

By: Senator(s) McDaniel, Blount, Brown

To: Education;
Appropriations

SENATE BILL NO. 2669

1 AN ACT TO ENACT THE INTERSTATE COMPACT ON EDUCATIONAL
2 OPPORTUNITY FOR MILITARY CHILDREN FOR THE PURPOSE OF REMOVING
3 BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY
4 FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR
5 PARENTS; AND FOR RELATED PURPOSES.

6 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MISSISSIPPI:

7 **Interstate Compact on Educational**
8 **Opportunity for Military Children**

9 **ARTICLE I**

10 **PURPOSE**

11 **SECTION 1.** It is the purpose of this compact to remove
12 barriers to educational success imposed on children of military
13 families because of frequent moves and deployment of their parents
14 by:

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

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

24 C. Facilitating the qualification and eligibility for
25 enrollment, educational programs, and participation in
26 extracurricular academic, athletic, and social activities.

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



29 E. Providing for the promulgation and enforcement of
30 administrative rules implementing the provisions of this compact.

31 F. Providing for the uniform collection and sharing of
32 information between and among member states, schools, and military
33 families under this compact.

34 G. Promoting coordination between this compact and other
35 compacts affecting military children.

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

39 **ARTICLE II**

40 **DEFINITIONS**

41 **SECTION 2.** As used in this compact, unless the context
42 clearly requires a different construction:

43 A. "Active duty" means full-time duty status in the active
44 uniformed service of the United States, including members of the
45 National Guard and Reserve on active duty orders pursuant to 10
46 USC, Sections 1209 and 1211.

47 B. "Children of military families" means school-aged
48 children, enrolled in Kindergarten through 12th Grade, in the
49 household of an active duty member.

50 C. "Compact commissioner" means the voting representative of
51 each compacting state appointed pursuant to Article VIII of this
52 compact.

53 D. "Deployment" means the period one (1) month prior to the
54 service members' departure from their home station on military
55 orders through six (6) months after return to their home station.

56 E. "Educational records" means those official records,
57 files, and data directly related to a student and maintained by
58 the school or local education agency, including, but not limited
59 to, records encompassing all the material kept in the student's
60 cumulative folder such as general identifying data, records of
61 attendance and of academic work completed, records of achievement



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

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

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

75 H. "Local education agency" means a public authority legally
76 constituted by the state as an administrative agency to provide
77 control of and direction for Kindergarten through 12th Grade
78 public educational institutions.

79 I. "Member state" means a state that has enacted this
80 compact.

81 J. "Military installation" means a base, camp, post,
82 station, yard, center, homeport facility for any ship, or other
83 activity under the jurisdiction of the Department of Defense,
84 including any leased facility, which is located within any of the
85 several states, the District of Columbia, the Commonwealth of
86 Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa, the
87 Northern Marianas Islands, and any other U.S. Territory. Such
88 term does not include any facility used primarily for civil works,
89 river and harbor projects, or flood control projects.

90 K. "Nonmember state" means a state that has not enacted this
91 compact.

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



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

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

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

108 P. "Student" means the child of a military family for whom
109 the local education agency receives public funding and who is
110 formally enrolled in Kindergarten through 12th Grade.

111 Q. "Transition" means: (i) the formal and physical process
112 of transferring from school to school or (ii) the period of time
113 in which a student moves from one school in the sending state to
114 another school in the receiving state.

115 R. "Uniformed services" means the Army, Navy, Air Force,
116 Marine Corps, Coast Guard, as well as the Commissioned Corps of
117 the National Oceanic and Atmospheric Administration, and Public
118 Health Services.

119 S. "Veteran" means a person who served in the active
120 military, naval, or air service and who was discharged or released
121 therefrom under conditions other than dishonorable.

122 **ARTICLE III**

123 **APPLICABILITY**

124 **SECTION 3.** A. Except as otherwise provided in subsection B,
125 this compact shall apply to the children of:



126 1. Active duty members of the uniformed services as
127 defined in this compact, including members of the National Guard
128 and Reserve on active duty orders pursuant to 10 USC, Sections
129 1209 and 1211;

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

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

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

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

140 1. Inactive members of the National Guard and Military
141 Reserves;

142 2. Members of the uniformed services now retired,
143 except as provided in subsection A;

144 3. Veterans of the uniformed services, except as
145 provided in subsection A; and

146 4. Other U.S. Department of Defense personnel and other
147 federal agency civilian and contract employees not defined as
148 active duty members of the uniformed services.

