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ASSEMBLY, No. 2640

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED MAY 12, 2008

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SYNOPSIS

Enacts "Interstate Compact on Educational Opportunity for Military Children."

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning the “Interstate Compact on Educational
2 Opportunity for Military Children” and supplementing chapter
3 26 of Title 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The “Interstate Compact on Educational Opportunity for
9 Military Children” is hereby enacted and entered into with all other
10 jurisdictions legally joining therein in the form substantially as
11 herein provided.

12
13 2. Article I: Purpose

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

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

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

26 c. Facilitating the qualification and eligibility for enrollment,
27 educational programs, and participation in extracurricular academic,
28 athletic, and social activities.

29 d. Facilitating the on-time graduation of children of military
30 families.

31 e. Providing for the promulgation and enforcement of
32 administrative rules implementing the provisions of this compact.

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

36 g. Promoting coordination between this compact and other
37 compacts affecting military children.

38 h. Promoting flexibility and cooperation between the educational
39 system, parents and the student in order to achieve educational
40 success for the student.

41
42 3. Article II: Definitions

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

45 a. “Active duty” means full-time duty status in the active
46 uniformed service of the United States, including members of the
47 National Guard and Reserve on active duty orders pursuant to 10
48 U.S.C. Section 1209 and 1211.

- 1 b. “Children of military families” means a school-aged child or
2 children, enrolled in Kindergarten through Twelfth grade, in the
3 household of an active duty member.
- 4 c. “Compact commissioner” means the voting representative of
5 each compacting state appointed pursuant to Article VIII of this
6 compact.
- 7 d. “Deployment” means the period one month prior to the service
8 members’ departure from their home station on military orders
9 through six months after return to their home station.
- 10 e. “Education or educational records” means those official
11 records, files, and data directly related to a student and maintained
12 by the school or local education agency, including but not limited to
13 records encompassing all the material kept in the student's
14 cumulative folder such as general identifying data, records of
15 attendance and of academic work completed, records of
16 achievement and results of evaluative tests, health data, disciplinary
17 status, test protocols, and individualized education programs.
- 18 f. “Extracurricular activities” means a voluntary activity
19 sponsored by the school or local education agency or an
20 organization sanctioned by the local education agency.
21 Extracurricular activities include, but are not limited to, preparation
22 for and involvement in public performances, contests, athletic
23 competitions, demonstrations, displays, and club activities.
- 24 g. “Interstate Commission on Educational Opportunity for
25 Military Children” means the commission that is created under
26 Article IX of this compact, which is generally referred to as
27 Interstate Commission.
- 28 h. “Local education agency” means a public authority legally
29 constituted by the state as an administrative agency to provide
30 control of and direction for Kindergarten through Twelfth grade
31 public educational institutions.
- 32 i. “Member state” means a state that has enacted this compact.
- 33 j. “Military installation” means a base, camp, post, station, yard,
34 center, homeport facility for any ship, or other activity under the
35 jurisdiction of the Department of Defense, including any leased
36 facility, which is located within any of the several States, the
37 District of Columbia, the Commonwealth of Puerto Rico, the U.S.
38 Virgin Islands, Guam, American Samoa, the Northern Marianas
39 Islands and any other U.S. Territory. Such term does not include
40 any facility used primarily for civil works, rivers and harbors
41 projects, or flood control projects.
- 42 k. “Non-member state” means a state that has not enacted this
43 compact.
- 44 l. “Receiving state” means the state to which a child of a military
45 family is sent, brought, or caused to be sent or brought.
- 46 m. “Rule” means a written statement by the Interstate
47 Commission promulgated pursuant to Article XII of this compact
48 that is of general applicability, implements, interprets or prescribes

1 a policy or provision of the Compact, or an organizational,
2 procedural, or practice requirement of the Interstate Commission,
3 and has the force and effect of statutory law in a member state, and
4 includes the amendment, repeal, or suspension of an existing rule.

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

7 o. "State" means a state of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
9 Islands, Guam, American Samoa, the Northern Marianas Islands
10 and any other U.S. Territory.

11 p. "Student" means the child of a military family for whom the
12 local education agency receives public funding and who is formally
13 enrolled in Kindergarten through Twelfth grade.

14 q. "Transition" means (1) the formal and physical process of
15 transferring from school to school or (2) the period of time in which
16 a student moves from one school in the sending state to another
17 school in the receiving state.

18 r. "Uniformed service or services" means the Army, Navy, Air
19 Force, Marine Corps, Coast Guard as well as the Commissioned
20 Corps of the National Oceanic and Atmospheric Administration,
21 and Public Health Services.

22 s. "Veteran" means a person who served in the uniformed
23 services and who was discharged or released there from under
24 conditions other than dishonorable.

25
26 4. Article III: Applicability

27 a. Except as otherwise provided in subsection b. of this section,
28 this compact shall apply to the children of:

29 (1) active duty members of the uniformed services as defined in
30 this compact, including members of the National Guard and
31 Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
32 and 1211;

33 (2) members or veterans of the uniformed services who are
34 severely injured and medically discharged or retired for a period of
35 one year after medical discharge or retirement; and

36 (3) members of the uniformed services who die on active duty or
37 as a result of injuries sustained on active duty for a period of one
38 year after death.

39 b. The provisions of this interstate compact shall only apply to
40 local education agencies as defined in this compact.

41 c. The provisions of this compact shall not apply to the children
42 of:

43 (1) inactive members of the national guard and military
44 reserves;

45 (2) members of the uniformed services now retired, except as
46 provided in subsection a. of this section;

47 (3) veterans of the uniformed services, except as provided in
48 subsection a. of this section; and

1 (4) other U.S. Dept. of Defense personnel and other federal
2 agency civilian and contract employees not defined as active duty
3 members of the uniformed services.

4
5 5. Article IV: Educational Records and Enrollment

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

16 b. Official education records and transcripts - Simultaneous with
17 the enrollment and conditional placement of the student, the school
18 in the receiving state shall request the student’s official education
19 record from the school in the sending state. Upon receipt of this
20 request, the school in the sending state will process and furnish the
21 official education records to the school in the receiving state within
22 10 days or within such time as is reasonably determined under the
23 rules promulgated by the Interstate Commission.

24 c. Immunizations – Compacting states shall give 30 days from
25 the date of enrollment or within such time as is reasonably
26 determined under the rules promulgated by the Interstate
27 Commission, for students to obtain any immunizations required by
28 the receiving state. For a series of immunizations, initial
29 vaccinations must be obtained within 30 days or within such time as
30 is reasonably determined under the rules promulgated by the
31 Interstate Commission.

32 d. Kindergarten and First grade entrance age – Students shall be
33 allowed to continue their enrollment at grade level in the receiving
34 state commensurate with their grade level, including Kindergarten,
35 from a local education agency in the sending state at the time of
36 transition, regardless of age. A student that has satisfactorily
37 completed the prerequisite grade level in the local education agency
38 in the sending state shall be eligible for enrollment in the next
39 highest grade level in the receiving state, regardless of age. A
40 student transferring after the start of the school year in the receiving
41 state shall enter the school in the receiving state on their validated
42 level from an accredited school in the sending state.

43
44 6. Article V: Placement and Attendance

45 a. Course placement - When the student transfers before or
46 during the school year, the receiving state school shall initially
47 honor placement of the student in educational courses based on the
48 student’s enrollment in the sending state school, educational

1 assessments conducted at the school in the sending state, or both, if
2 the courses are offered. Course placement includes but is not
3 limited to Honors, International Baccalaureate, Advanced
4 Placement, vocational, technical and career pathways courses.
5 Continuing the student's academic program from the previous
6 school and promoting placement in academically and career
7 challenging courses should be paramount when considering
8 placement. This does not preclude the school in the receiving state
9 from performing subsequent evaluations to ensure appropriate
10 placement and continued enrollment of the student in the course or
11 courses.

12 b. Educational program placement – The receiving state school
13 shall initially honor placement of the student in educational
14 programs based on current educational assessments conducted at the
15 school in the sending state or participation or placement in like
16 programs in the sending state. Such programs include, but are not
17 limited to: (1) gifted and talented programs; and (2) English as a
18 second language (ESL). This does not preclude the school in the
19 receiving state from performing subsequent evaluations to ensure
20 appropriate placement of the student.

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

35 d. Placement flexibility – Local education agency administrative
36 officials shall have flexibility in waiving course or program
37 prerequisites, or other preconditions for placement in courses or
38 programs offered under the jurisdiction of the local education
39 agency.

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

1 7. Article VI: Eligibility

2 a. Eligibility for enrollment

3 (1) Special power of attorney, relative to the guardianship of a
4 child of a military family and executed under applicable law shall
5 be sufficient for the purposes of enrollment and all other actions
6 requiring parental participation and consent.

7 (2) A local education agency shall be prohibited from charging
8 local tuition to a transitioning military child placed in the care of a
9 non-custodial parent or other person standing in loco parentis who
10 lives in a jurisdiction other than that of the custodial parent.

11 (3) A transitioning military child, placed in the care of a non-
12 custodial parent or other person standing in loco parentis who lives
13 in a jurisdiction other than that of the custodial parent, may
14 continue to attend the school in which he or she was enrolled while
15 residing with the custodial parent.

16 b. Eligibility for extracurricular participation - State and local
17 education agencies shall facilitate the opportunity for transitioning
18 military children's inclusion in extracurricular activities, regardless
19 of application deadlines, to the extent they are otherwise qualified.

20

21 8. Article VII: Graduation

22 In order to facilitate the on-time graduation of children of
23 military families states and local education agencies shall
24 incorporate the following procedures:

25 a. Waiver requirements – Local education agency administrative
26 officials shall waive specific courses required for graduation if
27 similar course work has been satisfactorily completed in another
28 local education agency or shall provide reasonable justification for
29 denial. Should a waiver not be granted to a student who would
30 qualify to graduate from the sending school, the local education
31 agency shall provide an alternative means of acquiring required
32 coursework so that graduation may occur on time.

33 b. Exit exams - States shall accept: (1) exit or end-of-course
34 exams required for graduation from the sending state; or (2)
35 national norm-referenced achievement tests; or (3) alternative
36 testing, in lieu of testing requirements for graduation in the
37 receiving state. In the event the above alternatives cannot be
38 accommodated by the receiving state for a student transferring in
39 his or her Senior year, then the provisions of subsection c. of this
40 section shall apply.

41 c. Transfers during Senior year – Should a military student
42 transferring at the beginning or during his or her Senior year be
43 ineligible to graduate from the receiving local education agency
44 after all alternatives have been considered, the sending and
45 receiving local education agencies shall ensure the receipt of a
46 diploma from the sending local education agency, if the student
47 meets the graduation requirements of the sending local education
48 agency. In the event that one of the states in question is not a

1 member of this compact, the member state shall use best efforts to
2 facilitate the on-time graduation of the student in accordance with
3 subsections a. and b. of this section.

