

1 AN ACT
2 RELATING TO MILITARY CHILDREN; CORRECTING A REFERENCE TO A
3 UNITED STATES CODE PROVISION IN THE INTERSTATE COMPACT ON
4 EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.
5

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF NEW MEXICO:

7 SECTION 1. Section 11-8B-1 NMSA 1978 (being Laws 2010,
8 Chapter 41, Section 1) is amended to read:

9 "11-8B-1. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
10 FOR MILITARY CHILDREN--ENTERED INTO.--The "Interstate Compact
11 on Educational Opportunity for Military Children" is enacted
12 into law and entered into with all other jurisdictions
13 legally joining therein in the form substantially as follows:

14 "INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
15 CHILDREN

16 ARTICLE 1

17 PURPOSE

18 It is the purpose of the Interstate Compact on
19 Educational Opportunity for Military Children to remove
20 barriers to educational success imposed on children of
21 military families because of frequent moves and deployment of
22 their parents by:

23 A. facilitating the timely enrollment of children
24 of military families and ensuring that they are not placed at
25 a disadvantage due to difficulty in the transfer of education

1 records from the previous school district or variations in
2 entrance and age requirements;

3 B. facilitating the student placement process
4 through which children of military families are not
5 disadvantaged by variations in attendance requirements,
6 scheduling, sequencing, grading, course content or
7 assessment;

8 C. facilitating the qualification and eligibility
9 for enrollment, educational programs and participation in
10 extracurricular, academic, athletic and social activities;

11 D. facilitating the on-time graduation of children
12 of military families;

13 E. providing for the promulgation and enforcement
14 of administrative rules implementing the provisions of that
15 compact;

16 F. providing for the uniform collection and
17 sharing of information between and among member states,
18 schools and military families under that compact;

19 G. promoting coordination between that compact and
20 other compacts affecting military children; and

21 H. promoting flexibility and cooperation between
22 the educational system, parents and the student in order to
23 achieve educational success for the student.

24 ARTICLE 2

25 DEFINITIONS

1 As used in the Interstate Compact on Educational
2 Opportunity for Military Children:

3 A. "active duty" means full-time duty status in
4 the active uniformed service of the United States, including
5 members of the national guard and reserve on active duty
6 orders pursuant to 10 U.S.C. Chapters 1209 and 1211;

7 B. "children of military families" means
8 school-aged children enrolled in kindergarten through twelfth
9 grade in the household of an active duty member;

10 C. "compact commissioner" means the voting
11 representative of each compacting state appointed pursuant to
12 Article 8 of the Interstate Compact on Educational
13 Opportunity for Military Children;

14 D. "deployment" means the period one month prior
15 to the service members' departures from their home stations
16 on military orders through six months after return to their
17 home stations;

18 E. "education records" means records, files and
19 data that are directly related to a student and maintained by
20 a school or local education agency, including records
21 encompassing all the material kept in a student's cumulative
22 folder such as general identifying data, records of
23 attendance and of academic work completed, records of
24 achievement and results of evaluative tests, health data,
25 disciplinary status, test protocols and individualized

1 education programs;

2 F. "extracurricular activity" means a voluntary
3 activity sponsored by a school or local education agency or
4 an organization sanctioned by a local education agency.

5 "Extracurricular activity" includes preparation for and
6 involvement in public performances, contests, athletic
7 competitions, demonstrations, displays and club activities;

8 G. "interstate commission" means the interstate
9 commission on educational opportunity for military children
10 that is created under Article 9 of the Interstate Compact on
11 Educational Opportunity for Military Children;

12 H. "local education agency" means a public
13 authority legally constituted by the state as an
14 administrative agency to provide control of and direction for
15 kindergarten through twelfth grade public educational
16 institutions;

17 I. "member state" means a state that has enacted
18 the Interstate Compact on Educational Opportunity for
19 Military Children;

20 J. "military installation" means a base, camp,
21 post, station, yard, center or homeport facility for any ship
22 or other activity under the jurisdiction of the United States
23 department of defense, including any leased facility, that is
24 located within any of the several states, the District of
25 Columbia, the commonwealth of Puerto Rico, the United States

1 Virgin Islands, Guam, American Samoa, the Northern Marianas
2 Islands and any other United States territory. The term does
3 not include any facility used primarily for civil works,
4 rivers and harbors projects or flood control projects;