149 **ARTICLE IV**

150 **EDUCATIONAL RECORDS AND ENROLLMENT**

151 **SECTION 4.** A. Unofficial or "hand-carried" education

152 records. In the event that official education records cannot be
153 released to the parents for the purpose of transfer, the custodian
154 of the records in the sending state shall prepare and furnish to
155 the parent a complete set of unofficial educational records
156 containing uniform information as determined by the Interstate
157 Commission. Upon receipt of the unofficial education records by a
158 school in the receiving state, the school shall enroll and



159 appropriately place the student based on the information provided
160 in the unofficial records pending validation by the official
161 records, as quickly as possible.

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

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

179 D. Kindergarten and First Grade entrance age. Students
180 shall be allowed to continue their enrollment at the grade level
181 in the receiving state commensurate with their grade level
182 (including kindergarten) from a local education agency in the
183 sending state at the time of transition, regardless of age. A
184 student who has satisfactorily completed the prerequisite grade
185 level in the local education agency in the sending state shall be
186 eligible for enrollment in the next highest grade level in the
187 receiving state, regardless of age. A student transferring after
188 the start of the school year in the receiving state shall enter
189 the school in the receiving state on their validated level from an
190 accredited school in the sending state.

191 **ARTICLE V**



192 **PLACEMENT AND ATTENDANCE**

193 **SECTION 5.**

193 A. Course placement. When the student transfers
194 before or during the school year, the receiving state school shall
195 initially honor placement of the student in educational courses
196 based on the student's enrollment in the sending state school
197 and/or educational assessments conducted at the school in the
198 sending state if the courses are offered. Course placement
199 includes, but is not limited to, honors, International
200 Baccalaureate, advanced placement, vocational, technical, and
201 career pathway courses. Continuing the student's academic program
202 from the previous school and promoting placement in academically
203 and career challenging courses should be paramount when
204 considering placement. This does not preclude the school in the
205 receiving state from performing subsequent evaluations to ensure
206 appropriate placement and continued enrollment of the student in
207 the course(s).

208 B. Educational program placement. The receiving state
209 school shall initially honor placement of the student in
210 educational programs based on current educational assessments
211 conducted at the school in the sending state or
212 participation/placement in like programs in the sending state.
213 Such programs include, but are not limited to, (i) gifted and
214 talented programs, and (ii) English as a second language (ESL).
215 This does not preclude the school in the receiving state from
216 performing subsequent evaluations to ensure appropriate placement
217 of the student.

218 C. Special education services. In compliance with the
219 federal requirements of the Individuals with Disabilities
220 Education Act (IDEA), 20 USC, Section 1400 et seq., the receiving
221 state shall initially provide comparable services to a student
222 with disabilities based on his/her current Individualized
223 Education Program (IEP) and in compliance with the requirements of
224 Section 504 of the Rehabilitation Act, 29 USC, Section 794, and



225 with Title II of the Americans with Disabilities Act, 42 USC,
226 Sections 12131-12165, and the receiving state shall make
227 reasonable accommodations and modifications to address the needs
228 of incoming students with disabilities, subject to an existing 504
229 or Title II Plan, to provide the student with equal access to
230 education. This does not preclude the school in the receiving
231 state from performing subsequent evaluations to ensure appropriate
232 placement of the student.

233 D. Placement flexibility. Local education agency
234 administrative officials shall have flexibility in waiving
235 course/program prerequisites or other preconditions for placement
236 in courses/programs offered under the jurisdiction of the local
237 education agency.

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

247 **ARTICLE VI**

248 **ELIGIBILITY**

249 **SECTION 6.** A. Eligibility for enrollment.

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

255 2. A local education agency shall be prohibited from
256 charging local tuition to a transitioning military child placed in
257 the care of a noncustodial parent or other person standing in loco



290 student transferring in his or her senior year, then the
291 provisions of Article VII, Section C shall apply.

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

303 **ARTICLE VIII**

304 **STATE COORDINATION**

305 **SECTION 8.** A. Each member state shall, through the creation
306 of a State Council or use of an existing body or board, provide
307 for the coordination among its agencies of government, local
308 education agencies, and military installations concerning the
309 state's participation in, and compliance with, this compact and
310 Interstate Commission activities. While each member state may
311 determine the membership of its own State Council, its membership
312 must include at least: (i) the state superintendent of education,
313 (ii) the superintendent of a school district with a high
314 concentration of military children, (iii) one (1) representative
315 from a military installation, (iv) one (1) representative each
316 from the legislative and executive branches of government, and
317 other offices and stakeholder groups the State Council deems
318 appropriate. A member state that does not have a school district
319 deemed to contain a high concentration of military children may
320 appoint a superintendent from another school district to represent
321 local education agencies on the State Council.



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

326 C. The Governor of each member state shall appoint or
327 designate a compact commissioner responsible for the
328 administration and management of the state's participation in the
329 compact and who is empowered to establish statewide policy related
330 to matters governed by this compact.

