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STATE OF RHODE ISLAND

IN GENERAL ASSEMBLY

JANUARY SESSION, A.D. 2010

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A N A C T

RELATING TO EDUCATION -- MILITARY CHILDREN

Introduced By: Senator Louis P. DiPalma

Date Introduced: March 25, 2010

Referred To: Senate Finance

It is enacted by the General Assembly as follows:

1 SECTION 1. Title 16 of the General Laws entitled "EDUCATION" is hereby amended  
2 by adding thereto the following chapter:

3 CHAPTER 92

4 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR

5 MILITARY CHILDREN

6 **16-92-1. Short title.** – This act shall be known and may be cited as the "Interstate  
7 Compact on Educational Opportunity for Military Children."

8 **16-92-2. Legislative purpose.** – It is the purpose of this compact to remove barriers to  
9 educational success imposed on children of military families because of frequent moves and  
10 deployment of their parents by:

11 (1) Facilitating the timely enrollment of children of military families and ensuring that  
12 they are not placed at a disadvantage due to difficulty in the transfer of education records from  
13 the previous school district or districts, or variations in entrance and age requirements.

14 (2) Facilitating the student placement process through which children of military families  
15 are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading,  
16 course content or assessment.

17 (3) Facilitating the qualification and eligibility for enrollment, educational programs, and  
18 participation in extracurricular academic, athletic, and social activities.

19 (4) Facilitating the on-time graduation of children of military families.

1           (5) Providing for the promulgation and enforcement of administrative rules implementing  
2 the provisions of this compact.

3           (6) Providing for the uniform collection and sharing of information between and among  
4 member states, schools and military families under this compact.

5           (7) Promoting coordination between this compact and other compacts affecting military  
6 children.

7           (8) Promoting flexibility and cooperation between the educational system, parents and the  
8 student in order to achieve educational success for the student.

9           **16-92-3. Definitions. --** As used in this chapter, unless the context clearly requires a  
10 different construction:

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

14           (2) “Children of military families” means a school-aged child or children, enrolled in  
15 kindergarten through twelfth grade, in the household of an active duty member.

16           (3) “Compact commissioner” means the voting representative of each compacting state  
17 appointed pursuant to section 16-91-9 of this chapter.

18           (4) “Deployment” means the period one month prior to the service members’ departure  
19 from their home station on military orders through six (6) months after return to their home  
20 station.

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

27           (6) “Extracurricular activities” means a voluntary activity sponsored by the school or  
28 local education agency or an organization sanctioned by the local education agency.  
29 Extracurricular activities include, but are not limited to, preparation for and involvement in public  
30 performances, contests, athletic competitions, demonstrations, displays, and club activities.

31           (7) “Interstate Commission on Educational Opportunity for Military Children” means the  
32 commission that is created under this chapter, which is generally referred to as interstate  
33 commission.

34           (8) “Local education agency” means a public authority legally constituted by the state as

1 an administrative agency to provide control of and direction for kindergarten through twelfth  
2 grade public educational institutions.

3 (9) “Member state” means a state that has enacted this compact.

4 (10) “Military installation” means a base, camp, post, station, yard, center, homeport  
5 facility for any ship, or other activity under the jurisdiction of the Department of Defense,  
6 including any leased facility, which is located within any of the several states, the District of  
7 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa,  
8 the Northern Marianas Islands and any other U.S. Territory. Such term does not include any  
9 facility used primarily for civil works, rivers and harbors projects, or flood control projects.

10 (11) “Non-member state” means a state that has not enacted this compact.

11 (12) “Receiving state” means the state to which a child of a military family is sent,  
12 brought, or caused to be sent or brought.

13 (13) “Rule” means a written statement by the interstate commission promulgated  
14 pursuant to section 16-91-13 of this chapter that is of general applicability, implements, interprets  
15 or prescribes a policy or provision of the compact, or an organizational, procedural, or practice  
16 requirement of the interstate commission, and has the force and effect of statutory law in a  
17 member state, and includes the amendment, repeal, or suspension of an existing rule.

18 (14) “Sending state” means the state from which a child of a military family is sent,  
19 brought, or caused to be sent or brought.

20 (15) “State” means a state of the United States, the District of Columbia, the  
21 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern  
22 Marianas Islands and any other U.S. Territory.

