

1 ENROLLED

2 COMMITTEE SUBSTITUTE

3 FOR

4 **H. B. 2550**

5  
6 (By Delegates Iaquina, Fleischauer, Longstreth,  
7 Stephens, Walker and Azinger)

8 [Passed March 10, 2011; in effect ninety days from passage.]

9  
10 AN ACT to amend the Code of West Virginia, 1931, as amended, by  
11 adding thereto a new article, designated §18-10F-1 and §18-  
12 10F-2, all relating to the enactment of the Interstate Compact  
13 on Educational Opportunity for Military Children; establishing  
14 the West Virginia Council for Educational Opportunity for  
15 Military Children; designating membership; and establishing  
16 powers and duties.

17 *Be it enacted by the Legislature of West Virginia:*

18 That the Code of West Virginia, 1931, as amended, be amended  
19 by adding thereto a new article, designated §18-10F-1 and §18-10F-  
20 2, all to read as follows:

21 **ARTICLE 10F. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR**  
22 **MILITARY CHILDREN.**

23 **§18-10F-1. Interstate Compact on Educational Opportunity for**  
24 **Military Children.**

25 This article is known and may be cited as the "Interstate  
26 Compact on Educational Opportunity for Military Children".

1 **§18-10F-2. Enactment of Interstate Compact.**

2 The Interstate Compact on Educational Opportunity for Military  
3 Children is hereby enacted into law and entered into by the State  
4 of West Virginia with any and all states legally joining therein in  
5 accordance with its terms, in the form substantially as follows:

6

7

INTERSTATE COMPACT ON EDUCATIONAL

8

OPPORTUNITY FOR MILITARY CHILDREN

9

ARTICLE I. PURPOSE

10

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

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

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

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

26 (d) Facilitating the on-time graduation of children of

1 military families;

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

4 (f) Providing for the uniform collection and sharing of  
5 information between and among member states, schools and military  
6 families under this compact;

7 (g) Promoting coordination between this compact and other  
8 compacts affecting military children; and

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

12

13 ARTICLE II. DEFINITIONS

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15 As used in this article and compact, unless the context  
16 clearly requires a different meaning:

17 (a) "Active duty" means full-time duty status in any of the  
18 active uniformed services of the United States, including service  
19 in the National Guard and Reserve pursuant to active duty orders in  
20 accordance with 10 U.S.C. Sections 1209 and 1211;

21 (b) "Child of a military family" means any school-aged child  
22 enrolled in any of grades kindergarten through twelfth who is in  
23 the household of an active duty uniformed services member;

24 (c) "Compact commissioner" means the voting representative of  
25 a compacting state appointed pursuant to Article VIII of this  
26 compact;

1 (d) "Deployment" means the time period beginning one month  
2 prior to a uniformed services member's departure from his or her  
3 home station on military orders and ending six months after return  
4 to his or her home station;

5 (e) "Education records" means all documents, files, data and  
6 official records directly related to a student and maintained by a  
7 school or county board. This includes all material kept in the  
8 student's cumulative file, such as but not limited to generally-  
9 identifying data, attendance records, academic work completion  
10 records, achievement records, evaluative test results, health data,  
11 disciplinary records, test protocols, and individualized education  
12 program or service records;

13 (f) "Extracurricular activities" means voluntary activities  
14 sponsored by a school, a county board or an organization sanctioned  
15 by a county board or the state board of education. Extracurricular  
16 activities include, but are not limited to, preparation for and  
17 involvement in public performances, contests, athletic  
18 competitions, demonstrations, displays, organizations and clubs;

19 (g) "Interstate Commission on Educational Opportunity for  
20 Military Children" or "Interstate Commission" means the Commission  
21 that is created by Article IX of this compact;

22 (h) "County board" means a county board of education, which is  
23 the public entity legally constituted by this state as an  
24 administrative agency to provide control of and direction for  
25 grades kindergarten through twelfth in the public schools in the  
26 county in which it operates;

1 (i) "Member state" means a state that has enacted this  
2 compact;

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

12 (k) "Non-member state" means a state that has not enacted this  
13 compact;

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

16 (m) "Rule" means a written statement by the Interstate  
17 Commission which:

18 (1) Is promulgated pursuant to Article XII of this compact;

19 (2) Is of general applicability;

20 (3) Implements, interprets or prescribes a policy or provision  
21 of this compact, or an organizational, procedural, or practice  
22 requirement of the Interstate Commission;

23 (4) Has the force and effect of statutory law in a member  
24 state; and

25 (5) May be amended, repealed, or suspended by act of the  
26 Interstate Commission;

