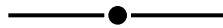


WEST VIRGINIA LEGISLATURE

FIRST REGULAR SESSION, 2011



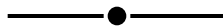
ENROLLED

COMMITTEE SUBSTITUTE

FOR

House Bill No. 2550

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



Passed March 10, 2011

In Effect Ninety Days From Passage

E N R O L L E D

COMMITTEE SUBSTITUTE

FOR

H. B. 2550

(BY DELEGATES IAQUINTA, FLEISCHAUER, LONGSTRETH,
STEPHENS, WALKER AND AZINGER)

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

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

Be it enacted by the Legislature of West Virginia:

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

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

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

1 This article is known and may be cited as the “Interstate
2 Compact on Educational Opportunity for Military Children”.

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

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

6 INTERSTATE COMPACT ON EDUCATIONAL
7 OPPORTUNITY FOR MILITARY CHILDREN
8 ARTICLE I. PURPOSE

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

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

18 (b) Facilitating the student placement process through
19 which children of military families are not disadvantaged by

20 variations in attendance requirements, scheduling,
21 sequencing, grading, course content or assessment;

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

25 (d) Facilitating the on-time graduation of children of
26 military families;

27 (e) Providing for the promulgation and enforcement of
28 administrative rules implementing the provisions of this
29 compact;

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

33 (g) Promoting coordination between this compact and
34 other compacts affecting military children; and

35 (h) Promoting flexibility and cooperation between the
36 educational system, parents and students in order to achieve
37 educational success for students.

38 ARTICLE II. DEFINITIONS

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

41 (a) “Active duty” means full-time duty status in any of
42 the active uniformed services of the United States, including
43 service in the National Guard and Reserve pursuant to active
44 duty orders in accordance with 10 U.S.C. Sections 1209 and
45 1211;

46 (b) “Child of a military family” means any school-aged
47 child enrolled in any of grades kindergarten through twelfth
48 who is in the household of an active duty uniformed services
49 member;

50 (c) "Compact commissioner” means the voting
51 representative of a compacting state appointed pursuant to
52 Article VIII of this compact;

53 (d) “Deployment” means the time period beginning one
54 month prior to a uniformed services member’s departure
55 from his or her home station on military orders and ending
56 six months after return to his or her home station;

57 (e) “Education records” means all documents, files, data
58 and official records directly related to a student and
59 maintained by a school or county board. This includes all
60 material kept in the student's cumulative file, such as but not
61 limited to generally-identifying data, attendance records,
62 academic work completion records, achievement records,
63 evaluative test results, health data, disciplinary records, test
64 protocols, and individualized education program or service
65 records;

66 (f) “Extracurricular activities” means voluntary activities
67 sponsored by a school, a county board or an organization
68 sanctioned by a county board or the state board of education.
69 Extracurricular activities include, but are not limited to,
70 preparation for and involvement in public performances,
71 contests, athletic competitions, demonstrations, displays,
72 organizations and clubs;

73 (g) “Interstate Commission on Educational Opportunity
74 for Military Children” or “Interstate Commission” means the
75 Commission that is created by Article IX of this compact;

76 (h) “County board” means a county board of education,
77 which is the public entity legally constituted by this state as
78 an administrative agency to provide control of and direction
79 for grades kindergarten through twelfth in the public schools
80 in the county in which it operates;

81 (i) “Member state” means a state that has enacted this
82 compact;

83 (j) “Military installation” means a base, camp, post,
84 station, yard, center, homeport facility for any ship, or other
85 facility under the jurisdiction of the Department of Defense,
86 including any leased facility, which is located within any of
87 the several states, the District of Columbia, the
88 Commonwealth of Puerto Rico, the U.S. Virgin Islands,
89 Guam, American Samoa, the Northern Marianas Islands or
90 any other United States Territory. “Military installation”
91 does not include any facility used primarily for civil works,
92 rivers and harbors projects, or flood control projects;

93 (k) “Non-member state” means a state that has not
94 enacted this compact;

95 (l) “Receiving state” means a state to which a child of a
96 military family is sent, brought, or caused to be sent or
97 brought;

98 (m) “Rule” means a written statement by the Interstate
99 Commission which:

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

102 (2) Is of general applicability;

103 (3) Implements, interprets or prescribes a policy or
104 provision of this compact, or an organizational, procedural,
105 or practice requirement of the Interstate Commission;

