S T A T E O F N E W Y O R K

7976

2009-2010 Regular Sessions

I N A S S E M B L Y

May 1, 2009

Introduced by M. of A. BENEDETTO -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to removing barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative findings and intent. The legislature hereby finds, determines and declares that it is a matter of state concern and in the interest of the people of the state to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

1. 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 districts or variations in entrance/age requirements.

2. 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.

3. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.

4. Facilitating the on-time graduation of children of military families.

5. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this act.

6. Providing for the uniform collection and sharing of information between and among member states, schools and military families under this act.

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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7. Promoting coordination between this act and other acts affecting military children.

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

S 2. The education law is amended by adding a new article 18 to read as follows:

ARTICLE 18
EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN

SECTION 850. DEFINITIONS.
851. APPLICABILITY.
852. EDUCATIONAL RECORDS AND ENROLLMENT.
853. PLACEMENT AND ATTENDANCE.
854. ELIGIBILITY.
855. GRADUATION.
856. STATE COORDINATION.
857. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.
858. POWERS AND DUTIES OF THE INTERSTATE COMMISSION.
859. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.
860. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.
861. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.
862. FINANCING OF THE INTERSTATE COMMISSION.
863. WITHDRAWAL AND DISSOLUTION.
864. SEVERABILITY AND CONSTRUCTION.
865. BINDING EFFECT.

S 850. DEFINITIONS. AS USED IN THIS ARTICLE:

1. "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. SECTION 1209 AND 1211.

2. "CHILDREN OF MILITARY FAMILIES" MEANS ANY SCHOOL-AGED CHILDREN, ENROLLED IN KINDERGARTEN THROUGH TWELFTH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER.

3. "COMPACT COMMISSIONER" MEANS THE VOTING REPRESENTATIVE OF EACH COMPACTING STATE APPOINTED PURSUANT TO SECTION EIGHT HUNDRED FIFTY-SEVEN OF THIS ARTICLE.

4. "DEPLOYMENT" MEANS THE PERIOD ONE MONTH PRIOR TO THE SERVICE MEMBERS' DEPARTURE FROM THEIR HOME STATION ON MILITARY ORDERS THROUGH SIX MONTHS AFTER RETURN TO THEIR HOME STATION.

5. "EDUCATIONAL RECORDS" MEANS THOSE OFFICIAL RECORDS, FILES, AND DATA DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY THE SCHOOL OR LOCAL EDUCATIONAL 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.

6. "EXTRACURRICULAR ACTIVITIES" MEANS A VOLUNTARY ACTIVITY SPONSORED BY THE SCHOOL OR LOCAL EDUCATIONAL AGENCY OR AN ORGANIZATION SANCTIONED BY THE LOCAL EDUCATIONAL AGENCY. EXTRACURRICULAR ACTIVITIES INCLUDE, BUT ARE NOT LIMITED TO, PREPARATION FOR AND INVOLVEMENT IN PUBLIC PERFORMANCES, CONTESTS, ATHLETIC COMPETITIONS, DEMONSTRATIONS, DISPLAYS, AND CLUB ACTIVITIES.

7. "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN" MEANS THE COMMISSION THAT IS CREATED UNDER SECTION EIGHT HUNDRED FIFTY-SEVEN OF THIS ARTICLE, WHICH IS GENERALLY REFERRED TO AS INTERSTATE COMMISSION.

8. "LOCAL EDUCATIONAL AGENCY" MEANS A PUBLIC AUTHORITY LEGALLY CONSTITUTED BY THE STATE AS AN ADMINISTRATIVE AGENCY TO PROVIDE CONTROL OF AND DIRECTION FOR KINDERGARTEN THROUGH TWELFTH GRADE PUBLIC EDUCATIONAL INSTITUTIONS.

9. "MEMBER STATE" MEANS A STATE THAT HAS ENACTED LEGISLATION CREATING AN INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN SIMILAR TO THE INTERSTATE COMMISSION CREATED BY THIS ARTICLE.

10. "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.

11. "NON-MEMBER STATE" MEANS A STATE THAT HAS NOT ENACTED LEGISLATION AS PRESCRIBED BY SUBDIVISION NINE OF THIS SECTION.

12. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT.