23 (16) “Student” means the child of a military family for whom the local education agency  
24 receives public funding and who is formally enrolled in kindergarten through twelfth grade.

25 (17) “Transition” means: (i) The formal and physical process of transferring from school  
26 to school; or (ii) The period of time in which a student moves from one school in the sending  
27 state to another school in the receiving state.

28 (18) “Uniformed service or services” means the Army, Navy, Air Force, Marine Corps,  
29 Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric  
30 Administration, and Public Health Services.

31 (19) “Veteran” means a person who served in the uniformed services and who was  
32 discharged or released there from under conditions other than dishonorable.

33 **16-92-4. Applicability.** – (a) Except as otherwise provided in subsection b. of this  
34 section, this compact shall apply to the children of:

1           (1) Active duty members of the uniformed services as defined in this chapter, including  
2 members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section  
3 1209 and 1211;

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

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

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

10          (c) The provisions of this chapter shall not apply to the children of:

11           (1) Inactive members of the national guard and military reserves;

12           (2) Members of the uniformed services now retired, except as provided in subsection (a)  
13 of this section;

14           (3) Veterans of the uniformed services, except as provided in subsection (a) of this  
15 section; and

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

18          **16-92-5. Educational records and enrollment.** – (a) Unofficial or “hand-carried”  
19 education records – In the event that official education records cannot be released to the  
20 parents for the purpose of transfer, the custodian of the records in the sending state shall  
21 prepare and furnish to the parent a complete set of unofficial educational records containing  
22 uniform information as determined by the interstate commission. Upon receipt of the  
23 unofficial educational records by a school in the receiving state, the school shall enroll and  
24 appropriately place the student based on the information provided in the unofficial records  
25 pending validation by the official records, as quickly as possible.

26           (b) Official education records and transcripts - Simultaneous with the enrollment and  
27 conditional placement of the student, the school in the receiving state shall request the student’s  
28 official education record from the school in the sending state. Upon receipt of this request, the  
29 school in the sending state will process and furnish the official education records to the school in  
30 the receiving state within ten (10) days or within such time as is reasonably determined under the  
31 rules promulgated by the interstate commission.

32           (c) Immunizations – Compacting states shall give thirty (30) days from the date of  
33 enrollment or within such time as is reasonably determined under the rules promulgated by the  
34 interstate commission, for students to obtain any immunizations required by the receiving state.

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

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

12 **16-92-6. Placement and attendance.** – (a) Course placement - When the student  
13 transfers before or during the school year, the receiving state school shall initially honor  
14 placement of the student in educational courses based on the student’s enrollment in the sending  
15 state school, educational assessments conducted at the school in the sending state, or both, if the  
16 courses are offered. Course placement includes, but is not limited to, honors, international  
17 baccalaureate, advanced placement, vocational, technical and career pathways courses.  
18 Continuing the student’s academic program from the previous school and promoting placement in  
19 academically and career challenging courses should be paramount when considering placement.  
20 This does not preclude the school in the receiving state from performing subsequent evaluations  
21 to ensure appropriate placement and continued enrollment of the student in the course or courses.

22 (b) Educational program placement – The receiving state school shall initially honor  
23 placement of the student in educational programs based on current educational assessments  
24 conducted at the school in the sending state or participation or placement in like programs in the  
25 sending state. Such programs include, but are not limited to: (1) Gifted and talented programs;  
26 and (2) English as a second language (ESL). This does not preclude the school in the receiving  
27 state from performing subsequent evaluations to ensure appropriate placement of the student.

28 (c) Special education services – (1) In compliance with the federal requirements of the  
29 Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the  
30 receiving state shall initially provide comparable services to a student with disabilities based on  
31 his or her current Individualized Education Program (IEP); and (2) In compliance with the  
32 requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II  
33 of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state  
34 shall make reasonable accommodations and modifications to address the needs of incoming

1 students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with  
2 equal access to education. This does not preclude the school in the receiving state from  
3 performing subsequent evaluations to ensure appropriate placement of the student.

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

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

13 **16-92-7. Eligibility.** – (a) Eligibility for enrollment:

14 (1) Special power of attorney, relative to the guardianship of a child of a military family  
15 and executed under applicable law shall be sufficient for the purposes of enrollment and all other  
16 actions requiring parental participation and consent.

