



*DPI's comments*

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

1     **AN ACT to create** 14.91, 20.255 (3) (f), 115.28 (58), subchapter VIII (title) of  
2           chapter 115 [precedes 115.997] and 115.997 of the statutes; **relating to:**  
3           adopting the Interstate Compact on Educational Opportunity for Military  
4           Children.

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***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.  
For further information see the ***state and local*** fiscal estimate, which will be  
printed as an appendix to this bill.

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***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5           **SECTION 1.** 14.91 of the statutes is created to read:  
6           **14.91 State council on the interstate compact on educational**  
7           **opportunity for military children. (1)** There is created a state council on the  
8           interstate compact on educational opportunity for military children as specified  
9           under s. 115.997 (8), consisting of the following members:

\*\*\*\*NOTE: Please see the questions under proposed s. 115.997 (8) that correspond to the members of the commission.

- 1 (a) The state superintendent of public instruction.
- 2 (b) The superintendent of a school district with a high concentration of children
- 3 of military families, appointed by the state superintendent of public instruction.
- 4 ~~(c) The governor or his or her designee.~~
- 5 (d) A representative from a military installation, appointed by the state
- 6 superintendent of public instruction.
- 7 (e) A member of the senate, appointed by the senate majority leader.
- 8 (f) A member of the assembly, appointed by the speaker of the assembly.
- 9 (g) The compact commissioner, as defined in s. 115.997 (2) (c), appointed by the
- 10 <sup>state super</sup> ~~governor~~ under s. 115.997 (8) (c), and the military family education liaison appointed
- 11 under s. 115.997 (8) (b), to serve as nonvoting members.

\*\*\*\*NOTE: Would you prefer that the state superintendent appoint the compact commissioner?

*Yes*

12 (2) The members of the council shall serve without compensation.

13 SECTION 2. 20.255 (3) (f) of the statutes is created to read:

14 20.255 (3) (f) *Interstate compact on educational opportunity for military*

15 *children.* A sum sufficient equal to the amount determined under s. 115.28 (58) to

16 pay assessments levied by the interstate commission on educational opportunity for

17 military children under s. 115.997 (14) (b).

18 SECTION 3. 115.28 (58) of the statutes is created to read:

19 115.28 (58) ASSESSMENT FOR INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY

20 FOR MILITARY CHILDREN. Annually determine the amount of the assessment under s.

21 115.997 (14) (b). The amount shall be the lesser of \$1,000 or the amount calculated

1 by multiplying \$1 by the number of children of military families, as defined in s.  
2 115.997 (2) (b), who are enrolled in public schools in this state.

3 SECTION 4. Subchapter VIII (title) of chapter 115 [precedes 115.997] of the  
4 statutes is created to read:

5 CHAPTER 115  
6 SUBCHAPTER VIII  
7 INTERSTATE COMPACT ON  
8 EDUCATIONAL OPPORTUNITY FOR  
9 MILITARY CHILDREN

10 SECTION 5. 115.997 of the statutes is created to read:

11 **115.997 Interstate compact on educational opportunity for military**  
12 **children.** The interstate compact on educational opportunity for children of  
13 military families is hereby enacted into law and entered into with all jurisdictions  
14 legally joining therein in the form substantially as follows:

15 (1) ARTICLE I – PURPOSE. It is the purpose of this compact to remove barriers  
16 to educational success imposed on children of military families because of frequent  
17 moves and deployment of their parents by:

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

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

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

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

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

7 (f) Providing for the uniform collection and sharing of information between and  
8 among member states, schools, and military families under this compact.

9 (g) Promoting coordination between this compact and other compacts affecting  
10 military children.

11 (h) Promoting flexibility and cooperation between the educational system,  
12 parents, and students in order to achieve educational success for the students.

13 (2) ARTICLE II -- DEFINITIONS. As used in this compact, unless the context  
14 clearly requires a different construction:

15 (a) "Active duty" means full-time active duty status in a uniformed service of  
16 the United States, including members of the National Guard and Reserve on active  
17 duty orders pursuant to 10 USC 1209 and 1211.

\*\*\*\*NOTE: I moved "active" so it modifies "duty" instead of "uniformed service," OK?

18 (b) "Child of a military family" means a school-aged child who is enrolled in any  
19 of the grades from kindergarten to 12 and who resides in the household of an active  
20 duty member.

\*\*\*\*NOTE: The defined term in the drafting instructions was "children of military families," and the definition provided for this term included a hybrid word "child(ren)," but then referred only to one household. I changed the defined term from "children of military families" to "child of a military family" to provide consistent use of tense and form throughout the definition.

\*\*\*\*NOTE: This definition refers to a child "in the household of an active duty member." Who is a "member"? Should this read "active duty member of a uniformed service"?

*not necessary  
b/c active duty includes it.*

*Not sure if  
really is meant -*

\*\*\*\*NOTE: It does not seem to me that this definition captures all of the children to which the compact is supposed to apply under sub. (3) (a) (Article III). That subsection indicates that the compact applies to children of veterans, members of the uniformed service who are medically discharged, and members of the uniformed service who die on active duty. Unless I am mistaken, I don't believe veterans or medically discharged or deceased members of the uniformed services are "active duty members." For that reason, any reference to "child of a military family" throughout the compact would not include children of veterans or medically discharged or deceased members of a uniformed service.

*agree  
that  
it  
does  
not*

You may wish to either modify the definition of "child of a military family" or supplement the use of "child of a military family" throughout the compact to include those children identified under sub. (3) (a).

- 1 (c) "Compact commissioner" means the voting representative of each
- 2 compacting state appointed pursuant to sub. (8) of this compact.
- 3 (d) "Deployment" means the period one month prior to a service members'
- 4 departure from his or her home station on military orders though 6 months after
- 5 return to his or her home station.
- 6 (e) "Education records" means those records, files, and data directly related to
- 7 a student and maintained by the school or local education agency, including records
- 8 encompassing all the material kept in the student's cumulative folder such as
- 9 general identifying data, records of attendance and of academic work completed,
- 10 records of achievement and results of evaluative tests, health data, disciplinary
- 11 status, test protocols, and individualized education programs.
- 12 (f) "Extracurricular activity" means a voluntary activity sponsored by a school
- 13 or local education agency or an organization sanctioned by the local education
- 14 agency. Extracurricular activity includes preparation for and involvement in public
- 15 performances, contests, athletic competitions, demonstrations, displays, and club
- 16 activities.
- 17 (g) "Interstate commission" means the Interstate Commission on Educational
- 18 Opportunity for Military Children created under sub. (9) of this compact.

*mm/15. 76(10)*

*correct agency*

*Why not  
public school district  
2/25/10*

*LEA is defined  
other public  
why not  
use 15  
again*

1 (h) "Local education agency" means a public authority legally constituted by  
2 school district, the Department of Health and Family Services, *etc.*, and an  
3 operator of a charter school *under 118 90(2r)*,  
kindergarten to 12 public educational institutions.

\*\*\*\*NOTE: Does this include the Department of Public Instruction? Or individual school districts? Or both?

*178 x other agencies - see 118.76(10)*

4 (i) "Member state" means a state that has enacted this compact.

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

\*\*\*\*NOTE: This paragraph defines a "military installation" as an "activity." Is it possible for an installation to be an activity? *I think its meant to modify*

*"homeport facility"*

12 (k) "Nonmember state" means a state that has not enacted this compact.

13 (l) "Receiving state" means the state to which a child of a military family is  
14 sent, brought, or caused to be sent or brought.

15 (m) "Rule" means a written statement by the interstate commission  
16 promulgated pursuant to sub. (12) that is of general applicability; implements,  
17 interprets, or prescribes a policy or provision of the compact, or an organizational,  
18 procedural, or practice requirement of the interstate commission; and has the force  
19 and effect of statutory law in a member state if approved by the legislature of the  
20 member state.

\*\*\*\*NOTE: This paragraph includes the modification made by Virginia. See, however, sub. (10) (b), which states that the rules have the force of ch. 227 administrative rules.

1 (n) "Sending state" means the state from which a child of a military family is  
2 sent, brought, or caused to be sent or brought.

3 (o) "State" means a state of the United States, the District of Columbia, the  
4 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the  
5 Northern Marianas Islands, and any other U.S. Territory.

6 (p) "Student" means a child of a military family for whom the local education  
7 agency receives public funding and who is formally enrolled in any of the grades from  
8 kindergarten to 12.

\*\*\*\*NOTE: For the same reasons as specified in the \*\*\*\*NOTE under the definition of "child of a military family," I don't believe the definition of "student" captures all of the students to whom the compact is supposed to apply under sub. (3) (a). You may wish to either modify the definition of "student" or "child of a military family" or both, or supplement the use of "student" throughout the compact to include those children. Please advise.

9 (q) "Transition" means all of the following:  
10 1. The formal and physical process of transferring from school to school.  
11 2. The period of time in which a student moves from one school in a sending  
12 state to another school in a receiving state.

13 (r) "Uniformed service" means the army, navy, air force, marine corps, coast  
14 guard, the commissioned corps of the national oceanic and atmospheric  
15 administration, and the commissioned corps of the public health services.

16 (s) "Veteran" means a person who served in a uniformed service and was  
17 discharged or released therefrom under conditions other than dishonorable.

\*\*\*\*NOTE: As drafted, "veteran" includes a person who served in the commissioned corps of NOAA or the public health services. Is that your intent?

18 (3) ARTICLE III -- APPLICABILITY. (a) Except as provided in pars. (b) and (c), this  
19 interstate compact applies to a child of any of the following:

1           1. An active duty member of the uniformed service, including a member of the  
2 national guard and reserve on active duty orders pursuant to 10 USC 1209 and 1211.

3           2. A member or veteran of the uniformed service who is severely injured and  
4 medically discharged or retired for a period of one year after medical discharge or  
5 retirement.

\*\*\*\*NOTE: Is "is severely injured" a condition of "retired," or only of "medically discharged"?

\*\*\*\*NOTE: Does "for a period of one year after medical discharge or retirement" mean that the compact only applies to a child of this person for one year after the person's medical discharge or retirement?

*seems to be (c) but*

6           3. A member of the uniformed service who dies on active duty or as a result of  
7 injuries sustained on active duty for a period of one year after death.

\*\*\*\*NOTE: Does "for a period of one year after death" mean that the compact only applies to a child of this person for one year after the person's death, or does it mean that the person must have died within one year after sustaining injuries?

*I would say no*

8           (b) The provisions of this interstate compact apply only to local education  
9 agencies.

\*\*\*\*NOTE: Does this mean that the compact does not apply to the Department of Public Instruction?