5 K. "non-member state" means a state that has not
6 enacted the Interstate Compact on Educational Opportunity for
7 Military Children;

8 L. "receiving state" means the state to which a
9 child of a military family is sent or brought or caused to be
10 sent or brought;

11 M. "rule" means a written statement by the
12 interstate commission promulgated pursuant to Article 12 of
13 the Interstate Compact on Educational Opportunity for
14 Military Children that is of general applicability,
15 implements, interprets or prescribes a policy or provision of
16 that compact or an organizational, procedural or practice
17 requirement of the interstate commission and includes the
18 amendment, repeal or suspension of an existing rule;

19 N. "sending state" means the state from which a
20 child of a military family is sent or brought or caused to be
21 sent or brought;

22 O. "state" means a state of the United States, the
23 District of Columbia, the commonwealth of Puerto Rico, the
24 United States Virgin Islands, Guam, American Samoa, the
25 Northern Marianas Islands and any other United States

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 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 services" means the army, navy, air force, marine corps, coast guard and the commissioned corps of the national oceanic and atmospheric administration and United States public health service; and

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

ARTICLE 3

APPLICABILITY

A. Except as otherwise provided in Subsection B of this article, the Interstate Compact on Educational Opportunity for Military Children shall apply to the children of:

1 (1) active duty members of the uniformed
2 services, including members of the national guard and reserve
3 on active duty orders pursuant to 10 U.S.C. Chapters 1209 and
4 1211;

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

9 (3) members of the uniformed services who
10 die on active duty or as a result of injuries sustained while
11 on active duty and extending for a period of one year after
12 death.

13 B. The provisions of the Interstate Compact on
14 Educational Opportunity for Military Children shall only
15 apply to local education agencies.

16 C. The provisions of the Interstate Compact on
17 Educational Opportunity for Military Children shall not apply
18 to the children of:

19 (1) inactive members of the national guard
20 and military reserves;

21 (2) members of the uniformed services now
22 retired, except as provided in Subsection A of this article;

23 (3) veterans of the uniformed services,
24 except as provided in Subsection A of this article; and

25 (4) other United States department of

1 defense personnel and other federal agency civilian and
2 contract employees not defined as active duty members of the
3 uniformed services.

4 ARTICLE 4

5 EDUCATIONAL RECORDS AND ENROLLMENT

6 A. In the event that official education records
7 cannot be released to the parents for the purpose of
8 transfer, the custodian of the records in the sending state
9 shall prepare and furnish to the parent a complete set of
10 unofficial education records containing uniform information
11 as determined by the interstate commission. Upon receipt of
12 the unofficial education records by a school in the receiving
13 state, the school shall enroll and appropriately place the
14 student based on the information provided in the unofficial
15 records, pending validation by the official records, as
16 quickly as possible.

17 B. Simultaneous with the enrollment and
18 conditional placement of the student, the school in the
19 receiving state shall request the student's official
20 education record from the school in the sending state. Upon
21 receipt of this request, the school in the sending state
22 shall process and furnish the official education records to
23 the school in the receiving state within ten days or within
24 such time as is reasonably determined under the rules
25 promulgated by the interstate commission.

1 C. Compacting states shall give thirty days from
2 the date of enrollment or within such time as is reasonably
3 determined under the rules promulgated by the interstate
4 commission for students to obtain any immunizations required
5 by the receiving state. For a series of immunizations,
6 initial vaccinations must be obtained within thirty days or
7 within such time as is reasonably determined under the rules
8 promulgated by the interstate commission.

9 D. Students shall be allowed to continue their
10 enrollment at a grade level in the receiving state
11 commensurate with their grade level, including kindergarten,
12 from a local education agency in the sending state at the
13 time of transition, regardless of age. A student that has
14 satisfactorily completed the prerequisite grade level in the
15 local education agency in the sending state shall be eligible
16 for enrollment in the next highest grade level in the
17 receiving state, regardless of age. A student transferring
18 after the start of the school year in the receiving state
19 shall enter the school in the receiving state on the
20 student's validated level from an accredited school in the
21 sending state.

