



Elementary Secondary Education Committee

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LRB096 04073 MJR 29911 a

1 AMENDMENT TO SENATE BILL 277

2 AMENDMENT NO. _____. Amend Senate Bill 277 by replacing
3 everything after the enacting clause with the following:

4 "ARTICLE 5.

5 Section 5-1. Short title. This Article may be cited as the
6 Interstate Compact on Educational Opportunity for Military
7 Children Law.

8 Section 5-5. Interstate Compact on Educational Opportunity
9 for Military Children. The Governor of this State is hereby
10 authorized and directed to enter into a compact on behalf of
11 this State with any of the United States legally joining
12 therein in the form substantially as follows:

13 Interstate Compact on Educational
14 Opportunity for Military Children

1 ARTICLE I

2 PURPOSE

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

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

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

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

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

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

23 F. Providing for the uniform collection and sharing of
24 information between and among member states, schools and

1 military families under this compact.

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

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

7 ARTICLE II

8 DEFINITIONS

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

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

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

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

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

1 their home station.

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

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

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

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

1 institutions.

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

4 J. "Military installation" means: means a base, camp,
5 post, station, yard, center, homeport facility for any
6 ship, or other activity under the jurisdiction of the
7 Department of Defense, including any leased facility,
8 which is located within any of the several States, the
9 District of Columbia, the Commonwealth of Puerto Rico, the
10 U.S. Virgin Islands, Guam, American Samoa, the Northern
11 Marianas Islands and any other U.S. Territory. Such term
12 does not include any facility used primarily for civil
13 works, rivers and harbors projects, or flood control
14 projects.

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

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

20 M. "Rule" means: a written statement by the Interstate
21 Commission promulgated pursuant to Article XII of this
22 compact that is of general applicability, implements,
23 interprets or prescribes a policy or provision of the
24 Compact, or an organizational, procedural, or practice
25 requirement of the Interstate Commission, and has the force
26 and effect of statutory law in a member state, and includes

1 the amendment, repeal, or suspension of an existing rule.

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

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

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

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

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

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

24 ARTICLE III

25 APPLICABILITY

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

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

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

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

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

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

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

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

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

24 4. other U.S. Dept. of Defense personnel and other
25 federal agency civilian and contract employees not defined

1 as active duty members of the uniformed services.

2 ARTICLE IV

3 EDUCATIONAL RECORDS & ENROLLMENT

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

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

24 C. Immunizations - Compacting states shall give thirty (30)

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

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

22 ARTICLE V

23 PLACEMENT & ATTENDANCE

24 A. Course placement - When the student transfers before or

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

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

25 C. Special education services - 1) In compliance with the
26 federal requirements of the Individuals with Disabilities

1 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the
2 receiving state shall initially provide comparable services to
3 a student with disabilities based on his/her current
4 Individualized Education Program (IEP); and 2) In compliance
5 with the requirements of Section 504 of the Rehabilitation Act,
6 29 U.S.C.A. Section 794, and with Title II of the Americans
7 with Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the
8 receiving state shall make reasonable accommodations and
9 modifications to address the needs of incoming students with
10 disabilities, subject to an existing 504 or Title II Plan, to
11 provide the student with equal access to education. This does
12 not preclude the school in the receiving state from performing
13 subsequent evaluations to ensure appropriate placement of the
14 student.

15 D. Placement flexibility - Local education agency
16 administrative officials shall have flexibility in waiving
17 course/program prerequisites, or other preconditions for
18 placement in courses/programs offered under the jurisdiction
19 of the local education agency.

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

1 or her parent or legal guardian relative to such leave or
2 deployment of the parent or guardian.

3 ARTICLE VI

4 ELIGIBILITY

5 A. Eligibility for enrollment.

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

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

16 3. A transitioning military child, placed in the care
17 of a non-custodial parent or other person standing in loco
18 parentis who lives in a jurisdiction other than that of the
19 custodial parent, may continue to attend the school in
20 which he/she was enrolled while residing with the custodial
21 parent.

22 B. Eligibility for extracurricular participation - State
23 and local education agencies shall facilitate the opportunity
24 for transitioning military children's inclusion in

1 extracurricular activities, regardless of application
2 deadlines, to the extent they are otherwise qualified.

3 ARTICLE VII

4 GRADUATION

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

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

18 B. Exit exams - States shall accept: 1) exit or
19 end-of-course exams required for graduation from the
20 sending state; or 2) national norm-referenced achievement
21 tests or 3) alternative testing, in lieu of testing
22 requirements for graduation in the receiving state. In the
23 event the above alternatives cannot be accommodated by the
24 receiving state for a student transferring in his or her

1 Senior year, then the provisions of Article VII, Section C
2 shall apply.

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

16 ARTICLE VIII

17 STATE COORDINATION

18 A. Each member state shall, through the creation of a State
19 Council or use of an existing body or board, provide for the
20 coordination among its agencies of government, local education
21 agencies and military installations concerning the state's
22 participation in, and compliance with, this compact and
23 Interstate Commission activities. While each member state may
24 determine the membership of its own State Council, its

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

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

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

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

24 ARTICLE IX

25 INTERSTATE COMMISSION ON EDUCATIONAL

1 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

22 3. A representative shall not delegate a vote to
23 another member state. In the event the compact
24 commissioner is unable to attend a meeting of the
25 Interstate Commission, the Governor or State Council

1 may delegate voting authority to another person from
2 their state for a specified meeting.