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

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

7 (p) "Student" means a child of a military family who is  
8 formally enrolled in any of grades kindergarten through twelfth and  
9 for whom a county board receives public funding;

10 (q) "Transition" means:

11 (1) The formal and physical process of transferring from one  
12 school to another; or

13 (2) The period of time during which a student moves from one  
14 school in a sending state to another school in the receiving state;

15 (r) "Uniformed services" means the Army, Navy, Air Force,  
16 Marine Corps, Coast Guard, and the Commissioned Corps of the  
17 National Oceanic and Atmospheric Administration, and Public Health  
18 Services;

19 (s) "Veteran" means a person who performed active duty service  
20 and was discharged or released therefrom under conditions other  
21 than dishonorable; and

22 (t) "The West Virginia Council for Educational Opportunity for  
23 Military Children" or "West Virginia Council" means the state  
24 coordinating council established in Article VIII of this compact.

25

26 ARTICLE III. APPLICABILITY

1 (a) This compact applies to:  
2 (1) Each county board of education; and  
3 (2) The children of:  
4 (A) Active duty members of the uniformed services as defined  
5 in this compact, including members of the National Guard and  
6 Reserve on active duty orders pursuant to 10 U.S.C. Sections 1209  
7 and 1211;  
8 (B) Members or veterans of the uniformed services who are  
9 severely injured and medically discharged or retired for a period  
10 of one year after medical discharge or retirement; and  
11 (C) Members of the uniformed services who die on active duty  
12 or as a result of injuries sustained on active duty for a period of  
13 one (1) year after death.  
14 (b) Except as provided in subsection (a) of this Article III,  
15 this compact does not apply to the children of:  
16 (1) Inactive members of the National Guard or military  
17 reserves;  
18 (2) Retired members of the uniformed services;  
19 (3) Veterans of the uniformed services;  
20 (4) Other United States Department of Defense personnel; nor  
21 (5) Any other federal agency civilian or contract employees  
22 not defined as active duty members of the uniformed services.

23

24 ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT

25

26 (a) *Unofficial or "hand-carried" education records --*

1 In the event that official education records cannot be  
2 released to a student's parents or legal guardians for the purpose  
3 of transfer, the custodian of the records in the sending state  
4 shall prepare and furnish to the parents a complete set of  
5 unofficial educational records containing uniform information as  
6 determined by the Interstate Commission. As quickly as possible  
7 upon receipt of the unofficial education records by a school in the  
8 receiving state, the school shall enroll and appropriately place  
9 the student based on the information provided in the unofficial  
10 records pending validation by the official records.

11 (b) *Official education records/transcripts* --

12 Simultaneous with the enrollment and conditional placement of  
13 a student, the school in the receiving state shall request the  
14 student's official education records from the school in the sending  
15 state. Upon receipt of this request, the school in the sending  
16 state shall process and furnish the official education records to  
17 the school in the receiving state within ten days or such other  
18 time period as is determined reasonable under the rules promulgated  
19 by the Interstate Commission.

20 (c) *Immunizations* --

21 (1) A county board shall allow a student thirty days from the  
22 date of enrollment to obtain any required immunizations, or such  
23 other time period as is determined reasonable under the rules  
24 promulgated by the Interstate Commission.

25 (2) In any case where a series of immunizations is required,  
26 the student shall obtain the initial vaccination within thirty days

1 of enrollment, or such other time period as is determined  
2 reasonable under the rules promulgated by the Interstate  
3 Commission.

4 (d) *Enrollment at current grade level --*

5 (1) A student shall be permitted to enroll in the grade level  
6 in this state, including kindergarten, which is commensurate with  
7 the grade level in which he or she was enrolled in the sending  
8 state at the time of transition, regardless of his or her age.

9 (2) A student that has satisfactorily completed the  
10 prerequisite grade level in the sending state is eligible for  
11 enrollment in the next highest grade level in this state,  
12 regardless of his or her age.

13

14 ARTICLE V. PLACEMENT & ATTENDANCE

15

16 (a) *Course placement --*

17 (1) When a student transfers to this state before or during  
18 the school year, the school in this state shall initially place the  
19 student in educational courses based on the courses in which he or  
20 she was enrolled in the sending state, educational assessments  
21 conducted at the school in the sending state, or both, if the  
22 courses are offered at the school to which the student is  
23 transferring. This course placement provision includes, but is not  
24 limited to Honors, International Baccalaureate, Advanced Placement,  
25 vocational, technical and career pathways courses.

