

WEST VIRGINIA LEGISLATURE

2025 REGULAR SESSION

ENGROSSED

Committee Substitute

for

House Bill 2053

By Delegates D. Smith and Heckert

[Originating in the Committee on Government

Organization; Reported on February 18, 2025]

1 A BILL to amend and reenact §5-10-15, §8-22A-2, §9A-3-1, §11-21-12, §15-2-28, §15-2A-2, §18-
2 7A-17a, §18-10F-2, §30-29-6, §48-31-102, and §62-16-3 of the Code of West Virginia,
3 1931, as amended, relating to including the United States Space Force in the definitions of
4 certain terms that individually reference the Armed Forces of the United States.

Be it enacted by the Legislature of West Virginia:

**CHAPTER 5. GENERAL POWERS AND AUTHORITY OF THE
GOVERNOR, SECRETARY OF STATE AND ATTORNEY GENERAL;
BOARD OF PUBLIC WORKS; MISCELLANEOUS AGENCIES,
COMMISSIONS, OFFICES, PROGRAMS, ETC.**

ARTICLE 10. WEST VIRGINIA PUBLIC EMPLOYEES RETIREMENT ACT.

§5-10-15. Military service credit; qualified military service.

1 (a)(1) The Legislature recognizes the men and women of this state who have served in the
2 armed forces of the United States during times of war, conflict and danger. It is the intent of this
3 subsection to confer military service credit upon persons who are eligible at any time for public
4 employees retirement benefits for any time served in active duty in the armed forces of the United
5 States, regardless of whether the person was a public employee at the time of entering the military
6 service.

7 (2) In addition to any benefit provided by federal law, any member of the retirement system
8 who has previously served in or enters the active service of the armed forces of the United States,
9 including active duty in the National Guard performed pursuant to Title 10 or Title 32 of the United
10 States Code, shall receive credited service for the time spent in the armed forces of the United
11 States, not to exceed five years, if the member:

12 (A) Has been honorably discharged from the armed forces; and

13 (B) Substantiates by appropriate documentation or evidence his or her active military
14 service.

15 If a member of the retirement system enters the active service of the armed forces of the
16 United States, the member's contributions to the retirement system are suspended during the
17 period of the active service and until the member's return to the employ of a participating public
18 employer, and any credit balance remaining in the member's deposit fund shall accumulate
19 regular interest: *Provided*, That notwithstanding any provision in this article to the contrary, if an
20 employee of a participating political subdivision serving on active duty in the military has
21 accumulated credited service prior to the last entry into military service, in an amount that, added
22 to the time in active military service while an employee equals nine or more years, and the member
23 is unable to resume employment with a participating employer upon completion of duty due to
24 death during or as a result of active service, all time spent in active military service, up to and
25 including a total of five years, is considered to be credited service and death benefits are vested in
26 the member: *Provided, however*, That the active service during the time the member is an
27 employee must be as a result of an order or call to duty, and not as a result of volunteering for
28 assignment or volunteering to extend the time in service beyond the time required by order or call.

29 (b) Subsection (a) of this section does not apply to any member who first becomes an
30 employee of a participating public employer on or after July 1, 2015. This subsection does not
31 apply to any member who first became an employee of a participating public employer before July
32 1, 2015.

33 (1) A member who first becomes an employee of a participating public employer on or after
34 July 1, 2015, may purchase up to ~~sixty~~ 60 months of military service credit for time served in active
35 military duty prior to first becoming an employee of a participating public employer if all of the
36 following conditions are met:

37 (A) The member has completed at least ~~twelve~~ 12 consecutive months of contributory
38 service upon first becoming an employee of a participating public employer;

39 (B) The active military duty occurs prior to the date on which the member first becomes an
40 employee of a participating public employer; and

41 (C) The employee pays to the retirement system the actuarial reserve purchase amount
42 within ~~forty-eight~~ 48 months after the date on which employer and employee contributions are first
43 received by the retirement system for the member and while he or she continues to be in the
44 employ of a participating public employer and contributing to the retirement system: *Provided*,
45 That any employee who ceases employment with a participating public employer before
46 completing the required actuarial reserve purchase amount in full shall not be eligible to purchase
47 the military service.

48 (2) Notwithstanding paragraph (A), subdivision (1) of this subsection, a member who first
49 becomes an employee of a participating public employer on or after July 1, 2015, but who does not
50 remain employed and contributing to the retirement system for at least ~~twelve~~ 12 consecutive
51 months after his or her initial employment, shall be considered to have met the requirement of
52 paragraph (A), subdivision (1) of this subsection the first time he or she becomes an employee of a
53 participating public employer and completes at least ~~twelve~~ 12 consecutive months of contributing
54 service. Such a member shall be considered to have met the requirement of paragraph (C),
55 subdivision (1) of this subsection if he or she pays to the retirement system the actuarial reserve
56 purchase amount within ~~forty-eight~~ 48 months after the date on which employer and employee
57 contributions are first received by the retirement system for the member the first time he or she
58 becomes an employee of a participating public employer and completes at least ~~twelve~~ 12
59 consecutive months of contributing service, and while he or she continues to be in the employ of a
60 participating public employer and contributing to the retirement system.

61 (3) Notwithstanding paragraph (A), subdivision (1) of this subsection, a member who first
62 becomes an employee of a participating public employer on or after July 1, 2015, as an elected
63 official, shall be considered to have met the requirement of paragraph (A), subdivision (1) of this
64 subsection after remaining employed for the first ~~twelve~~ 12 consecutive months of his or her term

65 and first becoming an employee, regardless of whether a salary is paid to the employee for each
66 such month. An elected official who does not elect to begin participating in the retirement system
67 upon first becoming an employee of a participating public employer as an elected official is not
68 eligible to purchase military service credit pursuant to subdivision (1) of this subsection.

69 (4) A member who first becomes an employee of a participating public employer on or after
70 July 1, 2015, may purchase military service credit for active military duty performed on or after the
71 date he or she first becomes an employee of a participating public employer only if all of the
72 following conditions are met: *Provided*, That the maximum military service credit such member
73 may purchase shall take into account any military service credit purchased for active military duty
74 pursuant to subdivision (1) of this subsection in addition to any military service credit purchased
75 pursuant to this subdivision:

76 (A) The member was an employee of a participating public employer, terminated
77 employment and experienced a break in contributing service in the retirement system of one or
78 more months, performed active military service while not an employee of the participating public
79 employer and not contributing to the retirement system, then again becomes an employee of a
80 participating public employer and completes at least ~~twelve~~ 12 consecutive months of contributory
81 service;

82 (B) The member does not qualify for military service credit for such active military duty
83 pursuant to subsection (d) of this section; and

84 (C) The member pays to the retirement system the actuarial reserve lump sum purchase
85 amount within ~~forty-eight~~ 48 months after the date on which employer and employee contributions
86 are first received by the retirement system for the member after he or she again becomes an
87 employee of a participating public employer immediately following the period of active military duty
88 and break in service and completes at least ~~twelve~~ 12 consecutive months of contributory service
89 and while he or she continues to be in the employ of a participating public employer and
90 contributing to the retirement system.

91 (5) Notwithstanding paragraph (A), subdivision (4) of this subsection, a member who
92 otherwise meets the requirements of said paragraph, but who does not remain employed and
93 contributing to the retirement system for at least ~~twelve~~ 12 consecutive months when he or she
94 first becomes an employee of a participating public employer after the period of active military duty
95 and break in service, shall be considered to have met the requirement of paragraph (A),
96 subdivision (4) of this subsection the first time he or she again becomes an employee of a
97 participating public employer and completes at least ~~twelve~~ 12 consecutive months of contributing
98 service. Such a member shall be considered to have met the requirement of paragraph (C),
99 subdivision (4) of this subsection if he or she pays to the retirement system the actuarial reserve
100 lump sum purchase amount within ~~forty-eight~~ 48 months after the date on which employer and
101 employee contributions are first received by the retirement system for the member for the first time
102 he or she again becomes an employee of a participating public employer and completes at least
103 ~~twelve~~ 12 consecutive months of contributing service, and while he or she continues to be in the
104 employ of a participating public employer and contributing to the retirement system.

105 (6) Notwithstanding paragraph (A), subdivision (4) of this subsection, a member who
106 becomes an employee of a participating public employer after such a period of active military duty
107 and break in service as an elected official shall be considered to have met the requirement of
108 paragraph (A), subdivision (4) of this subsection after remaining employed for the first ~~twelve~~ 12
109 consecutive months of his or her term after again becoming an employee, regardless of whether a
110 salary is paid to the employee for each such month. Such an individual must elect to begin
111 participating in the retirement system immediately upon again becoming an employee of a
112 participating public employer after the period of active military duty and break in service.

113 (7) For purposes of this subsection, the following definitions apply:

114 (A) "Active military duty" means full-time active duty in the armed forces of the United
115 States for a period of ~~thirty~~ 30 or more consecutive calendar days. Active military duty does not
116 include inactive duty of any kind.

117 (B) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by
118 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing
119 at ~~seven and one-half~~ 7.5 percent from the calculation month through the purchase month,
120 compounded monthly: *Provided*, That if the employee elects to pay the full purchase amount on an
121 installment or partial payment basis, the actuarial reserve purchase amount will include the lump
122 sum payment plus additional interest accruing at ~~seven and one-half~~ 7.5 percent until the
123 purchase amount is paid in full.

124 (C) "Armed forces of the United States" means the Army, Navy, Air Force, Marine Corps,
125 Space Force, and Coast Guard, the reserve components thereof, and the National Guard of the
126 United States or the National Guard of a state or territory when members of the same are on full-
127 time active duty pursuant to Title 10 or Title 32 of the United States Code.

128 (D) "Calculation month" means the month immediately following the month in which the
129 member completes the ~~twelve~~ 12 consecutive months of contributory service with a participating
130 public employer required by this subsection, as applicable.

131 (E) "Purchase accrued benefit" means two percent times the purchase military service
132 times the purchase average monthly salary.

133 (F) "Purchase age" means the age of the employee in years and completed months as of
134 the first day of the calculation month.

135 (G) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of
136 the calculation month based on the following actuarial assumptions: Interest rate of ~~seven and~~
137 ~~one-half~~ 7.5 percent; mortality of the 1971 group annuity mortality table, ~~fifty~~ 50 percent blended
138 male and female rates, applied on a unisex basis to all members; if purchase age is under age
139 ~~sixty-two~~ 62, a deferred annuity factor with payments commencing at age ~~sixty-two~~ 62; and if
140 purchase age is ~~sixty-two~~ 62 or over, an immediate annuity factor with payments starting at the
141 purchase age.

142 (H) "Purchase average monthly salary" means the average monthly salary of the member
143 during the months two through ~~twelve~~ 12 of the ~~twelve~~ 12 consecutive month period required by
144 this subsection of this section, as applicable.

145 (I) "Purchase military service" means the amount of military service being purchased by
146 the employee in months up to the ~~sixty~~ 60-month maximum, calculated in accordance with
147 subdivision (9) of this subsection.

148 (J) "Purchase month" means the month in which the employee deposits the actuarial
149 reserve lump sum purchase amount in full payment of the service credit being purchased or
150 makes the final payment of the actuarial reserve purchase amount into the plan trust fund in full
151 payment of the service credit being purchased.

