

CHAPTER 308
HB 1488-FN – FINAL VERSION

19Mar2014... 0652h
04/17/14 1298s
4Jun2014... 1955CofC

2014 SESSION

14-2335
05/10

HOUSE BILL ***1488-FN***

AN ACT adopting the interstate compact on educational support for military children.

SPONSORS: Rep. Theberge, Coos 3; Rep. Massimilla, Graf 1; Rep. Baldasaro, Rock 5;
Rep. Carey, Merr 26; Rep. Boehm, Hills 20; Rep. Gile, Merr 27; Sen. Cataldo,
Dist 6

COMMITTEE: Education

AMENDED ANALYSIS

This bill adopts the interstate compact on educational support for military children.

Explanation: Matter added to current law appears in ***bold italics***.
Matter removed from current law appears [~~in brackets and struck through~~].
Matter which is either (a) all new or (b) repealed and reenacted appears in regular type.

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STATE OF NEW HAMPSHIRE

In the Year of Our Lord Two Thousand Fourteen

AN ACT adopting the interstate compact on educational support for military children.

Be it Enacted by the Senate and House of Representatives in General Court convened:

1 308:1 New Chapter; Interstate Compact on Educational Opportunity for Military Children.
2 Amend RSA by inserting after chapter 110-C the following new chapter:

CHAPTER 110-D

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY

FOR MILITARY CHILDREN

6 110-D:1 Compact. The interstate compact on educational opportunity for military children,
7 hereinafter called “the compact”, is hereby enacted into law and entered into with all other
8 jurisdictions legally joining therein, in the form substantially as follows in this chapter.

ARTICLE I

10 110-D:2 Purpose. It is the purpose of this compact to remove barriers to educational success
11 imposed on children of military families because of frequent moves and deployment of their parents
12 by:

13 I. Facilitating the timely enrollment of children of military families and ensuring that they
14 are not placed at a disadvantage due to difficulty in the transfer of education records from the
15 previous school district or districts or variations in entrance/age requirements.

16 II. Facilitating the student placement process through which children of military families
17 are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading,
18 course content, or assessment.

19 III. Facilitating the qualification and eligibility for enrollment, educational programs, and
20 participation in extracurricular academic, athletic, and social activities.

21 IV. Facilitating the on-time graduation of children of military families.

22 V. Providing for the adoption and enforcement of administrative rules implementing the
23 provisions of this compact.

24 VI. Providing for the uniform collection and sharing of information between and among
25 member states, schools, and military families under this compact.

26 VII. Promoting coordination between this compact and other compacts affecting military
27 children.

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1 VIII. Promoting flexibility and cooperation between the educational system, parents, and the
2 student in order to achieve educational success for the student.

3 ARTICLE II

4 110-D:3 Definitions. As used in this compact, unless the context clearly requires a different
5 construction:

6 I. “Accredited school” means a school that has completed the accreditation process from a
7 regional accrediting association, such as the New England Association of Schools and Colleges, that
8 validates the establishment of high standards for all levels of education.

9 II. “Active duty” means full-time duty status in the active uniformed service of the
10 United States, including members of the National Guard and Reserve on active duty orders pursuant
11 to 10 U.S.C. sections 1209 and 1211.

12 III. “Children of military families” means a school-aged child or school-aged children,
13 enrolled in kindergarten through grade 12, in the household of an active duty member.

14 IV. “Cocurricular” shall include those activities which are designed to supplement and
15 enrich regular academic programs of study, provide opportunities for social development, and
16 encourage participation in clubs, athletics, performing groups, and services to school and community,
17 as defined in RSA 193:1-c.

18 V. “Compact commissioner” means the voting representative of each compacting state
19 appointed pursuant to Article VIII of this compact.

20 VI. “Deployment” means the period one month prior to the service members’ departure from
21 their home station on military orders through 6 months after return to their home station.

22 VII. “Education records” means those official records, files, and data directly related to a
23 student and maintained by the school or local education agency, including but not limited to records
24 encompassing all the material kept in the student’s cumulative folder such as general identifying
25 data, records of attendance and of academic work completed, records of achievement and results of
26 evaluative tests, health data, disciplinary status, test protocols, and individualized education
27 programs.

28 VIII. “Interstate Commission on Educational Opportunity for Military Children” means the
29 commission that is created under Article IX of this compact, which is generally referred to as
30 Interstate Commission.