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

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

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

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

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

121 (q) "Transition" means:

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

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

127 (r) "Uniformed services" means the Army, Navy, Air
128 Force, Marine Corps, Coast Guard, and the Commissioned

129 Corps of the National Oceanic and Atmospheric
130 Administration, and Public Health Services;

131 (s) “Veteran” means a person who performed active duty
132 service and was discharged or released therefrom under
133 conditions other than dishonorable; and

134 (t) “The West Virginia Council for Educational
135 Opportunity for Military Children” or “West Virginia
136 Council” means the state coordinating council established in
137 Article VIII of this compact.

138 ARTICLE III. APPLICABILITY

139 (a) This compact applies to:

140 (1) Each county board of education; and

141 (2) The children of:

142 (A) Active duty members of the uniformed services as
143 defined in this compact, including members of the National
144 Guard and Reserve on active duty orders pursuant to 10
145 U.S.C. Sections 1209 and 1211;

146 (B) Members or veterans of the uniformed services who
147 are severely injured and medically discharged or retired for
148 a period of one year after medical discharge or retirement;
149 and

150 (C) Members of the uniformed services who die on active
151 duty or as a result of injuries sustained on active duty for a
152 period of one (1) year after death.

153 (b) Except as provided in subsection (a) of this Article
154 III, this compact does not apply to the children of:

155 (1) Inactive members of the National Guard or military
156 reserves;

157 (2) Retired members of the uniformed services;

158 (3) Veterans of the uniformed services;

159 (4) Other United States Department of Defense
160 personnel; nor

161 (5) Any other federal agency civilian or contract
162 employees not defined as active duty members of the
163 uniformed services.

164 ARTICLE IV. EDUCATIONAL RECORDS &
165 ENROLLMENT

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

167 In the event that official education records cannot be
168 released to a student's parents or legal guardians for the
169 purpose of transfer, the custodian of the records in the
170 sending state shall prepare and furnish to the parents a
171 complete set of unofficial educational records containing
172 uniform information as determined by the Interstate
173 Commission. As quickly as possible upon receipt of the
174 unofficial education records by a school in the receiving
175 state, the school shall enroll and appropriately place the
176 student based on the information provided in the unofficial
177 records pending validation by the official records.

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

179 Simultaneous with the enrollment and conditional
180 placement of a student, the school in the receiving state shall
181 request the student's official education records from the
182 school in the sending state. Upon receipt of this request, the
183 school in the sending state shall process and furnish the
184 official education records to the school in the receiving state
185 within ten days or such other time period as is determined
186 reasonable under the rules promulgated by the Interstate
187 Commission.

188 (c) *Immunizations --*

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

193 (2) In any case where a series of immunizations is
194 required, the student shall obtain the initial vaccination
195 within thirty days of enrollment, or such other time period as
196 is determined reasonable under the rules promulgated by the
197 Interstate Commission.

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

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

204 (2) A student that has satisfactorily completed the
205 prerequisite grade level in the sending state is eligible for
206 enrollment in the next highest grade level in this state,
207 regardless of his or her age.

208 ARTICLE V. PLACEMENT & ATTENDANCE

209 (a) *Course placement --*

210 (1) When a student transfers to this state before or during
211 the school year, the school in this state shall initially place
212 the student in educational courses based on the courses in
213 which he or she was enrolled in the sending state, educational
214 assessments conducted at the school in the sending state, or
215 both, if the courses are offered at the school to which the
216 student is transferring. This course placement provision
217 includes, but is not limited to Honors, International
218 Baccalaureate, Advanced Placement, vocational, technical
219 and career pathways courses.

220 (2) A school shall give paramount consideration to
221 continuing a student's academic program from the previous
222 school, and promoting placement in academically and career-
223 challenging courses, when considering course placement.

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

227 (b) *Educational program placement --*

228 When a student transfers to this state, the school shall
229 initially place the student in educational programs based on
230 current educational assessments conducted at the school in
231 the sending state or participation or placement in like
232 programs in the sending state. Such programs include, but
233 are not limited to gifted and talented programs and English
234 as a second language (ESL). A school is not precluded from
235 performing subsequent evaluations to ensure appropriate
236 placement of the student.

