

## THE GENERAL ASSEMBLY OF PENNSYLVANIA

## SENATE BILL

No. 213 Session of  
2009

INTRODUCED BY ROBBINS, BAKER, PILEGGI, MELLOW, BOSCOLA, BROWNE,  
BRUBAKER, COSTA, EARLL, ERICKSON, FERLO, FONTANA, GREENLEAF,  
LOGAN, O'PAKE, ORIE, PIPPY, RAFFERTY, STACK, TARTAGLIONE,  
TOMLINSON, WAUGH, D. WHITE, M. WHITE, WILLIAMS, WOZNIAK,  
FOLMER AND WASHINGTON, FEBRUARY 19, 2009

SENATOR CORMAN, APPROPRIATIONS, RE-REPORTED AS AMENDED, FEBRUARY  
1, 2010

## AN ACT

1 Authorizing the Commonwealth of Pennsylvania to join the  
2 Interstate Compact on Educational Opportunity for Military  
3 Children; providing for the form and enforcement of the  
4 compact; imposing additional powers and duties on the  
5 Governor, the Secretary of the Commonwealth and the compact  
6 administrator; and establishing the State Council on  
7 Interstate Educational Opportunity for Military Children.

8 The General Assembly of the Commonwealth of Pennsylvania  
9 hereby enacts as follows:

10 Section 1. Short title.

11 This act shall be known and may be cited as the Interstate  
12 Compact on Educational Opportunity for Military Children Act.

13 Section 2. Authority to execute compact.

14 The Governor of Pennsylvania, on behalf of this State, is  
15 hereby authorized to execute a compact in substantially the  
16 following form with any one or more of the states of the United  
17 States, and the General Assembly hereby signifies in advance its  
18 approval and ratification of such compact:

Interstate Compact on Educational Opportunity  
for Military Children

ARTICLE I

PURPOSE

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

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content or assessment.
- C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.
- D. Facilitating the on-time graduation of children of military families.
- E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.
- F. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this compact.
- G. Promoting coordination between this compact and other compacts affecting military children.

1 H. Promoting flexibility and cooperation between the  
2 educational system, parents and the student in order to  
3 achieve educational success for the student.

## 4 ARTICLE II

### 5 DEFINITIONS

6 As used in this compact, unless the context clearly requires a  
7 different construction:

8 A. "Active duty" means: full-time duty status in the active  
9 uniformed service of the United States, including members  
10 of the National Guard and Reserve on active duty orders  
11 pursuant to 10 U.S.C. Section 12301 et seq. and 12401 et  
12 seq.

13 B. "Children of military families" means: a school-aged  
14 child(ren), enrolled in Kindergarten through Twelfth  
15 (12th) grade, normally residing in the household of an  
16 active duty member.

17 C. "Compact commissioner" means: the voting representative  
18 of each compacting state appointed pursuant to Article  
19 VIII of this compact.

20 D. "Deployment" means: the period one (1) month prior to the  
21 service members' departure from their home station on  
22 military orders through six (6) months after return to  
23 their home station.

24 E. "Education(al) records" means: those official records,  
25 files, and data directly related to a student and  
26 maintained by the school or local education agency,  
27 including but not limited to records encompassing all the  
28 material kept in the student's cumulative folder such as  
29 general identifying data, records of attendance and of  
30 academic work completed, records of achievement and

1 results of evaluative tests, health data, disciplinary  
2 status, test protocols, and individualized education  
3 programs.

4 F. "Extracurricular activities" means: a voluntary activity  
5 sponsored by the school or local education agency or an  
6 organization sanctioned by the local education agency.  
7 Extracurricular activities include, but are not limited  
8 to, preparation for and involvement in public  
9 performances, contests, athletic competitions,  
10 demonstrations, displays, and club activities.

11 G. "Interstate Commission on Educational Opportunity for  
12 Military Children" means: the commission that is created  
13 under Article IX of this compact, which is generally  
14 referred to as Interstate Commission.

15 H. "Local education agency" means: a public authority  
16 legally constituted by the state as an administrative  
17 agency to provide control of and direction for  
18 Kindergarten through Twelfth (12th) grade public  
19 educational institutions.

20 I. "Member state" means: a state that has enacted this  
21 compact.

22 J. "Military installation" means: a base, camp, post,  
23 station, yard, center, homeport facility for any ship, or  
24 other activity under the jurisdiction of the Department  
25 of Defense, including any leased facility, which is  
26 located within any of the several States, the District of  
27 Columbia, the Commonwealth of Puerto Rico, the U.S.  
28 Virgin Islands, Guam, American Samoa, the Northern  
29 Marianas Islands and any other U.S. Territory. Such term  
30 does not include any facility used primarily for civil

works, rivers and harbors projects, or flood control projects.

K. "Non-member state" means: a state that has not enacted this compact.

L. "Receiving state" means: the state to which a child of a military family is sent, brought, or caused to be sent or brought.