13. "RULE" MEANS A WRITTEN STATEMENT BY THE INTERSTATE COMMISSION PROMULGATED PURSUANT TO SECTION EIGHT HUNDRED SIXTY OF THIS ARTICLE THAT IS OF GENERAL APPLICABILITY, IMPLEMENTS, INTERPRETS OR PRESCRIBES A POLICY OR PROVISION OF THIS ARTICLE, OR AN ORGANIZATIONAL, PROCEDURAL, OR PRACTICE REQUIREMENT OF THE INTERSTATE COMMISSION, AND HAS THE FORCE AND EFFECT OF STATUTORY LAW IN A MEMBER STATE, AND INCLUDES THE AMENDMENT, REPEAL, OR SUSPENSION OF AN EXISTING RULE.

14. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT.

15. "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 MARINAS ISLANDS AND ANY OTHER U.S. TERRITORY.

16. "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.

17. "TRANSITION" MEANS:

(A) THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR

(B) THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE.

18. "UNIFORMED SERVICES" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS AND COAST GUARD AS WELL AS THE COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND PUBLIC HEALTH SERVICES.

19. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

S 851. APPLICABILITY. 1. EXCEPT AS OTHERWISE PROVIDED IN SUBDIVISION TWO OF THIS SECTION, THIS ARTICLE SHALL APPLY TO THE CHILDREN OF:

(A) ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES AS DEFINED IN THIS ARTICLE, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS PURSUANT TO 10 U.S.C. SECTION 1209 AND 1211;

(B) MEMBERS OR VETERANS OF THE UNIFORMED SERVICES WHO ARE SEVERELY INJURED AND MEDICALLY DISCHARGED OR RETIRED FOR A PERIOD OF ONE YEAR AFTER MEDICAL DISCHARGE OR RETIREMENT; AND

(C) 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 YEAR AFTER DEATH.

2. THE PROVISIONS OF THIS ARTICLE SHALL ONLY APPLY TO LOCAL EDUCATION AGENCIES AS DEFINED IN THIS ARTICLE.

3. THE PROVISIONS OF THIS ARTICLE SHALL NOT APPLY TO THE CHILDREN OF:

(A) INACTIVE MEMBERS OF THE NATIONAL GUARD AND MILITARY RESERVES;

(B) MEMBERS OF THE UNIFORMED SERVICES NOW RETIRED, EXCEPT AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION;

(C) VETERANS OF THE UNIFORMED SERVICES, EXCEPT AS PROVIDED IN SUBDIVISION ONE OF THIS SECTION; AND

(D) OTHER UNITED STATES DEPARTMENT OF DEFENSE PERSONNEL AND OTHER FEDERAL AGENCY CIVILIAN AND CONTRACT EMPLOYEES NOT DEFINED AS ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

S 852. EDUCATIONAL RECORDS AND ENROLLMENT. 1. UNOFFICIAL OR "HAND-CARRIED" EDUCATIONAL RECORDS. IN THE EVENT THAT OFFICIAL EDUCATIONAL RECORDS CANNOT BE RELEASED TO THE PARENT OR PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT OR PARENTS A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION AS DETERMINED BY THE INTERSTATE COMMISSION. UPON RECEIPT OF THE UNOFFICIAL EDUCATIONAL 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.

2. OFFICIAL EDUCATIONAL RECORDS/TRANSCRIPTS. SIMULTANEOUS WITH THE ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, THE SCHOOL IN THE RECEIVING STATE SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATIONAL 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 EDUCATIONAL RECORDS TO THE SCHOOL IN THE RECEIVING STATE WITHIN TEN DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

3. IMMUNIZATIONS. COMPACTING STATES SHALL GIVE THIRTY 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 DAYS OR WITHIN SUCH TIME AS IS REASONABLY DETERMINED UNDER THE RULES PROMULGATED BY THE INTERSTATE COMMISSION.

4. 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 EDUCATIONAL 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 EDUCATIONAL 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.

S 853. PLACEMENT AND ATTENDANCE. 1. 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 AND/OR EDUCATIONAL ASSESSMENTS CONDUCTED AT THE SCHOOL IN THE SENDING STATE IF THE COURSES ARE OFFERED. 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 COURSE OR COURSES.

2. 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/PLACEMENT IN LIKE PROGRAMS IN THE SENDING STATE. SUCH PROGRAMS INCLUDE, BUT ARE NOT LIMITED TO:

(A) GIFTED AND TALENTED PROGRAMS; AND

(B) 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.

3. SPECIAL EDUCATION SERVICES. (A) 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/HER CURRENT INDIVIDUALIZED EDUCATION PROGRAM (IEP); AND

(B) 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 SECTION 504 OR A FEDERAL 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.