4

5 9. Article VIII: State Coordination

6 a. Each member state shall, through the creation of a State
7 Council or use of an existing body or board, provide for the
8 coordination among its agencies of government, local education
9 agencies and military installations concerning the state's
10 participation in, and compliance with, this compact and Interstate
11 Commission activities. While each member state may determine the
12 membership of its own State Council, its membership must include
13 at least: the state superintendent of education, superintendent of a
14 school district with a high concentration of military children,
15 representative from a military installation, one representative each
16 from the legislative and executive branches of government, and
17 other offices and stakeholder groups the State Council deems
18 appropriate. A member state that does not have a school district
19 deemed to contain a high concentration of military children may
20 appoint a superintendent from another school district to represent
21 local education agencies on the State Council.

22 b. The State Council of each member state shall appoint or
23 designate a military family education liaison to assist military
24 families and the state in facilitating the implementation of this
25 compact.

26 c. The compact commissioner responsible for the administration
27 and management of the state's participation in the compact shall be
28 appointed by the Governor or as otherwise determined by each
29 member state.

30 d. The compact commissioner and the military family education
31 liaison designated herein shall be ex-officio members of the State
32 Council, unless either is already a full voting member of the State
33 Council.

34

35 10. Article IX: Interstate Commission on Educational
36 Opportunity for Military Children

37 The member states hereby create the "Interstate Commission on
38 Educational Opportunity for Military Children." The activities of
39 the Interstate Commission are the formation of public policy and
40 are a discretionary state function. The Interstate Commission shall:

41 a. Be a body corporate and joint agency of the member states and
42 shall have all the responsibilities, powers and duties set forth
43 herein, and such additional powers as may be conferred upon it by a
44 subsequent concurrent action of the respective legislatures of the
45 member states in accordance with the terms of this compact.

46 b. Consist of one Interstate Commission voting representative
47 from each member state who shall be that state's compact
48 commissioner.

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

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

6 (3) A representative shall not delegate a vote to another member
7 state. In the event the compact commissioner is unable to attend a
8 meeting of the Interstate Commission, the Governor or State
9 Council may delegate voting authority to another person from their
10 state for a specified meeting.

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

14 c. Consist of ex-officio, non-voting representatives who are
15 members of interested organizations. Such ex-officio members, as
16 defined in the bylaws, may include but not be limited to, members
17 of the representative organizations of military family advocates,
18 local education agency officials, parent and teacher groups, the U.S.
19 Department of Defense, the Education Commission of the States,
20 the Interstate Agreement on the Qualification of Educational
21 Personnel and other interstate compacts affecting the education of
22 children of military members.

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

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

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

47 g. Give public notice of all meetings and all meetings shall be
48 open to the public, except as set forth in the rules or as otherwise

1 provided in the compact. The Interstate Commission and its
2 committees may close a meeting, or portion thereof, where it
3 determines by two-thirds vote that an open meeting would be likely
4 to:

5 (1) Relate solely to the Interstate Commission's internal
6 personnel practices and procedures;

7 (2) Disclose matters specifically exempted from disclosure by
8 federal and state statute;

9 (3) Disclose trade secrets or commercial or financial information
10 which is privileged or confidential;

11 (4) Involve accusing a person of a crime, or formally censuring a
12 person;

13 (5) Disclose information of a personal nature where disclosure
14 would constitute a clearly unwarranted invasion of personal
15 privacy;

16 (6) Disclose investigative records compiled for law enforcement
17 purposes; or

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

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

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

40 j. Create a process that permits military officials, education
41 officials and parents to inform the Interstate Commission if and
42 when there are alleged violations of the compact or its rules or
43 when issues subject to the jurisdiction of the compact or its rules
44 are not addressed by the state or local education agency. This
45 section shall not be construed to create a private right of action
46 against the Interstate Commission or any member state.

47

48 11. Article X: Powers and Duties of the Interstate Commission

1 The Interstate Commission shall have the following powers:

2 a. To provide for dispute resolution among member states.

3 b. To promulgate rules and take all necessary actions to effect
4 the goals, purposes and obligations as enumerated in this compact.
5 The rules shall have the force and effect of statutory law and shall
6 be binding in the compact states to the extent and in the manner
7 provided in this compact.

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

11 d. To enforce compliance with the compact provisions, the rules
12 promulgated by the Interstate Commission, and the bylaws, using
13 all necessary and proper means, including but not limited to the use
14 of judicial process.

15 e. To establish and maintain offices which shall be located within
16 one or more of the member states.

17 f. To purchase and maintain insurance and bonds.

18 g. To borrow, accept, hire or contract for services of personnel.

19 h. To establish and appoint committees including, but not limited
20 to, an executive committee as required by Article IX, subsection e.,
21 which shall have the power to act on behalf of the Interstate
22 Commission in carrying out its powers and duties hereunder.

23 i. To elect or appoint such officers, attorneys, employees, agents,
24 or consultants, and to fix their compensation, define their duties and
25 determine their qualifications; and to establish the Interstate
26 Commission's personnel policies and programs relating to conflicts
27 of interest, rates of compensation, and qualifications of personnel.

28 j. To accept any and all donations and grants of money,
29 equipment, supplies, materials, and services, and to receive, utilize,
30 and dispose of it.

31 k. To lease, purchase, accept contributions or donations of, or
32 otherwise to own, hold, improve or use any property, real, personal,
33 or mixed.

34 l. To sell, convey, mortgage, pledge, lease, exchange, abandon,
35 or otherwise dispose of any property, real, personal or mixed.

36 m. To establish a budget and make expenditures.

37 n. To adopt a seal and bylaws governing the management and
38 operation of the Interstate Commission.

39 o. To report annually to the legislatures, governors, judiciary,
40 and state councils of the member states concerning the activities of
41 the Interstate Commission during the preceding year. Such reports
42 shall also include any recommendations that may have been adopted
43 by the Interstate Commission.

44 p. To coordinate education, training and public awareness
45 regarding the compact, its implementation and operation for
46 officials and parents involved in such activity.

47 q. To establish uniform standards for the reporting, collecting
48 and exchanging of data.

1 r. To maintain corporate books and records in accordance with
2 the bylaws.

3 s. To perform such functions as may be necessary or appropriate
4 to achieve the purposes of this compact.

5 t. To provide for the uniform collection and sharing of
6 information between and among member states, schools and
7 military families under this compact.

8

9 12. Article XI: Organization and Operation of the Interstate
10 Commission

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

16 (1) Establishing the fiscal year of the Interstate Commission;

17 (2) Establishing an executive committee, and such other
18 committees as may be necessary;

19 (3) Providing for the establishment of committees and for
20 governing any general or specific delegation of authority or
21 function of the Interstate Commission;

22 (4) Providing reasonable procedures for calling and conducting
23 meetings of the Interstate Commission, and ensuring reasonable
24 notice of each such meeting;

25 (5) Establishing the titles and responsibilities of the officers and
26 staff of the Interstate Commission;

27 (6) Providing a mechanism for concluding the operations of the
28 Interstate Commission and the return of surplus funds that may
29 exist upon the termination of the compact after the payment and
30 reserving of all of its debts and obligations;

31 (7) Providing "start up" rules for initial administration of the
32 compact.

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

45 c. Executive Committee, Officers and Personnel

46 (1) The executive committee shall have such authority and duties
47 as may be set forth in the bylaws, including but not limited to:

1 (a) Managing the affairs of the Interstate Commission in a
2 manner consistent with the bylaws and purposes of the Interstate
3 Commission;

4 (b) Overseeing an organizational structure within, and
5 appropriate procedures for the Interstate Commission to provide for
6 the creation of rules, operating procedures, and administrative and
7 technical support functions; and

8 (c) Planning, implementing, and coordinating communications
9 and activities with other state, federal and local government
10 organizations in order to advance the goals of the Interstate
11 Commission.

12 (2) The executive committee may, subject to the approval of the
13 Interstate Commission, appoint or retain an executive director for
14 such period, upon such terms and conditions and for such
15 compensation, as the Interstate Commission may deem appropriate.
16 The executive director shall serve as secretary to the Interstate
17 Commission, but shall not be a Member of the Interstate
18 Commission. The executive director shall hire and supervise such
19 other persons as may be authorized by the Interstate Commission.

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

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

42 (2) The Interstate Commission shall defend the executive
43 director and its employees and, subject to the approval of the
44 Attorney General or other appropriate legal counsel of the member
45 state represented by an Interstate Commission representative, shall
46 defend such Interstate Commission representative in any civil
47 action seeking to impose liability arising out of an actual or alleged
48 act, error or omission that occurred within the scope of Interstate

1 Commission employment, duties or responsibilities, or that the
2 defendant had a reasonable basis for believing occurred within the
3 scope of Interstate Commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or
5 omission did not result from intentional or willful and wanton
6 misconduct on the part of such person.

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

19

20 13. Article XII: Rulemaking Functions of the Interstate
21 Commission

22 a. Rulemaking Authority - The Interstate Commission shall
23 promulgate reasonable rules in order to effectively and efficiently
24 achieve the purposes of this Compact. Notwithstanding the
25 foregoing, in the event the Interstate Commission exercises its
26 rulemaking authority in a manner that is beyond the scope of the
27 purposes of this act, or the powers granted hereunder, then such an
28 action by the Interstate Commission shall be invalid and have no
29 force or effect.

30 b. Rulemaking Procedure - Rules shall be made pursuant to a
31 rulemaking process that substantially conforms to the "Model State
32 Administrative Procedure Act," of 1981 Act, Uniform Laws
33 Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate
34 to the operations of the Interstate Commission.

35 c. Not later than 30 days after a rule is promulgated, any person
36 may file a petition for judicial review of the rule; provided, that the
37 filing of such a petition shall not stay or otherwise prevent the rule
38 from becoming effective unless the court finds that the petitioner
39 has a substantial likelihood of success. The court shall give
40 deference to the actions of the Interstate Commission consistent
41 with applicable law and shall not find the rule to be unlawful if the
42 rule represents a reasonable exercise of the Interstate Commission's
43 authority.

44 d. If a majority of the legislatures of the compacting states
45 rejects a Rule by enactment of a statute or resolution in the same
46 manner used to adopt the compact, then such rule shall have no
47 further force and effect in any compacting state.

1 14. Article XIII: Oversight, Enforcement, and Dispute
2 Resolution

3 a. Oversight

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

10 (2) All courts shall take judicial notice of the compact and the
11 rules in any judicial or administrative proceeding in a member state
12 pertaining to the subject matter of this compact which may affect
13 the powers, responsibilities or actions of the Interstate Commission.

