

HOUSE BILL NO. 137 am(efd add S)

IN THE LEGISLATURE OF THE STATE OF ALASKA

TWENTY-SIXTH LEGISLATURE - FIRST SESSION

BY REPRESENTATIVES COGHILL, Dahlstrom, Harris, Ramras, Lynn, Foster, Thomas, Fairclough, Holmes, Gardner, Tuck, Kerttula, Guttenberg, Doogan, Kawasaki, Seaton, Millett

SENATORS Therriault, Dyson, Davis, Ellis, Paskvan, Wielechowski, Menard, Meyer, Stedman, Hoffman, Thomas, French, Wagoner, Bunde, Stevens

Amended: 4/14/09
Introduced: 2/16/09

A BILL

FOR AN ACT ENTITLED

1 "An Act relating to an interstate compact on educational opportunity for military
2 children; amending Rules 4 and 24, Alaska Rules of Civil Procedure; and providing for
3 an effective date."

4 **BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF ALASKA:**

5 * **Section 1.** AS 14 is amended by adding a new chapter to read:

6 **Chapter 34. Interstate Compact on Educational Opportunity for Military Children.**

7 **Sec. 14.34.010. Compact enacted.** The Interstate Compact on Educational
8 Opportunity for Military Children as contained in this section is enacted into law and
9 entered into on behalf of the state with all other states and jurisdictions legally joining
10 in it in a form substantially as follows:

11 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR
12 MILITARY CHILDREN
13 ARTICLE I
14 PURPOSE

1 member;

2 (3) "compact commissioner" means the voting representative of each
3 compacting state appointed under art. VIII of this compact;

4 (4) "deployment" means the period one month before the service
5 member's departure from the member's home station on military orders through six
6 months after return to the member's home station;

7 (5) "education records or educational records" means those official
8 records, files, and data directly related to a student and maintained by the school or local
9 education agency, including but not limited to records encompassing all the material kept
10 in the student's cumulative folder such as general identifying data, records of attendance
11 and of academic work completed, records of achievement and results of evaluative tests,
12 health data, disciplinary status, test protocols, and individualized education programs;

13 (6) "extracurricular activities"

14 (A) means a voluntary activity sponsored by the school or local
15 education agency or an organization sanctioned by the local education agency;

16 (B) include, but are not limited to, preparation for and
17 involvement in public performances, contests, athletic competitions,
18 demonstrations, displays, and club activities;

19 (7) "Interstate Commission on Educational Opportunity for Military
20 Children" means the commission that is created under art. IX of this compact, which is
21 generally referred to as Interstate Commission;

22 (8) "local education agency" means a public authority legally constituted
23 by the state as an administrative agency to provide control of and direction for
24 kindergarten through 12th grade public educational institutions;

25 (9) "member state" means a state that has enacted this compact;

26 (10) "military installation"

27 (A) means a base, camp, post, station, yard, center, homeport
28 facility for any ship, or other activity under the jurisdiction of the Department of
29 Defense, including any leased facility, which is located within any of the several
30 States, District of Columbia, the Commonwealth of Puerto Rico, the United
31 States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands

1 and any other United States Territory;

2 (B) does not include any facility used primarily for civil works,
3 rivers and harbors projects, or flood control projects;

4 (11) "non-member state" means a state that has not enacted this compact;

5 (12) "receiving state" means the state to which a child of a military
6 family is sent, brought, or caused to be sent or brought;

7 (13) "rule"

8 (A) means a written statement by the Interstate Commission
9 promulgated under art. XII of this compact that is of general applicability,
10 implements, interprets, or prescribes a policy or provision of the Compact, or an
11 organizational, procedural, or practice requirement of the Interstate Commission,
12 and has the force and effect of statutory law in a member state;

13 (B) includes the amendment, repeal, or suspension of an existing
14 rule;

15 (14) "sending state" means the state from which a child of a military
16 family is sent, brought, or caused to be sent or brought;

17 (15) "state" means a state of the United States, the District of Columbia,
18 the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American
19 Samoa, the Northern Marianas Islands, and any other United States Territory;

20 (16) "student" means the child of a military family for whom the local
21 education agency receives public funding and who is formally enrolled in kindergarten
22 through 12th grade;

23 (17) "transition"

24 (A) means the formal and physical process of transferring from
25 school to school;

26 (B) the period of time in which a student moves from one school
27 in the sending state to another school in the receiving state;

28 (18) "uniformed service" means the Army, Navy, Air Force, Marine
29 Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and
30 Atmospheric Administration, and Public Health Services;

31 (19) "veteran" means a person who served in the uniformed services

1 and who was discharged or released from the uniformed services under conditions
2 other than dishonorable.