4. PLACEMENT FLEXIBILITY. LOCAL EDUCATIONAL AGENCY ADMINISTRATIVE OFFICIALS SHALL HAVE FLEXIBILITY IN WAIVING COURSE/PROGRAM PREREQUISITES, OR OTHER PRECONDITIONS FOR PLACEMENT IN COURSES/PROGRAMS OFFERED UNDER THE JURISDICTION OF THE LOCAL EDUCATIONAL AGENCY.

5. 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 THIS ARTICLE, 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 EDUCATIONAL AGENCY SUPERINTENDENT TO VISIT WITH HIS OR HER PARENT OR LEGAL GUARDIAN RELATIVE TO SUCH LEAVE OR DEPLOYMENT OF THE PARENT OR GUARDIAN.

S 854. ELIGIBILITY. 1. ELIGIBILITY FOR ENROLLMENT.

(A) 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.

(B) A LOCAL EDUCATIONAL AGENCY SHALL BE PROHIBITED FROM CHARGING LOCAL TUITION TO A TRANSITIONING MILITARY CHILD PLACED IN THE CARE OF A NON-CUSTODIAL PARENT OR OTHER PERSON STANDING IN LOCO PARENTIS WHO LIVES IN A JURISDICTION OTHER THAN THAT OF THE CUSTODIAL PARENT.

(C) A TRANSITIONING MILITARY CHILD, PLACED IN THE CARE OF A NON-CUSTODIAL 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.

2. ELIGIBILITY FOR EXTRACURRICULAR PARTICIPATION. STATE AND LOCAL EDUCATIONAL 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.

S 855. GRADUATION. IN ORDER TO FACILITATE THE ON-TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES, STATES AND LOCAL EDUCATIONAL AGENCIES SHALL INCORPORATE THE FOLLOWING PROCEDURES:

1. WAIVER REQUIREMENTS. LOCAL EDUCATIONAL AGENCY ADMINISTRATIVE OFFICIALS SHALL WAIVE SPECIFIC COURSES REQUIRED FOR GRADUATION IF SIMILAR COURSEWORK HAS BEEN SATISFACTORILY COMPLETED IN ANOTHER LOCAL EDUCATIONAL 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 EDUCATIONAL AGENCY SHALL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSEWORK SO THAT GRADUATION MAY OCCUR ON TIME.

2. EXIT EXAMS. STATES SHALL ACCEPT: (A) EXIT OR END-OF-COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE;

(B) NATIONAL NORM-REFERENCED ACHIEVEMENT TESTS; OR

(C) 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 SUBDIVISION THREE OF THIS SECTION SHALL APPLY.

3. 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 EDUCATIONAL AGENCY AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, THE SENDING AND RECEIVING LOCAL EDUCATIONAL AGENCIES SHALL ENSURE THE RECEIPT OF A DIPLOMA FROM THE SENDING LOCAL EDUCATIONAL AGENCY, IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS OF THE SENDING LOCAL EDUCATIONAL AGENCY. IN THE EVENT THAT ONE OF THE STATES IN QUESTION IS NOT A MEMBER STATE, THE MEMBER STATE SHALL USE ITS BEST EFFORTS TO FACILITATE THE ON-TIME GRADUATION OF THE STUDENT IN ACCORDANCE WITH THIS SECTION.

S 856. STATE COORDINATION. 1. 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 EDUCATIONAL AGENCIES AND MILITARY INSTALLATIONS CONCERNING THE STATE'S PARTICIPATION IN, AND COMPLIANCE WITH, THIS ARTICLE 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, A 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 EDUCATIONAL AGENCIES ON THE STATE COUNCIL.

2. 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 ARTICLE.

3. THE COMPACT COMMISSIONER RESPONSIBLE FOR THE ADMINISTRATION AND MANAGEMENT OF THE STATE'S PARTICIPATION PURSUANT TO THIS ARTICLE SHALL BE APPOINTED BY THE GOVERNOR OR AS OTHERWISE DETERMINED BY EACH MEMBER STATE.

4. THE COMPACT COMMISSIONER AND THE MILITARY FAMILY EDUCATION LIAISON DESIGNATED IN THIS SECTION SHALL BE EX-OFFICIO MEMBERS OF THE STATE COUNCIL, UNLESS EITHER IS ALREADY A FULL VOTING MEMBER OF THE STATE COUNCIL.