26 (2) A school shall give paramount consideration to continuing

1 a student's academic program from the previous school, and  
2 promoting placement in academically and career-challenging courses,  
3 when considering course placement.

4 (3) A school is not precluded from performing subsequent  
5 evaluations to ensure appropriate placement and continued  
6 enrollment of the student in any course.

7 (b) *Educational program placement* --

8 When a student transfers to this state, the school shall  
9 initially place the student in educational programs based on  
10 current educational assessments conducted at the school in the  
11 sending state or participation or placement in like programs in the  
12 sending state. Such programs include, but are not limited to  
13 gifted and talented programs and English as a second language  
14 (ESL). A school is not precluded from performing subsequent  
15 evaluations to ensure appropriate placement of the student.

16 (c) *Special education services* --

17 (1) In compliance with the federal requirements of the  
18 Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A.  
19 Section 1400 et seq, a school in this state shall initially provide  
20 comparable services to a student with disabilities based on his or  
21 her current Individualized Education Program (IEP); and

22 (2) In compliance with the requirements of Section 504 of the  
23 Rehabilitation Act, 29 U.S.C.A. Section 794 (Section 504), and with  
24 Title II of the Americans with Disabilities Act, 42 U.S.C.A.  
25 Sections 12131-12165 (Title II), any school in this state shall  
26 make reasonable accommodations and modifications to address the

1 needs of incoming students with disabilities, subject to an  
2 existing Section 504 or Title II plan, to provide the student with  
3 equal access to education. The school is not precluded from  
4 performing subsequent evaluations to ensure appropriate placement  
5 of the student.

6 (d) *Placement flexibility* --

7 County board administrative officials have flexibility in  
8 waiving course and program prerequisites, or other preconditions  
9 for placement in courses or programs offered under the authority of  
10 the county board.

11 (e) *Absence as related to deployment activities* --

12 A student whose parent or legal guardian is an active duty  
13 member of the uniformed services and has been called to duty for,  
14 is on leave from, or immediately returned from deployment to a  
15 combat zone or combat support posting, shall be granted additional  
16 excused absences at the discretion of the county superintendent to  
17 visit with his or her parent or legal guardian relative to such  
18 leave or deployment of the parent or guardian.

19

20 ARTICLE VI. ELIGIBILITY

21

22 (a) *Eligibility for enrollment* --

23 (1) Special power of attorney, relative to the guardianship of  
24 a child of a military family and executed under applicable law is  
25 sufficient for the purposes of enrollment and all other actions  
26 requiring parental participation and consent.

1 (2) A county board may not charge local tuition to a  
2 transitioning military child placed in the care of a noncustodial  
3 parent or other person standing in loco parentis who lives in a  
4 school district other than that of the custodial parent.

5 (3) A transitioning military child, placed in the care of a  
6 noncustodial parent or other person standing in loco parentis who  
7 lives in a school district other than that of the custodial parent,  
8 may continue to attend the school in which he or she was enrolled  
9 while residing with the custodial parent.

10 (b) *Eligibility for extracurricular participation* --

11 The State Board of Education and county boards shall  
12 facilitate the opportunity for transitioning military children to  
13 be included in extracurricular activities, regardless of  
14 application deadlines, to the extent the children are otherwise  
15 qualified.

16

17 ARTICLE VII. GRADUATION

18

19 In order to facilitate the on-time graduation of children of  
20 military families the State Board of Education and each county  
21 board shall incorporate the following procedures:

22 (a) *Waiver requirements* --

23 County board administrative officials shall either waive  
24 specific courses required for graduation if a student has  
25 satisfactorily completed similar course work in another local  
26 education agency, or provide reasonable justification for denial.

1 If a waiver is not granted to a student who would qualify to  
2 graduate from the sending school, the county board shall provide an  
3 alternative means of acquiring required coursework so that the  
4 student may graduate on time.

5 (b) *Exit exams* --

6 Any school in this state shall accept:

7 (1) Exit or end-of-course exams required for graduation from  
8 the sending state;

9 (2) National norm-referenced achievement tests; or

10 (3) Alternative testing, in lieu of testing requirements for  
11 graduation in the receiving state. In the event that the  
12 alternatives in this subsection cannot be accommodated by a school  
13 for a student transferring in his or her senior year, then the  
14 provisions of subsection (c) of Article VII of this compact apply.