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

335 **ARTICLE IX**

336 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

337 **FOR MILITARY CHILDREN**

338 **SECTION 9.** The member states hereby create the Interstate
339 Commission on Educational Opportunity for Military Children. The
340 activities of the Interstate Commission are the formation of
341 public policy and are a discretionary state function. The
342 Interstate Commission shall:

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

349 B. Consist of one (1) Interstate Commission voting
350 representative from each member state who shall be that state's
351 compact commissioner and who is empowered to establish statewide
352 policy related to matters governed by this compact.

353 1. Each member state represented at a meeting of the
354 Interstate Commission is entitled to one (1) vote;



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

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

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

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

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

379 E. Establish an executive committee, whose members shall
380 include the officers of the Interstate Commission and such other
381 members of the Interstate Commission as determined by the bylaws.
382 Members of the executive committee shall serve a one-year term.
383 Members of the executive committee shall be entitled to one (1)
384 vote each. The executive committee shall have the power to act on
385 behalf of the Interstate Commission, with the exception of
386 rule-making, during periods when the Interstate Commission is not
387 in session. The executive committee shall oversee the day-to-day



388 activities of the administration of the compact, including
389 enforcement and compliance with the provisions of the compact, its
390 bylaws and rules, and other such duties as deemed necessary. The
391 U.S. Department of Defense shall serve as an ex officio, nonvoting
392 member of the executive committee.

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

400 G. Public notice shall be given by the Interstate Commission
401 of all meetings, and all meetings shall be open to the public,
402 except as set forth in the rules or as otherwise provided in the
403 compact. The Interstate Commission and its committees may close a
404 meeting, or portion thereof, when it determines by two-thirds
405 (2/3) vote that an open meeting would be likely to:

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

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

410 3. Disclose trade secrets or commercial or financial
411 information that is privileged or confidential;

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

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

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

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



421 H. For a meeting, or portion of a meeting, closed pursuant
422 to the provisions of subsection G, the Interstate Commission's
423 legal counsel or designee shall certify that the meeting may be
424 closed and shall reference each relevant exemptible provision.
425 The Interstate Commission shall keep minutes, which shall fully
426 and clearly describe all matters discussed in a meeting and shall
427 provide a full and accurate summary of actions taken, and the
428 reasons therefor, including a description of the views expressed
429 and the record of a roll call vote. All documents considered in
430 connection with an action shall be identified in such minutes.
431 All minutes and documents of a closed meeting shall remain under
432 seal, subject to release by a majority vote of the Interstate
433 Commission.

434 I. The Interstate Commission shall collect standardized data
435 concerning the educational transition of the children of military
436 families under this compact as directed through its rules, which
437 shall specify the data to be collected, the means of collection
438 and data exchange, and reporting requirements. Such methods of
439 data collection, exchange, and reporting shall, insofar as is
440 reasonably possible, conform to current technology and coordinate
441 its information functions with the appropriate custodian of
442 records as identified in the bylaws and rules.

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

451 **ARTICLE X**

452 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**



453 **SECTION 10.** The Interstate Commission shall have the
454 following powers:

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

456 B. To promulgate rules and take all necessary actions to
457 effect the goals, purposes, and obligations as enumerated in this
458 compact. The rules shall have the force and effect of statutory
459 law and shall be binding in the compact states to the extent and
460 in the manner provided in this compact.

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

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

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

470 F. To purchase and maintain insurance and bonds.

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

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

478 I. To elect or appoint such officers, attorneys, employees,
479 agents, or consultants, and to fix their compensation, define
480 their duties, and determine their qualifications and to establish
481 the Interstate Commission's personnel policies and programs
482 relating to conflicts of interest, rates of compensation, and
483 qualifications of personnel.



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

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

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

493 M. To establish a budget and make expenditures.

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

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

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

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

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

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

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

513 **ARTICLE XI**

514 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

515 **SECTION 11.** A. The Interstate Commission shall, by a

516 majority of the members present and voting, within twelve (12)



517 months after the first Interstate Commission meeting, adopt bylaws
518 to govern its conduct as may be necessary or appropriate to carry
519 out the purposes of the compact, including, but not limited to:

520 1. Establishing the fiscal year of the Interstate
521 Commission;

522 2. Establishing an executive committee and such other
523 committees as may be necessary;

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

527 4. Providing reasonable procedures for calling and
528 conducting meetings of the Interstate Commission and ensuring
529 reasonable notice of each such meetings;

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

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

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

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



550 C. Executive Committee, officers, and personnel.

551 1. The executive committee shall have such authority
552 and duties as may be set forth in the bylaws, including, but not
553 limited to: (a) managing the affairs of the Interstate Commission
554 in a manner consistent with the bylaws and purposes of the
555 Interstate Commission; (b) overseeing an organizational structure
556 within and appropriate procedures for the Interstate Commission to
557 provide for the creation of rules, operating procedures, and
558 administrative and technical support functions; and (c) planning,
559 implementing, and coordinating communications and activities with
560 other state, federal, and local government organizations in order
561 to advance the goals of the Interstate Commission.