152 (8) A member may purchase military service credit for a period of active military duty
153 pursuant to this subsection only if the member received an honorable discharge for such period.
154 Anything other than an honorable discharge, including, but not limited to, a general or under
155 honorable conditions discharge, an entry-level separation discharge, an other than honorable
156 conditions discharge or a dishonorable discharge, shall disqualify the member from receiving
157 military service credit for the period of service.

158 (9) To calculate the amount of military service credit a member may purchase, the board
159 shall add the total number of days in each period of a member's active military duty eligible to be
160 purchased, divide the total by ~~thirty~~ 30, and round up or down to the nearest integer (fractions of
161 0.5 shall be rounded up), in order to yield the total number of months of military service credit a
162 member may purchase, subject to the ~~sixty~~ 60-month maximum. A member may purchase all or
163 part of the maximum amount of military service credit he or she is eligible for in one-month
164 increments.

165 (10) To receive credit, a member must submit a request to purchase military service credit
166 to the board, on such form or in such other manner as shall be required by the board, within the
167 ~~twelve~~ 12 consecutive month period required by this subsection, as applicable. The board shall

168 then calculate the actuarial reserve lump sum purchase amount, which amount must be paid by
169 the member within the 48-month period required by this subsection, as applicable. A member
170 purchasing military service credit pursuant to this subsection must do so in a single, lump sum
171 payment: *Provided*, That the board may accept partial, installment or other similar payments if the
172 employee executes a contract with the board specifying the amount of military service to be
173 purchased and the payments required: *Provided, however*, That any failure to pay the contract
174 amount in accordance with this section shall be treated as an overpayment or excess contribution
175 subject to ~~section 44 of this article~~ §5-10-44 of this code and no military service shall be credited.

176 (11) The board shall require a member requesting military service credit to provide official
177 documentation establishing that the requirements set forth in this subsection have been met.

178 (12) Military service credit purchased pursuant to this subsection may not be considered
179 contributing service credit or contributory service for purposes of this article.

180 (13) If a member who has purchased military service credit pursuant to this subsection is
181 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
182 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
183 she paid to the retirement system to purchase military service credit, together with regular interest
184 on such amount.

185 (c) No period of military service may be used to obtain credit in more than one retirement
186 system administered by the board and once used in any system, a period of military service may
187 not be used again in any other system.

188 (d) Notwithstanding the preceding provisions of this section, contributions, benefits and
189 service credit with respect to qualified military service shall be provided in accordance with Section
190 414(u) of the Internal Revenue Code and the federal Uniformed Services Employment and
191 Reemployment Rights Act (USERRA), and regulations promulgated thereunder, as the same may
192 be amended from time to time. For purposes of this section, "qualified military service" has the
193 same meaning as in Section 414(u) of the Internal Revenue Code.

194 (e) In any case of doubt as to the period of service to be credited a member under the
195 provisions of this section, the board has final power to determine the period. Notwithstanding the
196 provisions of ~~section three-a of this article~~ §5-10-3a of this code, the provisions of this section are
197 not subject to liberal construction. The board is authorized to determine all questions and make all
198 decisions relating to this section and, pursuant to the authority granted to the board in ~~section one,~~
199 ~~article ten-d of this chapter~~ §5-10D-1 of this code, may propose rules to administer this section for
200 legislative approval in accordance with the provisions of ~~article three, chapter twenty-nine-a~~ §29A-
201 3-1 *et seq.* of this code.

CHAPTER 8. MUNICIPAL CORPORATIONS.

ARTICLE 22A. WEST VIRGINIA MUNICIPAL POLICE OFFICERS AND FIREFIGHTERS RETIREMENT SYSTEM.

§8-22A-2. Definitions.

1 As used in this article, unless a federal law or regulation or the context clearly requires a
2 different meaning:

3 (a) "Accrued benefit" means on behalf of any member 2.75 percent per year of the
4 member's final average salary for the first 20 years of credited service. Additionally, 2 percent per
5 year for 21 through 25 years and 1.5 percent per year for each year over 25 years will be credited
6 with a maximum benefit of 90 percent of a member's final average salary. A member's accrued
7 benefit may not exceed the limits of Section 415 of the Internal Revenue Code and is subject to the
8 provisions of §8-22A-10 of this code.

9 (b) "Accumulated contributions" means the sum of all retirement contributions deducted
10 from the compensation of a member, or paid on his or her behalf as a result of covered
11 employment, together with regular interest on the deducted amounts.

12 (c) "Active military duty" means full-time duty in the active military service of the United
13 States Army, Navy, Air Force, Coast Guard, Space Force, or Marine Corps. The term does not

14 include regularly required training or other duty performed by a member of a reserve component or
15 National Guard unless the member can substantiate that he or she was called into the full-time
16 active military service of the United States and has received no compensation during the period of
17 that duty from any board or employer other than the armed forces.

18 (d) "Actuarial equivalent" means a benefit of equal value computed on the basis of the
19 mortality table and interest rates as set and adopted by the board in accordance with the
20 provisions of this article: *Provided*, That when used in the context of compliance with the federal
21 maximum benefit requirements of Section 415 of the Internal Revenue Code, "actuarial
22 equivalent" shall be computed using the mortality tables and interest rates required to comply with
23 those requirements.

24 (e) "Annual compensation" means the wages paid to the member during covered
25 employment within the meaning of Section 3401(a) of the Internal Revenue Code, but determined
26 without regard to any rules that limit the remuneration included in wages based on the nature or
27 location of employment or services performed during the plan year plus amounts excluded under
28 Section 414(h)(2) of the Internal Revenue Code and less reimbursements or other expense
29 allowances, cash or noncash fringe benefits, or both, deferred compensation and welfare benefits.
30 Annual compensation for determining benefits during any determination period may not exceed
31 the maximum compensation allowed as adjusted for cost-of-living in accordance with §5-10D-7 of
32 this code and Section 401(a)(17) of the Internal Revenue Code.

33 (f) "Annual leave service" means accrued annual leave.

34 (g) "Annuity starting date" means the first day of the month for which an annuity is payable
35 after submission of a retirement application or the required beginning date, if earlier. For purposes
36 of this subsection, if retirement income payments commence after the normal retirement age,
37 "retirement" means the first day of the month following or coincident with the latter of the last day
38 the member worked in covered employment or the member's normal retirement age and after
39 completing proper written application for retirement on an application supplied by the board.

40 (h) "Beneficiary" means a natural person who is entitled to, or will be entitled to, an annuity
41 or other benefit payable by the plan.

42 (i) "Board" means the Consolidated Public Retirement Board.

43 (j) "Covered employment" means either: (1) Employment as a full-time municipal police
44 officer or firefighter and the active performance of the duties required of that employment; or (2)
45 the period of time during which active duties are not performed but disability benefits are received
46 under this article; or (3) concurrent employment by a municipal police officer or firefighter in a job
47 or jobs in addition to his or her employment as a municipal police officer or firefighter in this plan
48 where the secondary employment requires the police officer or firefighter to be a member of
49 another retirement system which is administered by the Consolidated Public Retirement Board
50 pursuant to this code: *Provided*, That the police officer or firefighter contributes to the fund created
51 in this article the amount specified as the member's contribution in §8-22A-8 of this code.

52 (k) "Credited service" means the sum of a member's years of service, active military duty,
53 and disability service.

54 (l) "Dependent child" means either: (1) An unmarried person under age 18 who is: (A) A
55 natural child of the member; (B) a legally adopted child of the member; (C) a child who at the time
56 of the member's death was living with the member while the member was an adopting parent
57 during any period of probation; or (D) a stepchild of the member residing in the member's
58 household at the time of the member's death; or (2) Any unmarried child under age 23: (A) Who is
59 enrolled as a full-time student in an accredited college or university; (B) who was claimed as a
60 dependent by the member for federal income tax purposes at the time of the member's death; and
61 (C) whose relationship with the member is described in paragraph (A), (B) or (C), subdivision (1) of
62 this subsection.

63 (m) "Dependent parent" means the father or mother of the member who was claimed as a
64 dependent by the member for federal income tax purposes at the time of the member's death.

65 (n) "Disability service" means service credit received by a member, expressed in whole
66 years, fractions thereof, or both, equal to one half of the whole years, fractions thereof, or both,
67 during which time a member receives disability benefits under this article.

68 (o) "Effective date" means January 1, 2010.

69 (p) "Employer error" means an omission, misrepresentation or deliberate act in violation of
70 relevant provisions of the West Virginia Code or of the West Virginia Code of State Regulations or
71 the relevant provisions of both the West Virginia Code and of the West Virginia Code of State
72 Regulations by the participating public employer that has resulted in an underpayment or
73 overpayment of contributions required.

74 (q) "Final average salary" means the average of the highest annual compensation received
75 for covered employment by the member during any five consecutive plan years within the
76 member's last 10 years of service while employed, prior to any disability payment. If the member
77 did not have annual compensation for the five full plan years preceding the member's attainment
78 of normal retirement age and during that period the member received disability benefits under this
79 article, then "final average salary" means the average of the monthly compensation which the
80 member was receiving in the plan year prior to the initial disability. "Final average salary" does not
81 include any lump sum payment for unused, accrued leave of any kind or character.

82 (r) "Full-time employment" means permanent employment of an employee by a
83 participating municipality in a position which normally requires 12 months per year service and
84 requires at least 1,040 hours per year service in that position.

85 (s) "Fund" means the West Virginia Municipal Police Officers and Firefighters Retirement
86 Fund created by this article.

87 (t) "Hour of service" means: (1) Each hour for which a member is paid or entitled to
88 payment for covered employment during which time active duties are performed. These hours
89 shall be credited to the member for the plan year in which the duties are performed; and (2) each
90 hour for which a member is paid or entitled to payment for covered employment during a plan year

91 but where no duties are performed due to vacation, holiday, illness, incapacity including disability,
92 layoff, jury duty, military duty, leave of absence, or any combination thereof and without regard to
93 whether the employment relationship has terminated. Hours under this subdivision shall be
94 calculated and credited pursuant to West Virginia Division of Labor rules. A member may not be
95 credited with any hours of service for any period of time he or she is receiving benefits under §8-
96 22A-17 and §8-22A-18 of this code; and (3) each hour for which back pay is either awarded or
97 agreed to be paid by the employing municipality, irrespective of mitigation of damages. The same
98 hours of service may not be credited both under subdivision (1) or (2) of this subsection and under
99 this subdivision. Hours under this paragraph shall be credited to the member for the plan year or
100 years to which the award or agreement pertains, rather than the plan year in which the award,
101 agreement or payment is made.

102 (u) "Medical examination" means an in-person or virtual examination of a member's
103 physical or mental health, or both, by a physician or physicians selected or approved by the board;
104 or, at the discretion of the board, a medical record review of the member's physical or mental
105 health, or both, by a physician selected or approved by the board.

106 (v) "Member" means, except as provided in §8-22A-32 and §8-22A-33 of this code, a
107 person hired as a municipal police officer or municipal firefighter, as defined in this section, by a
108 participating municipal employer on or after January 1, 2010. A member shall remain a member
109 until the benefits to which he or she is entitled under this article are paid or forfeited.

110 (w) "Monthly salary" means the W-2 reportable compensation received by a member
111 during the month.

112 (x) "Municipality" has the meaning ascribed to it in this code.