S 857. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN. THE DEPARTMENT HEREBY CREATES 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:

1. BE A BODY CORPORATE AND JOINT AGENCY OF THE MEMBER STATES AND SHALL HAVE ALL THE RESPONSIBILITIES, POWERS AND DUTIES SET FORTH IN THIS SECTION, 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 ARTICLE.

2. CONSIST OF ONE INTERSTATE COMMISSION VOTING REPRESENTATIVE FROM EACH MEMBER STATE WHO SHALL BE THAT STATE'S COMPACT COMMISSIONER.

(A) EACH MEMBER STATE REPRESENTED AT A MEETING OF THE INTERSTATE COMMISSION IS ENTITLED TO ONE VOTE.

(B) 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.

(C) 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.

(D) THE BYLAWS MAY PROVIDE FOR MEETINGS OF THE INTERSTATE COMMISSION TO BE CONDUCTED BY TELECOMMUNICATION OR ELECTRONIC COMMUNICATION.

3. CONSIST OF EX-OFFICIO, NON-VOTING REPRESENTATIVES WHO ARE MEMBERS OF INTERESTED ORGANIZATIONS. SUCH EX-OFFICIO MEMBERS, AS DEFINED IN THE BYLAWS, MAY INCLUDE BUT NOT BE LIMITED TO, MEMBERS OF THE REPRESENTATIVE ORGANIZATIONS OF MILITARY FAMILY ADVOCATES, LOCAL EDUCATIONAL AGENCY OFFICIALS, PARENT AND TEACHER GROUPS, THE UNITED STATES 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 FAMILIES.

4. 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.

5. 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 THIS ARTICLE INCLUDING ENFORCEMENT AND COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, ITS BYLAWS AND RULES, AND OTHER SUCH DUTIES AS DEEMED NECESSARY. THE UNITED STATES DEPARTMENT OF DEFENSE SHALL SERVE AS AN EX-OFFICIO, NON-VOTING MEMBER OF THE EXECUTIVE COMMITTEE.

6. 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.

7. 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 THIS ARTICLE. 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:

(A) RELATE SOLELY TO THE INTERSTATE COMMISSION'S INTERNAL PERSONNEL PRACTICES AND PROCEDURES;

(B) DISCLOSE MATTERS SPECIFICALLY EXEMPTED FROM DISCLOSURE BY FEDERAL AND STATE STATUTE;

(C) DISCLOSE TRADE SECRETS OR COMMERCIAL OR FINANCIAL INFORMATION WHICH IS PRIVILEGED OR CONFIDENTIAL;

(D) INVOLVE ACCUSING A PERSON OF A CRIME, OR FORMALLY CENSURING A PERSON;

(E) DISCLOSE INFORMATION OF A PERSONAL NATURE WHERE DISCLOSURE WOULD CONSTITUTE A CLEARLY UNWARRANTED INVASION OF PERSONAL PRIVACY;

(F) DISCLOSE INVESTIGATIVE RECORDS COMPILED FOR LAW ENFORCEMENT PURPOSES; OR

(G) SPECIFICALLY RELATE TO THE INTERSTATE COMMISSION'S PARTICIPATION IN A CIVIL ACTION OR OTHER LEGAL PROCEEDING.

8. 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 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.

9. SHALL COLLECT STANDARDIZED DATA CONCERNING THE EDUCATIONAL TRANSITION OF THE CHILDREN OF MILITARY FAMILIES UNDER THIS ARTICLE 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.

10. SHALL CREATE A PROCESS THAT PERMITS MILITARY OFFICIALS, EDUCATIONAL OFFICIALS AND PARTNERS TO INFORM THE INTERSTATE COMMISSION IF AND WHEN THERE ARE ALLEGED VIOLATIONS OF THIS ARTICLE OR ITS RULES OR WHEN ISSUES SUBJECT TO THE JURISDICTION OF THIS ARTICLE OR ITS RULES ARE NOT ADDRESSED BY THE STATE OR LOCAL EDUCATIONAL AGENCY. THIS SECTION SHALL NOT BE CONSTRUED TO CREATE A PRIVATE RIGHT OF ACTION AGAINST THE INTERSTATE COMMISSION OR ANY MEMBER STATE.

S 858. POWERS AND DUTIES OF THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION SHALL HAVE THE FOLLOWING POWERS:

1. TO PROVIDE FOR DISPUTE RESOLUTION AMONG MEMBER STATES.

2. TO PROMULGATE RULES AND TAKE ALL NECESSARY ACTIONS TO EFFECT THE GOALS, PURPOSES AND OBLIGATIONS AS ENUMERATED IN THIS ARTICLE. THE RULES

SHALL HAVE THE FORCE AND EFFECT OF STATUTORY LAW AND SHALL BE BINDING IN THE COMPACT STATES TO THE EXTENT AND IN THE MANNER PROVIDED IN THIS ARTICLE.