15 (c) *Transfers during senior year* --

16 If a student transferring at the beginning of or during his or  
17 her senior year is ineligible to graduate from a school in this  
18 state after all alternatives have been considered, the county board  
19 and the local education agency in the sending state shall ensure  
20 that the student receives a diploma from the sending state, if the  
21 student meets the graduation requirements of the local education  
22 agency in the sending state. In the event that one of the states  
23 in question is not a member of this compact, the member state shall  
24 use best efforts to facilitate the on-time graduation of the  
25 student in accordance with subsections (a) and (b) of this Article  
26 VII.

ARTICLE VIII. STATE COORDINATION

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(a) The West Virginia Council for Educational Opportunity for Military Children is hereby established for the purpose of coordinating entities in this state regarding participation in the Interstate Compact on Educational Opportunity for Military Children.

(b) Membership of the Council consists of at least six members as follows:

- (1) The State Superintendent of Schools;
- (2) The superintendent of a county board in the state which has a high concentration of military children, appointed by the Governor. If the Governor determines there is not a county school district that contains a high concentration of military children, he or she may appoint a superintendent from any county school district to represent county boards on the State Council;
- (3) An individual representing a military installation in this state appointed by the Governor by and with the advice and consent of the Senate. This member serves a term of four years, except that the term of the individual initially appointed expires June 30, 2015. Each subsequent term begins on July 1 in the year of appointment.
- (4) An individual representing the executive branch of government, appointed by the Governor;
- (5) One member of the West Virginia Senate, appointed by the President of the West Virginia Senate; and

1           (6) One member of the West Virginia House of Delegates,  
2 appointed by the Speaker of the West Virginia House of Delegates.

3           (c) The Governor shall appoint a Compact Commissioner who is  
4 responsible for administering and managing the state's  
5 participation in the compact. The Governor may select the  
6 Commissioner from members appointed to the Council as provided in  
7 subsection (b) of this Article VIII, or may appoint another  
8 individual to serve in this capacity. A individual who is not  
9 already a full voting member of the Council becomes an ex officio  
10 member of the Council if appointed as Commissioner.

11           (d) The West Virginia Council has and may exercise all powers  
12 necessary or appropriate to carry out and effectuate the purpose  
13 and intent of this compact, including, but not limited to the  
14 following:

15           (1) Facilitate coordination among state agencies and  
16 governmental entities of West Virginia, including county boards and  
17 military installations, concerning the state's participation in,  
18 and compliance with, this compact and Interstate Commission  
19 activities; and

20           (2) Appoint or designate a military family education liaison  
21 to assist military families and the state in facilitating  
22 implementation of the compact. This individual becomes an ex  
23 officio member of the West Virginia Council if he or she is not  
24 already a full voting member of the Council when so appointed or  
25 designated.

26

1           ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL  
2                           OPPORTUNITY FOR MILITARY CHILDREN

3  
4           (a) The member states hereby create the "Interstate Commission  
5 on Educational Opportunity for Military Children." The activities  
6 of the Interstate Commission are the formation of public policy and  
7 are a discretionary state function.

8           (b) The Interstate Commission:

9           (1) Is a body corporate and joint agency of the member states  
10 and has all the responsibilities, powers and duties set forth  
11 herein, and such additional powers as may be conferred upon it by  
12 a subsequent concurrent action of the respective Legislatures of  
13 the member states in accordance with the terms of this compact;

14           (2) Consists of one Interstate Commission voting  
15 representative from each member state who is that state's Compact  
16 Commissioner.

17           (A) Each member state represented at a meeting of the  
18 Interstate Commission is entitled to one vote.

19           (B) A majority of the total member states constitutes a quorum  
20 for the transaction of business, unless a larger quorum is required  
21 by the bylaws of the Interstate Commission.

22           (C) A representative may not delegate a vote to another member  
23 state. In the event a Compact Commissioner is unable to attend a  
24 meeting of the Interstate Commission, the Governor or State Council  
25 of the Compact Commissioner's state may delegate voting authority  
26 to another person from that state for a specified meeting.

