

1 H.38

2 Introduced by Representatives Grad of Moretown, Bouchard of Colchester,  
3 Donahue of Northfield, Fisher of Lincoln, French of  
4 Shrewsbury, Head of South Burlington, Howrigan of Fairfield,  
5 Jerman of Essex, Koch of Barre Town, Moran of Wardsboro,  
6 Partridge of Windham, Pugh of South Burlington, Ram of  
7 Burlington, Reis of St. Johnsbury, Savage of Swanton, Shand of  
8 Weathersfield, Stevens of Waterbury, Sweaney of Windsor and  
9 Wizowaty of Burlington

10 Referred to Committee on

11 Date:

12 Subject: Education; military; interstate compact

13 Statement of purpose: This bill proposes to adopt the interstate compact on  
14 educational opportunity for military children.

~~An act relating to adopting the interstate compact on educational  
opportunity for military children~~ *An act relating to ensuring educational  
continuity for children of military families* *An act relating to adopting the  
interstate compact on educational opportunity for military children*

15 It is hereby enacted by the General Assembly of the State of Vermont:

1 ~~Sec. 1. 16 V.S.A. chapter 19 is added to read:~~

2 CHAPTER 19. INTERSTATE COMPACT ON EDUCATIONAL

3 OPPORTUNITY FOR MILITARY CHILDREN

4 § 806. PURPOSE – ARTICLE I

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

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

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

15 C. Facilitating the qualification and eligibility for enrollment, educational  
16 programs, and participation in extracurricular academic, athletic, and social  
17 activities.

18 D. Facilitating the on-time graduation of children of military families.

19 E. Providing for the promulgation and enforcement of administrative rules  
20 implementing the provisions of this compact.

1 ~~F. Providing for the uniform collection and sharing of information between~~  
2 ~~and among member states, schools, and military families under this compact.~~

3 G. Promoting coordination between this compact and other compacts  
4 affecting military children.

5 H. Promoting flexibility and cooperation between the educational system,  
6 parents and the student in order to achieve educational success for the student.

7 § 806a. DEFINITIONS – ARTICLE II

8 As used in this compact, unless the context clearly requires a different  
9 construction:

10 A. “Active duty” means: full-time duty status in the active uniformed  
11 service of the United States, including members of the National Guard and  
12 Reserve on active duty orders pursuant to 10 U.S.C. Section 1209 and 1211.

13 B. “Children of military families” means: a school-aged child or children,  
14 enrolled in Kindergarten through Twelfth (12th) grade, in the household of an  
15 active duty member.

16 C. “Compact commissioner” means: the voting representative of each  
17 compacting state appointed pursuant to Article VIII of this compact.

18 D. “Deployment” means: the period one (1) month prior to the service  
19 members’ departure from their home station on military orders through six (6)  
20 months after return to their home station.

1 ~~E. “Educational records” means: those official records, files, and data~~  
2 ~~directly related to a student and maintained by the school or local education~~  
3 ~~agency including but not limited to records encompassing all the material kept~~  
4 ~~in the student’s cumulative folder such as general identifying data, records of~~  
5 ~~attendance and of academic work completed, records of achievement and~~  
6 ~~results of evaluative tests, health data, disciplinary status, test protocols, and~~  
7 ~~individualized education programs.~~

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

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

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

19 I. “Member state” means: a state that has enacted this compact.

20 J. “Military installation” means: a base, camp, post, station, yard, center,  
21 homeport facility for any ship, or other activity under the jurisdiction of the

1 ~~Department of Defense, including any leased facility, which is located within~~  
2 ~~any of the several States, the District of Columbia, the Commonwealth of~~  
3 ~~Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern~~  
4 ~~Marianas Islands and any other U.S. Territory. Such term does not include any~~  
5 ~~facility used primarily for civil works, rivers and harbors projects, or flood~~  
6 ~~control projects.~~

7 K. "Nonmember state" means: a state that has not enacted this compact.

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

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

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

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

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

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

7 R. "Uniformed service" means: the Army, Navy, Air Force, Marine Corps,  
8 Coast Guard as well as the Commissioned Corps of the National Oceanic and  
9 Atmospheric Administration, and Public Health Services.

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

13 § 806b. APPLICABILITY – ARTICLE III

14 A. Except as otherwise provided in Section B, this compact shall apply to  
15 the children of:

16 1. active duty members of the uniformed services as defined in this  
17 compact, including members of the National Guard and Reserve on active duty  
18 orders pursuant to 10 U.S.C. Section 1209 and 1211;

19 2. members or veterans of the uniformed services who are severely  
20 injured and medically discharged or retired for a period of one (1) year after  
21 medical discharge or retirement; and

1 ~~3. members of the uniformed services who die on active duty or as a~~  
2 ~~result of injuries sustained on active duty for a period of one (1) year after~~  
3 ~~death.~~

4 B. The provisions of this interstate compact shall only apply to local  
5 education agencies as defined in this compact.

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

7 1. inactive members of the national guard and military reserves;

8 2. members of the uniformed services now retired, except as provided in

9 Section A:

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

11 and

12 4. other U.S. Dept. of Defense personnel and other federal agency

13 civilian and contract employees not defined as active duty members of the  
14 uniformed services.

15 § 806c. EDUCATIONAL RECORDS AND ENROLLMENT – ARTICLE IV

16 A. Unofficial or “hand-carried” education records – In the event that  
17 official education records cannot be released to the parents for the purpose of  
18 transfer, the custodian of the records in the sending state shall prepare and  
19 furnish to the parent a complete set of unofficial educational records containing  
20 uniform information as determined by the Interstate Commission. Upon  
21 receipt of the unofficial education records by a school in the receiving state,

1 ~~the school shall enroll and appropriately place the student based on the~~  
2 information provided in the unofficial records pending validation by the  
3 official records, as quickly as possible.

4 B. Official education records and transcripts – Simultaneous with the  
5 enrollment and conditional placement of the student, the school in the  
6 receiving state shall request the student's official education record from the  
7 school in the sending state. Upon receipt of this request, the school in the  
8 sending state will process and furnish the official education records to the  
9 school in the receiving state within ten (10) days or within such time as is  
10 reasonably determined under the rules promulgated by the Interstate  
11 Commission.

12 C. Immunizations – Compacting states shall give thirty (30) days from the  
13 date of enrollment or within such time as is reasonably determined under the  
14 rules promulgated by the Interstate Commission, for students to obtain any  
15 immunizations required by the receiving state. For a series of immunizations,  
16 initial vaccinations must be obtained within thirty (30) days or within such  
17 time as is reasonably determined under the rules promulgated by the Interstate  
18 Commission.

19 D. Kindergarten and first grade entrance age – Students shall be allowed to  
20 continue their enrollment at grade level in the receiving state commensurate  
21 with their grade level (including Kindergarten) from a local education agency

1 ~~in the sending state at the time of transition, regardless of age. A student that~~  
2 has satisfactorily completed the prerequisite grade level in the local education  
3 agency in the sending state shall be eligible for enrollment in the next highest  
4 grade level in the receiving state, regardless of age. A student transferring  
5 after the start of the school year in the receiving state shall enter the school in  
6 the receiving state on their validated level from an accredited school in the  
7 sending state.

