

**Sixty-third Legislative Assembly of North Dakota
In Regular Session Commencing Tuesday, January 8, 2013**

HOUSE BILL NO. 1293

(Representatives K. Koppelman, Heilman, Karls, Nathe, Rohr, Ruby, Sanford, Thoreson, Hunskor)
(Senators Luick, Schaible, Nelson)

AN ACT to amend and reenact sections 15.1-04.1-01, 15.1-04.1-02, 15.1-04.1-03, 15.1-04.1-04, 15.1-06-01, 15.1-21-02.1, 15.1-29-13, and 37-03-16 of the North Dakota Century Code, relating to the compact on educational opportunity for military children.

BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:

SECTION 1. AMENDMENT. Section 15.1-04.1-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-01. ~~(Effective through July 31, 2013)~~ Compact on educational opportunity for military children.

The compact on educational opportunity for military children is entered 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:

1. 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 educational records from a sending to a receiving school district or variations in entrance or age requirements;
2. Facilitating the student placement process to ensure that children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment;
3. Facilitating the qualification and eligibility of children of military families for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
4. Facilitating the on-time graduation of children of military families;
5. Providing for the promulgation and enforcement of administrative rules implementing this compact;
6. Providing for the uniform collection and sharing of information among member states, school districts, and military families under this compact;
7. Promoting coordination between this compact and other compacts affecting the children of military families; and
8. Promoting flexibility and cooperation between the educational system, parents, and the student in order to achieve educational success for the children of military families.

ARTICLE II - DEFINITIONS

As used in this compact, unless the context otherwise requires:

1. "Active duty" means full-time duty status in the active uniformed services 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.
2. "Children of military families" means school-aged children, enrolled in kindergarten through grade twelve, in the household of an active duty member.
3. "Commission" means the commission that is created under article IX of this compact.
4. "Compact commissioner" means the voting representative of each compacting state appointed pursuant to article VIII of this compact.
5. "Deployment" means the period one month before the service member's departure from the home station on military orders through six months after return to the home station.
6. "Educational records" means official records, files, and data directly related to a student and maintained by the student's school or school district, including records encompassing all the material kept in the student's cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.
7. "Extracurricular activities" means a voluntary activity sponsored by the school or school district or an organization sanctioned by the school district, including preparation for involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.
8. "Member state" means a state that has enacted this compact.
9. "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship, or other facility under the jurisdiction of the department of defense, including any leased facility that is located within a state. The term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.
10. "Nonmember state" means a state that has not enacted this compact.
11. "Receiving state" means the state to which a child of a military family is sent, brought, or caused to be sent or brought.
12. "Rule" means a written statement by the commission promulgated pursuant to article XII of this compact which:
 - a. Is of general applicability;
 - b. Implements, interprets, or prescribes a policy or provision of the compact;
 - c. Is an organizational, procedural, or practice requirement of the commission;
 - d. Has the force and effect of law in a member state; and
 - e. Includes the amendment, repeal, or suspension of an existing rule.
13. "Sending state" means the state from which a child of a military family is sent, brought, or caused to be sent or brought.
14. "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other United States territory.

15. "Student" means the child of a military family who is formally enrolled in kindergarten through grade twelve and for whom a school district receives public funding.
16. "Transition" means:
 - a. The formal and physical process of transferring from one school to another; or
 - b. The period of time during which a student moves from one school in the sending state to another school in the receiving state.
17. "Uniformed services" means the army, navy, air force, marine corps, and coast guard, and the commissioned corps of the national oceanic and atmospheric administration and public health services.
18. "Veteran" means an individual who served in the uniformed services and who was discharged or released therefrom under conditions other than dishonorable.

ARTICLE III - APPLICABILITY

1. Except as otherwise provided in subsection 2, this compact applies to the children of:
 - a. Active duty members of the uniformed services as defined in this compact, including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;
 - b. Members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and
 - c. Members of the uniformed services who die on active duty or as a result of injuries sustained on active duty, for a period of one year after the member's death.
2. This compact only applies to school districts as defined in this compact.
3. This compact does not apply to the children of:
 - a. Inactive members of the national guard and military reserves;
 - b. Members of the uniformed services now retired, except as provided in subsection 1;
 - c. Veterans of the uniformed services, except as provided in subsection 1; and
 - d. Other United States department of defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

ARTICLE IV - EDUCATIONAL RECORDS AND ENROLLMENT

1. If official educational 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 commission. Upon receipt of the unofficial educational 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.
2. Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official educational records from the school in the sending state. Upon receipt of this request, the school in the sending state shall process and furnish the official educational records to the school in the receiving state within ten days or within the time determined to be reasonable under the rules promulgated by the commission.