3 ARTICLE III

4 APPLICABILITY

5 (a) Except as otherwise provided in sec. (b) of this article, this compact shall
6 apply to the children of

7 (1) active duty members of the uniformed services as defined in this
8 compact, including members of the National Guard and Reserve on active duty orders
9 under 10 U.S.C. 1209 and 1211;

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

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

15 (b) The provisions of this interstate compact shall only apply to local
16 education agencies as defined in this compact.

17 (c) The provisions of this compact shall not apply to the children of

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

19 (2) members of the uniformed services now retired, except as provided
20 in sec. (a) of this article;

21 (3) veterans of the uniformed services, except as provided in sec. (a) of
22 this article; and

23 (4) other United States Department of Defense personnel and other
24 federal agency civilian and contract employees not defined as active duty members of
25 the uniformed services.

26 ARTICLE IV

27 EDUCATIONAL RECORDS AND ENROLLMENT

28 (a) Unofficial hand-carried education records. In the event that official
29 education records cannot be released to the parents for the purpose of transfer, the
30 custodian of the records in the sending state shall prepare and furnish to the parent a
31 complete set of unofficial educational records containing uniform information as

1 determined by the Interstate Commission. Upon receipt of the unofficial education
2 records by a school in the receiving state, the school shall enroll and appropriately
3 place the student based on the information provided in the unofficial records pending
4 validation by the official records, as quickly as possible.

5 (b) Official education records and transcripts. Simultaneous with the
6 enrollment and conditional placement of the student, the school in the receiving state
7 shall request the student's official education record from the school in the sending
8 state. Upon receipt of this request, the school in the sending state will process and
9 furnish the official education records to the school in the receiving state within 10
10 days or within such time as is reasonably determined under the rules promulgated by
11 the Interstate Commission.

12 (c) Immunizations. Compacting states shall give 30 days from the date of
13 enrollment or within such time as is reasonable determined under the rules
14 promulgated by the Interstate Commission, for students to obtain one or more
15 immunizations required by the receiving state. For a series of immunizations, initial
16 vaccinations must be obtained within 30 days or within such time as is reasonably
17 determined under the rules promulgated by the Interstate Commission.

18 (d) Kindergarten and first grade entrance age. Students shall be allowed to
19 continue their enrollment at grade level in the receiving state commensurate with their
20 grade level, including kindergarten, from a local education agency in the sending state
21 at the time of transition, regardless of age. A student that has satisfactorily completed
22 the prerequisite grade level in the local education agency in the sending state shall be
23 eligible for enrollment in the next highest grade level in the receiving state, regardless
24 of age. A student transferring after the start of the school year in the receiving state
25 shall enter the school in the receiving state on their validated level from an accredited
26 school in the sending state.

27 ARTICLE V

28 PLACEMENT AND ATTENDANCE

29 (a) Course placement

30 (1) when the student transfers before or during the school year, the
31 receiving state school shall initially honor placement of the student in educational

1 courses based on the student's enrollment in the sending state school or educational
2 assessments or both conducted at the school in the sending state if the courses are
3 offered; course placement includes but is not limited to

4 (A) honors;

5 (B) international baccalaureate;

6 (C) advanced placement; and

7 (D) vocational, technical, and career pathways courses;

8 (2) continuing the student's academic program from the previous
9 school and promoting placement in academically and career challenging courses
10 should be paramount when considering placement; this does not preclude the school in
11 the receiving state from performing subsequent evaluations to ensure appropriate
12 placement and continued enrollment of the student in one or more courses.

13 (b) Educational program placement

14 (1) the receiving state school shall initially honor placement of the
15 student in educational programs based on current educational assessments conducted
16 at the school in the sending state or participation and placement in like programs in the
17 sending state; these programs include, but are not limited to

18 (A) gifted and talented programs; and

19 (B) English as a second language;

20 (2) this does not preclude the school in the receiving state from
21 performing subsequent evaluations to ensure appropriate placement of the student.