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

20 (3) A transitioning military child, placed in the care of a non-custodial parent or other  
21 person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent,  
22 may continue to attend the school in which he or she was enrolled while residing with the  
23 custodial parent.

24 (b) Eligibility for extracurricular participation - State and local education agencies shall  
25 facilitate the opportunity for transitioning military children’s inclusion in extracurricular  
26 activities, regardless of application deadlines, to the extent they are otherwise qualified.

27 **16-92-8. Graduation.** -- In order to facilitate the on-time graduation of children of  
28 military families states and local education agencies shall incorporate the following procedures:

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

1           (2) Exit exams - States shall accept: (i) exit or end-of-course exams required for  
2 graduation from the sending state; or (ii) national norm-referenced achievement tests; or (iii)  
3 alternative testing, in lieu of testing requirements for graduation in the receiving state. In the  
4 event the above alternatives cannot be accommodated by the receiving state for a student  
5 transferring in his or her senior year, then the provisions of subdivision (3) of this section shall  
6 apply.

7           (3) Transfers during senior year – Should a military student transferring at the beginning  
8 or during his or her senior year be ineligible to graduate from the receiving local education  
9 agency after all alternatives have been considered, the sending and receiving local education  
10 agencies shall ensure the receipt of a diploma from the sending local education agency, if the  
11 student meets the graduation requirements of the sending local education agency. In the event that  
12 one of the states in question is not a member of this compact, the member state shall use best  
13 efforts to facilitate the on-time graduation of the student in accordance with subdivisions (1) and  
14 (2) of this section.

15           **16-92-9. State coordination.** – (a) Each member state shall, through the creation of a  
16 state council or use of an existing body or board, provide for the coordination among its agencies  
17 of government, local education agencies and military installations concerning the state’s  
18 participation in, and compliance with, this compact and interstate commission activities. While  
19 each member state may determine the membership of its own state council, its membership must  
20 include at least: the state superintendent of education, superintendent of a school district with a  
21 high concentration of military children, representative from a military installation, one  
22 representative each from the legislative and executive branches of government, and other offices  
23 and stakeholder groups the state council deems appropriate. A member state that does not have a  
24 school district deemed to contain a high concentration of military children may appoint a  
25 superintendent from another school district to represent local education agencies on the state  
26 council.

27           (b) The state council of each member state shall appoint or designate a military family  
28 education liaison to assist military families and the state in facilitating the implementation of this  
29 compact.

30           (c) The compact commissioner responsible for the administration and management of the  
31 state's participation in the compact shall be appointed by the governor or as otherwise determined  
32 by each member state.

33           (d) The compact commissioner and the military family education liaison designated  
34 herein shall be ex-officio members of the state council, unless either is already a full voting

1 member of the state council.

2 **16-92-10. Interstate commission on educational opportunity for military children. --**

3 The member states hereby create the “Interstate Commission on Educational Opportunity for  
4 Military Children.” The activities of the interstate commission are the formation of public policy  
5 and are a discretionary state function. The interstate commission shall:

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

10 (2) Consist of one interstate commission voting representative from each member state  
11 who shall be that state’s compact commissioner:

12 (i) Each member state represented at a meeting of the interstate commission is entitled to  
13 one vote;

14 (ii) A majority of the total member states shall constitute a quorum for the transaction of  
15 business, unless a larger quorum is required by the bylaws of the interstate commission;

16 (iii) A representative shall not delegate a vote to another member state. In the event the  
17 compact commissioner is unable to attend a meeting of the interstate commission, the governor or  
18 state council may delegate voting authority to another person from their state for a specified  
19 meeting;

20 (iv) The bylaws may provide for meetings of the interstate commission to be conducted  
21 by telecommunication or electronic communication, which shall:

22 (3) Consist of ex-officio, non-voting representatives who are members of interested  
23 organizations. Such ex-officio members, as defined in the bylaws, may include, but not be  
24 limited to, members of the representative organizations of military family advocates, local  
25 education agency officials, parent and teacher groups, the U.S. Department of Defense, the  
26 Education Commission of the States, the Interstate Agreement on the Qualification of  
27 Educational Personnel and other interstate compacts affecting the education of children of  
28 military members.