237 (c) *Special education services --*

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

244 (2) In compliance with the requirements of Section 504
245 of the Rehabilitation Act, 29 U.S.C.A. Section 794 (Section
246 504), and with Title II of the Americans with Disabilities
247 Act, 42 U.S.C.A. Sections 12131-12165 (Title II), any school
248 in this state shall make reasonable accommodations and
249 modifications to address the needs of incoming students with
250 disabilities, subject to an existing Section 504 or Title II plan,
251 to provide the student with equal access to education. The
252 school is not precluded from performing subsequent
253 evaluations to ensure appropriate placement of the student.

254 (d) *Placement flexibility --*

255 County board administrative officials have flexibility in
256 waiving course and program prerequisites, or other
257 preconditions for placement in courses or programs offered
258 under the authority of the county board.

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

260 A student whose parent or legal guardian is an active
261 duty member of the uniformed services and has been called
262 to duty for, is on leave from, or immediately returned from
263 deployment to a combat zone or combat support posting,
264 shall be granted additional excused absences at the discretion
265 of the county superintendent to visit with his or her parent or

266 legal guardian relative to such leave or deployment of the
267 parent or guardian.

268 ARTICLE VI. ELIGIBILITY

269 (a) *Eligibility for enrollment --*

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

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

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

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

285 The State Board of Education and county boards shall
286 facilitate the opportunity for transitioning military children
287 to be included in extracurricular activities, regardless of
288 application deadlines, to the extent the children are otherwise
289 qualified.

290 ARTICLE VII. GRADUATION

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

294 (a) *Waiver requirements* --

295 County board administrative officials shall either waive
296 specific courses required for graduation if a student has
297 satisfactorily completed similar course work in another local
298 education agency, or provide reasonable justification for
299 denial. If a waiver is not granted to a student who would
300 qualify to graduate from the sending school, the county board
301 shall provide an alternative means of acquiring required
302 coursework so that the student may graduate on time.

303 (b) *Exit exams* --

304 Any school in this state shall accept:

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

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

308 (3) Alternative testing, in lieu of testing requirements for
309 graduation in the receiving state. In the event that the
310 alternatives in this subsection cannot be accommodated by a
311 school for a student transferring in his or her senior year, then
312 the provisions of subsection (c) of Article VII of this compact
313 apply.

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

315 If a student transferring at the beginning of or during his
316 or her senior year is ineligible to graduate from a school in

317 this state after all alternatives have been considered, the
318 county board and the local education agency in the sending
319 state shall ensure that the student receives a diploma from the
320 sending state, if the student meets the graduation
321 requirements of the local education agency in the sending
322 state. In the event that one of the states in question is not a
323 member of this compact, the member state shall use best
324 efforts to facilitate the on-time graduation of the student in
325 accordance with subsections (a) and (b) of this Article VII.

326 ARTICLE VIII. STATE COORDINATION

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

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

334 (1) The State Superintendent of Schools;

335 (2) The superintendent of a county board in the state
336 which has a high concentration of military children,
337 appointed by the Governor. If the Governor determines there
338 is not a county school district that contains a high
339 concentration of military children, he or she may appoint a
340 superintendent from any county school district to represent
341 county boards on the State Council;

342 (3) An individual representing a military installation in
343 this state appointed by the Governor by and with the advice
344 and consent of the Senate. This member serves a term of
345 four years, except that the term of the individual initially

346 appointed expires June 30, 2015. Each subsequent term
347 begins on July 1 in the year of appointment.

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

350 (5) One member of the West Virginia Senate, appointed
351 by the President of the West Virginia Senate; and

352 (6) One member of the West Virginia House of
353 Delegates, appointed by the Speaker of the West Virginia
354 House of Delegates.

355 (c) The Governor shall appoint a Compact Commissioner
356 who is responsible for administering and managing the
357 state's participation in the compact. The Governor may
358 select the Commissioner from members appointed to the
359 Council as provided in subsection (b) of this Article VIII, or
360 may appoint another individual to serve in this capacity. An
361 individual who is not already a full voting member of the
362 Council becomes an ex-officio member of the Council if
363 appointed as Commissioner.