*yes*

10          (c) The provisions of this compact do not apply to a child of any of the following:

- 11           1. An inactive member of the national guard and military reserves.
- 12           2. Except as provided in par. (a), a retired member of the uniformed services.
- 13           3. Except as provided in par. (a), a veteran of the uniformed services.
- 14           4. Other U.S. department of defense personnel, or of a civilian or contract
- 15 employee of any other federal agency, who is not an active duty member of a
- 16 uniformed service.

17          (4) ARTICLE IV — EDUCATIONAL RECORDS AND ENROLLMENT. (a) *Unofficial or*  
18 *hand-carried pupil records.* If official education records cannot be released to the  
19 parents for the purpose of transfer, the custodian of the education records in the



1 sending state shall prepare and furnish to the parent a complete set of unofficial  
2 education records containing uniform information as determined by the interstate  
3 commission. The school in the receiving state shall enroll and appropriately place  
4 the student, based on the information provided in the unofficial education records,  
5 if provided, pending validation by the official education records, as quickly as  
6 possible.

7 (b) *Education records and transcripts.* Simultaneous with the enrollment and  
8 conditional placement of the student, the school in the receiving state shall request  
9 the student's official education records from the school in the sending state. Upon  
10 receipt of this request, the school in the sending state shall process and furnish the  
11 official education records to the school in the receiving state within 10 days or within  
12 such time as is reasonably determined under the rules promulgated by the interstate  
13 commission.

\*\*\*\*NOTE: What does "conditional placement" mean? Does this refer to course placement under sub. (5) (Article V) of the compact? When does placement become permanent, and what are the factors that are considered by the school to make the placement permanent?

14 (c) *Immunizations.* A member state shall give 30 days from the date of  
15 enrollment or within such time as is reasonably determined under the rules  
16 promulgated by the interstate commission for a student to obtain any immunization  
17 required by the receiving state. For a series of immunizations, initial vaccinations  
18 must be obtained within 30 days or within such time as is reasonably determined  
19 under the rules promulgated by the interstate commission.

\*\*\*\*NOTE: The compact template directed me to start this paragraph with the term, "compacting states." However, a state that has enacted the compact is defined by the compact as a "member state," so that is the term I used.

20 (d) *Kindergarten and first grade entrance age.* A student shall be allowed to  
21 continue his or her enrollment at the grade level in the receiving state commensurate

1 with his or her grade level, including kindergarten, from a local education agency in  
2 the sending state at the time of transition, regardless of age. A student who has  
3 satisfactorily completed the prerequisite grade level in the local education agency in  
4 the sending state shall be eligible for enrollment in the next highest grade level in  
5 the receiving state, regardless of age. A student transferring after the start of the  
6 school year in the receiving state shall enter the school in the receiving state on his  
7 or her validated level from a local education agency in the sending state.

\*\*\*\*NOTE: What does "validated level" mean? Note that I changed "accredited school" in the last sentence to "local education agency." OK?

8 (5) ARTICLE V – PLACEMENT AND ATTENDANCE. (a) *Course placement.* When a  
9 student transfers before or during the school year, the receiving state school shall  
10 initially honor placement of the student in educational courses based on the student's  
11 enrollment in the sending state school or educational assessments conducted at the  
12 school in the sending state if the courses are offered. Course placement includes  
13 honors, international baccalaureate, advanced placement, vocational, technical, and  
14 career pathways courses. Continuing the student's academic program from the  
15 previous school and promoting placement in academically and career challenging  
16 courses should be paramount when considering placement. This does not preclude  
17 the school in the receiving state from performing subsequent evaluations to ensure  
18 appropriate placement and continued enrollment of the student in a course.

19 (b) *Educational program placement.* The receiving state school shall initially  
20 honor placement of the student in educational programs, including gifted and  
21 talented programs and English as a second language programs, based on current  
22 educational assessments conducted at ~~the school in the sending~~ state or  
23 participation or placement in like programs in the sending state. This paragraph

1 does not preclude the ~~school in~~ the receiving <sup>LEA</sup> state from performing subsequent  
2 evaluations to ensure appropriate placement of the student.

3 (c) *Special education services.* 1. In compliance with the requirements of 20  
4 USC 1400 to 1482, the receiving <sup>LEA</sup> state shall initially provide comparable services to  
5 a student with disabilities based on his or her current individualized education  
6 program.

7 2. In compliance with the requirements of 29 USC 794 and with 42 USC 12131  
8 to 12165, the receiving <sup>LEA</sup> state shall make reasonable accommodations and  
9 modifications to address the needs of incoming students with disabilities, subject to  
10 an existing plan prepared under 29 USC 794 or 42 USC 12131 to 12165, to provide  
11 the student with equal access to education. This does not preclude the ~~school in the~~  
12 receiving <sup>LEA</sup> state from performing subsequent evaluations to ensure appropriate  
13 placement of the student.

14 (d) *Placement flexibility.* Local education agency administrative officials shall  
15 have flexibility in waiving course or program prerequisites or other preconditions for  
16 placement in a course or program offered under the jurisdiction of the local education  
17 agency.

18 (e) *Absence as related to deployment activities.* Each ~~school board~~ <sup>LEA governing body</sup> shall adopt  
19 a policy relating to excusing a child of a military family who moved to the ~~school-~~ <sup>LEA</sup>  
20 district from another state from school attendance in order to visit his or her parent  
21 or guardian who is on active duty and has been called to duty for or is on leave from  
22 deployment to a combat zone or combat support posting, or has returned from  
23 deployment to a combat zone or combat support posting within the past 30 days.

\*\*\*\*NOTE: This paragraph, from LRB 09-3523/1, is substituted for the compact language.

1           **(6) ARTICLE VI – ELIGIBILITY. (a) Eligibility for enrollment.** 1. A local education  
2 agency is prohibited from charging ~~local~~ tuition to a child of a military family placed  
3 in the care of a noncustodial parent or other person standing in the place of a parent  
4 who lives in a jurisdiction other than that of the custodial parent.

\*\*\*\*NOTE: I did not substitute Wisconsin's residency requirement (the "Thayer rule") for the compact language in subd. 1. The compact language does not conflict with the Thayer rule, and it is difficult to succinctly capture the Thayer rule without losing all of its nuances. In addition, whether the compact language or the Thayer rule is used here, the provision will apply only to children of military families. Thus, either way, there may be an unintended implication that there is a different rule for other children. You may wish to consider eliminating the provision entirely.

*This is ok.*

\*\*\*\*NOTE: I deleted the subdivision relating to "special power of attorney" because that status does not exist in this state.

5           2. A child of a military family who has been placed in the care of a noncustodial  
6 parent or other person standing in the place of a parent who lives in a jurisdiction  
7 other than that of the custodial parent may continue to attend the school in which  
8 he or she was enrolled while residing with the custodial parent.

*was ruled  
12/20/09 w.  
transportation  
3/*

9           **(b) Eligibility for extracurricular participation.** ~~State and~~ local education  
10 agencies shall facilitate the opportunity for a child of a military family to be included  
11 in extracurricular activities, regardless of application deadlines, to the extent he or  
12 she is otherwise qualified.

13           **(7) ARTICLE VII – GRADUATION.** In order to facilitate the on-time graduation  
14 of a child of a military family, ~~states and~~ local education agencies shall incorporate  
15 the following procedures:

16           **(a) Waiver requirements.** Local education agency administrative officials shall  
17 waive specific courses required for graduation if similar course work has been  
18 satisfactorily completed in another local education agency or shall provide  
19 reasonable justification for denial. Should a waiver not be granted to a student who  
20 would qualify to graduate from the sending school, the local education agency shall

1 provide an alternative means of acquiring required course work so that graduation  
2 may occur on time.

3 (b) *Exit exams.* Except as provided in par. (c), a member state shall accept all  
4 of the following examinations or tests administered to the child of a military family  
5 in lieu of testing requirements for graduation in the receiving state.

\*\*\*\*NOTE: Is it the member state that must accept these alternatives or the local  
education agency? The same question applies to par. (c), below.

- 6 1. Exit or end-of-course exams required for graduation from the sending state.
- 7 2. National norm-referenced achievement tests.
- 8 3. Alternative testing acceptable to the receiving state.

9 (c) *Transfers during senior year.* If a child of a military family transfers at the  
10 beginning of or during the child's high school senior year, and the receiving state has  
11 considered the examinations and tests under par. (b) and determined that the child  
12 would be ineligible to graduate from the local education agency of the receiving state  
13 after all alternatives have been considered, the local education agency of the sending  
14 state, with the cooperation of the local educational agency of the receiving state, shall  
15 ensure the receipt of a diploma from the local education agency of the sending state  
16 if the student meets the graduation requirements of the local education agency of the  
17 sending state. If one of the states in question is a nonmember state, the member state  
18 shall use best efforts to facilitate the on-time graduation of the student in accordance  
19 with pars. (a) and (b) of this subsection.

\*\*\*\*NOTE: I replaced "military student" with "child of a military family." I also  
replaced "sending and receiving local education agencies" with "the local education  
agencies of the sending state and the receiving state."

20 (8) ARTICLE VIII – STATE COORDINATION. (a) Each member state shall, through  
21 the creation of a state council or use of an existing body or board, provide for the  
22 coordination among its agencies of government, local education agencies, and

1 military installations concerning the state's participation in, and compliance with,  
2 this compact and interstate commission activities. While each member state may  
3 determine the membership of its own state council, its membership shall include all  
4 of the following:

5 1. The state superintendent of education.

6 2. The superintendent of a school district with a high concentration of children  
7 of military families. A member state that does not have a school district deemed to  
8 contain a high concentration of children of military families may appoint a  
9 superintendent from another school district to represent local education agencies on  
10 the state council.

\*\*\*\*NOTE: As drafted, the superintendent of a school district with a high  
concentration of children of military families is appointed by the state superintendent.  
OK?

11 3. A representative from a military installation.

\*\*\*\*NOTE: As drafted, the military representative on the council is appointed by the  
state superintendent of public instruction. OK?

12 4. One representative from the legislative branch of government.

\*\*\*\*NOTE: As drafted, the council created under s. 14.91 includes one member each  
of the senate and assembly. OK?

13 ② 5. One representative from the executive branch of government

\*\*\*\*NOTE: The drafting instructions directed me to include on the council "one  
representative ... from the executive branch [ ] of government." As drafted, the council  
includes the governor or his or her designee. OK?

14 6. Representatives from other offices and stakeholder groups the state council  
15 deems appropriate.

16 (b) The state council established or existing body or board designated by each  
17 member state under par. (a) shall appoint or designate a military family education  
18 liaison to assist children of military families and the state in facilitating the  
19 implementation of this compact.

*OPF - 15000. 0/10/10  
SF support  
we have to  
bring in  
will  
should  
SP1 doc  
this table?*

1 (c) A compact commissioner responsible for the administration and  
2 management of the state's participation in the compact shall be appointed by the  
3 <sup>state super</sup>~~governor~~ or as otherwise determined by each member state.