22 ARTICLE 5

23 PLACEMENT AND ATTENDANCE

24 A. When a student transfers before or during the
25 school year, the receiving state school shall initially honor

1 placement of the student in educational courses based on the
2 student's enrollment in the sending state school or
3 educational assessments conducted at the school in the
4 sending state if the courses are offered. Course placement
5 includes honors, international baccalaureate, advanced
6 placement, vocational, technical and career pathways courses.
7 Continuing the student's academic program from the previous
8 school and promoting placement in academically and
9 career-challenging courses should be paramount when
10 considering placement. This subsection does not preclude the
11 school in the receiving state from performing subsequent
12 evaluations to ensure appropriate placement and continued
13 enrollment of the student in the courses.

14 B. The receiving state school shall initially
15 honor placement of the student in educational programs based
16 on current educational assessments conducted at the school in
17 the sending state or participation or placement in like
18 programs in the sending state. Such programs include gifted
19 and talented programs and English as a second language. This
20 subsection does not preclude the school in the receiving
21 state from performing subsequent evaluations to ensure
22 appropriate placement of the student.

23 C. In compliance with the federal requirements of
24 the Individuals with Disabilities Education Act, 20 U.S.C.
25 Section 1400 et seq., the receiving state shall initially

1 provide comparable services to a student with disabilities
2 based on the student's current individualized education
3 program. In compliance with the requirements of Section 504
4 of the Rehabilitation Act of 1973, 29 U.S.C. Section 794, and
5 with Title II of the Americans with Disabilities Act of 1990,
6 42 U.S.C. Sections 12131-12165, the receiving state shall
7 make reasonable accommodations and modifications to address
8 the needs of incoming students with disabilities, subject to
9 an existing 504 or Title II plan, to provide the student with
10 equal access to education. This subsection does not preclude
11 the school in the receiving state from performing subsequent
12 evaluations to ensure appropriate placement of the student.

13 D. Local education agency administrative officials
14 shall have flexibility in waiving course or program
15 prerequisites or other preconditions for placement in courses
16 or programs offered under the jurisdiction of the local
17 education agency.

18 E. A student whose parent or legal guardian is an
19 active duty member of the uniformed services and has been
20 called to duty for, is on leave from or has immediately
21 returned from deployment to a combat zone or combat support
22 posting shall be granted additional excused absences, at the
23 discretion of the local education agency superintendent, to
24 visit with the student's parent or legal guardian.

1 ELIGIBILITY

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

7 B. A local education agency shall be prohibited
8 from charging local tuition to a military child who is in
9 transition and is placed in the care of a noncustodial parent
10 or other person standing in loco parentis who lives in a
11 jurisdiction other than that of the custodial parent.

12 C. A military child who is in transition and is
13 placed in the care of a noncustodial parent or other person
14 standing in loco parentis who lives in a jurisdiction other
15 than that of the custodial parent may continue to attend the
16 school in which the child was enrolled while residing with
17 the custodial parent.

18 D. State and local education agencies shall
19 facilitate the opportunity for transitioning military
20 children's inclusion in extracurricular activities,
21 regardless of application deadlines, to the extent they are
22 otherwise qualified.

23 ARTICLE 7

24 GRADUATION

25 In order to facilitate the on-time graduation of

1 children of military families, states and local education
2 agencies shall incorporate the following procedures:

3 A. local education agency administrative officials
4 shall waive specific courses required for graduation if
5 similar course work has been satisfactorily completed in
6 another local education agency or shall provide reasonable
7 justification for denial. If a waiver is not granted to a
8 student who would qualify to graduate from the sending
9 school, the local education agency shall provide an
10 alternative means of acquiring required coursework so that
11 graduation may occur on time;

12 B. receiving states shall accept exit or
13 end-of-course exams required for graduation from the sending
14 state, national norm-referenced achievement tests or
15 alternative testing in lieu of testing requirements for
16 graduation in the receiving state. In the event the
17 alternatives in this subsection and Subsection A of this
18 article cannot be accommodated by the receiving state for a
19 student transferring in the student's senior year, then the
20 provisions of Subsection C of this article shall apply; and

21 C. if a military student transferring at the
22 beginning of or during the military student's senior year is
23 ineligible to graduate from the receiving local education
24 agency after all alternatives have been considered, the
25 sending and receiving local education agencies shall ensure

1 the receipt of a diploma from the sending local education
2 agency if the student meets the graduation requirements of
3 the sending local education agency. In the event that one of
4 the states in question is not a member of the Interstate
5 Compact on Educational Opportunity for Military Children, the
6 member state shall use best efforts to facilitate the on-time
7 graduation of the student in accordance with Subsections A
8 and B of this article.