22 (c) Special education services

23 (1) in compliance with the federal requirements of the Individuals with
24 Disabilities Education Act, 20 U.S.C.A. 1400 et seq., the receiving state shall initially
25 provide comparable services to a student with disabilities based on the student's
26 current Individualized Education Program; and

27 (2) in compliance with the requirements of Section 504 of the
28 Rehabilitation Act, 29 U.S.C.A. 794, and with Title II of the Americans with
29 Disabilities Act, 42 U.S.C.A. 12131-12165, the receiving state shall make reasonable
30 accommodations and modifications to address the needs of incoming students with
31 disabilities, subject to an existing Section 504 of the Rehabilitation Act or Title II of

1 the Americans with Disabilities Act plan, to provide the student with equal access to
 2 education; this does not preclude the school in the receiving state from performing
 3 subsequent evaluations to ensure appropriate placement of the student.

4 (d) Placement flexibility. Local education agency administrative officials shall
 5 have flexibility in waiving course and program prerequisites, or other preconditions
 6 for placement in courses and programs offered under the jurisdiction of the local
 7 education agency.

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

15 ARTICLE VI

16 ELIGIBILITY

17 (a) Eligibility for enrollment

18 (1) special power of attorney, relative to the guardianship of a child of
 19 a military family and executed under applicable law shall be sufficient for the
 20 purposes of enrollment and all other actions requiring parental participation and
 21 consent;

22 (2) a local education agency shall be prohibited from charging local
 23 tuition to a transitioning military child placed in the care of a non-custodial parent or
 24 other person standing in loco parentis who lives in a jurisdiction other than that of the
 25 custodial parent; and

26 (3) a transitioning military child, placed in the care of a non-custodial
 27 parent or other person standing in loco parentis who lives in a jurisdiction other than
 28 that of the custodial parent, may continue to attend the school in which the student was
 29 enrolled while residing with the custodial parent.

30 (b) Eligibility for extracurricular participation. State and local education
 31 agencies shall facilitate the opportunity for transitioning military children's inclusion

1 in extracurricular activities, regardless of application deadlines, to the extent they are
2 otherwise qualified.

3 ARTICLE VII
4 GRADUATION

5 In order to facilitate the on-time graduation of children of military families
6 states and local education agencies shall incorporate the following procedures:

7 (1) Waiver requirements. Local education agency administrative
8 officials shall waive specific courses required for graduation if similar course work
9 has been satisfactorily completed in another local education agency or shall provide
10 reasonable justification for denial; should a waiver not be granted to a student who
11 would qualify to graduate from the sending school, the local education agency shall
12 provide an alternative means of acquiring required coursework so that graduation may
13 occur on time;

14 (2) Exit exams. States shall accept

15 (A) exit or end-of-course exams required for graduation from
16 the sending state;

17 (B) national norm-referenced achievement tests; or

18 (C) alternative testing, in lieu of testing requirements for
19 graduation in the receiving state.

20 (3) Other means. If the alternatives described in art. VII, secs. (1) and
21 (2) cannot be accommodated by the receiving state for a student transferring in the
22 student's senior year, then the provisions of art. VII, sec. (4) shall apply;

23 (4) Transfers during senior year. Should a military student transferring
24 at the beginning or during the student's senior year be ineligible to graduate from the
25 receiving local education agency after all alternatives have been considered, the
26 sending and receiving local education agencies shall ensure the receipt of a diploma
27 from the sending local education agency, if the student meets the graduation
28 requirements of the sending local education agency; if one of the states in question is
29 not a member of this compact, the member state shall use best efforts to facilitate the
30 on-time graduation of the student in accordance with art. VII, secs. (1) and (2).

31 ARTICLE VIII

1 STATE COORDINATION

2 (a) Each member state shall, through the creation of a State Council or use of
3 an existing body or board, provide for the coordination among its agencies of
4 government, local education agencies, and military installations concerning the state's
5 participation in, and compliance with, this compact and Interstate Commission
6 activities. While each member state may determine the membership of its own State
7 Council, its membership must include at least

8 (1) the state superintendent of education;

9 (2) the superintendent of a school district with a high concentration of
10 military children;

11 (3) a representative from a military installation;

12 (4) one representative each from the legislative and executive branches
13 of government; and

14 (5) a representative from other offices and stakeholder groups that the
15 State Council considers appropriate.

16 (b) A member state that does not have a school district considered to contain a
17 high concentration of military children may appoint a superintendent from another
18 school district to represent local education agencies on the State Council.

19 (c) The State Council of each member state shall appoint or designate a
20 military family education liaison to assist military families and the state in facilitating
21 the implementation of this compact.