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

368 (1) Facilitate coordination among state agencies and
369 governmental entities of West Virginia, including county
370 boards and military installations, concerning the state's
371 participation in, and compliance with, this compact and
372 Interstate Commission activities; and

373 (2) Appoint or designate a military family education
374 liaison to assist military families and the state in facilitating
375 implementation of the compact. This individual becomes an
376 ex-officio member of the West Virginia Council if he or she
377 is not already a full voting member of the Council when so
378 appointed or designated.

379 ARTICLE IX. INTERSTATE COMMISSION ON
380 EDUCATIONAL OPPORTUNITY FOR MILITARY
381 CHILDREN

382 (a) The member states hereby create the “Interstate
383 Commission on Educational Opportunity for Military
384 Children.” The activities of the Interstate Commission are
385 the formation of public policy and are a discretionary state
386 function.

387 (b) The Interstate Commission:

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

394 (2) Consists of one Interstate Commission voting
395 representative from each member state who is that state’s
396 Compact Commissioner.

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

399 (B) A majority of the total member states constitutes a
400 quorum for the transaction of business, unless a larger

401 quorum is required by the bylaws of the Interstate
402 Commission.

403 (C) A representative may not delegate a vote to another
404 member state. In the event a Compact Commissioner is
405 unable to attend a meeting of the Interstate Commission, the
406 Governor or State Council of the Compact Commissioner's
407 state may delegate voting authority to another person from
408 that state for a specified meeting.

409 (D) The bylaws may provide for meetings of the
410 Interstate Commission to be conducted by
411 telecommunication or electronic communication;

412 (3) Consists of ex-officio, nonvoting representatives who
413 are members of interested organizations. Such ex-officio
414 members, as defined in the bylaws, may include, but are not
415 limited to, members of the representative organizations of
416 military family advocates, local education agency officials,
417 parent and teacher groups, the United States Department of
418 Defense, the Education Commission of the States, the
419 Interstate Agreement on the Qualification of Educational
420 Personnel, and other interstate compacts affecting the
421 education of children of military members;

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

426 (5) Establishes an executive committee, whose members
427 shall include the officers of the Interstate Commission and
428 such other members of the Interstate Commission as
429 established in the bylaws. Each member of the executive
430 committee serves a one year term. Each member of the

431 executive committee is entitled to one vote. The executive
432 committee has the power to act on behalf of the Interstate
433 Commission, with the exception of rulemaking, during
434 periods when the Interstate Commission is not in session.
435 The executive committee shall oversee the daily activities of
436 the administration of the compact, including enforcement and
437 compliance with the provisions of the compact, its bylaws
438 and rules, and such other duties as it determines are
439 necessary. A representative of the United States Department
440 of Defense serves as an ex-officio, nonvoting member of the
441 executive committee;

442 (6) Establishes bylaws and rules that provide for
443 conditions and procedures under which the Interstate
444 Commission makes its information and official records
445 available to the public for inspection or copying. The
446 Interstate Commission may exempt from disclosure
447 information or official records to the extent they would
448 adversely affect personal privacy rights or proprietary
449 interests;

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

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

458 (B) Disclose matters specifically exempted from
459 disclosure by federal and state statute;

460 (C) Disclose trade secrets or commercial or financial
461 information which is privileged or confidential;

462 (D) Involve accusing a person of a crime, or formally
463 censuring a person;

464 (E) Disclose information of a personal nature where
465 disclosure would constitute a clearly unwarranted invasion of
466 personal privacy;

467 (F) Disclose investigative records compiled for law
468 enforcement purposes; or

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

471 (8) Causes its legal counsel or designee to certify that a
472 meeting may be closed, and reference each relevant
473 exemptable provision for any meeting or portion of a meeting
474 which is closed pursuant to this provision. The Interstate
475 Commission shall maintain a minute record of each meeting
476 which shall fully and clearly describe all matters discussed in
477 the meeting. The minute record shall provide a full and
478 accurate summary of actions taken, and the reasons therefore,
479 including a description of the views expressed and the record
480 of a roll call vote. All documents considered in connection
481 with an action shall be identified in the minute record. All
482 minutes and documents of a closed meeting shall remain
483 under seal, subject to release by a majority vote of the
484 Interstate Commission.

