

COMMITTEE SUBSTITUTE

FOR

H. B. 2550

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

(Originating in the Committee on Education)
[January 28, 2011]

A BILL 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, sequencing,
21 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 the
42 active uniformed services of the United States, including service
43 in the National Guard and Reserve pursuant to active duty orders
44 in accordance with 10 U.S.C. Sections 1209 and 1211;

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

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

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

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

65 (f) “Extracurricular activities” means voluntary activities
66 sponsored by a school, a county board or an organization
67 sanctioned by a county board or the state board of education.

68 Extracurricular activities include, but are not limited to,
69 preparation for and involvement in public performances,
70 contests, athletic competitions, demonstrations, displays,
71 organizations and clubs;

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

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

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

82 (j) “Military installation” means a base, camp, post,
83 station, yard, center, homeport facility for any ship, or other
84 facility under the jurisdiction of the Department of Defense,
85 including any leased facility, which is located within any of
86 the several states, the District of Columbia, the

87 Commonwealth of Puerto Rico, the U.S. Virgin Islands,
88 Guam, American Samoa, the Northern Marianas Islands or
89 any other United States Territory. “Military installation”
90 does not include any facility used primarily for civil works,
91 rivers and harbors projects, or flood control projects;

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

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

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

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

100 (2) Is of general applicability;

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

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

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

108 (n) “Sending state” means a state from which a child of
109 a military family is sent, brought, or caused to be sent or
110 brought;

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

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

119 (q) “Transition” means:

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

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

125 (r) “Uniformed services” means the Army, Navy, Air
126 Force, Marine Corps, Coast Guard, and the Commissioned
127 Corps of the National Oceanic and Atmospheric
128 Administration, and Public Health Services;

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

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

136 ARTICLE III. APPLICABILITY

137 (a) This compact applies to:

138 (1) Each county board of education; and

139 (2) The children of:

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

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

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

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

153 (1) Inactive members of the National Guard or military
154 reserves;

155 (2) Retired members of the uniformed services;

156 (3) Veterans of the uniformed services;

157 (4) Other United States Department of Defense
158 personnel; nor

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

162 ARTICLE IV. EDUCATIONAL RECORDS &
163 ENROLLMENT

164 (a) Unofficial or "hand-carried" education records --

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

176 (b) Official education records/transcripts --

177 Simultaneous with the enrollment and conditional
178 placement of a student, the school in the receiving state shall
179 request the student's official education records from the
180 school in the sending state. Upon receipt of this request, the

181 school in the sending state shall process and furnish the
182 official education records to the school in the receiving state
183 within ten days or such other time period as is determined
184 reasonable under the rules promulgated by the Interstate
185 Commission.

186 (c) Immunizations --

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

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

196 (d) Enrollment at current grade level --

197 (1) A student shall be permitted to enroll in the grade
198 level in this state, including kindergarten, which is
199 commensurate with the grade level in which he or she was

200 enrolled in the sending state at the time of transition,
201 regardless of his or her age.

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

206 ARTICLE V. PLACEMENT & ATTENDANCE

207 (a) Course placement --

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

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

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

225 (b) Educational program placement --

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

235 (c) Special education services --

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

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

252 (d) Placement flexibility --

253 County board administrative officials have flexibility in
254 waiving course and program prerequisites, or other

255 preconditions for placement in courses or programs offered
256 under the authority of the county board.

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

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

266 ARTICLE VI. ELIGIBILITY

267 (a) *Eligibility for enrollment --*

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

272 (2) A county board may not charge local tuition to a
273 transitioning military child placed in the care of a

274 noncustodial parent or other person standing in loco parentis
275 who lives in a school district other than that of the custodial
276 parent.

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

282 (b) Eligibility for extracurricular participation --

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

288 ARTICLE VII. GRADUATION

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

292 (a) Waiver requirements --

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

301 (b) *Exit exams* --

302 Any school in this state shall accept:

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

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

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

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

313 If a student transferring at the beginning of or during his
314 or her senior year is ineligible to graduate from a school in
315 this state after all alternatives have been considered, the
316 county board and the local education agency in the sending
317 state shall ensure that the student receives a diploma from the
318 sending state, if the student meets the graduation
319 requirements of the local education agency in the sending
320 state. In the event that one of the states in question is not a
321 member of this compact, the member state shall use best
322 efforts to facilitate the on-time graduation of the student in
323 accordance with subsections (a) and (b) of this Article VII.

324 ARTICLE VIII. STATE COORDINATION

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

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

332 (1) The State Superintendent of Schools;

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

340 (3) An individual representing a military installation in
341 this state appointed by the Governor by and with the advice
342 and consent of the Senate. This member serves a term of
343 four years, except that the term of the individual initially
344 appointed expires June 30, 2015. Each subsequent term
345 begins on July 1 in the year of appointment.