14 (3) The Interstate Commission shall be entitled to receive all
15 service of process in any such proceeding, and shall have standing
16 to intervene in the proceeding for all purposes. Failure to provide
17 service of process to the Interstate Commission shall render a
18 judgment or order void as to the Interstate Commission, this
19 compact or promulgated rules.

20 b. Default, Technical Assistance, Suspension and Termination

21 If the Interstate Commission determines that a member state has
22 defaulted in the performance of its obligations or responsibilities
23 under this compact, or the bylaws or promulgated rules, the
24 Interstate Commission shall:

25 (1) Provide written notice to the defaulting state and other
26 member states, of the nature of the default, the means of curing the
27 default and any action taken by the Interstate Commission. The
28 Interstate Commission shall specify the conditions by which the
29 defaulting state must cure its default.

30 (2) Provide remedial training and specific technical assistance
31 regarding the default.

32 (3) If the defaulting state fails to cure the default, the defaulting
33 state shall be terminated from the compact upon an affirmative vote
34 of a majority of the member states and all rights, privileges and
35 benefits conferred by this compact shall be terminated from the
36 effective date of termination. A cure of the default does not relieve
37 the offending state of obligations or liabilities incurred during the
38 period of the default.

39 (4) Suspension or termination of membership in the compact
40 shall be imposed only after all other means of securing compliance
41 have been exhausted. Notice of intent to suspend or terminate shall
42 be given by the Interstate Commission to the Governor, the majority
43 and minority leaders of the defaulting state's legislature, and each of
44 the member states.

45 (5) The state which has been suspended or terminated is
46 responsible for all assessments, obligations and liabilities incurred
47 through the effective date of suspension or termination including

1 obligations, the performance of which extends beyond the effective
2 date of suspension or termination.

3 (6) The Interstate Commission shall not bear any costs relating to
4 any state that has been found to be in default or which has been
5 suspended or terminated from the compact, unless otherwise
6 mutually agreed upon in writing between the Interstate Commission
7 and the defaulting state.

8 (7) The defaulting state may appeal the action of the Interstate
9 Commission by petitioning the U.S. District Court for the District
10 of Columbia or the federal district where the Interstate Commission
11 has its principal offices. The prevailing party shall be awarded all
12 costs of such litigation including reasonable attorney's fees.

13 c. Dispute Resolution

14 (1) The Interstate Commission shall attempt, upon the request of
15 a member state, to resolve disputes which are subject to the
16 compact and which may arise among member states and between
17 member and non-member states.

18 (2) The Interstate Commission shall promulgate a rule providing
19 for both mediation and binding dispute resolution for disputes as
20 appropriate.

21 d. Enforcement

22 (1) The Interstate Commission, in the reasonable exercise of its
23 discretion, shall enforce the provisions and rules of this compact.

24 (2) The Interstate Commission, may by majority vote of the
25 members, initiate legal action in the United State District Court for
26 the District of Columbia or, at the discretion of the Interstate
27 Commission, in the federal district where the Interstate Commission
28 has its principal offices, to enforce compliance with the provisions
29 of the compact, its promulgated rules and bylaws, against a member
30 state in default. The relief sought may include both injunctive relief
31 and damages. In the event judicial enforcement is necessary the
32 prevailing party shall be awarded all costs of such litigation
33 including reasonable attorney's fees.

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

38

39 15. Article XIV: Financing of the Interstate Commission

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

43 b. The Interstate Commission may levy on and collect an annual
44 assessment from each member state to cover the cost of the
45 operations and activities of the Interstate Commission and its staff
46 which must be in a total amount sufficient to cover the Interstate
47 Commission's annual budget as approved each year. The aggregate
48 annual assessment amount shall be allocated based upon a formula

1 to be determined by the Interstate Commission, which shall
2 promulgate a rule binding upon all member states.

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

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

16

17 16. Article XV: Member States, Effective Date, and Amendment

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

19 b. The compact shall become effective and binding upon
20 legislative enactment of the compact into law by no less than 10 of
21 the states. The effective date shall be no earlier than December 1,
22 2007. Thereafter it shall become effective and binding as to any
23 other member state upon enactment of the compact into law by that
24 state. The governors of non-member states or their designees shall
25 be invited to participate in the activities of the Interstate
26 Commission on a non-voting basis prior to adoption of the compact
27 by all states.

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

33

34 17. Article XVI: Withdrawal and Dissolution

35 a. Withdrawal

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

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

45 (3) The withdrawing state shall immediately notify the
46 chairperson of the Interstate Commission in writing upon the
47 introduction of legislation repealing this compact in the
48 withdrawing state. The Interstate Commission shall notify the other

1 member states of the withdrawing state's intent to withdraw within
2 60 days of its receipt thereof.

3 (4) The withdrawing state is responsible for all assessments,
4 obligations and liabilities incurred through the effective date of
5 withdrawal, including obligations, the performance of which extend
6 beyond the effective date of withdrawal.

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

10 b. Dissolution of Compact

11 (1) This compact shall dissolve effective upon the date of the
12 withdrawal or default of the member state which reduces the
13 membership in the compact to one member state.

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

19

20 18. Article XVII: Severability and Construction

21 a. The provisions of this compact shall be severable, and if any
22 phrase, clause, sentence or provision is deemed unenforceable, the
23 remaining provisions of the compact shall be enforceable.

24 b. The provisions of this compact shall be liberally construed to
25 effectuate its purposes.

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

29

30 19. Article XVIII: Binding Effect of Compact and Other Laws

31 a. Other Laws

32 (1) Nothing herein prevents the enforcement of any other law of
33 a member state that is not inconsistent with this compact.

34 (2) All member states' laws conflicting with this compact are
35 superseded to the extent of the conflict.

36 b. Binding Effect of the Compact

37 (1) All lawful actions of the Interstate Commission, including all
38 rules and bylaws promulgated by the Interstate Commission, are
39 binding upon the member states.

40 (2) All agreements between the Interstate Commission and the
41 member states are binding in accordance with their terms.

42 (3) In the event any provision of this compact exceeds the
43 constitutional limits imposed on the legislature of any member
44 state, such provision shall be ineffective to the extent of the conflict
45 with the constitutional provision in question in that member state.

46

47 20. This act shall take effect immediately.

STATEMENT

1

2

3 This bill would enact in New Jersey the “Interstate Compact on
4 Educational Opportunity for Military Children,” which would take
5 effect upon its adoption by at least 10 member states.

6 The purpose of the interstate compact is to remove barriers to
7 educational success imposed on children of military families, that
8 result from the diverse enrollment, placement, administrative, and
9 other requirements of a new school system in a new state of
10 residence, and that are encountered often by military families due to
11 the frequent interstate moves and deployments associated with
12 military service. The interstate compact provisions would facilitate
13 the timely enrollment of children of military families in a new
14 school system, the development of a placement process that does
15 not disadvantage the child, and the on-time high school graduation
16 of these children, among other matters.

17 The compact provisions would cover only the children of: active
18 duty members of the uniformed services, including members of the
19 National Guard and Reserve components on active duty status;
20 members or veterans of the uniformed services who are severely
21 injured and medically discharged or retired for a period of one year
22 after medical discharge or retirement; and members of the
23 uniformed services who die on active duty or as a result of injuries
24 sustained on active duty for a period of one year after death. Under
25 the compact, only a public authority legally constituted by the State
26 as an administrative agency to provide control of and direction for
27 Kindergarten through Twelfth grade public education would be
28 subject to the requirements of the compact.

29 Upon becoming a member of the interstate compact, each
30 member state would create a State Council, or use an existing body
31 or board, to coordinate the state’s participation in, and compliance
32 with, the interstate compact. The membership of the State Council
33 or board may be determined by each member state, but must include
34 the state superintendent of education, the superintendent of a school
35 district with a high concentration of military children, a
36 representative from a military installation, one representative each
37 from the legislative and executive branches of government, and
38 other offices and stakeholder groups the State Council or board
39 deems appropriate. The State Council or board is also required to
40 have a military family education liaison to assist military families
41 and the state in the implementation of the interstate compact, and a
42 compact commissioner who shall be appointed by the Governor.

43 Under the interstate compact, the member states would create the
44 “Interstate Commission on Educational Opportunity for Military
45 Children,” and each member state’s compact commissioner would
46 be a member of the interstate commission with one vote each. The
47 interstate commission would also include various non-voting, ex-
48 officio members, representing interested organizations, such as

1 military family advocates, local education agency officials, parent
2 and teacher groups, federal agencies such as the United States
3 Department of Defense, and others. The interstate commission
4 would have the authority to establish bylaws, provide dispute
5 resolution among member states, promulgate rules and take all the
6 necessary actions to effect the goals, purposes, and obligations
7 established by the interstate compact, provide advisory opinions,
8 and enforce compliance with the interstate compact, among other
9 enumerated powers and duties. The interstate commission is also
10 authorized to levy on and collect an annual assessment from each
11 member state to cover the cost of its operations and activities.

12 Upon passage of this bill and once at least 10 states have become
13 a member of the interstate compact, the State of New Jersey may
14 withdraw from the compact by repealing it from its statutes. The
15 withdrawal would take effect one year after the compact is repealed,
16 and after the Governor has notified each remaining member state.

ASSEMBLY MILITARY AND VETERANS' AFFAIRS
COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2640

STATE OF NEW JERSEY

DATED: NOVEMBER 13, 2008

The Assembly Military and Veterans' Affairs Committee reports favorably Assembly, No. 2640.

This bill would enact in New Jersey the "Interstate Compact on Educational Opportunity for Military Children." By the terms of the compact, it would take effect upon its adoption by at least 10 member states. At this time, 11 states have adopted the compact.

The purpose of the interstate compact is to remove barriers to educational success imposed on children of military families, that result from the diverse enrollment, placement, administrative, and other requirements of a new school system in a new state of residence, and that are encountered often by military families due to the frequent interstate moves and deployments associated with military service. The interstate compact provisions would facilitate the timely enrollment of children of military families in a new school system, the development of a placement process that does not disadvantage the child, and the on-time high school graduation of these children, among other matters.

The compact provisions would cover only the children of: active duty members of the uniformed services, including members of the National Guard and Reserve components on active duty status; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death. Under the compact, only a public authority legally constituted by the State as an administrative agency to provide control of and direction for kindergarten through twelfth grade public education would be subject to the requirements of the compact.

Upon becoming a member of the interstate compact, each member state would create a State Council, or use an existing body or board, to coordinate the state's participation in, and compliance with, the interstate compact. The membership of the State Council or board may be determined by each member state, but must include the state superintendent of education, the superintendent of a school district

with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council or board deems appropriate. The State Council or board is also required to have a military family education liaison to assist military families and the state in the implementation of the interstate compact, and a compact commissioner who shall be appointed by the Governor.

