

HB 1066 - S AMD 287
By Senator Wellman

ADOPTED 04/05/2023

1 On page 3, after line 22, insert the following:

2 "(15) Section 3022 of this act amends cross-references in the
3 interstate compact on educational opportunity for military children."

4 On page 172, after line 7, insert the following:

5 "**Sec. 3022.** RCW 28A.705.010 and 2009 c 380 s 1 are each amended
6 to read as follows:

7 ARTICLE I

8 PURPOSE

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

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

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

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

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

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

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

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

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

4 ARTICLE II
5 DEFINITIONS

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

8 A. "Active duty" means full-time duty status in the active
9 uniformed service of the United States, including members of the
10 national guard and reserve on active duty orders pursuant to 10
11 U.S.C. (~~Sees-~~) Chapters 1209 and 1211.

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

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

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

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

28 F. "Extracurricular activities" means a voluntary activity
29 sponsored by the school or local education agency or an organization
30 sanctioned by the local education agency. Extracurricular activities
31 include, but are not limited to, preparation for and involvement in
32 public performances, contests, athletic competitions, demonstrations,
33 displays, and club activities.

34 G. "Interstate commission on educational opportunity for military
35 children" means the commission that is created under Article IX of
36 this compact, which is generally referred to as the interstate
37 commission.

38 H. "Local education agency" means a public authority legally
39 constituted by the state as an administrative agency to provide

1 control of and direction for kindergarten through twelfth grade
2 public educational institutions.

3 I. "Member state" means a state that has enacted this compact.

4 J. "Military installation" means a base, camp, post, station,
5 yard, center, homeport facility for any ship, or other activity under
6 the jurisdiction of the United States department of defense,
7 including any leased facility, which is located within any of the
8 several states, the District of Columbia, the Commonwealth of Puerto
9 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern
10 Mariana Islands, and any other U.S. territory. Such term does not
11 include any facility used primarily for civil works, rivers and
12 harbors projects, or flood control projects.

13 K. "Nonmember state" means a state that has not enacted this
14 compact.

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

17 M. "Rule" means a written statement by the interstate commission
18 promulgated pursuant to Article XII of this compact that is of
19 general applicability, implements, interprets, or prescribes a policy
20 or provision of the compact, or an organizational, procedural, or
21 practice requirement of the interstate commission, and has the force
22 and effect of statutory law in a member state, and includes the
23 amendment, repeal, or suspension of an existing rule.

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

26 O. "State" means a state of the United States, the District of
27 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
28 Guam, American Samoa, the Northern Mariana Islands, and any other
29 U.S. territory.

30 P. "Student" means the child of a military family for whom the
31 local education agency receives public funding and who is formally
32 enrolled in kindergarten through twelfth grade.

33 Q. "Transition" means: (1) The formal and physical process of
34 transferring from school to school; or (2) the period of time in
35 which a student moves from one school in the sending state to another
36 school in the receiving state.

37 R. "Uniformed services" means the army, navy, air force, marine
38 corps, and coast guard, as well as the commissioned corps of the
39 national oceanic and atmospheric administration, and public health
40 services.

1 S. "Veteran" means a person who served in the uniformed services
2 and who was discharged or released therefrom under conditions other
3 than dishonorable.

4 ARTICLE III
5 APPLICABILITY

6 A. Except as otherwise provided in section B of this article,
7 this compact shall apply to the children of:

8 1. Active duty members of the uniformed services as defined in
9 this compact, including members of the national guard and reserve on
10 active duty orders pursuant to 10 U.S.C. (~~Sees-~~) Chapters 1209 and
11 1211;

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

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

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

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

22 1. Inactive members of the national guard and military reserves;

23 2. Members of the uniformed services now retired, except as
24 provided in section A of this article;

25 3. Veterans of the uniformed services, except as provided in
26 section A of this article; and

27 4. Other U.S. department of defense personnel and other federal
28 agency civilian and contract employees not defined as active duty
29 members of the uniformed services.

30 ARTICLE IV
31 EDUCATIONAL RECORDS AND ENROLLMENT

32 A. Unofficial or "hand-carried" education records - In the event
33 that official education records cannot be released to the parents for
34 the purpose of transfer, the custodian of the records in the sending
35 state shall prepare and furnish to the parent a complete set of
36 unofficial educational records containing uniform information as
37 determined by the interstate commission. Upon receipt of the
38 unofficial education records by a school in the receiving state, the

1 school shall enroll and appropriately place the student based on the
2 information provided in the unofficial records pending validation by
3 the official records, as quickly as possible.