31 IX. “Local education agency” means a public authority legally constituted by the state as an
32 administrative agency to provide control of and direction for kindergarten through grade 12 public
33 educational institutions.

34 X. “Member state” means a state that has enacted this compact.

35 XI. “Military installation” means a base, camp, post, station, yard, center, homeport facility
36 for any ship, or other activity under the jurisdiction of the Department of Defense, including any

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1 leased facility, which is located within any of the several states, the District of Columbia, the
2 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern
3 Marianas Islands, and any other U.S. territory. Such term does not include any facility used
4 primarily for civil works, rivers and harbors projects, or flood control projects.

5 XII. “Non-member state” means a state that has not enacted this compact.

6 XIII. “Receiving state” means the state to which a child of a military family is sent, brought,
7 or caused to be sent or brought.

8 XIV. “Rule” means a written statement by the Interstate Commission promulgated pursuant
9 to Article XII of this compact that is of general applicability, implements, interprets or prescribes a
10 policy or provision of the compact, or an organizational, procedural, or practice requirement of the
11 Interstate Commission, and has the force and effect of statutory law in a member state, and includes
12 the amendment, repeal, or suspension of an existing rule.

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

15 XVI. “State” means a state of the United States, the District of Columbia, the
16 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern
17 Marianas Islands, and any other U.S. territory.

18 XVII. “Student” means the child of a military family for whom the local education agency
19 receives public funding and who is formally enrolled in kindergarten through grade 12.

20 XVIII. “Transition” means:

21 (a) The formal and physical process of transferring from school to school; or

22 (b) The period of time in which a student moves from one school in the sending state to
23 another school in the receiving state.

24 XIX. “Uniformed service” or “uniformed services” means the Army, Navy, Air Force, Marine
25 Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric
26 Administration, and Public Health Services.

27 XX. “Veteran” means a person who served in the uniformed services and who was
28 discharged or released there from under conditions other than dishonorable.

ARTICLE III

29 110-D:4 Applicability.

30 I. Except as otherwise provided in paragraph II, this compact shall apply to the children of:

31 (a) Active duty members of the uniformed services as defined in this compact, including
32 members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. section
33 1209 and 1211;
34

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

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

3 II. The provisions of this interstate compact shall only apply to local education agencies as
4 defined in this compact.

5 III. The provisions of this compact shall not apply to the children of:

6 (a) Inactive members of the national guard and military reserves;

7 (b) Members of the uniformed services now retired, except as provided in paragraph I;

8 (c) Veterans of the uniformed services, except as provided in paragraph I; and

9 (d) Other United States Department of Defense personnel and other federal agency
10 civilian and contract employees not defined as active duty members of the uniformed services.

11 **ARTICLE IV**

12 110-D:5 Educational Records and Enrollment.

13 I. Unofficial or “hand-carried” education records. In the event that official education records
14 cannot be released to the parents for the purpose of transfer, the custodian of the records in the
15 sending state shall prepare and furnish to the parent a complete set of unofficial educational records
16 containing uniform information as determined by the Interstate Commission. Upon receipt of the
17 unofficial education records by a school in the receiving state, the school shall enroll and
18 appropriately place the student based on the information provided in the unofficial records pending
19 validation by the official records, as quickly as possible.

20 II. Official education records/transcripts. Simultaneous with the enrollment and conditional
21 placement of the student, the school in the receiving state shall request the student’s official
22 education record from the school in the sending state. Upon receipt of this request, the school in the
23 sending state will process and furnish the official education records to the school in the receiving
24 state within 10 days or within such time as is reasonably determined under the rules promulgated
25 by the Interstate Commission.

26 III. Immunizations. The state of New Hampshire may give 30 days from the date of
27 enrollment, or within such time as is reasonably determined under the rules promulgated by the
28 Interstate Commission, for students to obtain any required immunization or immunizations in
29 accordance with RSA 141-C:20-a. For a series of immunizations, initial vaccinations shall be
30 obtained within 30 days or within such time as is reasonably determined under the rules
31 promulgated by the Interstate Commission.

32 IV. Kindergarten and first grade entrance age. Students shall be allowed to continue their
33 enrollment at grade level in the receiving state commensurate with their grade level, including
34 kindergarten, from a local education agency in the sending state at the time of transition, regardless
35 of age. A student that has satisfactorily completed the prerequisite grade level in the local education
36 agency in the sending state shall be eligible for enrollment in the next highest grade level in the

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1 receiving state, regardless of age. A student transferring after the start of the school year in the
2 receiving state shall enter the school in the receiving state on their validated level from an
3 accredited school in the sending state.

