

# State of Wisconsin



2009 Senate Bill 681

Date of enactment: **May 12, 2010**  
Date of publication\*: **May 26, 2010**

## 2009 WISCONSIN ACT 329

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

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

**SECTION 1.** 14.91 of the statutes is created to read:

**14.91 State council on the interstate compact on educational opportunity for military children.** (1)

There is created a state council on the interstate compact on educational opportunity for military children as specified under s. 115.997 (8), consisting of the following members:

- (a) The state superintendent of public instruction.
- (b) The superintendent of a school district with a high concentration of children of military families, appointed by the state superintendent of public instruction.
- (c) A representative from a military installation, appointed by the state superintendent of public instruction.
- (d) A member of the senate, appointed by the senate majority leader.
- (e) A member of the assembly, appointed by the speaker of the assembly.
- (f) The compact commissioner, as defined in s. 115.997 (2) (c), appointed by the state superintendent of public instruction under s. 115.997 (8) (c), and the military family education liaison, appointed under s. 115.997 (8) (b), to serve as nonvoting members.

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

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

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

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

115.28 (58) **ASSESSMENT FOR INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.** Annually determine the amount of the assessment under s. 115.997 (14) (b). The amount shall be the lesser of \$1,000 or the amount calculated by multiplying \$1 by the number of children of military families, as defined in s. 115.997 (2) (b), who are enrolled in public schools in this state.

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

**CHAPTER 115**  
**SUBCHAPTER VIII**

\* Section 991.11, WISCONSIN STATUTES 2007-08 : Effective date of acts. "Every act and every portion of an act enacted by the legislature over the governor's partial veto which does not expressly prescribe the time when it takes effect shall take effect on the day after its date of publication as designated" by the secretary of state [the date of publication may not be more than 10 working days after the date of enactment].

INTERSTATE COMPACT ON  
EDUCATIONAL OPPORTUNITY FOR  
MILITARY CHILDREN

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

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

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

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

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

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

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

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

(f) Providing for the uniform collection and sharing of information between and among member states, local education agencies, and military families under this compact.

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

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

(2) **ARTICLE II — DEFINITIONS.** AS used in this compact, unless the context clearly requires a different construction:

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

(b) “Child of a military family” means a school-aged child who is enrolled in any of the grades from kindergarten to 12 and who resides in the household of a person on active duty.

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

(d) “Deployment” means the period one month prior to a service members’ departure from his or her home station on military orders though 6 months after return to his or her home station.

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

(f) “Extracurricular activity” means a voluntary activity sponsored by a local education agency or an organization sanctioned by the local education agency. Extracurricular activity includes preparation for and involvement in public performances, contests, athletic competitions, demonstrations, displays, and club activities.

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

(h) “Local education agency” means a school district or the operator of a charter school under s. 118.40 (2r).

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

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

(k) “Nonmember state” means a state that has not enacted this compact.

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

(m) “Rule” means a written statement by the interstate commission promulgated pursuant to sub. (12) that is of general applicability and that implements, interprets, or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the interstate commission.

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

(o) “State” means a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the

U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S. Territory.

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

(q) "Transition" means all of the following:

1. The formal and physical process of transferring from local education agency to local education agency.

2. The period of time in which a student moves from one local education agency in a sending state to another local education agency in a receiving state.

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

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

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

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

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

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

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

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

1. An inactive member of the national guard and military reserves.

2. Except as provided in par. (a), a retired member of the uniformed services.

3. Except as provided in par. (a), a veteran of the uniformed services.

4. Other U.S. department of defense personnel, or of a civilian or contract employee of any other federal agency, who is not an active duty member of a uniformed service.

(4) ARTICLE IV — EDUCATIONAL RECORDS AND ENROLLMENT. (a) *Unofficial or hand-carried pupil records.* If official education records cannot be released to the parents for the purpose of transfer, the custodian of the education records in the sending state shall prepare and furnish to the parent a complete set of unofficial education records containing uniform information as determined by the interstate commission. The local education agency in the receiving state shall enroll and appropriately place the student as quickly as possible,

based on the information provided in the unofficial education records, if provided, pending validation by the official education records.