4 (d) The compact commissioner appointed under par. (c) and the military family  
5 education liaison appointed or designated under par. (b) shall serve on the state  
6 council as nonvoting members of the state council, unless either is already a full  
7 voting member of the state council.

\*\*\*\*NOTE: I substituted nonvoting for ex officio. OK? yes

8 (9) ARTICLE IX — INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR  
9 MILITARY CHILDREN. The member states hereby create the interstate commission. The  
10 activities of the interstate commission are the formation of public policy and are a  
11 discretionary state function. All of the following apply to the interstate commission:

12 (a) The interstate commission shall be a body corporate and joint agency of the  
13 member states and shall have all the responsibilities, powers, and duties set forth  
14 in this compact, and such additional powers conferred upon it by a subsequent  
15 concurrent action of the respective legislatures of the member states in accordance  
16 with the terms of this compact.

17 (b) The interstate commission shall consist of one interstate commission voting  
18 representative from each member state who shall be that state's compact  
19 commissioner. The following apply to meetings of the interstate commission:

20 1. Each member state represented at a meeting is entitled to one vote.

21 2. A majority of the member states shall constitute a quorum for the transaction  
22 of business, unless a larger number is required by the bylaws of the interstate  
23 commission.

1           3. A representative shall not delegate a vote to another member state. If a  
2 compact commissioner of a state is unable to attend a meeting of the interstate  
3 commission, the governor or state council of that state may delegate voting authority  
4 to another person from that state for a specified meeting.

5           4. The bylaws <sup>shall?</sup> provide for meetings of the interstate commission to be  
6 conducted by telecommunication or electronic communication.

7           (c) The interstate commission shall include nonvoting members who are  
8 members of interested organizations. Such nonvoting members, as defined in the  
9 bylaws, may include members of the representative organizations of military family  
10 advocates, local education agency officials, parent and teacher groups, the U.S.  
11 department of defense, the Education Commission of the States, the Interstate  
12 Agreement on the Qualification of Educational Personnel, and other interstate  
13 compacts affecting the education of children of military families.

\*\*\*\*NOTE: I changed "children of military members" to "children of military families." OK?

14           (d) The interstate commission shall meet at least once each calendar year. The  
15 chairperson may call additional meetings and, upon the request of a simple majority  
16 of the member states, shall call additional meetings.

17           (e) The interstate commission shall establish an executive committee, whose  
18 members shall include the officers of the interstate commission and such other  
19 members of the interstate commission as determined by the bylaws. Members of the  
20 executive committee shall serve one-year terms. Members of the executive  
21 committee shall be entitled to one vote each. The executive committee shall have the  
22 power to act on behalf of the interstate commission, with the exception of rule  
23 making, during periods when the interstate commission is not in session. The

*Voting & attendance  
may be done by tele*

*Attendance at meetings may  
achieved via telecommunication.*



1 executive committee shall oversee the day-to-day activities of the administration of  
2 the compact, including enforcement and compliance with the provisions of the  
3 compact, its bylaws and rules, and other such duties as deemed necessary. The U.S.  
4 department of defense shall serve as a nonvoting member of the executive  
5 committee.

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

12 (g) The interstate commission shall give public notice of all meetings and all  
13 meetings shall be open to the public, except as set forth in the rules or as otherwise  
14 provided in the compact. The interstate commission and any committee of the  
15 commission may close a meeting or portion of a meeting if the commission or  
16 committee determines by a two-thirds vote that an open meeting would be likely to  
17 do any of the following:

18 1. Relate solely to the interstate commission's internal personnel practices and  
19 procedures.

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

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

24 4. Involve accusing a person of a crime, or formally censuring a person.

*← I'm not sure*

\*\*\*\*NOTE: Any person of any crime? Or only a person who has a relationship with the commission who will be accused of committing a crime involving the activities of the commission?

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

3           6. Disclose investigative records compiled for law enforcement purposes.

4           7. Specifically relate to the interstate commission's participation in a civil  
5 action or other legal proceeding.

6           (h) For a meeting or portion of a meeting closed under par. (g), the interstate  
7 commission shall cause its legal counsel or designee to certify that the meeting may  
8 be closed and to reference each relevant exemptible provision. The interstate  
9 commission shall keep minutes, which shall fully and clearly describe all matters  
10 discussed in a meeting, and shall provide a full and accurate summary of actions  
11 taken, and the reasons for taking the actions, including a description of the views  
12 expressed and the record of a roll call vote. All documents considered in connection  
13 with an action shall be identified in such minutes. All minutes and documents of a  
14 closed meeting shall remain under seal, subject to release by a majority vote of the  
15 interstate commission.

\*\*\*\*NOTE: What does it mean that the legal counsel must "certify that a meeting may be closed"? Does notice have to be given in writing in advance of the meeting? If so, how many days or hours in advance? Or may the legal counsel simply make an oral announcement at the time the commission seeks to go into closed session at the meeting?

16           (i) The interstate commission shall collect standardized data concerning the  
17 educational transition of children of military families under this compact as directed  
18 through its rules, which shall specify the data to be collected, the means of collection  
19 and data exchange, and reporting requirements. Such methods of data collection,  
20 exchange, and reporting shall, in so far as is reasonably possible, conform to current

1 technology and <sup>be done with</sup> coordinate its information functions with the appropriate custodian  
2 of records as identified in the bylaws and rules.

\*\*\*\*NOTE: I don't understand what "such methods of data collection, exchange, and reporting shall ... coordinate its information functions" means. How can a method coordinate a function?

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

\*\*\*\*NOTE: I added "or any local education agency" at the end of the last sentence, as did Virginia.

10 (10) ARTICLE X – POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The  
11 interstate commission shall have the following powers:

12 (a) To provide for dispute resolution among member states.

13 (b) To promulgate rules and take all necessary actions to effect the goals,  
14 purposes, and obligations as enumerated in this compact. The rules shall have the  
15 force and effect of rules promulgated under subch. II of ch. 227 and shall be binding  
16 in the member states to the extent and in the manner provided in this compact.

\*\*\*\*NOTE: I changed "compact state" to "member state." OK?

\*\*\*\*NOTE: I changed "statutory law" to "rules promulgated under subch. II of ch. 227." Virginia made a similar change. OK?

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

19 (d) To enforce compliance with the compact provisions, the rules promulgated  
20 by the interstate commission, and the bylaws, using all necessary and proper means,

*Such rules will have the force & effect of law only after they are approved by the Leg. of the member state*

1 including the use of judicial process. Any action to enforce compliance with the  
2 compact provisions by the interstate commission shall be brought against (a member  
3 state only.)

\*\*\*\*NOTE: I added the last sentence of this paragraph as it appears in Virginia's  
version of the compact. OK?

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

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

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

8 (h) To establish and appoint committees, including an executive committee as  
9 required by sub. (9) (e), which shall have the power to act on behalf of the interstate  
10 commission in carrying out its powers and duties under the compact.

11 (i) To elect or appoint such officers, attorneys, employees, agents, or  
12 consultants, and to fix their compensation, define their duties, and determine their  
13 qualifications, and to establish the interstate commission's personnel policies and  
14 programs relating to conflicts of interest, rates of compensation, and qualifications  
15 of personnel.

16 (j) To accept donations and grants of money, equipment, supplies, materials,  
17 and services, and to receive, utilize, and dispose of any such donations and grants.

\*\*\*\*NOTE: The LRB drafting manual prohibits the use of "any and all", so I  
eliminated this phrase from this paragraph. I also substituted "any such donations and  
grants" for "it."

18 (k) To lease, purchase, accept contributions or donations of, or otherwise to own,  
19 hold, improve, or use any property, real, personal, or mixed.

20 (l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
21 dispose of any property, real, personal, or mixed.

22 (m) To establish a budget and make expenditures.

*the state is not doing any of the action - LEAs are  
so why bring  
an action  
against the  
state?*

1 (n) To adopt a seal and bylaws governing the management and operation of the  
2 interstate commission.

3 (o) To report annually to the legislatures, governors, judiciary, and state  
4 councils of the member states concerning the activities of the interstate commission  
5 during the preceding year. Such reports shall also include any recommendations  
6 adopted by the interstate commission.

7 (p) To coordinate education, training, and public awareness regarding the  
8 compact, its implementation and operation for officials and parents involved in such  
9 activity.

10 (q) To establish uniform standards for the reporting, collecting, and exchanging  
11 of data.

12 (r) To maintain corporate books and records in accordance with the bylaws.

13 (s) To perform the functions necessary or appropriate to achieve the purposes  
14 of this compact.

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

\*\*\*\*NOTE: Should the compact provide a definition for "military families"? *probably*

17 (11) ARTICLE XI — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.

18 (a) The interstate commission shall, by a majority of the members present and  
19 voting, within 12 months after the first interstate commission meeting, adopt bylaws  
20 to govern its conduct as may be necessary or appropriate to carry out the purposes  
21 of the compact, including all of the following:

22 1. Establishing the fiscal year of the interstate commission.

23 2. Establishing an executive committee, and such other committees as may be  
24 necessary.

1           3. Providing for the establishment of committees and for governing any general  
2 or specific delegation of authority or function of the interstate commission.

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

5           5. Establishing the titles and responsibilities of the officers and staff of the  
6 interstate commission.

7           6. Providing a mechanism for concluding the operations of the interstate  
8 commission and the return of surplus funds that may exist upon the termination of  
9 the compact after the payment and reserving of all of its debts and obligations.

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

11          (b) The interstate commission shall, by a majority of the members, elect  
12 annually from among its members a chairperson, a vice chairperson, and a treasurer,  
13 each of whom shall have the authority and duties specified in the bylaws. The  
14 chairperson or, in the chairperson's absence or disability, the vice chairperson, shall  
15 preside at all meetings of the interstate commission. The officers so elected shall  
16 serve without compensation or remuneration from the interstate commission.  
17 Subject to the availability of budgeted funds, the officers shall be reimbursed for  
18 ordinary and necessary costs and expenses incurred by them in the performance of  
19 their responsibilities as officers of the interstate commission.

20          (c) *Executive Committee, Officers and Personnel.* 1. The executive committee  
21 shall have the authority and duties set forth in the bylaws, including all of the  
22 following:

23           a. Managing the affairs of the interstate commission in a manner consistent  
24 with the bylaws and purposes of the interstate commission.

1           b. Overseeing an organizational structure within, and appropriate procedures  
2 for, the interstate commission to provide for the creation of rules, operating  
3 procedures, and administrative and technical support functions.

4           c. Planning, implementing, and coordinating communications and activities  
5 with other state, federal, and local governmental organizations in order to advance  
6 the goals of the interstate commission.