M. "Rule" means: a written statement by the Interstate Commission promulgated pursuant to Article XII of this compact that is of general applicability, implements, interprets or prescribes a policy or provision of the compact, or an organizational, procedural, or practice requirement of the Interstate Commission, and has the force and effect of statutory law in a member state, and includes the amendment, repeal, or suspension of an existing rule.

N. "Sending state" means: the state from which a child of a military family is sent, brought, or caused to be sent or brought.

O. "State" means: a state of the United States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.

P. "Student" means: the child of a military family for whom the local education agency receives public funding and who is formally enrolled in Kindergarten through Twelfth (12th) grade.

Q. "Transition" means: 1) the formal and physical process of transferring from school to school or 2) the period of time in which a student moves from one school in the

1 sending state to another school in the receiving state.

2 R. "Uniformed service(s)" means: the Army, Navy, Air Force,  
3 Marine Corps, Coast Guard as well as the Commissioned  
4 Corps of the National Oceanic and Atmospheric  
5 Administration, and Public Health Services.

6 S. "Veteran" means: a person who served in the uniformed  
7 services and who was discharged or released therefrom  
8 under conditions other than dishonorable.

9 ARTICLE III

10 APPLICABILITY

11 A. Except as otherwise provided in Section C, this compact  
12 shall apply to the children of:

- 13 1. active duty members of the uniformed services as  
14 defined in this compact;
- 15 2. members or veterans of the uniformed services who  
16 are severely injured and medically discharged or  
17 retired for a period of one (1) year after  
18 medical discharge or retirement; and
- 19 3. members of the uniformed services who die on  
20 active duty or as a result of injuries sustained  
21 on active duty for a period of one (1) year after  
22 death.

23 B. The provisions of this interstate compact shall only  
24 apply to local education agencies as defined in this  
25 compact.

26 C. The provisions of this compact shall not apply to the  
27 children of:

- 28 1. inactive members of the national guard and  
29 military reserves;
- 30 2. members of the uniformed services now retired,

1                   except as provided in Section A;

2           3.    veterans of the uniformed services, except as  
3               provided in Section A; and

4           4.    other U.S. Dept. of Defense personnel and other  
5               federal agency civilian and contract employees  
6               not defined as active duty members of the  
7               uniformed services.

8                               ARTICLE IV

9                               EDUCATIONAL RECORDS & ENROLLMENT

10       A.   Unofficial or "hand-carried" education records - In the  
11           event that official education records cannot be released  
12           to the parents for the purpose of transfer, the  
13           custodian of the records in the sending state shall  
14           prepare and furnish to the parent a complete set of  
15           unofficial educational records containing uniform  
16           information as determined by the Interstate Commission.  
17           Upon receipt of the unofficial education records by a  
18           school in the receiving state, the school shall enroll  
19           and appropriately place the student based on the  
20           information provided in the unofficial records pending  
21           validation by the official records, as quickly as  
22           possible.

23       B.   Official education records/transcripts - Simultaneous  
24           with the enrollment and conditional placement of the  
25           student, the school in the receiving state shall request  
26           the student's official education record from the school  
27           in the sending state. Upon receipt of this request, the  
28           school in the sending state will process and furnish the  
29           official education records to the school in the  
30           receiving state within ten (10) days or within such time

1 as is reasonably determined under the rules promulgated  
2 by the Interstate Commission.

3 C. Immunizations - Compacting states shall give thirty (30)  
4 days from the date of enrollment or within such time as  
5 is reasonably determined under the rules promulgated by  
6 the Interstate Commission, for students to obtain any  
7 immunization(s) required by the receiving state. For a  
8 series of immunizations, initial vaccinations must be  
9 obtained within thirty (30) days or within such time as  
10 is reasonably determined under the rules promulgated by  
11 the Interstate Commission.

12 D. Kindergarten and First grade entrance age - Students  
13 shall be allowed to continue their enrollment at grade  
14 level in the receiving state commensurate with their  
15 grade level (including Kindergarten) from a local  
16 education agency in the sending state at the time of  
17 transition, regardless of minimum age. A student that  
18 has satisfactorily completed the prerequisite grade  
19 level in the local education agency in the sending state  
20 shall be eligible for enrollment in the next highest  
21 grade level in the receiving state, regardless of  
22 minimum age. A student transferring after the start of  
23 the school year in the receiving state shall enter the  
24 school in the receiving state on their validated level  
25 from a local education agency in the sending state.

## 27 ARTICLE V

### 28 PLACEMENT & ATTENDANCE

29 A. Course placement - When the student transfers before or  
30 during the school year, the receiving state school shall



1 initially honor placement of the student in educational  
2 courses based on the student's enrollment in the sending  
3 state school and/or educational assessments conducted at  
4 the school in the sending state if the courses are  
5 offered. Course placement includes but is not limited to  
6 Honors, International Baccalaureate, Advanced Placement,  
7 vocational, technical and career pathways courses.  
8 Continuing the student's academic program from the  
9 previous school and promoting placement in academically  
10 and career challenging courses should be paramount when  
11 considering placement. This does not preclude the school  
12 in the receiving state from performing subsequent  
13 evaluations to ensure appropriate placement and continued  
14 enrollment of the student in the course(s).

