

**Ad Hoc Report:  
National Guard and Reserve Coverage Task Force**

**Final Report – October 2, 2020**

Commissioner Kathleen Berg (HI)  
Task Force Chair

*"Successful Educational Transitions"*

## Task Force

- Kathleen Berg (HI) - Chair
- Darcy Benway (IL)
- Brian Halstead (NE)
- Ben Rasmussen (UT)
- Terry Ryals (AK)
- Hal Stearns (MT)
- Rosemarie Kraeger (RI) (EXCOM Liaison)

“Successful Educational Transitions”

As chair of the MIC3 National Guard & Reserve Coverage Task Force, I would like to thank all the task force members for their work from mid-June of last year when we did our first online meeting to our fifth online meeting in late August this year. We shared over 40 reference documents, including Congressional Research Office and GAO reports, National Guard Bureau fact sheets, and the almost 200-page-long DOD *2018 Demographics Profile of the Military Community*, full of charts, graphs, and tables. There was a lot to learn. We held discussions over email, and we got one face-to-face meeting at last year's ABM, where we were able speak to the group from Utah about the rationale for their legislative action to extend compact coverage to National Guard and Reserve members on “full-time duty status” without the restriction to Title 10 only. Thank you all, and thanks to Cherise and Lindsey for all of their support.



MILITARY INTERSTATE  
CHILDREN'S COMPACT  
COMMISSION

## Mission Statement

*The MIC3 National Guard and Reserve Coverage Task Force (NGRTF) collects and analyzes relevant data in order to recommend whether MIC3 protections for military-connected students already in place for the children of these reserve component service members in Title 10 status should be expanded to cover children of members in other status situations, as well.*

*The NGRTF will present a preliminary report to the MIC3 Executive Committee by March 31, 2020 and will present its final report to the Executive Committee by August 31, 2020.*

**"Successful Educational Transitions"**

The MIC3 EXCOM created this seven-member task force in spring of 2019 with the charge to collect and analyze data in order to recommend whether Compact coverage should be expanded to include children of National Guard and Reserve members other than just those in Title 10, active duty status. As directed, I presented a preliminary report to the EXCOM in May, and today will deliver part of our final report to the Commission. Because of the pandemic, we were not able to work with the military to get all the data we needed, but in late June we received two databases on the National Guard, as result of the exchange of letters between General Joseph Lengyel, Chief of the National Guard Bureau, and MIC3 Chair Don Kaminar. Those data on interstate transfers of Air National Guard and Army National Guard members for the six-month period from October 2019 to March 2020 changed everything. When we put together what we learned from those data with all that our reading and research had yielded, we were able to crystalize a well reasoned and clearly defined recommendation for expanding Compact coverage. I'll take you through that recommendation and our decision-making in the next many slides.

## Discussion

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| <ol style="list-style-type: none"><li>1. Recommendation of the NGRTF</li><li>2. Rationale for Current Applicability<ul style="list-style-type: none"><li>➤ Need, choice, and fairness</li></ul></li><li>3. What has Changed? Why Now?<ul style="list-style-type: none"><li>➤ Growing use of NG&amp;R</li><li>➤ Rationale for parity with Active Duty</li></ul></li></ol> | <ol style="list-style-type: none"><li>4. Background<ul style="list-style-type: none"><li>➤ Military definitions</li><li>➤ Selected Reserve (number/location)</li></ul></li><li>5. Current Need and Fairness Rationale<ul style="list-style-type: none"><li>➤ Title 10, Title 32, State Active Duty (SAD)</li></ul></li><li>6. How can Applicability be Changed?</li></ol> |
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### "Successful Educational Transitions"

Like a good military briefing, I'll start with the BLUF—bottom line up front—the essence of the Task Force recommendation. We'll review a little Compact history and the rationale for the current applicability to only Active Duty military. We'll consider the issues of NEED, CHOICE and FAIRNESS with respect to Compact applicability. We'll look at what has changed. Why is there *now* such a movement to include the National Guard and Reserve beyond the Title 10 status situation? How has use of the Reserve Component changed in the last few decades? What's the rationale for parity between Active Duty and the Reserve Components? I'll lay out some basic facts about how the U.S. Military Forces are organized and named, how the National Guard differs from the various services' Reserve Components, which taken altogether constitute the seven Reserve Components and include the Selected Reserve. We'll see how many members of the Selected Reserve are in each state. Then we'll find out how many of them move from state to state as we update our understanding of the current need for coverage of school transitions and what constitutes fairness in light of the defense roles the National Guard and Reserve play in keeping our nation, states, and communities safe. Who they protect dictates who pays for them and under what duty title they serve. Finally, once we establish *who* should be covered by the Compact, we look at *how* coverage can be changed? Applicability is interwoven throughout the Model Compact Language. It's not a rule, and it is not addressable through the established rules change

process. There are limited choices as to how Compact applicability can be changed, each with different costs, timelines, and possible consequences. And all of them will require more legal work to be sure our task force members' understanding and use of the military terminology and categories are, in fact, exactly what we think we are specifying. We are recommending inclusion of all members of the "Selected Reserve" only, which is not all of those who are part of the various reserve programs in the Total Military Force of the U.S. But first, the overall recommendation.