Under the interstate compact, the member states would create the “Interstate Commission on Educational Opportunity for Military Children,” and each member state’s compact commissioner would be a member of the interstate commission with one vote each. The interstate commission would also include various non-voting, ex-officio members, representing interested organizations, such as military family advocates, local education agency officials, parent and teacher groups, federal agencies such as the United States Department of Defense, and others. The interstate commission would have the authority to establish bylaws, provide dispute resolution among member states, promulgate rules and take all the necessary actions to effect the goals, purposes, and obligations established by the interstate compact, provide advisory opinions, and enforce compliance with the interstate compact, among other enumerated powers and duties. The interstate commission is also authorized to levy on and collect an annual assessment from each member state to cover the cost of its operations and activities.

The State of New Jersey may withdraw from the compact by repealing it from its statutes. The withdrawal would take effect one year after the compact is repealed, and after the Governor has notified each remaining member state.

This bill is identical to Senate, No. 2297 of 2008.

ASSEMBLY APPROPRIATIONS COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2640

STATE OF NEW JERSEY

DATED: DECEMBER 8, 2008

The Assembly Appropriations Committee reports favorably Assembly Bill No. 2640.

The bill enacts in New Jersey the “Interstate Compact on Educational Opportunity for Military Children.” The terms of the compact make it effective for its signatories upon its adoption by at least 10 states. At this time, 11 states have adopted the compact.

The compact’s purpose is the removal of barriers to educational success imposed on children of military families resulting from the diverse enrollment, placement, administrative, and other requirements of a new school system in a new state of residence and often encountered by military families due to the frequent interstate moves and deployments associated with military service. The interstate compact provisions facilitate the timely enrollment of children of military families in a new school system, the development of a placement process that does not disadvantage the child, and the on-time high school graduation of these children, among other matters.

The compact provisions cover only the children of: active duty members of the uniformed services, including members of the National Guard and Reserve components on active duty status; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death. Under the compact, only a public authority legally constituted by the State as an administrative agency to provide control of, and direction for, kindergarten through twelfth grade public education is subject to the requirements of the compact.

The interstate compact requires each state, upon becoming a member, to either create a State Council, or use an existing body or board, to coordinate the state’s participation in, and compliance with, the interstate compact. The member state may determine the membership of the State Council or board, but membership must include the state superintendent of education, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other

offices and stakeholder groups the State Council or board deems appropriate. The compact also requires the State Council or board to have a military family education liaison to assist military families and the state in the implementation of the interstate compact, and a compact commissioner responsible for the administration and management of the state's participation in the compact appointed by the Governor or otherwise determined by the member state.

Under the interstate compact, the member states will create the “Interstate Commission on Educational Opportunity for Military Children,” and each member state’s compact commissioner will be a member of the interstate commission with one vote. The interstate commission will also include various non-voting, ex-officio members, representing interested organizations, such as military family advocates, local education agency officials, parent and teacher groups, federal agencies such as the United States Department of Defense, and others. The interstate commission will have the authority to establish bylaws, provide dispute resolution among member states, promulgate rules and take all the necessary actions to effect the goals, purposes, and obligations established by the interstate compact, provide advisory opinions, and enforce compliance with the interstate compact, among other enumerated powers and duties. The interstate commission is also authorized to levy on and collect an annual assessment from each member state to cover the cost of its operations and activities.

The State of New Jersey and any other member state may withdraw from the compact by repealing it from its statutes. The withdrawal would take effect one year after the compact statutes are repealed, and after the Governor has notified each remaining member state of its withdrawal.

FISCAL IMPACT:

The Office of Legislative Services (OLS) estimates that entering the Compact would yield a minimal expenditure increase to the State. The Commission has determined that its operations will be supported by dues charged to each member state equal to \$1 per military child in each state. Data included in a fiscal analysis provided by the Council for State Governments show that New Jersey has 5,011 school-aged dependent children in military families, yielding a State cost of approximately \$5,000 if the compact were to be enacted. It should be noted that the commission is authorized to establish a budget of any size that it finds necessary (with the approval of the member states). It is therefore possible that the dues that must be paid in the future will be based on a formula other than \$1 per military student.

The OLS also estimates that local school districts serving students from military families may incur minimal additional expenditures to comply with the compact. The provisions that directly impact school districts relate to procedural matters that would not require additional expenditures.

SENATE EDUCATION COMMITTEE

STATEMENT TO

ASSEMBLY, No. 2640

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2009

The Senate Education Committee favorably reports Assembly Bill No. 2640.

The bill enacts in New Jersey the “Interstate Compact on Educational Opportunity for Military Children.” The terms of the compact make it effective for its signatories upon its adoption by at least 10 states. At this time, 11 states have adopted the compact.

The compact’s purpose is the removal of barriers to educational success imposed on children of military families resulting from the diverse enrollment, placement, administrative, and other requirements of a new school system in a new state of residence and often encountered by military families due to the frequent interstate moves and deployments associated with military service. The interstate compact provisions facilitate the timely enrollment of children of military families in a new school system, the development of a placement process that does not disadvantage the child, and the on-time high school graduation of these children, among other matters.

In any case in which the placement of a military child would require the transportation of the military child outside of his school district of residence, it is the committee’s understanding that since the compact is silent on this issue, it is the prerogative of the state or the local school district to establish rules governing the allocation of costs for such pupil transportation.

The compact provisions cover only the children of: active duty members of the uniformed services, including members of the National Guard and Reserve components on active duty status; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death. Under the compact, only a public authority legally constituted by the state as an administrative agency to provide control of, and direction for, kindergarten through twelfth grade public education is subject to the requirements of the compact.

The interstate compact requires each state, upon becoming a member, to either create a State Council or use an existing body or board to coordinate the state’s participation in, and compliance with,

the interstate compact. The member state may determine the membership of the State Council or board, but membership must include the state superintendent of education, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council or board deems appropriate. The compact also requires the State Council or board to appoint or designate a military family education liaison to assist military families and the state in the implementation of the interstate compact. A compact commissioner responsible for the administration and management of the state's participation in the compact must also be appointed by the Governor or otherwise determined by the member state.

Under the interstate compact, the member states will create the "Interstate Commission on Educational Opportunity for Military Children," and each member state's compact commissioner will be a member of the interstate commission with one vote. The interstate commission will also include various non-voting, ex-officio members, representing interested organizations, such as military family advocates, local education agency officials, parent and teacher groups, federal agencies such as the United States Department of Defense, and others. The interstate commission will have the authority to establish bylaws, provide dispute resolution among member states, promulgate rules and take all the necessary actions to effect the goals, purposes, and obligations established by the interstate compact, provide advisory opinions, and enforce compliance with the interstate compact, among other enumerated powers and duties. The interstate commission is also authorized to levy and collect an annual assessment from each member state to cover the cost of its operations and activities.

The State of New Jersey and any other member state may withdraw from the compact by enacting a statute which repeals the compact. The withdrawal would take effect one year after the effective date of the statute repealing the compact, and after written notice of the withdrawal is given by the withdrawing state to the Governor of each remaining member state.

As reported by the committee, this bill is identical to Senate Bill No. 2297, which was reported by the committee on this same date.

LEGISLATIVE FISCAL ESTIMATE
ASSEMBLY, No. 2640
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: DECEMBER 10, 2008

SUMMARY

Synopsis: Enacts “Interstate Compact on Educational Opportunity for Military Children.”

Type of Impact: Minimal expenditure increase in the General Fund; possible minimal expenditure increase in local school districts.

Agencies Affected: Department of Education; local school districts

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal - See comments below		
Local Cost	Minimal - See comments below		

- The Office of Legislative Services estimates that enacting the “Interstate Compact on Educational Opportunity for Military Children” would lead to a minimal increase in State expenditures. This estimate is based on a fiscal note produced by the Council on State Governments (CSG) on the projected budget of the Interstate Commission on Educational Opportunity for Military Children (Commission) created by the compact. The CSG estimates that the cost to each member state would be \$1 per child affected by the compact. This would yield a total cost of \$5,011 in New Jersey.
- It should be noted that the Commission is authorized to develop a budget as it deems necessary. As such, the actual cost will be contingent on decisions made by the Commission and approved by the member states.
- A limited number of local school districts that educate children from military families may require a minimal expenditure increase to satisfy the provisions of the compact.

BILL DESCRIPTION

Assembly Bill No. 2640 of 2008 would make New Jersey a member state of the Interstate Compact on Educational Opportunity for Military Children (Compact). The Compact,

developed by the CSG in cooperation with the United State Department of Defense, attempts to provide for coordination among states to simplify the educational transition of school-aged children in military families. The provisions of the Compact would be applicable to children of: 1) active duty members of the uniformed services, 2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after the medical discharge or retirement, and 3) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

The Compact provides that it will become effective upon enactment in at least 10 states. To date, 11 states have enacted the compact. As such, the Compact would be binding in New Jersey immediately upon its enactment.

Key provisions in the Compact include the following:

- Schools must share educational records in a timely manner to expedite the proper enrollment and placement of students;
- Transferring students will be allowed 30 days to obtain any required immunizations;
- Transferring students will be allowed to continue enrollment in a specific grade even if the student does not meet the established age requirements in the new school district;
- Students will initially be placed in courses, if available, similar to those in which the student was enrolled prior to the transfer including honors, Advanced Placement, and International Baccalaureate courses;
- Consistent with the requirement of the Individuals with Disabilities Education Act (IDEA), a transferring student will initially receive the same special education services that were provided prior to the transfer;
- School districts will grant additional excused absences to a student who's parent or legal guardian has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone;
- Districts will waive specific courses required for graduation if the transferring student successfully completed a similar course in another school district;
- The State will accept exit or end-of-course exams required for graduation in another state, national norm-referenced achievement tests, or alternative tests in lieu of testing requirements for graduation in the state from which the student is transferring;
- A student who transfers during the senior year and is unable to meet the graduation requirements in the new school district will be allowed to receive a diploma from the district from which the student transferred, provided that the student meets the graduation requirements of that district.

The Compact requires that member states develop a state council to coordinate among the government agencies, school districts, and military installations. At minimum, the council will include the Commissioner of Education, the superintendent of a school district with a high concentration of military children, a representative from a military installation, and a representative from the Legislature. Additionally, the Compact calls for the formation of the Interstate Commission on Educational Opportunity for Military Children (Commission) to draft and enforce rules to effectuate the provisions of the Compact. Each member state would have one voting member on the Commission.