15 B. Educational program placement - The receiving state  
16 school shall initially honor placement of the student in  
17 educational programs based on current educational  
18 assessments conducted at the school in the sending state  
19 or participation/placement in like programs in the  
20 sending state. Such programs include, but are not limited  
21 to: 1) gifted and talented programs; and 2) English as a  
22 second language (ESL). This does not preclude the school  
23 in the receiving state from performing subsequent  
24 evaluations to ensure appropriate placement of the  
25 student.

26 C. Special education services - 1) In compliance with the  
27 federal requirements of the Individuals with Disabilities  
28 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq,  
29 the receiving state shall initially provide comparable  
30 services to a student with disabilities based on his/her

1 current Individualized Education Program (IEP); and 2) In  
2 compliance with the requirements of Section 504 of the  
3 Rehabilitation Act, 29 U.S.C.A. Section 794, and with  
4 Title II of the Americans with Disabilities Act, 42  
5 U.S.C.A. Sections 12131-12165, the receiving state shall  
6 make reasonable accommodations and modifications to  
7 address the needs of incoming students with disabilities,  
8 subject to an existing 504 or Title II Plan, to provide  
9 the student with equal access to education. This does not  
10 preclude the school in the receiving state from  
11 performing subsequent evaluations to ensure appropriate  
12 placement of the student.

- 13 D. Placement flexibility - Local education agency  
14 administrative officials shall have flexibility in  
15 waiving course/program prerequisites, or other  
16 preconditions for placement in courses/programs offered  
17 under the jurisdiction of the local education agency.
- 18 E. Absence as related to deployment activities - A student  
19 whose parent or legal guardian is an active duty member  
20 of the uniformed services, as defined by the compact, and  
21 has been called to duty for, is on leave from, or  
22 immediately returned from deployment to a combat zone or  
23 combat support posting, shall be granted additional  
24 excused absences at the discretion of the local education  
25 agency superintendent to visit with his or her parent or  
26 legal guardian relative to such leave or deployment of  
27 the parent or guardian.

28 ARTICLE VI

29 ELIGIBILITY

- 30 ~~A. Eligibility for enrollment - Children of military~~



~~families shall be eligible for enrollment in the public schools of a state pursuant to the provisions of the state's public school legislation that provide for admission, without the payment of tuition, of children of military families not domiciled within the school district, provided that the specified conditions in those provisions are met.~~

A. ELIGIBILITY FOR ENROLLMENT - CHILDREN OF MILITARY

FAMILIES SHALL BE ELIGIBLE FOR ENROLLMENT IN THE PUBLIC SCHOOLS OF A STATE PURSUANT TO THE PROVISIONS OF THE STATE'S PUBLIC SCHOOL STATUTE THAT PROVIDE FOR ADMISSION, WITHOUT THE PAYMENT OF TUITION, OF CHILDREN OF MILITARY FAMILIES NOT DOMICILED WITHIN THE SCHOOL DISTRICT, PROVIDED THAT THE SPECIFIED CONDITIONS IN THOSE PROVISIONS ARE MET.

B. Eligibility for extracurricular participation - State and local education agencies shall facilitate the opportunity for transitioning military children's inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise qualified.

ARTICLE VII

GRADUATION

In order to facilitate the on-time graduation of children of military families states and local education agencies shall incorporate the following procedures:

A. Waiver requirements - Local education agency

administrative officials shall waive specific courses required for graduation if similar course work has been satisfactorily completed in another local education agency or shall provide reasonable justification for

1 denial. Should a waiver not be granted to a student who  
2 would qualify to graduate from the sending school, the  
3 local education agency shall provide an alternative means  
4 of acquiring required coursework so that graduation may  
5 occur on time.

6 B. Exit exams - States shall accept: 1) exit or end-of-  
7 course exams required for graduation from the sending  
8 state; or 2) national norm-referenced achievement tests  
9 or 3) alternative testing, in lieu of testing  
10 requirements for graduation in the receiving state. In  
11 the event the above alternatives cannot be accommodated  
12 by the receiving state for a student transferring in his  
13 or her Senior year, then the provisions of Article VII,  
14 Section C shall apply.

15 C. Transfers during Senior year - Should a military student  
16 transferring at the beginning or during his or her Senior  
17 year be ineligible to graduate from the receiving local  
18 education agency after all alternatives have been  
19 considered, the sending and receiving local education  
20 agencies shall ensure the receipt of a diploma from the  
21 sending local education agency, if the student meets the  
22 graduation requirements of the sending local education  
23 agency. In the event that one of the states in question  
24 is not a member of this compact, the member state shall  
25 use best efforts to facilitate the on-time graduation of  
26 the student in accordance with Sections A and B of this  
27 Article.