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

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

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

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

(b) *Educational program placement.* The local education agency in the receiving state shall initially honor placement of the student in educational programs, including gifted and talented programs and English as a second language programs, based on current educational assessments conducted at the local education agency in the sending state or participation or placement in like programs in the local education agency in the sending state. This paragraph does not preclude the local education agency in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

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

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

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

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

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

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

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

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

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

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

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

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

(8) ARTICLE VIII — STATE COORDINATION. (a) Each member state shall, through the creation of a state council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and interstate commission activities. While each member state may determine the membership of its own

state council, its membership shall include all of the following:

1. The state superintendent of education.
2. The superintendent of a school district with a high concentration of children of military families. A member state that does not have a school district deemed to contain a high concentration of children of military families may appoint a superintendent from another school district to represent local education agencies on the state council.
3. A representative from a military installation.
4. One representative from the legislative branch of government.
5. One representative from the executive branch of government.
6. Representatives from other offices and stakeholder groups the state council deems appropriate.

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

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

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

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

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

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

1. Each member state represented at a meeting is entitled to one vote.
2. A majority of the member states shall constitute a quorum for the transaction of business, unless a larger number is required by the bylaws of the interstate commission.

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

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

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

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

(e) The interstate commission shall establish an executive committee, whose members shall include the officers of the interstate commission and such other members of the interstate commission as determined by the bylaws. Members of the executive committee shall serve one-year terms. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the interstate commission, with the exception of rule making, during periods when the interstate commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact, including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. department of defense shall serve as a nonvoting member of the executive committee.

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

(g) The interstate commission shall give public notice of all meetings and all meetings shall be open to the public, except as set forth in the rules or as otherwise provided in the compact. The interstate commission and any committee of the commission may close a meeting or portion of a meeting if the commission or committee

determines by a two-thirds vote that an open meeting would likely do any of the following:

1. Relate solely to the interstate commission's internal personnel practices and procedures.
2. Disclose matters specifically exempted from disclosure by federal and state statute.
3. Disclose trade secrets or commercial or financial information that is privileged or confidential.
4. Involve accusing a person of a crime, or formally censuring a person.
5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy.
6. Disclose investigative records compiled for law enforcement purposes.
7. Specifically relate to the interstate commission's participation in a civil action or other legal proceeding.
- (h) For a meeting or portion of a meeting closed under par. (g), the interstate commission shall cause its legal counsel or designee to certify that the meeting may be closed and to reference each relevant exemptible provision. The interstate commission shall keep minutes, which shall fully and clearly describe all matters discussed in a meeting, and shall provide a full and accurate summary of actions taken, and the reasons for taking the actions, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the interstate commission.
- (i) The interstate commission shall collect standardized data concerning the educational transition of children of military families under this compact as directed through its rules, which shall specify the data to be collected, the means of collection and data exchange, and reporting requirements. The interstate commission shall ensure, in so far as is reasonably possible, that the methods of data collection, exchange, and reporting conform to current technology and that its information functions are coordinated with the appropriate custodian of records as identified in the bylaws and rules.
- (j) The interstate commission shall create a process that permits military officials, education officials, 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.

**(10) ARTICLE X — POWERS AND DUTIES OF THE INTERSTATE COMMISSION.** The interstate commission may do any of the following:

- (a) Provide for dispute resolution among member states.

- (b) Promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact.

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

- (d) Enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, using all necessary and proper means, including the use of judicial process.

- (e) Establish and maintain offices, which shall be located within one or more of the member states.

- (f) Purchase and maintain insurance and bonds.

- (g) Borrow, accept, hire, or contract for services of personnel.

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

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

- (j) Accept donations and grants of money, equipment, supplies, materials, and services, and to receive, utilize, and dispose of any such donations and grants.

- (k) Lease, purchase, accept contributions or donations of, or otherwise to own, hold, improve, or use any property, real, personal, or mixed.

- (L) Sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property, real, personal, or mixed.

- (m) Establish a budget and make expenditures.

- (n) Adopt a seal and bylaws governing the management and operation of the interstate commission.

- (o) Report annually to the legislatures, governors, judiciary, and state councils of the member states concerning the activities of the interstate commission during the preceding year. The reports shall also include any recommendations adopted by the interstate commission.