4 B. Official education records and transcripts -Simultaneous with
5 the enrollment and conditional placement of the student, the school
6 in the receiving state shall request the student's official education
7 record from the school in the sending state. Upon receipt of this
8 request, the school in the sending state will process and furnish the
9 official education records to the school in the receiving state
10 within ten days or within such time as is reasonably determined under
11 the rules promulgated by the interstate commission. However, if the
12 student has an unpaid fine at a public school or unpaid tuition,
13 fees, or fines at a private school, then the sending school shall
14 send the information requested but may withhold the official
15 transcript until the monetary obligation is met.

16 C. Immunizations - On or before the first day of attendance, the
17 parent or guardian must meet the immunization documentation
18 requirements of the Washington board of health. Compacting states
19 shall give thirty days from the date of enrollment or within such
20 time as is reasonably determined under the rules promulgated by the
21 interstate commission, for students to obtain any immunizations
22 required by the receiving state. For a series of immunizations,
23 initial vaccinations must be obtained within thirty days or within
24 such time as is reasonably determined under the rules promulgated by
25 the interstate commission.

26 D. Kindergarten and first grade entrance age - Students shall be
27 allowed to continue their enrollment at grade level in the receiving
28 state commensurate with their grade level (including kindergarten)
29 from a local education agency in the sending state at the time of
30 transition, regardless of age. A student who has satisfactorily
31 completed the prerequisite grade level in the local education agency
32 in the sending state shall be eligible for enrollment in the next
33 highest grade level in the receiving state, regardless of age. A
34 student transferring after the start of the school year in the
35 receiving state shall enter the school in the receiving state on his
36 or her validated level from an accredited school in the sending
37 state.

38 ARTICLE V

39 PLACEMENT AND ATTENDANCE

1 A. Course placement - When the student transfers before or during
2 the school year, the receiving state school shall initially honor
3 placement of the student in educational courses based on the
4 student's enrollment in the sending state school and/or educational
5 assessments conducted at the school in the sending state if the
6 courses are offered and if space is available, as determined by the
7 school district. Course placement includes but is not limited to
8 honors, international baccalaureate, advanced placement, vocational,
9 technical, and career pathways courses. Continuing the student's
10 academic program from the previous school and promoting placement in
11 academically and career challenging courses should be paramount when
12 considering placement. This does not preclude the school in the
13 receiving state from performing subsequent evaluations to ensure
14 appropriate placement and continued enrollment of the student in the
15 courses.

16 B. Educational program placement - The receiving state school
17 shall initially honor placement of the student in educational
18 programs based on current educational assessments conducted at the
19 school in the sending state or participation and placement in like
20 programs in the sending state and if space is available, as
21 determined by the school district. Such programs include, but are not
22 limited to: (1) Gifted and talented programs; and (2) English as a
23 second language (ESL). This does not preclude the school in the
24 receiving state from performing subsequent evaluations to ensure
25 appropriate placement of the student.

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

1 D. Placement flexibility - Local education agency administrative
2 officials shall have flexibility in waiving course and program
3 prerequisites, or other preconditions for placement in courses and
4 programs offered under the jurisdiction of the local education
5 agency.

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

14 ARTICLE VI
15 ELIGIBILITY

16 A. Eligibility for enrollment

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

21 2. A local education agency shall be prohibited from charging
22 local tuition to a transitioning military child placed in the care of
23 a noncustodial parent or other person standing in loco parentis who
24 lives in a jurisdiction other than that of the custodial parent.

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

30 B. Eligibility for extracurricular participation - Under RCW
31 28A.225.280, the Washington interscholastic activities association
32 and local education agencies shall facilitate the opportunity for
33 transitioning military children's inclusion in extracurricular
34 activities, regardless of application deadlines, to the extent they
35 are otherwise qualified and space is available, as determined by the
36 school district.

37 ARTICLE VII
38 GRADUATION

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

4 A. Waiver requirements - Local education agency administrative
5 officials shall waive specific courses required for graduation if
6 similar coursework has been satisfactorily completed in another local
7 education agency or shall provide reasonable justification for
8 denial. Should a waiver not be granted to a student who would qualify
9 to graduate from the sending school, the local education agency shall
10 use best efforts to provide an alternative means of acquiring
11 required coursework so that graduation may occur on time.