22 (d) The compact commissioner responsible for the administration and
23 management of the state's participation in the compact shall be appointed by the
24 governor or as otherwise determined by each member state.

25 (e) The compact commissioner and the military family education liaison
26 designated under the compact shall be ex-officio members of the State Council, unless
27 either is already a full voting member of the State Council.

28 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL
29 OPPORTUNITY FOR MILITARY CHILDREN

30 The member states create the Interstate Commission on Educational
31 Opportunity for Military Children. The activities of the Interstate Commission are the

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

3 (1) be a body corporate and joint agency of the member states and
4 shall have all the responsibilities, powers, and duties set out in this compact, and
5 additional powers as may be conferred upon it by a subsequent concurrent action of
6 the respective legislatures of the member states in accordance with the terms of this
7 compact;

8 (2) consist of one Interstate Commission voting representative from
9 each member state who shall be that state's compact commissioner;

10 (A) each member state represented at a meeting of the
11 Interstate Commission is entitled to one vote;

12 (B) a majority of the total member states shall constitute a
13 quorum for the transaction of business, unless a larger quorum is required by
14 the bylaws of the Interstate Commission;

15 (C) a representative may not delegate a vote to another member
16 state; if the compact commissioner is unable to attend a meeting of the
17 Interstate Commission, the governor or State Council may delegate voting
18 authority to another person from their state for a specified meeting;

19 (D) the bylaws may provide for meetings of the Interstate
20 Commission to be conducted by telecommunication or electronic
21 communication;

22 (3) consist of ex-officio, non-voting representatives who are members
23 of interested organizations; the ex-officio members, as defined in the bylaws, may
24 include but not be limited to

25 (A) members of the representative organizations of military
26 family advocates;

27 (B) local education agency officials;

28 (C) parent and teacher groups;

29 (D) the United States Department of Defense;

30 (E) the Education Commission of the States;

31 (F) the Interstate Agreement on the Qualification of

1 Educational Personnel and other interstate compacts affecting the education of
2 children of military members;

3 (4) meet at least once each calendar year; the chairperson may call
4 additional meetings and, upon the request of a simple majority of the member states,
5 shall call additional meetings;

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

17 (6) establish bylaws and rules that provide for conditions and
18 procedures under which the Interstate Commission shall make its information and
19 official records available to the public for inspection or copying; the Interstate
20 Commission may exempt from disclosure information or official records to the extent
21 they would adversely affect personal privacy rights or proprietary interests;

22 (7) give public notice of all meetings and all meetings shall be open to
23 the public, except as set out in the rules or as otherwise provided in the compact; the
24 Interstate Commission and its committees may close a meeting, or portion of an open
25 meeting, if it determines by two-thirds vote that an open meeting would be likely to

26 (A) relate solely to the Interstate Commission's internal
27 personnel practices and procedures;

28 (B) disclose matters specifically exempted from disclosure by
29 federal and state statute;

30 (C) disclose trade secrets or commercial or financial
31 information which is privileged or confidential;

1 (D) involve accusing a person of a crime, or formally censuring
2 a person;

3 (E) disclose information of a personal nature where disclosure
4 would constitute a clearly unwarranted invasion of personal privacy;

5 (F) disclose investigative records compiled for law
6 enforcement purposes; or

7 (G) specifically relate to the Interstate Commission's
8 participation in a civil action or other legal proceeding;

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

18 (9) collect standardized data concerning the educational transition of
19 the children of military families under this compact as directed through its rules which
20 shall specify the data to be collected, the means of collection and data exchange and
21 reporting requirements; such methods of data collection, exchange, and reporting
22 shall, in so far as is reasonably possible, conform to current technology and coordinate
23 its information functions with the appropriate custodian of records as identified in the
24 bylaws and rules; and

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

31 ARTICLE X

1 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

2 The Interstate Commission shall have the following powers:

3 (1) to provide for dispute resolution among member states;

4 (2) to promulgate rules and take all necessary actions to effect the
5 goals, purposes, and obligations as enumerated in this compact; the rules shall have
6 the force and effect of statutory law and shall be binding in the compact states to the
7 extent and in the manner provided in this compact;8 (3) to issue, upon request of a member state, advisory opinions
9 concerning the meaning or interpretation of the interstate compact, its bylaws, rules,
10 and actions;11 (4) to enforce compliance with the compact provisions, the rules,
12 promulgated by the Interstate Commission, and the bylaws, using all necessary and
13 proper means, including but not limited to the use of judicial process;14 (5) to establish and maintain offices which shall be located within one
15 or more of the member states;