1 (D) The bylaws may provide for meetings of the Interstate  
2 Commission to be conducted by telecommunication or electronic  
3 communication;

4 (3) Consists of ex-officio, nonvoting representatives who are  
5 members of interested organizations. Such ex-officio members, as  
6 defined in the bylaws, may include, but are not limited to, members  
7 of the representative organizations of military family advocates,  
8 local education agency officials, parent and teacher groups, the  
9 United States Department of Defense, the Education Commission of  
10 the States, the Interstate Agreement on the Qualification of  
11 Educational Personnel, and other interstate compacts affecting the  
12 education of children of military members;

13 (4) Meets at least once each calendar year. The chairperson  
14 may call additional meetings and, upon the request of a simple  
15 majority of the member states, shall call additional meetings;

16 (5) Establishes an executive committee, whose members shall  
17 include the officers of the Interstate Commission and such other  
18 members of the Interstate Commission as established in the bylaws.  
19 Each member of the executive committee serves a one year term.  
20 Each member of the executive committee is entitled to one vote.  
21 The executive committee has the power to act on behalf of the  
22 Interstate Commission, with the exception of rulemaking, during  
23 periods when the Interstate Commission is not in session. The  
24 executive committee shall oversee the daily activities of the  
25 administration of the compact, including enforcement and compliance  
26 with the provisions of the compact, its bylaws and rules, and such

1 other duties as it determines are necessary. A representative of  
2 the United States Department of Defense serves as an ex-officio,  
3 nonvoting member of the executive committee;

4 (6) Establishes bylaws and rules that provide for conditions  
5 and procedures under which the Interstate Commission makes its  
6 information and official records available to the public for  
7 inspection or copying. The Interstate Commission may exempt from  
8 disclosure information or official records to the extent they would  
9 adversely affect personal privacy rights or proprietary interests;

10 (7) Gives public notice of all meetings. All meetings shall  
11 be open to the public, except as set forth in the rules or as  
12 otherwise provided in the compact. The Interstate Commission and  
13 its committees may close a meeting, or portion thereof, where it  
14 determines by two-thirds vote that an open meeting would be likely  
15 to:

16 (A) Relate solely to the Interstate Commission's internal  
17 personnel practices and procedures;

18 (B) Disclose matters specifically exempted from disclosure by  
19 federal and state statute;

20 (C) Disclose trade secrets or commercial or financial  
21 information which is privileged or confidential;

22 (D) Involve accusing a person of a crime, or formally  
23 censuring a person;

24 (E) Disclose information of a personal nature where disclosure  
25 would constitute a clearly unwarranted invasion of personal  
26 privacy;

1 (F) Disclose investigative records compiled for law  
2 enforcement purposes; or

3 (G) Specifically relate to the Interstate Commission's  
4 participation in a civil action or other legal proceeding;

5 (8) Causes its legal counsel or designee to certify that a  
6 meeting may be closed, and reference each relevant exemptable  
7 provision for any meeting or portion of a meeting which is closed  
8 pursuant to this provision. The Interstate Commission shall  
9 maintain a minute record of each meeting which shall fully and  
10 clearly describe all matters discussed in the meeting. The minute  
11 record shall provide a full and accurate summary of actions taken,  
12 and the reasons therefore, including a description of the views  
13 expressed and the record of a roll call vote. All documents  
14 considered in connection with an action shall be identified in the  
15 minute record. All minutes and documents of a closed meeting shall  
16 remain under seal, subject to release by a majority vote of the  
17 Interstate Commission.

18 (9) Collects standardized data concerning the educational  
19 transition of the children of military families under this compact  
20 as directed through its rules. The rules shall specify the data to  
21 be collected, the means of collection and data exchange and  
22 reporting requirements. Such methods of data collection, exchange  
23 and reporting shall, in so far as is reasonably possible, conform  
24 to current technology and coordinate its information functions with  
25 the appropriate custodian of records as identified in the bylaws  
26 and rules; and

1 (10) Creates a process that permits military officials,  
2 education officials and parents to inform the Interstate Commission  
3 if and when there are alleged violations of the compact or its  
4 rules or when issues subject to the jurisdiction of the compact or  
5 its rules are not addressed by the state or local education agency.  
6 This subdivision does not create a private right of action against  
7 the Interstate Commission or any member state.

8

9 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

10

11 The Interstate Commission has the following powers:

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

13 (b) To promulgate rules and take all necessary actions to  
14 effect the goals, purposes and obligations as enumerated in this  
15 compact. The rules have the force and effect of statutory law and  
16 are binding in the compact states to the extent and in the manner  
17 provided in this compact;

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

21 (d) To enforce compliance with the compact provisions, the  
22 rules promulgated by the Interstate Commission, and the bylaws,  
23 using all necessary and proper means, including but not limited to  
24 the use of judicial process;

25 (e) To establish and maintain offices which shall be located  
26 within one or more of the member states;