The Compact takes effect once it has been enacted in 10 or more states. To date, 11 states have adopted the language of the Compact. As such, the Compact would be binding on New Jersey immediately upon enactment in this State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that entering the Compact would yield a minimal expenditure increase to the State. The Commission formed by the Compact is authorized to establish a budget that will be supported by dues paid by the member states. The Commission has determined that its operations will be supported by dues charged to each member state equal to \$1 per military child in each state. Data included in a fiscal analysis provided by the Council for State Governments (CSG) show that New Jersey has 5,011 school-aged dependent children in military families, yielding a State cost of approximately \$5,000 if the Compact were to be enacted. It should be noted that the Commission is authorized to establish a budget of any size that it finds necessary (with the approval of the member states). It is therefore possible that the dues that must be paid in the future will be based on a formula other than \$1 per military student. The state council that would be formed may incur additional miscellaneous expenses in the course of its operations. However, it is assumed that the members would serve without additional compensation.

It is also estimated that local school districts serving students from military families may incur minimal additional expenditures to comply with the Compact. The provisions that directly impact school districts relate to procedural matters, (e.g., allowing students to remain enrolled in a specific grade if the student would otherwise be age-ineligible and granting additional excused absences under certain circumstances) that would not require additional expenditures. A school would only be required to allow a student to enroll in certain courses, such as honors or Advanced Placement, if the course already exists. Similarly, the requirement that transferring students initially receive the same special education services that were received prior to the transfer is already a requirement of the federal IDEA law and, therefore, would not represent a unique new cost associated with the Compact.

Section: Education
Analyst: Allen T. Dupree
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-1 et seq.).

SENATE, No. 2297

STATE OF NEW JERSEY 213th LEGISLATURE

INTRODUCED OCTOBER 20, 2008

Sponsored by:

Senator DIANE B. ALLEN

District 7 (Burlington and Camden)

Senator JEFF VAN DREW

District 1 (Cape May, Atlantic and Cumberland)

Co-Sponsored by:

Senators Baroni, Beach and Turner

SYNOPSIS

Enacts “Interstate Compact on Educational Opportunity for Military Children.”

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/8/2010)

1 AN ACT concerning the “Interstate Compact on Educational
2 Opportunity for Military Children” and supplementing chapter
3 26 of Title 18A of the New Jersey Statutes.

4
5 **BE IT ENACTED** *by the Senate and General Assembly of the State*
6 *of New Jersey:*

7
8 1. The “Interstate Compact on Educational Opportunity for
9 Military Children” is hereby enacted and entered into with all other
10 jurisdictions legally joining therein in the form substantially as
11 herein provided.

12
13 2. Article I: Purpose

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

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

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

26 c. Facilitating the qualification and eligibility for enrollment,
27 educational programs, and participation in extracurricular academic,
28 athletic, and social activities.

29 d. Facilitating the on-time graduation of children of military
30 families.

31 e. Providing for the promulgation and enforcement of
32 administrative rules implementing the provisions of this compact.

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

36 g. Promoting coordination between this compact and other
37 compacts affecting military children.

38 h. Promoting flexibility and cooperation between the
39 educational system, parents and the student in order to achieve
40 educational success for the student.

41
42 3. Article II: Definitions

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

45 a. “Active duty” means full-time duty status in the active
46 uniformed service of the United States, including members of the
47 National Guard and Reserve on active duty orders pursuant to 10
48 U.S.C. Section 1209 and 1211.

- 1 b. “Children of military families” means a school-aged child or
2 children, enrolled in Kindergarten through Twelfth grade, in the
3 household of an active duty member.
- 4 c. “Compact commissioner” means the voting representative of
5 each compacting state appointed pursuant to Article VIII of this
6 compact.
- 7 d. “Deployment” means the period one month prior to the
8 service members’ departure from their home station on military
9 orders through six months after return to their home station.
- 10 e. “Education or educational records” means those official
11 records, files, and data directly related to a student and maintained
12 by the school or local education agency, including but not limited to
13 records encompassing all the material kept in the student's
14 cumulative folder such as general identifying data, records of
15 attendance and of academic work completed, records of
16 achievement and results of evaluative tests, health data, disciplinary
17 status, test protocols, and individualized education programs.
- 18 f. “Extracurricular activities” means a voluntary activity
19 sponsored by the school or local education agency or an
20 organization sanctioned by the local education agency.
21 Extracurricular activities include, but are not limited to, preparation
22 for and involvement in public performances, contests, athletic
23 competitions, demonstrations, displays, and club activities.
- 24 g. “Interstate Commission on Educational Opportunity for
25 Military Children” means the commission that is created under
26 Article IX of this compact, which is generally referred to as
27 Interstate Commission.
- 28 h. “Local education agency” means a public authority legally
29 constituted by the state as an administrative agency to provide
30 control of and direction for Kindergarten through Twelfth grade
31 public educational institutions.
- 32 i. “Member state” means a state that has enacted this compact.
- 33 j. “Military installation” means a base, camp, post, station,
34 yard, center, homeport facility for any ship, or other activity under
35 the jurisdiction of the Department of Defense, including any leased
36 facility, which is located within any of the several States, the
37 District of Columbia, the Commonwealth of Puerto Rico, the U.S.
38 Virgin Islands, Guam, American Samoa, the Northern Marianas
39 Islands and any other U.S. Territory. Such term does not include
40 any facility used primarily for civil works, rivers and harbors
41 projects, or flood control projects.
- 42 k. “Non-member state” means a state that has not enacted this
43 compact.
- 44 l. “Receiving state” means the state to which a child of a
45 military family is sent, brought, or caused to be sent or brought.
- 46 m. “Rule” means a written statement by the Interstate
47 Commission promulgated pursuant to Article XII of this compact
48 that is of general applicability, implements, interprets or prescribes

1 a policy or provision of the Compact, or an organizational,
2 procedural, or practice requirement of the Interstate Commission,
3 and has the force and effect of statutory law in a member state, and
4 includes the amendment, repeal, or suspension of an existing rule.

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

7 o. "State" means a state of the United States, the District of
8 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
9 Islands, Guam, American Samoa, the Northern Marianas Islands
10 and any other U.S. Territory.

11 p. "Student" means the child of a military family for whom the
12 local education agency receives public funding and who is formally
13 enrolled in Kindergarten through Twelfth grade.

14 q. "Transition" means (1) the formal and physical process of
15 transferring from school to school or (2) the period of time in which
16 a student moves from one school in the sending state to another
17 school in the receiving state.

18 r. "Uniformed service or services" means the Army, Navy, Air
19 Force, Marine Corps, Coast Guard as well as the Commissioned
20 Corps of the National Oceanic and Atmospheric Administration,
21 and Public Health Services.

22 s. "Veteran" means a person who served in the uniformed
23 services and who was discharged or released there from under
24 conditions other than dishonorable.

25

26 4. Article III: Applicability

27 a. Except as otherwise provided in subsection b. of this section,
28 this compact shall apply to the children of:

29 (1) active duty members of the uniformed services as defined in
30 this compact, including members of the National Guard and
31 Reserve on active duty orders pursuant to 10 U.S.C. Section 1209
32 and 1211;

33 (2) members or veterans of the uniformed services who are
34 severely injured and medically discharged or retired for a period of
35 one year after medical discharge or retirement; and

36 (3) members of the uniformed services who die on active duty
37 or as a result of injuries sustained on active duty for a period of one
38 year after death.

39 b. The provisions of this interstate compact shall only apply to
40 local education agencies as defined in this compact.

41 c. The provisions of this compact shall not apply to the
42 children of:

43 (1) inactive members of the national guard and military
44 reserves;

45 (2) members of the uniformed services now retired, except as
46 provided in subsection a. of this section;

47 (3) veterans of the uniformed services, except as provided in
48 subsection a. of this section; and

1 (4) other U.S. Dept. of Defense personnel and other federal
2 agency civilian and contract employees not defined as active duty
3 members of the uniformed services.

4
5 5. Article IV: Educational Records and Enrollment

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

16 b. Official education records and transcripts - Simultaneous
17 with the enrollment and conditional placement of the student, the
18 school in the receiving state shall request the student’s official
19 education record from the school in the sending state. Upon receipt
20 of this request, the school in the sending state will process and
21 furnish the official education records to the school in the receiving
22 state within 10 days or within such time as is reasonably determined
23 under the rules promulgated by the Interstate Commission.

24 c. Immunizations – Compacting states shall give 30 days from
25 the date of enrollment or within such time as is reasonably
26 determined under the rules promulgated by the Interstate
27 Commission, for students to obtain any immunizations required by
28 the receiving state. For a series of immunizations, initial
29 vaccinations must be obtained within 30 days or within such time as
30 is reasonably determined under the rules promulgated by the
31 Interstate Commission.

32 d. Kindergarten and First grade entrance age – Students shall
33 be allowed to continue their enrollment at grade level in the
34 receiving state commensurate with their grade level, including
35 Kindergarten, from a local education agency in the sending state at
36 the time of transition, regardless of age. A student that has
37 satisfactorily completed the prerequisite grade level in the local
38 education agency in the sending state shall be eligible for
39 enrollment in the next highest grade level in the receiving state,
40 regardless of age. A student transferring after the start of the school
41 year in the receiving state shall enter the school in the receiving
42 state on their validated level from an accredited school in the
43 sending state.

44
45 6. Article V: Placement and Attendance

46 a. Course placement - When the student transfers before or
47 during the school year, the receiving state school shall initially
48 honor placement of the student in educational courses based on the

1 student's enrollment in the sending state school, educational
2 assessments conducted at the school in the sending state, or both, if
3 the courses are offered. Course placement includes but is not
4 limited to Honors, International Baccalaureate, Advanced
5 Placement, vocational, technical and career pathways courses.
6 Continuing the student's academic program from the previous
7 school and promoting placement in academically and career
8 challenging courses should be paramount when considering
9 placement. This does not preclude the school in the receiving state
10 from performing subsequent evaluations to ensure appropriate
11 placement and continued enrollment of the student in the course or
12 courses.

13 b. Educational program placement – The receiving state school
14 shall initially honor placement of the student in educational
15 programs based on current educational assessments conducted at the
16 school in the sending state or participation or placement in like
17 programs in the sending state. Such programs include, but are not
18 limited to: (1) gifted and talented programs; and (2) English as a
19 second language (ESL). This does not preclude the school in the
20 receiving state from performing subsequent evaluations to ensure
21 appropriate placement of the student.

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

36 d. Placement flexibility – Local education agency administrative
37 officials shall have flexibility in waiving course or program
38 prerequisites, or other preconditions for placement in courses or
39 programs offered under the jurisdiction of the local education
40 agency.

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

1 7. Article VI: Eligibility

2 a. Eligibility for enrollment

3 (1) Special power of attorney, relative to the guardianship of a
4 child of a military family and executed under applicable law shall
5 be sufficient for the purposes of enrollment and all other actions
6 requiring parental participation and consent.