## Recommendation

The NGRTF recommends that MIC3 support expansion of Compact coverage to all members of the Selected Reserve—including Traditional, Active/Guard Reserve, and Military Technician (Dual Status) members—for moves related to changes in duty station and for deployments in any active duty status—including Title 10, Title 32, and State Active Duty (SAD).

Furthermore, the NGRTF recommends that determining what form MIC3 support should take be referred to the appropriate MIC3 Standing Committee(s) so that all factors involved in that decision can be duly considered, including costs to the Commission and to the member states, as well as the time it would take to accomplish expanded applicability to the most members of the Selected Reserve in the most states.

*"Successful Educational Transitions"*



## Rationale for Current Applicability

### Need

- Large numbers of AD children who had to change schools often
  - 550,000 continental U.S.
  - 623,000 worldwide
- NG&R children didn't move
  - 419,000 school-aged kids in U.S.
  - 431,000 worldwide

Choice: AD has to follow orders; no choice

Fairness: Compact is about "leveling the playing field" not creating privileged group

**"Successful Educational Transitions"**

Let's look at the rationale for the current applicability of the Compact, which is to "active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211," where the term "active duty" is defined in Article II, Definitions as follows:

"Active duty" means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

Initial discussions about development of the Interstate Compact on Educational Opportunity for Military Children began in 2006. Drafting of the Compact began in 2007. By 2008 the Compact was adopted by 11 states, and the first Commission meeting was held. By 2010, 31 states had adopted the Compact, providing coverage to over 75% of military children. The MIC3 National Office was set up in Lexington, Kentucky, and the first executive director was hired.

It took the next four 4 years, to mid-2014 for all 50 states and D.C. to become members of the Interstate Compact—that's 6 years in all, from 2008 to 2014. Part of that time I

was chair of the Commission, and most of the National Office's time and much of our budget was spent on building Compact membership, on legal costs as each state's statute was examined for consistency with the Model Compact Language, and on travel expenses for the executive director and legal counsel who had to explain what the Compact was—and more importantly—what it wasn't, answer questions, and convince state legislators to adopt it.

The NEED was big: the number of school-age active duty children who had to change schools when their military parent changed duty stations, on average 6 to 9 times during their school career, was even larger than it is today. The numbers on this slide are from May 2018. At the time, the understanding was that National Guard and Reserve members did not move, so, essentially, there were no school transitions for them. No need for Compact coverage. There were deployments and activations, however, so they were covered when activated under Title 10, mostly to do duty in the Middle East in Iraq and Kuwait at that time.

Additionally, why charge states dues for National Guard or Reserve members who didn't move? If they moved when federally activated, they would be counted in the Active Duty numbers on which dues were based. CHOICE was about AD having to follow orders to move. In the military full-time you belong to the service 24/7, no overtime, no unions, 30 days of leave a year, healthcare and housing provided but very limited choice about where you work. You give up some citizen rights when you join the military. But, we have found out that today, there seem to be more options than we thought there were for active duty members. There are programs in the services to assist in PCS moves, with timing and expenses. And there is an exceptional child program that limits service members' overseas assignments to places that have special education services for their children. And there seems to be a lot of choice, if you know how to work the assignment system. Some families almost never move. And many, many young, single service members move every year. The average over all members is a move about every two years.

The National Guard and Reserve differ. Most of their members are part-time, Traditional Reservists and Guardsmen. Usually they can't order their members to change units and duty stations quite like the active duty services do. Those moves appeared to be personal choices, more like civilian employees of the DOD, who are specifically NOT covered in the Model Compact Language, Article III, Section C.4. "The provisions of this compact shall not apply to the children of other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services." Guard members *could* be activated *involuntarily*, however, but then they usually became Title 10 Active Duty and would be covered.

FAIRNESS related to the Compact being about "leveling the playing field" not creating a

privileged group, although there is widespread agreement that the Compact's transition rules lay out how *all* transitioning children should be treated, not just military children. Codifying the treatment in law was justified, though, because of the NEED and CHOICE arguments for active duty military.

## What has Changed? Why Now?

### 1. Growing use of the NG

- In 44 years from 1945-1989, Reserve involuntarily activated for federal service just 4 times:
  - 1950-1953 Korean War – 850,000
  - 1961-1962 Berlin Crisis – 148,000
  - 1962 Cuban Missile Crisis – 14,000
  - 1968-1969 Vietnam War/Pueblo Crisis – 37,000
  
- In 1991, with the end of the Cold War, AD down-sized and military bases were closed.