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

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

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

20 E. Establish an executive committee, whose members
21 shall include the officers of the Interstate Commission and
22 such other members of the Interstate Commission as
23 determined by the bylaws. Members of the executive
24 committee shall serve a one year term. Members of the
25 executive committee shall be entitled to one vote each. The
26 executive committee shall have the power to act on behalf

1 of the Interstate Commission, with the exception of
2 rulemaking, during periods when the Interstate Commission
3 is not in session. The executive committee shall oversee
4 the day-to-day activities of the administration of the
5 compact including enforcement and compliance with the
6 provisions of the compact, its bylaws and rules, and other
7 such duties as deemed necessary. The U.S. Dept. of Defense,
8 shall serve as an ex-officio, nonvoting member of the
9 executive committee.

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

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

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

26 2. Disclose matters specifically exempted from

1 disclosure by federal and state statute;

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

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

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

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

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

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

1 by a majority vote of the Interstate Commission.

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

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

20 ARTICLE X

21 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

22 The Interstate Commission shall have the following powers:

23 A. To provide for dispute resolution among member
24 states.

1 B. To promulgate rules and take all necessary actions
2 to effect the goals, purposes and obligations as enumerated
3 in this compact. The rules shall have the force and effect
4 of statutory law and shall be binding in the compact states
5 to the extent and in the manner provided in this compact.

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

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

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

15 F. To purchase and maintain insurance and bonds.

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

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

23 I. To elect or appoint such officers, attorneys,
24 employees, agents, or consultants, and to fix their
25 compensation, define their duties and determine their
26 qualifications; and to establish the Interstate

1 Commission's personnel policies and programs relating to
2 conflicts of interest, rates of compensation, and
3 qualifications of personnel.

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

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

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

13 M. To establish a budget and make expenditures.

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

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

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

26 Q. To establish uniform standards for the reporting,

1 collecting and exchanging of data.

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

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

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

9 ARTICLE XI

10 ORGANIZATION AND OPERATION OF THE INTERSTATE

11 COMMISSION

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

17 1. Establishing the fiscal year of the Interstate
18 Commission;

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

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

24 4. Providing reasonable procedures for calling and

1 conducting meetings of the Interstate Commission, and
2 ensuring reasonable notice of each such meeting;

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

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

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

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

25 C. Executive Committee, Officers and Personnel.

26 1. The executive committee shall have such authority

1 and duties as may be set forth in the bylaws, including but
2 not limited to:

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

6 b. Overseeing an organizational structure within,
7 and appropriate procedures for the Interstate
8 Commission to provide for the creation of rules,
9 operating procedures, and administrative and technical
10 support functions; and

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

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

24 D. The Interstate Commission's executive director and its
25 employees shall be immune from suit and liability, either
26 personally or in their official capacity, for a claim for

1 damage to or loss of property or personal injury or other civil
2 liability caused or arising out of or relating to an actual or
3 alleged act, error, or omission that occurred, or that such
4 person had a reasonable basis for believing occurred, within
5 the scope of Interstate Commission employment, duties, or
6 responsibilities; provided, that such person shall not be
7 protected from suit or liability for damage, loss, injury, or
8 liability caused by the intentional or willful and wanton
9 misconduct of such person.

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

23 2. The Interstate Commission shall defend the
24 executive director and its employees and, subject to the
25 approval of the Attorney General or other appropriate legal
26 counsel of the member state represented by an Interstate

1 Commission representative, shall defend such Interstate
2 Commission representative in any civil action seeking to
3 impose liability arising out of an actual or alleged act,
4 error or omission that occurred within the scope of
5 Interstate Commission employment, duties or
6 responsibilities, or that the defendant had a reasonable
7 basis for believing occurred within the scope of Interstate
8 Commission employment, duties, or responsibilities,
9 provided that the actual or alleged act, error, or omission
10 did not result from intentional or willful and wanton
11 misconduct on the part of such person.

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

1 ARTICLE XII

2 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

5 ARTICLE XIII

6 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

7 A. Oversight.

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

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

20 3. The Interstate Commission shall be entitled to
21 receive all service of process in any such proceeding, and
22 shall have standing to intervene in the proceeding for all
23 purposes. Failure to provide service of process to the
24 Interstate Commission shall render a judgment or order void

1 as to the Interstate Commission, this compact or
2 promulgated rules.

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

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

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

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

24 4. Suspension or termination of membership in the
25 compact shall be imposed only after all other means of
26 securing compliance have been exhausted. Notice of intent

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

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

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

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

22 C. Dispute Resolution.

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

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

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

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

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

1 of the Interstate Commission.

2 ARTICLE XV

3 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

19 ARTICLE XVI

20 WITHDRAWAL AND DISSOLUTION

21 A. Withdrawal.

22 1. Once effective, the compact shall continue in force

1 and remain binding upon each and every member state;
2 provided that a member state may withdraw from the compact
3 by specifically repealing the statute, which enacted the
4 compact into law.

5 2. Withdrawal from this compact shall be by the
6 enactment of a statute repealing the same, but shall not
7 take effect until one (1) year after the effective date of
8 such statute and until written notice of the withdrawal has
9 been given by the withdrawing state to the Governor of each
10 other member jurisdiction.

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

18 4. The withdrawing state is responsible for all
19 assessments, obligations and liabilities incurred through
20 the effective date of withdrawal, including obligations,
21 the performance of which extend beyond the effective date
22 of withdrawal.

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

1 B. Dissolution of Compact.

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

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

11 ARTICLE XVII

12 SEVERABILITY AND CONSTRUCTION

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

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

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

22 ARTICLE XVIII

23 BINDING EFFECT OF COMPACT AND OTHER LAWS

1 A. Other Laws.

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

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

7 B. Binding Effect of the Compact.

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

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

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

19 ARTICLE 99.

20 Section 99-99. Effective date. This Act takes effect upon
21 becoming law.".