12 B. Exit exams - For students entering high school in eleventh or
13 twelfth grade, states shall accept: (1) Exit or end-of-course exams
14 required for graduation from the sending state; or (2) national norm-
15 referenced achievement tests; or (3) alternative testing, in lieu of
16 testing requirements for graduation in the receiving state. In the
17 event the above alternatives cannot be accommodated by the receiving
18 state for a student transferring in his or her senior year, then the
19 provisions of section C of this article shall apply.

20 C. Transfers during senior year - Should a military student
21 transferring at the beginning or during his or her senior year be
22 ineligible to graduate from the receiving local education agency
23 after all alternatives have been considered, the sending and
24 receiving local education agencies shall ensure the receipt of a
25 diploma from the sending local education agency, if the student meets
26 the graduation requirements of the sending local education agency. In
27 the event that one of the states in question is not a member of this
28 compact, the member state shall use best efforts to facilitate the
29 on-time graduation of the student in accordance with sections A and B
30 of this article.

31 ARTICLE VIII
32 STATE COORDINATION

33 A. Each member state shall, through the creation of a state
34 council or use of an existing body or board, provide for the
35 coordination among its agencies of government, local education
36 agencies, and military installations concerning the state's
37 participation in, and compliance with, this compact and interstate
38 commission activities. While each member state may determine the
39 membership of its own state council, its membership must include at

1 least: The state superintendent of public instruction, a
2 superintendent of a school district with a high concentration of
3 military children, a representative from a military installation, one
4 representative each from the legislative and executive branches of
5 government, and other offices and stakeholder groups the state
6 council deems appropriate. A member state that does not have a school
7 district deemed to contain a high concentration of military children
8 may appoint a superintendent from another school district to
9 represent local education agencies on the state council.

10 B. The state council of each member state shall appoint or
11 designate a military family education liaison to assist military
12 families and the state in facilitating the implementation of this
13 compact.

14 C. The compact commissioner responsible for the administration
15 and management of the state's participation in the compact shall be
16 appointed by the governor or as otherwise determined by each member
17 state. The governor is strongly encouraged to appoint a practicing
18 K-12 educator as the compact commissioner.

19 D. The compact commissioner and the military family education
20 liaison designated herein shall be ex officio members of the state
21 council, unless either is already a full voting member of the state
22 council.

23 ARTICLE IX

24 INTERSTATE COMMISSION ON EDUCATIONAL 25 OPPORTUNITY FOR MILITARY CHILDREN

26 The member states hereby create the "interstate commission on
27 educational opportunity for military children." The activities of the
28 interstate commission are the formation of public policy and are a
29 discretionary state function. The interstate commission shall:

30 A. Be a body corporate and joint agency of the member states and
31 shall have all the responsibilities, powers, and duties set forth
32 herein, and such additional powers as may be conferred upon it by a
33 subsequent concurrent action of the respective legislatures of the
34 member states in accordance with the terms of this compact;

35 B. Consist of one interstate commission voting representative
36 from each member state who shall be that state's compact
37 commissioner.

38 1. Each member state represented at a meeting of the interstate
39 commission is entitled to one vote.

1 2. A majority of the total member states shall constitute a
2 quorum for the transaction of business, unless a larger quorum is
3 required by the bylaws of the interstate commission.

4 3. A representative shall not delegate a vote to another member
5 state. In the event the compact commissioner is unable to attend a
6 meeting of the interstate commission, the governor or state council
7 may delegate voting authority to another person from their state for
8 a specified meeting.

9 4. The bylaws may provide for meetings of the interstate
10 commission to be conducted by telecommunication or electronic
11 communication;

12 C. Consist of ex officio, nonvoting representatives who are
13 members of interested organizations. Such ex officio members, as
14 defined in the bylaws, may include but not be limited to, members of
15 the representative organizations of military family advocates, local
16 education agency officials, parent and teacher groups, the U.S.
17 department of defense, the education commission of the states, the
18 interstate agreement on the qualification of educational personnel,
19 and other interstate compacts affecting the education of children of
20 military members;