4 **ARTICLE V**

5 110-D:6 Placement and Attendance.

6 I. Course placement. When the student transfers before or during the school year, the
7 receiving state school shall initially honor placement of the student in educational courses based on
8 the student's enrollment in the sending state school and/or educational assessments conducted at the
9 school in the sending state if the courses are offered. Course placement includes but is not limited to
10 Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career
11 pathways courses. Continuing the student's academic program from the previous school and
12 promoting placement in academically and career challenging courses should be paramount when
13 considering placement. This does not preclude the school in the receiving state from performing
14 subsequent evaluations to ensure appropriate placement and continued enrollment of the student in
15 the course or courses.

16 II. Educational program placement. The receiving state school shall initially honor
17 placement of the student in educational programs based on current educational assessments
18 conducted at the school in the sending state or participation/placement in like programs in the
19 sending state. Such programs include, but are not limited to, gifted and talented programs, remedial
20 services, and English Language Learner (ELL). This does not preclude the school in the receiving
21 state from performing subsequent evaluations to ensure appropriate placement of the student. The
22 school placement process should promote and measure knowledge and skills that lead students to
23 meet learning competencies across content domains.

24 III. Special education services. (1) In compliance with the federal requirements of the
25 Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. section 1400 et seq, the receiving
26 state shall initially provide comparable services to a student with disabilities based on his or her
27 current Individualized Education Program (IEP); and (2) In compliance with the requirements of
28 section 504 of the Rehabilitation Act, 29 U.S.C.A. section 794, and with Title II of the Americans
29 with Disabilities Act, 42 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable
30 accommodations and modifications to address the needs of incoming students with disabilities,
31 subject to an existing 504 or Title II Plan, to provide the student with equal access to education.
32 This does not preclude the school in the receiving state from performing subsequent evaluations to
33 ensure appropriate placement of the student.

34 IV. Placement flexibility. Local education agency administrative officials shall have
35 flexibility in waiving course/program prerequisites, or other preconditions for placement in
36 courses/programs offered under the jurisdiction of the local education agency.

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1 III. Transfers during senior year. Should a military student transferring at the beginning or
2 during his or her senior year be ineligible to graduate from the receiving local education agency after
3 all alternatives have been considered, the sending and receiving local education agencies shall
4 ensure the receipt of a diploma from the sending local education agency, if the student meets the
5 graduation requirements of the sending local education agency. In the event that one of the states in
6 question is not a member of this compact, the member state shall use best efforts to facilitate the on-
7 time graduation of the student in accordance with paragraphs I and II.

8 ARTICLE VIII

9 110-D:9 State Coordination.

10 I. Each member state shall, through the creation of a state council or use of an existing body
11 or board, provide for the coordination among its agencies of government, local education agencies,
12 and military installations concerning the state’s participation in, and compliance with, this compact
13 and Interstate Commission activities. While each member state may determine the membership of
14 its own state council, its membership shall include at least: the state superintendent of education,
15 superintendent of a school district with a high concentration of military children, one representative
16 from a military installation, one representative each from the legislative and executive branches of
17 government, and other offices and stakeholder groups the state council deems appropriate. A
18 member state that does not have a school district deemed to contain a high concentration of military
19 children may appoint a superintendent from another school district to represent local education
20 agencies on the state council.

21 II. The state council of each member state shall appoint or designate a military family
22 education liaison to assist military families and the state in facilitating the implementation of this
23 compact.

24 III. The compact commissioner responsible for the administration and management of the
25 state’s participation in the compact shall be appointed by the governor or as otherwise determined by
26 each member state.

27 IV. The compact commissioner and the military family education liaison designated herein
28 shall be ex-officio members of the state council, unless either is already a full voting member of the
29 state council.

30 ARTICLE IX

31 110-D:10 Interstate Commission on Educational Opportunity For Military Children. The
32 member states hereby create the “Interstate Commission on Educational Opportunity for Military
33 Children.” The activities of the Interstate Commission are the formation of public policy and are a
34 discretionary state function. The Interstate Commission shall:

35 I. Be a body corporate and joint agency of the member states and shall have all the
36 responsibilities, powers and duties set forth herein, and such additional powers as may be conferred

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1 upon it by a subsequent concurrent action of the respective legislatures of the member states in
2 accordance with the terms of this compact.