9 ARTICLE 8

10 STATE COORDINATION

11 A. Each member state shall, through the creation
12 of a state council or use of an existing body or board,
13 provide for the coordination among its agencies of
14 government, local education agencies and military
15 installations concerning the state's participation in and
16 compliance with the Interstate Compact on Educational
17 Opportunity for Military Children and interstate commission
18 activities. While each member state may determine the
19 membership of its own state council, its membership must
20 include: the secretary of public education, the
21 superintendent of a school district with a high concentration
22 of military children, one representative from a military
23 installation, one representative from the executive branch of
24 government and other offices and stakeholder groups the state
25 council deems appropriate. A member state that does not have

1 a school district deemed to contain a high concentration of
2 military children may appoint a superintendent from another
3 school district to represent local education agencies on the
4 state council.

5 B. The state council of each member state shall
6 appoint or designate a military family education liaison to
7 assist military families and the state in facilitating the
8 implementation of the Interstate Compact on Educational
9 Opportunity for Military Children.

10 C. The compact commissioner responsible for the
11 administration and management of the state's participation in
12 the Interstate Compact on Educational Opportunity for
13 Military Children shall be appointed by the governor or as
14 otherwise determined by each member state.

15 D. The compact commissioner and the military
16 family education liaison designated in this article shall be
17 ex-officio nonvoting members of the state council, unless
18 either is already a full voting member of the state council.

19 ARTICLE 9

20 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY 21 CHILDREN

22 The member states hereby create the "interstate
23 commission on educational opportunity for military children".
24 The activities of the interstate commission are the formation
25 of public policy and are a discretionary state function. The

1 interstate commission shall:

2 A. be a body corporate and joint agency of the
3 member states and shall have all the responsibilities, powers
4 and duties set forth in the Interstate Compact on Educational
5 Opportunity for Military Children and such additional powers
6 as may be conferred upon it by a subsequent concurrent action
7 of the respective legislatures of the member states in
8 accordance with the terms of that compact;

9 B. consist of one voting representative from each
10 member state who shall be that state's compact commissioner.

11 (1) Each member state represented at a
12 meeting of the interstate commission is entitled to one vote.

13 (2) A majority of the total member states
14 shall constitute a quorum for the transaction of business,
15 unless a larger quorum is required by the bylaws of the
16 interstate commission.

17 (3) A representative shall not delegate a
18 vote to another member state. In the event the compact
19 commissioner is unable to attend a meeting of the interstate
20 commission, the governor or state council may delegate voting
21 authority to another person from the person's state for a
22 specified meeting.

23 (4) The bylaws may provide for meetings of
24 the interstate commission to be conducted by
25 telecommunication or electronic communication;

1 C. consist of ex-officio nonvoting representatives
2 who are members of interested organizations. The ex-officio
3 members, as defined in the bylaws, may include members of the
4 representative organizations of military family advocates,
5 local education agency officials, parent and teacher groups,
6 the United States department of defense, the education
7 commission of the states, the interstate agreement on
8 qualification of educational personnel and other interstate
9 compacts affecting the education of children of military
10 members;

11 D. meet at least once each calendar year. The
12 chair may call additional meetings and, upon the request of a
13 simple majority of the member states, shall call additional
14 meetings;

15 E. establish an executive committee whose members
16 shall include the officers of the interstate commission and
17 such other members of the interstate commission as determined
18 by the bylaws. Members of the executive committee shall
19 serve a one-year term. Members of the executive committee
20 shall be entitled to one vote each. The executive committee
21 shall have the power to act on behalf of the interstate
22 commission, with the exception of rulemaking, during periods
23 when the interstate commission is not in session. The
24 executive committee shall oversee the day-to-day activities
25 of the administration of the compact, including enforcement

1 and compliance with the provisions of the compact, its bylaws
2 and rules and other such duties as deemed necessary. The
3 United States department of defense shall serve as an
4 ex-officio nonvoting member of the executive committee;

5 F. establish bylaws and rules that provide for
6 conditions and procedures under which the interstate
7 commission shall make its information and official records
8 available to the public for inspection or copying. The
9 interstate commission may exempt from disclosure information
10 or official records to the extent they would adversely affect
11 personal privacy rights or proprietary interests;

