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HOUSE BILL NO. 1727

Offered January 14, 2009

Prefiled January 6, 2009

A BILL to amend the Code of Virginia by adding in Title 22.1 a chapter numbered 24, consisting of sections numbered 22.1-360 and 22.1-361, relating to the Interstate Compact on Educational Opportunity for Military Children.

Patrons—Cole, Alexander, BaCote, Barlow, Bell, Bouchard, Bowling, Brink, Cosgrove, Cox, Dance, Fralin, Frederick, Gear, Hall, Hamilton, Howell, A.T., Hull, Iaquinto, Ingram, Johnson, Jones, Knight, Lingamfelter, Massie, Mathieson, McQuinn, Merricks, Miller, P.J., Morgan, Nixon, O'Bannon, Peace, Phillips, Plum, Pogge, Poindexter, Poisson, Pollard, Purkey, Putney, Rust, Scott, J.M., Sherwood, Spruill, Tata, Valentine, Vanderhye, Ward, Ware, R.L. and Watts; Senators: Blevins, Colgan, Cuccinelli, Deeds, Edwards, Hanger, Marsh, Martin, McDougle, Norment, Petersen, Quayle, Reynolds, Ruff, Stosch, Stuart, Ticer and Wagner

Referred to Committee on Education

Be it enacted by the General Assembly of Virginia:

1. That the Code of Virginia is amended by adding in Title 22.1 a chapter numbered 24, consisting of sections numbered §§ 22.1-360 and 22.1-361 as follows:

CHAPTER 24.**INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**

§ 22.1-360. *Interstate Compact on Educational Opportunity for Military Children.*

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

Article I.**Purpose.**

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

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

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

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

D. Facilitating the on-time graduation of children of military families.

E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.

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

G. Promoting coordination between this compact and other compacts affecting military children.

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

Article II.**Definitions.**

As used in this compact, unless the context clearly requires a different construction:

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

"Children of military families" means school-aged children, enrolled in kindergarten through 12th grade, in the household of an active duty member.

"Compact commissioner" means the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

"Deployment" means the period one month prior to the service members' departure from their home station on military orders through six months after return to their home station.

"Educational records" means those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing

53 all the material kept in the student's cumulative folder such as general identifying data, records of
54 attendance and of academic work completed, records of achievement and results of evaluative tests,
55 health data, disciplinary status, test protocols, and individualized education programs.

56 "Extracurricular activities" means a voluntary activity sponsored by the school or local education
57 agency or an organization sanctioned by the local education agency. Extracurricular activities include
58 but are not limited to preparation for and involvement in public performances, contests, athletic
59 competitions, demonstrations, displays, and club activities.

60 "Interstate Commission on Educational Opportunity for Military Children" means the commission
61 that is created under Article IX of this compact, which is generally referred to as the Interstate
62 Commission.

63 "Local education agency" means a public authority legally constituted by the state as an
64 administrative agency to provide control of and direction for kindergarten through 12th grade public
65 educational institutions.

66 "Member state" means a state that has enacted this compact.

67 "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship,
68 or other activity under the jurisdiction of the Department of Defense, including any leased facility,
69 which is located within any of the several states, the District of Columbia, the Commonwealth of Puerto
70 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other
71 U.S. territory. Such term does not include any facility used primarily for civil works, rivers and harbors
72 projects, or flood control projects.

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

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

76 "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII
77 of this compact that is of general applicability; implements, interprets, or prescribes a policy or
78 provision of the compact, or an organizational, procedural, or practice requirement of the Interstate
79 Commission and has the force and effect of statutory law in a member state; and includes the
80 amendment, repeal, or suspension of an existing rule.

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

83 "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
84 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.
85 S. territory.

86 "Student" means the child of a military family for whom the local education agency receives public
87 funding and who is formally enrolled in kindergarten through 12th grade.

88 "Transition" means: (i) the formal and physical process of transferring from school to school or (ii)
89 the period of time in which a student moves from one school in the sending state to another school in
90 the receiving state.

91 "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Coast Guard, as well as the
92 Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health
93 Services.

94 "Veteran" means a person who served in the active military, naval, or air service and who was
95 discharged or released there from under conditions other than dishonorable.

96 Article III.

97 Applicability.

98 A. Except as otherwise provided in subsection B, this compact shall apply to the children of:

99 1. Active duty members of the uniformed services as defined in this compact, including members of
100 the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. §§ 1209 and 1211;

101 2. Members or veterans of the uniformed services who are severely injured and medically discharged
102 or retired for a period of one year after medical discharge or retirement; and

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

105 B. The provisions of this interstate compact shall only apply to local education agencies as defined
106 in this compact.