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So, as a task force, we wondered, What had changed? Why the push for coverage of National Guard and Reserve? Is it just part of the push for parity in pay and benefits that has transpired since about 2004? Did the Guard and Reserve really NEED the Compact coverage now? And if so, then WHO needs it, the Traditional part-time members or the Full-time Support or both?

Our task force realized that we sort of knew the National Guard, Air and Army. Some had served, but years ago. But we didn't know much at all about the Reserves of any of the services. So, we did research and found out what has changed. How the Guard and Reserve are used has changed a lot. In the 44 years from 1945 (end of WWII) to 1989, the reserve (both NG & R) was *involuntarily activated* for federal service *just 4 times*.

The Guard and Reserve was called up in the 50s and 60s, then not for 20 years. And with the end of the Cold War in 1991, the active services were all downsized and military bases closed all over the country.

## What has Changed? Why Now?

### 2. Growing use of the NG

- In 28 years since 1991, Reservists involuntarily activated for federal service 6 times:
  - Persian Gulf War, 1991-2003 – 238,000
  - Iraq, 1998-2003 – 6,000
  - September 11, 2001 to present – Military operations in aftermath 9/11 include 960,000 involuntarily AND voluntarily activated as of September 2018. (largest reserve activation since WWII)
  - Add Haiti, Bosnia, Kosovo peacekeeping and nation building
- Reserve changed from “a force of last resort” to integrated part of military services.
  - Total Force policy

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In the 28 years since then, however, Reservists have been *involuntarily activated* for federal service *6 times*. See the list and numbers of reservists mobilized on the slide.

In the aftermath of September 11, 2001 to now in 2020, nearly a million Reservists have been called up.

Data from the Office of Assistant Secretary of Defense for Manpower and Reserve Affairs (OASD/M&RA) show Reservists contributed about one million duty days per year from FY1986 to 1989—before the Cold War ended. This went to 13 million duty days per year between 1996 and 2001. Then in the aftermath of 9/11, it was 41.3 M duty days in FY2002, rising to a peak of 68.3 M days in FY2005. The number dropped to 17.3 M days by 2014—still *vastly more* than in the Cold War era.

The Reserve went from a “force of last resort” to an integrated part of the military services. The Total Force policy was in play for most of my 31-year National Guard career. I retired 11 years ago, and **Total Force** is still the policy that guides training and operations. Units train according to how they’re used in the war plans.



**“The Army cannot do what it does without the National Guard.”**

**“The Army’s senior leaders, we clearly know the heavy load the National Guard has been carrying over the last 18 years, at both home and around the world.”**

*- Gen. James C. McConville, Army Chief of Staff, 141<sup>st</sup> General Conference of the National Guard Association of the United States (NGAUS).*

### “Successful Educational Transitions”

Less than a month after being sworn in as the Army Chief of Staff, General James McConville made his first official trip as the Army’s top officer to the General Conference of the National Guard Association of the United States (called NGAUS).

This is what he told the assembled Air and Army National Guard members.

The Army’s senior leaders clearly know the heavy load the National Guard has been carrying over the last 18 years, both at home and around the world.

## What has Changed? Why Now?

### 3. Growing use of the NG

- In the first few months of 2020, governors in all 50 states, the District of Columbia (DC), Puerto Rico, Guam, and the U.S. Virgin Islands activated components of their National Guard – as many as 44,500 troops – to assist with the COVID-19 pandemic.
- More recently, governors in 28 states and DC activated more than 20,400 National Guardsmen to assist state and local law enforcement, making the total number activated for domestic operations well over the 51,000 Guardsmen activated for Hurricane Katrina in 2005.
- In early June of 2020, there were 90,000 Guardsmen on duty nationwide. Never have so many Guard soldiers and airmen been called at one time for domestic missions.