113 (y) (1) "Municipal police officer" means an individual employed as a member of a paid
114 police department by a West Virginia municipality or municipal subdivision which has established
115 and maintains a municipal policemen's pension and relief fund, and who is not a member of, and
116 not eligible for membership in, a municipal policemen's pension and relief fund as provided in §8-

117 22-16 of this code: *Provided*, That municipal police officer also means an individual employed as a
118 member of a paid police department by a West Virginia municipality or municipal subdivision which
119 is authorized to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid police
120 department does not mean a department whose employees are paid nominal salaries or wages or
121 are paid only for services actually rendered on an hourly basis.

122 (2) "Municipal firefighter" means an individual employed as a member of a paid fire
123 department by a West Virginia municipality or municipal subdivision which has established and
124 maintains a municipal firemen's pension and relief fund, and who is not a member of, and not
125 eligible for membership in, a municipal firemen's pension and relief fund as provided in §8-22-16 of
126 this code: *Provided*, That municipal firefighter also means an individual employed as a member of
127 a paid fire department by a West Virginia municipality or municipal subdivision which is authorized
128 to elect to participate in the plan pursuant to §8-22A-33 of this code. Paid fire department does not
129 mean a department whose employees are paid nominal salaries or wages or are paid only for
130 services actually rendered on an hourly basis.

131 (z) "Municipal subdivision" means any separate corporation or instrumentality established
132 by one or more municipalities, as permitted by law; and any public corporation charged by law with
133 the performance of a governmental function and whose jurisdiction is coextensive with one or
134 more municipalities.

135 (aa) "Normal form" means a monthly annuity which is one twelfth of the amount of the
136 member's accrued benefit which is payable for the member's life. If the member dies before the
137 sum of the payments he or she receives equals his or her accumulated contributions on the
138 annuity starting date, the named beneficiary shall receive in one lump sum the difference between
139 the accumulated contributions at the annuity starting date and the total of the retirement income
140 payments made to the member.

141 (bb) "Normal retirement age" means the first to occur of the following: (1) Attainment of age
142 50 years and the completion of 20 or more years of regular contributory service; (2) while still in

143 covered employment, attainment of at least age 50 years and when the sum of current age plus
144 regular contributory service equals or exceeds 70 years; (3) while still in covered employment,
145 attainment of at least age 60 years and completion of 10 years of regular contributory service; or
146 (4) attainment of age 62 years and completion of five or more years of regular contributory service.

147 (cc) "Plan" means the West Virginia Municipal Police Officers and Firefighters Retirement
148 System established by this article.

149 (dd) "Plan year" means the 12-month period commencing on January 1 of any designated
150 year and ending the following December 31.

151 (ee) "Qualified public safety employee" means any employee of a participating state or
152 political subdivision who provides police protection, firefighting services or emergency medical
153 services for any area within the jurisdiction of the state or political subdivision, or such other
154 meaning given to the term by Section 72(t)(10)(B) of the Internal Revenue Code or by Treasury
155 Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

156 (ff) "Regular contributory service" means a member's credited service excluding active
157 military duty, disability service and accrued annual and sick leave service.

158 (gg) "Regular interest" means the rate or rates of interest per annum, compounded
159 annually, as the board adopts in accordance with the provisions of this article.

160 (hh) "Required beginning date" means April 1 of the calendar year following the later of: (1)
161 The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if
162 born after June 30, 1949); or (2) the calendar year in which he or she retires or otherwise
163 separates from covered employment.

164 (ii) "Retirement income payments" means the monthly retirement income payments
165 payable.

166 (jj) "Spouse" means the person to whom the member is legally married on the annuity
167 starting date.

168 (kk) "Surviving spouse" means the person to whom the member was legally married at the
169 time of the member's death and who survived the member.

170 (ll) "Totally disabled" means a member's inability to engage in substantial gainful activity by
171 reason of any medically determined physical or mental impairment that can be expected to result
172 in death or that has lasted or can be expected to last for a continuous period of not less than 12
173 months. For purposes of this subsection: (1) A member is totally disabled only if his or her physical
174 or mental impairment or impairments are so severe that he or she is not only unable to perform his
175 or her previous work as a police officer or firefighter but also cannot, considering his or her age,
176 education and work experience, engage in any other kind of substantial gainful employment which
177 exists in the state regardless of whether: (A) The work exists in the immediate area in which the
178 member lives; (B) a specific job vacancy exists; or (C) the member would be hired if he or she
179 applied for work. For purposes of this article, substantial gainful employment is the same definition
180 as used by the United States Social Security Administration; and (2) "Physical or mental
181 impairment" is an impairment that results from an anatomical, physiological or psychological
182 abnormality that is demonstrated by medically accepted clinical and laboratory diagnostic
183 techniques. The board may require submission of a member's annual tax return for purposes of
184 monitoring the earnings limitation.

185 (mm) "Vested" means eligible for retirement income payments after completion of five or
186 more years of regular contributory service.

187 (nn) "Year of service" means a member shall, except in his or her first and last years of
188 covered employment, be credited with years of service credit based on the hours of service
189 performed as covered employment and credited to the member during the plan year based on the
190 following schedule:

| 191 | Hours of Service | Year of Service Credited |
|-----|------------------|--------------------------|
| 192 | Less than 500 | 0 |
| 193 | 500 to 999 | 1/3 |

194 1,000 to 1,499 2/3

195 1,500 or more 1

196 During a member's first and last years of covered employment, the member shall be
197 credited with one-twelfth of a year of service for each month during the plan year in which the
198 member is credited with an hour of service for which contributions were received by the fund. A
199 member is not entitled to credit for years of service for any time period during which he or she
200 received disability payments under §8-22A-17 and §8-22A-18 of this code.

CHAPTER 9A. VETERANS' AFFAIRS.

ARTICLE 3. STATE CEMETERY FOR VETERANS.

§9A-3-1. Department empowered to establish and maintain cemetery.

1 The ~~department of Veterans Affairs~~ Department of Veterans' Assistance is hereby
2 empowered to establish and maintain a state veterans' cemetery which shall be centrally located
3 within the state and easily accessible. Interment in the state veterans' cemetery shall be available
4 to all persons who are residents and citizens of the state and who have served in the Armed
5 Forces of the United States, including the ~~army, air force, navy, marine corps and coast guard~~
6 Army, Air Force, Navy, Marine Corps, Space Force, and Coast Guard, and who have a discharge
7 other than dishonorable.

8 Further, the ~~department of Veterans Affairs~~ Department of Veterans' Assistance is hereby
9 granted authority to acquire and transfer real property to the United States ~~veterans administration~~
10 Department of Veterans Affairs contingent upon the utilization of such real property by that federal
11 agency for the establishment of a new national cemetery or for the expansion of an existing
12 national cemetery.

13 For the purposes set forth in this article the ~~department of Veterans Affairs~~ Department of
14 Veterans' Assistance is hereby authorized to receive funds by gift, grant, appropriation or by any
15 other means from any source available or to become available.

CHAPTER 11. TAXATION.

ARTICLE 21. PERSONAL INCOME TAX.

§11-21-12. West Virginia adjusted gross income of resident individual.

1 (a) General. — The West Virginia adjusted gross income of a resident individual means his
2 or her federal adjusted gross income as defined in the laws of the United States for the taxable
3 year with the modifications specified in this section.

4 (b) Modifications increasing federal adjusted gross income. — There shall be added to
5 federal adjusted gross income, unless already included therein, the following items:

6 (1) Interest income on obligations of any state other than this state or of a political
7 subdivision of any other state unless created by compact or agreement to which this state is a
8 party;

9 (2) Interest or dividend income on obligations or securities of any authority, commission or
10 instrumentality of the United States, which the laws of the United States exempt from federal
11 income tax but not from state income taxes;

12 (3) Any deduction allowed when determining federal adjusted gross income for federal
13 income tax purposes for the taxable year that is not allowed as a deduction under this article for the
14 taxable year;

15 (4) Interest on indebtedness incurred or continued to purchase or carry obligations or
16 securities the income from which is exempt from tax under this article, to the extent deductible in
17 determining federal adjusted gross income;

18 (5) Interest on a depository institution tax-exempt savings certificate which is allowed as an
19 exclusion from federal gross income under Section 128 of the Internal Revenue Code, for the
20 federal taxable year;

21 (6) The amount of a lump sum distribution for which the taxpayer has elected under
22 Section 402(e) of the Internal Revenue Code of 1986, as amended, to be separately taxed for
23 federal income tax purposes; and

24 (7) Amounts withdrawn from a medical savings account established by or for an individual
25 under §33-15-20 or §33-16-15 of this code that are used for a purpose other than payment of
26 medical expenses, as defined in those sections.

27 (c) Modifications reducing federal adjusted gross income. — There shall be subtracted
28 from federal adjusted gross income to the extent included therein:

29 (1) Interest income on obligations of the United States and its possessions to the extent
30 includable in gross income for federal income tax purposes;

31 (2) Interest or dividend income on obligations or securities of any authority, commission or
32 instrumentality of the United States or of the State of West Virginia to the extent includable in gross
33 income for federal income tax purposes but exempt from state income taxes under the laws of the
34 United States or of the State of West Virginia, including federal interest or dividends paid to
35 shareholders of a regulated investment company, under Section 852 of the Internal Revenue
36 Code for taxable years ending after June 30, 1987;

37 (3) Any amount included in federal adjusted gross income for federal income tax purposes
38 for the taxable year that is not included in federal adjusted gross income under this article for the
39 taxable year;

40 (4) The amount of any refund or credit for overpayment of income taxes imposed by this
41 state, or any other taxing jurisdiction, to the extent properly included in gross income for federal
42 income tax purposes;

43 (5) Annuities, retirement allowances, returns of contributions and any other benefit
44 received under the West Virginia Public Employees Retirement System, and the West Virginia
45 State Teachers Retirement System, including any survivorship annuities derived therefrom, to the
46 extent includable in gross income for federal income tax purposes: *Provided*, That notwithstanding

47 any provisions in this code to the contrary this modification shall be limited to the first \$2,000 of
48 benefits received under the West Virginia Public Employees Retirement System, the West Virginia
49 State Teachers Retirement System and, including any survivorship annuities derived therefrom, to
50 the extent includable in gross income for federal income tax purposes for taxable years beginning
51 after December 31, 1986; and the first \$2,000 of benefits received under any federal retirement
52 system to which Title 4 U.S.C. § 111 applies: *Provided, however,* That the total modification under
53 this paragraph shall not exceed \$2,000 per person receiving retirement benefits and this limitation
54 shall apply to all returns or amended returns filed after December 31, 1988;

55 (6) Retirement income received in the form of pensions and annuities after December 31,
56 1979, under any West Virginia police, West Virginia Firemen's Retirement System or the West
57 Virginia State Police Death, Disability and Retirement Fund, the West Virginia State Police
58 Retirement System or the West Virginia Deputy Sheriff Retirement System, including any
59 survivorship annuities derived from any of these programs, to the extent includable in gross
60 income for federal income tax purposes;

61 (7)(A) For taxable years beginning after December 31, 2000, and ending prior to January
62 1, 2003, an amount equal to two percent multiplied by the number of years of active duty in the
63 Armed Forces of the United States of America with the product thereof multiplied by the first
64 \$30,000 of military retirement income, including retirement income from the regular Armed Forces,
65 Reserves and National Guard paid by the United States or by this state after December 31, 2000,
66 including any survivorship annuities, to the extent included in gross income for federal income tax
67 purposes for the taxable year.