3. Compacting states shall give thirty days from the date of enrollment, or the time determined to be reasonable under the rules promulgated by the commission, for students to obtain any immunization required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty days or within the time determined to be reasonable under the rules promulgated by the commission.
4. Students must be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level in the sending state at the time of transition, regardless of age. A student who satisfactorily has completed the prerequisite grade level in the sending state is 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 calendar in the receiving state shall enter the school in the receiving state on the validated level from the school in the sending state.

ARTICLE V - PLACEMENT AND ATTENDANCE

1. When a student transfers before or during the regular school calendar, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending school or educational assessments conducted at the school in the sending state, if the courses are offered. Course placement includes honors, international baccalaureate, advanced placement, and career and technical education courses. Continuing the student's academic program from the sending school and promoting placement in 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.
2.
 - a. The receiving school initially shall honor placement of the student in educational programs based on current educational assessments conducted at the sending school or based on placement in like programs in the sending school. Such programs include gifted and talented programs and English language learner programs. This does not preclude the receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
 - b. This subsection does not require a school district to create programs or offer services that were not in place before the enrollment of the student unless the programs or services are required by federal law.
3.
 - a. In compliance with the Individuals With Disabilities Education Act [20 U.S.C. 1400 et seq.], the receiving school initially shall provide comparable services to a student with disabilities based on the student's current individualized education program; and
 - b. In compliance with the requirements of section 504 of the Rehabilitation Act [29 U.S.C. 794] and with the Americans with Disabilities Act [42 U.S.C. 12131 et seq.], the receiving school 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 receiving school from performing subsequent evaluations to ensure appropriate placement of the student.
4. School district administrators have flexibility in waiving course or program prerequisites and other preconditions for placement in courses or programs offered by the district.
5. A student whose parent or legal guardian is an active duty member of the uniformed services and has been called to duty for, is on leave from, or has immediately returned from deployment to a combat zone or a combat support posting must be granted additional excused absences by the school district superintendent to visit with the student's parent or legal guardian relative to the leave or deployment of the parent or guardian.

ARTICLE VI - ELIGIBILITY

1. Eligibility for enrollment:
 - a. A special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law is sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
 - b. A school district may not charge tuition to a transitioning military child placed in the care of a noncustodial parent or other individual standing in loco parentis who lives in a school district other than that of the custodial parent.
 - c. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a school district other than that of the custodial parent, may continue to attend the school in which the child was enrolled while residing with the custodial parent.
2. The superintendent of public instruction, school districts, and the North Dakota high school activities association shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII - GRADUATION

To facilitate the on-time graduation of children of military families, the superintendent of public instruction and school district administrators shall incorporate the following procedures:

1. School district administrators shall waive specific courses required for graduation if similar coursework has been satisfactorily completed in another school district or shall provide reasonable justification for denial. Should a waiver not be granted to a student who would qualify to graduate from the sending school, the receiving school district shall provide an alternative means of acquiring required coursework so that graduation may occur on time.
2. States must accept exit or end-of-course examinations required for graduation from the sending state, national norm-referenced achievement tests, or alternative testing in lieu of testing requirements for graduation in the receiving state. If these alternatives cannot be accommodated by the receiving state for a student transferring in the student's senior year, then subsection 3 applies.
3. Should a military student transferring at the beginning or during the student's senior year be ineligible to graduate from the receiving school district after all alternatives have been considered, the sending and receiving school districts shall ensure the receipt of a diploma from the sending school district if the student meets the graduation requirements of the sending school district. If one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with subsections 1 and 2.