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

31 (5) Establish an executive committee, whose members shall include the officers of the  
32 interstate commission and such other members of the interstate commission as determined by the  
33 bylaws. Members of the executive committee shall serve a one year term. Members of the  
34 executive committee shall be entitled to one vote each. The executive committee shall have the

1 power to act on behalf of the interstate commission, with the exception of rulemaking, during  
2 periods when the interstate commission is not in session. The executive committee shall oversee  
3 the day-to-day activities of the administration of the compact including enforcement and  
4 compliance with the provisions of the compact, its bylaws and rules, and other such duties as  
5 deemed necessary. The U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of  
6 the executive committee.

7 (6) Establish bylaws and rules that provide for conditions and procedures under which the  
8 interstate commission shall make its information and official records available to the public for  
9 inspection or copying. The interstate commission may exempt from disclosure information or  
10 official records to the extent they would adversely affect personal privacy rights or proprietary  
11 interests.

12 (7) Give public notice of all meetings and all meetings shall be open to the public, except  
13 as set forth in the rules or as otherwise provided in the compact. The interstate commission and its  
14 committees may close a meeting, or portion thereof, where it determines by two-thirds (2/3) vote  
15 that an open meeting would be likely to:

16 (i) Relate solely to the interstate commission's internal personnel practices and  
17 procedures;

18 (ii) Disclose matters specifically exempted from disclosure by federal and state statute;

19 (iii) Disclose trade secrets or commercial or financial information which is privileged or  
20 confidential;

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

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

24 (vi) Disclose investigative records compiled for law enforcement purposes; or

25 (vii) Specifically relate to the interstate commission's participation in a civil action or  
26 other legal proceeding.

27 (8) Cause its legal counsel or designee to certify that a meeting may be closed and shall  
28 reference each relevant exemptible provision for any meeting, or portion of a meeting, which is  
29 closed pursuant to this provision. The interstate commission shall keep minutes which shall fully  
30 and clearly describe all matters discussed in a meeting and shall provide a full and accurate  
31 summary of actions taken, and the reasons therefore, including a description of the views  
32 expressed and the record of a roll call vote. All documents considered in connection with an  
33 action shall be identified in such minutes. All minutes and documents of a closed meeting shall  
34 remain under seal, subject to release by a majority vote of the interstate commission.

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

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

12 **16-92-11. Powers and duties of the interstate commission.** -- The interstate  
13 commission shall have the following powers:

14 (1) To provide for dispute resolution among member states.

15 (2) To promulgate rules and take all necessary actions to effect the goals, purposes and  
16 obligations as enumerated in this compact. The rules shall have the force and effect of statutory  
17 law and shall be binding in the compact states to the extent and in the manner provided in this  
18 compact.

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

21 (4) To enforce compliance with the compact provisions, the rules promulgated by the  
22 interstate commission, and the bylaws, using all necessary and proper means, including, but not  
23 limited to, the use of judicial process.

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

26 (6) To purchase and maintain insurance and bonds.

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

28 (8) To establish and appoint committees including, but not limited to, an executive  
29 committee as required by subdivision 16-91-10(5), which shall have the power to act on behalf of  
30 the interstate commission in carrying out its powers and duties hereunder.

31 (9) To elect or appoint such officers, attorneys, employees, agents, or consultants, and to  
32 fix their compensation, define their duties and determine their qualifications; and to establish the  
33 interstate commission's personnel policies and programs relating to conflicts of interest, rates of  
34 compensation, and qualifications of personnel.

1           (10) To accept any and all donations and grants of money, equipment, supplies, materials,  
2 and services, and to receive, utilize, and dispose of it.

3           (11) To lease, purchase, accept contributions or donations of, or otherwise to own, hold,  
4 improve or use any property, real, personal, or mixed.

5           (12) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
6 any property, real, personal or mixed.

7           (13) To establish a budget and make expenditures.

8           (14) To adopt a seal and bylaws governing the management and operation of the  
9 interstate commission.

10          (15) To report annually to the legislatures, governors, judiciary, and state councils of the  
11 member states concerning the activities of the interstate commission during the preceding year.  
12 Such reports shall also include any recommendations that may have been adopted by the  
13 interstate commission.

14          (16) To coordinate education, training and public awareness regarding the compact, its  
15 implementation and operation for officials and parents involved in such activity.

16          (17) To establish uniform standards for the reporting, collecting and exchanging of data.

17          (18) To maintain corporate books and records in accordance with the bylaws.