3. TO ISSUE, UPON REQUEST OF A MEMBER STATE, ADVISORY OPINIONS CONCERNING THE MEANING OR INTERPRETATION OF THE INTERSTATE COMMISSION, ITS BYLAWS, RULES AND ACTIONS.

4. TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, THE RULES PROMULGATED BY THE INTERSTATE COMMISSION, AND THE BYLAWS, USING ALL NECESSARY AND PROPER MEANS, INCLUDING BUT NOT LIMITED TO THE USE OF JUDICIAL PROCESS.

5. TO ESTABLISH AND MAINTAIN OFFICES WHICH SHALL BE LOCATED WITHIN ONE OR MORE OF THE MEMBER STATES.

6. TO PURCHASE AND MAINTAIN INSURANCE AND BONDS.

7. TO BORROW, ACCEPT, HIRE OR CONTRACT SERVICES OF PERSONNEL.

8. TO ESTABLISH AND APPOINT COMMITTEES INCLUDING, BUT NOT LIMITED TO, AN EXECUTIVE COMMITTEE AS REQUIRED BY SUBDIVISION FIVE OF SECTION EIGHT HUNDRED FIFTY-SEVEN OF THIS ARTICLE, WHICH SHALL HAVE THE POWER TO ACT ON BEHALF OF THE INTERSTATE COMMISSION IN CARRYING OUT ITS POWERS AND DUTIES UNDER THIS ARTICLE.

9. 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.

10. TO ACCEPT ANY AND ALL DONATIONS AND GRANTS OF MONEY, EQUIPMENT, SUPPLIES, MATERIALS, AND SERVICES, AND TO RECEIVE, UTILIZE, AND DISPOSE OF IT.

11. TO LEASE, PURCHASE, ACCEPT CONTRIBUTIONS OR DONATIONS OF, OR OTHERWISE TO OWN, HOLD, IMPROVE OR USE ANY PROPERTY, REAL, PERSONAL, OR MIXED.

12. TO SELL, CONVEY, MORTGAGE, PLEDGE, LEASE, EXCHANGE, ABANDON, OR OTHERWISE DISPOSE OF ANY PROPERTY, REAL, PERSONAL OR MIXED.

13. TO ESTABLISH A BUDGET AND MAKE EXPENDITURES.

14. TO ADOPT A SEAL AND BYLAWS GOVERNING THE MANAGEMENT AND OPERATION OF THE INTERSTATE COMMISSION.

15. 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.

16. TO COORDINATE EDUCATION, TRAINING AND PUBLIC AWARENESS REGARDING THIS ARTICLE, ITS IMPLEMENTATION AND OPERATION FOR OFFICIALS AND PARENTS INVOLVED IN SUCH ACTIVITY.

17. TO ESTABLISH UNIFORM STANDARDS FOR THE REPORTING, COLLECTING AND EXCHANGING OF DATA.

18. TO MAINTAIN CORPORATE BOOKS AND RECORDS IN ACCORDANCE WITH THE BYLAWS.

19. TO PERFORM SUCH FUNCTIONS AS MAY BE NECESSARY OR APPROPRIATE TO ACHIEVE THE PURPOSES OF THIS ARTICLE.

20. TO PROVIDE FOR THE UNIFORM COLLECTION AND SHARING OF INFORMATION BETWEEN AND AMONG MEMBER STATES, SCHOOLS AND MILITARY FAMILIES UNDER THIS ARTICLE.

S 859. ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION. 1. THE INTERSTATE COMMISSION SHALL, BY A MAJORITY OF THE MEMBERS PRESENT AND VOTING, WITHIN TWELVE MONTHS AFTER THE FIRST INTERSTATE COMMISSION MEETING, ADOPT BYLAWS TO GOVERN ITS CONDUCT AS MAY BE NECESSARY OR APPROPRI-

ATE TO CARRY OUT THE PURPOSES OF THIS ARTICLE, INCLUDING, BUT NOT LIMITED TO:

(A) ESTABLISHING THE FISCAL YEAR OF THE INTERSTATE COMMISSION;

(B) ESTABLISHING AN EXECUTIVE COMMITTEE, AND SUCH OTHER COMMITTEES AS MAY BE NECESSARY;