- (p) Coordinate education, training, and public awareness regarding the compact, and its implementation and operation, for officials and parents involved in such activity.

- (q) Establish uniform standards for the reporting, collecting, and exchanging of data.

- (r) Maintain corporate books and records in accordance with the bylaws.

- (s) Perform the functions necessary or appropriate to achieve the purposes of this compact.

- (t) Provide for the uniform collection and sharing of information between and among member states, local

education agencies, and military families under this compact.

(11) ARTICLE XI — ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. (a) The interstate commission shall, by a majority of the members present and voting, within 12 months after the first interstate commission meeting, adopt bylaws to govern its conduct as may be necessary or appropriate to carry out the purposes of the compact, including all of the following:

1. Establishing the fiscal year of the interstate commission.
2. Establishing an executive committee, and such other committees as may be necessary.
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the interstate commission.
4. Providing reasonable procedures for calling and conducting meetings of the interstate commission, and ensuring reasonable notice of each such meeting.
5. Establishing the titles and responsibilities of the officers and staff of the interstate commission.
6. Providing a mechanism for concluding the operations of the interstate commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations.
7. Providing start-up rules for initial administration of the compact.

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

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

- a. Managing the affairs of the interstate commission in a manner consistent with the bylaws and purposes of the interstate commission.
- b. Overseeing an organizational structure within, and appropriate procedures for, the interstate commission to provide for the creation of rules, operating procedures, and administrative and technical support functions.
- c. Planning, implementing, and coordinating communications and activities with other state, federal, and local governmental organizations in order to advance the goals of the interstate commission.

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

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

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

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

4. To the extent not covered by the state involved, member state, or the interstate commission, the representatives or employees of the interstate commission shall be held harmless in the amount of a settlement or judgment,

including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of interstate commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of interstate commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

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

(b) *Rule-making procedure; effect of rules.* Rules shall be promulgated pursuant to a rule-making process that substantially conforms to the Model State Administrative Procedure Act, as amended, as may be appropriate to the operations of the interstate commission. A rule has the force and effect of statutory law in a member state if approved by the legislature of the member state or the state superintendent of education of the member state.

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

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

(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.

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 proceeding under subd. 2., 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.

(b) *Default, technical assistance, suspension, and termination.* If the interstate commission determines that a local education agency in 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 member state and other member states of the nature of the default, the means of curing the default, and any action taken by the interstate commission. The interstate commission shall specify the conditions by which the member state must cure the default of the local education agency.

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

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

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

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

6. The interstate commission shall not bear any costs relating to any member state in which a local education agency has been found to be in default or that has been suspended or terminated from the compact, unless otherwise mutually agreed upon in writing between the interstate commission and the member state.

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

(c) *Dispute Resolution.* 1. The interstate commission shall attempt, upon the request of a member state, to resolve disputes that are subject to the compact and that



may arise among member states and between member and nonmember states.

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

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

(b) The interstate commission may levy on and collect from each member state an annual assessment to cover the cost of the operations and activities of the interstate commission and its staff. The aggregate annual assessment must be sufficient to cover the interstate commission's annual budget as approved each year. Subject to s. 115.28 (58), the aggregate annual assessment amount shall be allocated among member states based upon a formula to be determined by the interstate commission, which shall promulgate a rule binding upon all member states.

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

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

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

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

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

(16) ARTICLE XVI — WITHDRAWAL AND DISSOLUTION. (a) *Withdrawal*. 1. Once effective, the compact shall continue in force and remain binding upon each and

every member state, provided that a member state may withdraw from the compact by enacting a law repealing the compact or by enacting a law withdrawing from the compact.

2. A withdrawing state shall immediately notify the chairperson of the interstate commission in writing upon the enactment of legislation in the withdrawing state that repeals this compact or withdraws from this compact. The interstate commission shall notify the other member states within 60 days of its receipt thereof.

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

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

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

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

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

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

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

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

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

(b) *Binding effect of the compact*. 1. Subject to sub. (12) (b), all lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, are binding upon the member states.

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

3. If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent

of the conflict with the constitutional provision in question in that member state.

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