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

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

22          **16-92-12. Organization and operation of the interstate commission.** – (a) The  
23 interstate commission shall, by a majority of the members present and voting, within twelve (12)  
24 months after the first interstate commission meeting, adopt bylaws to govern its conduct as may  
25 be necessary or appropriate to carry out the purposes of the compact, including, but not limited to:

26               (1) Establishing the fiscal year of the interstate commission;

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

29               (3) Providing for the establishment of committees and for governing any general or  
30 specific delegation of authority or function of the interstate commission;

31               (4) Providing reasonable procedures for calling and conducting meetings of the interstate  
32 commission, and ensuring reasonable notice of each such meeting;

33               (5) Establishing the titles and responsibilities of the officers and staff of the interstate  
34 commission;

1           (6) Providing a mechanism for concluding the operations of the interstate commission  
2 and the return of surplus funds that may exist upon the termination of the compact after the  
3 payment and reserving of all of its debts and obligations;

4           (7) Providing "start up" rules for initial administration of the compact.

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

13           (c) Executive committee, officers and personnel:

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

16           (i) Managing the affairs of the interstate commission in a manner consistent with the  
17 bylaws and purposes of the interstate commission;

18           (ii) Overseeing an organizational structure within, and appropriate procedures for the  
19 interstate commission to provide for the creation of rules, operating procedures, and  
20 administrative and technical support functions; and

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

24           (2) The executive committee may, subject to the approval of the interstate commission,  
25 appoint or retain an executive director for such period, upon such terms and conditions and for  
26 such compensation, as the interstate commission may deem appropriate. The executive director  
27 shall serve as secretary to the interstate commission, but shall not be a member of the interstate  
28 commission. The executive director shall hire and supervise such other persons as may be  
29 authorized by the interstate commission.

30           (d) The interstate commission's executive director and its employees shall be immune  
31 from suit and liability, either personally or in their official capacity, for a claim for damage to or  
32 loss of property or personal injury or other civil liability caused or arising out of or relating to an  
33 actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis  
34 for believing occurred, within the scope of interstate commission employment, duties, or

1 responsibilities; provided, that such person shall not be protected from suit or liability for  
2 damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of  
3 such person.

4 (1) The liability of the interstate commission's executive director and employees or  
5 interstate commission representatives, acting within the scope of such person's employment or  
6 duties for acts, errors, or omissions occurring within such person's state may not exceed the limits  
7 of liability set forth under the constitution and laws of that state for state officials, employees, and  
8 agents. The interstate commission is considered to be an instrumentality of the states for the  
9 purposes of any such action. Nothing in this subsection shall be construed to protect such person  
10 from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and  
11 wanton misconduct of such person.

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

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

29 **16-92-13. Rulemaking functions of the interstate commission.** – (a) Rulemaking  
30 authority - The interstate commission shall promulgate reasonable rules in order to effectively  
31 and efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event  
32 the interstate commission exercises its rulemaking authority in a manner that is beyond the scope  
33 of the purposes of this act, or the powers granted hereunder, then such an action by the interstate  
34 commission shall be invalid and have no force or effect.

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

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

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

14 **16-92-14. Oversight, enforcement and dispute resolution. – (a) Oversight.**

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

19 (2) All courts shall take judicial notice of the compact and the rules in any judicial or  
20 administrative proceeding in a member state pertaining to the subject matter of this compact  
21 which may affect the powers, responsibilities or actions of the interstate commission.

22 (3) The interstate commission shall be entitled to receive all service of process in any  
23 such proceeding, and shall have standing to intervene in the proceeding for all purposes. Failure  
24 to provide service of process to the interstate commission shall render a judgment or order void as  
25 to the interstate commission, this compact or promulgated rules.

26 (b) Default, technical assistance, suspension and termination. If the interstate  
27 commission determines that a member state has defaulted in the performance of its obligations or  
28 responsibilities under this compact, or the bylaws or promulgated rules, the interstate commission  
29 shall:

30 (1) Provide written notice to the defaulting state and other member states, of the nature of  
31 the default, the means of curing the default and any action taken by the interstate commission.  
32 The interstate commission shall specify the conditions by which the defaulting state must cure its  
33 default.

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

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

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

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

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

18           (7) The defaulting state may appeal the action of the interstate commission by petitioning  
19 the U.S. District Court for the District of Columbia or the federal district where the interstate  
20 commission has its principal offices. The prevailing party shall be awarded all costs of such  
21 litigation including reasonable attorney's fees.