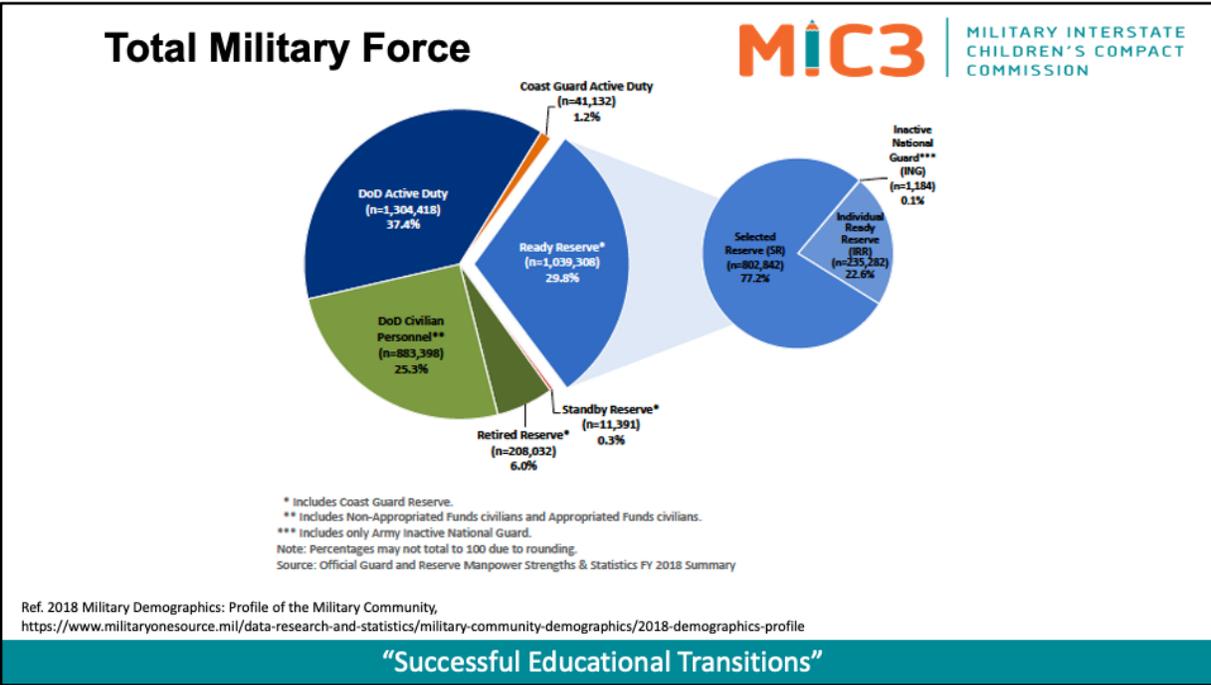
“Successful Educational Transitions”

The National Guard has two missions—a federal mission and a state mission. The previous slides were mostly about the federal mission of the National Guard and Reserve. But in 2020, the numbers of National Guard soldiers and airmen called up to serve their states and communities has been unprecedented.

In the first months of 2020, nearly 45,000 Guardsmen activated to assist with COVID-19, usually on Title 32 orders, not Title 10.

With the recent 20,000 Guardsmen activated to assist with state and local law enforcement, the total activated for domestic operations for 2020 is well over the 51,000 activated for Hurricane Katrina 15 years ago.

In early June this year there were 90,000 National Guard members on duty nationwide—not Title 10, but Title 32 or State Active Duty—an unprecedented number.



So just what is the National Guard and Reserve? In the military, nomenclature is everything. If you can't get the terminology straight, you don't really know what or who you're talking about. So we started learning about the **RESERVE FORCES**, first by placing them in the whole picture of the **TOTAL MILITARY FORCE**. Using the chart from the *DOD 2018 Demographic Profile*, you can see the various parts of the picture.

Note the parts of the Total Military Force: **DOD Active Duty** and Department of Homeland Defense **Coast Guard Active Duty**, the **DOD Civilian Personnel**, then the *three different* Reserve slices—**Retired Reserve**, **Standby Reserve**, and the big **Ready Reserve** slice.

Our focus is on the **Ready Reserve**—the pool of trained service members that may be recalled to active duty should the need arise—and particularly the part called the **Selected Reserve**, because Selected Reserve members train throughout the year and participate annually in Active Duty training exercises, usually as part of Guard or Reserve units.

Reservists belonging to the other two parts—the Individual Ready Reserve and the Inactive National Guard—have no training obligation, although they may be required to

attend an annual “muster” depending on the military reserve service they belong to. The **Reserve Components** are the Army National Guard, Army Reserve, Air National Guard, Air Force Reserve, Navy Reserve, Marine Corps Reserve, and Coast Guard Reserve.

It is the 800,000 plus Selected Reserve members of these Reserve Components that our Task Force is looking at for applicability of the Compact.





## Selected Reserve Members

802,842 (2018 data)

- Army National Guard 335,204
- Army Reserve 188,811
- Air National Guard 107,467
- Air Force Reserve 68,703
- Navy Reserve 58,196
- Marine Corps Reserve 38,333
- Coast Guard Reserve 6,126

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According to the *2018 Demographic Profile*, there were 802,842 members in the Selected Reserve, distributed as you see on this slide. About 65% of them are in the Army National Guard and Army Reserve. The Air National Guard is the third largest Reserve Component, then the Air Force Reserve. Just over 99% of the Selected Reserve members were located in the United States and U.S. territories.

Most Reservists are part-time Traditional members. Only 17% of the 800,000 plus members of the Selected Reserve work full-time for the Guard or Reserve—about 136,750. They’re part of the Full-time Support to the Guard and Reserve, as you’ll see on the next slide.