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

24 E. Establish an executive committee, whose members shall include
25 the officers of the interstate commission and such other members of
26 the interstate commission as determined by the bylaws. Members of the
27 executive committee shall serve a one-year term. Members of the
28 executive committee shall be entitled to one vote each. The executive
29 committee shall have the power to act on behalf of the interstate
30 commission, with the exception of rule making, during periods when
31 the interstate commission is not in session. The executive committee
32 shall oversee the day-to-day activities of the administration of the
33 compact including enforcement and compliance with the provisions of
34 the compact, its bylaws and rules, and other such duties as deemed
35 necessary. The U.S. department of defense shall serve as an ex
36 officio, nonvoting member of the executive committee;

37 F. Establish bylaws and rules that provide for conditions and
38 procedures under which the interstate commission shall make its
39 information and official records available to the public for
40 inspection or copying. The interstate commission may exempt from

1 disclosure information or official records to the extent they would
2 adversely affect personal privacy rights or proprietary interests;

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

8 1. Relate solely to the interstate commission's internal
9 personnel practices and procedures;

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

12 3. Disclose trade secrets or commercial or financial information
13 which is privileged or confidential;

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

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

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

20 7. Specifically relate to the interstate commission's
21 participation in a civil action or other legal proceeding;

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

33 I. Collect standardized data concerning the educational
34 transition of the children of military families under this compact as
35 directed through its rules which shall specify the data to be
36 collected, the means of collection, and data exchange and reporting
37 requirements. Such methods of data collection, exchange, and
38 reporting shall, in so far as is reasonably possible, conform to
39 current technology and coordinate its information functions with the

1 appropriate custodian of records as identified in the bylaws and
2 rules;

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

10 ARTICLE X

11 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

12 The interstate commission shall have the following powers:

13 A. To provide for dispute resolution among member states;

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

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

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

26 E. To establish and maintain offices which shall be located
27 within one or more of the member states;

28 F. To purchase and maintain insurance and bonds;

29 G. To borrow, accept, hire, or contract for services of
30 personnel;

31 H. To establish and appoint committees including, but not limited
32 to, an executive committee as required by Article IX, section E of
33 this compact, which shall have the power to act on behalf of the
34 interstate commission in carrying out its powers and duties
35 hereunder;

36 I. To elect or appoint such officers, attorneys, employees,
37 agents, or consultants, and to fix their compensation, define their
38 duties, and determine their qualifications; and to establish the
39 interstate commission's personnel policies and programs relating to

1 conflicts of interest, rates of compensation, and qualifications of
2 personnel;

3 J. To accept any and all donations and grants of money,
4 equipment, supplies, materials, and services, and to receive,
5 utilize, and dispose of it;

6 K. To lease, purchase, accept contributions or donations of, or
7 otherwise to own, hold, improve, or use any property, real, personal,
8 or mixed;

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

11 M. To establish a budget and make expenditures;

12 N. To adopt a seal and bylaws governing the management and
13 operation of the interstate commission;

14 O. To report annually to the legislatures, governors, judiciary,
15 and state councils of the member states concerning the activities of
16 the interstate commission during the preceding year. Such reports
17 shall also include any recommendations that may have been adopted by
18 the interstate commission;

19 P. To coordinate education, training, and public awareness
20 regarding the compact, its implementation, and operation for
21 officials and parents involved in such activity;

22 Q. To establish uniform standards for the reporting, collecting,
23 and exchanging of data;

24 R. To maintain corporate books and records in accordance with the
25 bylaws;

26 S. To perform such functions as may be necessary or appropriate
27 to achieve the purposes of this compact; and

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

31 ARTICLE XI

32 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

33 A. The interstate commission shall, by a majority of the members
34 present and voting, within twelve months after the first interstate
35 commission meeting, adopt bylaws to govern its conduct as may be
36 necessary or appropriate to carry out the purposes of the compact,
37 including, but not limited to:

38 1. Establishing the fiscal year of the interstate commission;

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

3 3. Providing for the establishment of committees and for
4 governing any general or specific delegation of authority or function
5 of the interstate commission;

6 4. Providing reasonable procedures for calling and conducting
7 meetings of the interstate commission, and ensuring reasonable notice
8 of each such meeting;

9 5. Establishing the titles and responsibilities of the officers
10 and staff of the interstate commission;

11 6. Providing a mechanism for concluding the operations of the
12 interstate commission and the return of surplus funds that may exist
13 upon the termination of the compact after the payment and reserving
14 of all of its debts and obligations; and