16 (6) to purchase and maintain insurance and bonds;

17 (7) to borrow, accept, hire, or contract for services of personnel;

18 (8) to establish and appoint committees including, but not limited to,
19 an executive committee as required by art. IX, sec. 5, which shall have the power to
20 act on behalf of the Interstate Commission in carrying out its powers and duties under
21 the compact;22 (9) to elect or appoint such officers, attorneys, employees, agents, or
23 consultants, and to fix their compensation, define their duties, and determine their
24 qualifications; and to establish the Interstate Commission's personnel policies and
25 programs relating to conflicts of interest, rates of compensation, and qualifications of
26 personnel;27 (10) to accept any and all donations and grants of money, equipment,
28 supplies, materials, and services, and to receive, utilize, and dispose of it;29 (11) to lease, purchase, accept contributions or donations of, or
30 otherwise to own, hold, improve, or use any property, real, personal, or mixed;

31 (12) to sell, convey, mortgage, pledge, lease, exchange, abandon, or

1 otherwise dispose of any property, real, personal, or mixed;

2 (13) to establish a budget and make expenditures;

3 (14) to adopt a seal and bylaws governing the management and
4 operation of the Interstate Commission;

5 (15) to report annually to the legislatures, governors, judiciary, and
6 state councils of the member states concerning the activities of the Interstate
7 Commission during the preceding year; the reports shall also include any
8 recommendations that may have been adopted by the Interstate Commission;

9 (16) to coordinate education, training, and public awareness regarding
10 the compact, its implementation and operation for officials and parents involved in the
11 activity;

12 (17) to establish uniform standards for the reporting, collecting, and
13 exchanging of data;

14 (18) to maintain corporate books and records in accordance with the
15 bylaws;

16 (19) to perform such functions as may be necessary or appropriate to
17 achieve the purposes of this compact; and

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

20 ARTICLE XI

21 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

26 (1) establishing the fiscal year of the Interstate Commission;

27 (2) establishing an executive committee, and other committees as may
28 be necessary;

29 (3) providing for the establishment of committees and for governing
30 any general or specific delegation of authority or function of the Interstate
31 Commission;

1 (4) providing reasonable procedures for calling and conducting
2 meetings of the Interstate Commission, and ensuring reasonable notice of each
3 meeting;

4 (5) establishing the titles and responsibilities of the officers and staff of
5 the Interstate Commission;

6 (6) providing a mechanism for concluding the operations of the
7 Interstate Commission and the return of surplus funds that may exist upon the
8 termination of the compact after the payment and reserving of all its debts and
9 obligations; and

10 (7) providing start-up rules for initial administration of the compact.

11 (b) The Interstate Commission shall, by a majority of the members, elect
12 annually from among its members a chairperson, a vice-chairperson, and a treasurer,
13 each of whom shall have such authority and duties as may be specified in the bylaws.
14 The chairperson or, in the chairperson's absence or disability, the vice-chairperson,
15 shall preside at all meetings of the Interstate Commission. The officers shall serve
16 without compensation or remuneration from the Interstate Commission; if, subject to
17 the availability of budgeted funds, the officers are reimbursed for ordinary and
18 necessary costs and expenses incurred by them in the performance of their
19 responsibilities as officers of the Interstate Commission.

20 (c) Executive Committee, Officers, and Personnel

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

23 (A) managing the affairs of the Interstate Commission in a
24 manner consistent with the bylaws and purposes of the Interstate Commission;

25 (B) overseeing an organizational structure within, and
26 appropriate procedures for the Interstate Commission to provide for the
27 creation of rules, operating procedures, and administrative and technical
28 support functions; and

29 (C) planning, implementing, and coordinating communications
30 and activities with other state, federal, and local government organizations in
31 order to advance the goals of the Interstate Commission;

1 (2) the executive committee may, subject to the approval of the
2 Interstate Commission, appoint or retain an executive director for the period, upon the
3 terms and conditions and for such compensation, as the Interstate Commission may
4 consider appropriate; the executive director shall serve as secretary to the Interstate
5 Commission, but shall not be a member of the Interstate Commission; the executive
6 director shall hire and supervise other persons as may be authorized by the Interstate
7 Commission.