68 (B) For taxable years beginning after December 31, 2000, the first \$20,000 of military
69 retirement income, including retirement income from the regular Armed Forces, Reserves and
70 National Guard paid by the United States or by this state after December 31, 2002, including any
71 survivorship annuities, to the extent included in gross income for federal income tax purposes for
72 the taxable year.

73 (C) For taxable years beginning after December 31, 2017, military retirement income,
74 including retirement income from the regular Armed Forces, Reserves and National Guard paid by
75 the United States or by this state after December 31, 2017, including any survivorship annuities, to
76 the extent included in federal adjusted gross income for the taxable year. For taxable years
77 beginning after December 31, 2018, retirement income from the uniformed services, including the
78 Army, Navy, Marines, Air Force, Space Force, Coast Guard, Public Health Service, National
79 Oceanic Atmospheric Administration, reserves, and National Guard, paid by the United States or
80 by this state after December 31, 2018, including any survivorship annuities, to the extent included
81 in federal adjusted gross income for the taxable year.

82 (D) In the event that any of the provisions of this subdivision are found by a court of
83 competent jurisdiction to violate either the Constitution of this state or of the United States, or is
84 held to be extended to persons other than specified in this subdivision, this subdivision shall
85 become null and void by operation of law.

86 (8) Decreasing modification for social security income.

87 (A) For taxable years beginning on or after January 1, 2022, 100 percent of the social
88 security benefits received pursuant to ~~Title 42 U.S.C., Chapter 7~~ Chapter 7 of Title 42 of the United
89 States Code, including, but not limited to, social security benefits paid by the Social Security
90 Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C.
91 § 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided
92 in §42 U.S.C. § 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall
93 be allowed as a decreasing modification from federal adjusted gross income when determining
94 West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in
95 §11-21-12(c)(8)(B) of this code.

96 (B) The deduction allowed by §11-21-12(c)(8)(A) of this code are allowable only when the
97 federal adjusted gross income of a married couple filing a joint return does not exceed \$100,000,
98 or \$50,000 in the case of a single individual or a married individual filing a separate return.

99 (C) For taxable years beginning on and after January 1, 2024, 35 percent of the amount of
100 social security benefits received pursuant to ~~Title 42 U.S.C., Chapter 7~~ Chapter 7 of Title 42 of the
101 United States Code, including, but not limited to, social security benefits paid by the Social
102 Security Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42
103 U.S.C. § 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as
104 provided in §42 U.S.C. § 1381 *et. seq.*, included in federal adjusted gross income for the taxable
105 year shall be allowed as a decreasing modification from federal adjusted gross income when
106 determining West Virginia taxable income subject to the tax imposed by this article, subject to the
107 limitation in §11-21-12(c)(8)(F) of this code.

108 (D) For taxable years beginning on or after January 1, 2025, 65 percent of the social
109 security benefits received pursuant to ~~Title 42 U.S.C., Chapter 7~~ Chapter 7 of Title 42 of the United
110 States Code, including, but not limited to, social security benefits paid by the Social Security
111 Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C.
112 § 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided
113 in §42 U.S.C. § 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall
114 be allowed as a decreasing modification from federal adjusted gross income when determining
115 West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in
116 §11-21-12(c)(8)(F) of this code.

117 (E) For taxable years beginning on or after January 1, 2026, 100 percent of the social
118 security benefits received pursuant to ~~Title 42 U.S.C., Chapter 7~~ Chapter 7 of Title 42 of the United
119 States Code, including, but not limited to, social security benefits paid by the Social Security
120 Administration as Old Age, Survivors and Disability Insurance Benefits as provided in §42 U.S.C.
121 § 401 *et. seq.* or as Supplemental Security Income for the Aged, Blind, and Disabled as provided
122 in §42 U.S.C. § 1381 *et. seq.*, included in federal adjusted gross income for the taxable year shall
123 be allowed as a decreasing modification from federal adjusted gross income when determining

124 West Virginia taxable income subject to the tax imposed by this article, subject to the limitation in
125 §11-21-12(c)(8)(F) of this code.

126 (F) The deduction allowed by §11-21-12(c)(8)(C), §11-21-12(c)(8)(D), and §11-21-
127 12(c)(8)(E) of this code are allowable only when the federal adjusted gross income of a married
128 couple filing a joint return exceeds \$100,000, or \$50,000 in the case of a single individual or a
129 married individual filing a separate return.

130 (9) Federal adjusted gross income in the amount of \$8,000 received from any source after
131 December 31, 1986, by any person who has attained the age of 65 on or before the last day of the
132 taxable year, or by any person certified by proper authority as permanently and totally disabled,
133 regardless of age, on or before the last day of the taxable year, to the extent includable in federal
134 adjusted gross income for federal tax purposes: *Provided*, That if a person has a medical
135 certification from a prior year and he or she is still permanently and totally disabled, a copy of the
136 original certificate is acceptable as proof of disability. A copy of the form filed for the federal
137 disability income tax exclusion is acceptable: *Provided, however*, That:

138 (i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
139 subsection is \$8,000 per person or more, no deduction shall be allowed under this subdivision;
140 and

141 (ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
142 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
143 all gross income received by that person shall be limited to the difference between \$8,000 and the
144 sum of modifications under subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

145 (10) Federal adjusted gross income in the amount of \$8,000 received from any source after
146 December 31, 1986, by the surviving spouse of any person who had attained the age of 65 or who
147 had been certified as permanently and totally disabled, to the extent includable in federal adjusted
148 gross income for federal tax purposes: *Provided*, That:

149 (i) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
150 subsection is \$8,000 or more, no deduction shall be allowed under this subdivision; and

151 (ii) Where the total modification under subdivisions (1), (2), (5), (6), (7), and (8) of this
152 subsection is less than \$8,000 per person, the total modification allowed under this subdivision for
153 all gross income received by that person shall be limited to the difference between \$8,000 and the
154 sum of subdivisions (1), (2), (5), (6), (7), and (8) of this subsection;

155 (11) Contributions from any source to a medical savings account established by or for the
156 individual pursuant to §33-15-20 or §33-16-15 of this code, plus interest earned on the account, to
157 the extent includable in federal adjusted gross income for federal tax purposes: *Provided*, That the
158 amount subtracted pursuant to this subdivision for any one taxable year may not exceed \$2,000
159 plus interest earned on the account. For married individuals filing a joint return, the maximum
160 deduction is computed separately for each individual; and

161 (12) Any other income which this state is prohibited from taxing under the laws of the
162 United States including, but not limited to, tier I retirement benefits as defined in Section 86(d)(4) of
163 the Internal Revenue Code.

164 (d) Modification for West Virginia fiduciary adjustment. — There shall be added to or
165 subtracted from federal adjusted gross income, as the case may be, the taxpayer's share, as
166 beneficiary of an estate or trust, of the West Virginia fiduciary adjustment determined under §11-
167 21-19 of this code.

168 (e) Partners and S corporation shareholders. — The amounts of modifications required to
169 be made under this section by a partner or an S corporation shareholder, which relate to items of
170 income, gain, loss or deduction of a partnership or an S corporation, shall be determined under
171 §11-21-17 of this code.

172 (f) Husband and wife. — If husband and wife determine their federal income tax on a joint
173 return but determine their West Virginia income taxes separately, they shall determine their West

174 Virginia adjusted gross incomes separately as if their federal adjusted gross incomes had been
175 determined separately.

176 (g) Effective date. –

177 (1) Changes in the language of this section enacted in the year 2000 shall apply to taxable
178 years beginning after December 31, 2000.

179 (2) Changes in the language of this section enacted in the year 2002 shall apply to taxable
180 years beginning after December 31, 2002.

181 (3) Changes in the language of this section enacted in the year 2019 shall apply to taxable
182 years beginning after December 31, 2018.

183 (4) Changes in the language of this section enacted in the year 2024 shall apply
184 retroactively to taxable years beginning after December 31, 2023.

CHAPTER 15. PUBLIC SAFETY.

ARTICLE 2. WEST VIRGINIA STATE POLICE.

§15-2-28. Credit toward retirement for member's prior military service; credit toward retirement when employee has joined Armed Forces in time of armed conflict; qualified military service.

1 (a) For purposes of this section, the term "active military duty" means full-time active duty
2 with the Armed Forces of the United States, namely the United States Air Force, Army, Coast
3 Guard, Marines, Space Force, or Navy; and service with the National Guard or reserve military
4 forces of any of the Armed Forces when the employee has been called to active full-time duty and
5 has received no compensation during the period of the duty from any person other than the Armed
6 Forces.

7 (b) Any member of the fund who has previously served on active military duty is entitled to
8 and shall receive credit on the minimum period of service required by law for retirement pay from

9 the service of the West Virginia State Police under the provisions of this article for a period equal to
10 the active military duty not to exceed five years, subject to the following:

11 (1) That he or she has been honorably discharged from the Armed Forces;

12 (2) That he or she substantiates by appropriate documentation or evidence his or her
13 period of active military duty;

14 (3) That he or she is not receiving credit from any other retirement system administered by
15 the board for his or her active military duty; and

16 (4) That, except with respect to disability retirement pay awarded under ~~section thirty of this~~
17 ~~article §15-2-30 of this code~~, he or she has actually served with the fund for ~~twenty~~ 20 years
18 exclusive of his or her active military duty.

19 (c) The amount of retirement pay to which any member is entitled shall be calculated and
20 determined as if he or she had been receiving for the period of his or her active military duty a
21 monthly salary from the agency equal to the average monthly salary which he or she actually
22 received from the agency for his or her total service with the agency exclusive of the active military
23 duty. The superintendent shall transfer and pay into the fund from moneys appropriated for the
24 agency, a sum equal to ~~eighteen~~ 18 percent of the aggregate of the salaries on which the
25 retirement pay of all members has been calculated and determined for their periods of active
26 military duty. In addition, any person who, while an employee of the agency was commissioned,
27 enlisted or inducted into the Armed Forces of the United States or, being a member of the reserve
28 officers' corps, was called to active duty in the Armed Forces between September 1, 1940, and the
29 close of hostilities in World War II, or between June 27, 1950, and the close of the armed conflict in
30 Korea on July 27, 1953, between August 1, 1964, and the close of the armed conflict in Vietnam, or
31 during any other period of armed conflict by the United States whether sanctioned by a declaration
32 of war by the Congress or by executive or other order of the President, is entitled to and shall
33 receive credit on the minimum period of service required by law for retirement pay from the service
34 of the West Virginia State Police for a period equal to the full time he or she has or shall, pursuant

35 to the commission, enlistment, induction or call, have served with the Armed Forces subject to the
36 following:

37 (1) That he or she has been honorably discharged from the Armed Forces;

38 (2) That within ~~ninety~~ 90 days after honorable discharge from the Armed Forces he or she
39 has presented himself or herself to the superintendent and offered to resume service as an active
40 employee of the agency; and

41 (3) That he or she has made no voluntary act, whether by reenlistment, waiver of
42 discharge, acceptance of commission or otherwise, to extend or participate in extension of the
43 period of service with the Armed Forces beyond the period of service for which he or she was
44 originally commissioned, enlisted, inducted or called.