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

14           (d) 1. The interstate commission's executive director and its employees are  
15 immune from suit and liability, either personally or in their official capacity, for a  
16 claim for damage to or loss of property or personal injury or other civil liability caused  
17 or arising out of or relating to an actual or alleged act, error, or omission that  
18 occurred, or that such person had a reasonable basis for believing occurred, within  
19 the scope of interstate commission employment, duties, or responsibilities, except  
20 that the executive director and the employees of the interstate commission shall not  
21 be protected under this subdivision from suit or liability for damage, loss, injury, or  
22 liability caused by the intentional or willful and wanton misconduct of that executive  
23 director or employee.

24           2. The liability of the interstate commission's executive director and employees  
25 or interstate commission representatives, acting within the scope of such person's

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

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

18 4. To the extent not covered by the state involved, member state, or the  
19 interstate commission, the representatives or employees of the interstate  
20 commission shall be held harmless in the amount of a settlement or judgment,  
21 including attorney's fees and costs, obtained against such persons arising out of an  
22 actual or alleged act, error, or omission that occurred within the scope of interstate  
23 commission employment, duties, or responsibilities, or that such persons had a  
24 reasonable basis for believing occurred within the scope of interstate commission  
25 employment, duties, or responsibilities, provided that the actual or alleged act, error,



1 or omission did not result from intentional or willful and wanton misconduct on the  
2 part of such persons.

3 (12) ARTICLE XII – RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a)  
4 *Rule-making authority.* The interstate commission shall promulgate reasonable  
5 rules in order to effectively and efficiently achieve the purposes of this compact. If  
6 the interstate commission exercises its rule-making authority in a manner that is  
7 beyond the scope of the purposes of this compact, or the powers granted under this  
8 compact, then such an action by the interstate commission shall be invalid and have  
9 no force or effect.

10 (b) *Rule-making Procedure.* Rules shall be made pursuant to a rule-making  
11 process that substantially conforms to the Model State Administrative Procedure  
12 Act, as amended, as may be appropriate to the operations of the interstate  
13 commission.

14 (c) Not later than 30 days after a rule is promulgated, any person may file a  
15 petition for judicial review of the rule. The filing of such a petition does not stay or  
16 otherwise prevent the rule from becoming effective unless the court finds that the  
17 petitioner has a substantial likelihood of success. The court shall give deference to  
18 the actions of the interstate commission consistent with applicable law and shall not  
19 find the rule to be unlawful if the rule represents a reasonable exercise of the  
20 interstate commission's authority.

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

\*\*\*\*NOTE: I changed several instances of the term "compacting states" to "member states."

\* The requirement that the state legislature approve the rule b/y ~~being~~ or having force & effect in the state should be here.

1 (13) ARTICLE XIII — OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION. (a)

2 Oversight. 1. The executive, legislative, and judicial branches of state government  
3 in each member state shall enforce this compact and shall take all actions necessary  
4 and appropriate to effectuate the compact's purposes and intent. The provisions of

5 ~~this compact and the rules promulgated hereunder shall have standing as rules~~  
6 ~~promulgated under subch. II of ch. 227.~~ *to have standing as rules*  
*of the state legislature*  
*some effect upon approval*

\*\*\*\*NOTE: I copied Virginia's version here, providing for standing as administrative  
rules, not as statutory law.

\*\*\*\*NOTE: Can a compact or rules have "standing"?

7 2. All courts shall take judicial notice of the compact and the rules in any  
8 judicial or administrative proceeding in a member state pertaining to the subject  
9 matter of this compact that may affect the powers, responsibilities, or actions of the  
10 interstate commission.

11 3. The interstate commission is entitled to receive all service of process in any  
12 such proceeding, and has standing to intervene in the proceeding for all purposes.  
13 Failure to provide service of process to the interstate commission renders a judgment  
14 or order void as to the interstate commission, this compact, or promulgated rules.

\*\*\*\*NOTE: How does an interstate commission receive service of process? Can an  
interstate commission be sued? Or is the entity being served actually each member state?  
Shouldn't one person, perhaps from each member state, be required to receive such  
service?

15 (b) *Default, technical assistance, suspension, and termination.* If the interstate  
16 commission determines that a member state *most actions are taken by the LEA* has defaulted in the performance of its  
17 obligations or responsibilities under this compact, or the bylaws or promulgated  
18 rules, the interstate commission shall do all of the following:

19 1. Provide written notice to the defaulting state and other member states of the  
20 nature of the default, the means of curing the default, and any action taken by the

*summary*  
*7*  
*LEA*

1 interstate commission. The interstate commission shall specify the conditions by  
2 which the defaulting state must cure its default.

3 2. Provide remedial training and specific technical assistance regarding the  
4 default.

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

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

16 5. A state that has been suspended or terminated is responsible for all  
17 assessments, obligations, and liabilities incurred through the effective date of  
18 suspension or termination, including obligations the performance of which extends  
19 beyond the effective date of suspension or termination.

20 6. The interstate commission shall not bear any costs relating to any state that  
21 has been found to be in default or that has been suspended or terminated from the  
22 compact, unless otherwise mutually agreed upon in writing between the interstate  
23 commission and the defaulting state.

24 7. The defaulting state may appeal the action of the interstate commission by  
25 petitioning the U.S. District Court for the District of Columbia or the federal district

1 where the interstate commission has its principal offices. The prevailing party shall  
2 be awarded all costs of such litigation including reasonable attorney's fees.

3 (c) *Dispute Resolution*. 1. The interstate commission shall attempt, upon the  
4 request of a member state, to resolve disputes that are subject to the compact and  
5 that may arise among member states and between member and nonmember states.

6 2. The interstate commission shall promulgate a rule providing for mediation  
7 for disputes as appropriate.

\*\*\*\*NOTE: I deleted "and binding dispute resolution" in par. (c) 2., and all of par. (d),  
dealing with enforcement. Virginia also made these changes.

8 (14) ARTICLE XIV – FINANCING OF THE INTERSTATE COMMISSION. (a) The  
9 interstate commission shall pay, or provide for the payment of, the reasonable  
10 expenses of its establishment, organization, and ongoing activities.

11 (b) The interstate commission may levy on and collect from each member state  
12 an annual assessment to cover the cost of the operations and activities of the  
13 interstate commission and its staff. The aggregate annual assessment must be  
14 sufficient to cover the interstate commission's annual budget as approved each year.  
15 The aggregate annual assessment amount shall be allocated among member states  
16 based upon a formula to be determined by the interstate commission, which shall  
17 promulgate a rule binding upon all member states. 115.26(58)

\*\*\*\*NOTE: I created a sum sufficient appropriation under s. 20.255 (3) (f) to cover  
these costs. OK?

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

21 (d) The interstate commission shall keep accurate accounts of all receipts and  
22 disbursements. The receipts and disbursements of the interstate commission shall

do you  
have need  
to be language  
that limit  
over liability  
to the  
costs 1000  
of 1000

1 be subject to the audit and accounting procedures established under its bylaws.  
2 However, all receipts and disbursements of funds handled by the interstate  
3 commission shall be audited yearly by a certified or licensed public accountant and  
4 the report of the audit shall be included in and become part of the annual report of  
5 the interstate commission.

6 (15) ARTICLE XV – MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (a) Any  
7 state is eligible to become a member state.

8 (b) The compact shall become effective and binding upon legislative enactment  
9 of the compact into law by no less than 10 states. Thereafter, it shall become effective  
10 and binding as to any other state upon enactment of the compact into law by that  
11 state. The governor of a nonmember state or his or her designee shall be invited to  
12 participate in the activities of the interstate commission on a nonvoting basis prior  
13 to adoption of the compact by all states.

14 (c) The interstate commission may propose amendments to the compact for  
15 enactment by the member states. No amendment shall become effective and binding  
16 upon the interstate commission and the member states unless and until it is enacted  
17 into law by unanimous consent of the member states.

18 (16) ARTICLE XVI – WITHDRAWAL AND DISSOLUTION. (a) *Withdrawal*. 1. Once  
19 effective, the compact shall continue in force and remain binding upon each and  
20 every member state, provided that a member state may withdraw from the compact  
21 by specifically repealing the statute that enacted the compact into law.

22 2. Withdrawal from this compact shall be by the enactment of a statute  
23 repealing the same.

\*\*\*\*NOTE: I deleted that portion of subd. 2. that delayed the effective date of  
withdrawal for one year. The deletion was also made by Virginia.

How about withdrawal by action of the legislature  
won't repeal the whole law?

1           3. A withdrawing state shall immediately notify the chairperson of the  
 2 interstate commission in writing upon the introduction of legislation repealing this  
 3 compact in the withdrawing state. The interstate commission shall notify the other  
 4 member states of the withdrawing state's intent to withdraw within 60 days of its  
 5 receipt thereof.

*This  
ought to  
be deleted*

\*\*\*\*NOTE: This subdivision uses the words "withdrawing state" and "introduction of legislation repealing this compact" as a means of describing proposed legislative action to repeal the compact and triggering notice to the interstate commission. However, the introduction of a bill seeking to withdraw from the compact does not mean that the state is a "withdrawing state" or will repeal or withdraw from the compact. Should I modify this language?

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

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

12           (b) *Dissolution of Compact.* 1. This compact shall dissolve effective upon the  
 13 date of the withdrawal or default of the member state that reduces the membership  
 14 in the compact to one member state.

15           2. Upon the dissolution of this compact, the compact is null and void and of no  
 16 further force or effect, and the business and affairs of the interstate commission shall  
 17 be concluded and surplus funds distributed in accordance with the bylaws.

18           (17) ARTICLE XVII – SEVERABILITY AND CONSTRUCTION. (a) The provisions of this  
 19 compact shall be severable and if any phrase, clause, sentence, or provision is  
 20 deemed unenforceable, the remaining provisions of the compact shall be enforceable.

21           (b) The provisions of this compact shall be liberally construed to effectuate its  
 22 purposes.





TUESDAY

4/15

**PRELIMINARY DRAFT - NOT READY FOR INTRODUCTION**

SR

Gen Cat

1 AN ACT *to create* 14.91, 20.255 (3) (f), 115.28 (58), subchapter VIII (title) of  
2 chapter 115 [precedes 115.997] and 115.997 of the statutes; **relating to:**  
3 adopting the Interstate Compact on Educational Opportunity for Military  
4 Children.

***Analysis by the Legislative Reference Bureau***

This is a preliminary draft. An analysis will be provided in a later version.  
For further information see the ***state and local*** fiscal estimate, which will be  
printed as an appendix to this bill.