107 C. The provisions of this compact shall not apply to the children of:

108 1. Inactive members of the National Guard and Military Reserves;

109 2. Members of the uniformed services now retired, except as provided in subsection A;

110 3. Veterans of the uniformed services, except as provided in subsection A; and

111 4. Other U.S. Department of Defense personnel and other federal agency civilian and contract
112 employees not defined as active duty members of the uniformed services.

113 Article IV.

114 Educational Records and Enrollment.

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

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

C. Immunizations. Compacting states shall give 30 days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

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

Article V.

Placement and Attendance.

A. Course placement. When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school and/or educational assessments conducted at the school in the sending state if the courses are offered. Course placement includes, but is not limited to, honors, International Baccalaureate, advanced placement, vocational, technical, and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the course(s).

B. Educational program placement. The receiving state school shall initially honor placement of the student in educational programs based on current educational assessments conducted at the school in the sending state or participation/placement in like programs in the sending state. Such programs include, but are not limited to, (i) gifted and talented programs and (ii) English as a second language (ESL) programs. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

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

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

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

Article VI.

176 *Eligibility.*

177 *A. Eligibility for enrollment.*

178 *1. Special power of attorney, relative to the guardianship of a child of a military family, and*
179 *executed under applicable law, shall be sufficient for the purposes of enrollment and all other actions*
180 *requiring parental participation and consent;*

181 *2. A local education agency shall be prohibited from charging local tuition to a military child placed*
182 *in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction*
183 *other than that of the custodial parent; and*

184 *3. A military child, placed in the care of a noncustodial parent or other person standing in loco*
185 *parentis who lives in a jurisdiction other than that of the custodial parent, may continue to attend the*
186 *school in which he or she was enrolled while residing with the custodial parent.*

187 *B. Eligibility for extracurricular participation. State and local education agencies shall facilitate the*
188 *opportunity for military children's inclusion in extracurricular activities, regardless of application*
189 *deadlines, to the extent they are otherwise qualified.*

190 *Article VII.*

191 *Graduation.*

192 *In order to facilitate the on-time graduation of children of military families, states and local*
193 *education agencies shall incorporate the following procedures:*

194 *A. Waiver requirements. Local education agency administrative officials shall waive specific courses*
195 *required for graduation if similar coursework has been satisfactorily completed in another local*
196 *education agency or shall provide reasonable justification for denial. Should a waiver not be granted to*
197 *a student who would qualify to graduate from the sending school, the local education agency shall*
198 *provide an alternative means of acquiring required coursework so that graduation may occur on time.*

199 *B. Exit exams. States shall accept: (i) exit or end-of-course exams required for graduation from the*
200 *sending state, (ii) national norm-referenced achievement tests, or (iii) alternative testing, in lieu of*
201 *testing requirements for graduation in the receiving state. Within 12 months of the effective date of this*
202 *compact, the Interstate Commission shall adopt a rule addressing the acceptance of exit exams.*

203 *C. Transfers during senior year. Should a military student transferring in his or her senior year be*
204 *ineligible to graduate from the receiving local education agency after all alternatives have been*
205 *considered, the sending and receiving local education agencies shall ensure the receipt of a diploma*
206 *from the sending local education agency, if the student meets the graduation requirements of the sending*
207 *local education agency. In the event that one of the states in question is not a member of this compact,*
208 *the member state shall use best efforts to facilitate the on-time graduation of the student in accordance*
209 *with subsections A and B of this Article.*

210 *Article VIII.*

211 *State Coordination.*

212 *A. Each member state shall, through the creation of a State Council or use of an existing body or*
213 *board, provide for the coordination among its agencies of government, local education agencies, and*
214 *military installations concerning the state's participation in, and compliance with, this compact and*
215 *Interstate Commission activities. While each member state may determine the membership of its own*
216 *State Council, its membership must include at least: (i) the state superintendent of education, (ii) the*
217 *superintendent of a school district with a high concentration of military children, (iii) one representative*
218 *from a military installation, and (iv) one representative each from the legislative and executive branches*
219 *of government, and other offices and stakeholder groups the State Council deems appropriate. A*
220 *member state that does not have a school district deemed to contain a high concentration of military*
221 *children may appoint a superintendent from another school district to represent local education agencies*
222 *on the State Council.*

223 *B. The State Council of each member state shall appoint or designate a military family education*
224 *liaison to assist military families and the state in facilitating the implementation of this compact.*