45 (d) That amount of retirement pay to which any employee is entitled shall be calculated and
46 determined as if the employee has continued in the active service of the agency at the rank or
47 grade to him or her appertaining at the time of the commission, induction, enlistment or call, during
48 a period coextensive with the time the employee served with the Armed Forces pursuant to the
49 commission, induction, enlistment or call. The superintendent of the agency shall transfer and pay
50 each month into the fund from moneys appropriated for the agency a sum equal to ~~eighteen~~ 18
51 percent of the aggregate of salary which all employees would have been entitled to receive had
52 they continued in the active service of the agency during a period coextensive with the time the
53 employee served with the Armed Forces pursuant to the commission, induction, enlistment or call:
54 *Provided*, That the total amount of military service credit allowable under this section shall not
55 exceed five years.

56 (e) Notwithstanding any of the preceding provisions of this section, contributions, benefits
57 and service credit with respect to qualified military service shall be provided in accordance with
58 Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military
59 service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The board may
60 determine all questions and make all decisions relating to this section and, pursuant to the

61 authority granted to the board in ~~section one, article ten-d, chapter five~~ §5-10D-1 of this code, may
62 promulgate rules relating to contributions, benefits and service credit to comply with Section
63 414(u) of the Internal Revenue Code.

ARTICLE 2A. WEST VIRGINIA STATE POLICE RETIREMENT SYSTEM.

§15-2A-2. Definitions.

1 As used in this article, unless the context clearly requires a different meaning:

2 (1) "Accumulated contributions" means the sum of all amounts deducted from base salary,
3 together with four percent interest compounded annually.

4 (2) "Active military duty" means full-time active duty with the armed forces of the United
5 States, namely, the United States Air Force, Army, Coast Guard, Marines, Space Force, or Navy;
6 and service with the National Guard or reserve military forces of any of the armed forces when the
7 employee has been called to active full-time duty.

8 (3) "Actuarially equivalent" or "of equal actuarial value" means a benefit of equal value
9 computed upon the basis of the mortality table and interest rates as set and adopted by the
10 retirement board in accordance with the provisions of this article: *Provided*, That when used in the
11 context of compliance with the federal maximum benefit requirements of Section 415 of the
12 Internal Revenue Code, "actuarially equivalent" shall be computed using the mortality tables and
13 interest rates required to comply with those requirements.

14 (4) "Agency" means the West Virginia State Police.

15 (5) "Base salary" means compensation paid to an employee without regard to any overtime
16 pay.

17 (6) "Beneficiary" means a surviving spouse or other surviving beneficiary who is entitled to,
18 or will be entitled to, an annuity or other benefit payable by the fund.

19 (7) "Board" means the Consolidated Public Retirement Board created pursuant to §5-10D-
20 1 *et seq.* of this code.

21 (8) "Dependent child" means any unmarried child or children born to or adopted by a
22 member or retirant of the fund who:

23 (A) Is under the age of 18;

24 (B) After reaching 18 years of age, continues as a full-time student in an accredited high
25 school, college, university or business or trade school until the child or children reaches the age of
26 23 years; or

27 (C) Is financially dependent on the member or retirant by virtue of a permanent mental or
28 physical disability upon evidence satisfactory to the board.

29 (9) "Dependent parent" means the member's or retirant's parent or step-parent claimed as
30 a dependent by the member or retirant for federal income tax purposes at the time of the member's
31 or retirant's death.

32 (10) "Employee" means any person regularly employed in the service of the agency as a
33 law-enforcement officer after March 12, 1994, and who is eligible to participate in the fund.

34 (11) "Employer error" means an omission, misrepresentation, or deliberate act in violation
35 of relevant provisions of the West Virginia Code, the West Virginia Code of State Regulations, or
36 the relevant provisions of both the West Virginia Code and the West Virginia Code of State
37 Regulations by the participating public employer that has resulted in an underpayment or
38 overpayment of contributions required.

39 (12) "Final average salary" means the average of the highest annual compensation
40 received for employment with the agency, including compensation paid for overtime service,
41 received by the employee during any five calendar years within the employee's last 10 years of
42 service: *Provided*, That annual compensation for determining benefits during any determination
43 period may not exceed the maximum compensation allowed as adjusted for cost of living in
44 accordance with §5-10D-7 of this code and Section 401(a)(17) of the Internal Revenue Code.

45 (13) "Fund", "plan", "system" or "retirement system" means the West Virginia State Police
46 Retirement Fund created and established by this article.

47 (14) "Internal Revenue Code" means the Internal Revenue Code of 1986, as amended.

48 (15) "Law-enforcement officer" means an individual employed or otherwise engaged in
49 either a public or private position which involves the rendition of services relating to enforcement of
50 federal, state or local laws for the protection of public or private safety, including, but not limited to,
51 positions as deputy sheriffs, police officers, marshals, bailiffs, court security officers or any other
52 law-enforcement position which requires certification, but excluding positions held by elected
53 sheriffs or appointed chiefs of police whose duties are purely administrative in nature.

54 (16) "Medical examination" means an in-person or virtual examination of a member's
55 physical or mental health, or both, by a physician or physicians selected or approved by the board;
56 or, at the discretion of the board, a medical record review of the member's physical or mental
57 health, or both, by a physician selected or approved by the board.

58 (17) "Member" means any person who has contributions standing to his or her credit in the
59 fund and who has not yet entered into retirement status.

60 (18) "Month of service" means each month for which an employee is paid or entitled to
61 payment for at least one hour of service for which contributions were remitted to the fund. These
62 months shall be credited to the member for the calendar year in which the duties are performed.

63 (19) "Partially disabled" means an employee's inability, on a probable permanent basis, to
64 perform the essential duties of a law-enforcement officer by reason of any medically determinable
65 physical or mental impairment which has lasted or can be expected to last for a continuous period
66 of not less than 12 months, but which impairment does not preclude the employee from engaging
67 in other types of nonlaw-enforcement employment.

68 (20) "Physical or mental impairment" means an impairment that results from an
69 anatomical, physiological or psychological abnormality that is demonstrated by medically
70 accepted clinical and laboratory diagnostic techniques.

71 (21) "Plan year" means the 12-month period commencing on July 1 of any designated year
72 and ending the following June 30.

73 (22) "Qualified public safety employee" means any employee of a participating state or
74 political subdivision who provides police protection, fire-fighting services or emergency medical
75 services for any area within the jurisdiction of the state or political subdivision, or such other
76 meaning given to the term by Section 72(t)(10)(B) of the Internal Revenue Code or by Treasury
77 Regulation §1.401(a)-1(b)(2)(v) as they may be amended from time to time.

78 (23) "Required beginning date" means April 1 of the calendar year following the later of: (A)
79 The calendar year in which the member attains age 70.5 (if born before July 1, 1949) or age 72 (if
80 born after June 30, 1949); or (B) the calendar year in which he or she retires or otherwise
81 separates from service with the agency.

82 (24) "Retirant" or "retiree" means any member who commences an annuity payable by the
83 retirement system.

84 (25) "Salary" means the compensation of an employee, excluding any overtime payments.

85 (26) "Surviving spouse" means the person to whom the member or retirant was legally
86 married at the time of the member's or retirant's death and who survived the member or retirant.

87 (27) "Totally disabled" means an employee's probable permanent inability to engage in
88 substantial gainful activity by reason of any medically determined physical or mental impairment
89 that can be expected to result in death or that has lasted or can be expected to last for a
90 continuous period of not less than 12 months. For purposes of this subdivision, an employee is
91 totally disabled only if his or her physical or mental impairments are so severe that he or she is not
92 only unable to perform his or her previous work as an employee of the agency, but also cannot,
93 considering his or her age, education and work experience, engage in any other kind of substantial
94 gainful employment which exists in the state regardless of whether: (A) The work exists in the
95 immediate area in which the employee lives; (B) a specific job vacancy exists; or (C) the employee
96 would be hired if he or she applied for work.

97 (28) "Years of service" means the months of service acquired by a member while in active
98 employment with the agency divided by 12. Years of service shall be calculated in years and

99 fraction of a year from the date of active employment of the member with the agency through the
100 date of termination of employment or retirement from the agency. If a member returns to active
101 employment with the agency following a previous termination of employment with the agency and
102 the member has not received a refund of contributions plus interest for the previous employment
103 under §15-2A-8 of this code, service shall be calculated separately for each period of continuous
104 employment and years of service shall be the total service for all periods of employment. Years of
105 service shall exclude any periods of employment with the agency for which a refund of
106 contributions plus interest has been paid to the member unless the employee repays the previous
107 withdrawal, as provided in §15-2A-8 of this code, to reinstate the years of service.

CHAPTER 18. EDUCATION.

ARTICLE 7A. STATE TEACHERS RETIREMENT SYSTEM.

§18-7A-17a. Qualified military service.

1 (a) Except as provided in subsection (b) of this section, for the purpose of this article, the
2 retirement board shall grant prior service credit to members of the retirement system who were
3 honorably discharged from active duty service in any of the Armed Forces of the United States in
4 any period of national emergency within which a federal Selective Service Act was in effect. For
5 purposes of this section, "Armed Forces" includes Women's Army Corps, women's appointed
6 volunteers for emergency service, Army Nurse Corps, SPARS, Women's Reserve and other
7 similar units officially part of the military service of the United States. The military service is
8 considered equivalent to public school teaching, and the salary equivalent for each year of that
9 service is the actual salary of the member as a teacher for his or her first year of teaching after
10 discharge from military service. Prior service credit for military service shall not exceed ~~ten~~ 10
11 years for any one member, nor shall it exceed ~~twenty-five~~ 25 percent of total service at the time of
12 retirement. Notwithstanding the preceding provisions of this subsection, contributions, benefits
13 and service credit with respect to qualified military service shall be provided in accordance with

14 Section 414(u) of the Internal Revenue Code. For purposes of this section, "qualified military
15 service" has the same meaning as in Section 414(u) of the Internal Revenue Code. The retirement
16 board is authorized to determine all questions and make all decisions relating to this section and,
17 pursuant to the authority granted to the retirement board in ~~section one, article ten-d, chapter five~~
18 §5-10D-1 of this code, may promulgate rules relating to contributions, benefits and service credit
19 to comply with Section 414(u) of the Internal Revenue Code. No military service credit may be
20 used in more than one retirement system administered by the Consolidated Public Retirement
21 Board.

22 (b) Subsection (a) of this section does not apply to any member who first becomes an
23 employee of a participating public employer on or after July 1, 2015. This subsection applies to any
24 member who first became an employee of a participating public employer on or after July 1, 2015,
25 and also applies to any member who became an employee of a participating public employer
26 before July 1, 2015, and is unable to meet the requirements of subsection (a) of this section.

27 (1) Any member may purchase up to ~~sixty~~ 60 months of military service credit for time
28 served in active military duty prior to first becoming an employee of a participating public employer
29 if all of the following conditions are met:

30 (A) The member has completed a complete fiscal year of contributory service;

31 (B) The active military duty occurs prior to the date on which the member first becomes an
32 employee of a participating public employer; and

33 (C) The employee pays to the retirement system the actuarial reserve purchase amount
34 within ~~forty-eight~~ 48 months after the date on which employer and employee contributions are first
35 received by the retirement system for the member and while he or she continues to be in the
36 employ of a participating public employer and contributing to the retirement system, or within ~~forty-~~
37 ~~eight~~ 48 months of July 1, 2015, whichever is later: *Provided*, That any employee who ceases
38 employment with a participating public employer before completing the required actuarial reserve
39 purchase amount in full shall not be eligible to purchase the military service.