ARTICLE VIII - STATE COORDINATION

1. Each member state, through the creation of a state council or use of an existing entity, shall provide for the coordination among its state agencies, school districts, and military installations concerning the state's participation in, and compliance with, this compact and commission activities. While each member state may determine the membership of its own state council, its membership must include at least the superintendent of public instruction, a gubernatorial appointee who is the superintendent of a school district with a high concentration of military children, a representative from a military installation, one member of the legislative assembly appointed by the chairman of the legislative management, a gubernatorial appointee who represents the executive branch of government, and any other individuals or group

representatives that the state council determines appropriate. A member state that does not have a school district determined to contain a high concentration of military children may appoint a superintendent from another school district to represent school districts on the state council.

2. The state council of each member state shall appoint or designate a military family education liaison to assist military families and the state in facilitating the implementation of this compact; provided, however, in North Dakota, the appointment shall be made by the adjutant general of the national guard.
3. The compact commissioner responsible for the administration and management of the state's participation in the compact must be appointed by the governor or as otherwise determined by each member state.
4. The compact commissioner and the military family education liaison are ex officio members of the state council, unless either is already a full voting member of the state council.

ARTICLE IX - INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

1. The interstate commission on educational opportunity for military children is created.
2. The activities of the commission are the formation of public policy and are a discretionary state function.
3. The commission is a body corporate and joint agency of the member states and has all the responsibilities, powers, and duties set forth herein, and any additional powers as may be conferred upon it by a subsequent concurrent action of the respective legislatures of member states in accordance with the terms of this compact.
4. The commission consists of one commission voting representative from each member state who must be that state's compact commissioner.
 - a. Each member state represented at a meeting of the commission is entitled to one vote.
 - b. A majority of the total member states constitutes a quorum for the transaction of business unless a larger quorum is required by the bylaws of the commission.
 - c. A representative may not delegate a vote to another member state. If the compact commissioner is unable to attend a meeting of the commission, the governor or state council may delegate voting authority to another person from the state for a specified meeting.
 - d. The bylaws may provide for meetings of the commission to be conducted by telecommunications or electronic communication.
5. The commission consists of ex officio, nonvoting representatives who are members of interested organizations. Ex officio members, as defined in the bylaws, may include members of the representative organizations of military family advocates, school district officials, parent and teacher groups, the 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.
6. The commission shall meet at least once each calendar year. The chairman may call additional meetings and, upon the request of a majority of the member states, shall call additional meetings.
7. The commission shall establish an executive committee, whose members must include the officers of the commission and any other members of the commission as determined by the

bylaws. Members of the executive committee shall serve a one-year term. Members of the executive committee are entitled to one vote each. The executive committee may act on behalf of the commission, with the exception of rulemaking, during periods when the 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 compact, its bylaws and rules, and other such duties as determined necessary. The department of defense is an ex officio nonvoting member of the executive committee.

8. The commission shall establish bylaws and rules that provide for conditions and procedures under which the commission shall make its information and official records available to the public for inspection or copying. The commission may exempt from disclosure information or official records to the extent they would adversely affect personal privacy rights or proprietary interests.
9. The commission shall give public notice 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 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:
 - a. Relate solely to the commission's internal personnel practices and procedures;
 - b. Disclose matters specifically exempted from disclosure by federal and state statute;
 - c. Disclose trade secrets or commercial or financial information that is privileged or confidential;
 - d. Involve accusing a person of a crime or formally censuring a person;
 - e. Disclose information of a personal nature when disclosure would constitute a clearly unwarranted invasion of personal privacy;
 - f. Disclose investigative records compiled for law enforcement purposes; or
 - g. Specifically relate to the commission's participation in a civil action or other legal proceeding.
10. The commission shall cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The commission shall keep minutes that 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 must be identified in the minutes. All minutes and documents of a closed meeting must remain under seal, subject to release by a majority vote of the commission.
11. The 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. The methods of data collection, exchange, and reporting, insofar as is reasonably possible, must conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.
12. The commission shall create a process that permits military officials, education officials, and parents to inform the commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This subsection does not create a private right of action against the commission, any member state, or any school district.