3 II. Consist of one Interstate Commission voting representative from each member state who
4 shall be that state's compact commissioner.

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

7 (b) A majority of the total member states shall constitute a quorum for the transaction of
8 business, unless a larger quorum is required by the bylaws of the Interstate Commission.

9 (c) A representative shall not delegate a vote to another member state. In the event the
10 compact commissioner is unable to attend a meeting of the Interstate Commission, the governor or
11 state council may delegate voting authority to another person from their state for a specified
12 meeting.

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

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

21 IV. Meet at least once each calendar year. The chairperson may call additional meetings
22 and, upon the request of a simple majority of the member states, shall call additional meetings.

23 V. Establish an executive committee, whose members shall include the officers of the
24 Interstate Commission and such other members of the Interstate Commission as determined by the
25 bylaws. Members of the executive committee shall serve a one year term. Members of the executive
26 committee shall be entitled to one vote each. The executive committee shall have the power to act on
27 behalf of the Interstate Commission, with the exception of rulemaking, during periods when the
28 Interstate Commission is not in session. The executive committee shall oversee the day-to-day
29 activities of the administration of the compact including enforcement and compliance with the
30 provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The
31 United States Department of Defense, shall serve as an ex-officio, nonvoting member of the executive
32 committee.

33 VI. Establish bylaws and rules that provide for conditions and procedures under which the
34 Interstate Commission shall make its information and official records available to the public for
35 inspection or copying. The Interstate Commission may exempt from disclosure information or
36 official records to the extent they would adversely affect personal privacy rights or proprietary

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1 interests.

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

6 (a) Relate solely to the Interstate Commission's internal personnel practices and
7 procedures;

8 (b) Disclose matters specifically exempted from disclosure by federal and state statute;

9 (c) Disclose trade secrets or commercial or financial information which is privileged or
10 confidential;

11 (d) Involve accusing a person of a crime, or formally censuring a person;

12 (e) Disclose information of a personal nature where disclosure would constitute a clearly
13 unwarranted invasion of personal privacy;

14 (f) Disclose investigative records compiled for law enforcement purposes; or

15 (g) Specifically relate to the Interstate Commission's participation in a civil action or
16 other legal proceeding.

17 VIII. Cause its legal counsel or designee to certify that a meeting may be closed and shall
18 reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed
19 pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and
20 clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of
21 actions taken, and the reasons therefor, including a description of the views expressed and the record
22 of a roll call vote. All documents considered in connection with an action shall be identified in such
23 minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release
24 by a majority vote of the Interstate Commission.

25 IX. Collect standardized data concerning the educational transition of the children of
26 military families under this compact as directed through its rules which shall specify the data to be
27 collected, the means of collection, and data exchange and reporting requirements. Such methods of
28 data collection, exchange, and reporting shall, in so far as is reasonably possible, conform to current
29 technology and coordinate its information functions with the appropriate custodian of records as
30 identified in the bylaws and rules.

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

36

ARTICLE X

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1 110-D:11 Powers and Duties of the Interstate Commission. The Interstate Commission shall
2 have the following powers:

3 I. To provide for dispute resolution among member states.

4 II. To promulgate rules and take all necessary actions to effect the goals, purposes and
5 obligations as enumerated in this compact. The rules shall have the force and effect of statutory law
6 and shall be binding in the compact states to the extent and in the manner provided in this compact.

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

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

12 V. To establish and maintain offices which shall be located within one or more of the
13 member states.

14 VI. To purchase and maintain insurance and bonds.

15 VII. To borrow, accept, hire, or contract for services of personnel.

16 VIII. To establish and appoint committees including, but not limited to, an executive
17 committee as required by RSA 110-D:10, V, which shall have the power to act on behalf of the
18 Interstate Commission in carrying out its powers and duties hereunder.

19 IX. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix
20 their compensation, define their duties and determine their qualifications; and to establish the
21 Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of
22 compensation, and qualifications of personnel.

23 X. To accept any and all donations and grants of money, equipment, supplies, materials, and
24 services, and to receive, utilize, and dispose of it.

25 XI. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
26 improve, or use any property, real, personal, or mixed.

27 XII. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
28 property, real, personal, or mixed.

29 XIII. To establish a budget and make expenditures.

30 XIV. To adopt a seal and bylaws governing the management and operation of the Interstate
31 Commission.

32 XV. To report annually to the legislatures, governors, judiciary, and state councils of the
33 member states concerning the activities of the Interstate Commission during the preceding year.
34 Such reports shall also include any recommendations that may have been adopted by the Interstate
35 Commission.