***The people of the state of Wisconsin, represented in senate and assembly, do enact as follows:***

5 SECTION 1. 14.91 of the statutes is created to read:  
6 14.91 State council on the interstate compact on educational  
7 opportunity for military children. (1) There is created a state council on the  
8 interstate compact on educational opportunity for military children as specified  
9 under s. 115.997 (8), consisting of the following members:



~~\*\*\*NOTE: Please see the questions under proposed s. 115.997 (8) that correspond to the members of the commission.~~

- 1 (a) The state superintendent of public instruction.
- 2 (b) The superintendent of a school district with a high concentration of children
- 3 of military families, appointed by the state superintendent of public instruction.

4 ~~(c) The governor or his or her designee.~~

5 (c) ~~(d)~~ A representative from a military installation, appointed by the state  
6 superintendent of public instruction.

7 (d) ~~(e)~~ A member of the senate, appointed by the senate majority leader.

8 (e) ~~(f)~~ A member of the assembly, appointed by the speaker of the assembly.

9 (f) ~~(g)~~ The compact commissioner, as defined in s. 115.997 (2) (c), appointed by the  
10 ~~governor~~ <sup>state superintendent of public instruction</sup> under s. 115.997 (8) (c), and the military family education liaison appointed  
11 under s. 115.997 (8) (b), to serve as nonvoting members.

~~\*\*\*NOTE: Would you prefer that the state superintendent appoint the compact commissioner?~~

12 (2) The members of the council shall serve without compensation.

13 SECTION 2. 20.255 (3) (f) of the statutes is created to read:

14 20.255 (3) (f) *Interstate compact on educational opportunity for military*  
15 *children.* A sum sufficient equal to the amount determined under s. 115.28 (58) to  
16 pay assessments levied by the interstate commission on educational opportunity for  
17 military children under s. 115.997 (14) (b).

18 SECTION 3. 115.28 (58) of the statutes is created to read:

19 115.28 (58) ASSESSMENT FOR INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY  
20 FOR MILITARY CHILDREN. Annually determine the amount of the assessment under s.  
21 115.997 (14) (b). The amount shall be the lesser of \$1,000 or the amount calculated

1 by multiplying \$1 by the number of children of military families, as defined in s.  
2 115.997 (2) (b), who are enrolled in public schools in this state.

3 **SECTION 4.** Subchapter VIII (title) of chapter 115 [precedes 115.997] of the  
4 statutes is created to read:

5 **CHAPTER 115**

6 **SUBCHAPTER VIII**

7 **INTERSTATE COMPACT ON**

8 **EDUCATIONAL OPPORTUNITY FOR**

9 **MILITARY CHILDREN**

10 **SECTION 5.** 115.997 of the statutes is created to read:

11 **115.997 Interstate compact on educational opportunity for military**  
12 **children.** The interstate compact on educational opportunity for children of  
13 military families is hereby enacted into law and entered into with all jurisdictions  
14 legally joining therein in the form substantially as follows:

15 (1) **ARTICLE I – PURPOSE.** It is the purpose of this compact to remove barriers  
16 to educational success imposed on children of military families because of frequent  
17 moves and deployment of their parents by:

18 (a) Facilitating the timely enrollment of children of military families and  
19 ensuring that they are not placed at a disadvantage due to difficulty in the transfer  
20 of education records from the previous school district or variations in entrance or age  
21 requirements. *local education agency*

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

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

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

5 (e) Providing for the promulgation and enforcement of administrative rules  
6 implementing the provisions of this compact. *local education agencies*

7 (f) Providing for the uniform collection and sharing of information between and  
8 among member states, *schools*, and military families under this compact.

9 (g) Promoting coordination between this compact and other compacts affecting  
10 military children.

11 (h) Promoting flexibility and cooperation between the educational system,  
12 parents, and students in order to achieve educational success for the students.

13 (2) ARTICLE II – DEFINITIONS. As used in this compact, unless the context  
14 clearly requires a different construction:

15 (a) "Active duty" means full-time active duty status in a uniformed service of  
16 the United States, including members of the National Guard and Reserve on active  
17 duty orders pursuant to 10 USC 1209 and 1211.

~~\*\*\*\*NOTE: I moved "active" so it modifies "duty" instead of "uniformed service," OK?~~

18 (b) "Child of a military family" means a school-aged child who is enrolled in any  
19 of the grades from kindergarten to 12 and who resides in the household of *a person on*  
20 duty *member*.

\*\*\*\*NOTE: The defined term in the drafting instructions was "children of military families," and the definition provided for this term included a hybrid word "child(ren)," but then referred only to one household. I changed the defined term from "children of military families" to "child of a military family" to provide consistent use of tense and form throughout the definition.

\*\*\*\*NOTE: This definition refers to a child "in the household of an active duty member." Who is a "member"? Should this read "active duty member of a uniformed service"?

\*\*\*\*NOTE: It does not seem to me that this definition captures all of the children to which the compact is supposed to apply under sub. (3) (a) (Article III). That subsection indicates that the compact applies to children of veterans, members of the uniformed service who are medically discharged, and members of the uniformed service who die on active duty. Unless I am mistaken, I don't believe veterans or medically discharged or deceased members of the uniformed services are "active duty members." For that reason, any reference to "child of a military family" throughout the compact would not include children of veterans or medically discharged or deceased members of a uniformed service

You may wish to either modify the definition of "child of a military family" or supplement the use of "child of a military family" throughout the compact to include those children identified under sub. (3) (a).

1 (c) "Compact commissioner" means the voting representative of each  
2 compacting state appointed pursuant to sub. (8) of this compact.

3 (d) "Deployment" means the period one month prior to a service members'  
4 departure from his or her home station on military orders though 6 months after  
5 return to his or her home station.

6 (e) "Education records" means those records, files, and data directly related to  
7 a student and maintained by the school or local education agency, including records  
8 encompassing all the material kept in the student's cumulative folder such as  
9 general identifying data, records of attendance and of academic work completed,  
10 records of achievement and results of evaluative tests, health data, disciplinary  
11 status, test protocols, and individualized education programs.

12 (f) "Extracurricular activity" means a voluntary activity sponsored by a school  
13 or local education agency or an organization sanctioned by the local education  
14 agency. Extracurricular activity includes preparation for and involvement in public  
15 performances, contests, athletic competitions, demonstrations, displays, and club  
16 activities.

17 (g) "Interstate commission" means the Interstate Commission on Educational  
18 Opportunity for Military Children created under sub. (9) of this compact.

1 (h) "Local education agency" means a <sup>school district</sup> ~~public authority legally constituted by~~  
 2 ~~the state as an administrative agency to provide control of and direction for grades~~  
 3 ~~kindergarten to 12 public educational institutions~~

\*\*\*NOTE: ~~Does this include the Department of Public Instruction? Or individual~~  
~~school districts? Or both?~~

4 (i) "Member state" means a state that has enacted this compact.

or the operator  
of a charter school  
under s. 118.40 (2 r)

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

\*\*\*NOTE: This paragraph defines a "military installation" as an "activity." Is it  
possible for an installation to be an activity?

12 (k) "Nonmember state" means a state that has not enacted this compact.

13 (L) "Receiving state" means the state to which a child of a military family is  
 14 sent, brought, or caused to be sent or brought.

15 (m) "Rule" means a written statement by the interstate commission  
 16 promulgated pursuant to sub. (12) that is of general applicability, <sup>and that</sup> implements,  
 17 interprets, or prescribes a policy or provision of the compact, or an organizational,  
 18 procedural, or practice requirement of the interstate commission ~~and has the force~~  
 19 ~~and effect of statutory law in a member state if approved by the legislature of the~~  
 20 ~~member state.~~

\*\*\*NOTE: This paragraph includes the modification made by Virginia. See,  
however, sub. (10) (b), which states that the rules have the force of ch. 227 administrative  
rules.

1 (n) "Sending state" means the state from which a child of a military family is  
2 sent, brought, or caused to be sent or brought.

3 (o) "State" means a state of the United States, the District of Columbia, the  
4 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the  
5 Northern Marianas Islands, and any other U.S. Territory.

6 (p) "Student" means a child of a military family for whom the local education  
7 agency receives public funding and who is formally enrolled in any of the grades from  
8 kindergarten to 12.

\*\*\*\*NOTE: For the same reasons as specified in the \*\*\*\*NOTE under the definition of "child of a military family," I don't believe the definition of "student" captures all of the students to whom the compact is supposed to apply under sub. (3) (a). You may wish to either modify the definition of "student" or "child of a military family" or both, or supplement the use of "student" throughout the compact to include those children. Please advise.

local education agency <4>

9 (q) "Transition" means all of the following:  
10 1. The formal and physical process of transferring from school to school.  
11 2. The period of time in which a student moves from one school in a sending  
12 state to another school in a receiving state.

13 (r) "Uniformed service" means the army, navy, air force, marine corps, coast  
14 guard, the commissioned corps of the national oceanic and atmospheric  
15 administration, and the commissioned corps of the public health services.

16 (s) "Veteran" means a person who served in a uniformed service and was  
17 discharged or released therefrom under conditions other than dishonorable.

\*\*\*\*NOTE: As drafted, "veteran" includes a person who served in the commissioned corps of NOAA or the public health services. Is that your intent?

18 (3) ARTICLE III – APPLICABILITY. (a) Except as provided in pars. (b) and (c), this  
19 interstate compact applies to a child of any of the following:

1           1. An active duty member of the uniformed service, including a member of the  
2 national guard and reserve on active duty orders pursuant to 10 USC 1209 and 1211.

3           2. A member or veteran of the uniformed service who is severely injured and  
4 medically discharged or retired for a period of one year after medical discharge or  
5 retirement.

\*\*\*\*NOTE: Is "is severely injured" a condition of "retired," or only of "medically discharged"?

\*\*\*\*NOTE: Does "for a period of one year after medical discharge or retirement" mean that the compact only applies to a child of this person for one year after the person's medical discharge or retirement?

6           3. A member of the uniformed service who dies on active duty or as a result of  
7 injuries sustained on active duty for a period of one year after death.

\*\*\*\*NOTE: Does "for a period of one year after death" mean that the compact only applies to a child of this person for one year after the person's death, or does it mean that the person must have died within one year after sustaining injuries?

8           (b) The provisions of this interstate compact apply only to local education  
9 agencies.

\*\*\*\*NOTE: Does this mean that the compact does not apply to the Department of Public Instruction?

10          (c) The provisions of this compact do not apply to a child of any of the following:  
11           1. An inactive member of the national guard and military reserves.  
12           2. Except as provided in par. (a), a retired member of the uniformed services.  
13           3. Except as provided in par. (a), a veteran of the uniformed services.  
14           4. Other U.S. department of defense personnel, or of a civilian or contract  
15 employee of any other federal agency, who is not an active duty member of a  
16 uniformed service.