- 1 (f) To purchase and maintain insurance and bonds;
- 2 (g) To borrow, accept, hire or contract for services of  
3 personnel;
- 4 (h) To establish and appoint committees including, but not  
5 limited to, an executive committee as required by Article IX of  
6 this compact, which have the power to act on behalf of the  
7 Interstate Commission in carrying out its powers and duties  
8 hereunder;
- 9 (i) To elect or appoint such officers, attorneys, employees,  
10 agents or consultants, and to fix their compensation, define their  
11 duties and determine their qualifications; and to establish the  
12 Interstate Commission's personnel policies and programs relating to  
13 conflicts of interest, rates of compensation, and qualifications of  
14 personnel;
- 15 (j) To accept any and all donations and grants of money,  
16 equipment, supplies, materials, and services, and to receive,  
17 utilize, and dispose of such;
- 18 (k) To lease, purchase, accept contributions or donations of,  
19 or otherwise to own, hold, improve or use any property, real,  
20 personal, or mixed;
- 21 (l) To sell, convey, mortgage, pledge, lease, exchange,  
22 abandon, or otherwise dispose of any property, real, personal or  
23 mixed;
- 24 (m) To establish a budget and make expenditures;
- 25 (n) To adopt a seal and bylaws governing the management and  
26 operation of the Interstate Commission;

1 (o) To report annually to the Legislatures, Governors,  
2 judiciary, and state councils of the member states concerning the  
3 activities of the Interstate Commission during the preceding year.  
4 Such reports also shall include any recommendations that may have  
5 been adopted by the Interstate Commission;

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

9 (q) To establish uniform standards for reporting, collecting  
10 and exchanging data;

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

13 (s) To perform such functions as may be necessary or  
14 appropriate to achieve the purposes of this compact; and

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

18

19 ARTICLE XI. ORGANIZATION AND OPERATION OF THE  
20 INTERSTATE COMMISSION

21

22 (a) The Interstate Commission shall, by a majority of the  
23 members present and voting, within twelve months after the first  
24 Interstate Commission meeting, adopt bylaws to govern its conduct  
25 as may be necessary or appropriate to carry out the purposes of the  
26 compact, including, but not limited to:

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

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

4 (3) Providing for the establishment of committees and for  
5 governing any general or specific delegation of authority or  
6 function of the Interstate Commission;

7 (4) Providing reasonable procedures for calling and conducting  
8 meetings of the Interstate Commission, and ensuring reasonable  
9 notice of each meeting;

10 (5) Establishing the titles and responsibilities of the  
11 officers and staff of the Interstate Commission;

12 (6) Providing a mechanism for concluding the operations of the  
13 Interstate Commission and the returning surplus funds that may  
14 exist upon termination of the compact after the payment and  
15 reserving of all of its debts and obligations; and

16 (7) Providing start-up rules for initial administration of the  
17 compact.

18 (b) The Interstate Commission shall, by a majority of the  
19 members, elect annually from among its members a chairperson, a  
20 vice-chairperson, and a treasurer, each of whom shall have such  
21 authority and duties as may be specified in the bylaws. The  
22 chairperson or, in the chairperson's absence or disability, the  
23 vice-chairperson, shall preside at all meetings of the Interstate  
24 Commission. The officers so elected serve without compensation or  
25 remuneration from the Interstate Commission. Subject to the  
26 availability of budgeted funds, the officers shall be reimbursed

1 for ordinary and necessary costs and expenses incurred by them in  
2 the performance of their responsibilities as officers of the  
3 Interstate Commission.

4 (c) *Executive Committee, Officers and Personnel* --

5 (1) The executive committee has such authority and duties as  
6 may be set forth in the bylaws, including but not limited to:

7 (A) Managing the affairs of the Interstate Commission in a  
8 manner consistent with the bylaws and purposes of the Interstate  
9 Commission;

10 (B) Overseeing an organizational structure within, and  
11 appropriate procedures for the Interstate Commission to provide for  
12 the creation of rules, operating procedures, and administrative and  
13 technical support functions; and

14 (C) Planning, implementing, and coordinating communications  
15 and activities with other state, federal and local government  
16 organizations in order to advance the goals of the Interstate  
17 Commission.

18 (2) The executive committee may, subject to the approval of  
19 the Interstate Commission, appoint or retain an executive director  
20 for such period, upon such terms and conditions and for such  
21 compensation, as the Interstate Commission may deem appropriate.

22 The executive director serves as secretary to the Interstate  
23 Commission, but is not a Member of the Interstate Commission. The  
24 executive director shall hire and supervise such other persons as  
25 may be authorized by the Interstate Commission.