40 (2) Notwithstanding paragraph (A), subdivision (1) of this subsection, a member who first
41 becomes an employee of a participating public employer on or after July 1, 2015, but who does not
42 remain employed and contributing to the retirement system for at least a complete fiscal year after
43 his or her initial employment, shall be considered to have met the requirement of said paragraph
44 the first time he or she becomes an employee of a participating public employer and completes at
45 least a complete fiscal year of contributing service. Such a member shall be considered to have
46 met the requirement of paragraph (C) of said subdivision if he or she pays to the retirement system
47 the actuarial reserve purchase amount within ~~forty-eight~~ 48 months after the date on which
48 employer and employee contributions are first received by the retirement system for the member
49 the first time he or she becomes an employee of a participating public employer and completes at
50 least a complete fiscal year of contributing service, and while he or she continues to be in the
51 employ of a participating public employer and contributing to the retirement system.

52 (3) A member who first becomes an employee of a participating public employer on or after
53 July 1, 2015, may purchase military service credit for active military duty performed on or after the
54 date he or she first becomes an employee of a participating public employer only if all of the
55 following conditions are met: *Provided*, That the maximum military service credit such member
56 may purchase shall take into account any military service credit purchased for active military duty
57 pursuant to subdivision (1) of this subsection in addition to any military service credit purchased
58 pursuant to this subdivision:

59 (A) The member was an employee of a participating public employer, terminated
60 employment and experienced a break in contributing service in the retirement system of one or
61 more months, performed active military service while not an employee of the participating public
62 employer and not contributing to the retirement system, then again becomes an employee of a
63 participating public employer and completes at least a complete fiscal year of contributory service;

64 (B) The member does not qualify for military service credit for such active military duty
65 pursuant to subsection (d) of this section; and

66 (C) The member pays to the retirement system the actuarial reserve purchase amount
67 within ~~forty-eight~~ 48 months after the date on which employer and employee contributions are first
68 received by the retirement system for the member after he or she again becomes an employee of a
69 participating public employer immediately following the period of active military duty and break in
70 service and completes at least a complete fiscal year of contributory service, and while he or she
71 continues to be in the employ of a participating public employer and contributing to the retirement
72 system.

73 (4) Notwithstanding paragraph (A), subdivision (3) of this subsection, a member who
74 otherwise meets the requirements of said paragraph, but who does not remain employed and
75 contributing to the retirement system for at least a complete fiscal year when he or she first
76 becomes an employee of a participating public employer after the period of active military duty and
77 break in service, shall be considered to have met the requirement of said paragraph the first time
78 he or she again becomes an employee of a participating public employer and completes at least a
79 complete fiscal year of contributing service. Such a member shall be considered to have met the
80 requirement of paragraph (C) of said subdivision if he or she pays to the retirement system the
81 actuarial reserve purchase amount within ~~forty-eight~~ 48 months after the date on which employer
82 and employee contributions are first received by the retirement system for the member for the first
83 time he or she again becomes an employee of a participating public employer and completes at
84 least a complete fiscal year of contributing service, and while he or she continues to be in the
85 employ of a participating public employer and contributing to the retirement system.

86 (5) For purposes of this subsection, the following definitions shall apply:

87 (A) "Active military duty" means full-time active duty in the Armed Forces of the United
88 States for a period of ~~thirty~~ 30 or more consecutive calendar days. Active military duty does not
89 include inactive duty of any kind.

90 (B) "Actuarial reserve purchase amount" means the purchase annuity rate multiplied by
91 the purchase accrued benefit, calculated as of the calculation month, plus annual interest accruing

92 at ~~seven and one-half~~ 7.5 percent from the calculation month through the purchase month,
93 compounded monthly.

94 (C) "Armed forces of the United States" means the Army, Navy, Air Force, Marine Corps,
95 Space Force, and Coast Guard, the reserve components thereof, and the National Guard of the
96 United States or the National Guard of a state or territory when members of the same are on full-
97 time active duty pursuant to Title 10 or Title 32 of the United States Code.

98 (D) "Calculation month" means the month immediately following the month in which the
99 member completes a complete fiscal year of contributory service with a participating public
100 employer required by subdivision (1), (2), (3) or (4) of this subsection, as applicable.

101 (E) "Purchase accrued benefit" means two percent times the purchase military service
102 times the purchase average monthly salary.

103 (F) "Purchase age" means the age of the employee in years and completed months as of
104 the first day of the calculation month.

105 (G) "Purchase annuity rate" means the actuarial lump sum annuity factor calculated as of
106 the calculation month based on the following actuarial assumptions: Interest rate of ~~seven and~~
107 ~~one-half~~ 7.5 percent; mortality of the 1971 group annuity mortality table, ~~fifty~~ 50 percent blended
108 male and female rates, applied on a unisex basis to all members; if purchase age is under age
109 ~~sixty-two~~ 62, a deferred annuity factor with payments commencing at age ~~sixty-two~~ 62; and if
110 purchase age is ~~sixty-two~~ 62 or over, an immediate annuity factor with payments starting at the
111 purchase age.

112 (H) "Purchase average monthly salary" means the average monthly salary of the member
113 during the number of months of the member's contract during the fiscal year of contributory service
114 required by subdivisions (1), (2), (3) and (4) of this subsection, as applicable. For any member who
115 first became an employee of a participating public employer before July 1, 2015, the purchase
116 average monthly salary means the average monthly salary of the member during the number of

117 months of the member's contract during his or her complete fiscal year of contributory service on
118 or after July 1, 2015.

119 (I) "Purchase military service" means the amount of military service being purchased by
120 the employee in months up to the ~~sixty~~ 60-month maximum, calculated in accordance with
121 subdivision (7) of this subsection.

122 (J) "Purchase month" means the month in which the employee deposits the actuarial
123 reserve lump sum purchase amount into the plan trust fund in full payment of the service credit
124 being purchased or makes the final payment of the actuarial reserve purchase amount into the
125 plan trust fund in full payment of the service credit being purchased.

126 (6) A member may purchase military service credit for a period of active military duty
127 pursuant to this subsection only if the member received an honorable discharge for the period.
128 Anything other than an honorable discharge, including, but not limited to, a general or under
129 honorable conditions discharge, an entry-level separation discharge, an other than honorable
130 conditions discharge or a dishonorable discharge, shall disqualify the member from receiving
131 military service credit for the period of service. The board shall require a member requesting
132 military service credit to provide official documentation establishing that the requirements set forth
133 in this subsection have been met.

134 (7) To calculate the amount of military service credit a member may purchase, the board
135 shall add the total number of days in each period of a member's active military duty eligible to be
136 purchased, divide the total by ~~thirty~~ 30, and round up or down to the nearest integer (fractions of
137 0.5 shall be rounded up), in order to yield the total number of months of military service credit a
138 member may purchase, subject to the ~~sixty~~ 60-month maximum. A member may purchase all or
139 part of the maximum amount of military service credit he or she is eligible for in one-month
140 increments.

141 (8) To receive credit, a member must submit a request to purchase military service credit to
142 the board, on such form or in such other manner as shall be required by the board, within the

143 complete fiscal year period required by subdivision (1), (2), (3) or (4) of this subsection, as
144 applicable. The board shall then calculate the actuarial reserve lump sum purchase amount, which
145 amount must be paid by the member within the 48-month period required by said subdivisions, as
146 applicable. A member purchasing military service credit pursuant to this subsection must do so in
147 a single, lump sum payment: *Provided*, That the board may accept partial, installment or other
148 similar payments if the employee executes a contract with the board specifying the amount of
149 military service to be purchased and the payments required: *Provided, however*, That any failure to
150 pay the contract amount in accordance with this section shall be treated as an overpayment or
151 excess contribution subject to ~~section fourteen-c of this article~~ §18-7A-14c of this code and no
152 military service shall be credited.

153 (9) The board shall require a member requesting military service credit to provide official
154 documentation establishing that the requirements set forth in this subsection have been met.

155 (10) Military service credit purchased pursuant to this subsection shall not be considered
156 contributing service credit or contributory service for purposes of this article.

157 (11) If a member who has purchased military service credit pursuant to this subsection is
158 eligible for and requests a withdrawal of accumulated contributions pursuant to the provisions of
159 this article, he or she shall also receive a refund of the actuarial reserve purchase amount he or
160 she paid to the retirement system to purchase military service credit, together with regular interest
161 on such amount.

162 (c) No period of military service shall be used to obtain credit in more than one retirement
163 system administered by the board and once used in any system, a period of military service may
164 not be used again in any other system.

165 (d) Notwithstanding the preceding provisions of this section, contributions, benefits and
166 service credit with respect to qualified military service shall be provided in accordance with Section
167 414(u) of the Internal Revenue Code and the Federal Uniformed Services Employment and
168 Reemployment Rights Act (USERRA), and regulations promulgated thereunder, as the same may

169 be amended from time to time. For purposes of this section, "qualified military service" has the
170 same meaning as in Section 414(u) of the Internal Revenue Code.

171 (e) In any case of doubt as to the period of service to be credited a member under the
172 provisions of this section, the board has final power to determine the period. The board is
173 authorized to determine all questions and make all decisions relating to this section and, pursuant
174 to the authority granted to the board in ~~section one, article ten-d of this chapter~~ §18-10D-1 of this
175 code, may propose rules to administer this section for legislative approval in accordance with the
176 provisions of ~~article three, chapter twenty-nine-a~~ §29A-3-1 et seq. of this code.

ARTICLE 10F. DISABLED PERSONS AND PUBLIC USE BUILDINGS AND FACILITIES.

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

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

4 INTERSTATE COMPACT ON EDUCATIONAL
5 OPPORTUNITY FOR MILITARY CHILDREN

6 ARTICLE I. PURPOSE.

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

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

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

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

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

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

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

22 (g) Promoting coordination between this compact and other compacts affecting military
23 children; and

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

26 ARTICLE II. DEFINITIONS.

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

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

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

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

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

38 (e) "Education records" means all documents, files, data and official records directly
39 related to a student and maintained by a school or county board. This includes all material kept in
40 the student's cumulative file, such as but not limited to generally-identifying data, attendance

41 records, academic work completion records, achievement records, evaluative test results, health
42 data, disciplinary records, test protocols, and individualized education program or service records;

43 (f) "Extracurricular activities" means voluntary activities sponsored by a school, a county
44 board or an organization sanctioned by a county board or the state board of education.

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

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

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

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

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

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

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

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

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

64 (2) Is of general applicability;

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

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

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

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

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

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

76 (q) "Transition" means:

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

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

80 (r) "Uniformed services" means the Army, Navy, Air Force, Marine Corps, Space Force,
81 Coast Guard, and the Commissioned Corps of the National Oceanic and Atmospheric
82 Administration, and Public Health Services;

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

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

87 ARTICLE III. APPLICABILITY.

88 (a) This compact applies to:

89 (1) Each county board of education; and

90 (2) The children of:

91 (A) Active duty members of the uniformed services as defined in this compact, including
92 members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Sections
93 1209 and 1211;

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

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

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

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

101 (2) Retired members of the uniformed services;

102 (3) Veterans of the uniformed services;

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

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

106 ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT.

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

108 In the event that official education records cannot be released to a student's parents or
109 legal guardians for the purpose of transfer, the custodian of the records in the sending state shall
110 prepare and furnish to the parents a complete set of unofficial educational records containing
111 uniform information as determined by the Interstate Commission. As quickly as possible upon
112 receipt of the unofficial education records by a school in the receiving state, the school shall enroll
113 and appropriately place the student based on the information provided in the unofficial records
114 pending validation by the official records.