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

17 B. The interstate commission shall, by a majority of the members,
18 elect annually from among its members a chairperson, a vice
19 chairperson, and a treasurer, each of whom shall have such authority
20 and duties as may be specified in the bylaws. The chairperson or, in
21 the chairperson's absence or disability, the vice chairperson, shall
22 preside at all meetings of the interstate commission. The officers so
23 elected shall serve without compensation or remuneration from the
24 interstate commission; provided that, subject to the availability of
25 budgeted funds, the officers shall be reimbursed for ordinary and
26 necessary costs and expenses incurred by them in the performance of
27 their responsibilities as officers of the interstate commission.

28 C. Executive committee, officers, and personnel

29 1. The executive committee shall have such authority and duties
30 as may be set forth in the bylaws, including but not limited to:

31 a. Managing the affairs of the interstate commission in a manner
32 consistent with the bylaws and purposes of the interstate commission;

33 b. Overseeing an organizational structure within, and appropriate
34 procedures for the interstate commission to provide for the creation
35 of rules, operating procedures, and administrative and technical
36 support functions; and

37 c. Planning, implementing, and coordinating communications and
38 activities with other state, federal, and local government
39 organizations in order to advance the goals of the interstate
40 commission.

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

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

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

31 2. The interstate commission shall defend the executive director
32 and its employees and, subject to the approval of the attorney
33 general or other appropriate legal counsel of the member state
34 represented by an interstate commission representative, shall defend
35 such interstate commission representative in any civil action seeking
36 to impose liability arising out of an actual or alleged act, error,
37 or omission that occurred within the scope of interstate commission
38 employment, duties, or responsibilities, or that the defendant had a
39 reasonable basis for believing occurred within the scope of
40 interstate commission employment, duties, or responsibilities,

1 provided that the actual or alleged act, error, or omission did not
2 result from intentional or willful and wanton misconduct on the part
3 of such person.

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

16 ARTICLE XII

17 RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION

18 A. Rule-making authority - The interstate commission shall
19 promulgate reasonable rules in order to effectively and efficiently
20 achieve the purposes of this compact. Notwithstanding the foregoing,
21 in the event the interstate commission exercises its rule-making
22 authority in a manner that is beyond the scope of the purposes of
23 this compact, or the powers granted hereunder, then such an action by
24 the interstate commission shall be invalid and have no force or
25 effect.

26 B. Rule-making procedure - Rules shall be made pursuant to a
27 rule-making process that substantially conforms to the "model state
28 administrative procedure act," of 1981, Uniform Laws Annotated, Vol.
29 15, p.1 (2000) as amended, as may be appropriate to the operations of
30 the interstate commission.

31 C. Not later than thirty days after a rule is promulgated, any
32 person may file a petition for judicial review of the rule; provided,
33 that the filing of such a petition shall not stay or otherwise
34 prevent the rule from becoming effective unless the court finds that
35 the petitioner has a substantial likelihood of success. The court
36 shall give deference to the actions of the interstate commission
37 consistent with applicable law and shall not find the rule to be
38 unlawful if the rule represents a reasonable exercise of the
39 interstate commission's authority.

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

5 ARTICLE XIII

6 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

7 A. Oversight

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

13 2. All courts shall take judicial notice of the compact and the
14 rules in any judicial or administrative proceeding in a member state
15 pertaining to the subject matter of this compact which may affect the
16 powers, responsibilities, or actions of the interstate commission.

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

23 B. Default, technical assistance, suspension, and termination -
24 If the interstate commission determines that a member state has
25 defaulted in the performance of its obligations or responsibilities
26 under this compact, or the bylaws or promulgated rules, the
27 interstate commission shall:

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

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

35 3. If the defaulting state fails to cure the default, the
36 defaulting state shall be terminated from the compact upon an
37 affirmative vote of a majority of the member states and all rights,
38 privileges, and benefits conferred by this compact shall be
39 terminated from the effective date of termination. A cure of the

1 default does not relieve the offending state of obligations or
2 liabilities incurred during the period of the default;

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

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

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

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

24 C. Dispute Resolution

25 1. The interstate commission shall attempt, upon the request of a
26 member state, to resolve disputes which are subject to the compact
27 and which may arise among member states and between member and
28 nonmember states.