8 § 806d. PLACEMENT AND ATTENDANCE – ARTICLE V

9 A. Course placement – When the student transfers before or during the  
10 school year, the receiving state school shall initially honor placement of the  
11 student in educational courses based on the student’s enrollment in the sending  
12 state school or educational assessments conducted at the school in the sending  
13 state if the courses are offered or both. Course placement includes but is not  
14 limited to Honors, International Baccalaureate, Advanced Placement,  
15 vocational, technical and career pathways courses. Continuing the student’s  
16 academic program from the previous school and promoting placement in  
17 academically and career challenging courses should be paramount when  
18 considering placement. This does not preclude the school in the receiving state  
19 from performing subsequent evaluations to ensure appropriate placement and  
20 continued enrollment of the student in the courses.

1 ~~B. Educational program placement – The receiving state school shall~~  
2 ~~initially honor placement of the student in educational programs based on~~  
3 ~~current educational assessments conducted at the school in the sending state or~~  
4 ~~participation or placement in like programs in the sending state. Such~~  
5 ~~programs include, but are not limited to: 1) gifted and talented programs; and~~  
6 ~~2) English as a second language (ESL). This does not preclude the school in~~  
7 ~~the receiving state from performing subsequent evaluations to ensure~~  
8 ~~appropriate placement of the student.~~

9 ~~C. Special education services – 1) In compliance with the federal~~  
10 ~~requirements of the Individuals with Disabilities Education Act (IDEA),~~  
11 ~~20 U.S.C.A. Section 1400 et seq., the receiving state shall initially provide~~  
12 ~~comparable services to a student with disabilities based on his or her current~~  
13 ~~Individualized Education Program (IEP); and 2) in compliance with the~~  
14 ~~requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section~~  
15 ~~794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A.~~  
16 ~~Sections 12131-12165, the receiving state shall make reasonable~~  
17 ~~accommodations and modifications to address the needs of incoming students~~  
18 ~~with disabilities, subject to an existing 504 or Title II Plan, to provide the~~  
19 ~~student with equal access to education. This does not preclude the school in~~  
20 ~~the receiving state from performing subsequent evaluations to ensure~~  
21 ~~appropriate placement of the student.~~

1 ~~D. Placement flexibility – Local education agency administrative officials~~  
2 ~~shall have flexibility in waiving course and program prerequisites, or other~~  
3 ~~preconditions for placement in courses and programs offered under the~~  
4 ~~jurisdiction of the local education agency.~~

5 ~~E. Absence as related to deployment activities – A student whose parent or~~  
6 ~~legal guardian is an active duty member of the uniformed services, as defined~~  
7 ~~by the compact, and has been called to duty for, is on leave from, or~~  
8 ~~immediately returned from deployment to a combat zone or combat support~~  
9 ~~posting, shall be granted additional excused absences at the discretion of the~~  
10 ~~local education agency superintendent to visit with his or her parent or legal~~  
11 ~~guardian relative to such leave or deployment of the parent or guardian.~~

12 ~~§ 806e. ELIGIBILITY – ARTICLE VI~~

13 ~~A. Eligibility for enrollment.~~

14 ~~1. Special power of attorney, relative to the guardianship of a child of a~~  
15 ~~military family and executed under applicable law shall be sufficient for the~~  
16 ~~purposes of enrollment and all other actions requiring parental participation~~  
17 ~~and consent.~~

18 ~~2. A local education agency shall be prohibited from charging local~~  
19 ~~tuition to a transitioning military child placed in the care of a noncustodial~~  
20 ~~parent or other person standing in loco parentis who lives in a jurisdiction other~~  
21 ~~than that of the custodial parent.~~

1 ~~3. A transitioning military child, placed in the care of a noncustodial~~  
2 ~~parent or other person standing in loco parentis who lives in a jurisdiction other~~  
3 ~~than that of the custodial parent, may continue to attend the school in which he~~  
4 ~~or she was enrolled while residing with the custodial parent.~~

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

9 § 806f. GRADUATION – ARTICLE VII

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

12 A. Waiver requirements – Local education agency administrative officials  
13 shall waive specific courses required for graduation if similar course work has  
14 been satisfactorily completed in another local education agency or shall  
15 provide reasonable justification for denial. Should a waiver not be granted to a  
16 student who would qualify to graduate from the sending school, the local  
17 education agency shall provide an alternative means of acquiring required  
18 coursework so that graduation may occur on time.

19 B. Exit exams – States shall accept: 1) exit or end-of-course exams  
20 required for graduation from the sending state; or 2) national norm-referenced  
21 achievement tests; or 3) alternative testing, in lieu of testing requirements for

1 ~~graduation in the receiving state. In the event the above alternatives cannot be~~  
2 ~~accommodated by the receiving state for a student transferring in his or her~~  
3 ~~senior year, then the provisions of Article VII, Section C shall apply.~~

4 C. Transfers during senior year – Should a military student transferring at  
5 the beginning or during his or her senior year be ineligible to graduate from the  
6 receiving local education agency after all alternatives have been considered,  
7 the sending and receiving local education agencies shall ensure the receipt of a  
8 diploma from the sending local education agency, if the student meets the  
9 graduation requirements of the sending local education agency. In the event  
10 that one of the states in question is not a member of this compact, the member  
11 state shall use best efforts to facilitate the on-time graduation of the student in  
12 accordance with Sections A and B of this Article.

13 § 806g. STATE COORDINATION – ARTICLE VIII

14 A. Each member state shall, through the creation of a State Council or use  
15 of an existing body or board, provide for the coordination among its agencies  
16 of government, local education agencies, and military installations concerning  
17 the state's participation in, and compliance with, this compact and Interstate  
18 Commission activities. While each member state may determine the  
19 membership of its own State Council, its membership must include at least: the  
20 state superintendent of education, superintendent of a school district with a  
21 high concentration of military children, representative from a military

1 ~~installation, one representative each from the legislative and executive~~  
2 ~~branches of government, and other offices and stakeholder groups the State~~  
3 ~~Council deems appropriate. A member state that does not have a school~~  
4 ~~district deemed to contain a high concentration of military children may~~  
5 ~~appoint a superintendent from another school district to represent local~~  
6 ~~education agencies on the State Council.~~

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

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

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

16 § 806h. INTERSTATE COMMISSION ON EDUCATIONAL

17 OPPORTUNITY FOR MILITARY CHILDREN – ARTICLE IX

18 The member states hereby create the “Interstate Commission on  
19 Educational Opportunity for Military Children.” The activities of the Interstate  
20 Commission are the formation of public policy and are a discretionary state  
21 function. The Interstate Commission shall:

1 ~~A. Be a body corporate and joint agency of the member states and shall~~  
2 ~~have all the responsibilities, powers and duties set forth herein, and such~~  
3 ~~additional powers as may be conferred upon it by a subsequent concurrent~~  
4 ~~action of the respective legislatures of the member states in accordance with~~  
5 ~~the terms of this compact.~~

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

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

10 2. A majority of the total member states shall constitute a quorum for  
11 the transaction of business, unless a larger quorum is required by the bylaws of  
12 the Interstate Commission.