485 (9) Collects standardized data concerning the educational
486 transition of the children of military families under this
487 compact as directed through its rules. The rules shall specify
488 the data to be collected, the means of collection and data
489 exchange and reporting requirements. Such methods of data
490 collection, exchange and reporting shall, in so far as is
491 reasonably possible, conform to current technology and

492 coordinate its information functions with the appropriate
493 custodian of records as identified in the bylaws and rules; and

494 (10) Creates a process that permits military officials,
495 education officials and parents to inform the Interstate
496 Commission if and when there are alleged violations of the
497 compact or its rules or when issues subject to the jurisdiction
498 of the compact or its rules are not addressed by the state or
499 local education agency. This subdivision does not create a
500 private right of action against the Interstate Commission or
501 any member state.

502 ARTICLE X. POWERS AND DUTIES OF THE
503 INTERSTATE COMMISSION

504 The Interstate Commission has the following powers:

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

507 (b) To promulgate rules and take all necessary actions to
508 effect the goals, purposes and obligations as enumerated in
509 this compact. The rules have the force and effect of statutory
510 law and are binding in the compact states to the extent and in
511 the manner provided in this compact;

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

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

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

521 (f) To purchase and maintain insurance and bonds;

522 (g) To borrow, accept, hire or contract for services of
523 personnel;

524 (h) To establish and appoint committees including, but
525 not limited to, an executive committee as required by Article
526 IX of this compact, which have the power to act on behalf of
527 the Interstate Commission in carrying out its powers and
528 duties hereunder;

529 (i) To elect or appoint such officers, attorneys,
530 employees, agents or consultants, and to fix their
531 compensation, define their duties and determine their
532 qualifications; and to establish the Interstate Commission's
533 personnel policies and programs relating to conflicts of
534 interest, rates of compensation, and qualifications of
535 personnel;

536 (j) To accept any and all donations and grants of money,
537 equipment, supplies, materials, and services, and to receive,
538 utilize, and dispose of such;

539 (k) To lease, purchase, accept contributions or donations
540 of, or otherwise to own, hold, improve or use any property,
541 real, personal, or mixed;

542 (l) To sell, convey, mortgage, pledge, lease, exchange,
543 abandon, or otherwise dispose of any property, real, personal
544 or mixed;

545 (m) To establish a budget and make expenditures;

546 (n) To adopt a seal and bylaws governing the
547 management and operation of the Interstate Commission;

548 (o) To report annually to the Legislatures, Governors,
549 judiciary, and state councils of the member states concerning
550 the activities of the Interstate Commission during the
551 preceding year. Such reports also shall include any
552 recommendations that may have been adopted by the
553 Interstate Commission;

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

557 (q) To establish uniform standards for reporting,
558 collecting and exchanging data;

559 (r) To maintain corporate books and records in
560 accordance with the bylaws;

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

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

566 ARTICLE XI. ORGANIZATION AND OPERATION OF
567 THE INTERSTATE COMMISSION

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

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

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

577 (3) Providing for the establishment of committees and for
578 governing any general or specific delegation of authority or
579 function of the Interstate Commission;

580 (4) Providing reasonable procedures for calling and
581 conducting meetings of the Interstate Commission, and
582 ensuring reasonable notice of each meeting;

583 (5) Establishing the titles and responsibilities of the
584 officers and staff of the Interstate Commission;

585 (6) Providing a mechanism for concluding the operations
586 of the Interstate Commission and the returning surplus funds
587 that may exist upon termination of the compact after the
588 payment and reserving of all of its debts and obligations; and

589 (7) Providing start-up rules for initial administration of
590 the compact.

591 (b) The Interstate Commission shall, by a majority of the
592 members, elect annually from among its members a
593 chairperson, a vice-chairperson, and a treasurer, each of
594 whom shall have such authority and duties as may be
595 specified in the bylaws. The chairperson or, in the
596 chairperson's absence or disability, the vice-chairperson,
597 shall preside at all meetings of the Interstate Commission.
598 The officers so elected serve without compensation or
599 remuneration from the Interstate Commission. Subject to the
600 availability of budgeted funds, the officers shall be

601 reimbursed for ordinary and necessary costs and expenses
602 incurred by them in the performance of their responsibilities
603 as officers of the Interstate Commission.