12 G. give public notice of all meetings and all
13 meetings shall be open to the public, except as set forth in
14 the rules or as otherwise provided in the Interstate Compact
15 on Educational Opportunity for Military Children. The
16 interstate commission and its committees may close a meeting,
17 or a portion of a meeting, if it determines by a two-thirds'
18 vote that an open meeting would be likely to:

19 (1) relate solely to the interstate
20 commission's internal personnel practices and procedures;

21 (2) disclose matters specifically exempted
22 from disclosure by federal and state statute;

23 (3) disclose trade secrets or commercial or
24 financial information that is privileged or confidential;

25 (4) involve accusing a person of a crime or

1 formally censuring a person;

2 (5) disclose information of a personal
3 nature if the disclosure would constitute a clearly
4 unwarranted invasion of personal privacy;

5 (6) disclose investigative records compiled
6 for law enforcement purposes; or

7 (7) specifically relate to the interstate
8 commission's participation in a civil action or other legal
9 proceeding;

10 H. cause its legal counsel or designee to certify
11 that a meeting may be closed and shall reference each
12 relevant exemptible provision for any meeting, or portion of
13 a meeting, that is closed pursuant to this subsection. The
14 interstate commission shall keep minutes that shall fully and
15 clearly describe all matters discussed in a meeting and shall
16 provide a full and accurate summary of actions taken, and the
17 reasons for the actions, including a description of the views
18 expressed and the record of a roll call vote. All documents
19 considered in connection with an action shall be identified
20 in the minutes. All minutes and documents of a closed
21 meeting shall remain under seal, subject to release by a
22 majority vote of the interstate commission;

23 I. collect standardized data concerning the
24 educational transition of the children of military families
25 under the Interstate Compact on Educational Opportunity for

1 Military Children as directed through its rules, which shall
2 specify the data to be collected, the means of collection and
3 data exchange and reporting requirements. The methods of
4 data collection, exchange and reporting shall, insofar as is
5 reasonably possible, conform to current technology and
6 coordinate its information functions with the appropriate
7 custodian of records as identified in the bylaws and rules;
8 and

9 J. create a process that permits military
10 officials, education officials and parents to inform the
11 interstate commission if and when there are alleged
12 violations of the Interstate Compact on Educational
13 Opportunity for Military Children or its rules or when issues
14 subject to the jurisdiction of the compact or its rules are
15 not addressed by the state or local education agency. This
16 subsection shall not be construed to create a private right
17 of action against the interstate commission or any member
18 state.

19 ARTICLE 10

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

21 The interstate commission may:

22 A. provide for dispute resolution among member
23 states;

24 B. promulgate rules and take all necessary actions
25 to effect the goals, purposes and obligations as enumerated

1 in the Interstate Compact on Educational Opportunity for
2 Military Children. The rules shall be binding in the compact
3 states to the extent and in the manner provided in that
4 compact;

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

8 D. enforce compliance with the compact provisions,
9 the rules promulgated by the interstate commission and the
10 bylaws, using all necessary and proper means, including the
11 use of judicial process;

12 E. establish and maintain offices that shall be
13 located within one or more of the member states;

14 F. purchase and maintain insurance and bonds;

15 G. borrow, accept, hire or contract for services
16 of personnel;

17 H. establish and appoint committees, including an
18 executive committee as required by Subsection E of Article 9
19 of the Interstate Compact on Educational Opportunity for
20 Military Children, that shall have the power to act on behalf
21 of the interstate commission in carrying out its powers and
22 duties under that compact;

23 I. elect or appoint officers, attorneys,
24 employees, agents or consultants and fix their compensation,
25 define their duties and determine their qualifications;

1 J. establish the interstate commission's personnel
2 policies and programs relating to conflicts of interest,
3 rates of compensation and qualifications of personnel;

4 K. accept donations and grants of money,
5 equipment, supplies, materials and services and receive, use
6 and dispose of them;

7 L. lease, purchase, accept contributions or
8 donations of, or otherwise own, hold, improve or use, any
9 property, real, personal or mixed;

10 M. sell, convey, mortgage, pledge, lease,
11 exchange, abandon or otherwise dispose of any property, real,
12 personal or mixed;