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

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

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

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

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

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

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

377 ARTICLE IX. INTERSTATE COMMISSION ON
378 EDUCATIONAL OPPORTUNITY FOR
379 MILITARY CHILDREN

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

385 (b) The Interstate Commission:

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

392 (2) Consists of one Interstate Commission voting
393 representative from each member state who is that state's
394 Compact Commissioner.

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

397 (B) A majority of the total member states constitutes a
398 quorum for the transaction of business, unless a larger
399 quorum is required by the bylaws of the Interstate
400 Commission.

401 (C) A representative may not delegate a vote to another
402 member state. In the event a Compact Commissioner is
403 unable to attend a meeting of the Interstate Commission, the
404 Governor or State Council of the Compact Commissioner's

405 state may delegate voting authority to another person from
406 that state for a specified meeting.

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

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

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

424 (5) Establishes an executive committee, whose members
425 shall include the officers of the Interstate Commission and
426 such other members of the Interstate Commission as
427 established in the bylaws. Each member of the executive
428 committee serves a one year term. Each member of the
429 executive committee is entitled to one vote. The executive
430 committee has the power to act on behalf of the Interstate
431 Commission, with the exception of rulemaking, during
432 periods when the Interstate Commission is not in session.
433 The executive committee shall oversee the daily activities of
434 the administration of the compact, including enforcement and
435 compliance with the provisions of the compact, its bylaws
436 and rules, and such other duties as it determines are
437 necessary. A representative of the United States Department
438 of Defense serves as an ex-officio, nonvoting member of the
439 executive committee;

440 (6) Establishes bylaws and rules that provide for
441 conditions and procedures under which the Interstate
442 Commission makes its information and official records

443 available to the public for inspection or copying. The
444 Interstate Commission may exempt from disclosure
445 information or official records to the extent they would
446 adversely affect personal privacy rights or proprietary
447 interests;

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

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

456 (B) Disclose matters specifically exempted from
457 disclosure by federal and state statute;

458 (C) Disclose trade secrets or commercial or financial
459 information which is privileged or confidential;

460 (D) Involve accusing a person of a crime, or formally
461 censuring a person;

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

465 (F) Disclose investigative records compiled for law
466 enforcement purposes; or

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

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

481 under seal, subject to release by a majority vote of the
482 Interstate Commission.

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

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

500 ARTICLE X. POWERS AND DUTIES OF THE
501 INTERSTATE COMMISSION

502 The Interstate Commission has the following powers:

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

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

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

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

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

- 519 (f) To purchase and maintain insurance and bonds;
- 520 (g) To borrow, accept, hire or contract for services of
521 personnel;
- 522 (h) To establish and appoint committees including, but
523 not limited to, an executive committee as required by Article
524 IX of this compact, which have the power to act on behalf of
525 the Interstate Commission in carrying out its powers and
526 duties hereunder;
- 527 (i) To elect or appoint such officers, attorneys,
528 employees, agents or consultants, and to fix their
529 compensation, define their duties and determine their
530 qualifications; and to establish the Interstate Commission's
531 personnel policies and programs relating to conflicts of
532 interest, rates of compensation, and qualifications of
533 personnel;
- 534 (j) To accept any and all donations and grants of money,
535 equipment, supplies, materials, and services, and to receive,
536 utilize, and dispose of such;

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

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

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

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

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

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

555 (q) To establish uniform standards for reporting,
556 collecting and exchanging data;

557 (r) To maintain corporate books and records in
558 accordance with the bylaws;

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

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

564 ARTICLE XI. ORGANIZATION AND OPERATION OF
565 THE INTERSTATE COMMISSION

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

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

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

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

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

581 (5) Establishing the titles and responsibilities of the
582 officers and staff of the Interstate Commission;

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

587 (7) Providing start-up rules for initial administration of
588 the compact.

589 (b) The Interstate Commission shall, by a majority of the
590 members, elect annually from among its members a
591 chairperson, a vice-chairperson, and a treasurer, each of

592 whom shall have such authority and duties as may be
593 specified in the bylaws. The chairperson or, in the
594 chairperson's absence or disability, the vice-chairperson,
595 shall preside at all meetings of the Interstate Commission.
596 The officers so elected serve without compensation or
597 remuneration from the Interstate Commission. Subject to the
598 availability of budgeted funds, the officers shall be
599 reimbursed for ordinary and necessary costs and expenses
600 incurred by them in the performance of their responsibilities
601 as officers of the Interstate Commission.

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

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

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

609 (B) Overseeing an organizational structure within, and
610 appropriate procedures for the Interstate Commission to

611 provide for the creation of rules, operating procedures, and
612 administrative and technical support functions; and

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

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

626 (d) The Interstate Commission's executive director and
627 its employees are immune from suit and liability, either
628 personally or in their official capacity, for a claim for damage
629 to or loss of property or personal injury or other civil liability

630 caused or arising out of or relating to an actual or alleged act,
631 error, or omission that occurred, or that such person had a
632 reasonable basis for believing occurred, within the scope of
633 Interstate Commission employment, duties, or responsibilities.
634 The executive director and employees are not protected from
635 suit or liability for damage, loss, injury, or liability caused by
636 the intentional or willful and wanton misconduct of such
637 person.