22           (c) Dispute Resolution.

23           (1) The interstate commission shall attempt, upon the request of a member state, to  
24 resolve disputes which are subject to the compact and which may arise among member states and  
25 between member and non-member states.

26           (2) The interstate commission shall promulgate a rule providing for both mediation and  
27 binding dispute resolution for disputes as appropriate.

28           (d) Enforcement.

29           (1) The interstate commission, in the reasonable exercise of its discretion, shall enforce  
30 the provisions and rules of this compact.

31           (2) The interstate commission, may by majority vote of the members, initiate legal action  
32 in the United State District Court for the District of Columbia or, at the discretion of the interstate  
33 commission, in the federal district where the interstate commission has its principal offices, to  
34 enforce compliance with the provisions of the compact, its promulgated rules and bylaws, against

1 a member state in default. The relief sought may include both injunctive relief and damages. In  
2 the event judicial enforcement is necessary the prevailing party shall be awarded all costs of such  
3 litigation including reasonable attorney's fees.

4 (3) The remedies herein shall not be the exclusive remedies of the interstate commission.  
5 The interstate commission may avail itself of any other remedies available under state law or the  
6 regulation of a profession.

7 **16-92-15. Financing of the interstate commission.** – (a) The interstate commission shall  
8 pay, or provide for the payment of the reasonable expenses of its establishment, organization and  
9 ongoing activities.

10 (b) The interstate commission may levy on and collect an annual assessment from each  
11 member state to cover the cost of the operations and activities of the interstate commission and its  
12 staff which must be in a total amount sufficient to cover the interstate commission's annual  
13 budget as approved each year. The aggregate annual assessment amount shall be allocated based  
14 upon a formula to be determined by the interstate commission, which shall promulgate a rule  
15 binding upon all member states.

16 (c) The interstate commission shall not incur obligations of any kind prior to securing the  
17 funds adequate to meet the same; nor shall the interstate commission pledge the credit of any of  
18 the member states, except by and with the authority of the member state.

19 (d) The interstate commission shall keep accurate accounts of all receipts and  
20 disbursements. The receipts and disbursements of the interstate commission shall be subject to the  
21 audit and accounting procedures established under its bylaws. However, all receipts and  
22 disbursements of funds handled by the interstate commission shall be audited yearly by a certified  
23 or licensed public accountant and the report of the audit shall be included in and become part of  
24 the annual report of the interstate commission.

25 **16-92-16. Member states, effective date and amendment.** – (a) Any state is eligible to  
26 become a member state.

27 (b) The compact shall become effective and binding upon legislative enactment of the  
28 compact into law by no less than ten (10) of the states. The effective date shall be no earlier than  
29 December 1, 2010. Thereafter it shall become effective and binding as to any other member state  
30 upon enactment of the compact into law by that state. The governors of non-member states or  
31 their designees shall be invited to participate in the activities of the interstate commission on a  
32 non-voting basis prior to adoption of the compact by all states.

33 (c) The interstate commission may propose amendments to the compact for enactment by  
34 the member states. No amendment shall become effective and binding upon the interstate

1 commission and the member states unless and until it is enacted into law by unanimous consent  
2 of the member states.

3 **16-92-17. Withdrawal and dissolution. – (a) Withdrawal.**

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

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

11 (3) The withdrawing state shall immediately notify the chairperson of the interstate  
12 commission in writing upon the introduction of legislation repealing this compact in the  
13 withdrawing state. The interstate commission shall notify the other member states of the  
14 withdrawing state’s intent to withdraw within sixty (60) days of its receipt thereof.

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

18 (5) Reinstatement following withdrawal of a member state shall occur upon the  
19 withdrawing state reenacting the compact or upon such later date as determined by the interstate  
20 commission.

21 (b) Dissolution of compact

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

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

27 SECTION 2. This act shall take effect upon passage.

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EXPLANATION  
BY THE LEGISLATIVE COUNCIL  
OF  
A N A C T  
RELATING TO EDUCATION -- MILITARY CHILDREN

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- 1           This act would make Rhode Island a member of an interstate commission which would
- 2 deal with issues related to the education of the children of military personnel.
- 3           This act would take effect upon passage.

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LC01586  
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