

# INFORMATION PAPER

Who: Ben Rasmussen, Compact Commissioner (UT)

Topic: Military Interstate Compact Inclusion of the Non-Title 10 Guard and Reserve

## I. Background

- a. At the June 16, 2016 State Council Meeting, members of the Utah Veterans and Military Affairs Commission (MAC) reviewed the definition of “Active Duty” under Article II of the Compact. They felt the definition was narrow and excluded the families of certain military personnel and guardsmen who don’t fall under the scope of 10 USC 1209 and 1211.
- b. They seek an amendment to broaden the scope of the compact and are looking for a sponsor in the next state legislative session.

## II. Definitions:

- a. “Active duty” is defined under 10 U.S.C. 101(d)(1) to mean full-time duty in the active military service of the United States, including “full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.”
  - i. With respect to the term “student with a parent who is a member of the Armed Forces on active duty,” the terms “Armed Forces” and “active duty” have the same meanings as defined in 10 U.S.C. 101(a)(4) and 101(d)(1):
    - (A) “Armed Forces” means the Army, Navy, Air Force, Marine Corps, and Coast Guard.
    - (B) “Active duty” means full-time duty in the active military service of the United States, including full-time training duty, annual training duty, and attendance, while in the active military service, at a school designated as a service school by law or by the Secretary of the military department concerned. Such term does not include full-time National Guard duty.<sup>4 4</sup>

## III. Discussion:

- a. Air Reserve Technicians (ART) are not full-time active duty members. They serve 1 weekend per month for a total of 14 days per year.
- b. Transitions or moves are not mandated and are usually voluntary.
- c. How often do the ART move? Is the move intra-state or interstate? How long are the assignments? Do their families accompany them?
- d. If a state unilaterally amends its compact statute to include ART’s will this jeopardize its status as a compact member state?

## IV. References

- a. Hogan, Stephen (BG), and Masters, Richard. “Whether the Interstate Compact on Educational Opportunity for Military Children is applicable to children of a military member who is not on active duty, as defined by Title 10 of the U.S. Code.” *MIC3 Advisory Opinion, 1-2014*, 29 August 2014.  
[http://mic3.net/pages/commissioners/documents/Mic\\_3AdOp1\\_2014revised1.pdf](http://mic3.net/pages/commissioners/documents/Mic_3AdOp1_2014revised1.pdf)
- b. Reply & legal analysis to inquiry from Ben Rasmussen on 21 June 2016. See attached legal memorandum

July 11, 2016