## 28 ARTICLE VIII

### 29 STATE COORDINATION

30 A. Each member state shall, through the creation of a State

1 Council or use of an existing body or board, provide for  
2 the coordination among its agencies of government, local  
3 education agencies and military installations concerning  
4 the state's participation in, and compliance with, this  
5 compact and Interstate Commission activities. While each  
6 member state may determine the membership of its own  
7 State Council, its membership must include at least: the  
8 state superintendent of education, superintendent of a  
9 school district with a high concentration of military  
10 children, representative from a military installation,  
11 one representative each from the legislative and  
12 executive branches of government, and other offices and  
13 stakeholder groups the State Council deems appropriate. A  
14 member state that does not have a school district deemed  
15 to contain a high concentration of military children may  
16 appoint a superintendent from another school district to  
17 represent local education agencies on the State Council.

18 B. The State Council of each member state shall appoint or  
19 designate a military family education liaison to assist  
20 military families and the state in facilitating the  
21 implementation of this compact.

22 C. The compact commissioner responsible for the  
23 administration and management of the state's  
24 participation in the compact shall be appointed by the  
25 Governor or as otherwise determined by each member state.

26 D. The compact commissioner and the military family  
27 education liaison designated herein shall be ex-officio  
28 members of the State Council, unless either is already a  
29 full voting member of the State Council.

30 ARTICLE IX

1 INTERSTATE COMMISSION ON EDUCATIONAL

2 OPPORTUNITY FOR MILITARY CHILDREN

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

8 A. Be a body corporate and joint agency of the member states  
9 and shall have all the responsibilities, powers and  
10 duties set forth herein, and such additional powers as  
11 may be conferred upon it by a subsequent concurrent  
12 action of the respective legislatures of the member  
13 states in accordance with the terms of this compact.

14 B. Consist of one Interstate Commission voting  
15 representative from each member state who shall be that  
16 state's compact commissioner.

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

19 2. A majority of the total member states shall  
20 constitute a quorum for the transaction of  
21 business, unless a larger quorum is required by  
22 the bylaws of the Interstate Commission.

23 3. A representative shall not delegate a vote to  
24 another member state. In the event the compact  
25 commissioner is unable to attend a meeting of the  
26 Interstate Commission, the Governor or State  
27 Council may delegate voting authority to another  
28 person from their state for a specified meeting.

29 4. The bylaws may provide for meetings of the  
30 Interstate Commission to be conducted by

telecommunication or electronic communication.

C. Consist of ex-officio, non-voting representatives who are members of interested organizations. Such ex-officio members, as defined in the bylaws, may include but not be limited to, members of the representative organizations of military family advocates, local education agency officials, parent and teacher groups, the U.S. Department of Defense, the Education Commission of the States, the Interstate Agreement on the Qualification of Educational Personnel and other interstate compacts affecting the education of children of military members.

D. Meet at least once each calendar year. The chairperson may call additional meetings and, upon the request of a simple majority of the member states, shall call additional meetings.

E. Establish an executive committee, whose members shall include the officers of the Interstate Commission and such other members of the Interstate Commission as determined by the bylaws. Members of the executive committee shall serve a one year term. Members of the executive committee shall be entitled to one vote each. The executive committee shall have the power to act on behalf of the Interstate Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session. The executive committee shall oversee the day-to-day activities of the administration of the compact including enforcement and compliance with the provisions of the compact, its bylaws and rules, and other such duties as deemed necessary. The U.S. Dept. of Defense shall serve as an ex-officio,

1 nonvoting member of the executive committee.

2 F. Establish bylaws and rules that provide for conditions  
3 and procedures under which the Interstate Commission  
4 shall make its information and official records available  
5 to the public for inspection or copying. The Interstate  
6 Commission may exempt from disclosure information or  
7 official records to the extent they would adversely  
8 affect personal privacy rights or proprietary interests.

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

- 15 1. Relate solely to the Interstate Commission's  
16 internal personnel practices and procedures;
- 17 2. Disclose matters specifically exempted from  
18 disclosure by federal and state statute;
- 19 3. Disclose trade secrets or commercial or financial  
20 information which is privileged or confidential;
- 21 4. Involve accusing a person of a crime, or formally  
22 censuring a person;
- 23 5. Disclose information of a personal nature where  
24 disclosure would constitute a clearly unwarranted  
25 invasion of personal privacy;
- 26 6. Disclose investigative records compiled for law  
27 enforcement purposes; or
- 28 7. Specifically relate to the Interstate  
29 Commission's participation in a civil action or  
30 other legal proceeding.



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

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

25 J. Create a process that permits military officials,  
26 education officials and parents to inform the Interstate  
27 Commission if and when there are alleged violations of  
28 the compact or its rules or when issues subject to the  
29 jurisdiction of the compact or its rules are not  
30 addressed by the state or local education agency. This

1 section shall not be construed to create a private right  
2 of action against the Interstate Commission or any member  
3 state or a political subdivision of a member state.