7 (2) A local education agency shall be prohibited from charging
8 local tuition to a transitioning military child placed in the care of a
9 non-custodial parent or other person standing in loco parentis who
10 lives in a jurisdiction other than that of the custodial parent.

11 (3) A transitioning military child, placed in the care of a non-
12 custodial parent or other person standing in loco parentis who lives
13 in a jurisdiction other than that of the custodial parent, may
14 continue to attend the school in which he or she was enrolled while
15 residing with the custodial parent.

16 b. Eligibility for extracurricular participation - State and local
17 education agencies shall facilitate the opportunity for transitioning
18 military children's inclusion in extracurricular activities, regardless
19 of application deadlines, to the extent they are otherwise qualified.

20

21 8. Article VII: Graduation

22 In order to facilitate the on-time graduation of children of
23 military families states and local education agencies shall
24 incorporate the following procedures:

25 a. Waiver requirements – Local education agency administrative
26 officials shall waive specific courses required for graduation if
27 similar course work has been satisfactorily completed in another
28 local education agency or shall provide reasonable justification for
29 denial. Should a waiver not be granted to a student who would
30 qualify to graduate from the sending school, the local education
31 agency shall provide an alternative means of acquiring required
32 coursework so that graduation may occur on time.

33 b. Exit exams - States shall accept: (1) exit or end-of-course
34 exams required for graduation from the sending state; or (2)
35 national norm-referenced achievement tests; or (3) alternative
36 testing, in lieu of testing requirements for graduation in the
37 receiving state. In the event the above alternatives cannot be
38 accommodated by the receiving state for a student transferring in
39 his or her Senior year, then the provisions of subsection c. of this
40 section shall apply.

41 c. Transfers during Senior year – Should a military student
42 transferring at the beginning or during his or her Senior year be
43 ineligible to graduate from the receiving local education agency
44 after all alternatives have been considered, the sending and
45 receiving local education agencies shall ensure the receipt of a
46 diploma from the sending local education agency, if the student
47 meets the graduation requirements of the sending local education
48 agency. In the event that one of the states in question is not a

1 member of this compact, the member state shall use best efforts to
2 facilitate the on-time graduation of the student in accordance with
3 subsections a. and b. of this section.

4

5 9. Article VIII: State Coordination

6 a. Each member state shall, through the creation of a State
7 Council or use of an existing body or board, provide for the
8 coordination among its agencies of government, local education
9 agencies and military installations concerning the state's
10 participation in, and compliance with, this compact and Interstate
11 Commission activities. While each member state may determine the
12 membership of its own State Council, its membership must include
13 at least: the state superintendent of education, superintendent of a
14 school district with a high concentration of military children,
15 representative from a military installation, one representative each
16 from the legislative and executive branches of government, and
17 other offices and stakeholder groups the State Council deems
18 appropriate. A member state that does not have a school district
19 deemed to contain a high concentration of military children may
20 appoint a superintendent from another school district to represent
21 local education agencies on the State Council.

22 b. The State Council of each member state shall appoint or
23 designate a military family education liaison to assist military
24 families and the state in facilitating the implementation of this
25 compact.

26 c. The compact commissioner responsible for the administration
27 and management of the state's participation in the compact shall be
28 appointed by the Governor or as otherwise determined by each
29 member state.

30 d. The compact commissioner and the military family education
31 liaison designated herein shall be ex-officio members of the State
32 Council, unless either is already a full voting member of the State
33 Council.

34

35 10. Article IX: Interstate Commission on Educational
36 Opportunity for Military Children

37 The member states hereby create the "Interstate Commission on
38 Educational Opportunity for Military Children." The activities of
39 the Interstate Commission are the formation of public policy and
40 are a discretionary state function. The Interstate Commission shall:

41 a. Be a body corporate and joint agency of the member states and
42 shall have all the responsibilities, powers and duties set forth
43 herein, and such additional powers as may be conferred upon it by a
44 subsequent concurrent action of the respective legislatures of the
45 member states in accordance with the terms of this compact.

46 b. Consist of one Interstate Commission voting representative
47 from each member state who shall be that state's compact
48 commissioner.

- 1 (1) Each member state represented at a meeting of the Interstate
2 Commission is entitled to one vote.
- 3 (2) A majority of the total member states shall constitute a
4 quorum for the transaction of business, unless a larger quorum is
5 required by the bylaws of the Interstate Commission.
- 6 (3) A representative shall not delegate a vote to another member
7 state. In the event the compact commissioner is unable to attend a
8 meeting of the Interstate Commission, the Governor or State
9 Council may delegate voting authority to another person from their
10 state for a specified meeting.
- 11 (4) The bylaws may provide for meetings of the Interstate
12 Commission to be conducted by telecommunication or electronic
13 communication.
- 14 c. Consist of ex-officio, non-voting representatives who are
15 members of interested organizations. Such ex-officio members, as
16 defined in the bylaws, may include but not be limited to, members
17 of the representative organizations of military family advocates,
18 local education agency officials, parent and teacher groups, the U.S.
19 Department of Defense, the Education Commission of the States,
20 the Interstate Agreement on the Qualification of Educational
21 Personnel and other interstate compacts affecting the education of
22 children of military members.
- 23 d. Meet at least once each calendar year. The chairperson may
24 call additional meetings and, upon the request of a simple majority
25 of the member states, shall call additional meetings.
- 26 e. Establish an executive committee, whose members shall
27 include the officers of the Interstate Commission and such other
28 members of the Interstate Commission as determined by the bylaws.
29 Members of the executive committee shall serve a one year term.
30 Members of the executive committee shall be entitled to one vote
31 each. The executive committee shall have the power to act on behalf
32 of the Interstate Commission, with the exception of rulemaking,
33 during periods when the Interstate Commission is not in session.
34 The executive committee shall oversee the day-to-day activities of
35 the administration of the compact including enforcement and
36 compliance with the provisions of the compact, its bylaws and
37 rules, and other such duties as deemed necessary. The U.S. Dept. of
38 Defense, shall serve as an ex-officio, nonvoting member of the
39 executive committee.
- 40 f. Establish bylaws and rules that provide for conditions and
41 procedures under which the Interstate Commission shall make its
42 information and official records available to the public for
43 inspection or copying. The Interstate Commission may exempt
44 from disclosure information or official records to the extent they
45 would adversely affect personal privacy rights or proprietary
46 interests.
- 47 g. Give public notice of all meetings and all meetings shall be
48 open to the public, except as set forth in the rules or as otherwise

1 provided in the compact. The Interstate Commission and its
2 committees may close a meeting, or portion thereof, where it
3 determines by two-thirds vote that an open meeting would be likely
4 to:

5 (1) Relate solely to the Interstate Commission's internal
6 personnel practices and procedures;

7 (2) Disclose matters specifically exempted from disclosure by
8 federal and state statute;

9 (3) Disclose trade secrets or commercial or financial information
10 which is privileged or confidential;

11 (4) Involve accusing a person of a crime, or formally censuring a
12 person;

13 (5) Disclose information of a personal nature where disclosure
14 would constitute a clearly unwarranted invasion of personal
15 privacy;

16 (6) Disclose investigative records compiled for law enforcement
17 purposes; or

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

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

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

40 j. Create a process that permits military officials, education
41 officials and parents to inform the Interstate Commission if and
42 when there are alleged violations of the compact or its rules or
43 when issues subject to the jurisdiction of the compact or its rules
44 are not addressed by the state or local education agency. This
45 section shall not be construed to create a private right of action
46 against the Interstate Commission or any member state.

47

48 11. Article X: Powers and Duties of the Interstate Commission

1 The Interstate Commission shall have the following powers:

2 a. To provide for dispute resolution among member states.

3 b. To promulgate rules and take all necessary actions to effect
4 the goals, purposes and obligations as enumerated in this compact.
5 The rules shall have the force and effect of statutory law and shall
6 be binding in the compact states to the extent and in the manner
7 provided in this compact.

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

11 d. To enforce compliance with the compact provisions, the rules
12 promulgated by the Interstate Commission, and the bylaws, using
13 all necessary and proper means, including but not limited to the use
14 of judicial process.

15 e. To establish and maintain offices which shall be located within
16 one or more of the member states.

17 f. To purchase and maintain insurance and bonds.

18 g. To borrow, accept, hire or contract for services of personnel.

19 h. To establish and appoint committees including, but not limited
20 to, an executive committee as required by Article IX, subsection e.,
21 which shall have the power to act on behalf of the Interstate
22 Commission in carrying out its powers and duties hereunder.

23 i. To elect or appoint such officers, attorneys, employees, agents,
24 or consultants, and to fix their compensation, define their duties and
25 determine their qualifications; and to establish the Interstate
26 Commission's personnel policies and programs relating to conflicts
27 of interest, rates of compensation, and qualifications of personnel.

28 j. To accept any and all donations and grants of money,
29 equipment, supplies, materials, and services, and to receive, utilize,
30 and dispose of it.

31 k. To lease, purchase, accept contributions or donations of, or
32 otherwise to own, hold, improve or use any property, real, personal,
33 or mixed.

34 l. To sell, convey, mortgage, pledge, lease, exchange, abandon,
35 or otherwise dispose of any property, real, personal or mixed.

36 m. To establish a budget and make expenditures.

37 n. To adopt a seal and bylaws governing the management and
38 operation of the Interstate Commission.

39 o. To report annually to the legislatures, governors, judiciary,
40 and state councils of the member states concerning the activities of
41 the Interstate Commission during the preceding year. Such reports
42 shall also include any recommendations that may have been adopted
43 by the Interstate Commission.

44 p. To coordinate education, training and public awareness
45 regarding the compact, its implementation and operation for
46 officials and parents involved in such activity.

47 q. To establish uniform standards for the reporting, collecting
48 and exchanging of data.

1 r. To maintain corporate books and records in accordance with
2 the bylaws.

3 s. To perform such functions as may be necessary or appropriate
4 to achieve the purposes of this compact.

5 t. To provide for the uniform collection and sharing of
6 information between and among member states, schools and
7 military families under this compact.

8

9 12. Article XI: Organization and Operation of the Interstate
10 Commission

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

16 (1) Establishing the fiscal year of the Interstate Commission;

17 (2) Establishing an executive committee, and such other
18 committees as may be necessary;

19 (3) Providing for the establishment of committees and for
20 governing any general or specific delegation of authority or
21 function of the Interstate Commission;

22 (4) Providing reasonable procedures for calling and conducting
23 meetings of the Interstate Commission, and ensuring reasonable
24 notice of each such meeting;

25 (5) Establishing the titles and responsibilities of the officers and
26 staff of the Interstate Commission;

27 (6) Providing a mechanism for concluding the operations of the
28 Interstate Commission and the return of surplus funds that may
29 exist upon the termination of the compact after the payment and
30 reserving of all of its debts and obligations;

31 (7) Providing "start up" rules for initial administration of the
32 compact.