225 *C. The Governor of each member state shall appoint or designate a compact commissioner*
226 *responsible for the administration and management of the state's participation in the compact and who*
227 *is empowered to establish statewide policy related to matters governed by this compact.*

228 *D. The compact commissioner and the military family education liaison designated herein shall be ex*
229 *officio members of the State Council, unless either is already a full voting member of the State Council.*

230 *Article IX.*

231 *Interstate Commission on Educational Opportunity for Military Children.*

232 *The member states hereby create the Interstate Commission on Educational Opportunity for Military*
233 *Children. The activities of the Interstate Commission are the formation of public policy and are a*
234 *discretionary state function. The Interstate Commission shall:*

235 *A. Be a body corporate and joint agency of the member states and shall have all the responsibilities,*
236 *powers, and duties set forth herein and such additional powers as may be conferred upon it by a*
237 *subsequent concurrent action of the respective legislatures of the member states in accordance with the*

terms of this compact.

B. Consist of one Interstate Commission voting representative from each member state who shall be that state's compact commissioner and who is empowered to establish statewide policy related to matters governed by this compact.

1. Each member state represented at a meeting of the Interstate Commission is entitled to one vote;

2. A majority of the total member states shall constitute a quorum for the transaction of business, unless a larger quorum is required by the bylaws of the Interstate Commission;

3. A representative shall not delegate a vote to another member state. In the event the compact commissioner is unable to attend a meeting of the Interstate Commission, the Governor or State Council may delegate voting authority to another person from the state for a specified meeting; and

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex officio, nonvoting representatives who are members of interested organizations. Such ex officio members, as defined in the bylaws, may include, but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the education of children of military members.

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

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

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

G. Public notice shall be given by the Interstate Commission of all meetings, and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The Interstate Commission and its committees may close a meeting, or portion thereof, when it determines by two-thirds vote that an open meeting would be likely to:

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information that is privileged or confidential;

4. Involve accusing a person of a crime or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law-enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. For a meeting, or portion of a meeting, closed pursuant to the provisions of subsection G, the Interstate Commission's legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and accurate summary of actions taken, and the reasons therefore, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

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

J. The Interstate Commission shall create a process that permits military officials, education officials,

299 and parents to inform the Interstate Commission if and when there are alleged violations of the compact
300 or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by
301 the state or local education agency. This section shall not be construed to create a private right of
302 action against the Interstate Commission or any member state.

303 Article X.

304 Powers and Duties of the Interstate Commission.

305 The Interstate Commission shall have the following powers:

306 A. To provide for dispute resolution among member states.

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

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

312 D. To enforce compliance with the compact provisions, the rules promulgated by the Interstate
313 Commission, and the bylaws, using all necessary and proper means, including but not limited to the use
314 of judicial process.

315 E. To establish and maintain offices, which shall be located within one or more of the member
316 states.

317 F. To purchase and maintain insurance and bonds.

318 G. To borrow, accept, hire, or contract for services of personnel.

319 H. To establish and appoint committees, including but not limited to an executive committee as
320 required by Article IX, subsection E, which shall have the power to act on behalf of the Interstate
321 Commission in carrying out its powers and duties hereunder.

322 I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to fix their
323 compensation, define their duties, and determine their qualifications and to establish the Interstate
324 Commission's personnel policies and programs relating to conflicts of interest, rates of compensation,
325 and qualifications of personnel.

326 J. To accept any and all donations and grants of money, equipment, supplies, materials, and services
327 and to receive, utilize, and dispose of them.

328 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or
329 use any property, real, personal, or mixed.

330 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any
331 property, real, personal, or mixed.

332 M. To establish a budget and make expenditures.

333 N. To adopt a seal and bylaws governing the management and operation of the Interstate
334 Commission.

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

338 P. To coordinate education, training, and public awareness regarding the compact, its
339 implementation, and operation for officials and parents involved in such activity.

340 Q. To establish uniform standards for the reporting, collecting, and exchanging of data.

341 R. To maintain corporate books and records in accordance with the bylaws.

342 S. To perform such functions as may be necessary or appropriate to achieve the purposes of this
343 compact.

344 T. To provide for the uniform collection and sharing of information between and among member
345 states, schools, and military families under this compact.