#### 4 ARTICLE X

##### 5 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

6 The Interstate Commission shall have the following powers:

- 7 A. To provide for dispute resolution among member states.
- 8 B. To promulgate rules and take necessary actions to effect  
9 the goals, purposes and obligations as enumerated in this  
10 compact. The rules shall have the force and effect of  
11 statutory law and shall be binding in the compact states  
12 to the extent and in the manner provided in this compact.
- 13 C. To issue, upon request of a member state, advisory  
14 opinions concerning the meaning or interpretation of the  
15 interstate compact, its bylaws, rules and actions.
- 16 D. To enforce compliance with the compact provisions, the  
17 rules promulgated by the Interstate Commission, and the  
18 bylaws, using all necessary and proper means, including  
19 but not limited to the use of judicial process.
- 20 E. To establish and maintain offices which shall be located  
21 within one or more of the member states.
- 22 F. To purchase and maintain insurance and bonds.
- 23 G. To borrow, accept, hire or contract for services of  
24 personnel.
- 25 H. To establish and appoint committees including, but not  
26 limited to, an executive committee as required by Article  
27 IX, Section E, which shall have the power to act on  
28 behalf of the Interstate Commission in carrying out its  
29 powers and duties hereunder.
- 30 I. To elect or appoint such officers, attorneys, employees,

agents, or consultants, and to fix their compensation,  
define their duties and determine their qualifications;  
and to establish the Interstate Commission's personnel  
policies and programs relating to conflicts of interest,  
rates of compensation, and qualifications of personnel.

J. To accept any and all donations and grants of money,  
equipment, supplies, materials, and services, and to  
receive, utilize, and dispose of it.

K. To lease, purchase, accept contributions or donations of,  
or otherwise to own, hold, improve or use any property,  
real, personal, or mixed.

L. To sell, convey, mortgage, pledge, lease, exchange,  
abandon, or otherwise dispose of any property, real,  
personal or mixed.

M. To establish a budget and make expenditures.

N. To adopt a seal and bylaws governing the management and  
operation of the Interstate Commission.

O. To report annually to the legislatures, governors,  
judiciary, and state councils of the member states  
concerning the activities of the Interstate Commission  
during the preceding year. Such reports shall also  
include any recommendations that may have been adopted by  
the Interstate Commission.

P. To coordinate education, training and public awareness  
regarding the compact, its implementation and operation  
for officials and parents involved in such activity.

Q. To establish uniform standards for the reporting,  
collecting and exchanging of data.

R. To maintain corporate books and records in accordance  
with the bylaws.

- 1 S. To perform such functions as may be necessary or  
2 appropriate to achieve the purposes of this compact.
- 3 T. To provide for the uniform collection and sharing of  
4 information between and among member states, schools and  
5 military families under this compact.

6 ARTICLE XI

7 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

8 A. The Interstate Commission shall, by a majority of the  
9 members present and voting, within 12 months after the  
10 first Interstate Commission meeting, adopt bylaws to  
11 govern its conduct as may be necessary or appropriate to  
12 carry out the purposes of the compact, including, but not  
13 limited to:

- 14 1. Establishing the fiscal year of the Interstate  
15 Commission;
- 16 2. Establishing an executive committee, and such  
17 other committees as may be necessary;
- 18 3. Providing for the establishment of committees and  
19 for governing any general or specific delegation  
20 of authority or function of the Interstate  
21 Commission;
- 22 4. Providing reasonable procedures for calling and  
23 conducting meetings of the Interstate Commission,  
24 and ensuring reasonable notice of each such  
25 meeting;
- 26 5. Establishing the titles and responsibilities of  
27 the officers and staff of the Interstate  
28 Commission;
- 29 6. Providing a mechanism for concluding the  
30 operations of the Interstate Commission and the

1 return of surplus funds that may exist upon the  
2 termination of the compact after the payment and  
3 reserving of all of its debts and obligations.

4 7. Providing "start up" rules for initial  
5 administration of the compact.

6 B. The Interstate Commission shall, by a majority of the  
7 members, elect annually from among its members a  
8 chairperson, a vice-chairperson, and a treasurer, each of  
9 whom shall have such authority and duties as may be  
10 specified in the bylaws. The chairperson or, in the  
11 chairperson's absence or disability, the vice-  
12 chairperson, shall preside at all meetings of the  
13 Interstate Commission. The officers so elected shall  
14 serve without compensation or remuneration from the  
15 Interstate Commission; provided that, subject to the  
16 availability of budgeted funds, the officers shall be  
17 reimbursed for ordinary and necessary costs and expenses  
18 incurred by them in the performance of their  
19 responsibilities as officers of the Interstate  
20 Commission.

21 C. Executive Committee, Officers and Personnel

22 1. The executive committee shall have such authority  
23 and duties as may be set forth in the bylaws,  
24 including but not limited to:

25 a. Managing the affairs of the Interstate  
26 Commission in a manner consistent with the  
27 bylaws and purposes of the Interstate  
28 Commission;

29 b. Overseeing an organizational structure  
30 within, and appropriate procedures for the

Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

c. Planning, implementing, and coordinating communications and activities with other state, federal and local government organizations in order to advance the goals of the Interstate Commission.