17          (4) ARTICLE IV — EDUCATIONAL RECORDS AND ENROLLMENT. (a) *Unofficial or*  
18 *hand-carried pupil records.* If official education records cannot be released to the  
19 parents for the purpose of transfer, the custodian of the education records in the

local education agency

1 sending state shall prepare and furnish to the parent a complete set of unofficial  
2 education records containing uniform information as determined by the interstate  
3 commission. The school in the receiving state shall enroll and appropriately place  
4 the student, based on the information provided in the unofficial education records,  
5 if provided, pending validation by the official education records, as quickly as  
6 possible.

7 (b) *Education records and transcripts.* Simultaneous with the enrollment and  
8 conditional placement of the student, the school in the receiving state shall request  
9 the student's official education records from the school in the sending state. Upon  
10 receipt of this request, the school in the sending state shall process and furnish the  
11 official education records to the school in the receiving state within 10 days or within  
12 such time as is reasonably determined under the rules promulgated by the interstate  
13 commission.

\*\*\*\*NOTE: What does "conditional placement" mean? Does this refer to course placement under sub. (5) (Article V) of the compact? When does placement become permanent, and what are the factors that are considered by the school to make the placement permanent?

14 (c) *Immunizations.* A member state shall give 30 days from the date of  
15 enrollment or within such time as is reasonably determined under the rules  
16 promulgated by the interstate commission for a student to obtain any immunization  
17 required by the receiving state. For a series of immunizations, initial vaccinations  
18 must be obtained within 30 days or within such time as is reasonably determined  
19 under the rules promulgated by the interstate commission.

\*\*\*\*NOTE: The compact template directed me to start this paragraph with the term, "compacting states." However, a state that has enacted the compact is defined by the compact as a "member state," so that is the term I used.

20 (d) *Kindergarten and first grade entrance age.* A student shall be allowed to  
21 continue his or her enrollment at the grade level in the receiving state commensurate



1 with his or her grade level, including kindergarten, from a local education agency in  
 2 the sending state at the time of transition, regardless of age. A student who has  
 3 satisfactorily completed the prerequisite grade level in the local education agency in  
 4 the sending state shall be eligible for enrollment in the next highest grade level in  
 5 the receiving state, regardless of age. A student transferring after the start of the  
 6 school year in the receiving state shall enter the school in the receiving state on his  
 7 or her validated level from a local education agency in the sending state.

\*\*\*NOTE: What does "validated level" mean? Note that I changed "accredited school" in the last sentence to "local education agency." OK?

8 (5) ARTICLE V – PLACEMENT AND ATTENDANCE. (a) *Course placement.* When a  
 9 student transfers before or during the school year, the receiving state school shall  
 10 initially honor placement of the student in educational courses based on the student's  
 11 enrollment in the sending state school or educational assessments conducted at the  
 12 school in the sending state if the courses are offered. Course placement includes  
 13 honors, international baccalaureate, advanced placement, vocational, technical, and  
 14 career pathways courses. Continuing the student's academic program from the  
 15 previous school and promoting placement in academically and career challenging  
 16 courses should be paramount when considering placement. This does not preclude  
 17 the school in the receiving state from performing subsequent evaluations to ensure  
 18 appropriate placement and continued enrollment of the student in a course.

19 (b) *Educational program placement.* The receiving state school shall initially  
 20 honor placement of the student in educational programs, including gifted and  
 21 talented programs and English as a second language programs, based on current  
 22 educational assessments conducted at the school in the sending state or  
 23 participation or placement in like programs in the sending state. This paragraph

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1 does not preclude the school in the receiving state from performing subsequent  
2 evaluations to ensure appropriate placement of the student.

3 (c) *Special education services.* 1. In compliance with the requirements of 20  
4 USC 1400 to 1482, the receiving state shall initially provide comparable services to  
5 a student with disabilities based on his or her current individualized education  
6 program. local education agency in the

7 2. In compliance with the requirements of 29 USC 794 and with 42 USC 12131  
8 to 12165, the receiving state shall make reasonable accommodations and  
9 modifications to address the needs of incoming students with disabilities, subject to  
10 an existing plan prepared under 29 USC 794 or 42 USC 12131 to 12165, to provide  
11 the student with equal access to education. This does not preclude the school in the  
12 receiving state from performing subsequent evaluations to ensure appropriate  
13 placement of the student.

14 (d) *Placement flexibility.* Local education agency administrative officials shall  
15 have flexibility in waiving course or program prerequisites or other preconditions for  
16 placement in a course or program offered under the jurisdiction of the local education  
17 agency. local education agency

18 (e) *Absence as related to deployment activities.* Each school board shall adopt  
19 a policy relating to excusing a child of a military family who moved to the school  
20 district from another state from school attendance in order to visit his or her parent  
21 or guardian who is on active duty and has been called to duty for or is on leave from  
22 deployment to a combat zone or combat support posting, or has returned from  
23 deployment to a combat zone or combat support posting within the past 30 days.

\*\*\*NOTE: This paragraph, from LRB 09-3523/1, is substituted for the compact language.

1 (6) ARTICLE VI – ELIGIBILITY. (a) *Eligibility for enrollment.* 1. A local education  
 2 agency is prohibited from charging local tuition to a child of a military family placed  
 3 in the care of a noncustodial parent or other person standing in the place of a parent  
 4 who lives in a jurisdiction other than that of the custodial parent.

~~\*\*\*\*NOTE: I did not substitute Wisconsin's residency requirement (the "Thayer rule") for the compact language in subd. 1. The compact language does not conflict with the Thayer rule, and it is difficult to succinctly capture the Thayer rule without losing all of its nuances. In addition, whether the compact language or the Thayer rule is used here, the provision will apply only to children of military families. Thus, either way, there may be an unintended implication that there is a different rule for other children. You may wish to consider eliminating the provision entirely.~~

~~\*\*\*\*NOTE: I deleted the subdivision relating to "special power of attorney" because that status does not exist in this state.~~

5 2. A child of a military family who has been placed in the care of a noncustodial  
 6 parent or other person standing in the place of a parent who lives in a jurisdiction  
 7 other than that of the custodial parent may continue to attend the school in which  
 8 he or she was enrolled while residing with the custodial parent.

9 (b) *Eligibility for extracurricular participation.* State and local education  
 10 agencies shall facilitate the opportunity for a child of a military family to be included  
 11 in extracurricular activities, regardless of application deadlines, to the extent he or  
 12 she is otherwise qualified.

13 (7) ARTICLE VII – GRADUATION. In order to facilitate the on-time graduation  
 14 of a child of a military family, states and local education agencies shall incorporate  
 15 the following procedures:

16 (a) *Waiver requirements.* Local education agency administrative officials shall  
 17 waive specific courses required for graduation if similar course work has been  
 18 satisfactorily completed in another local education agency or shall provide  
 19 reasonable justification for denial. Should a waiver not be granted to a student who  
 20 would qualify to graduate from the sending school, the local education agency shall

local education agency in the <sup>state</sup> sending school, the local education agency shall in the receiving state

1 provide an alternative means of acquiring required course work so that graduation  
2 may occur on time.

3 (b) *Exit exams.* Except as provided in par. (c), a member state shall accept all  
4 of the following examinations or tests administered to the child of a military family  
5 in lieu of testing requirements for graduation <sup>from</sup> ~~in the~~ <sup>local education agency in a</sup> ~~receiving state~~.

\*\*\*\*NOTE: Is it the member state that must accept these alternatives or the local education agency? The same question applies to par. (c), below.

- 6 1. Exit or end-of-course exams required for graduation from the sending state.
- 7 2. National norm-referenced achievement tests.
- 8 3. Alternative testing acceptable to the receiving state.

9 (c) *Transfers during senior year.* If a child of a military family transfers at the  
10 beginning of or during the child's high school senior year, and the receiving state has  
11 considered the examinations and tests under par. (b) and determined that the child  
12 would be ineligible to graduate ~~from the local education agency of the receiving state~~

13 <sup>move</sup> ~~from the local education agency of the receiving state~~ <sup>move</sup> <sup>move</sup>  
14 <sup>local education agency in the</sup> ~~the~~ local education agency of the sending  
15 state, with the cooperation of the local educational agency of the receiving state, shall  
16 ensure the receipt of a diploma from the local education agency of the sending state  
17 if the student meets the graduation requirements of the local education agency of the  
18 sending state. If one of the states in question is a nonmember state, the member state  
19 shall use best efforts to facilitate the on-time graduation of the student in accordance  
with pars. (a) and (b) of this subsection.

\*\*\*\*NOTE: I replaced "military student" with "child of a military family." I also replaced "sending and receiving local education agencies" with "the local education agencies of the sending state and the receiving state."

20 (8) ARTICLE VIII - STATE COORDINATION. (a) Each member state shall, through  
21 the creation of a state council or use of an existing body or board, provide for the  
22 coordination among its agencies of government, local education agencies, and

1 military installations concerning the state’s participation in, and compliance with,  
2 this compact and interstate commission activities. While each member state may  
3 determine the membership of its own state council, its membership shall include all  
4 of the following:

5 1. The state superintendent of education.

6 2. The superintendent of a school district with a high concentration of children  
7 of military families. A member state that does not have a school district deemed to  
8 contain a high concentration of children of military families may appoint a  
9 superintendent from another school district to represent local education agencies on  
10 the state council.

~~\*\*\*\*NOTE: As drafted, the superintendent of a school district with a high concentration of children of military families is appointed by the state superintendent. OK?~~

11 3. A representative from a military installation.

~~\*\*\*\*NOTE: As drafted, the military representative on the council is appointed by the state superintendent of public instruction. OK?~~

12 4. One representative from the legislative branch of government.

~~\*\*\*\*NOTE: As drafted, the council created under s. 14.91 includes one member each of the senate and assembly. OK?~~

13 5. One representative from the executive branch of government.

~~\*\*\*\*NOTE: The drafting instructions directed me to include on the council “one representative ... from the executive branch[ ] of government.” As drafted, the council includes the governor or his or her designee. OK?~~

14 6. Representatives from other offices and stakeholder groups the state council  
15 deems appropriate.

16 (b) The state council established or existing body or board designated by each  
17 member state under par. (a) shall appoint or designate a military family education  
18 liaison to assist children of military families and the state in facilitating the  
19 implementation of this compact.

1 (c) A compact commissioner responsible for the administration and  
2 management of the state's participation in the compact shall be appointed by the  
3 governor or as otherwise determined by each member state.

4 (d) The compact commissioner appointed under par. (c) and the military family  
5 education liaison appointed or designated under par. (b) shall serve on the state  
6 council as nonvoting members of the state council, unless either is already a full  
7 voting member of the state council.

\*\*\*\*NOTE: I substituted nonvoting for ex-officio. OK?