13 N. establish a budget and make expenditures;

14 O. adopt a seal and bylaws governing the
15 management and operation of the interstate commission;

16 P. report annually to the legislatures, governors,
17 judiciaries and state councils of the member states
18 concerning the activities of the interstate commission during
19 the preceding year. The reports shall also include any
20 recommendations that may have been adopted by the interstate
21 commission;

22 Q. coordinate education, training and public
23 awareness regarding the Interstate Compact on Educational
24 Opportunity for Military Children, its implementation and
25 operation for officials and parents involved in such

1 activity;

2 R. establish uniform standards for the reporting,
3 collecting and exchanging of data;

4 S. maintain corporate books and records in
5 accordance with the bylaws;

6 T. perform such functions as may be necessary or
7 appropriate to achieve the purposes of the Interstate Compact
8 on Educational Opportunity for Military Children; and

9 U. provide for the uniform collection and sharing
10 of information between and among member states, schools and
11 military families under the Interstate Compact on Educational
12 Opportunity for Military Children.

13 ARTICLE 11

14 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

15 A. The interstate commission shall, by a majority
16 of the members present and voting, within twelve months after
17 the first interstate commission meeting, adopt bylaws to
18 govern its conduct as may be necessary or appropriate to
19 carry out the purposes of the Interstate Compact on
20 Educational Opportunity for Military Children, including:

21 (1) establishing the fiscal year of the
22 interstate commission;

23 (2) establishing an executive committee and
24 other committees as may be necessary;

25 (3) providing for the establishment of

1 committees and for governing any general or specific
2 delegation of authority or function of the interstate
3 commission;

4 (4) providing reasonable procedures for
5 calling and conducting meetings of the interstate commission
6 and ensuring reasonable notice of each meeting;

7 (5) establishing the titles and
8 responsibilities of the officers and staff of the interstate
9 commission;

10 (6) providing a mechanism for concluding the
11 operations of the interstate commission and the return of
12 surplus funds that may exist upon the termination of that
13 compact after paying and reserving all of its debts and
14 obligations; and

15 (7) providing start-up rules for initial
16 administration of the Interstate Compact on Educational
17 Opportunity for Military Children.

18 B. The interstate commission shall, by a majority
19 of the members, elect annually from among its members a
20 chair, a vice chair and a treasurer, each of whom shall have
21 such authority and duties as may be specified in the bylaws.
22 The chair or, in the chair's absence or disability, the vice
23 chair shall preside at all meetings of the interstate
24 commission. The officers so elected shall serve without
25 compensation or remuneration from the interstate commission,

1 provided that, subject to the availability of budgeted funds,
2 the officers shall be reimbursed for ordinary and necessary
3 costs and expenses incurred by them in the performance of
4 their responsibilities as officers of the interstate
5 commission.

6 C. The executive committee shall have such
7 authority and duties as may be set forth in the bylaws,
8 including:

9 (1) managing the affairs of the interstate
10 commission in a manner consistent with the bylaws and
11 purposes of the interstate commission;

12 (2) overseeing an organizational structure
13 within, and appropriate procedures for, the interstate
14 commission to provide for the creation of rules, operating
15 procedures and administrative and technical support
16 functions; and

17 (3) planning, implementing and coordinating
18 communications and activities with other state, federal and
19 local government organizations in order to advance the goals
20 of the interstate commission.

21 D. The executive committee may, subject to the
22 approval of the interstate commission, appoint or retain an
23 executive director for such period, upon such terms and
24 conditions and for such compensation as the interstate
25 commission may deem appropriate. The executive director

1 shall serve as secretary to the interstate commission but
2 shall not be a member of the interstate commission. The
3 executive director shall hire and supervise such other
4 persons as may be authorized by the interstate commission.

5 E. The interstate commission shall defend the
6 executive director and its employees and, subject to the
7 approval of the attorney general or other appropriate legal
8 counsel of the member state represented by an interstate
9 commission representative, shall defend the interstate
10 commission representative in any civil action seeking to
11 impose liability arising out of an actual or alleged act,
12 error or omission that occurred within the scope of
13 interstate commission employment, duties or responsibilities
14 or that the defendant had a reasonable basis for believing
15 occurred within the scope of interstate commission
16 employment, duties or responsibilities, provided that the
17 actual or alleged act, error or omission did not result from
18 intentional or willful and wanton misconduct on the part of
19 the person.