## Categories of Selected Reservists

- **Traditional** – part-time, train monthly (drill) + annual training
- **Full-Time Support** – 136,750 (17%)
  - Active/Guard Reserve (AGR) – 78,350
  - Military Technician (Dual-Status) – 53,000
  - Active Component (Title 10) – 5,400

The National Guard is different:

- Dual mission – State and Federal
- Multiple funding – Title 10, Title 32, & State Active Duty

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The vast majority of members of the Selected Reserve are part-time military, Traditional Guardsmen and Reservists—they’re the ones whose units get activated and deployed. They belong to units where they are required to periodically train, usually monthly, called drill weekends or UTAs (Unit Training Assembly), and participate in two weeks of annual training each year. The other categories of the Ready Reserve don’t have this requirement, only the Selected Reserve.

The Full-time Support (FTS) is a mix of civilians, military, and hybrids. This chart does not include the DOD’s pure civilian employees. It does show the numbers in 2018 of military-affiliated full-time support personnel. Originally, those of us on the Task Force thought that it was only the Full-time Support members of the National Guard and Reserve who moved, so we needed to fully understand them. The FTS includes some Active Duty Service personnel assigned to support and liaise with the reserve, the AGRs (Active/Guard Reserve), and the Technicians, most of whom are Military Technicians, Dual Status.

The AGRs are full-time military, on active duty orders in either Title 10 or Title 32, for a limited period (often three years or less), that can be renewed, so some of them are already covered by the Compact. The Military Technicians, Dual Status are full-time

civilian employees who are required by law to belong to the Reserve unit in order to hold the technician job. They wear the uniform as part of the job and do much the same work they would do in their military position in the unit during the week. They are kind of a hybrid of civilian and military, with special rules and even unions; they are part-time, Traditional Guardsmen and Reservists, and full-time civilian employees, who work under both Title 5 and Title 32 rules.

Only the Army and Air NG and the Army and AF Reserve have Military Technicians; the Full-time Support for the Navy and Marine Corps Reserve are Title 10 Active Component or purely civilian employees. The MilTech program is complicated, and there are ongoing efforts to move Full-time Support to all AGRs rather than use Military Technicians. The MilTechs are not covered by the Compact because they aren't on Title 10 orders, and it's not clear whether they're on full-time duty status, technically. But it was the testimony of the spouse of one of the Air Force Reserve Air Technicians in Utah whose story was a big motivator for Utah's change to their Compact legislation to extend coverage to Guard and Reserve in "full-time duty status."

If we do try to expand Compact coverage, in order to avoid confusion, we will need to be very clear and use terminology consistent with the legal definitions of any military terms when devising the language to be used to designate Compact applicability.

In 2018 there were about 136,750 of these three kinds of Full-time Support to the Guard and Reserve, most of them NOT covered by the Compact because their orders were under Title 32 not Title 10 or they were the civilian employee MilTechs and Traditional Guard and Reserve, sort of a civilian-military hybrid. But we were finding out that they often moved, between units within their state and often from one state to another.

The National Guard is different. It differs from the other Reserve units in that the Guard has a dual mission—every U.S. state and territory has a National Guard, which is under control of the governor. But the Guard can be "called up" by the president—activated or mobilized for federal service, put on active duty orders under command of the Army or the Air Force. In these cases they are on Title 10 orders. Other times they can be called up by the governor for state active duty, on SAD if the state is paying them, or on Title 32 if the federal government is paying the bill. In those cases they are usually called up for civil defense emergencies or for civil unrest. The Posse Comitatus Act limits the powers of the federal government in the use of active duty military personnel to enforce domestic policies within the U.S. but allows the National Guard under state authority to act in a law enforcement capacity within its own state or in an adjacent one if invited by that state's governor.

## **But National Guard, Reserve, and Active Duty are the Same, too**

- All members of the U.S. Military, both Active Duty and Selected Reserve, enlist with the very specific obligation to lay down their lives when so ordered, which is a clear distinction from other U.S. citizens.
- Members of the Selected Reserve – the Army National Guard, Army Reserve, Air National Guard, Air Force Reserve, Navy Reserve, Marine Corps Reserve, and Coast Guard Reserve – can be involuntarily ordered to active duty under federal law.

“Successful Educational Transitions”

The National Guard may be different, but the National Guard, Reserve, and Active Duty are the same, too, in this way:

All those who join the National Guard and Selected Reserve units—be they Traditional part-time members, Dual Status Military Technicians, or full-time military AGRs—enlist with the very specific obligation to lay down their lives when so ordered.

And all members of the Selected Reserve can be involuntarily ordered to active duty by the federal government.

Now let's update ourselves on the current NEED for National Guard and Reserve to be covered by the Compact.

We used to think they never moved, so do they now? We've found out that they do. The National Guard Bureau advertises all vacant positions in the states and territories nationwide. And the Bureau regularly sends out members of its full-time staff (who are in Title 10 status) to the states to get field experience. I was told that on the Air Guard side about 15 officers and 15 enlisted members every year are sent from the Bureau to state units for a year tour, then they return to their Bureau jobs, better trained and

knowledgeable about what the field needs. State Guard organizations actively recruit from one another. And as missions change and units are created and shut down, members move to stay in the Guard and Reserves, to other units in the same state or to units in other states. There is certainly more interstate movement in the Guard than ever before, and the Reserves have always been more fluid and less state centric.