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

45 c. Executive Committee, Officers and Personnel

46 (1) The executive committee shall have such authority and duties
47 as may be set forth in the bylaws, including but not limited to:

1 (a) Managing the affairs of the Interstate Commission in a
2 manner consistent with the bylaws and purposes of the Interstate
3 Commission;

4 (b) Overseeing an organizational structure within, and
5 appropriate procedures for the Interstate Commission to provide for
6 the creation of rules, operating procedures, and administrative and
7 technical support functions; and

8 (c) Planning, implementing, and coordinating communications
9 and activities with other state, federal and local government
10 organizations in order to advance the goals of the Interstate
11 Commission.

12 (2) The executive committee may, subject to the approval of the
13 Interstate Commission, appoint or retain an executive director for
14 such period, upon such terms and conditions and for such
15 compensation, as the Interstate Commission may deem appropriate.
16 The executive director shall serve as secretary to the Interstate
17 Commission, but shall not be a Member of the Interstate
18 Commission. The executive director shall hire and supervise such
19 other persons as may be authorized by the Interstate Commission.

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

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

42 (2) The Interstate Commission shall defend the executive
43 director and its employees and, subject to the approval of the
44 Attorney General or other appropriate legal counsel of the member
45 state represented by an Interstate Commission representative, shall
46 defend such Interstate Commission representative in any civil
47 action seeking to impose liability arising out of an actual or alleged
48 act, error or omission that occurred within the scope of Interstate

1 Commission employment, duties or responsibilities, or that the
2 defendant had a reasonable basis for believing occurred within the
3 scope of Interstate Commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or
5 omission did not result from intentional or willful and wanton
6 misconduct on the part of such person.

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

19

20 13. Article XII: Rulemaking Functions of the Interstate
21 Commission

22 a. Rulemaking Authority - The Interstate Commission shall
23 promulgate reasonable rules in order to effectively and efficiently
24 achieve the purposes of this Compact. Notwithstanding the
25 foregoing, in the event the Interstate Commission exercises its
26 rulemaking authority in a manner that is beyond the scope of the
27 purposes of this act, or the powers granted hereunder, then such an
28 action by the Interstate Commission shall be invalid and have no
29 force or effect.

30 b. Rulemaking Procedure - Rules shall be made pursuant to a
31 rulemaking process that substantially conforms to the "Model State
32 Administrative Procedure Act," of 1981 Act, Uniform Laws
33 Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate
34 to the operations of the Interstate Commission.

35 c. Not later than 30 days after a rule is promulgated, any person
36 may file a petition for judicial review of the rule; provided, that the
37 filing of such a petition shall not stay or otherwise prevent the rule
38 from becoming effective unless the court finds that the petitioner
39 has a substantial likelihood of success. The court shall give
40 deference to the actions of the Interstate Commission consistent
41 with applicable law and shall not find the rule to be unlawful if the
42 rule represents a reasonable exercise of the Interstate Commission's
43 authority.

44 d. If a majority of the legislatures of the compacting states
45 rejects a Rule by enactment of a statute or resolution in the same
46 manner used to adopt the compact, then such rule shall have no
47 further force and effect in any compacting state.

1 14. Article XIII: Oversight, Enforcement, and Dispute
2 Resolution

3 a. Oversight

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

10 (2) All courts shall take judicial notice of the compact and the
11 rules in any judicial or administrative proceeding in a member state
12 pertaining to the subject matter of this compact which may affect
13 the powers, responsibilities or actions of the Interstate Commission.

14 (3) The Interstate Commission shall be entitled to receive all
15 service of process in any such proceeding, and shall have standing
16 to intervene in the proceeding for all purposes. Failure to provide
17 service of process to the Interstate Commission shall render a
18 judgment or order void as to the Interstate Commission, this
19 compact or promulgated rules.

20 b. Default, Technical Assistance, Suspension and Termination

21 If the Interstate Commission determines that a member state has
22 defaulted in the performance of its obligations or responsibilities
23 under this compact, or the bylaws or promulgated rules, the
24 Interstate Commission shall:

25 (1) Provide written notice to the defaulting state and other
26 member states, of the nature of the default, the means of curing the
27 default and any action taken by the Interstate Commission. The
28 Interstate Commission shall specify the conditions by which the
29 defaulting state must cure its default.

30 (2) Provide remedial training and specific technical assistance
31 regarding the default.

32 (3) If the defaulting state fails to cure the default, the defaulting
33 state shall be terminated from the compact upon an affirmative vote
34 of a majority of the member states and all rights, privileges and
35 benefits conferred by this compact shall be terminated from the
36 effective date of termination. A cure of the default does not relieve
37 the offending state of obligations or liabilities incurred during the
38 period of the default.

39 (4) Suspension or termination of membership in the compact
40 shall be imposed only after all other means of securing compliance
41 have been exhausted. Notice of intent to suspend or terminate shall
42 be given by the Interstate Commission to the Governor, the majority
43 and minority leaders of the defaulting state's legislature, and each of
44 the member states.

45 (5) The state which has been suspended or terminated is
46 responsible for all assessments, obligations and liabilities incurred
47 through the effective date of suspension or termination including

1 obligations, the performance of which extends beyond the effective
2 date of suspension or termination.

3 (6) The Interstate Commission shall not bear any costs relating to
4 any state that has been found to be in default or which has been
5 suspended or terminated from the compact, unless otherwise
6 mutually agreed upon in writing between the Interstate Commission
7 and the defaulting state.

8 (7) The defaulting state may appeal the action of the Interstate
9 Commission by petitioning the U.S. District Court for the District
10 of Columbia or the federal district where the Interstate Commission
11 has its principal offices. The prevailing party shall be awarded all
12 costs of such litigation including reasonable attorney's fees.

13 c. Dispute Resolution

14 (1) The Interstate Commission shall attempt, upon the request of
15 a member state, to resolve disputes which are subject to the
16 compact and which may arise among member states and between
17 member and non-member states.

18 (2) The Interstate Commission shall promulgate a rule providing
19 for both mediation and binding dispute resolution for disputes as
20 appropriate.

21 d. Enforcement

22 (1) The Interstate Commission, in the reasonable exercise of its
23 discretion, shall enforce the provisions and rules of this compact.

24 (2) The Interstate Commission, may by majority vote of the
25 members, initiate legal action in the United State District Court for
26 the District of Columbia or, at the discretion of the Interstate
27 Commission, in the federal district where the Interstate Commission
28 has its principal offices, to enforce compliance with the provisions
29 of the compact, its promulgated rules and bylaws, against a member
30 state in default. The relief sought may include both injunctive relief
31 and damages. In the event judicial enforcement is necessary the
32 prevailing party shall be awarded all costs of such litigation
33 including reasonable attorney's fees.

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

38

39 15. Article XIV: Financing of the Interstate Commission

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

43 b. The Interstate Commission may levy on and collect an annual
44 assessment from each member state to cover the cost of the
45 operations and activities of the Interstate Commission and its staff
46 which must be in a total amount sufficient to cover the Interstate
47 Commission's annual budget as approved each year. The aggregate
48 annual assessment amount shall be allocated based upon a formula

1 to be determined by the Interstate Commission, which shall
2 promulgate a rule binding upon all member states.

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

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

16

17 16. Article XV: Member States, Effective Date, and Amendment

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

19 b. The compact shall become effective and binding upon
20 legislative enactment of the compact into law by no less than 10 of
21 the states. The effective date shall be no earlier than December 1,
22 2007. Thereafter it shall become effective and binding as to any
23 other member state upon enactment of the compact into law by that
24 state. The governors of non-member states or their designees shall
25 be invited to participate in the activities of the Interstate
26 Commission on a non-voting basis prior to adoption of the compact
27 by all states.

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

33

34 17. Article XVI: Withdrawal and Dissolution

35 a. Withdrawal

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

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

45 (3) The withdrawing state shall immediately notify the
46 chairperson of the Interstate Commission in writing upon the
47 introduction of legislation repealing this compact in the
48 withdrawing state. The Interstate Commission shall notify the other

1 member states of the withdrawing state's intent to withdraw within
2 60 days of its receipt thereof.

3 (4) The withdrawing state is responsible for all assessments,
4 obligations and liabilities incurred through the effective date of
5 withdrawal, including obligations, the performance of which extend
6 beyond the effective date of withdrawal.

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

10 b. Dissolution of Compact

11 (1) This compact shall dissolve effective upon the date of the
12 withdrawal or default of the member state which reduces the
13 membership in the compact to one member state.

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

19

20 18. Article XVII: Severability and Construction

21 a. The provisions of this compact shall be severable, and if any
22 phrase, clause, sentence or provision is deemed unenforceable, the
23 remaining provisions of the compact shall be enforceable.

24 b. The provisions of this compact shall be liberally construed to
25 effectuate its purposes.

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

29

30 19. Article XVIII: Binding Effect of Compact and Other Laws

31 a. Other Laws

32 (1) Nothing herein prevents the enforcement of any other law of
33 a member state that is not inconsistent with this compact.

34 (2) All member states' laws conflicting with this compact are
35 superseded to the extent of the conflict.

36 b. Binding Effect of the Compact

37 (1) All lawful actions of the Interstate Commission, including all
38 rules and bylaws promulgated by the Interstate Commission, are
39 binding upon the member states.

40 (2) All agreements between the Interstate Commission and the
41 member states are binding in accordance with their terms.

42 (3) In the event any provision of this compact exceeds the
43 constitutional limits imposed on the legislature of any member
44 state, such provision shall be ineffective to the extent of the conflict
45 with the constitutional provision in question in that member state.

46

47 20. This act shall take effect immediately.

STATEMENT

1

2

3 This bill would enact in New Jersey the “Interstate Compact on
4 Educational Opportunity for Military Children,” which would take
5 effect upon its adoption by at least 10 member states.

6 The purpose of the interstate compact is to remove barriers to
7 educational success imposed on children of military families, that
8 result from the diverse enrollment, placement, administrative, and
9 other requirements of a new school system in a new state of
10 residence, and that are encountered often by military families due to
11 the frequent interstate moves and deployments associated with
12 military service. The interstate compact provisions would facilitate
13 the timely enrollment of children of military families in a new
14 school system, the development of a placement process that does
15 not disadvantage the child, and the on-time high school graduation
16 of these children, among other matters.