20 ARTICLE 12

21 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

22 A. The interstate commission shall promulgate
23 reasonable rules in order to effectively and efficiently
24 achieve the purposes of the Interstate Compact on Educational
25 Opportunity for Military Children. If the interstate

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

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

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

21 D. If a majority of the legislatures of the
22 compacting states rejects a rule by enactment of a statute or
23 resolution in the same manner used to adopt the Interstate
24 Compact on Educational Opportunity for Military Children,
25 then the rule shall have no further force and effect in any

1 compacting state.

2 ARTICLE 13

3 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

4 A. All courts shall take judicial notice of the
5 Interstate Compact on Educational Opportunity for Military
6 Children and the rules promulgated under that compact in any
7 judicial or administrative proceeding in a member state
8 pertaining to the subject matter of that compact that may
9 affect the powers, responsibilities or actions of the
10 interstate commission.

11 B. The interstate commission shall be entitled to
12 receive all service of process in any proceeding provided in
13 Subsection A of this article and shall have standing to
14 intervene in the proceeding for all purposes.

15 C. If the interstate commission determines that a
16 member state has defaulted in the performance of its
17 obligations or responsibilities under the Interstate Compact
18 on Educational Opportunity for Military Children or the
19 bylaws or promulgated rules, the interstate commission shall:

20 (1) provide written notice to the defaulting
21 state and other member states of the nature of the default,
22 the means of curing the default and any action taken by the
23 interstate commission. The interstate commission shall
24 specify the means by which the defaulting state shall cure
25 its default; and

1 (2) provide remedial training and specific
2 technical assistance regarding the default.

3 D. If the defaulting state fails to cure the
4 default, the defaulting state shall be terminated from the
5 Interstate Compact on Educational Opportunity for Military
6 Children upon an affirmative vote of a majority of the member
7 states, and all rights, privileges and benefits conferred by
8 that compact shall be terminated from the effective date of
9 termination. A cure of the default does not relieve the
10 offending state of obligations or liabilities incurred during
11 the period of the default.

12 E. Suspension or termination of membership in the
13 Interstate Compact on Educational Opportunity for Military
14 Children shall be imposed only after all other means of
15 securing compliance have been exhausted. Notice of intent to
16 suspend or terminate shall be given by the interstate
17 commission to the governor, the majority and minority leaders
18 of the defaulting state's legislature and each of the member
19 states.

20 F. The state that has been suspended or terminated
21 is responsible for all assessments, obligations and
22 liabilities incurred through the effective date of suspension
23 or termination, including obligations the performance of
24 which extends beyond the effective date of suspension or
25 termination.

1 G. The interstate commission shall not bear any
2 costs relating to any state that has been found to be in
3 default or that has been suspended or terminated from the
4 Interstate Compact on Educational Opportunity for Military
5 Children unless otherwise mutually agreed upon in writing
6 between the interstate commission and the defaulting state.

7 H. The defaulting state may appeal the action of
8 the interstate commission by petitioning the United States
9 district court for the District of Columbia or the federal
10 district where the interstate commission has its principal
11 offices.

12 I. The interstate commission shall attempt, upon
13 the request of a member state, to resolve disputes that are
14 subject to the Interstate Compact on Educational Opportunity
15 for Military Children and that may arise among member states
16 and between member and non-member states.

17 J. The interstate commission shall promulgate a
18 rule providing for both mediation and dispute resolution for
19 disputes as appropriate.

20 K. The interstate commission, in the reasonable
21 exercise of its discretion, shall enforce the provisions and
22 rules of the Interstate Compact on Educational Opportunity
23 for Military Children.

24 L. The interstate commission may, by majority vote
25 of the members, initiate legal action to enforce compliance

1 with the provisions of the Interstate Compact on Educational
2 Opportunity for Military Children and its promulgated rules
3 and bylaws against a member state in default. The venue for
4 the action shall be consistent with the determination in
5 other interstate compacts to which the state of New Mexico is
6 a member under the laws of the state of New Mexico.

7 M. The remedies in the Interstate Compact on
8 Educational Opportunity for Military Children shall not be
9 the exclusive remedies of the interstate commission. The
10 interstate commission may avail itself of any other remedies
11 available under state law or under the regulation of a
12 profession.

13 ARTICLE 14

14 FINANCING OF THE INTERSTATE COMMISSION

15 A. The interstate commission shall pay or provide
16 for the payment of the reasonable expenses of its
17 establishment, organization and ongoing activities.