13 3. A representative shall not delegate a vote to another member state. In  
14 the event the compact commissioner is unable to attend a meeting of the  
15 Interstate Commission, the Governor or State Council may delegate voting  
16 authority to another person from their state for a specified meeting.

17 4. The bylaws may provide for meetings of the Interstate Commission to  
18 be conducted by telecommunication or electronic communication.

19 C. Consist of ex-officio, nonvoting representatives who are members of  
20 interested organizations. Such ex-officio members, as defined in the bylaws,  
21 may include but not be limited to, members of the representative organizations

1 ~~of military family advocates, local education agency officials, parent and~~  
2 ~~teacher groups, the U.S. Department of Defense, the Education Commission of~~  
3 ~~the States, the Interstate Agreement on the Qualification of Educational~~  
4 ~~Personnel and other interstate compacts affecting the education of children of~~  
5 ~~military members.~~

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

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

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

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

12 1. Relate solely to the Interstate Commission's internal personnel  
13 practices and procedures;

14 2. Disclose matters specifically exempted from disclosure by federal and  
15 state statute;

16 3. Disclose trade secrets or commercial or financial information which is  
17 privileged or confidential;

18 4. Involve accusing a person of a crime, or formally censuring a person;

19 5. Disclose information of a personal nature where disclosure would  
20 constitute a clearly unwarranted invasion of personal privacy;

1 ~~6. Disclose investigative records compiled for law enforcement~~

2 ~~purposes; or~~

3 ~~7. Specifically relate to the Interstate Commission's participation in a~~

4 ~~civil action or other legal proceeding.~~

5 ~~H. Shall cause its legal counsel or designee to certify that a meeting may be~~

6 ~~closed and shall reference each relevant exemptible provision for any meeting,~~

7 ~~or portion of a meeting, which is closed pursuant to this provision. The~~

8 ~~Interstate Commission shall keep minutes which shall fully and clearly~~

9 ~~describe all matters discussed in a meeting and shall provide a full and accurate~~

10 ~~summary of actions taken, and the reasons therefore, including a description of~~

11 ~~the views expressed and the record of a roll call vote. All documents~~

12 ~~considered in connection with an action shall be identified in such minutes.~~

13 ~~All minutes and documents of a closed meeting shall remain under seal,~~

14 ~~subject to release by a majority vote of the Interstate Commission.~~

15 ~~I. Shall collect standardized data concerning the educational transition of~~

16 ~~the children of military families under this compact as directed through its~~

17 ~~rules which shall specify the data to be collected, the means of collection and~~

18 ~~data exchange and reporting requirements. Such methods of data collection,~~

19 ~~exchange and reporting shall, in so far as is reasonably possible, conform to~~

20 ~~current technology and coordinate its information functions with the~~

21 ~~appropriate custodian of records as identified in the bylaws and rules.~~

1 ~~J. Shall create a process that permits military officials, education officials~~  
2 ~~and parents to inform the Interstate Commission if and when there are alleged~~  
3 ~~violations of the compact or its rules or when issues subject to the jurisdiction~~  
4 ~~of the compact or its rules are not addressed by the state or local education~~  
5 ~~agency. This section shall not be construed to create a private right of action~~  
6 ~~against the Interstate Commission or any member state.~~

7 § 806i. POWERS AND DUTIES OF THE INTERSTATE COMMISSION –

8 ARTICLE X

9 The Interstate Commission shall have the following powers:

10 A. To provide for dispute resolution among member states.

11 B. To promulgate rules and take all necessary actions to effect the goals,  
12 purposes and obligations as enumerated in this compact. The rules shall have  
13 the force and effect of statutory law and shall be binding in the compact states  
14 to the extent and in the manner provided in this compact.

15 C. To issue, upon request of a member state, advisory opinions concerning  
16 the meaning or interpretation of the interstate compact, its bylaws, rules, and  
17 actions.

18 D. To enforce compliance with the compact provisions, the rules  
19 promulgated by the Interstate Commission, and the bylaws, using all necessary  
20 and proper means, including but not limited to the use of judicial process.

1 ~~E. To establish and maintain offices which shall be located within one or~~  
2 ~~more of the member states.~~

3 F. To purchase and maintain insurance and bonds.

4 G. To borrow, accept, hire, or contract for services of personnel.

5 H. To establish and appoint committees including, but not limited to, an  
6 executive committee as required by Article IX, Section E, which shall have the  
7 power to act on behalf of the Interstate Commission in carrying out its powers  
8 and duties hereunder.

9 I. To elect or appoint such officers, attorneys, employees, agents, or  
10 consultants, and to fix their compensation, define their duties, and determine  
11 their qualifications; and to establish the Interstate Commission's personnel  
12 policies and programs relating to conflicts of interest, rates of compensation,  
13 and qualifications of personnel.

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

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

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

20 M. To establish a budget and make expenditures.

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

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

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

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

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

13 S. To perform such functions as may be necessary or appropriate to achieve  
14 the purposes of this compact.

15 T. To provide for the uniform collection and sharing of information  
16 between and among member states, schools, and military families under this  
17 compact.

18 § 806j. ORGANIZATION AND OPERATION OF THE INTERSTATE

19 COMMISSION – ARTICLE XI

20 A. The Interstate Commission shall, by a majority of the members present  
21 and voting, within 12 months after the first Interstate Commission meeting.

1 ~~adopt bylaws to govern its conduct as may be necessary or appropriate to carry~~  
2 out the purposes of the compact, including, but not limited to:

3 1. Establishing the fiscal year of the Interstate Commission;

4 2. Establishing an executive committee, and such other committees as  
5 may be necessary;

6 3. Providing for the establishment of committees and for governing any  
7 general or specific delegation of authority or function of the Interstate  
8 Commission;

9 4. Providing reasonable procedures for calling and conducting meetings  
10 of the Interstate Commission, and ensuring reasonable notice of each such  
11 meeting;

12 5. Establishing the titles and responsibilities of the officers and staff of  
13 the Interstate Commission;

14 6. Providing a mechanism for concluding the operations of the Interstate  
15 Commission and the return of surplus funds that may exist upon the  
16 termination of the compact after the payment and reserving of all of its debts  
17 and obligations.