(C) PROVIDING FOR THE ESTABLISHMENT OF COMMITTEES AND FOR GOVERNING ANY GENERAL OR SPECIFIC DELEGATION OF AUTHORITY OR FUNCTION OF THE INTERSTATE COMMISSION;

(D) PROVIDING REASONABLE PROCEDURES FOR CALLING AND CONDUCTING MEETINGS OF THE INTERSTATE COMMISSION, AND ENSURING REASONABLE NOTICE OF EACH SUCH MEETING;

(E) ESTABLISHING THE TITLES AND RESPONSIBILITIES OF THE OFFICERS AND STAFF OF THE INTERSTATE COMMISSION;

(F) 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 INTERSTATE COMMISSION AFTER THE PAYMENT AND RESERVING OF ALL OF ITS DEBTS AND OBLIGATIONS; AND

(G) PROVIDING "START UP" RULES FOR INITIAL ADMINISTRATION OF THE INTERSTATE COMMISSION.

2. 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.

3. EXECUTIVE COMMITTEE, OFFICERS AND PERSONNEL. (A) THE EXECUTIVE COMMITTEE SHALL HAVE SUCH AUTHORITY AND DUTIES AS MAY BE SET FORTH IN THE BYLAWS, INCLUDING BUT NOT LIMITED TO:

(I) MANAGING THE AFFAIRS OF THE INTERSTATE COMMISSION IN A MANNER CONSISTENT WITH THE BYLAWS AND PURPOSES OF THE INTERSTATE COMMISSION;

(II) 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

(III) 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.

(B) 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.

4. 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, WITH-

IN 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.

(A) 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 PARAGRAPH 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.

(B) 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.

(C) 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.

S 860. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION. 1. RULEMAKING AUTHORITY. THE INTERSTATE COMMISSION SHALL PROMULGATE REASONABLE RULES IN ORDER TO EFFECTIVELY AND EFFICIENTLY ACHIEVE THE PURPOSES OF THIS ARTICLE. 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 ARTICLE, OR THE POWERS GRANTED UNDER THIS ARTICLE, THEN SUCH AN ACTION BY THE INTERSTATE COMMISSION SHALL BE INVALID AND HAVE NO FORCE OR EFFECT.

2. RULEMAKING PROCEDURE. RULES SHALL BE MADE PURSUANT TO A RULEMAKING PROCESS THAT SUBSTANTIALLY CONFORMS TO ARTICLE TWO OF THE STATE ADMINISTRATIVE PROCEDURE ACT AS AMENDED, AS MAY BE APPROPRIATE TO THE OPERATIONS OF THE INTERSTATE COMMISSION.

3. NOT LATER THAN THIRTY 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.

4. IF A MAJORITY OF THE LEGISLATURES OF MEMBER STATES REJECTS A RULE BY ENACTMENT OF A STATUTE OR RESOLUTION, THEN SUCH RULE SHALL HAVE NO FURTHER FORCE AND EFFECT IN ANY MEMBER STATE.

S 861. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION. 1. OVERSIGHT. (A) THE EXECUTIVE, LEGISLATIVE AND JUDICIAL BRANCHES OF STATE GOVERNMENT IN EACH MEMBER STATE SHALL ENFORCE THIS ARTICLE AND SHALL TAKE ALL ACTIONS NECESSARY AND APPROPRIATE TO EFFECTUATE THIS ARTICLE'S PURPOSES AND INTENT. THE PROVISIONS OF THIS ARTICLE AND THE RULES PROMULGATED UNDER THIS ARTICLE SHALL HAVE STANDING AS STATUTORY LAW.

(B) ALL COURTS SHALL TAKE JUDICIAL NOTICE OF THIS ARTICLE AND THE RULES IN ANY JUDICIAL OR ADMINISTRATIVE PROCEEDING IN A MEMBER STATE PERTAINING TO THE SUBJECT MATTER OF THIS ARTICLE WHICH MAY AFFECT THE POWERS, RESPONSIBILITIES OR ACTIONS OF THE INTERSTATE COMMISSION.

(C) 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 JUDGEMENT OR ORDER VOID AS TO THE INTERSTATE COMMISSION, THIS ARTICLE OR PROMULGATED RULES.

2. 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 ARTICLE, OR THE BYLAWS OR PROMULGATED RULES, THE INTERSTATE COMMISSION SHALL:

(A) 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.