2. (Reserved).

3. The executive committee may, subject to the approval of the Interstate Commission, appoint or retain an executive director for such period, upon such terms and conditions and for such compensation, as the Interstate Commission may deem appropriate. The executive director shall serve as secretary to the Interstate Commission, but shall not be a Member of the Interstate Commission. The executive director shall hire and supervise such other persons as may be authorized by the Interstate Commission.

D. The Interstate Commission's executive director and employees shall be immune from suit and liability, either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred, or that such person had a reasonable basis for believing occurred, within the scope of Interstate Commission employment, duties, or responsibilities;

1 provided, that such person shall not be protected from  
2 suit or liability for damage, loss, injury, or liability  
3 caused by the intentional or willful and wanton  
4 misconduct of such person.

5 1. The liability of the Interstate Commission's  
6 executive director and employees or Interstate  
7 Commission representatives, acting within the  
8 scope of such person's employment or duties for  
9 acts, errors, or omissions occurring within such  
10 person's state may not exceed the limits of  
11 liability set forth under the Constitution and  
12 laws of that state for state officials,  
13 employees, and agents. The Interstate Commission  
14 is considered to be an instrumentality of the  
15 states for the purposes of any such action.  
16 Nothing in this subsection shall be construed to  
17 protect such person from suit or liability for  
18 damage, loss, injury, or liability caused by the  
19 intentional or willful and wanton misconduct of  
20 such person.

21 2. The Interstate Commission shall defend the  
22 executive director and its employees and, subject  
23 to the approval of the Attorney General or other  
24 appropriate legal counsel of the member state  
25 represented by an Interstate Commission  
26 representative, shall defend such Interstate  
27 Commission representative in any civil action  
28 seeking to impose liability arising out of an  
29 actual or alleged act, error or omission that  
30 occurred within the scope of Interstate

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

3. To the extent not covered by the state involved, member state, or the Interstate Commission, the representatives or employees of the Interstate Commission shall be held harmless in the amount of a settlement or judgment, including attorney's fees and costs, obtained against such persons arising out of an actual or alleged act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or responsibilities, or that such persons had a reasonable basis for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities, provided that the actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part of such persons.

## ARTICLE XII

### RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently achieve the purposes of this compact.

Notwithstanding the foregoing, in the event the



1 Interstate Commission exercises its rulemaking authority  
2 in a manner that is beyond the scope of the purposes of  
3 this Act, or the powers granted hereunder, then such an  
4 action by the Interstate Commission shall be invalid and  
5 have no force or effect.

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

12 C. Not later than thirty (30) days after a rule is  
13 promulgated, any person may file a petition for judicial  
14 review of the rule; provided, that the filing of such a  
15 petition shall not stay or otherwise prevent the rule  
16 from becoming effective unless the court finds that the  
17 petitioner has a substantial likelihood of success. The  
18 court shall give deference to the actions of the  
19 Interstate Commission consistent with applicable law and  
20 shall not find the rule to be unlawful if the rule  
21 represents a reasonable exercise of the Interstate  
22 Commission's authority.

23 D. If a majority of the legislatures of the compacting  
24 states rejects a Rule by enactment of a statute or  
25 resolution in the same manner used to adopt the compact,  
26 then such rule shall have no further force and effect in  
27 any compacting state.

## 28 ARTICLE XIII

### 29 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

30 A. Oversight

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

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

14          3. The Interstate Commission shall be entitled to  
15          receive all service of process in any such  
16          proceeding, and shall have standing to intervene  
17          in the proceeding for all purposes. Failure to  
18          provide service of process to the Interstate  
19          Commission shall render a judgment or order void  
20          as to the Interstate Commission, this compact or  
21          promulgated rules.

22          B. Default, Technical Assistance, Suspension and Termination

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

27               1. Provide written notice to the defaulting state  
28               and other member states, of the nature of the  
29               default, the means of curing the default and any  
30               action taken by the Interstate Commission. The

1 Interstate Commission shall specify the  
2 conditions by which the defaulting state must  
3 cure its default.

4 2. Provide remedial training and specific technical  
5 assistance regarding the default.

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

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

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

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

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

15       C. Dispute Resolution

16           1. The Interstate Commission shall attempt, upon the  
17 request of a member state, to resolve disputes  
18 which are subject to the compact and which may  
19 arise among member states and between member and  
20 non-member states.

21           2. The Interstate Commission shall promulgate a rule  
22 providing for both mediation and binding dispute  
23 resolution for disputes as appropriate.

24       D. Enforcement

25           1. The Interstate Commission, in the reasonable  
26 exercise of its discretion, shall enforce the  
27 provisions and rules of this compact.

28           2. The Interstate Commission may, by majority vote  
29 of the members, initiate legal action in the  
30 United States District Court for the District of

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

12 3. The remedies herein shall not be the exclusive  
13 remedies of the Interstate Commission. The  
14 Interstate Commission may avail itself of any  
15 other remedies available under state law or the  
16 regulation of a profession.