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

650 (2) The Interstate Commission shall defend the executive
651 director and its employees and, subject to the approval of the
652 Attorney General or other appropriate legal counsel of the
653 member state represented by an Interstate Commission
654 representative, shall defend such Interstate Commission
655 representative in any civil action seeking to impose liability
656 arising out of an actual or alleged act, error or omission that
657 occurred within the scope of Interstate Commission
658 employment, duties or responsibilities, or that the defendant
659 had a reasonable basis for believing occurred within the
660 scope of Interstate Commission employment, duties, or
661 responsibilities, provided that the actual or alleged act, error,
662 or omission did not result from intentional or willful and
663 wanton misconduct on the part of such person.

664 (3) To the extent not covered by the state involved,
665 member state, or the Interstate Commission, the
666 representatives or employees of the Interstate Commission
667 shall be held harmless in the amount of a settlement or
668 judgment, including attorney's fees and costs, obtained

669 against the individual arising out of an actual or alleged act,
670 error, or omission that occurred within the scope of Interstate
671 Commission employment, duties, or responsibilities, or that
672 the individual had a reasonable basis for believing occurred
673 within the scope of Interstate Commission employment,
674 duties, or responsibilities, provided that the actual or alleged
675 act, error, or omission did not result from intentional or
676 willful and wanton misconduct on the part of the individual.

677 ARTICLE XII. RULEMAKING FUNCTIONS
678 OF THE INTERSTATE COMMISSION

679 (a) Rulemaking Authority --

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

688 (b) Rulemaking Procedure --

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

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

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

707 ARTICLE XIII. OVERSIGHT, ENFORCEMENT,
708 AND DISPUTE RESOLUTION

709 (a) Oversight --

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

716 (2) All courts shall take judicial notice of this compact
717 and the rules in any judicial or administrative proceeding in
718 a member state pertaining to the subject matter of this
719 compact which may affect the powers, responsibilities or
720 actions of the Interstate Commission.

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

727 (b) Default, Technical Assistance, Suspension and

728 Termination --

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

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

739 (2) Provide remedial training and specific technical
740 assistance regarding the default.

741 (3) If the defaulting state fails to cure the default, the
742 defaulting state shall be terminated from the compact upon
743 an affirmative vote of a majority of the member states and all
744 rights, privileges and benefits conferred by this compact shall
745 be terminated from the effective date of termination. A cure

746 of the default does not relieve the offending state of
747 obligations or liabilities incurred during the period of the
748 default.

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

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

762 (6) The Interstate Commission does not bear any costs
763 relating to any state that has been found to be in default or
764 which has been suspended or terminated from the compact,

765 unless otherwise mutually agreed upon in writing between
766 the Interstate Commission and the defaulting state.

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

773 (c) *Dispute Resolution* --

774 (1) The Interstate Commission shall attempt, upon the
775 request of a member state, to resolve disputes which are
776 subject to the compact and which may arise among member
777 states and between member and nonmember states.

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

781 (d) *Enforcement* --

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

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

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

819 (d) The Interstate Commission shall keep accurate
820 accounts of all receipts and disbursements. The receipts and
821 disbursements of the Interstate Commission are subject to the
822 audit and accounting procedures established under its
823 bylaws. However, all receipts and disbursements of funds

824 handled by the Interstate Commission shall be audited
825 annually by a certified or licensed public accountant and the
826 report of the audit shall be included in and become part of the
827 annual report of the Interstate Commission.

828 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE
829 AND AMENDMENT

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

831 (b) This compact became effective and binding upon
832 legislative enactment of the compact into law by ten states in
833 July 2008. It becomes effective and binding as to any other
834 member state upon enactment of the compact into law by that
835 state. The Governors of nonmember states or their designees
836 shall be invited to participate in the activities of the Interstate
837 Commission on a nonvoting basis prior to adoption of the
838 compact by all states.

839 (c) The Interstate Commission may propose amendments
840 to the compact for enactment by the member states. An
841 amendment does not become effective and binding upon the
842 Interstate Commission and the member states unless and

843 until it is enacted into law by unanimous consent of the
844 member states.

845 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

846 (a) *Withdrawal --*

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

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

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

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

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

871 (b) Dissolution of Compact --

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

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

880 ARTICLE XVII. SEVERABILITY AND
881 CONSTRUCTION

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

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

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

890 ARTICLE XVIII. BINDING EFFECT OF COMPACT
891 AND OTHER LAWS

892 (a) Other Laws --

893 (1) Nothing in this compact prevents the enforcement of
894 any other law of a member state that is not inconsistent with
895 this compact.

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

898 (b) Binding Effect of the Compact --

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

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

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