ARTICLE X - POWERS AND DUTIES OF THE COMMISSION

The commission may:

1. Provide for dispute resolution among member states;
2. Adopt rules that have the force and effect of law and are binding in the compact states to the extent and in the manner provided in this compact and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact;
3. Issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
4. Monitor compliance with the compact provisions, the rules adopted by the commission, and the bylaws;
5. Establish and maintain offices within one or more of the member states;
6. Purchase and maintain insurance and bonds;
7. Borrow, accept, hire, or contract for services of personnel;
8. Establish and appoint committees, including an executive committee as required by article IX, which may act on behalf of the commission in carrying out its powers and duties;
9. Elect or appoint officers, attorneys, employees, agents, and consultants and fix their compensation; define their duties; determine their qualifications; and establish the commission's personnel policies and programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;
10. Accept, receive, use, and dispose of donations and grants of money, equipment, supplies, materials, and services;
11. Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed;
12. Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property;
13. Establish a budget and make expenditures;
14. Adopt a seal and bylaws governing the management and operation of the commission;
15. Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the commission during the preceding year and include any recommendations that were adopted by the commission;
16. Coordinate education, training, and public awareness regarding the compact, its implementation, and operation for officials and parents involved in such activity;
17. Establish uniform standards for the reporting, collecting, and exchanging of data;
18. Maintain corporate books and records in accordance with the bylaws;
19. Perform such functions as may be necessary or appropriate to achieve the purpose of this compact; and
20. Provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

ARTICLE XI - ORGANIZATION AND OPERATION OF THE COMMISSION

1. The commission, by a majority of the members present and voting, within twelve months after the first commission meeting, shall adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including:
 - a. Establishing the fiscal year of the commission;
 - b. Establishing an executive committee and such other committees as may be necessary;
 - c. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the commission;
 - d. Providing reasonable procedures for calling and conducting meetings of the commission and ensuring reasonable notice of each meeting;
 - e. Establishing the titles and responsibilities of the officers and staff of the commission;
 - f. Providing a mechanism for concluding the operations of the commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all its debts and obligations; and
 - g. Providing startup rules for initial administration of the compact.
2. The commission, by a majority of the members, shall elect annually from among its members a chairman, a vice chairman, and a treasurer, each of whom has the authority and duties specified in the bylaws. The chairman or, in the chairman's absence or disability, the vice chairman shall preside at all meetings of the commission. The officers so elected serve without compensation or remuneration from the commission; provided that, subject to the availability of budgeted funds, the officers are entitled to be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the commission.
3.
 - a. The executive committee has the authority and duties set forth in the bylaws, including:
 - (1) Managing the affairs of the commission in a manner consistent with the bylaws and purposes of the commission;
 - (2) Overseeing an organizational structure and appropriate procedures for the commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
 - (3) Planning, implementing, and coordinating communications and activities with other state, federal, and local government organizations in order to advance the goals of the commission.
 - b. The executive committee, subject to the approval of the commission, may appoint or retain an executive director for such period, upon such terms and conditions, and for such compensation as the commission determines appropriate. The executive director shall serve as secretary to the commission but may not be a member of the commission. The executive director shall hire and supervise such other persons as may be authorized by the commission.
4. The commission's executive director and its employees are 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 commission employment, duties, or responsibilities; provided,

those individuals are not protected from suit or liability for damage, loss, injury, or liability caused by their intentional or willful and wanton misconduct.

- a. The liability of the commission's executive director and employees or commission representatives, acting within the scope of that individual's employment or duties for acts, errors, or omissions occurring within that individual'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 commission is considered to be an instrumentality of the states for the purposes of any such action. This subsection does not protect an individual from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of the individual.
- b. The 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 a commission representative, shall defend a 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 commission employment, duties, or responsibilities, or that the defendant had a reasonable basis for believing occurred within the scope of 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 the individual.
- c. To the extent not covered by the state involved, member state, or the commission, the representatives or employees of the commission must be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against the individuals arising out of an actual or alleged act, error, or omission that occurred within the scope of commission employment, duties, or responsibilities, or that those individuals had a reasonable basis for believing occurred within the scope of 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 those individuals.

ARTICLE XII - RULEMAKING FUNCTIONS OF THE COMMISSION

1. The commission shall adopt reasonable rules in order to effectively and efficiently achieve the purposes of this compact. If the commission exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the powers granted by this compact, then such an action by the commission is invalid and has no force or effect.
2. Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State Administrative Procedure Act of the national conference of commissioners on uniform state laws, as may be appropriate to the operations of the commission.
3. Within thirty days after a rule is adopted, any person may file a petition for judicial review of the rule; provided, that the filing of the petition does not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the commission consistent with applicable law and shall not find the rule to be unlawful if the rule represents a reasonable exercise of the commission's authority.
4. If a majority of the legislatures of the compacting states rejects a rule by enactment of a statute or resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any compacting state.