115 (b) *Official education records/transcripts* —

116 Simultaneous with the enrollment and conditional placement of a student, the school in the
117 receiving state shall request the student's official education records from the school in the sending
118 state. Upon receipt of this request, the school in the sending state shall process and furnish the
119 official education records to the school in the receiving state within ~~ten~~ 10 days or such other time
120 period as is determined reasonable under the rules promulgated by the Interstate Commission.

121 (c) *Immunizations* —

122 (1) A county board shall allow a student ~~thirty~~ 30 days from the date of enrollment to obtain
123 any required immunizations, or such other time period as is determined reasonable under the
124 rules promulgated by the Interstate Commission.

125 (2) In any case where a series of immunizations is required, the student shall obtain the
126 initial vaccination within ~~thirty~~ 30 days of enrollment, or such other time period as is determined
127 reasonable under the rules promulgated by the Interstate Commission.

128 (d) *Enrollment at current grade level* —

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

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

135 ARTICLE V. PLACEMENT & ATTENDANCE.

136 (a) *Course placement* —

137 (1) When a student transfers to this state before or during the school year, the school in this
138 state shall initially place the student in educational courses based on the courses in which he or
139 she was enrolled in the sending state, educational assessments conducted at the school in the
140 sending state, or both, if the courses are offered at the school to which the student is transferring.

141 This course placement provision includes, but is not limited to Honors, International
142 Baccalaureate, Advanced Placement, vocational, technical and career pathways courses.

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

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

148 (b) *Educational program placement* —

149 When a student transfers to this state, the school shall initially place the student in
150 educational programs based on current educational assessments conducted at the school in the
151 sending state or participation or placement in like programs in the sending state. Such programs
152 include, but are not limited to gifted and talented programs and English as a second language
153 (ESL). A school is not precluded from performing subsequent evaluations to ensure appropriate
154 placement of the student.

155 (c) *Special education services* —

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

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

167 (d) *Placement flexibility* —

168 County board administrative officials have flexibility in waiving course and program
169 prerequisites, or other preconditions for placement in courses or programs offered under the
170 authority of the county board.

171 (e) *Absence as related to deployment activities* —

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

177 ARTICLE VI. ELIGIBILITY.

178 (a) *Eligibility for enrollment* —

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

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

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

189 (b) *Eligibility for extracurricular participation* —

190 The State Board of Education and county boards shall facilitate the opportunity for
191 transitioning military children to be included in extracurricular activities, regardless of application
192 deadlines, to the extent the children are otherwise qualified.

193 ARTICLE VII. GRADUATION.

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

196 (a) *Waiver requirements* —

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

202 (b) *Exit exams* —

203 Any school in this state shall accept:

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

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

206 (3) Alternative testing, in lieu of testing requirements for graduation in the receiving state.

207 In the event that the alternatives in this subsection cannot be accommodated by a school for a
208 student transferring in his or her senior year, then the provisions of subsection (c) of Article VII of
209 this compact apply.

210 (c) *Transfers during senior year* —

211 If a student transferring at the beginning of or during his or her senior year is ineligible to
212 graduate from a school in this state after all alternatives have been considered, the county board
213 and the local education agency in the sending state shall ensure that the student receives a
214 diploma from the sending state, if the student meets the graduation requirements of the local
215 education agency in the sending state. In the event that one of the states in question is not a
216 member of this compact, the member state shall use best efforts to facilitate the on-time
217 graduation of the student in accordance with subsections (a) and (b) of this Article VII.

218 ARTICLE VIII. STATE COORDINATION.

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

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

223 (1) The State Superintendent of Schools;

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

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

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

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

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

238 (c) The Governor shall appoint a Compact Commissioner who is responsible for
239 administering and managing the state's participation in the compact. The Governor may select the
240 Commissioner from members appointed to the Council as provided in subsection (b) of this Article
241 VIII, or may appoint another individual to serve in this capacity. A individual who is not already a full
242 voting member of the Council becomes an ex-officio member of the Council if appointed as
243 Commissioner.

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

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

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

254 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL
255 OPPORTUNITY FOR MILITARY CHILDREN.

256 (a) The member states hereby create the "Interstate Commission on Educational
257 Opportunity for Military Children." The activities of the Interstate Commission are the formation of
258 public policy and are a discretionary state function.

259 (b) The Interstate Commission:

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

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

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

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

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

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

276 (3) Consists of ex-officio, nonvoting representatives who are members of interested
277 organizations. Such ex-officio members, as defined in the bylaws, may include, but are not limited
278 to, members of the representative organizations of military family advocates, local education
279 agency officials, parent and teacher groups, the United States Department of Defense, the
280 Education Commission of the States, the Interstate Agreement on the Qualification of Educational
281 Personnel, and other interstate compacts affecting the education of children of military members;

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

284 (5) Establishes an executive committee, whose members shall include the officers of the
285 Interstate Commission and such other members of the Interstate Commission as established in
286 the bylaws. Each member of the executive committee serves a one-year term. Each member of
287 the executive committee is entitled to one vote. The executive committee has the power to act on
288 behalf of the Interstate Commission, with the exception of rulemaking, during periods when the
289 Interstate Commission is not in session. The executive committee shall oversee the daily activities
290 of the administration of the compact, including enforcement and compliance with the provisions of
291 the compact, its bylaws and rules, and such other duties as it determines are necessary. A
292 representative of the United States Department of Defense serves as an ex-officio, nonvoting
293 member of the executive committee;

294 (6) Establishes bylaws and rules that provide for conditions and procedures under which
295 the Interstate Commission makes its information and official records available to the public for

296 inspection or copying. The Interstate Commission may exempt from disclosure information or
297 official records to the extent they would adversely affect personal privacy rights or proprietary
298 interests;

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

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

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

306 (C) Disclose trade secrets or commercial or financial information which is privileged or
307 confidential;

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

309 (E) Disclose information of a personal nature where disclosure would constitute a clearly
310 unwarranted invasion of personal privacy;

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

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

314 (8) Causes its legal counsel or designee to certify that a meeting may be closed, and
315 reference each relevant exemptable provision for any meeting or portion of a meeting which is
316 closed pursuant to this provision. The Interstate Commission shall maintain a minute record of
317 each meeting which shall fully and clearly describe all matters discussed in the meeting. The
318 minute record shall provide a full and accurate summary of actions taken, and the reasons
319 therefore, including a description of the views expressed and the record of a roll call vote. All
320 documents considered in connection with an action shall be identified in the minute record. All

321 minutes and documents of a closed meeting shall remain under seal, subject to release by a
322 majority vote of the Interstate Commission.

323 (9) Collects standardized data concerning the educational transition of the children of
324 military families under this compact as directed through its rules. The rules shall specify the data to
325 be collected, the means of collection and data exchange and reporting requirements. Such
326 methods of data collection, exchange and reporting shall, in so far as is reasonably possible,
327 conform to current technology and coordinate its information functions with the appropriate
328 custodian of records as identified in the bylaws and rules; and

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

334 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

335 The Interstate Commission has the following powers:

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

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

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

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

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

- 347 (f) To purchase and maintain insurance and bonds;
- 348 (g) To borrow, accept, hire or contract for services of personnel;
- 349 (h) To establish and appoint committees including, but not limited to, an executive
350 committee as required by Article IX of this compact, which have the power to act on behalf of the
351 Interstate Commission in carrying out its powers and duties hereunder;
- 352 (i) To elect or appoint such officers, attorneys, employees, agents or consultants, and to fix
353 their compensation, define their duties and determine their qualifications; and to establish the
354 Interstate Commission's personnel policies and programs relating to conflicts of interest, rates of
355 compensation, and qualifications of personnel;
- 356 (j) To accept any and all donations and grants of money, equipment, supplies, materials,
357 and services, and to receive, utilize, and dispose of such;
- 358 (k) To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
359 improve or use any property, real, personal, or mixed;
- 360 (l) To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
361 any property, real, personal or mixed;
- 362 (m) To establish a budget and make expenditures;
- 363 (n) To adopt a seal and bylaws governing the management and operation of the Interstate
364 Commission;
- 365 (o) To report annually to the Legislatures, Governors, Judiciary, and state councils of the
366 member states concerning the activities of the Interstate Commission during the preceding year.
367 Such reports also shall include any recommendations that may have been adopted by the
368 Interstate Commission;
- 369 (p) To coordinate education, training and public awareness regarding the compact, its
370 implementation and operation for officials and parents involved in such activity;
- 371 (q) To establish uniform standards for reporting, collecting and exchanging data;
- 372 (r) To maintain corporate books and records in accordance with the bylaws;

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

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

377 ARTICLE XI. ORGANIZATION AND OPERATION OF THE
378 INTERSTATE COMMISSION.

379 (a) The Interstate Commission shall, by a majority of the members present and voting,
380 within ~~twelve~~ 12 months after the first Interstate Commission meeting, adopt bylaws to govern its
381 conduct as may be necessary or appropriate to carry out the purposes of the compact, including,
382 but not limited to:

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

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

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

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

390 (5) Establishing the titles and responsibilities of the officers and staff of the Interstate
391 Commission;

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

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

396 (b) The Interstate Commission shall, by a majority of the members, elect annually from
397 among its members a chairperson, a vice-chairperson, and a treasurer, each of whom shall have
398 such authority and duties as may be specified in the bylaws. The chairperson or, in the

399 chairperson's absence or disability, the vice-chairperson, shall preside at all meetings of the
400 Interstate Commission. The officers so elected serve without compensation or remuneration from
401 the Interstate Commission. Subject to the availability of budgeted funds, the officers shall be
402 reimbursed for ordinary and necessary costs and expenses incurred by them in the performance
403 of their responsibilities as officers of the Interstate Commission.

404 (c) *Executive Committee, Officers and Personnel* —

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

407 (A) Managing the affairs of the Interstate Commission in a manner consistent with the
408 bylaws and purposes of the Interstate Commission;

409 (B) Overseeing an organizational structure within, and appropriate procedures for the
410 Interstate Commission to provide for the creation of rules, operating procedures, and
411 administrative and technical support functions; and

412 (C) Planning, implementing, and coordinating communications and activities with other
413 state, federal and local government organizations in order to advance the goals of the Interstate
414 Commission.

415 (2) The executive committee may, subject to the approval of the Interstate Commission,
416 appoint or retain an executive director for such period, upon such terms and conditions and for
417 such compensation, as the Interstate Commission may deem appropriate. The executive director
418 serves as secretary to the Interstate Commission, but is not a Member of the Interstate
419 Commission. The executive director shall hire and supervise such other persons as may be
420 authorized by the Interstate Commission.

421 (d) The Interstate Commission's executive director and its employees are immune from
422 suit and liability, either personally or in their official capacity, for a claim for damage to or loss of
423 property or personal injury or other civil liability caused or arising out of or relating to an actual or
424 alleged act, error, or omission that occurred, or that such person had a reasonable basis for

425 believing occurred, within the scope of Interstate Commission employment, duties, or
426 responsibilities. The executive director and employees are not protected from suit or liability for
427 damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such
428 person.

429 (1) The liability of the Interstate Commission's executive director and employees or
430 Interstate Commission representatives, acting within the scope of employment or duties for acts,
431 errors, or omissions occurring within his or her state may not exceed the limits of liability set forth
432 under the constitution and laws of that state for state officials, employees, and agents. The
433 Interstate Commission is considered to be an instrumentality of the states for the purposes of any
434 such action. This subsection does not protect the executive director or employees from suit or
435 liability for damage, loss, injury, or liability caused by his or her intentional or willful and wanton
436 misconduct.