8 (9) ARTICLE IX — INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR  
9 MILITARY CHILDREN. The member states hereby create the interstate commission. The  
10 activities of the interstate commission are the formation of public policy and are a  
11 discretionary state function. All of the following apply to the interstate commission:

12 (a) The interstate commission shall be a body corporate and joint agency of the  
13 member states and shall have all the responsibilities, powers, and duties set forth  
14 in this compact, and such additional powers conferred upon it by a subsequent  
15 concurrent action of the respective legislatures of the member states in accordance  
16 with the terms of this compact.

17 (b) The interstate commission shall consist of one interstate commission voting  
18 representative from each member state who shall be that state's compact  
19 commissioner. The following apply to meetings of the interstate commission:

20 1. Each member state represented at a meeting is entitled to one vote.

21 2. A majority of the member states shall constitute a quorum for the transaction  
22 of business, unless a larger number is required by the bylaws of the interstate  
23 commission.

1           3. A representative shall not delegate a vote to another member state. If a  
2 compact commissioner of a state is unable to attend a meeting of the interstate  
3 commission, the governor or state council of that state may delegate voting authority  
4 to another person from that state for a specified meeting.

5           4. The bylaws may provide for meetings of the interstate commission to be  
6 conducted by telecommunication or electronic communication.

7           (c) The interstate commission shall include nonvoting members who are  
8 members of interested organizations. Such nonvoting members, as defined in the  
9 bylaws, may include members of the representative organizations of military family  
10 advocates, local education agency officials, parent and teacher groups, the U.S.  
11 department of defense, the Education Commission of the States, the Interstate  
12 Agreement on the Qualification of Educational Personnel, and other interstate  
13 compacts affecting the education of children of military families.

\*\*\*\*NOTE: I changed "children of military members" to "children of military families." OK?

14           (d) The interstate commission shall meet at least once each calendar year. The  
15 chairperson may call additional meetings and, upon the request of a simple majority  
16 of the member states, shall call additional meetings.

17           (e) The interstate commission shall establish an executive committee, whose  
18 members shall include the officers of the interstate commission and such other  
19 members of the interstate commission as determined by the bylaws. Members of the  
20 executive committee shall serve one-year terms. Members of the executive  
21 committee shall be entitled to one vote each. The executive committee shall have the  
22 power to act on behalf of the interstate commission, with the exception of rule  
23 making, during periods when the interstate commission is not in session. The

1 executive committee shall oversee the day-to-day activities of the administration of  
2 the compact, including enforcement and compliance with the provisions of the  
3 compact, its bylaws and rules, and other such duties as deemed necessary. The U.S.  
4 department of defense shall serve as a nonvoting member of the executive  
5 committee.

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

12 (g) The interstate commission shall give public notice of all meetings and all  
13 meetings shall be open to the public, except as set forth in the rules or as otherwise  
14 provided in the compact. The interstate commission and any committee of the  
15 commission may close a meeting or portion of a meeting if the commission or  
16 committee determines by a two-thirds vote that an open meeting would be likely to  
17 do any of the following:

18 1. Relate solely to the interstate commission's internal personnel practices and  
19 procedures.

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

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

24 4. Involve accusing a person of a crime, or formally censuring a person.



~~\*\*\*\*NOTE: Any person of any crime? Or only a person who has a relationship with the commission who will be accused of committing a crime involving the activities of the commission?~~

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

3           6. Disclose investigative records compiled for law enforcement purposes.

4           7. Specifically relate to the interstate commission’s participation in a civil  
5 action or other legal proceeding.

6           (h) For a meeting or portion of a meeting closed under par. (g), the interstate  
7 commission shall cause its legal counsel or designee to certify that the meeting may  
8 be closed and to reference each relevant exemptible provision. The interstate  
9 commission shall keep minutes, which shall fully and clearly describe all matters  
10 discussed in a meeting, and shall provide a full and accurate summary of actions  
11 taken, and the reasons for taking the actions, including a description of the views  
12 expressed and the record of a roll call vote. All documents considered in connection  
13 with an action shall be identified in such minutes. All minutes and documents of a  
14 closed meeting shall remain under seal, subject to release by a majority vote of the  
15 interstate commission.

~~\*\*\*\*NOTE: What does it mean that the legal counsel must “certify that a meeting may be closed”? Does notice have to be given in writing in advance of the meeting? If so, how many days or hours in advance? Or may the legal counsel simply make an oral announcement at the time the commission seeks to go into closed session at the meeting?~~

16           (i) The interstate commission shall collect standardized data concerning the  
17 educational transition of children of military families under this compact as directed  
18 through its rules, which shall specify the data to be collected, the means of collection  
19 and data exchange, and reporting requirements. Such methods of data collection,  
20 exchange, and reporting shall, in so far as is reasonably possible, conform to current

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in so far as is reasonably possible

The interstate commission shall ensure that th

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technology and <sup>that</sup> ~~coordinate~~ <sup>one coordinated</sup> its information functions with the appropriate custodian of records as identified in the bylaws and rules.

\*\*\*\*NOTE: I don't understand what "such methods of data collection, exchange, and reporting shall ... coordinate its information functions" means. How can a method coordinate a function?

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(j) The interstate commission shall create a process that permits military officials, education officials, and parents to inform the interstate 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 paragraph shall not be construed to create a private right of action against the interstate commission, any member state, or any local education agency.

\*\*\*\*NOTE: I added "or any local education agency" at the end of the last sentence, as did Virginia.

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(10) ARTICLE X – POWERS AND DUTIES OF THE INTERSTATE COMMISSION. The interstate commission shall have the following powers:

(a) To provide for dispute resolution among member states.

(b) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. ~~The rules shall have the force and effect of rules promulgated under subch. II of ch. 227 and shall be binding in the member states to the extent and in the manner provided in this compact.~~

\*\*\*\*NOTE: I changed "compact state" to "member state." OK?  
\*\*\*\*NOTE: I changed "statutory law" to "rules promulgated under subch. II of ch. 227." Virginia made a similar change. OK?

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

(d) To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means,

1 including the use of judicial process. Any action to enforce compliance with the  
 2 compact provisions by the interstate commission shall be brought against a member  
 3 state only.

\*\*\*\*NOTE: I added the last sentence of this paragraph as it appears in Virginia's  
 version of the compact. OK?

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

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

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

8 (h) To establish and appoint committees, including an executive committee as  
 9 required by sub. (9) (e), which shall have the power to act on behalf of the interstate  
 10 commission in carrying out its powers and duties under the compact.

11 (i) To elect or appoint such officers, attorneys, employees, agents, or  
 12 consultants, and to fix their compensation, define their duties, and determine their  
 13 qualifications, and to establish the interstate commission's personnel policies and  
 14 programs relating to conflicts of interest, rates of compensation, and qualifications  
 15 of personnel.

16 (j) To accept donations and grants of money, equipment, supplies, materials,  
 17 and services, and to receive, utilize, and dispose of any such donations and grants.

\*\*\*\*NOTE: The LRB drafting manual prohibits the use of "any and all", so I  
 eliminated this phrase from this paragraph. I also substituted "any such donations and  
 grants" for "it."

18 (k) To lease, purchase, accept contributions or donations of, or otherwise to own,  
 19 hold, improve, or use any property, real, personal, or mixed.

20 (L) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise  
 21 dispose of any property, real, personal, or mixed.

22 (m) To establish a budget and make expenditures.

1 (n) To adopt a seal and bylaws governing the management and operation of the  
2 interstate commission.

3 (o) To report annually to the legislatures, governors, judiciary, and state  
4 councils of the member states concerning the activities of the interstate commission  
5 during the preceding year. Such reports shall also include any recommendations  
6 adopted by the interstate commission.

7 (p) To coordinate education, training, and public awareness regarding the  
8 compact, its implementation and operation for officials and parents involved in such  
9 activity.

10 (q) To establish uniform standards for the reporting, collecting, and exchanging  
11 of data.

12 (r) To maintain corporate books and records in accordance with the bylaws.

13 (s) To perform the functions necessary or appropriate to achieve the purposes  
14 of this compact.

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

~~\*\*\*Note: Should the compact provide a definition for "military families"?~~

17 **(11) ARTICLE XI — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.**

18 (a) The interstate commission shall, by a majority of the members present and  
19 voting, within 12 months after the first interstate commission meeting, adopt bylaws  
20 to govern its conduct as may be necessary or appropriate to carry out the purposes  
21 of the compact, including all of the following:

- 22 1. Establishing the fiscal year of the interstate commission.
- 23 2. Establishing an executive committee, and such other committees as may be  
24 necessary.

1           3. Providing for the establishment of committees and for governing any general  
2 or specific delegation of authority or function of the interstate commission.

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

5           5. Establishing the titles and responsibilities of the officers and staff of the  
6 interstate commission.

7           6. Providing a mechanism for concluding the operations of the interstate  
8 commission and the return of surplus funds that may exist upon the termination of  
9 the compact after the payment and reserving of all of its debts and obligations.

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

11          (b) The interstate commission shall, by a majority of the members, elect  
12 annually from among its members a chairperson, a vice chairperson, and a treasurer,  
13 each of whom shall have the authority and duties specified in the bylaws. The  
14 chairperson or, in the chairperson's absence or disability, the vice chairperson, shall  
15 preside at all meetings of the interstate commission. The officers so elected shall  
16 serve without compensation or remuneration from the interstate commission.  
17 Subject to the availability of budgeted funds, the officers shall be reimbursed for  
18 ordinary and necessary costs and expenses incurred by them in the performance of  
19 their responsibilities as officers of the interstate commission.

20          (c) *Executive Committee, Officers and Personnel.* 1. The executive committee  
21 shall have the authority and duties set forth in the bylaws, including all of the  
22 following:

23           a. Managing the affairs of the interstate commission in a manner consistent  
24 with the bylaws and purposes of the interstate commission.

1           b. Overseeing an organizational structure within, and appropriate procedures  
2 for, the interstate commission to provide for the creation of rules, operating  
3 procedures, and administrative and technical support functions.

4           c. Planning, implementing, and coordinating communications and activities  
5 with other state, federal, and local governmental organizations in order to advance  
6 the goals of the interstate commission.

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

14           (d) 1. The interstate commission's executive director and its employees are  
15 immune from suit and liability, either personally or in their official capacity, for a  
16 claim for damage to or loss of property or personal injury or other civil liability caused  
17 or arising out of or relating to an actual or alleged act, error, or omission that  
18 occurred, or that such person had a reasonable basis for believing occurred, within  
19 the scope of interstate commission employment, duties, or responsibilities, except  
20 that the executive director and the employees of the interstate commission shall not  
21 be protected under this subdivision from suit or liability for damage, loss, injury, or  
22 liability caused by the intentional or willful and wanton misconduct of that executive  
23 director or employee.