ARTICLE XIII - OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1. a. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The provisions of this compact and the rules promulgated hereunder have standing as statutory law.
- b. Courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the subject matter of this compact which may affect the powers, responsibilities, or actions of the commission.
- c. The commission is entitled to receive all service of process in any proceeding and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the commission renders a judgment or order void as to the commission, this compact, or adopted rules.
2. If the commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or adopted rules, the commission shall:
 - a. Provide written notice to the defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the commission, and specify the conditions by which the defaulting state must cure its default; and
 - b. Offer technical assistance to the member state.
3. If the defaulting state fails to cure the default, the defaulting state shall terminate from the compact upon an affirmative vote of a majority of the member states and all rights, privileges, and benefits conferred by this compact are terminated from the effective date of termination. A cure of the default does not relieve the offending state of obligations or liabilities incurred during the period of the default, except that in the event of a default by this state, its total financial responsibility is limited to the amount of its most recent annual assessment.
4. Suspension or termination of membership in the compact may be imposed only after all other means of securing compliance have been exhausted. Notice of intent to suspend or terminate must be given by the commission to the governor, the majority and minority leaders of the defaulting state's legislature, and each member state.
5. The state that has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, to a maximum of five thousand dollars multiplied by the number of years that the state has been a member of the compact. In the event that this state is suspended or terminated, its total financial responsibility is limited to the amount of its most recent annual assessment.
6. The commission may not bear any costs relating to any state that has been found to be in default or which has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the commission and the defaulting state.
7. The defaulting state may appeal the action of the commission by petitioning the United States district court for the District of Columbia or the federal district where the commission has its principal offices. The prevailing party must be awarded all costs of such litigation, including reasonable attorney's fees.
8. The commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and which may arise among member states and between member and nonmember states. The commission shall adopt a rule providing for mediation and binding dispute resolution for disputes as appropriate.

ARTICLE XIV - FINANCING OF THE COMMISSION

1. The commission shall pay, or provide for the payment of, the reasonable expenses of its establishment, organization, and ongoing activities.
2.
 - a. The commission may levy on and collect an annual assessment from each member state to cover the cost of the operations and activities of the commission and its staff which must be in a total amount sufficient to cover the commission's annual budget as approved each year.
 - b. The aggregate annual assessment amount must be allocated based upon a formula to be determined by the commission, which shall adopt a rule binding upon all member states.
 - c. The annual assessment applicable to this state may not exceed an amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - d. This state may not be held liable for the payment of any special assessment or any assessment other than the annual assessment in the amount established by this subsection.
3. The commission may not incur obligations of any kind prior to securing the funds adequate to meet the same; nor may the commission pledge the credit of any of the member states, except by and with the authority of the member state.
4. The commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the commission are subject to the audit and accounting procedures established under its bylaws. However, all receipts and disbursements of funds handled by the commission must be audited yearly by a certified or licensed public accountant and the report of the audit must be included in and become part of the annual report of the commission.

ARTICLE XV - MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

1. Any state is eligible to become a member state.
2. The compact becomes effective and binding upon legislative enactment of the compact into law by no less than ten states. The effective date may not be earlier than December 1, 2007. Thereafter, the compact becomes 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 must be invited to participate in the activities of the commission on a nonvoting basis prior to adoption of the compact by all states.
3. The commission may propose amendments to the compact for enactment by the member states. No amendment may become effective and binding upon the commission and the member states until the amendment is enacted into law by unanimous consent of the member states.

ARTICLE XVI - WITHDRAWAL AND DISSOLUTION

1.
 - a. Once effective, the compact continues in force and remains binding upon each member state, provided that a member state may withdraw from the compact by specifically repealing the statute that enacted the compact into law, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.
 - b. Withdrawal from this compact must be by the enactment of a statute repealing the compact, except that in the case of this state, withdrawal from the compact may also be accomplished by statutorily allowing for the expiration of this Act.