17 The compact provisions would cover only the children of: active
18 duty members of the uniformed services, including members of the
19 National Guard and Reserve components on active duty status;
20 members or veterans of the uniformed services who are severely
21 injured and medically discharged or retired for a period of one year
22 after medical discharge or retirement; and members of the
23 uniformed services who die on active duty or as a result of injuries
24 sustained on active duty for a period of one year after death. Under
25 the compact, only a public authority legally constituted by the State
26 as an administrative agency to provide control of and direction for
27 Kindergarten through Twelfth grade public education would be
28 subject to the requirements of the compact.

29 Upon becoming a member of the interstate compact, each
30 member state would create a State Council, or use an existing body
31 or board, to coordinate the state’s participation in, and compliance
32 with, the interstate compact. The membership of the State Council
33 or board may be determined by each member state, but must include
34 the state superintendent of education, the superintendent of a school
35 district with a high concentration of military children, a
36 representative from a military installation, one representative each
37 from the legislative and executive branches of government, and
38 other offices and stakeholder groups the State Council or board
39 deems appropriate. The State Council or board is also required to
40 have a military family education liaison to assist military families
41 and the state in the implementation of the interstate compact, and a
42 compact commissioner who shall be appointed by the Governor.

43 Under the interstate compact, the member states would create the
44 “Interstate Commission on Educational Opportunity for Military
45 Children,” and each member state’s compact commissioner would
46 be a member of the interstate commission with one vote each. The
47 interstate commission would also include various non-voting, ex-
48 officio members, representing interested organizations, such as

1 military family advocates, local education agency officials, parent
2 and teacher groups, federal agencies such as the United States
3 Department of Defense, and others. The interstate commission
4 would have the authority to establish bylaws, provide dispute
5 resolution among member states, promulgate rules and take all the
6 necessary actions to effect the goals, purposes, and obligations
7 established by the interstate compact, provide advisory opinions,
8 and enforce compliance with the interstate compact, among other
9 enumerated powers and duties. The interstate commission is also
10 authorized to levy on and collect an annual assessment from each
11 member state to cover the cost of its operations and activities.

12 Upon passage of this bill and once at least 10 states have become
13 a member of the interstate compact, the State of New Jersey may
14 withdraw from the compact by repealing it from its statutes. The
15 withdrawal would take effect one year after the compact is repealed,
16 and after the Governor has notified each remaining member state.

SENATE EDUCATION COMMITTEE

STATEMENT TO

SENATE, No. 2297

STATE OF NEW JERSEY

DATED: FEBRUARY 9, 2009

The Senate Education Committee favorably reports Senate Bill No. 2297.

The bill enacts in New Jersey the “Interstate Compact on Educational Opportunity for Military Children.” The terms of the compact make it effective for its signatories upon its adoption by at least 10 states. At this time, 11 states have adopted the compact.

The compact’s purpose is the removal of barriers to educational success imposed on children of military families resulting from the diverse enrollment, placement, administrative, and other requirements of a new school system in a new state of residence and often encountered by military families due to the frequent interstate moves and deployments associated with military service. The interstate compact provisions facilitate the timely enrollment of children of military families in a new school system, the development of a placement process that does not disadvantage the child, and the on-time high school graduation of these children, among other matters.

In any case in which the placement of a military child would require the transportation of the military child outside of his school district of residence, it is the committee’s understanding that since the compact is silent on this issue, it is the prerogative of the state or the local school district to establish rules governing the allocation of costs for such pupil transportation.

The compact provisions cover only the children of: active duty members of the uniformed services, including members of the National Guard and Reserve components on active duty status; members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after medical discharge or retirement; and members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death. Under the compact, only a public authority legally constituted by the state as an administrative agency to provide control of, and direction for, kindergarten through twelfth grade public education is subject to the requirements of the compact.

The interstate compact requires each state, upon becoming a member, to either create a State Council or use an existing body or board to coordinate the state’s participation in, and compliance with,

the interstate compact. The member state may determine the membership of the State Council or board, but membership must include the state superintendent of education, the superintendent of a school district with a high concentration of military children, a representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council or board deems appropriate. The compact also requires the State Council or board to appoint or designate a military family education liaison to assist military families and the state in the implementation of the interstate compact. A compact commissioner responsible for the administration and management of the state's participation in the compact must also be appointed by the Governor or otherwise determined by the member state.

Under the interstate compact, the member states will create the "Interstate Commission on Educational Opportunity for Military Children," and each member state's compact commissioner will be a member of the interstate commission with one vote. The interstate commission will also include various non-voting, ex-officio members, representing interested organizations, such as military family advocates, local education agency officials, parent and teacher groups, federal agencies such as the United States Department of Defense, and others. The interstate commission will have the authority to establish bylaws, provide dispute resolution among member states, promulgate rules and take all the necessary actions to effect the goals, purposes, and obligations established by the interstate compact, provide advisory opinions, and enforce compliance with the interstate compact, among other enumerated powers and duties. The interstate commission is also authorized to levy and collect an annual assessment from each member state to cover the cost of its operations and activities.

The State of New Jersey and any other member state may withdraw from the compact by enacting a statute which repeals the compact. The withdrawal would take effect one year after the effective date of the statute repealing the compact, and after written notice of the withdrawal is given by the withdrawing state to the Governor of each remaining member state.

As reported by the committee, this bill is identical to Assembly Bill No. 2640, which was reported by the committee on this same date.

LEGISLATIVE FISCAL ESTIMATE
SENATE, No. 2297
STATE OF NEW JERSEY
213th LEGISLATURE

DATED: NOVEMBER 12, 2009

SUMMARY

Synopsis: Enacts “Interstate Compact on Educational Opportunity for Military Children.”

Type of Impact: Minimal expenditure increase in the General Fund; possible minimal expenditure increase in local school districts.

Agencies Affected: Department of Education; local school districts

Office of Legislative Services Estimate

Fiscal Impact	<u>Year 1</u>	<u>Year 2</u>	<u>Year 3</u>
State Cost	Minimal - See comments below		
Local Cost	Minimal - See comments below		

- The Office of Legislative Services estimates that enacting the “Interstate Compact on Educational Opportunity for Military Children” would lead to a minimal increase in State expenditures. This estimate is based on a fiscal note produced by the Council on State Governments (CSG) on the projected budget of the Interstate Commission on Educational Opportunity for Military Children (Commission) created by the compact. The CSG estimates that the cost to each member state would be \$1 per child affected by the compact. This would yield a total cost of \$5,011 in New Jersey.
- It should be noted that the Commission is authorized to develop a budget as it deems necessary. As such, the actual cost will be contingent on decisions made by the Commission and approved by the member states.
- A limited number of local school districts that educate children from military families may require a minimal expenditure increase to satisfy the provisions of the compact.

BILL DESCRIPTION

Senate Bill No. 2297 of 2008 would make New Jersey a member state of the Interstate Compact on Educational Opportunity for Military Children (Compact). The Compact, developed by the CSG in cooperation with the United States Department of Defense, attempts to

provide for coordination among states to simplify the educational transition of school-aged children in military families. The provisions of the Compact would be applicable to children of: 1) active duty members of the uniformed services, 2) members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one year after the medical discharge or retirement, and 3) members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one year after death.

The Compact provides that it will become effective upon enactment in at least 10 states. To date, 11 states have enacted the compact. As such, the Compact would be binding in New Jersey immediately upon its enactment.

Key provisions in the Compact include the following:

- Schools must share educational records in a timely manner to expedite the proper enrollment and placement of students;
- Transferring students will be allowed 30 days to obtain any required immunizations;
- Transferring students will be allowed to continue enrollment in a specific grade even if the student does not meet the established age requirements in the new school district;
- Students will initially be placed in courses, if available, similar to those in which the student was enrolled prior to the transfer including honors, Advanced Placement, and International Baccalaureate courses;
- Consistent with the requirement of the Individuals with Disabilities Education Act , a transferring student will initially receive the same special education services that were provided prior to the transfer;
- School districts will grant additional excused absences to a student who's parent or legal guardian has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone;
- Districts will waive specific courses required for graduation if the transferring student successfully completed a similar course in another school district;
- The State will accept exit or end-of-course exams required for graduation in another state, national norm-referenced achievement tests, or alternative tests in lieu of testing requirements for graduation in the state from which the student is transferring;
- A student who transfers during the senior year and is unable to meet the graduation requirements in the new school district will be allowed to receive a diploma from the district from which the student transferred, provided that the student meets the graduation requirements of that district.

The Compact requires that member states develop a state council to coordinate among the government agencies, school districts, and military installations. At minimum, the council will include the Commissioner of Education, the superintendent of a school district with a high concentration of military children, a representative from a military installation, and a representative from the Legislature. Additionally, the Compact calls for the formation of the Interstate Commission on Educational Opportunity for Military Children (Commission) to draft and enforce rules to effectuate the provisions of the Compact. Each member state would have one voting member on the Commission.

The Compact takes effect once it has been enacted in 10 or more states. To date, 11 states have adopted the language of the Compact. As such, the Compact would be binding on New Jersey immediately upon enactment in this State.

FISCAL ANALYSIS

EXECUTIVE BRANCH

None received.

OFFICE OF LEGISLATIVE SERVICES

The Office of Legislative Services estimates that entering the Compact would yield a minimal expenditure increase to the State. The Commission formed by the Compact is authorized to establish a budget that will be supported by dues paid by the member states. The Commission has determined that its operations will be supported by dues charged to each member state equal to \$1 per military child in each state. Data included in a fiscal analysis provided by the CSG show that New Jersey has 5,011 school-aged dependent children in military families, yielding a State cost of approximately \$5,000 if the Compact were to be enacted. It should be noted that the Commission is authorized to establish a budget of any size that it finds necessary (with the approval of the member states). It is therefore possible that the dues that must be paid in the future will be based on a formula other than \$1 per military student. The state council that would be formed may incur additional miscellaneous expenses in the course of its operations. However, it is assumed that the members would serve without additional compensation.

It is also estimated that local school districts serving students from military families may incur minimal additional expenditures to comply with the Compact. The provisions that directly impact school districts relate to procedural matters, (e.g., allowing students to remain enrolled in a specific grade if the student would otherwise be age-ineligible and granting additional excused absences under certain circumstances) that would not require additional expenditures. A school would only be required to allow a student to enroll in certain courses, such as honors or Advanced Placement, if the course already exists. Similarly, the requirement that transferring students initially receive the same special education services that were received prior to the transfer is already a requirement of the federal Individuals with Disabilities Education Act law and, therefore, would not represent a unique new cost associated with the Compact.

Section: Education
Analyst: Allen T. Dupree
Senior Fiscal Analyst
Approved: David J. Rosen
Legislative Budget and Finance Officer

This legislative fiscal estimate has been produced by the Office of Legislative Services due to the failure of the Executive Branch to respond to our request for a fiscal note.

This fiscal estimate has been prepared pursuant to P.L.1980, c.67 (C.52:13B-6 et seq.).