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

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

608 (A) Managing the affairs of the Interstate Commission in
609 a manner consistent with the bylaws and purposes of the
610 Interstate Commission;

611 (B) Overseeing an organizational structure within, and
612 appropriate procedures for the Interstate Commission to
613 provide for the creation of rules, operating procedures, and
614 administrative and technical support functions; and

615 (C) Planning, implementing, and coordinating
616 communications and activities with other state, federal and
617 local government organizations in order to advance the goals
618 of the Interstate Commission.

619 (2) The executive committee may, subject to the approval
620 of the Interstate Commission, appoint or retain an executive
621 director for such period, upon such terms and conditions and
622 for such compensation, as the Interstate Commission may
623 deem appropriate. The executive director serves as secretary
624 to the Interstate Commission, but is not a Member of the
625 Interstate Commission. The executive director shall hire and
626 supervise such other persons as may be authorized by the
627 Interstate Commission.

628 (d) The Interstate Commission's executive director and
629 its employees are immune from suit and liability, either
630 personally or in their official capacity, for a claim for damage
631 to or loss of property or personal injury or other civil liability
632 caused or arising out of or relating to an actual or alleged act,
633 error, or omission that occurred, or that such person had a
634 reasonable basis for believing occurred, within the scope of
635 Interstate Commission employment, duties, or
636 responsibilities. The executive director and employees are
637 not protected from suit or liability for damage, loss, injury, or
638 liability caused by the intentional or willful and wanton
639 misconduct of such person.

640 (1) The liability of the Interstate Commission's executive
641 director and employees or Interstate Commission
642 representatives, acting within the scope of employment or
643 duties for acts, errors, or omissions occurring within his or
644 her state may not exceed the limits of liability set forth under
645 the constitution and laws of that state for state officials,
646 employees, and agents. The Interstate Commission is
647 considered to be an instrumentality of the states for the
648 purposes of any such action. This subsection does not protect
649 the executive director or employees from suit or liability for
650 damage, loss, injury, or liability caused by his or her
651 intentional or willful and wanton misconduct.

652 (2) The Interstate Commission shall defend the executive
653 director and its employees and, subject to the approval of the
654 Attorney General or other appropriate legal counsel of the
655 member state represented by an Interstate Commission
656 representative, shall defend such Interstate Commission
657 representative in any civil action seeking to impose liability
658 arising out of an actual or alleged act, error or omission that
659 occurred within the scope of Interstate Commission
660 employment, duties or responsibilities, or that the defendant

661 had a reasonable basis for believing occurred within the
662 scope of Interstate Commission employment, duties, or
663 responsibilities, provided that the actual or alleged act, error,
664 or omission did not result from intentional or willful and
665 wanton misconduct on the part of such person.

666 (3) To the extent not covered by the state involved,
667 member state, or the Interstate Commission, the
668 representatives or employees of the Interstate Commission
669 shall be held harmless in the amount of a settlement or
670 judgment, including attorney's fees and costs, obtained
671 against the individual arising out of an actual or alleged act,
672 error, or omission that occurred within the scope of Interstate
673 Commission employment, duties, or responsibilities, or that
674 the individual had a reasonable basis for believing occurred
675 within the scope of Interstate Commission employment,
676 duties, or responsibilities, provided that the actual or alleged
677 act, error, or omission did not result from intentional or
678 willful and wanton misconduct on the part of the individual.

679 ARTICLE XII. RULEMAKING FUNCTIONS
680 OF THE INTERSTATE COMMISSION

681 (a) *Rulemaking Authority* --

682 The Interstate Commission shall promulgate reasonable
683 rules in order to effectively and efficiently achieve the
684 purposes of this compact. Notwithstanding the foregoing, in
685 the event the Interstate Commission exercises its rulemaking
686 authority in a manner that is beyond the scope of the
687 purposes of this Act, or the powers granted hereunder, then
688 such an action by the Interstate Commission is invalid and
689 has no force nor effect.

690 (b) *Rulemaking Procedure* --

691 Rules shall be made pursuant to a rulemaking process
692 that substantially conforms to the “Model State
693 Administrative Procedure Act,” of 1981 Act, Uniform Laws
694 Annotated, Vol. 15, p.1 (2000) as amended, as may be
695 appropriate to the operations of the Interstate Commission.

696 (c) Not later than thirty days after a rule is promulgated,
697 any person may file a petition for judicial review of the rule.
698 Filing such a petition does not stay or otherwise prevent the
699 rule from becoming effective unless the court finds that the
700 petitioner has a substantial likelihood of success. The court
701 shall give deference to the actions of the Interstate
702 Commission consistent with applicable law and may not find
703 the rule to be unlawful if the rule represents a reasonable
704 exercise of the Interstate Commission's authority.