- c. The withdrawing state immediately shall notify the chairman of the commission in writing upon the introduction of legislation repealing this compact in the withdrawing state, except that if this state elects to withdraw from the compact by statutorily allowing for the expiration of this Act, this state shall notify the chairman of the commission when it becomes evident that the expiration will take effect. The commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty days of receiving the notice.
 - d. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, to a maximum amount equal to two dollars multiplied by the latest available number of children of military families in this state.
 - e. Reinstatement following withdrawal of a member state occurs upon the withdrawing state reenacting the compact or upon such later date as determined by the commission.
2. This compact dissolves effective upon the date of the withdrawal or default of the member state which reduces the membership in the compact to one member state. Upon the dissolution of this compact, the compact becomes null and void and is of no further force or effect, and the business and affairs of the commission must be concluded and surplus funds must be distributed in accordance with the bylaws.

ARTICLE XVII - SEVERABILITY AND CONSTRUCTION

1. The provisions of this compact are severable and if any phrase, clause, sentence, or provision is determined unenforceable, the remaining provisions of the compact are enforceable.
2. This compact must be liberally construed to effectuate its purposes.
3. Nothing in this compact prohibits the applicability of other interstate compacts to which the states are members.

ARTICLE XVIII - BINDING EFFECT OF COMPACT AND OTHER LAWS

1. Nothing in this compact prevents the enforcement of any other law of a member state that is not inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent of the conflict.
2.
 - a. All lawful actions of the commission, including all rules and bylaws promulgated by the commission, are binding upon the member states.
 - b. All agreements between the commission and the member states are binding in accordance with their terms.
 - c. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, the provision is ineffective to the extent of the conflict with the constitutional provision in question in that member state.

SECTION 2. AMENDMENT. Section 15.1-04.1-02 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-02. (~~Effective through July 31, 2013~~) Compact on educational opportunity for military children - State council - Appointment.

The state council on educational opportunity for military children consists of:

1. The following voting members:
 - a. The superintendent of public instruction, who shall serve as the chairman;

- b. The superintendent of a school district that includes a high concentration of military children, appointed by the governor;
 - c. A representative of a military installation, appointed by the governor;
 - d. One legislator, appointed by the chairman of the legislative management;
 - e. One representative of the executive branch of government, appointed by the governor; and
 - f. Any other individuals recommended by the members of the state council listed in subdivisions a through e; and
2. The following nonvoting members:
- a. The compact commissioner appointed under section 15.1-04.1-03; and
 - b. The military family education liaison, appointed under section 15.1-04.1-04.

SECTION 3. AMENDMENT. Section 15.1-04.1-03 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-03. (~~Effective through July 31, 2013~~) Compact commissioner - Appointment - Duties.

The governor shall appoint a compact commissioner who shall be responsible for the administration and management of the state's participation in the compact on educational opportunity for military children.

SECTION 4. AMENDMENT. Section 15.1-04.1-04 of the North Dakota Century Code is amended and reenacted as follows:

15.1-04.1-04. (~~Effective through July 31, 2013~~) Military family education liaison - Appointment - Duties.

The state council on educational opportunity for military children shall appoint a military family education liaison to assist military families and the state in facilitating the implementation of the compact on educational opportunity for military children.

SECTION 5. AMENDMENT. Section 15.1-06-01 of the North Dakota Century Code is amended and reenacted as follows:

15.1-06-01. (~~Effective through July 31, 2013~~) Schools free and accessible - School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:

- a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate superior academic talents or abilities and social and emotional readiness.
 4. The requirements of this section are not applicable to the children of military families, to the extent that the requirements conflict with enrollment provisions otherwise agreed to by the state in the compact on educational opportunity for military children.

(Effective after July 31, 2013) Schools free and accessible - School ages.

1. Each public school must be free, open, and accessible at all times to any child provided:
 - a. The child may not enroll in grade one unless the child reaches the age of six before August first of the year of enrollment;
 - b. The child may not enroll in kindergarten unless the child reaches the age of five before August first of the year of enrollment; and
 - c. The child has not reached the age of twenty-one before August first of the year of enrollment.
2. Notwithstanding subsection 1, a school district may not enroll in grade one a child who is not six years old before August first, unless the child will be six years old before December first and:
 - a. The child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate academic, social, and emotional readiness; or
 - b. The child has completed an approved kindergarten program.
3. Notwithstanding subsection 1, a school district may not enroll in kindergarten a child who is not five years old before August first unless the child will be five years old before December first and the child, by means of developmental and readiness screening instruments approved by the superintendent of public instruction and administered by the school district, can demonstrate superior academic talents or abilities and social and emotional readiness.