## Current Need

- ✓ 623,000 AD school-aged children
- ✓ 431,644 NG&R school-aged children

## How Often..and Who Moves?

Service	Total Svc Members	Interstate Moves	%
Active Duty	1,304,418	434,000	33.2%
Air Natl Guard	107,500	923	0.9%
Army Natl Guard	335,200	917	0.3%

Note: Army National Guard database: only 100 members gave dependent data.  
Total number of children reported was 176.

### “Successful Educational Transitions”

But what is the current NEED in terms of numbers? There are fewer Guard and Reserve members than active duty, and only about two-thirds as many school-age children than in the active duty services. So the level of need should be much lower than that of Active Duty. But that also depends on how often they move! We know from our research that about one-third of the AD force moves every year, that’s over 400,000 members and their families moving each year. How many Guard and Reserve members move per year?

We couldn’t get any data from the Reserves, but we did get interstate transition data from both the Air and Army National Guard, for the 6-month period from October 2019 to March 2020. There were between 900 and 1000 members of each, the Air and Army National Guard, who changed duty stations from one state to another over those six months; all 50 states and DC were listed as senders and receivers. To get a yearly estimate, we could extrapolate the data and generously estimate 4,000 interstate duty transfers a year for the NG, which would amount to fewer than 1%—one one-hundredth—of the total National Guard membership changing duty stations from one state to another in a year, a whole lot less than the one third for AD.

And we actually have data on moves of children from the Army National Guard data,

which was much more detailed than the Air Guard's data. Of the 917 Army Guard members who moved, 655 provided dependent data. But most of them reported no children. The 100 who had children, reported a total of 176 children who may have moved and may have changed schools. We don't know their ages.

The other big question was WHO moved. Again we could see from the Army National Guard data that most moves were by Traditional, part-time Guard members, 859 of the 917 moves; only 51 were by AGRs and 7 by Military Technicians. Since most of the state-to-state duty moves were by part-time, Traditional Guard members rather than by Full-time Support personnel, it looks like both full-time and part-time Guard members would benefit from Compact coverage. That's the NEED from the perspective of the National Guard.

Let's also look at NEED from the point of view of the Military. It costs a lot of money to make a soldier or an airman. For instance, the U.S. Army pays about \$50,000 for soldiers going through Basic Training, according to one source. Another says just to recruit and screen an applicant averages \$22,000 before they go for training. The Army spends from \$1M to \$1.5M to make a Special Forces soldier. In the Air Force, the cost to train each military pilot through basic flight training is \$1M, and for a fully trained, experienced pilot over \$9M. Fighter pilots cost even more to train. Just the cost of a Top Secret clearance, needed for much of the work the Air Force does these days can be \$15,000 and several months to a year's time.

It is to the great advantage of the military services to have trained military personnel who decide to leave the AD service join the National Guard or Reserves, to keep the investment already made working for the nation, and available to the AD services when needed.

## Choice and Fairness Rationale - Updated

The Department has built (through a decade of investment and war) a stronger, more capable, better equipped, battle tested Guard and Reserve force than we have had at any time in our recent history....

For about \$50 Billion a year, the Nation maintains a strong, operationally engaged National Guard and Reserve force that comprises about 39% of the Department's military end strength for approximately 9% of the Department's Budget. The Nation must maintain a Reserve Component that is accessible, available, and flexible to provide operational forces, when needed, to satisfy the full range of potential missions called for by our civilian and military leadership.

- Reserve Forces Policy Board, Report to SECDEF, 2014

### "Successful Educational Transitions"

This comment from a 2014 report to the Secretary of Defense from the Reserve Forces Policy Board is very instructive here—39% of the DOD's military end strength for just 9% of the DOD's budget.

If we accept that it is to the benefit of our civilian and military leadership and to the nation to maintain a strong National Guard and Reserve, then interstate moves *from one duty station to another* should be supported by providing Compact coverage to both AGR and Traditional members (which would include Military Technicians). If part-time Reservists have to move to another state due to a change in their reserve position or in their "regular" civilian employment, or for family reasons, or whatever, *if they maintain their membership in the Guard or Reserve by transferring to another unit*, it helps keep the Reserve Component strong. If providing Compact coverage encourages staying in the Guard and Reserves, it fills a need as well as supports a military family.

Although the total number of National Guard and Reserve children who have to move appears to be a *relatively insignificant* number, for each of those children and their families, the move is *very significant*. We can say that even though the numbers are low, there are National Guard and Reserve children who must change schools as a result of moves by their military parents associated with changes to their reserve duty

station. Their nation needs them. The Guard and Reserve should get the same benefits as their Active Duty counterparts.