346 Article XI.

347 Organization and Operation of the Interstate Commission.

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

351 1. Establishing the fiscal year of the Interstate Commission;

352 2. Establishing an executive committee and such other committees as may be necessary;

353 3. Providing for the establishment of committees and for governing any general or specific
354 delegation of authority or function of the Interstate Commission;

355 4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission
356 and ensuring reasonable notice of each such meeting;

357 5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;

358 6. Providing a mechanism for concluding the operations of the Interstate Commission and the return
359 of surplus funds that may exist upon the termination of the compact after the payment and reserving of
360 all of its debts and obligations; and

7. Providing "start-up" rules for initial administration of the compact.

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

C. Executive Committee, officers, and personnel.

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to: (i) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission; (ii) overseeing an organizational structure within and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and (iii) planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the Interstate Commission.

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

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

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

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

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

Article XII.

Rulemaking Functions of the Interstate Commission.

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

B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking process that substantially conforms to the "Model State Administrative Procedure Act," of 1981, Uniform Laws Annotated, Vol. 15,

422 p. 1 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

423 C. Not later than 30 days after a rule is promulgated, any person may file a petition for judicial
424 review of the rule provided that the filing of such a petition shall not stay or otherwise prevent the rule
425 from becoming effective unless the court finds that the petitioner has a substantial likelihood of success.
426 The court shall give deference to the actions of the Interstate Commission consistent with applicable law
427 and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate
428 Commission's authority.

429 Article XIII.

430 Oversight, Enforcement, and Dispute Resolution.

431 A. Oversight.

432 1. The executive, legislative, and judicial branches of state government in each member state shall
433 enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's
434 purposes and intent. The provisions of this compact and the rules promulgated hereunder shall have
435 standing as statutory law;

436 2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative
437 proceeding in a member state pertaining to the subject matter of this compact that may affect the
438 powers, responsibilities, or actions of the Interstate Commission; and

439 3. The Interstate Commission shall be entitled to receive all service of process in any such
440 proceeding and shall have standing to intervene in the proceeding for all purposes. Failure to provide
441 service of process to the Interstate Commission shall render a judgment or order void as to the
442 Interstate Commission, this compact, or promulgated rules.

443 B. Default, technical assistance, suspension, and termination.

444 If the Interstate Commission determines that a member state has defaulted in the performance of its
445 obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate
446 Commission shall:

447 1. Provide written notice to the defaulting state and other member states of the nature of the default,
448 the means of curing the default, and any action taken by the Interstate Commission. The Interstate
449 Commission shall specify the conditions by which the defaulting state must cure its default;

450 2. Provide remedial training and specific technical assistance regarding the default;

451 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated from the
452 compact upon an affirmative vote of a majority of the member states, and all rights, privileges, and
453 benefits conferred by this compact shall be terminated from the effective date of termination. A cure of
454 the default does not relieve the offending state of obligations or liabilities incurred during the period of
455 the default;

456 4. Suspension or termination of membership in the compact shall be imposed only after all other
457 means of securing compliance have been exhausted. Notice of intent to suspend or terminate shall be
458 given by the Interstate Commission to the Governor, the majority and minority leaders of the defaulting
459 state's legislature, and each of the member states;

460 5. The state that has been suspended or terminated is responsible for all assessments, obligations,
461 and liabilities incurred through the effective date of suspension or termination, including obligations the
462 performance of which extends beyond the effective date of suspension or termination;

463 6. The Interstate Commission shall not bear any costs relating to any state that has been found to be
464 in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed
465 upon in writing between the Interstate Commission and the defaulting state; and

466 7. The defaulting state may appeal the action of the Interstate Commission by petitioning the United
467 States District Court for the District of Columbia or the federal district where the Interstate Commission
468 has its principal offices. The prevailing party shall be awarded all costs of such litigation including
469 reasonable attorney's fees.

470 C. Dispute resolution.

471 1. The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes
472 that are subject to the compact and that may arise among member states and between member and
473 nonmember states.

474 2. The Interstate Commission shall promulgate a rule providing for both mediation and binding
475 dispute resolution for disputes as appropriate.

476 D. Enforcement.

477 1. The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the
478 provisions and rules of this compact.

479 2. The Interstate Commission may by majority vote of the members initiate legal action in the United
480 States District Court for the District of Columbia or, at the discretion of the Interstate Commission, in
481 the federal district where the Interstate Commission has its principal offices to enforce compliance with
482 the provisions of the compact, its promulgated rules and bylaws against a member state in default. The
483 relief sought may include both injunctive relief and damages. In the event judicial enforcement is

necessary, the prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.

3. The remedies herein shall not be the exclusive remedies of the Interstate Commission. The Interstate Commission may avail itself of any other remedies available under state law or the regulation of a profession.

Article XIV.

Financing of the Interstate Commission.

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

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

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

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

Article XV.