SECTION 6. AMENDMENT. Section 15.1-21-02.1 of the North Dakota Century Code is amended and reenacted as follows:

15.1-21-02.1. (Effective through July 31, 2013) High school diploma - Minimum units.

Except as provided in section 15.1-21-02.3 or as otherwise agreed to in the compact on educational opportunity for military children, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:

1. The twenty-two units of high school coursework set forth in section 15.1-21-25; and

2. Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.

~~(Effective after July 31, 2013) High school diploma -- Minimum units.~~

~~Except as provided in section 15.1-21-02.3, before a school district, a nonpublic high school, or the center for distance education issues a high school diploma to a student, the student must have successfully completed:~~

- ~~1. The twenty-two units of high school coursework set forth in section 15.1-21-25; and~~
- ~~2. Any additional units of high school coursework required by the issuing entity, two of which may be theological studies if taught in a nonpublic school by an approved theological studies instructor.~~

SECTION 7. AMENDMENT. Section 15.1-29-13 of the North Dakota Century Code is amended and reenacted as follows:

15.1-29-13. ~~(Effective through July 31, 2013) Tuition payments - Nonresident students.~~

1. a. Except as provided in this subsection or as otherwise agreed to in the compact on educational opportunity for military children, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.
- b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.
- c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.
2. a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.
- b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.
- c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.
- d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.
- e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.

3. A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.

~~(Effective after July 31, 2013) Tuition payments -- Nonresident students.~~

1. ~~a. Except as provided in this subsection, the board of a school district that admits a nonresident student shall charge and collect tuition for the student. Either the student's district of residence shall pay the tuition to the admitting district in accordance with section 15.1-29-12 or the student's parent shall pay the tuition to the admitting district in accordance with section 15.1-29-07.~~
 - ~~b. A board may charge tuition for nonresident students enrolled in an approved alternative education program.~~
 - ~~c. Except as otherwise provided, if a school district fails to charge and collect tuition for a nonresident student, the districts shall forfeit any state aid otherwise payable for the nonresident student.~~
2. ~~a. The board of a school district may admit a nonresident student from another district in this state offering the same grade level as that in which the student is enrolled without a charge and collection of tuition if the sending and admitting districts have entered into a written contract regarding the student's admission.~~
 - ~~b. For purposes of determining whether the same grade level is offered, two or more school districts cooperating with each other for the joint provision of educational services under a plan approved by the superintendent of public instruction must be considered to be a single district.~~
 - ~~c. The contract must specify whether transportation is to be provided and, if so, by which district. If a school district of residence does not provide transportation to the student, it may be provided by the admitting district and the admitting district is then entitled to state payments for the transportation of the student.~~
 - ~~d. A contract is not necessary if the nonresident student is enrolled in an approved alternative education program for which no tuition is charged.~~
 - ~~e. A school district may admit a nonresident student described in section 15.1-31-07 from another school district in this state without a charge and collection of tuition and without a written agreement.~~
3. ~~A school district may not charge or collect from a nonresident student, the student's parent, or the student's district of residence any fees or charges not otherwise assessed to all resident students.~~

SECTION 8. AMENDMENT. Section 37-03-16 of the North Dakota Century Code is amended and reenacted as follows:

37-03-16. (Effective through July 31, 2013) Adjutant general - Provision of funding - Source.

The adjutant general shall pay all expenses incurred by the state to participate in the compact on educational opportunity for military children, including the reimbursement of actual and necessary expenses incurred by members of the state council, from the operating expenses line item in the appropriation bill for the adjutant general, as approved by the legislative assembly.

Speaker of the House

President of the Senate

Chief Clerk of the House

Secretary of the Senate

This certifies that the within bill originated in the House of Representatives of the Sixty-third Legislative Assembly of North Dakota and is known on the records of that body as House Bill No. 1293.

House Vote: Yeas 91 Nays 0 Absent 3

Senate Vote: Yeas 47 Nays 0 Absent 0

Chief Clerk of the House

Received by the Governor at _____ M. on _____, 2013.

Approved at _____ M. on _____, 2013.

Governor

Filed in this office this _____ day of _____, 2013,

at _____ o'clock _____ M.

Secretary of State