

1 COMMITTEE SUBSTITUTE

2 FOR

3 **H. B. 2550**

4
5 (By Delegates Iaquina, Fleischauer, Longstreth,
6 Stephens, Walker and Azinger)

7 (Originating in the Committee on Education)

8 [January 28, 2011]

9
10 A BILL 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

14

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.

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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.

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ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT

(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.

1 ARTICLE VIII. STATE COORDINATION

2
3 (a) The West Virginia Council for Educational Opportunity for
4 Military Children is hereby established for the purpose of
5 coordinating entities in this state regarding participation in the
6 Interstate Compact on Educational Opportunity for Military
7 Children.

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

10 (1) The State Superintendent of Schools;

11 (2) The superintendent of a county board in the state which
12 has a high concentration of military children, appointed by the
13 Governor. If the Governor determines there is not a county school
14 district that contains a high concentration of military children,
15 he or she may appoint a superintendent from any county school
16 district to represent county boards on the State Council;

17 (3) An individual representing a military installation in this
18 state appointed by the Governor by and with the advice and consent
19 of the Senate. This member serves a term of four years, except
20 that the term of the individual initially appointed expires June
21 30, 2015. Each subsequent term begins on July 1 in the year of
22 appointment.

23 (4) An individual representing the executive branch of
24 government, appointed by the Governor;

25 (5) One member of the West Virginia Senate, appointed by the
26 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.