#### 17 ARTICLE XIV

##### 18 FINANCING OF THE INTERSTATE COMMISSION

19 A. The Interstate Commission shall pay, or provide for the  
20 payment of the reasonable expenses of its establishment,  
21 organization and ongoing activities.

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

1 C. The Interstate Commission shall not incur obligations of  
2 any kind prior to securing the funds adequate to meet the  
3 same; nor shall the Interstate Commission pledge the  
4 credit of any of the member states, except by and with  
5 the authority of the member state.

6 D. The Interstate Commission shall keep accurate accounts of  
7 all receipts and disbursements. The receipts and  
8 disbursements of the Interstate Commission shall be  
9 subject to the audit and accounting procedures  
10 established under its bylaws. However, all receipts and  
11 disbursements of funds handled by the Interstate  
12 Commission shall be audited yearly by a certified or  
13 licensed public accountant and the report of the audit  
14 shall be included in and become part of the annual report  
15 of the Interstate Commission.

16 ARTICLE XV

17 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

18 A. Any state is eligible to become a member state.

19 B. The compact shall become effective and binding upon  
20 legislative enactment of the compact into law by no less  
21 than ten (10) of the states. The effective date shall be  
22 no earlier than December 1, 2007. Thereafter it shall  
23 become effective and binding as to any other member state  
24 upon enactment of the compact into law by that state. The  
25 governors of non-member states or their designees shall  
26 be invited to participate in the activities of the  
27 Interstate Commission on a non-voting basis prior to  
28 adoption of the compact by all states.

29 C. The Interstate Commission may propose amendments to the  
30 compact for enactment by the member states. No amendment

1 shall become effective and binding upon the Interstate  
2 Commission and the member states unless and until it is  
3 enacted into law by unanimous consent of the member  
4 states.

5 ARTICLE XVI

6 WITHDRAWAL AND DISSOLUTION

7 A. Withdrawal

- 8 1. Once effective, the compact shall continue in  
9 force and remain binding upon each and every  
10 member state; provided that a member state may  
11 withdraw from the compact specifically repealing  
12 the statute, which enacted the compact into law.
- 13 2. Withdrawal from this compact shall be by the  
14 enactment of a statute repealing the same, but  
15 shall not take effect until one (1) year after  
16 the effective date of such statute and until  
17 written notice of the withdrawal has been given  
18 by the withdrawing state to the Governor of each  
19 other member state.
- 20 3. The withdrawing state shall immediately notify  
21 the chairperson of the Interstate Commission in  
22 writing upon the introduction of legislation  
23 repealing this compact in the withdrawing state.  
24 The Interstate Commission shall notify the other  
25 member states of the withdrawing state's intent  
26 to withdraw within sixty (60) days of its receipt  
27 thereof.
- 28 4. The withdrawing state is responsible for all  
29 assessments, obligations and liabilities incurred  
30 through the effective date of withdrawal,

1 including obligations, the performance of which  
2 extend beyond the effective date of withdrawal.

3 5. Reinstatement following withdrawal of a member  
4 state shall occur upon the withdrawing state  
5 reenacting the compact or upon such later date as  
6 determined by the Interstate Commission.

7 B. Dissolution of Compact

8 1. This compact shall dissolve effective upon the  
9 date of the withdrawal or default of the member  
10 state which reduces the membership in the compact  
11 to one (1) member state.

12 2. Upon the dissolution of this compact, the compact  
13 becomes null and void and shall be of no further  
14 force or effect, and the business and affairs of  
15 the Interstate Commission shall be concluded and  
16 surplus funds shall be distributed in accordance  
17 with the bylaws.

18 ARTICLE XVII

19 SEVERABILITY AND CONSTRUCTION

20 A. The provisions of this compact shall be severable, and if  
21 any phrase, clause, sentence or provision is deemed  
22 unenforceable, the remaining provisions of the compact  
23 shall be enforceable.

24 B. The provisions of this compact shall be liberally  
25 construed to effectuate its purposes.

26 C. Nothing in this compact shall be construed to prohibit  
27 the applicability of other interstate compacts to which  
28 the states are members.

29 ARTICLE XVIII

30 BINDING EFFECT OF COMPACT AND OTHER LAWS



1       A.    Other Laws

2               1.    Nothing herein prevents the enforcement of any  
3                       other law of a member state that is not  
4                       inconsistent with this compact.

5               2.    All member states' laws conflicting with this  
6                       compact are superseded to the extent of the  
7                       conflict.

8       B.    Binding Effect of the Compact

9               1.    All lawful actions of the Interstate Commission,  
10                      including all rules and bylaws promulgated by the  
11                      Interstate Commission, are binding upon the  
12                      member states.

13              2.    All agreements between the Intrastate Commission  
14                      and the member states are binding in accordance  
15                      with their terms.

16              3.    In the event any provision of this compact  
17                      exceeds the constitutional limits imposed on the  
18                      legislature of any member state, such provision  
19                      shall be ineffective to the extent of the  
20                      conflict with the constitutional provision in  
21                      question in that member state.