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

19 B. The Interstate Commission shall, by a majority of the members, elect  
20 annually from among its members a chairperson, a vice chairperson, and a  
21 treasurer, each of whom shall have such authority and duties as may be

1 ~~specified in the bylaws. The chairperson or, in the chairperson's absence or~~  
2 ~~disability, the vice chairperson, shall preside at all meetings of the Interstate~~  
3 ~~Commission. The officers so elected shall serve without compensation or~~  
4 ~~remuneration from the Interstate Commission; provided that, subject to the~~  
5 ~~availability of budgeted funds, the officers shall be reimbursed for ordinary~~  
6 ~~and necessary costs and expenses incurred by them in the performance of their~~  
7 ~~responsibilities as officers of the Interstate Commission.~~

8 C. Executive Committee, Officers, and Personnel.

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

11 a. Managing the affairs of the Interstate Commission in a manner  
12 consistent with the bylaws and purposes of the Interstate Commission;

13 b. Overseeing an organizational structure within, and appropriate  
14 procedures for the Interstate Commission to provide for the creation of rules,  
15 operating procedures, and administrative and technical support functions; and

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

19 3. The executive committee may, subject to the approval of the  
20 Interstate Commission, appoint or retain an executive director for such period,  
21 upon such terms and conditions, and for such compensation, as the Interstate

1 ~~Commission may deem appropriate. The executive director shall serve as~~  
2 secretary to the Interstate Commission, but shall not be a Member of the  
3 Interstate Commission. The executive director shall hire and supervise such  
4 other persons as may be authorized by the Interstate Commission.

5 D. The Interstate Commission's executive director and its employees shall  
6 be immune from suit and liability, either personally or in their official capacity,  
7 for a claim for damage to or loss of property or personal injury or other civil  
8 liability caused or arising out of or relating to an actual or alleged act, error, or  
9 omission that occurred, or that such person had a reasonable basis for believing  
10 occurred, within the scope of Interstate Commission employment, duties, or  
11 responsibilities; provided, that such person shall not be protected from suit or  
12 liability for damage, loss, injury, or liability caused by the intentional or willful  
13 and wanton misconduct of such person.

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

1 ~~injury, or liability caused by the intentional or willful and wanton misconduct~~  
2 ~~of such person.~~

3 2. The Interstate Commission shall defend the executive director and its  
4 employees and, subject to the approval of the Attorney General or other  
5 appropriate legal counsel of the member state represented by an Interstate  
6 Commission representative, shall defend such Interstate Commission  
7 representative in any civil action seeking to impose liability arising out of an  
8 actual or alleged act, error or omission that occurred within the scope of  
9 Interstate Commission employment, duties, or responsibilities, or that the  
10 defendant had a reasonable basis for believing occurred within the scope of  
11 Interstate Commission employment, duties, or responsibilities, provided that  
12 the actual or alleged act, error, or omission did not result from intentional or  
13 willful and wanton misconduct on the part of such person.

14 3. To the extent not covered by the state involved, member state, or the  
15 Interstate Commission, the representatives or employees of the Interstate  
16 Commission shall be held harmless in the amount of a settlement or judgment,  
17 including attorney's fees and costs, obtained against such persons arising out  
18 of an actual or alleged act, error, or omission that occurred within the scope 1  
19 of Interstate Commission employment, duties, or responsibilities, or that such  
20 persons had a reasonable basis for believing occurred within the scope of  
21 Interstate Commission employment, duties, or responsibilities, provided that

1 ~~the actual or alleged act, error, or omission did not result from intentional or~~  
2 ~~willful and wanton misconduct on the part of such persons.~~

3 § 806k. RULEMAKING FUNCTIONS OF THE INTERSTATE

4 COMMISSION – ARTICLE XII

5 A. Rulemaking Authority – The Interstate Commission shall promulgate  
6 reasonable rules in order to effectively and efficiently achieve the purposes of  
7 this Compact. Notwithstanding the foregoing, in the event the Interstate  
8 Commission exercises its rulemaking authority in a manner that is beyond the  
9 scope of the purposes of this Act, or the powers granted hereunder, then such  
10 an action by the Interstate Commission shall be invalid and have no force or  
11 effect.

12 B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking  
13 process that substantially conforms to the “Model State Administrative  
14 Procedure Act,” of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as  
15 amended, as may be appropriate to the operations of the Interstate  
16 Commission.

17 C. Not later than thirty (30) days after a rule is promulgated, any person  
18 may file a petition for judicial review of the rule; provided, that the filing of  
19 such a petition shall not stay or otherwise prevent the rule from becoming  
20 effective unless the court finds that the petitioner has a substantial likelihood of  
21 success. The court shall give deference to the actions of the Interstate

1 ~~Commission consistent with applicable law and shall not find the rule to be~~  
2 unlawful if the rule represents a reasonable exercise of the Interstate  
3 Commission's authority.

4 D. If a majority of the legislatures of the compacting states rejects a rule by  
5 enactment of a statute or resolution in the same manner used to adopt the  
6 compact, then such rule shall have no further force and effect in any  
7 compacting state.

8 § 806I. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION –

9 ARTICLE XIII

10 A. Oversight.

11 1. The executive, legislative, and judicial branches of state government  
12 in each member state shall enforce this compact and shall take all actions  
13 necessary and appropriate to effectuate the compact's purposes and intent. The  
14 provisions of this compact and the rules promulgated hereunder shall have  
15 standing as statutory law.

16 2. All courts shall take judicial notice of the compact and the rules in  
17 any judicial or administrative proceeding in a member state pertaining to the  
18 subject matter of this compact which may affect the powers, responsibilities, or  
19 actions of the Interstate Commission.

20 3. The Interstate Commission shall be entitled to receive all service of  
21 process in any such proceeding, and shall have standing to intervene in the

1 ~~proceeding for all purposes. Failure to provide service of process to the~~  
2 Interstate Commission shall render a judgment or order void as to the Interstate  
3 Commission, this compact or promulgated rules.

4 B. Default, Technical Assistance, Suspension and Termination – If the  
5 Interstate Commission determines that a member state has defaulted in the  
6 performance of its obligations or responsibilities under this compact, or the  
7 bylaws or promulgated rules, the Interstate Commission shall:

8 1. Provide written notice to the defaulting state and other member states,  
9 of the nature of the default, the means of curing the default and any action  
10 taken by the Interstate Commission. The Interstate Commission shall specify  
11 the conditions by which the defaulting state must cure its default.

12 2. Provide remedial training and specific technical assistance regarding  
13 the default.

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

20 4. Suspension or termination of membership in the compact shall be  
21 imposed only after all other means of securing compliance have been

1 ~~exhausted. Notice of intent to suspend or terminate shall be given by the~~  
2 Interstate Commission to the Governor, the majority and minority leaders of  
3 the defaulting state's legislature, and each of the member states.

4 5. The state which has been suspended or terminated is responsible for  
5 all assessments, obligations and liabilities incurred through the effective date  
6 of suspension or termination including obligations, the performance of which  
7 extends beyond the effective date of suspension or termination.