## Choice and Fairness Rationale - Updated

All members of the U.S. Military, both AD and NG&R, enlist with a specific obligation to lay down their lives when so ordered (**No Choice**), which is a clear distinction from other Americans and warrants expanding the legal protection of the Compact currently in force for AD military to the NG&R so all military families are covered. (**To be Fair**)

*"Successful Educational Transitions"*

National Guard and Reserve members do not differ from their Active Duty counterparts in terms of their specific obligation to sacrifice and serve when so ordered. They have no CHOICE. This legal obligation is the same for part-time and full-time Guard and Reserve, and it clearly distinguishes them from other Americans, making them like their Active Duty brethren, thus warranting expansion of the legal protection of the Compact to include them. The Compact should cover all military families, Guard and Reserve as well as Active Duty. To be FAIR.

## Choice and Fairness Rationale - Updated

“We have to change the culture. They are not weekend warriors anymore. They’re deploying all over the world. They have now become a critical piece of our national defense. They were a rainy day force, but now we need them every day. Everything that affects the active duty, affects them.”

Lt. Gen. Dana T. Atkins, USAF (Ret.)  
Military Officers Association of America, President and CEO,  
June 26, 2019, at the National Guard and Reserve Family Forum in Washington D.C.

### What can MIC3 do to help change the culture?

#### “Successful Educational Transitions”

The After Action Report from the National Guard and Reserve Family Forum held last year in Washington, DC, was sent to the Task Force by the commissioner from Virginia, Dan Dunham, in his response to our first NGRTF survey. We thank you, Dan. It was eye opening.

Also, based on our second survey data, some states are already very inclusive of their states’ Guard and Reserve in their practices and policies—I’m thinking Nebraska for one—even though Nebraska doesn’t have legislation that officially extends Compact coverage, like Kentucky and Arkansas both do. Several states reported an interest in creating state statutes separate from their Compact law to extend coverage. Brian Garrett, who now works with the state of Utah on Veterans’ issues and met with the Task Force last October, said at that meeting that Oregon, Nevada, Idaho, Alaska, and Washington State had reached out to Utah for advice on expanding coverage.

The Task Force has recommended that the Commission support expansion of Compact coverage to all members, part-time and full-time, of the National Guard and Reserve. So supporting states in their efforts to pass separate state statutes to do so would seem to be a logical first step. In particular, states have requested in the last few years that MIC3 provide the appropriate legal language that they could use in their state legislation.

MIC3 has provided information showing what other states have done but stopped short of recommending specific language.



## What can MIC3 do to Support expansion of Compact coverage to NG&R?

### Possible Options:

- Create appropriate legal language for state laws separate from Compact statutes.
- Provide examples of state laws passed by members states.
- Research and craft an effective amendment to the Model Compact Language to be proposed at a future ABM.
- Devise acceptable dues structure, based on data, to fairly assess state members for Active Duty as well as National Guard and Reserve.
- Find partners to help work in each state to shepherd appropriate legislation
  - National Guard Association of the United States (NGAUS)
  - Enlisted Association of the National Guard of the United States (EANGUS)
  - Reserve Officers Association (ROA)
  - Military Officers Association of America (MOAA)
  - National Governors Association (NGA)

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So, what can MIC3 do to support expansion of Compact coverage to the National Guard and Reserve?

That will be up to you after today. We will provide in our complete final report all the information we have from our discussions of possible options for courses of action. Each comes with its own set of considerations and concerns.

The Commission must act and spend resources within the bounds of our purpose in Article I and powers and duties in Article X. Applicability can't be changed through the rule making authority—we have legal opinions that have told us that—but it could be changed through amendment, per Article 15, Section C.

### **ARTICLE XV – MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

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

That would take a long time, since 51 different member statutes would have to be

amended by the legislature in that state/locality, and crafting an amendment would not be easy. Statements of applicability to active duty members of the uniformed services are embedded throughout the Model Compact Language. A simple redefinition of Active Duty will not legally suffice; perhaps a direct replacement with an appropriate inclusive phrase and the addition of terms and definitions could accomplish much.

Devising an amendment would require expert legal counsel and expense to MIC3. As would the work to shepherd the changes in all 50 states and DC. The original adoption of the Compact by all 51 members took nearly 6 years and thousands of dollars in staff travel and salary. Adding National Guard and Reserve would raise the dues of all states, unless accompanied by additional MIC3 actions (perhaps using an amount less than the \$1.15 currently assessed for each AD member assigned to the states and DC). But an increase in the MIC3 treasury would allow the Commission to do more for our constituency—the states and their schools—to help them better accommodate military student transition needs. No amendment would be enforceable until all 51 members' Compact statutes were amended, which could take a lot of time, and money if MIC3 were to actively recruit state legislatures to join the effort. And who's to say that every state, faced with amending their law and paying more dues would decide to do so. If the statute were opened up for amendment with the MIC3 proposal, it would be open for other possible changes, too, that could comprise the integrity of the whole Compact. Likewise if one state decided they would rather just drop out and added an expiration to their statute. These are politically troubling times to trust 51 local legislative bodies to all do the same thing.