36 XVI. To coordinate education, training and public awareness regarding the compact, its

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1 implementation and operation for officials and parents involved in such activity.

2 XVII. To establish uniform standards for the reporting, collecting, and exchanging of data.

3 XVIII. To maintain corporate books and records in accordance with the bylaws.

4 XIX. To perform such functions as may be necessary or appropriate to achieve the purposes
5 of this compact.

6 XX. To provide for the uniform collection and sharing of information between and among
7 member states, schools, and military families under this compact.

8 **ARTICLE XI**

9 110-D:12 Organization and Operation of the Interstate Commission.

10 I. The Interstate Commission shall, by a majority of the members present and voting, within
11 12 months after the first Interstate Commission meeting, adopt bylaws to govern its conduct as may
12 be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

13 (a) Establishing the fiscal year of the Interstate Commission.

14 (b) Establishing an executive committee, and such other committees as may be
15 necessary.

16 (c) Providing for the establishment of committees and for governing any general or
17 specific delegation of authority or function of the Interstate Commission.

18 (d) Providing reasonable procedures for calling and conducting meetings of the
19 Interstate Commission, and ensuring reasonable notice of each such meeting.

20 (e) Establishing the titles and responsibilities of the officers and staff of the Interstate
21 Commission.

22 (f) Providing a mechanism for concluding the operations of the Interstate Commission
23 and the return of surplus funds that may exist upon the termination of the compact after the
24 payment and reserving of all of its debts and obligations.

25 (g) Providing “start up” rules for initial administration of the compact.

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

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

36 (1) Managing the affairs of the Interstate Commission in a manner consistent with

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1 the bylaws and purposes of the Interstate Commission;

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

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

8 (b) The executive committee may, subject to the approval of the Interstate Commission,
9 appoint or retain an executive director for such period, upon such terms and conditions and for such
10 compensation, as the Interstate Commission may deem appropriate. The executive director shall
11 serve as secretary to the Interstate Commission, but shall not be a member of the Interstate
12 Commission. The executive director shall hire and supervise such other persons as may be
13 authorized by the Interstate Commission.

14 IV. The Interstate Commission's executive director and its employees shall be immune from
15 suit and liability, either personally or in their official capacity, for a claim for damage to or loss of
16 property or personal injury or other civil liability caused or arising out of or relating to an actual or
17 alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing
18 occurred, within the scope of Interstate Commission employment, duties, or responsibilities;
19 provided, that such person shall not be protected from suit or liability for damage, loss, injury, or
20 liability caused by the intentional or willful and wanton misconduct of such person.

21 (a) The liability of the Interstate Commission's executive director and employees or
22 Interstate Commission representatives, acting within the scope of such person's employment or
23 duties for acts, errors, or omissions occurring within such person's state may not exceed the limits of
24 liability set forth under the Constitution and laws of that state for state officials, employees, and
25 agents. The Interstate Commission is considered to be an instrumentality of the states for the
26 purposes of any such action. Nothing in this section shall be construed to protect such person from
27 suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton
28 misconduct of such person.

29 (b) The Interstate Commission shall defend the executive director and its employees
30 and, subject to the approval of the attorney general or other appropriate legal counsel of the member
31 state represented by an Interstate Commission representative, shall defend such Interstate
32 Commission representative in any civil action seeking to impose liability arising out of an actual or
33 alleged act, error or omission that occurred within the scope of Interstate Commission employment,
34 duties or responsibilities, or that the defendant had a reasonable basis for believing occurred within
35 the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual
36 or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on

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1 the part of such person.

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

10 **ARTICLE XII**

11 110-D:13 Rulemaking Functions of The Interstate Commission.

12 I. The Interstate Commission shall promulgate reasonable rules in order to effectively and
13 efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the
14 Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of
15 the purposes of this act, or the powers granted hereunder, then such an action by the Interstate
16 Commission shall be invalid and have no force or effect.