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

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

17 C. Dispute Resolution.

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

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

3 D. Enforcement.

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

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

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

18 § 806m. FINANCING OF THE INTERSTATE COMMISSION –

19 ARTICLE XIV

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

1 ~~B. The Interstate Commission may levy on and collect an annual~~  
2 ~~assessment from each member state to cover the cost of the operations and~~  
3 ~~activities of the Interstate Commission and its staff which must be in a total~~  
4 ~~amount sufficient to cover the Interstate Commission's annual budget as~~  
5 ~~approved each year. The aggregate annual assessment amount shall be~~  
6 ~~allocated based upon a formula to be determined by the Interstate Commission,~~  
7 ~~which shall promulgate a rule binding upon all member states.~~

8 ~~C. The Interstate Commission shall not incur obligations of any kind prior~~  
9 ~~to securing the funds adequate to meet the same; nor shall the Interstate~~  
10 ~~Commission pledge the credit of any of the member states, except by and with~~  
11 ~~the authority of the member state.~~

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

19 ~~§ 806n. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT –~~

20 ~~ARTICLE XV~~

21 ~~A. Any state is eligible to become a member state.~~

1 ~~B. The compact shall become effective and binding upon legislative~~  
2 ~~enactment of the compact into law by no less than ten (10) of the states. The~~  
3 ~~effective date shall be no earlier than December 1, 2007. Thereafter it shall~~  
4 ~~become effective and binding as to any other member state upon enactment of~~  
5 ~~the compact into law by that state. The governors of non-member states or~~  
6 ~~their designees shall be invited to participate in the activities of the Interstate~~  
7 ~~Commission on a non-voting basis prior to adoption of the compact by all~~  
8 ~~states.~~

9 C. The Interstate Commission may propose amendments to the compact for  
10 enactment by the member states. No amendment shall become effective and  
11 binding upon the Interstate Commission and the member states unless and until  
12 it is enacted into law by unanimous consent of the member states.

13 § 806o. WITHDRAWAL AND DISSOLUTION – ARTICLE XVI

14 A. Withdrawal.

15 1. Once effective, the compact shall continue in force and remain  
16 binding upon each and every member state; provided that a member state may  
17 withdraw from the compact by specifically repealing the statute, which enacted  
18 the compact into law.

19 2. Withdrawal from this compact shall be by the enactment of a statute  
20 repealing the same, but shall not take effect until one (1) year after the  
21 effective date of such statute and until written notice of the withdrawal has

1 ~~been given by the withdrawing state to the Governor of each other member~~  
2 jurisdiction.

3 3. The withdrawing state shall immediately notify the chairperson of the  
4 Interstate Commission in writing upon the introduction of legislation repealing  
5 this compact in the withdrawing state. The Interstate Commission shall notify  
6 the other member states of the withdrawing state's intent to withdraw within  
7 sixty (60) days of its receipt thereof.

8 4. The withdrawing state is responsible for all assessments, obligations,  
9 and liabilities incurred through the effective date of withdrawal, including  
10 obligations, the performance of which extend beyond the effective date of  
11 withdrawal.

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

15 B. Dissolution of Compact.

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

19 2. Upon the dissolution of this compact, the compact becomes null and  
20 void and shall be of no further force or effect, and the business and affairs of

1 ~~the Interstate Commission shall be concluded and surplus funds shall be~~  
2 distributed in accordance with the bylaws.

3 § 806p. SEVERABILITY AND CONSTRUCTION – ARTICLE XVII

4 A. The provisions of this compact shall be severable, and if any phrase,  
5 clause, sentence, or provision is deemed unenforceable, the remaining  
6 provisions of the compact shall be enforceable.

7 B. The provisions of this compact shall be liberally construed to effectuate  
8 its purposes.

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

11 § 806q. BINDING EFFECT OF COMPACT AND OTHER LAWS –  
12 ARTICLE XVIII

13 A. Other Laws.

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

16 2. All member states' laws conflicting with this compact are superseded  
17 to the extent of the conflict.

18 B. Binding Effect of the Compact.

19 1. All lawful actions of the Interstate Commission, including all rules  
20 and bylaws promulgated by the Interstate Commission, are binding upon the  
21 member states.

1 ~~2. All agreements between the Interstate Commission and the member~~  
2 ~~states are binding in accordance with their terms.~~

3 ~~3. In the event any provision of this compact exceeds the constitutional~~  
4 ~~limits imposed on the legislature of any member state, such provision shall be~~  
5 ~~ineffective to the extent of the conflict with the constitutional provision in~~  
6 ~~question in that member state.~~

7 Sec. 2. EFFECTIVE DATE

8 ~~This act shall take effect on July 1, 2011.~~

~~Sec. 1. *16 V.S.A. § 217 is added to read:*~~

~~§ 217. CHILDREN OF MILITARY FAMILIES~~

~~(a) The commissioner shall work with school districts and supervisory~~  
~~unions to support the educational continuity and success of children of military~~  
~~families, whose lives can be disrupted by frequent relocation and parental~~  
~~deployment, by, among other things, facilitating the timely enrollment of a~~  
~~child of a military family, the transfer of education records, and the~~  
~~educational placement process.~~

~~(b) When a student who is the child of a military family moves to a new~~  
~~school district, the student's parents or guardian shall provide the school~~  
~~district with proof of residency, official or unofficial school records if~~  
~~available, immunization records, and information by which the school district~~

~~can contact officials in the school in which the student was previously enrolled.~~

~~(1) Within two business days of receiving the information, the school district shall:~~

~~(A) enroll and temporarily place the student within a school maintained by the district or to which the district pays tuition; and~~

~~(B) request official records from the school in which the student was previously enrolled.~~

~~(2) Within the first 30 days after the student's enrollment, the nurse employed by the school shall review the student's immunization records and notify the student's parents or guardian of unsatisfied state requirements regarding immunization and of the exemptions to those requirements, including 18 V.S.A. § 1122(a)(1), which allow a student to remain in school if he or she is in the process of being immunized.~~

~~(3) Regardless of the student's age, the school district shall initially place a student in a grade level based upon the student's placement in his or her previous school.~~

~~(4) The school district shall initially place the student in educational courses available to other students residing in the district based on the student's enrollment in the courses in the previous school or on assessments conducted at the previous school or both; provided, however, the student may~~

~~be evaluated after initial placement to ensure appropriate placement and confirm continued enrollment in the educational courses. In this subdivision, "educational courses" include honors, advanced placement, technical, gifted and talented, and English language learner (ELL) courses.~~

~~(5) The school district or the governing body of the independent school in which the student is enrolled may waive course and program prerequisites or other preconditions for placement in courses and programs offered by the school in order to meet the student's educational and developmental needs. If the student enrolls in the school at the beginning of or during the 12th grade, then the school district or governing body shall waive local requirements that would delay the student's graduation from secondary school if the student would have satisfactorily completed graduation requirements at the previous school.~~

~~(6) If the student is a child with a disability as defined in section 2942 of this title, then the supervisory union of which the school district is a member shall initially provide services to the student that are comparable with those in the individualized education plan or program that was in place in the school in which the student was previously enrolled. This subdivision does not preclude subsequent evaluations to ensure that appropriate services are being provided to the student.~~

(7) The school in which the student is enrolled may grant excused absences in excess of the number permitted by school policy to allow the student to be with his or her parent or guardian if the parent or guardian has been called to duty for, is on leave from, or has returned from deployment to a combat zone or combat support posting.

