingly

ATTACHMENT

11.0204.02008
Title.

Prepared by the Legislative Council staff for
Representative Karls
April 21, 2011

PROPOSED AMENDMENTS TO ENGROSSED HOUSE BILL NO. 1248

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

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

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

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

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

ARTICLE I. PURPOSE

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

1. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;

7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II. DEFINITIONS

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

1. "Active duty" means full-time duty status in the active uniformed services of the United States, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.
11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.

12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
- a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.
15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
- a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III. APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
- a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
 - b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and

- c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.
3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the commission. Upon receipt of the unofficial educational records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.
3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school calendar in the receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V. PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or title II plan, to provide the student with equal access to education. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or 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.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII. STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies.

school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX. INTERSTATE COMMISSION ON

EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.

- c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
- 5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the department of defense, the education commission of the states, the interstate agreement on the qualification of educational personnel, and other interstate compacts affecting the education of children of military members.
- 6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
- 7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.
- 8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
- 9. The commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;

- e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the 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 subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X. POWERS AND DUTIES OF THE COMMISSION

The commission may:

- 1. Provide for dispute resolution among member states;
- 2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
- 3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
- 4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
- 5. Establish and maintain offices within one or more of the member states;

6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI. ORGANIZATION AND OPERATION OF THE COMMISSION

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

- a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3. a. The executive committee has the authority and duties set forth in the bylaws, including:
- (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
- b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are immune from suit and liability, either personally or in their official capacity, for a claim for

damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of commission employment, duties, or responsibilities; provided, those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual's state, may not exceed the limits of liability set forth under the constitution and laws of that state for state officials, employees, and agents. The commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The commission shall defend the executive director and its employees and, subject to the approval of the attorney general or other appropriate legal counsel of the member state represented by a commission representative, shall defend a commission representative in any civil action seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of those individuals.

ARTICLE XII. RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national

conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.

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

ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

- a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
 - b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
 - c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission

to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.

5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV. FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.

- e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

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

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

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

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;
 - b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;

- e. One representative of the executive branch of government, appointed by the governor, and
- f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and

2. The following nonvoting members:

- a. The compact commissioner appointed under section 15.1-04.1-03; and
- b. The military family education liaison, appointed under section 15.1-04.1-04.

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

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

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

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

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

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

- 1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
- 2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
- 3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of

developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness.

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

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

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

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

1. Four units of English language arts from a sequence that includes literature, composition, and speech;
2. Three units of mathematics;
3. Three units of science, including:
 - a. One unit of physical science;
 - b. One unit of biology; and
 - c. (1) One unit of any other science; or
(2) Two one-half units of any other science;
4. Three units of social studies, including:
 - a. One unit of United States history;
 - b. (1) One-half unit of United States government and one-half unit of economics; or
(2) One unit of problems of democracy; and
 - c. One unit or two one-half units of any other social studies, which may include civics, civilization, geography and history, multicultural studies, North Dakota studies, psychology, sociology, and world history;
5.
 - a. One unit of physical education; or
 - b. One-half unit of physical education and one-half unit of health;
6. Three units of:
 - a. Foreign languages;
 - b. Native American languages;

- c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

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

SECTION 5.

Adjutant general - Provision of funding - Source.

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

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

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

Renumber accordingly

4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.

- c. Fine arts; or
 - d. Career and technical education courses; and
7. Any five additional units.

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

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

SECTION 5.

Adjutant general - Provision of funding - Source.

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

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

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

Renumber accordingly