8 (d) The Interstate Commission's executive director and its employees shall be
9 immune from suit and liability, either personally or in their official capacity, for a
10 claim for damage to or loss of property or personal injury or other civil liberty caused
11 or arising out of or relating to an actual or alleged act, error, or omission that occurred,
12 or that such person had a reasonable basis for believing occurred, within the scope of
13 Interstate Commission employment, duties or responsibilities; if, that person is not
14 protected from suit or liability for damage, loss, injury, or liability caused by the
15 intentional or willful and wanton misconduct of the person. The following standards
16 apply:

17 (1) the liability of the Interstate Commission's executive director and
18 employees or Interstate Commission representatives, acting within the scope of the
19 person's employment or duties for acts, errors, or omissions occurring within the
20 person's state may not exceed the limits of liability set out under the Constitution and
21 laws of that state for state officials, employees, and agents; the Interstate Commission
22 is considered to be an instrumentality of the states for the purposes of any such action;
23 nothing in this subsection shall be construed to protect such person from suit or
24 liability for damage, loss, injury, or liability caused by the intentional or willful and
25 wanton misconduct on the part of such person;

26 (2) the Interstate Commission shall defend the executive director and
27 its employees and, subject to the approval of the attorney general or other appropriate
28 legal counsel of the member state represented by an Interstate Commission
29 representative, shall defend such Interstate Commission representative in any civil
30 action seeking to impose liability arising out of an actual or alleged act, error, or
31 omission that occurred within the scope of Interstate Commission employment, duties

1 or responsibilities, or that the defendant had a reasonable basis for believing occurred
2 within the scope of Interstate Commission employment, duties, or responsibilities, if
3 the actual or alleged act, error, or omission did not result from intentional or willful
4 and wanton misconduct on the part of such person;

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

14 ARTICLE XII

15 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

16 (a) Rulemaking authority. The Interstate Commission shall promulgate
17 reasonable rules in order to effectively and efficiently achieve the purposes of this
18 compact. Notwithstanding the provisions of this subsection, if the Interstate
19 Commission exercises its rulemaking authority in a manner that is beyond the scope of
20 the purposes of this Act, or the powers granted hereunder, then such an action by the
21 Interstate Commission shall be invalid and have no force or effect.

22 (b) Rulemaking procedure. Rules shall be made under a rulemaking process
23 that substantially conforms to the "Model State Administrative Procedure Act," of
24 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be
25 appropriate to the operations of the Interstate Commission.

26 (c) Not later than 30 days after a rule is promulgated, any person may file a
27 petition for judicial review of the rule; if, that the filing of such a petition shall not stay
28 or otherwise prevent the rule from becoming effective unless the court finds that the
29 petitioner has a substantial likelihood of success. The court shall give deference to the
30 actions of the Interstate Commission consistent with applicable law and shall not find
31 the rule to be unlawful if the rule represents a reasonable exercise of the Interstate

1 Commission's authority.

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

5 ARTICLE XIII

6 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

7 (a) Oversight

8 (1) the executive, legislative, and judicial branches of state government
9 in each member state shall enforce this compact and shall take all actions necessary
10 and appropriate to effectuate the compact's purposes and intent; the provisions of this
11 compact and the rules promulgated hereunder shall have standing as statutory law;

12 (2) all courts shall take judicial notice of the compact and the rules in
13 any judicial or administrative proceeding in a member state pertaining to the subject
14 matter of this compact which may affect the powers, responsibilities, or actions of the
15 Interstate Commission;

16 (3) the Interstate Commission shall be entitled to receive all service of
17 process in any such proceeding, and shall have standing to intervene in the proceeding
18 for all purposes; failure to provide service of process to the Interstate Commission
19 shall render a judgment or order void as to the Interstate Commission, this compact, or
20 promulgated rules;

21 (b) Default, technical assistance, suspension, and termination. If the Interstate
22 Commission determines that a member state has defaulted in the performance of its
23 obligations or responsibilities under this compact, or the bylaws or promulgated rules,
24 the Interstate Commission shall

25 (1) provide written notice to the defaulting state and other member
26 states, of the nature of the default, the means of curing the default and any action taken
27 by the Interstate Commission; the Interstate Commission shall specify the conditions
28 by which the defaulting state must cure its default;

29 (2) provide remedial training and specific technical assistance
30 regarding the default;