1 (c) When a student who is the child of a military family moves out of a  
2 Vermont school district, the school in which the student was enrolled shall  
3 forward official transcripts and other information as permitted by law within  
4 two business days of receiving a request for the information from the student's  
5 new school or school district.

(c d) For purposes of this section, "child of a military family" means a school-age child whose parent or guardian is a member of the uniformed service of the United States, including the national guard and reserve components, and who has moved into a new school district as a direct result of the activation or deployment of the parent or guardian on military orders.

Sec. 1. 16 V.S.A. chapter 19 is added to read:

CHAPTER 19. INTERSTATE COMPACT ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN

§ 806. PURPOSE – ARTICLE I

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 or variations in entrance or 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.~~

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

~~§ 806a. DEFINITIONS – ARTICLE II~~

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

~~A. “Active duty” means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211.~~

~~B. “Children of military families” means: a school-aged child or children, enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.~~

~~C. “Compact commissioner” means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.~~

~~D. “Deployment” means: the period one (1) month prior to the service members’ departure from their home station on military orders through six (6) months after return to their home station.~~

~~E. “Education(al) records” means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and~~

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

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

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

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

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

~~J. "Military installation" means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several 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. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.~~

~~K. "Nonmember 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 a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25, 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 1 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 sending state to another school in the receiving state.~~

~~R. "Uniformed service" means: the Army, Navy, Air Force, Marine Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic and Atmospheric Administration, and Public Health Services.~~

~~S. "Veteran" means: a person who served in the uniformed services and who was discharged or released there from under conditions other than dishonorable.~~

~~§ 806b. APPLICABILITY – ARTICLE III~~

~~A. Except as otherwise provided in Section B, this compact shall apply to the children of:~~

~~1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211;~~

~~2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and~~

~~3. members of the uniformed services who die on active duty or as a result of injuries sustained on active duty for a period of one (1) year after death.~~

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

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

~~1. inactive members of the national guard and military reserves;~~

~~2. members of the uniformed services now retired, except as provided in Section A;~~

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

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

~~§ 806c. EDUCATIONAL RECORDS AND ENROLLMENT – ARTICLE IV~~

~~A. Unofficial or "hand carried" education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.~~

~~B. Official education records and transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.~~

~~C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.~~

~~D. Kindergarten and first grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.~~

~~§ 806d. PLACEMENT AND ATTENDANCE – ARTICLE V~~

~~A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student's enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered or both. Course placement includes but~~

~~is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical and career pathways courses. Continuing the student's academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.~~

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

~~C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and 2) in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.~~

~~D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.~~

~~E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.~~

~~§ 806e. ELIGIBILITY – ARTICLE VI~~

~~A. Eligibility for enrollment.~~

~~1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purpose of enrollment and all other actions requiring parental participation and consent.~~

~~2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.~~

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

~~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.~~

~~§ 806f. GRADUATION – ARTICLE VII~~

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

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

~~C. Transfers during senior year – Should a military student transferring at the beginning or during his or her senior year be ineligible to graduate from the receiving local education agency after all alternatives have been~~

~~considered, the sending and receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency, if the student meets the graduation requirements of the sending local education agency. In the event that one of the states in question is not a member of this compact, the member state shall use best efforts to facilitate the on-time graduation of the student in accordance with Sections A and B of this Article.~~

~~§ 806g. STATE COORDINATION – ARTICLE VIII~~

~~A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.~~

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

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

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

~~§ 806h. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN – ARTICLE IX~~

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

~~A. Be a body corporate and joint agency of the member states and shall have all the responsibilities, powers and duties set forth herein, and such additional powers as may be conferred upon it by a subsequent concurrent~~

~~action of the respective legislatures of the member states in accordance with the terms of this compact.~~

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

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

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

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

~~4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.~~

~~C. Consist of ex-officio, nonvoting 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, nonvoting member of the executive committee.~~

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

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

~~1. Relate solely to the Interstate Commission's internal personnel practices and procedures;~~

~~2. Disclose matters specifically exempted from disclosure by federal and state statute;~~

~~3. Disclose trade secrets or commercial or financial information which is privileged or confidential;~~

~~4. Involve accusing a person of a crime, or formally censuring a person;~~

~~5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;~~

~~6. Disclose investigative records compiled for law enforcement purposes; or~~

~~7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.~~

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

~~I. Shall collect standardized data concerning the educational transition of the children of military families under this compact as directed through its rules which shall specify the data to be collected, the means of collection and data exchange and reporting requirements. Such methods of data collection,~~

~~exchange and reporting shall, in so far as is reasonably possible, conform to current technology and coordinate its information functions with the appropriate custodian of records as identified in the bylaws and rules.~~

~~J. Shall create a process that permits military officials, education officials and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.~~

~~§ 806i. POWERS AND DUTIES OF THE INTERSTATE COMMISSION –  
ARTICLE X~~

~~The Interstate Commission shall have the following powers:~~

~~A. To provide for dispute resolution among member states.~~

~~B. To promulgate rules and take all necessary actions to effect the goals, purposes and obligations as enumerated in this compact. The rules shall have the force and effect of a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25 and shall be binding in the compact states to the extent and in the manner provided in this compact.~~

~~C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.~~

~~D. To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.~~

~~E. To establish and maintain offices which shall be located within one or more of the member states.~~

~~F. To purchase and maintain insurance and bonds.~~

~~G. To borrow, accept, hire, or contract for services of personnel.~~

~~H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.~~

~~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.~~

~~S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.~~

~~T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.~~

~~§ 806j. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION – ARTICLE XI~~

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

~~1. Establishing the fiscal year of the Interstate Commission;~~

~~2. Establishing an executive committee, and such other committees as may be necessary;~~

~~3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;~~

~~4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;~~

~~5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;~~

~~6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and~~

~~7. Providing "start-up" rules for initial administration of the compact.~~

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

~~C. Executive Committee, Officers, and Personnel.~~

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

~~a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;~~

~~b. Overseeing an organizational structure 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.~~

~~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 its 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; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.~~

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

~~2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability 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 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.~~

~~§ 806k. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION  
– ARTICLE XII~~

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

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

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

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

~~§ 806l. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION –  
ARTICLE XIII~~

~~A. Oversight.~~

~~1. Each member state shall enforce this compact to effectuate the compact’s purposes and intent. The provisions of this compact and the rules promulgated hereunder rules promulgated under this compact shall have standing as a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25.~~

~~2. All courts shall take judicial notice of the compact and the rules in any judicial or administrative proceeding in a member state pertaining to the~~

~~subject matter of this compact which may affect the powers, responsibilities, or actions of the Interstate Commission.~~

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

~~B. Default, Technical Assistance, Suspension and Termination – If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:~~

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

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

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

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

~~5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$100 per year as provided in Article XIV, Subsection E, of this chapter for each year that the state of Vermont is a member of the compact.~~

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

~~7. The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S. District Court for the District of Columbia.~~

~~or the federal district where the Interstate Commission has its principal offices. The prevailing party shall be awarded all costs of such litigation including reasonable attorney's fees.~~

C. Dispute Resolution.

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

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

§ 806m. FINANCING OF THE INTERSTATE COMMISSION –

ARTICLE XIV

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

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

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

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

~~E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than \$100 per year. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.~~

§ 806n. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT –  
ARTICLE XV

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

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

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

§ 806o. WITHDRAWAL AND DISSOLUTION – ARTICLE XVI

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw immediately from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed \$100 per year as provided in Article XIV, Subsection E, of this chapter for each year that the state of Vermont is a member of the compact.