24           2. The liability of the interstate commission's executive director and employees  
25 or interstate commission representatives, acting within the scope of such person's

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

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

18 4. To the extent not covered by the state involved, member state, or the  
19 interstate commission, the representatives or employees of the interstate  
20 commission shall be held harmless in the amount of a settlement or judgment,  
21 including attorney's fees and costs, obtained against such persons arising out of an  
22 actual or alleged act, error, or omission that occurred within the scope of interstate  
23 commission employment, duties, or responsibilities, or that such persons had a  
24 reasonable basis for believing occurred within the scope of interstate commission  
25 employment, duties, or responsibilities, provided that the actual or alleged act, error,

1 or omission did not result from intentional or willful and wanton misconduct on the  
2 part of such persons.

3 (12) ARTICLE XII — RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION. (a)  
4 *Rule-making authority.* The interstate commission shall promulgate reasonable  
5 rules in order to effectively and efficiently achieve the purposes of this compact. If  
6 the interstate commission exercises its rule-making authority in a manner that is  
7 beyond the scope of the purposes of this compact, or the powers granted under this  
8 compact, then such an action by the interstate commission shall be invalid and have  
9 no force or effect.

in a member state

10 (b) *Rule-making Procedure.* Rules shall be made pursuant to a rule-making  
11 process that substantially conforms to the Model State Administrative Procedure  
12 Act, as amended, as may be appropriate to the operations of the interstate  
13 commission.

as <sup>not</sup> A rule has the force and effect of statutory law if promulgated  
an administrative rule by the appropriate administrative agency of the member state.

14 (c) Not later than 30 days after a rule is promulgated, any person may file a  
15 petition for judicial review of the rule. The filing of such a petition does not stay or  
16 otherwise prevent the rule from becoming effective unless the court finds that the  
17 petitioner has a substantial likelihood of success. The court shall give deference to  
18 the actions of the interstate commission consistent with applicable law and shall not  
19 find the rule to be unlawful if the rule represents a reasonable exercise of the  
20 interstate commission's authority.

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

\*\*\*\*NOTE: I changed several instances of the term "compacting states" to "member states."



(13) ARTICLE XIII — OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION. (a)

*Oversight.* 1. The executive, legislative, and judicial branches of state government in each member state shall enforce this compact and shall take all actions necessary and appropriate to effectuate the compact's purposes and intent. ~~The provisions of~~

~~this compact and the rules promulgated hereunder shall have standing as rules promulgated under subch. II of ch. 927.~~

\*\*\*NOTE: I copied Virginia's version here, providing for standing as administrative rules, not as statutory law.

\*\*\*NOTE: ~~Can a compact or rules have "standing"?~~

2. All 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 that may affect the powers, responsibilities, or actions of the interstate commission.

3. The interstate commission is entitled to receive all service of process in any such proceeding, and has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the interstate commission renders a judgment or order void as to the interstate commission, this compact, or promulgated rules.

\*\*\*NOTE: How does an interstate commission receive service of process? Can an interstate commission be sued? Or is the entity being served actually each member state? Shouldn't one person, perhaps from each member state, be required to receive such service?

local education agency in a

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

1. Provide written notice to the <sup>member</sup> defaulting state and other member states of the nature of the default, the means of curing the default, and any action taken by the

1 interstate commission. The interstate commission shall specify the conditions by  
2 which the defaulting state must cure <sup>the</sup> its default.

3 2. Provide remedial training and specific technical assistance regarding the  
4 default. *of the local education agency*

5 3. If the <sup>member</sup> defaulting state fails to cure the default, the ~~defaulting~~ <sup>member</sup> state shall be  
6 terminated from the compact upon an affirmative vote of a majority of the member  
7 states, and all rights, privileges, and benefits conferred by this compact shall be  
8 terminated from the effective date of termination. A cure of the default does not  
9 relieve the ~~offending~~ state of obligations or liabilities incurred during the period of  
10 the default.

11 4. Suspension or termination of membership in the compact shall be imposed  
12 only after all other means of securing compliance have been exhausted. Notice of  
13 intent to suspend or terminate shall be given by the interstate commission to the  
14 governor, the majority and minority leaders of the ~~defaulting~~ state's legislature, and  
15 each of the member states.

16 5. A state that has been suspended or terminated is responsible for all  
17 assessments, obligations, and liabilities incurred through the effective date of  
18 suspension or termination, including obligations the performance of which extends  
19 beyond the effective date of suspension or termination. *in which a local education agency*

20 6. The interstate commission shall not bear any costs relating to any state <sup>member</sup> that  
21 has been found to be in default or that has been suspended or terminated from the  
22 compact, unless otherwise mutually agreed upon in writing between the interstate  
23 commission and the <sup>member</sup> defaulting state.

24 7. The ~~defaulting~~ state may appeal the action of the interstate commission by  
25 petitioning the U.S. District Court for the District of Columbia or the federal district

1 where the interstate commission has its principal offices. The prevailing party shall  
2 be awarded all costs of such litigation including reasonable attorney's fees.

3 (c) *Dispute Resolution*. 1. The interstate commission shall attempt, upon the  
4 request of a member state, to resolve disputes that are subject to the compact and  
5 that may arise among member states and between member and nonmember states.

6 2. The interstate commission shall promulgate a rule providing for mediation  
7 for disputes as appropriate.

\*\*\*\*NOTE: I deleted "and binding dispute resolution" in par. (c) 2., and all of par. (d),  
dealing with enforcement. Virginia also made these changes.

8 (14) ARTICLE XIV – FINANCING OF THE INTERSTATE COMMISSION. (a) The  
9 interstate commission shall pay, or provide for the payment of, the reasonable  
10 expenses of its establishment, organization, and ongoing activities.

11 (b) The interstate commission may levy on and collect from each member state  
12 an annual assessment to cover the cost of the operations and activities of the  
13 interstate commission and its staff. The aggregate annual assessment must be  
14 sufficient to cover the interstate commission's annual budget as approved each year.

15 <sup>Subject to s. 115.28(58)</sup>  
The aggregate annual assessment amount shall be allocated among member states  
16 based upon a formula to be determined by the interstate commission, which shall  
17 promulgate a rule binding upon all member states.

\*\*\*\*NOTE: I created a sum sufficient appropriation under s. 20.255 (3) (f) to cover  
these costs. OK?

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

21 (d) The interstate commission shall keep accurate accounts of all receipts and  
22 disbursements. The receipts and disbursements of the interstate commission shall

1 be subject to the audit and accounting procedures established under its bylaws.  
2 However, all receipts and disbursements of funds handled by the interstate  
3 commission shall be audited yearly by a certified or licensed public accountant and  
4 the report of the audit shall be included in and become part of the annual report of  
5 the interstate commission.

6 (15) ARTICLE XV — MEMBER STATES, EFFECTIVE DATE AND AMENDMENT. (a) Any  
7 state is eligible to become a member state.

8 (b) The compact shall become effective and binding upon legislative enactment  
9 of the compact into law by no less than 10 states. Thereafter, it shall become effective  
10 and binding as to any other state upon enactment of the compact into law by that  
11 state. The governor of a nonmember state or his or her designee shall be invited to  
12 participate in the activities of the interstate commission on a nonvoting basis prior  
13 to adoption of the compact by all states.

14 (c) The interstate commission may propose amendments to the compact for  
15 enactment by the member states. No amendment shall become effective and binding  
16 upon the interstate commission and the member states unless and until it is enacted  
17 into law by unanimous consent of the member states.

18 (16) ARTICLE XVI — WITHDRAWAL AND DISSOLUTION. (a) *Withdrawal*. 1. Once  
19 effective, the compact shall continue in force and remain binding upon each and  
20 every member state, provided that a member state may withdraw from the compact  
21 by specifically repealing the statute that enacted the compact into law.

22 2. Withdrawal from this compact shall be by the enactment of a statute  
23 repealing the same.

\*\*\*NOTE: I deleted that portion of subd. 2. that delayed the effective date of  
withdrawal for one year. The deletion was also made by Virginia.

legislation

1           3. A withdrawing state shall immediately notify the chairperson of the  
2 interstate commission in writing upon the ~~introduction~~<sup>enactment</sup> of legislation repealing this  
3 compact in the withdrawing state. The interstate commission shall notify the other  
4 member states ~~of the withdrawing state's intent to withdraw~~ within 60 days of its  
5 receipt thereof.

\*\*\*\*NOTE: This subdivision uses the words "withdrawing state" and "introduction of legislation repealing this compact" as a means of describing proposed legislative action to repeal the compact and triggering notice to the interstate commission. However, the introduction of a bill seeking to withdraw from the compact does not mean that the state is a "withdrawing state" or will repeal or withdraw from the compact. Should I modify this language?

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

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

12           (b) *Dissolution of Compact.* 1. This compact shall dissolve effective upon the  
13 date of the withdrawal or default of the member state that reduces the membership  
14 in the compact to one member state.

15           2. Upon the dissolution of this compact, the compact is null and void and of no  
16 further force or effect, and the business and affairs of the interstate commission shall  
17 be concluded and surplus funds distributed in accordance with the bylaws.

18           (17) ARTICLE XVII – SEVERABILITY AND CONSTRUCTION. (a) The provisions of this  
19 compact shall be severable and if any phrase, clause, sentence, or provision is  
20 deemed unenforceable, the remaining provisions of the compact shall be enforceable.

21           (b) The provisions of this compact shall be liberally construed to effectuate its  
22 purposes.

1 (c) Nothing in this compact shall be construed to prohibit the applicability of  
2 other interstate compacts to which the states are members.

3 (18) ARTICLE XVIII — BINDING EFFECT OF COMPACT AND OTHER LAWS. (a) *Other*  
4 *Laws*. 1. Nothing herein prevents the enforcement of any other law of a member state  
5 that is not inconsistent with this compact.

6 2. All laws of member states that conflict with this compact are superseded to  
7 the extent of the conflict.

8 (b) *Binding effect of the compact*. 1. All lawful actions of the interstate  
9 commission, including all rules and bylaws promulgated by the interstate  
10 commission, are binding upon the member states.

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

13 3. If any provision of this compact exceeds the constitutional limits imposed on  
14 the legislature of any member state, such provision shall be ineffective to the extent  
15 of the conflict with the constitutional provision in question in that member state.

16 (END)

3/24/10

TC w/ Tom McCarthy

re comm. rules -

pointed out disadvantages of requiring  
DPI to promulgate an identical rule whenever  
Comm. adopted a rule -

discussed option of  
in Wis. unless leg. adopted a Jt. Res. approving  
the rule not being effective

discussed option of Jt. Finance approval -

Tom decided to go w/ "comm. rule not  
being effective in Wis. unless approved by the  
legislature," without specifying what that means.