31 (3) if the defaulting state fails to cure the default, the defaulting state

1 shall be terminated from the compact upon an affirmative vote of a majority of the
2 member states and all rights, privileges, and benefits conferred by this compact shall
3 be terminated from the effective date of termination; a cure of the default does not
4 relieve the offending state of obligations or liabilities incurred during the period of
5 default;

6 (4) suspension or termination of membership in the compact shall be
7 imposed only after all other means of securing compliance have been exhausted;
8 notice of intent to suspend or terminate shall be given by the Interstate Commission to
9 the governor, the majority and minority leaders of the defaulting state's legislature, and
10 each of the member states;

11 (5) the state that has been suspended or terminated is responsible for
12 all assessments, obligations, and liabilities incurred through the effective date of
13 suspension or termination including obligations, the performance of which extends
14 beyond the effective date of suspension or termination;

15 (6) the Interstate Commission does not bear any costs relating to any
16 state that has been found to be in default or which has been suspended or terminated
17 from the compact, unless otherwise mutually agreed upon in writing between the
18 Interstate Commission and the defaulting state;

19 (7) the defaulting state may appeal the action of the Interstate
20 Commission by petitioning the United States District Court for the District of
21 Columbia or the federal district where the Interstate Commission has its principal
22 offices; the prevailing party shall be awarded all costs of such litigation including
23 reasonable attorney's fees.

24 (c) Dispute resolution

25 (1) the Interstate Commission shall attempt, upon the request of a
26 member state, to resolve disputes which are subject to the compact and which may
27 arise among member states and between member and non-member states;

28 (2) the Interstate Commission shall promulgate a rule providing for
29 both mediation and binding dispute resolution for disputes as appropriate.

30 (d) Enforcement

31 (1) the Interstate Commission, in the reasonable exercise of its

1 discretion, shall enforce the provisions and rules of this compact;

2 (2) the Interstate Commission, may by majority vote of the members,
3 initiate legal action in the United State District Court for the District of Columbia or,
4 at the discretion of the Interstate Commission, in the federal district where the
5 Interstate Commission has its principal offices, to enforce compliance with the
6 provisions of the compact, its promulgated rules and bylaws, against a member state in
7 default; the relief sought may include both injunctive relief and damages. If judicial
8 enforcement is necessary the prevailing party shall be awarded all costs of such
9 litigation including reasonable attorney's fees;

10 (3) the remedies in this compact are not the exclusive remedies of the
11 Interstate Commission; the Interstate Commission may avail itself of any other
12 remedies available under state law or the regulation of a profession.

13 ARTICLE XIV

14 FINANCING OF THE INTERSTATE COMMISSION

15 (a) The Interstate Commission shall pay, or provide for the payment of the
16 reasonable expenses of its establishment, organization, and ongoing activities.

17 (b) The Interstate Commission may levy on and collect an annual assessment
18 from each member state to cover the cost of the operations and activities of the
19 Interstate Commission and its staff which must be in a total amount sufficient to cover
20 the Interstate Commission's annual budget as approved each year. The aggregate
21 annual assessment amount shall be allocated based upon a formula to be determined
22 by the Interstate Commission, which shall promulgate a rule binding upon all member
23 states.

24 (c) The Interstate Commission may not incur obligations of any kind before
25 securing the funds adequate to meet the same; nor shall the Interstate Commission
26 pledge the credit of any of the member states, except by and with the authority of the
27 member state.

28 (d) The Interstate Commission shall keep accurate accounts of all receipts and
29 disbursements. The receipts and disbursements of the Interstate Commission shall be
30 subject to the audit and accounting procedures established under its bylaws. However,
31 all receipts and disbursements of funds handled by the Interstate Commission shall be

1 audited yearly by a certified or licensed public accountant and the report of the audit
2 shall be included in and become part of the annual report of the Interstate
3 Commission.

4 ARTICLE XV

5 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

6 (a) A state is eligible to become a member state.

7 (b) The compact shall become effective and binding upon legislative
8 enactment of the compact into law by no less than 10 of the states. The effective date
9 shall be no earlier than December 1, 2007; thereafter it shall become effective and
10 binding as to any other member state upon enactment of the compact into law by that
11 state. The governors of non-member states or their designees shall be invited to
12 participate in the activities of the Interstate Commission on a non-voting basis prior to
13 adoption of the compact by all states.

14 (c) The Interstate Commission may propose amendments to the compact for
15 enactment by the member states. No amendment shall become effective and binding
16 upon the Interstate Commission and the member states unless and until it is enacted
17 into law by unanimous consent of the member states.