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

B. Dissolution of Compact.

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

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

~~§ 806p. SEVERABILITY AND CONSTRUCTION – ARTICLE XVII~~

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

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

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

~~§ 806q. BINDING EFFECT OF COMPACT AND OTHER LAWS – ARTICLE XVIII~~

~~A. Other Laws. Nothing herein prevents the enforcement of any other law of a member state.~~

~~B. Binding Effect of the Compact.~~

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

~~2. All agreements between the Interstate Commission and the member states are binding in accordance with their terms.~~

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

~~Sec. 2. EFFECTIVE DATE~~

~~This act shall take effect on July 1, 2011.~~

~~Sec. 2. 16 V.S.A. § 164(20) is added to read:~~

~~(20) Pursuant to section 806g of this title, constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the council a compact commissioner and military family education liaison, who may be the same person. The board may appoint additional members.~~

~~Sec. 1. 16 V.S.A. chapter 19 is added to read:~~

CHAPTER 19. INTERSTATE COMPACT ON EDUCATIONAL  
OPPORTUNITY FOR MILITARY CHILDREN

§ 806. PURPOSE – ARTICLE I

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 or variations in entrance or 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.

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

§ 806a. DEFINITIONS – ARTICLE II

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

A. “Active duty” means: full-time duty status in the active uniformed service of the United States, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211.

B. “Children of military families” means: a school-aged child or children, enrolled in Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

C. “Compact commissioner” means: the voting representative of each compacting state appointed pursuant to Article VIII of this compact.

D. “Deployment” means: the period one (1) month prior to the service members’ departure from their home station on military orders though six (6) months after return to their home station.

E. “Education(al) records” means: those official records, files, and data directly related to a student and maintained by the school or local education agency, including but not limited to records encompassing all the material kept in the student’s cumulative folder such as general identifying data, records of attendance and of academic work completed, records of achievement and results of evaluative tests, health data, disciplinary status, test protocols, and individualized education programs.

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

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

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

I. “Member state” means: a state that has enacted this compact.

J. “Military installation” means: a base, camp, post, station, yard, center, homeport facility for any ship, or other activity under the jurisdiction of the Department of Defense, including any leased facility, which is located within any of the several 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. Such term does not include any facility used primarily for civil works, rivers and harbors projects, or flood control projects.

K. “Nonmember 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 a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25, 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 sending state to another school in the receiving state.

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

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

§ 806b. APPLICABILITY – ARTICLE III

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

1. active duty members of the uniformed services as defined in this compact, including members of the National Guard and Reserve on active duty orders pursuant to 10 U.S.C. Chapter 1209 and 1211;

2. members or veterans of the uniformed services who are severely injured and medically discharged or retired for a period of one (1) year after medical discharge or retirement; and

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

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

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

1. inactive members of the national guard and military reserves;
2. members of the uniformed services now retired, except as provided in Section A;
3. veterans of the uniformed services, except as provided in Section A; and
4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract employees not defined as active duty members of the uniformed services.

§ 806c. EDUCATIONAL RECORDS AND ENROLLMENT – ARTICLE IV

A. Unofficial or “hand-carried” education records – In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.

B. Official education records and transcripts – Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student’s official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

C. Immunizations – Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunizations required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.

D. Kindergarten and first grade entrance age – Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending state shall be eligible for enrollment in the next highest

grade level in the receiving state, regardless of age. A student transferring after the start of the school year in the receiving state shall enter the school in the receiving state on their validated level from an accredited school in the sending state.

§ 806d. PLACEMENT AND ATTENDANCE – ARTICLE V

A. Course placement – When the student transfers before or during the school year, the receiving state school shall initially honor placement of the student in educational courses based on the student’s enrollment in the sending state school or educational assessments conducted at the school in the sending state if the courses are offered or both. Course placement includes but is not limited to Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. Continuing the student’s academic program from the previous school and promoting placement in academically and career challenging courses should be paramount when considering placement. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement and continued enrollment of the student in the courses.

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

C. Special education services – 1) In compliance with the federal requirements of the Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq., the receiving state shall initially provide comparable services to a student with disabilities based on his or her current Individualized Education Program (IEP); and 2) in compliance with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the receiving state shall make reasonable accommodations and modifications to address the needs of incoming students with disabilities, subject to an existing 504 or Title II Plan, to provide the student with equal access to education. This does not preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate placement of the student.

D. Placement flexibility – Local education agency administrative officials shall have flexibility in waiving course and program prerequisites, or other

preconditions for placement in courses and programs offered under the jurisdiction of the local education agency.

E. Absence as related to deployment activities – A student whose parent or legal guardian is an active duty member of the uniformed services, as defined by the compact, and has been called to duty for, is on leave from, or immediately returned from deployment to a combat zone or combat support posting, shall be granted additional excused absences at the discretion of the local education agency superintendent to visit with his or her parent or legal guardian relative to such leave or deployment of the parent or guardian.

§ 806e. ELIGIBILITY – ARTICLE VI

A. Eligibility for enrollment.

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.

2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.

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

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.

§ 806f. GRADUATION – ARTICLE VII

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

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

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

§ 806g. STATE COORDINATION – ARTICLE VIII

A. Each member state shall, through the creation of a State Council or use of an existing body or board, provide for the coordination among its agencies of government, local education agencies, and military installations concerning the state's participation in, and compliance with, this compact and Interstate Commission activities. While each member state may determine the membership of its own State Council, its membership must include at least: the state superintendent of education, superintendent of a school district with a high concentration of military children, representative from a military installation, one representative each from the legislative and executive branches of government, and other offices and stakeholder groups the State Council deems appropriate. A member state that does not have a school district deemed to contain a high concentration of military children may appoint a superintendent from another school district to represent local education agencies on the State Council.

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

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

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

§ 806h. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY  
FOR MILITARY CHILDREN – ARTICLE IX

The member states hereby create the “Interstate Commission on Educational Opportunity for Military Children.” The activities of the Interstate Commission are the formation of public policy and are a discretionary state function. The Interstate Commission shall:

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

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

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

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

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

4. The bylaws may provide for meetings of the Interstate Commission to be conducted by telecommunication or electronic communication.