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

709 ARTICLE XIII. OVERSIGHT, ENFORCEMENT,
710 AND DISPUTE RESOLUTION

711 (a) *Oversight* --

712 (1) The executive, legislative and judicial branches of
713 state government in each member state shall enforce this
714 compact and shall take all actions necessary and appropriate
715 to effectuate the compact's purposes and intent. The
716 provisions of this compact and the rules promulgated
717 hereunder shall have standing as statutory law.

718 (2) All courts shall take judicial notice of this compact
719 and the rules in any judicial or administrative proceeding in

720 a member state pertaining to the subject matter of this
721 compact which may affect the powers, responsibilities or
722 actions of the Interstate Commission.

723 (3) The Interstate Commission is entitled to receive all
724 service of process in any such proceeding, and has standing
725 to intervene in the proceeding for all purposes. Failure to
726 provide service of process to the Interstate Commission
727 renders a judgment or order void as to the Interstate
728 Commission, this compact or promulgated rules.

729 (b) *Default, Technical Assistance, Suspension and*
730 *Termination --*

731 If the Interstate Commission determines that a member
732 state has defaulted in the performance of its obligations or
733 responsibilities under this compact, or the bylaws or
734 promulgated rules, the Interstate Commission shall:

735 (1) Provide written notice to the defaulting state and
736 other member states, of the nature of the default, the means
737 of curing the default and any action taken by the Interstate
738 Commission. The Interstate Commission shall specify the
739 conditions by which the defaulting state must cure its default;
740 and

741 (2) Provide remedial training and specific technical
742 assistance regarding the default.

743 (3) If the defaulting state fails to cure the default, the
744 defaulting state shall be terminated from the compact upon
745 an affirmative vote of a majority of the member states and all
746 rights, privileges and benefits conferred by this compact shall
747 be terminated from the effective date of termination. A cure
748 of the default does not relieve the offending state of

749 obligations or liabilities incurred during the period of the
750 default.

751 (4) Suspension or termination of membership in the
752 compact may be imposed only after all other means of
753 securing compliance have been exhausted. Notice of intent
754 to suspend or terminate shall be given by the Interstate
755 Commission to the Governor, the majority and minority
756 leaders of the defaulting state's Legislature, and each of the
757 member states.

758 (5) The state which has been suspended or terminated is
759 responsible for all assessments, obligations and liabilities
760 incurred through the effective date of suspension or
761 termination including obligations, the performance of which
762 extends beyond the effective date of suspension or
763 termination.

764 (6) The Interstate Commission does not bear any costs
765 relating to any state that has been found to be in default or
766 which has been suspended or terminated from the compact,
767 unless otherwise mutually agreed upon in writing between
768 the Interstate Commission and the defaulting state.

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

775 (c) *Dispute Resolution* --

776 (1) The Interstate Commission shall attempt, upon the
777 request of a member state, to resolve disputes which are

778 subject to the compact and which may arise among member
779 states and between member and nonmember states.

780 (2) The Interstate Commission shall promulgate a rule
781 providing for both mediation and binding dispute resolution
782 for disputes as appropriate.

783 (d) *Enforcement* --

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

787 (2) The Interstate Commission may by majority vote of
788 the members initiate legal action in the United State District
789 Court for the District of Columbia or, at the discretion of the
790 Interstate Commission, in the federal district where the
791 Interstate Commission has its principal offices, to enforce
792 compliance with the provisions of the compact, its
793 promulgated rules and bylaws, against a member state in
794 default. The relief sought may include both injunctive relief
795 and damages. In the event judicial enforcement is necessary
796 the prevailing party shall be awarded all costs of such
797 litigation including reasonable attorney's fees.

798 (3) The remedies herein are not the exclusive remedies of
799 the Interstate Commission. The Interstate Commission may
800 avail itself of any other remedies available under state law or
801 the regulation of a profession.