Member States, Effective Date, and Amendment.

A. Any state is eligible to become a member state.

B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than 10 of the states. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The Governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

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

Article XVI.

Withdrawal and Dissolution.

A. Withdrawal.

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

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

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

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, including obligations the performance of which extends beyond the effective date of withdrawal.

5. Reinstatement following withdrawal of a member state shall occur upon the withdrawing state reenacting the compact or upon such later date as determined by the Interstate Commission.

B. Dissolution of compact.

1. This compact shall dissolve effective upon the date of the withdrawal or default of the member state that reduces the membership in the compact to one member state.

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

Article XVII.

Severability and Construction.

A. The provisions of this compact shall be severable and if any phrase, clause, sentence, or provision

545 *is deemed unenforceable, the remaining provisions of the compact shall be enforceable.*

546 *B. The provisions of this compact shall be liberally construed to effectuate its purposes.*

547 *C. Nothing in this compact shall be construed to prohibit the applicability of other interstate*
548 *compacts to which the states are members.*

549 *Article XVIII.*

550 *Binding Effect of Compact and Other Laws.*

551 *A. Other laws.*

552 *1. Nothing herein prevents the enforcement of any other law of a member state that is not*
553 *inconsistent with this compact.*

554 *2. All member states' laws conflicting with this compact are superseded to the extent of the conflict.*

555 *B. Binding effect of the compact.*

556 *1. All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the*
557 *Interstate Commission, are binding upon the member states.*

558 *2. All agreements between the Interstate Commission and the member states are binding in*
559 *accordance with their terms.*

560 *3. In the event any provision of this compact exceeds the constitutional limits imposed on the*
561 *legislature of any member state, such provision shall be ineffective to the extent of the conflict with the*
562 *constitutional provision in question in that member state.*

563 *§ 22.1-361. Virginia Council on the Interstate Compact on Educational Opportunity for Military*
564 *Children.*

565 *In accordance with the Interstate Compact on Educational Opportunity for Military Children, there*
566 *is hereby created the Virginia Council on the Interstate Compact on Educational Opportunity for*
567 *Military Children, hereinafter referred to in this section as the "Virginia Council." The Virginia Council*
568 *shall consist of one member of the House of Delegates, to be appointed by the Speaker of the House of*
569 *Delegates; one member of the Senate, to be appointed by the Senate Committee on Rules; four*
570 *nonlegislative citizen members, including the Superintendent of Public Instruction, to be appointed by*
571 *the Governor and the superintendent of a school district with a high concentration of military children*
572 *to be appointed by the Superintendent of Public Instruction; and also the Governor, or his designee. The*
573 *Virginia Council shall appoint or designate a military family education liaison to assist military families*
574 *and the state in facilitating the implementation of this compact.*

575 *Legislative members shall serve terms coincident with their terms of office. Nonlegislative citizen*
576 *members shall serve at the pleasure of the Governor. All members may be reappointed. Appointments to*
577 *fill vacancies, other than by expiration of a term, shall be made for the unexpired terms. Vacancies*
578 *shall be filled in the same manner as the original appointments.*

579 *The Governor shall designate one member of the Virginia Council to serve as compact chairman for*
580 *a two-year term. The Virginia Council shall meet on the call of the chairman or at the request of a*
581 *majority of members. A majority of members shall constitute a quorum. The Virginia Council may*
582 *consider any and all matters related to the Interstate Compact on Educational Opportunity for Military*
583 *Children or the general activities and business of the organization and shall have the authority to*
584 *represent the Commonwealth in all actions of the Compact.*

585 *The Virginia Council members shall serve without compensation. All members shall be reimbursed*
586 *for all reasonable and necessary expenses incurred in the performance of their duties as provided in*
587 *§§ 2.2-2813 and 2.2-2825. The costs of expenses of the legislative members incurred in the performance*
588 *of their duties shall be paid from appropriations to the Virginia Commission on Intergovernmental*
589 *Cooperation for the attendance of conferences. The costs of expenses of nonlegislative citizen members*
590 *incurred in the performance of their duties shall be paid from such funds as may be provided for this*
591 *purpose in the appropriation act.*

592 *The chairman of the Virginia Council shall submit to the Governor and the General Assembly an*
593 *annual executive summary of the interim activity and work of the Virginia Council no later than the first*
594 *day of each regular session of the General Assembly. The executive summary shall be submitted as*
595 *provided in the procedures of the Division of Legislative Automated Systems for the processing of*
596 *legislative documents and reports and shall be posted on the General Assembly's website.*