C. Consist of ex-officio, nonvoting 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, nonvoting member of the executive committee.

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

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

1. Relate solely to the Interstate Commission's internal personnel practices and procedures;

2. Disclose matters specifically exempted from disclosure by federal and state statute;

3. Disclose trade secrets or commercial or financial information which is privileged or confidential;

4. Involve accusing a person of a crime, or formally censuring a person;

5. Disclose information of a personal nature where disclosure would constitute a clearly unwarranted invasion of personal privacy;

6. Disclose investigative records compiled for law enforcement purposes; or

7. Specifically relate to the Interstate Commission's participation in a civil action or other legal proceeding.

H. Cause its legal counsel or designee to certify that a meeting may be closed and shall reference each relevant exemptible provision for any meeting, or portion of a meeting, which is closed pursuant to this provision. The Interstate Commission shall keep minutes which shall fully and clearly describe all matters discussed in a meeting and shall provide a full and

accurate summary of actions taken, and the reasons therefor, including a description of the views expressed and the record of a roll call vote. All documents considered in connection with an action shall be identified in such minutes. All minutes and documents of a closed meeting shall remain under seal, subject to release by a majority vote of the Interstate Commission.

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

J. Create a process that permits military officials, education officials, and parents to inform the Interstate Commission if and when there are alleged violations of the compact or its rules or when issues subject to the jurisdiction of the compact or its rules are not addressed by the state or local education agency. This section shall not be construed to create a private right of action against the Interstate Commission, any member state, or any local education agency.

§ 806i. POWERS AND DUTIES OF THE INTERSTATE COMMISSION –  
ARTICLE X

The Interstate Commission shall have the following powers:

A. To provide for dispute resolution among member states.

B. To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25 and shall be binding in the compact states to the extent and in the manner provided in this compact.

C. To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions.

D. To monitor compliance with the compact provisions, the rules promulgated by the Interstate Commission, and the bylaws. Any action to enforce compliance with the compact provisions by the Interstate Commission shall be brought against a member state only.

E. To establish and maintain offices which shall be located within one or more of the member states.

F. To purchase and maintain insurance and bonds.

G. To borrow, accept, hire, or contract for services of personnel.

H. To establish and appoint committees including, but not limited to, an executive committee as required by Article IX, Section E, which shall have the power to act on behalf of the Interstate Commission in carrying out its powers and duties hereunder.

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 and 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.

S. To perform such functions as may be necessary or appropriate to achieve the purposes of this compact.

T. To provide for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.

§ 806j. ORGANIZATION AND OPERATION OF THE INTERSTATE  
COMMISSION – ARTICLE XI

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

1. Establishing the fiscal year of the Interstate Commission;
2. Establishing an executive committee, and such other committees as may be necessary;
3. Providing for the establishment of committees and for governing any general or specific delegation of authority or function of the Interstate Commission;
4. Providing reasonable procedures for calling and conducting meetings of the Interstate Commission, and ensuring reasonable notice of each such meeting;
5. Establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
6. Providing a mechanism for concluding the operations of the Interstate Commission and the return of surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its debts and obligations; and
7. Providing “start up” rules for initial administration of the compact.

B. The Interstate Commission shall, by a majority of the members, elect annually from among its members a chairperson, a vice chairperson, and a treasurer, each of whom shall have such authority and duties as may be specified in the bylaws. The chairperson or, in the chairperson’s absence or disability, the vice chairperson, shall preside at all meetings of the Interstate Commission. The officers so elected shall serve without compensation or remuneration from the Interstate Commission; provided that, subject to the availability of budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as officers of the Interstate Commission.

C. Executive Committee, Officers, and Personnel.

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

- a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;

b. Overseeing an organizational structure 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. 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 its 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; provided, that such person shall not be protected from suit or liability for damage, loss, injury, or liability caused by the intentional or willful and wanton misconduct of such person.

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

2. The Interstate Commission shall defend the executive director and its employees and, subject to the approval of the Attorney General or other appropriate legal counsel of the member state represented by an Interstate Commission representative, shall defend such Interstate Commission representative in any civil action seeking to impose liability 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 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.

§ 806k. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION  
– ARTICLE XII

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

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

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

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

§ 806I. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION –  
ARTICLE XIII

A. Oversight.

1. Each member state shall enforce this compact to effectuate the compact's purposes and intent. The rules promulgated under this act shall have standing as a rule promulgated under the Vermont Administrative Procedure Act as found in 3 V.S.A. chapter 25.

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

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

B. Default, Technical Assistance, Suspension, and Termination – If the Interstate Commission determines that a member state has defaulted in the performance of its obligations or responsibilities under this compact, or the bylaws or promulgated rules, the Interstate Commission shall:

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

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

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

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

5. The state which has been suspended or terminated is responsible for all assessments, obligations, and liabilities incurred through the effective date of suspension or termination, not to exceed \$100 per year as provided in Article XIV, Subsection E, of this compact for each year that the state of Vermont is a member of the compact.

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

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

C. Dispute Resolution.

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

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

§ 806m. FINANCING OF THE INTERSTATE COMMISSION –

ARTICLE XIV

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

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

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

D. The Interstate Commission shall keep accurate accounts of all receipts and disbursements. The receipts and disbursements of the Interstate Commission shall be subject to the audit and accounting procedures

established under its bylaws. However, all receipts and disbursements of funds handled by the Interstate Commission shall be audited yearly by a certified or licensed public accountant, and the report of the audit shall be included in and become part of the annual report of the Interstate Commission.

E. The Interstate Commission may not assess, levy, or collect from Vermont in its annual assessment more than \$100 per year. Other funding sources may be accepted and used to offset expenses related to the state's participation in the compact.

§ 806n. MEMBER STATES, EFFECTIVE DATE AND AMENDMENT –  
ARTICLE XV

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

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

C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

§ 806o. WITHDRAWAL AND DISSOLUTION – ARTICLE XVI

A. Withdrawal.

1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw immediately from the compact by specifically repealing the statute which enacted the compact into law.

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same.

3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

4. The withdrawing state is responsible for all assessments, obligations, and liabilities incurred through the effective date of withdrawal, not to exceed

\$100 per year as provided in Article XIV, Subsection E, of this compact for each year that the state of Vermont is a member of the compact.

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

B. Dissolution of Compact.

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

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

§ 806p. SEVERABILITY AND CONSTRUCTION – ARTICLE XVII

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

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

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

§ 806q. BINDING EFFECT OF COMPACT AND OTHER LAWS – ARTICLE XVIII

A. Other Laws. Nothing herein prevents the enforcement of any other law of a member state.

B. Binding Effect of the Compact.

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

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

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

*Sec. 2. 16 V.S.A. § 164(20) is added to read:*

*(20) Pursuant to section 806g of this title, constitute the State Council for the Interstate Compact on Educational Opportunity for Military Children and appoint to the council a compact commissioner and military family education liaison, who may be the same person. The board may appoint additional members.*