26 (d) The Interstate Commission's executive director and its

1 employees are immune from suit and liability, either personally or  
2 in their official capacity, for a claim for damage to or loss of  
3 property or personal injury or other civil liability caused or  
4 arising out of or relating to an actual or alleged act, error, or  
5 omission that occurred, or that such person had a reasonable basis  
6 for believing occurred, within the scope of Interstate Commission  
7 employment, duties, or responsibilities. The executive director  
8 and employees are not protected from suit or liability for damage,  
9 loss, injury, or liability caused by the intentional or willful and  
10 wanton misconduct of such person.

11 (1) The liability of the Interstate Commission's executive  
12 director and employees or Interstate Commission representatives,  
13 acting within the scope of employment or duties for acts, errors,  
14 or omissions occurring within his or her state may not exceed the  
15 limits of liability set forth under the constitution and laws of  
16 that state for state officials, employees, and agents. The  
17 Interstate Commission is considered to be an instrumentality of the  
18 states for the purposes of any such action. This subsection does  
19 not protect the executive director or employees from suit or  
20 liability for damage, loss, injury, or liability caused by his or  
21 her intentional or willful and wanton misconduct.

22 (2) The Interstate Commission shall defend the executive  
23 director and its employees and, subject to the approval of the  
24 Attorney General or other appropriate legal counsel of the member  
25 state represented by an Interstate Commission representative, shall  
26 defend such Interstate Commission representative in any civil

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

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

21

22

## ARTICLE XII. RULEMAKING FUNCTIONS

23

### OF THE INTERSTATE COMMISSION

24

25

(a) *Rulemaking Authority* --

26

The Interstate Commission shall promulgate reasonable rules in

1 order to effectively and efficiently achieve the purposes of this  
2 compact. Notwithstanding the foregoing, in the event the  
3 Interstate Commission exercises its rulemaking authority in a  
4 manner that is beyond the scope of the purposes of this Act, or the  
5 powers granted hereunder, then such an action by the Interstate  
6 Commission is invalid and has no force nor effect.

7 (b) *Rulemaking Procedure* --

8 Rules shall be made pursuant to a rulemaking process that  
9 substantially conforms to the "Model State Administrative Procedure  
10 Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as  
11 amended, as may be appropriate to the operations of the Interstate  
12 Commission.

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

22 (d) If a majority of the Legislatures of the compacting states  
23 rejects a rule by enactment of a statute or resolution in the same  
24 manner used to adopt the compact, then that rule has no further  
25 force nor effect in any compacting state.

26

1                   ARTICLE XIII.  OVERSIGHT, ENFORCEMENT,  
2                                   AND DISPUTE RESOLUTION

3  
4           (a) *Oversight* --

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

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

16          (3) The Interstate Commission is entitled to receive all  
17 service of process in any such proceeding, and has standing to  
18 intervene in the proceeding for all purposes.  Failure to provide  
19 service of process to the Interstate Commission renders a judgment  
20 or order void as to the Interstate Commission, this compact or  
21 promulgated rules.

22          (b) *Default, Technical Assistance, Suspension and Termination*

23 --

24          If the Interstate Commission determines that a member state  
25 has defaulted in the performance of its obligations or  
26 responsibilities under this compact, or the bylaws or promulgated

1 rules, the Interstate Commission shall:

2       (1) Provide written notice to the defaulting state and other  
3 member states, of the nature of the default, the means of curing  
4 the default and any action taken by the Interstate Commission. The  
5 Interstate Commission shall specify the conditions by which the  
6 defaulting state must cure its default; and

7       (2) Provide remedial training and specific technical  
8 assistance regarding the default.

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

16       (4) Suspension or termination of membership in the compact may  
17 be imposed only after all other means of securing compliance have  
18 been exhausted. Notice of intent to suspend or terminate shall be  
19 given by the Interstate Commission to the Governor, the majority  
20 and minority leaders of the defaulting state's Legislature, and  
21 each of the member states.

22       (5) The state which has been suspended or terminated is  
23 responsible for all assessments, obligations and liabilities  
24 incurred through the effective date of suspension or termination  
25 including obligations, the performance of which extends beyond the  
26 effective date of suspension or termination.

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

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

12           (c) *Dispute Resolution* --

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

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

20           (d) *Enforcement* --

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

24           (2) The Interstate Commission may by majority vote of the  
25 members initiate legal action in the United State District Court  
26 for the District of Columbia or, at the discretion of the

1 Interstate Commission, in the federal district where the Interstate  
2 Commission has its principal offices, to enforce compliance with  
3 the provisions of the compact, its promulgated rules and bylaws,  
4 against a member state in default. The relief sought may include  
5 both injunctive relief and damages. In the event judicial  
6 enforcement is necessary the prevailing party shall be awarded all  
7 costs of such litigation including reasonable attorney's fees.