18 ARTICLE XVI

19 WITHDRAWAL AND DISSOLUTION

20 (a) Withdrawal

21 (1) once effective, the compact shall continue in force and remain
22 binding upon each and every member state; provided that a member state may
23 withdraw from the compact by specifically repealing the statute, which enacted the
24 compact into law;

25 (2) withdrawal from this compact shall be by the enactment of a statute
26 repealing the same, but shall not take effect until one year after the effective date of
27 the statute and until written notice of the withdrawal has been given by the
28 withdrawing state to the governor of each other member jurisdiction;

29 (3) the withdrawing state shall immediately notify the chairperson of
30 the Interstate Commission in writing upon the introduction of legislation repealing this
31 compact in the withdrawing state; the Interstate Commission shall notify the other

1 member states of the withdrawing state's intent to withdraw within 60 days of its
2 receipt of the intent to withdraw;

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

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

9 (b) Dissolution of compact

10 (1) this compact shall dissolve effective upon the date of the
11 withdrawal or default of the member state which reduces the membership in the
12 compact to one member state;

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

17 ARTICLE XVII

18 SEVERABILITY AND CONSTRUCTION

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

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

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

26 ARTICLE XVIII

27 BINDING EFFECT OF COMPACT AND OTHER LAWS

28 (a) Other laws

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

31 (2) All member states' laws conflicting with this compact are

1 superseded to the extent of the conflict;

2 (b) Binding effect of the compact

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

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

8 (3) If any provision of this compact exceeds the constitutional limits
9 imposed on the legislature of any member state, the provision shall be ineffective to
10 the extent of the conflict with the constitutional provision in question in that member
11 state.

12 **Sec. 14.34.020. Compact administrator.** Under the compact established
13 under AS 14.34.010, the commissioner may designate an officer as the compact
14 administrator. The compact administrator shall cooperate with all departments,
15 agencies, and officers of and in the government of this state and its subdivisions in
16 facilitating the proper administration of the compact or of a supplementary agreement
17 entered into by this state.

18 **Sec. 14.34.030. State council.** The board shall designate a subcommittee of its
19 membership to serve as the state council under AS 14.34.010. Consistent with state
20 law, the board shall designate other persons to serve on the subcommittee to complete
21 the representation required by the compact established under AS 14.34.010.

22 **Sec. 14.34.040. Regulations.** The board may adopt regulations to implement
23 this chapter.

24 **Sec. 14.34.090. Short title.** This chapter may be cited as the Interstate
25 Compact on Educational Opportunity for Military Children.

26 * **Sec. 2.** The uncodified law of the State of Alaska is amended by adding a new section to
27 read:

28 **INDIRECT COURT RULE AMENDMENTS.** The changes made by sec. 1 of this Act
29 have the effect of changing:

30 (1) Rule 4, Alaska Rules of Civil Procedure, by entitling the Interstate
31 Commission on Educational Opportunity for Military Children to receive service of process

1 of a judicial proceeding in this state that pertains to the Interstate Compact on Educational
2 Opportunity for Military Children set out in AS 14.34.010, enacted by sec. 1 of this Act, and
3 in which the validity of a compact provision or rule is an issue for which a judicial
4 determination has been sought;

5 (2) Rule 24(b), Alaska Rules of Civil Procedure, by entitling the Interstate
6 Commission on Educational Opportunity for Military Children to have standing to intervene
7 in a judicial proceeding in this state that pertains to the Interstate Compact on Educational
8 Opportunity for Military Children set out in AS 14.34.010, enacted in sec. 1 of this Act, and
9 in which the validity of a compact provision or rule is at issue for which judicial
10 determination has been sought.

11 * **Sec. 3.** The uncodified law of the State of Alaska is amended by adding a new section to
12 read:

13 **CONDITIONAL EFFECT OF CERTAIN PROVISIONS.** The provisions of art.
14 XIII(a)(3) of the Interstate Compact on Educational Opportunity for Military Children set out
15 in AS 14.34.010, enacted in sec. 1 of this Act, concerning service of process and standing to
16 intervene, take effect only if sec. 2 of this Act receives the two-thirds majority vote of each
17 house required by art. IV, sec. 15, Constitution of the State of Alaska.

18 * **Sec. 4.** This Act takes effect immediately under AS 01.10.070(c).