18 B. The interstate commission may levy on and
19 collect an annual assessment from each member state to cover
20 the cost of the operations and activities of the interstate
21 commission and its staff that must be in a total amount
22 sufficient to cover the interstate commission's annual budget
23 as approved each year. The aggregate annual assessment
24 amount shall be allocated based upon a formula to be
25 determined by the interstate commission, which shall

1 promulgate a rule binding upon all member states.

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

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

16 ARTICLE 15

17 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

19 B. The Interstate Compact on Educational
20 Opportunity for Military Children shall become effective and
21 binding upon legislative enactment of that compact into law
22 by no less than ten of the states. The effective date shall
23 be no earlier than December 1, 2007. Thereafter, it shall
24 become effective and binding as to any other member state
25 upon enactment of that compact into law by that state. The

1 governors of non-member states or their designees shall be
2 invited to participate in the activities of the interstate
3 commission on a nonvoting basis prior to adoption of that
4 compact by all states.

5 C. The interstate commission may propose
6 amendments to the Interstate Compact on Educational
7 Opportunity for Military Children for enactment by the member
8 states. No amendment shall become effective and binding upon
9 the interstate commission and the member states unless and
10 until it is enacted into law by unanimous consent of the
11 member states.

12 ARTICLE 16

13 WITHDRAWAL AND DISSOLUTION

14 A. Once effective, the Interstate Compact on
15 Educational Opportunity for Military Children shall continue
16 in force and remain binding upon each and every member state,
17 provided that a member state may withdraw from that compact
18 by specifically repealing the statute that enacted that
19 compact into law.

20 B. Withdrawal from the Interstate Compact on
21 Educational Opportunity for Military Children shall be by the
22 enactment of a statute repealing that compact.

23 C. The withdrawing state shall immediately notify
24 the chair of the interstate commission in writing upon the
25 introduction of legislation repealing the Interstate Compact

1 on Educational Opportunity for Military Children in the
2 withdrawing state. The interstate commission shall notify
3 the other member states of the withdrawing state's intent to
4 withdraw within sixty days of its receipt of the notice.

5 D. The withdrawing state is responsible for all
6 assessments, obligations and liabilities incurred on its
7 behalf through the effective date of withdrawal, including
8 obligations the performance of which extends beyond the
9 effective date of withdrawal.

10 E. Reinstatement following withdrawal of a member
11 state shall occur upon the withdrawing state reenacting the
12 Interstate Compact on Educational Opportunity for Military
13 Children or upon such later date as determined by the
14 interstate commission.

15 F. The Interstate Compact on Educational
16 Opportunity for Military Children shall dissolve effective
17 upon the date of the withdrawal or default of the member
18 state that reduces the membership in that compact to one
19 member state.

20 G. Upon the dissolution of the Interstate Compact
21 on Educational Opportunity for Military Children, the compact
22 becomes null and void and shall be of no further force or
23 effect, and the business and affairs of the interstate
24 commission shall be concluded, and surplus funds shall be
25 distributed in accordance with the bylaws.

1 ARTICLE 17

2 SEVERABILITY AND CONSTRUCTION

3 A. The provisions of the Interstate Compact on
4 Educational Opportunity for Military Children shall be
5 severable, and if any phrase, clause, sentence or provision
6 is deemed unenforceable, the remaining provisions of that
7 compact shall be enforceable.

8 B. The provisions of the Interstate Compact on
9 Educational Opportunity for Military Children shall be
10 liberally construed to effectuate its purposes.

11 C. Nothing in the Interstate Compact on
12 Educational Opportunity for Military Children shall be
13 construed to prohibit the applicability of other interstate
14 compacts to which the states are members.

15 ARTICLE 18

16 BINDING EFFECT OF COMPACT AND OTHER LAWS

17 A. Nothing in the Interstate Compact on
18 Educational Opportunity for Military Children prevents the
19 enforcement of any other law of a member state.

20 B. All lawful actions of the interstate
21 commission, including all rules and bylaws promulgated by the
22 interstate commission, are binding upon the member states.

23 C. All agreements between the interstate
24 commission and the member states are binding in accordance
25 with their terms.

D. In the event any provision of the Interstate Compact on Educational Opportunity for Military Children 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."

SB 146
Page 36