(B) PROVIDE REMEDIAL TRAINING AND SPECIFIC TECHNICAL ASSISTANCE REGARDING THE DEFAULT.

(C) IF THE DEFAULTING STATE FAILS TO CURE THE DEFAULT, THE DEFAULTING STATE SHALL BE TERMINATED FROM THE INTERSTATE COMMISSION UPON AN AFFIRMATIVE VOTE OF A MAJORITY OF THE MEMBER STATES AND ALL RIGHTS, PRIVILEGES AND BENEFITS CONFERRED BY THIS ARTICLE 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.

(D) SUSPENSION OR TERMINATION OF MEMBERSHIP IN THE INTERSTATE COMMISSION 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.

(E) 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 INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTENDS BEYOND THE EFFECTIVE DATE OF SUSPENSION OR TERMINATION.

(F) 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 INTERSTATE COMMISSION, UNLESS OTHERWISE MUTUALLY AGREED UPON IN WRITING BETWEEN THE INTERSTATE COMMISSION AND THE DEFAULTING STATE.

(G) THE DEFAULTING STATE MAY APPEAL THE ACTION OF THE INTERSTATE COMMISSION BY PETITIONING THE UNITED STATES 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.

3. DISPUTE RESOLUTION. (A) THE INTERSTATE COMMISSION SHALL ATTEMPT, UPON THE REQUEST OF A MEMBER STATE, TO RESOLVE DISPUTES WHICH ARE SUBJECT TO THIS ARTICLE AND WHICH MAY ARISE AMONG MEMBER STATES AND BETWEEN MEMBER AND NON-MEMBER STATES.

(B) THE INTERSTATE COMMISSION SHALL PROMULGATE A RULE PROVIDING FOR BOTH MEDIATION AND BINDING DISPUTE RESOLUTION FOR DISPUTES AS APPROPRIATE.

4. ENFORCEMENT. (A) THE INTERSTATE COMMISSION, IN THE REASONABLE EXERCISE OF ITS DISCRETION, SHALL ENFORCE THE PROVISIONS AND RULES OF THIS ARTICLE.

(B) THE INTERSTATE COMMISSION MAY BY MAJORITY VOTE OF THE MEMBERS, INITIATE LEGAL ACTION IN THE UNITED STATES DISTRICT COURT FOR THE DISTRICT OF COLUMBIA OR, AT THE DISCRETION OF THE INTERSTATE COMMISSION, IN THE FEDERAL DISTRICT WHERE THE INTERSTATE COMMISSION HAS ITS PRINCIPAL OFFICES, TO ENFORCE COMPLIANCE WITH THE PROVISIONS OF THIS ARTICLE, ITS PROMULGATED RULES AND BYLAWS, AGAINST A MEMBER STATE IN DEFAULT. THE RELIEF SOUGHT MAY INCLUDE BOTH INJUNCTIVE RELIEF AND DAMAGES. IN THE EVENT JUDICIAL ENFORCEMENT IS NECESSARY THE PREVAILING PARTY SHALL BE AWARDED ALL COSTS OF SUCH LITIGATION INCLUDING REASONABLE ATTORNEY'S FEES.

(C) THE REMEDIES PROVIDED IN THIS SECTION SHALL NOT BE THE EXCLUSIVE REMEDIES OF THE INTERSTATE COMMISSION. THE INTERSTATE COMMISSION MAY AVAIL ITSELF OF ANY OTHER REMEDIES AVAILABLE UNDER STATE LAW OR THE REGULATION OF A PROFESSION.

S 862. FINANCING OF THE INTERSTATE COMMISSION. 1. THE INTERSTATE COMMISSION SHALL PAY, OR PROVIDE FOR THE PAYMENT OF THE REASONABLE EXPENSES OF ITS ESTABLISHMENT, ORGANIZATION AND ONGOING ACTIVITIES.

2. 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.

3. 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.

4. 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.

S 863. WITHDRAWAL AND DISSOLUTION. 1. WITHDRAWAL. (A) ONCE EFFECTIVE, MEMBERSHIP SHALL CONTINUE IN FORCE AND REMAIN BINDING UPON EACH AND EVERY MEMBER STATE; PROVIDED THAT A MEMBER STATE MAY WITHDRAW FROM

MEMBERSHIP BY SPECIFICALLY REPEALING THE STATUTE, WHICH ENACTED THE STATE'S MEMBERSHIP.