29 2. The interstate commission shall promulgate a rule providing
30 for both mediation and binding dispute resolution for disputes as
31 appropriate.

32 D. Enforcement

33 1. The interstate commission, in the reasonable exercise of its
34 discretion, shall enforce the provisions and rules of this compact.

35 2. The interstate commission, may by majority vote of the
36 members, initiate legal action in the United (~~State[s]~~) States
37 District Court for the District of Columbia or, at the discretion of
38 the interstate commission, in the federal district where the
39 interstate commission has its principal offices, to enforce
40 compliance with the provisions of the compact, and its promulgated

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

6 3. The remedies herein shall not be the exclusive remedies of the
7 interstate commission. The interstate commission may avail itself of
8 any other remedies available under state law or the regulation of a
9 profession.

10 ARTICLE XIV

11 FINANCING OF THE INTERSTATE COMMISSION

12 A. The interstate commission shall pay, or provide for the
13 payment of the reasonable expenses of its establishment,
14 organization, and ongoing activities.

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

23 C. The interstate commission shall not incur obligations of any
24 kind prior to securing the funds adequate to meet the same; nor shall
25 the interstate commission pledge the credit of any of the member
26 states, except by and with the authority of the member state.

27 D. The interstate commission shall keep accurate accounts of all
28 receipts and disbursements. The receipts and disbursements of the
29 interstate commission shall be subject to the audit and accounting
30 procedures established under its bylaws. However, all receipts and
31 disbursements of funds handled by the interstate commission shall be
32 audited yearly by a certified or licensed public accountant and the
33 report of the audit shall be included in and become part of the
34 annual report of the interstate commission.

35 ARTICLE XV

36 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

1 B. The compact shall become effective and binding upon
2 legislative enactment of the compact into law by no less than ten of
3 the states. The effective date shall be no earlier than December 1,
4 2007.

5 Thereafter it shall become effective and binding as to any other
6 member state upon enactment of the compact into law by that state.
7 The governors of nonmember states or their designees shall be invited
8 to participate in the activities of the interstate commission on a
9 nonvoting basis prior to adoption of the compact by all states.

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

15 ARTICLE XVI
16 WITHDRAWAL AND DISSOLUTION

17 A. Withdrawal

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

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

27 3. The withdrawing state shall immediately notify the chairperson
28 of the interstate commission in writing upon the introduction of
29 legislation repealing this compact in the withdrawing state. The
30 interstate commission shall notify the other member states of the
31 withdrawing state's intent to withdraw within sixty days of its
32 receipt thereof.

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

37 5. Reinstatement following withdrawal of a member state shall
38 occur upon the withdrawing state reenacting the compact or upon such
39 later date as determined by the interstate commission.

1 B. Dissolution of compact

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

5 2. Upon the dissolution of this compact, the compact becomes null
6 and void and shall be of no further force or effect, and the business
7 and affairs of the interstate commission shall be concluded and
8 surplus funds shall be distributed in accordance with the bylaws.

9 ARTICLE XVII

10 SEVERABILITY AND CONSTRUCTION

11 A. The provisions of this compact shall be severable, and if any
12 phrase, clause, sentence, or provision is deemed unenforceable, the
13 remaining provisions of the compact shall be enforceable.

14 B. The provisions of this compact shall be liberally construed to
15 effectuate its purposes.

16 C. Nothing in this compact shall be construed to prohibit the
17 applicability of other interstate compacts to which the states are
18 members.

19 ARTICLE XVIII

20 BINDING EFFECT OF COMPACT AND OTHER LAWS

21 A. Other laws

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

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

26 B. Binding effect of the compact

27 1. All lawful actions of the interstate commission, including all
28 rules and bylaws promulgated by the interstate commission, are
29 binding upon the member states.

30 2. All agreements between the interstate commission and the
31 member states are binding in accordance with their terms.

32 3. In the event any provision of this compact exceeds the
33 constitutional limits imposed on the legislature of any member state,
34 such provision shall be ineffective to the extent of the conflict
35 with the constitutional provision in question in that member state."

HB 1066 - S AMD 287
By Senator Wellman

ADOPTED 04/05/2023

1 On page 2, at the beginning of line 6 of the title, strike "and
2 88.02.620" and insert "88.02.620, and 28A.705.010"

EFFECT: Amends cross-references in the interstate compact on educational opportunity for military children.

--- END ---