Coverage *could* be accomplished much more quickly and at much less expense to the Commission by assisting states and DC to enact legislation separate from their Compact statutes to expand coverage to all Selected Reserve members in their jurisdictions. The coverage would be effective in the state as soon as it was passed. Adding coverage that way would not increase member state dues AND would have the additional benefit of covering *intrastate* moves as well as *interstate* moves to other states with similar legislation. Also, additional provisions to help military families and students in the state's schools could be included in the same laws. In fact, when California passed state legislation to accommodate the request of the Defense State Liaison Office's 2019 "Advance Enrollment" initiative, their law extended coverage for advance enrollment to the California Guard and Reserve units in the state by expanding their definition of "active duty" to include Title 32 active duty as well as Title 10.

Arkansas in their separate state law that expands coverage to "children of all components of the uniformed services" also sets up programs for military students, like the stipulation that if a school district has more than 20 military students, the district must appoint a military education coordinator as a point of contact for transitioning military families. The driver for the Arkansas legislation, D.K Berry, says that doing a

separate law "untethers" them and allows them "far greater and swifter means of adopting programs to support military-connected children while still abiding by the MIC3 basics." Such state action could raise awareness in the state and local communities of the value of the National Guard and Reserve in their states and of the debt of gratitude owed them.

State legislative actions could be led and championed by military support organizations active in each state, like the Enlisted Association of the National Guard of the United States (EANGUS), the Military Officers Association of America (MOAA), or even the National Governors Association (NGA). There would be little cost to the Commission—some for extra legal fees—and there would be no need to abandon other activities because of a diversion of funds or staff work time.

Of course, these same groups would likely help with an effort to amend the states' Compact laws, if MIC3 were to propose such an amendment.

We have listed some options for Commission action in support of expanding Compact Coverage to all National Guard and Reserve who are part of the Selected Reserve. There are likely others.

I would like to end this report by offering a motion on behalf of the MIC3 National Guard and Reserve Coverage Task Force in order to open a discussion and facilitate the Commission's work to bring this business item to a close by asking the commission to accept our recommendation and initiate actions that support it. Next slide, please.



MILITARY INTERSTATE  
CHILDREN'S COMPACT  
COMMISSION

## Original NGRTF Motion

The Commission accept the Task Force recommendation and support the expansion of the Compact coverage to all members of the Selected Reserve, including Traditional, Active/Guard Reserve, and Military Technician (Dual Status) members for moves related to changes in duty station and for deployments in any active duty status, including Title 10, Title 32, and State Active Duty (SAD), by doing the following:

(1) referring the determination of what actions the Commission will take to the appropriate Standing Committee(s), which will take into consideration all relevant factors, including costs to the Commission and to the member states, feasibility and compatibility with the Compact purpose and Commission powers and duties, timeline, impact on the integrity of the Compact and workload for the Commission and MIC3 staff, and other risks and benefits; and

(2) budgeting \$5,000, with permission to request the EXCOM for more, up to a limit of \$20,000, for reasonable expenses required to explore options and initiate action(s) in support of the recommendation.

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### OUTCOME

The original motion offered by NGRTF Chair was thoroughly discussed; many state commissioners felt they were obligated to present the matter to their state councils before committing MIC3 support and resources to the recommendation. The motion was amended to the following, which was passed by majority vote, with two votes of no by the state of Utah and Idaho (from those who advocated for the original motion) and no abstentions.

### Amended Motion as Approved

That the Commission accept the Task Force report and refer it to the Executive Committee for further action.

## Outcome



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**Amended Motion as Approved:** That the Commission accept the Task Force report and refer it to the Executive Committee for further action.

**Task Force Recommendation:** The NGRTF recommends that MIC3 support expansion of Compact coverage to all members of the Selected Reserve—including Traditional, Active/Guard Reserve, and Military Technician (Dual Status) members—for moves related to changes in duty station and for deployments in any active duty status—including Title 10, Title 32, and State Active Duty (SAD).

Furthermore, the NGRTF recommends that determining what form MIC3 support should take be referred to the appropriate MIC3 Standing Committee so that all factors involved in that decision can be duly considered, including costs to the Commission and to the member states, as well as the time it would take to accomplish expanded applicability to the most members of the Selected Reserve in the most states.

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Amended Motion as Approved: That the Commission accept the Task Force report and refer it to the Executive Committee for further action.

### Task Force Recommendation

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## Recommendation

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Furthermore, the NGRTF recommends that determining what form MIC3 support should take be referred to the appropriate MIC3 Standing Committee(s) so that all factors involved in that decision can be duly considered, including costs to the Commission and to the member states, as well as the time it would take to accomplish expanded applicability to the most members of the Selected Reserve in the most states.

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