8 (3) The remedies herein are not the exclusive remedies of the  
9 Interstate Commission. The Interstate Commission may avail itself  
10 of any other remedies available under state law or the regulation  
11 of a profession.

12

13 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

14

15 (a) The Interstate Commission shall pay, or provide for the  
16 payment of the reasonable expenses of its establishment,  
17 organization and ongoing activities.

18 (b) The Interstate Commission may levy on and collect an  
19 annual assessment from each member state to cover the cost of the  
20 operations and activities of the Interstate Commission and its  
21 staff which must be in a total amount sufficient to cover the  
22 Interstate Commission's annual budget as approved each year. The  
23 aggregate annual assessment amount shall be allocated based upon a  
24 formula to be determined by the Interstate Commission, which shall  
25 promulgate a rule binding upon all member states.

26 (c) The Interstate Commission may not incur obligations of any

1 kind prior to securing the funds adequate to meet the same; nor may  
2 the Interstate Commission pledge the credit of any of the member  
3 states, except by and with the authority of the member state.

4 (d) The Interstate Commission shall keep accurate accounts of  
5 all receipts and disbursements. The receipts and disbursements of  
6 the Interstate Commission are subject to the audit and accounting  
7 procedures established under its bylaws. However, all receipts and  
8 disbursements of funds handled by the Interstate Commission shall  
9 be audited annually by a certified or licensed public accountant and  
10 the report of the audit shall be included in and become part of the  
11 annual report of the Interstate Commission.

12

13 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

14

15 (a) Any state is eligible to become a member state.

16 (b) This compact became effective and binding upon legislative  
17 enactment of the compact into law by ten states in July 2008. It  
18 becomes effective and binding as to any other member state upon  
19 enactment of the compact into law by that state. The Governors of  
20 nonmember states or their designees shall be invited to participate  
21 in the activities of the Interstate Commission on a nonvoting basis  
22 prior to adoption of the compact by all states.

23 (c) The Interstate Commission may propose amendments to the  
24 compact for enactment by the member states. An amendment does not  
25 become effective and binding upon the Interstate Commission and the  
26 member states unless and until it is enacted into law by unanimous

1 consent of the member states.

2

3 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

4

5 (a) *Withdrawal* --

6 (1) Once effective, the compact continues in force and remains  
7 binding upon each member state. A member state may withdraw from  
8 the compact upon repealing the specific statute that enacted the  
9 compact into law.

10 (2) Withdrawal from the compact occurs by repeal of the  
11 enacting statute, but withdrawal does not take effect until one  
12 year after the effective date of the repealing legislation and  
13 until written notice of the withdrawal has been given by the  
14 withdrawing state to the Governor of each other member state.

15 (3) The withdrawing state shall immediately notify the  
16 chairperson of the Interstate Commission in writing upon the  
17 introduction of any legislation to repeal this compact in the  
18 withdrawing state. The Interstate Commission shall notify the  
19 other member states of the withdrawing state's potential to  
20 withdraw within sixty days of receiving notice.

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

25 (5) Reinstatement following withdrawal of a member state shall  
26 occur if the withdrawing state reenacts the compact or upon such

1 later date as may be determined by the Interstate Commission.

2 (b) *Dissolution of Compact* --

3 (1) This compact shall dissolve effective upon the date of the  
4 withdrawal or default of any member state which reduces the  
5 membership in the compact to one member state.

6 (2) Upon the dissolution of this compact, the compact becomes  
7 null and void and is of no further force or effect, and the  
8 business and affairs of the Interstate Commission shall be  
9 concluded and surplus funds shall be distributed in accordance with  
10 the bylaws.

11

12 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

13

14 (a) The provisions of this compact are severable, and if any  
15 phrase, clause, sentence or provision is deemed unenforceable, the  
16 remaining provisions of the compact are enforceable.

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

19 (c) Nothing in this compact prohibits the applicability of any  
20 other interstate compact to which the states are members.

21

22 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

23

24 (a) *Other Laws* --

25 (1) Nothing in this compact prevents the enforcement of any  
26 other law of a member state that is not inconsistent with this

1 compact.

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

4       (b) *Binding Effect of the Compact* --

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

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

10       (3) In the event any provision of this compact exceeds the  
11 constitutional limits imposed on the Legislature of any member  
12 state, that provision is ineffective to the extent of the conflict  
13 with the constitutional provision in question in that member state.