17 II. Rules shall be made pursuant to a rulemaking process that substantially conforms to the
18 “Model State Administrative Procedure Act,” of 1981 act, Uniform Laws Annotated, Vol. 15, p.1
19 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

20 III. Not later than 30 days after a rule is promulgated, any person may file a petition for
21 judicial review of the rule; provided, that the filing of such a petition shall not stay or otherwise
22 prevent the rule from becoming effective unless the court finds that the petitioner has a substantial
23 likelihood of success. The court shall give deference to the actions of the Interstate Commission
24 consistent with applicable law and shall not find the rule to be unlawful if the rule represents a
25 reasonable exercise of the Interstate Commission’s authority.

26 IV. If a majority of the legislatures of the compacting states reject a rule by enactment of a
27 statute or resolution in the same manner used to adopt the compact, then such rule shall have no
28 further force and effect in any compacting state.

29 **ARTICLE XIII**

30 110-D:14 Oversight, Enforcement, and Dispute Resolution.

31 I. Oversight.

32 (a) The executive, legislative, and judicial branches of state government in each member
33 state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the
34 compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder
35 shall have standing as statutory law.

36 (b) All courts shall take judicial notice of the compact and the rules in any judicial or

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1 administrative proceeding in a member state pertaining to the subject matter of this compact which
2 may affect the powers, responsibilities, or actions of the Interstate Commission.

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

7 II. Default, technical assistance, suspension, and termination. If the Interstate Commission
8 determines that a member state has defaulted in the performance of its obligations or
9 responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission
10 shall:

11 (a) Provide written notice to the defaulting state and other member states, of the nature
12 of the default, the means of curing the default and any action taken by the Interstate Commission.
13 The Interstate Commission shall specify the conditions by which the defaulting state must cure its
14 default.

15 (b) Provide remedial training and specific technical assistance regarding the default.

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

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

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

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

32 (g) The defaulting state may appeal the action of the Interstate Commission by
33 petitioning the United States District Court for the District of Columbia or the federal district where
34 the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs
35 of such litigation including reasonable attorney's fees.

36 III. Dispute resolution.

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

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

6 IV. Enforcement.

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

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

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

19 ARTICLE XIV

20 110-D:15 Financing of the Interstate Commission.

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

23 II. The Interstate Commission may levy on and collect an annual assessment from each
24 member state to cover the cost of the operations and activities of the Interstate Commission and its
25 staff which must be in a total amount sufficient to cover the Interstate Commission's annual budget
26 as approved each year. The aggregate annual assessment amount shall be allocated based upon a
27 formula to be determined by the Interstate Commission, which shall promulgate a rule binding upon
28 all member states.

29 III. The Interstate Commission shall not incur obligations of any kind prior to securing the
30 funds adequate to meet the same; nor shall the Interstate Commission pledge the credit of any of the
31 member states, except by and with the authority of the member state.

32 IV. The Interstate Commission shall keep accurate accounts of all receipts and
33 disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the
34 audit and accounting procedures established under its bylaws. However, all receipts and
35 disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified
36 or licensed public accountant and the report of the audit shall be included in and become part of the

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1 annual report of the Interstate Commission.

2 **ARTICLE XV**

3 110-D:16 Member States, Effective Date and Amendment.

4 I. Any state is eligible to become a member state.

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

11 III. The Interstate Commission may propose amendments to the compact for enactment by
12 the member states. No amendment shall become effective and binding upon the Interstate
13 Commission and the member states unless and until it is enacted into law by unanimous consent of
14 the member states.

15 **ARTICLE XVI**

16 110-D:17 Withdrawal and Dissolution.

17 I. Withdrawal.

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

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

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

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

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

35 II. Dissolution of compact.

36 (a) This compact shall dissolve effective upon the date of the withdrawal or default of the

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1 member state which reduces the membership in the compact to one member state.

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

5 **ARTICLE XVII**

6 110-D:18 Severability and Construction.

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

9 II. The provisions of this compact shall be liberally construed to effectuate its purposes.

10 III. Nothing in this compact shall be construed to prohibit the applicability of other
11 interstate compacts to which the states are members.

12 **ARTICLE XVIII**

13 110-D:19 Binding Effect of Compact and Other Laws.

14 I. Other laws.

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

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

19 II. Binding effect of the compact.

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

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

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

27 308:2 Funding Source. For the fiscal year ending June 30, 2015, the department of education
28 shall use existing appropriations to the department for costs necessary to implement section 1 of this
29 act.

30 308:3 Effective Date. This act shall take effect 60 days after its passage.

31
32 Approved: August 1, 2014

33 Effective Date: September 30, 2014