802 ARTICLE XIV. FINANCING OF THE
803 INTERSTATE COMMISSION

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

807 (b) The Interstate Commission may levy on and collect
808 an annual assessment from each member state to cover the
809 cost of the operations and activities of the Interstate
810 Commission and its staff which must be in a total amount
811 sufficient to cover the Interstate Commission's annual budget
812 as approved each year. The aggregate annual assessment
813 amount shall be allocated based upon a formula to be
814 determined by the Interstate Commission, which shall
815 promulgate a rule binding upon all member states.

816 (c) The Interstate Commission may not incur obligations
817 of any kind prior to securing the funds adequate to meet the
818 same; nor may the Interstate Commission pledge the credit
819 of any of the member states, except by and with the authority
820 of the member state.

821 (d) The Interstate Commission shall keep accurate
822 accounts of all receipts and disbursements. The receipts and
823 disbursements of the Interstate Commission are subject to the
824 audit and accounting procedures established under its bylaws.
825 However, all receipts and disbursements of funds handled by
826 the Interstate Commission shall be audited annually by a
827 certified or licensed public accountant and the report of the
828 audit shall be included in and become part of the annual
829 report of the Interstate Commission.

830 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE
831 AND AMENDMENT

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

833 (b) This compact became effective and binding upon
834 legislative enactment of the compact into law by ten states in
835 July 2008. It becomes effective and binding as to any other
836 member state upon enactment of the compact into law by that

837 state. The Governors of nonmember states or their designees
838 shall be invited to participate in the activities of the Interstate
839 Commission on a nonvoting basis prior to adoption of the
840 compact by all states.

841 (c) The Interstate Commission may propose amendments
842 to the compact for enactment by the member states. An
843 amendment does not become effective and binding upon the
844 Interstate Commission and the member states unless and
845 until it is enacted into law by unanimous consent of the
846 member states.

847 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

848 (a) *Withdrawal* --

849 (1) Once effective, the compact continues in force and
850 remains binding upon each member state. A member state
851 may withdraw from the compact upon repealing the specific
852 statute that enacted the compact into law.

853 (2) Withdrawal from the compact occurs by repeal of the
854 enacting statute, but withdrawal does not take effect until one
855 year after the effective date of the repealing legislation and
856 until written notice of the withdrawal has been given by the
857 withdrawing state to the Governor of each other member
858 state.

859 (3) The withdrawing state shall immediately notify the
860 chairperson of the Interstate Commission in writing upon the
861 introduction of any legislation to repeal this compact in the
862 withdrawing state. The Interstate Commission shall notify
863 the other member states of the withdrawing state's potential
864 to withdraw within sixty days of receiving notice.

865 (4) The withdrawing state is responsible for all
866 assessments, obligations and liabilities incurred through the
867 effective date of withdrawal, including obligations, the
868 performance of which extend beyond the effective date of
869 withdrawal.

870 (5) Reinstatement following withdrawal of a member
871 state shall occur if the withdrawing state reenacts the
872 compact or upon such later date as may be determined by the
873 Interstate Commission.

874 (b) *Dissolution of Compact* --

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

878 (2) Upon the dissolution of this compact, the compact
879 becomes null and void and is of no further force or effect,
880 and the business and affairs of the Interstate Commission
881 shall be concluded and surplus funds shall be distributed in
882 accordance with the bylaws.

883 ARTICLE XVII. SEVERABILITY AND
884 CONSTRUCTION

885 (a) The provisions of this compact are severable, and if
886 any phrase, clause, sentence or provision is deemed
887 unenforceable, the remaining provisions of the compact are
888 enforceable.

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

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

893 ARTICLE XVIII. BINDING EFFECT OF COMPACT
894 AND OTHER LAWS

895 (a) *Other Laws --*

896 (1) Nothing in this compact prevents the enforcement of
897 any other law of a member state that is not inconsistent with
898 this compact.

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

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

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

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

908 (3) In the event any provision of this compact exceeds the
909 constitutional limits imposed on the Legislature of any
910 member state, that provision is ineffective to the extent of the
911 conflict with the constitutional provision in question in that
912 member state.

The Joint Committee on Enrolled Bills hereby certifies that the foregoing bill is correctly enrolled.

Chairman, House Committee

Chairman, Senate Committee

Originating in the House.

To take effect ninety days from passage.

Clerk of the House of Delegates

Clerk of the Senate

Speaker of the House of Delegates

President of the Senate

The within _____ this the _____
day of _____, 2011.

Governor