22   Section 3.   When and how compact becomes operative.

23       (a)   General rule.--When the Governor executes the Interstate  
24   Compact on Educational Opportunity for Military Children on  
25   behalf of this State and files a verified copy thereof with the  
26   Secretary of the Commonwealth and when the compact is ratified  
27   by at least ten other states, upon publication in the  
28   Pennsylvania Bulletin under subsection (b), then the compact  
29   shall become operative and effective between this State and such  
30   other states. The Governor is hereby authorized and directed to

1 take such action as may be necessary to complete the exchange of  
2 official documents between this State and any other state  
3 ratifying the compact.

4 (b) Publication in Pennsylvania Bulletin.--The Secretary of  
5 the Commonwealth shall forward the ratified compact to the  
6 Legislative Reference Bureau for publication in the Pennsylvania  
7 Bulletin and the Pennsylvania Code when the conditions set forth  
8 in subsection (a) are satisfied and shall include in the notice  
9 the date on which the compact became effective and operative  
10 between this State and any other states in accordance with this  
11 act.

12 Section 4. Force and effect of compact rules.

13 Rules promulgated by the Interstate Commission on Educational  
14 Opportunity for Military Children under Article XII of the  
15 Interstate Compact on Educational Opportunity for Military  
16 Children shall not be subject to any of the following:

17 (1) Sections 201, 202, 203, 204 or 205 of the act of  
18 July 31, 1968 (P.L.769, No.240), referred to as the  
19 Commonwealth Documents Law.

20 (2) Section 204(b) of the act of October 15, 1980  
21 (P.L.950, No.164), known as the Commonwealth Attorneys Act.

22 (3) The act of June 25, 1982 (P.L.633, No.181), known as  
23 the Regulatory Review Act.

24 (4) The provisions of 2 Pa.C.S. (relating to  
25 administrative law and procedure).

26 Section 5. Action to enforce compliance against member states.

27 An action by the Interstate Commission on Educational  
28 Opportunity for Military Children to enforce compliance by the  
29 Commonwealth or a political subdivision with a provision of the  
30 Interstate Compact on Educational Opportunity for Military

1 Children or with a rule promulgated under Article XII of the  
2 compact must be brought against the Commonwealth and not against  
3 a political subdivision.

4 Section 6. State Council on Interstate Educational Opportunity  
5 for Military Children.

6 (a) Establishment.--Consistent with Article VIII of the  
7 Interstate Compact on Educational Opportunity for Military  
8 Children, there is hereby established the State Council on  
9 Interstate Educational Opportunity for Military Children. The  
10 council shall conduct all business pursuant to 65 Pa.C.S. Ch. 7  
11 (relating to open meetings) and the act of February 14, 2008  
12 (P.L.6, No.3), known as the Right-to-Know Law. The council shall  
13 consist of the Secretary of Education; four members appointed by  
14 the Governor, one a superintendent of a school district with a  
15 high concentration of military children, one a representative of  
16 a military ~~institution~~ INSTALLATION, one a representative of the ←  
17 Pennsylvania School Boards Association and one a representative  
18 of the executive branch; and one member each appointed by the  
19 President pro tempore of the Senate, the Minority Leader of the  
20 Senate, the Speaker of the House of Representatives and the  
21 Minority Leader of the House of Representatives.

22 (b) Terms.--The term of a member of the council hereafter  
23 appointed, except to fill a vacancy, shall be four years and  
24 until a successor has been appointed, but in no event more than  
25 90 days beyond the expiration of the appointed term. The term of  
26 a member of the council who is appointed by virtue of serving as  
27 a member of the General Assembly shall continue only as long as  
28 the individual remains in that office.

29 (c) Vacancy.--A vacancy occurring in an office of a member  
30 of the council for any reason shall be filled by the appointing

1 authority for the remainder of the term.

2 Section 7. Appointment of compact commissioner.

3 The compact commissioner shall be appointed by the Governor.

4 The compact commissioner must have experience in school district  
5 administration, school district operations, student attendance,  
6 enrollment, transfers or education law. The compact commissioner  
7 shall serve as a member of the State Council on Interstate  
8 Educational Opportunity for Military Children and as a member of  
9 the Interstate Commission on Educational Opportunity for  
10 Military Children established pursuant to Article IX of the  
11 Interstate Compact on Educational Opportunity for Military  
12 Children.

13 Section 8. Compensation and expenses of administrator.

14 The compact administrator who represents this State under the  
15 Interstate Compact on Educational Opportunity for Military  
16 Children shall not be entitled to any additional compensation  
17 for his duties and responsibilities as compact administrator but  
18 shall be entitled to reimbursement for reasonable expenses  
19 actually incurred in connection with his duties and  
20 responsibilities as compact administrator in the same manner as  
21 for expenses incurred in connection with other duties and  
22 responsibilities of his office or employment.

23 Section 9. Effective date.

24 This act shall take effect immediately.