(B) WITHDRAWAL FROM MEMBERSHIP SHALL BE BY THE ENACTMENT OF A STATUTE REPEALING THE SAME, BUT SHALL NOT TAKE EFFECT UNTIL ONE YEAR AFTER THE EFFECTIVE DATE OF SUCH STATUTE AND UNTIL WRITTEN NOTICE OF THE WITHDRAWAL HAS BEEN GIVEN BY THE WITHDRAWING STATE TO THE GOVERNOR OF EACH OTHER MEMBER JURISDICTION.

(C) THE WITHDRAWING STATE SHALL IMMEDIATELY NOTIFY THE CHAIRPERSON OF THE INTERSTATE COMMISSION IN WRITING UPON THE INTRODUCTION OF LEGISLATION REPEALING THIS ARTICLE IN THE WITHDRAWING STATE. THE INTERSTATE COMMISSION SHALL NOTIFY THE OTHER MEMBER STATES OF THE WITHDRAWING STATE'S INTENT TO WITHDRAW WITHIN SIXTY DAYS OF ITS RECEIPT THEREOF.

(D) THE WITHDRAWING STATE IS RESPONSIBLE FOR ALL ASSESSMENTS, OBLIGATIONS AND LIABILITIES INCURRED THROUGH THE EFFECTIVE DATE OF WITHDRAWAL, INCLUDING OBLIGATIONS, THE PERFORMANCE OF WHICH EXTEND BEYOND THE EFFECTIVE DATE OF WITHDRAWAL.

(E) REINSTATEMENT FOLLOWING WITHDRAWAL OF A MEMBER STATE SHALL OCCUR UPON THE WITHDRAWING STATE REENACTING ITS MEMBERSHIP OR UPON SUCH LATER DATE AS DETERMINED BY THE INTERSTATE COMMISSION.

2. DISSOLUTION OF MEMBERSHIP. (A) THIS ARTICLE SHALL DISSOLVE EFFECTIVE UPON THE DATE OF THE WITHDRAWAL OR DEFAULT OF THE MEMBER STATE WHICH REDUCES THE MEMBERSHIP TO ONE MEMBER STATE.

(B) UPON THE DISSOLUTION OF MEMBERSHIP, THIS ARTICLE 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.

S 864. SEVERABILITY AND CONSTRUCTION. 1. THE PROVISIONS OF THIS ARTICLE SHALL BE SEVERABLE, AND IF ANY PHRASE, CLAUSE, SENTENCE OR PROVISION IS DEEMED UNENFORCEABLE, THE REMAINING PROVISIONS OF THIS ARTICLE SHALL BE ENFORCEABLE.

2. THE PROVISIONS OF THIS ARTICLE SHALL BE LIBERALLY CONSTRUED TO EFFECTUATE ITS PURPOSES.

3. NOTHING IN THIS ARTICLE SHALL BE CONSTRUED TO PROHIBIT THE APPLICABILITY OF OTHER INTERSTATE MEMBERSHIPS TO WHICH THE STATE BELONGS.

S 865. BINDING EFFECT. 1. OTHER LAWS. (A) NOTHING IN THIS ARTICLE PREVENTS THE ENFORCEMENT OF ANY OTHER LAW OF A MEMBER STATE THAT IS NOT INCONSISTENT WITH THIS ARTICLE.

(B) ALL MEMBER STATES' LAWS CONFLICTING WITH THIS ARTICLE ARE SUPERSEDED TO THE EXTENT OF THE CONFLICT.

2. BINDING EFFECT OF THIS ARTICLE. (A) ALL LAWFUL ACTIONS OF THE INTERSTATE COMMISSION, INCLUDING ALL RULES AND BYLAWS PROMULGATED BY THE INTERSTATE COMMISSION, ARE BINDING UPON THE MEMBER STATES.

(B) ALL AGREEMENTS BETWEEN THE INTERSTATE COMMISSION AND THE MEMBER STATES ARE BINDING IN ACCORDANCE WITH THEIR TERMS.

(C) IN THE EVENT ANY PROVISION OF THIS ARTICLE 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.

S 3. This act shall take effect upon the enactment into law by at least ten other states of legislation having an identical effect with this act, but if at least ten other states shall have already enacted such legislation, this act shall take effect immediately; provided that the commissioner of education shall notify the legislative bill drafting commission upon the occurrence of the enactment of the legislation provided for in section two of this act in order that the commission may maintain an accurate and timely effective data base of the official text

of the laws of the state of New York in furtherance of effectuating the provisions of section 44 of the legislative law and section 70-b of the public officers law.