437 (2) The Interstate Commission shall defend the executive director and its employees and,
438 subject to the approval of the Attorney General or other appropriate legal counsel of the member
439 state represented by an Interstate Commission representative, shall defend such Interstate
440 Commission representative in any civil action seeking to impose liability arising out of an actual or
441 alleged act, error or omission that occurred within the scope of Interstate Commission
442 employment, duties or responsibilities, or that the defendant had a reasonable basis for believing
443 occurred within the scope of Interstate Commission employment, duties, or responsibilities,
444 provided that the actual or alleged act, error, or omission did not result from intentional or willful
445 and wanton misconduct on the part of such person.

446 (3) To the extent not covered by the state involved, member state, or the Interstate
447 Commission, the representatives or employees of the Interstate Commission shall be held
448 harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained
449 against the individual arising out of an actual or alleged act, error, or omission that occurred within
450 the scope of Interstate Commission employment, duties, or responsibilities, or that the individual

451 had a reasonable basis for believing occurred within the scope of Interstate Commission
452 employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission
453 did not result from intentional or willful and wanton misconduct on the part of the individual.

454 ARTICLE XII. RULEMAKING FUNCTIONS
455 OF THE INTERSTATE COMMISSION.

456 (a) *Rulemaking Authority* —

457 The Interstate Commission shall promulgate reasonable rules in order to effectively and
458 efficiently achieve the purposes of this compact. Notwithstanding the foregoing, in the event the
459 Interstate Commission exercises its rulemaking authority in a manner that is beyond the scope of
460 the purposes of this Act, or the powers granted hereunder, then such an action by the Interstate
461 Commission is invalid and has no force nor effect.

462 (b) *Rulemaking Procedure* —

463 Rules shall be made pursuant to a rulemaking process that substantially conforms to the
464 "Model State Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1
465 (2000) as amended, as may be appropriate to the operations of the Interstate Commission.

466 (c) Not later than ~~thirty~~ 30 days after a rule is promulgated, any person may file a petition for
467 judicial review of the rule. Filing such a petition does not stay or otherwise prevent the rule from
468 becoming effective unless the court finds that the petitioner has a substantial likelihood of success.
469 The court shall give deference to the actions of the Interstate Commission consistent with
470 applicable law and may not find the rule to be unlawful if the rule represents a reasonable exercise
471 of the Interstate Commission's authority.

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

475 ARTICLE XIII. OVERSIGHT, ENFORCEMENT,
476 AND DISPUTE RESOLUTION.

477 (a) *Oversight* —

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

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

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

489 (b) *Default, Technical Assistance, Suspension and Termination* —

490 If the Interstate Commission determines that a member state has defaulted in the
491 performance of its obligations or responsibilities under this compact, or the bylaws or promulgated
492 rules, the Interstate Commission shall:

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

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

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

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

507 (5) The state which has been suspended or terminated is responsible for all assessments,
508 obligations and liabilities incurred through the effective date of suspension or termination including
509 obligations, the performance of which extends beyond the effective date of suspension or
510 termination.

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

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

519 (c) *Dispute Resolution* —

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

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

525 (d) *Enforcement* —

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

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

535 (3) The remedies herein are not the exclusive remedies of the Interstate Commission. The
536 Interstate Commission may avail itself of any other remedies available under state law or the
537 regulation of a profession.

538 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION.

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

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

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

550 (d) The Interstate Commission shall keep accurate accounts of all receipts and
551 disbursements. The receipts and disbursements of the Interstate Commission are subject to the
552 audit and accounting procedures established under its bylaws. However, all receipts and
553 disbursements of funds handled by the Interstate Commission shall be audited annually by a

554 certified or licensed public accountant and the report of the audit shall be included in and become
555 part of the annual report of the Interstate Commission.

556 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT.

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

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

563 (c) The Interstate Commission may propose amendments to the compact for enactment by
564 the member states. An amendment does not become effective and binding upon the Interstate
565 Commission and the member states unless and until it is enacted into law by unanimous consent
566 of the member states.

567 AND ARTICLE XVI. WITHDRAWAL DISSOLUTION.

568 (a) *Withdrawal* —

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

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

576 (3) The withdrawing state shall immediately notify the chairperson of the Interstate
577 Commission in writing upon the introduction of any legislation to repeal this compact in the
578 withdrawing state. The Interstate Commission shall notify the other member states of the
579 withdrawing state's potential to withdraw within ~~sixty~~ 60 days of receiving notice.

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

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

586 (b) *Dissolution of Compact* —

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

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

592 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION.

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

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

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

598 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS.

599 (a) *Other Laws* —

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

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

604 (b) *Binding Effect of the Compact* —

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

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

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

CHAPTER 30. PROFESSIONS AND OCCUPATIONS.

ARTICLE 29. LAW-ENFORCEMENT TRAINING AND CERTIFICATION.

§30-29-6. Review of certification.

1 Certification of each West Virginia law-enforcement officer shall be reviewed annually
2 following the first certification and until such time as the officer may achieve exempt rank.
3 Certification may be revoked, suspended or not renewed if any law-enforcement officer fails to
4 attend annually an in-service approved law-enforcement training program, or if a law-enforcement
5 officer achieving exempt rank fails to attend biennially an approved in-service supervisory level
6 training program. When a law-enforcement officer is a member of the United States Air Force,
7 Army, Coast Guard, Marines, Space Force, or Navy, or a member of the national guard or reserve
8 military forces of any such armed forces, and has been called to active duty, resulting in separation
9 from a law-enforcement agency for more than ~~twelve~~ 12 months but less than ~~twenty-four~~ 24
10 months, he or she shall attend and complete the mandated in-service training for the period and
11 rank and qualify with his or her firearm within ~~ninety~~ 90 days from his or her reappointment as a
12 law-enforcement officer by a law-enforcement agency.

CHAPTER 48. DOMESTIC RELATIONS.

ARTICLE 31. UNIFORM DEPLOYED PARENTS CUSTODY AND VISITATION ACT.

§48-31-102. Definitions.

1 In this article:

2 (1) "Adult" means an individual who has attained ~~eighteen~~ 18 years of age or an
3 emancipated minor.

4 (2) "Caretaking authority" means the right to live with and care for a child on a day-to-day
5 basis. The term includes physical custody, parenting time, right to access, and visitation.

6 (3) "Child" means:

7 (A) An unemancipated individual who has not attained ~~eighteen~~ 18 years of age; or

8 (B) An adult son or daughter by birth or adoption, or under law of this state other than this
9 article, who is the subject of a court order concerning custodial responsibility.

10 (4) "Close and substantial relationship" means a relationship in which a significant bond
11 exists between a child and a nonparent.

12 (5) "Court" means a tribunal, authorized under law of this state other than this article to
13 make, enforce, or modify a decision regarding custodial responsibility.

14 (6) "Custodial responsibility" has the same meaning as in ~~section two hundred nineteen,~~
15 ~~article one of this chapter~~ §48-1-219 of this code.

16 (7) "Decision-making authority" means the power to make important decisions regarding a
17 child, including decisions regarding the child's education, religious training, health care,
18 extracurricular activities, and travel. The term does not include the power to make decisions that
19 necessarily accompany a grant of caretaking authority.

20 (8) "Deploying parent" means a service member, who is deployed or has been notified of
21 impending deployment and is:

22 (A) A parent of a child under law of this state other than this article; or

23 (B) An individual who has custodial responsibility for a child under law of this state other
24 than this article;

25 (9) "Deployment" means the movement or mobilization of a service member for more than
26 ninety days but less than ~~eighteen~~ 18 months pursuant to uniformed service orders that:

27 (A) Are designated as unaccompanied;

28 (B) Do not authorize dependent travel; or

29 (C) Otherwise do not permit the movement of family members to the location to which the
30 service member is deployed.

31 (10) "Family member" means a sibling, aunt, uncle, cousin, step-parent or grandparent of a
32 child or an individual recognized to be in a familial relationship with a child under law of this state
33 other than this article.

34 (11) "Limited contact" means the authority of a nonparent to visit a child for a limited time.
35 The term includes authority to take the child to a place other than the residence of the child.

36 (12) "Nonparent" means an individual other than a deploying parent or other parent.

37 (13) "Other parent" means an individual who, in common with a deploying parent, is:

38 (A) A parent of a child under law of this state other than this article; or

39 (B) An individual who has custodial responsibility for a child under law of this state other
40 than this article.

41 (14) "Record" means information that is inscribed on a tangible medium or that is stored in
42 an electronic or other medium and is retrievable in perceivable form.

43 (15) "Return from deployment" means the conclusion of a service member's deployment
44 as specified in uniformed service orders.

45 (16) "Service member" means a member of a uniformed service.

46 (17) "Sign" means, with present intent to authenticate or adopt a record:

47 (A) To execute or adopt a tangible symbol; or

48 (B) To attach to or logically associate with the record an electronic symbol, sound or
49 process.

50 (18) "State" means a state of the United States, the District of Columbia, Puerto Rico, the
51 United States Virgin Islands or any territory or insular possession subject to the jurisdiction of the
52 United States.

53 (19) "Uniformed service" means:

54 (A) Active and reserve components of the Army, Navy, Air Force, Marine Corps, Space
55 Force, or Coast Guard of the United States;

56 (B) The United States Merchant Marine;

57 (C) The commissioned corps of the United States Public Health Service;

58 (D) The commissioned corps of the National Oceanic and Atmospheric Administration of
59 the United States; or

60 (E) The National Guard of a state.

CHAPTER 62. CRIMINAL PROCEDURE.

ARTICLE 16. THE MILITARY SERVICE MEMBERS COURT ACT.

§62-16-3. Definitions.

1 For the purposes of this article:

2 "Assessment" means an evaluation to determine whether a criminal defendant is a military
3 service member as defined by this section, that the offense he or she has been charged with are
4 attributable to their military service, and if the offender would benefit from the provisions set forth in
5 this article.

6 "Court" means a Military Service Members Court.

7 "Department" means the West Virginia Department of Veterans' Assistance.

8 "Military Service Members Court program" or "program" is a program that includes pre-
9 adjudicatory and post-adjudicatory treatment for military service members.

10 "Military service member" means a person who is currently serving in the Army, Air Force,
11 Marines, Navy, Space Force, or Coast Guard on active duty, reserve status, or in the National
12 Guard, or a person who served in the active military, or who was discharged or released under
13 conditions other than dishonorable.

14 "Offender" means a criminal defendant who qualifies as a military service member under
15 this article.

16 "Post-adjudicatory program" means a program in which the offender has admitted guilt or
17 has been found guilty and agrees, with the prosecutor's consent, to enter a court program as part
18 of his or her sentence.

19 "Pre-adjudicatory program" means a program that allows the offender, with the consent of
20 the prosecutor, team, and the court to expedite the offender's criminal case before conviction or
21 before filing of a criminal case and requires the offender to agree to and successfully complete the
22 court program as part of the written agreement.

23 "VA" means the United States Department of Veterans Affairs.

24 "VJO" means the Veterans Justice Outreach program of the United States Department of
25 Veterans Affairs.

26 "Written agreement" means the agreement executed to allow a military service member to
27 participate in a court program.