562 2. The executive committee may, subject to the approval
563 of the Interstate Commission, appoint or retain an executive
564 director for such period, upon such terms and conditions, and for
565 such compensation as the Interstate Commission may deem
566 appropriate. The executive director shall serve as secretary to
567 the Interstate Commission, but shall not be a member of the
568 Interstate Commission. The executive director shall hire and
569 supervise such other persons as may be authorized by the
570 Interstate Commission.

571 D. The Interstate Commission's executive director and its
572 employees shall be immune from suit and liability, either
573 personally or in their official capacity, for a claim for damage
574 to or loss of property or personal injury or other civil liability
575 caused or arising out of or relating to an actual or alleged act,
576 error, or omission that occurred, or that such person had a
577 reasonable basis for believing occurred, within the scope of
578 Interstate Commission employment, duties, or responsibilities,
579 provided that such person shall not be protected from suit or
580 liability for damage, loss, injury, or liability caused by the
581 intentional or willful and wanton misconduct of such person.



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

594 2. The Interstate Commission shall defend the executive
595 director and its employees and, subject to the approval of the
596 Attorney General or other appropriate legal counsel of the member
597 state represented by an Interstate Commission representative,
598 shall defend such Interstate Commission representative in any
599 civil action seeking to impose liability arising out of an actual
600 or alleged act, error, or omission that occurred within the scope
601 of Interstate Commission employment, duties, or responsibilities,
602 or that the defendant had a reasonable basis for believing
603 occurred within the scope of Interstate Commission employment,
604 duties, or responsibilities provided that the actual or alleged
605 act, error, or omission did not result from intentional or willful
606 and wanton misconduct on the part of such person.

607 3. To the extent not covered by the state involved,
608 member state, or the Interstate Commission, the representatives or
609 employees of the Interstate Commission shall be held harmless in
610 the amount of a settlement or judgment, including attorney's fees
611 and costs, obtained against such persons arising out of an actual
612 or alleged act, error, or omission that occurred within the scope
613 of Interstate Commission employment, duties, or responsibilities,
614 or that such persons had a reasonable basis for believing occurred



615 within the scope of Interstate Commission employment, duties, or
616 responsibilities, provided that the actual or alleged act, error,
617 or omission did not result from intentional or willful and wanton
618 misconduct on the part of such persons.

619 **ARTICLE XII**

620 **RULE-MAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

621 **SECTION 12.** A. Rule-making authority. The Interstate
622 Commission shall promulgate reasonable rules in order to
623 effectively and efficiently achieve the purposes of this compact.
624 Notwithstanding the foregoing, in the event the Interstate
625 Commission exercises its rule-making authority in a manner that is
626 beyond the scope of the purposes of this act, or the powers
627 granted hereunder, then such an action by the Interstate
628 Commission shall be invalid and have no force or effect.

629 B. Rule-making procedure. Rules shall be made pursuant to a
630 rule-making process that substantially conforms to the "Model
631 State Administrative Procedure Act," of 1981 Act, Uniform Laws
632 Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate
633 to the operations of the Interstate Commission.

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

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

647



648 **ARTICLE XIII**

649 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

650 **SECTION 13.** A. Oversight.

651 1. The executive, legislative, and judicial branches of
652 state government in each member state shall enforce this compact
653 and shall take all actions necessary and appropriate to effectuate
654 the compact's purposes and intent. The provisions of this compact
655 and the rules promulgated hereunder shall have standing as
656 statutory law;

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

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

668 B. Default, technical assistance, suspension, and
669 termination.

670 If the Interstate Commission determines that a member state
671 has defaulted in the performance of its obligations or
672 responsibilities under this compact, or the bylaws or promulgated
673 rules, the Interstate Commission shall:

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

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



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

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

694 5. The state which has been suspended or terminated is
695 responsible for all assessments, obligations, and liabilities
696 incurred through the effective date of suspension or termination,
697 including obligations the performance of which extends beyond the
698 effective date of suspension or termination;

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

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

710 C. Dispute resolution.

711 1. The Interstate Commission shall attempt, upon the
712 request of a member state, to resolve disputes that are subject to



713 the compact and that may arise among member states and between
714 member and nonmember states.

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

718 D. Enforcement.

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

722 2. The Interstate Commission may by majority vote of
723 the members initiate legal action in the United States District
724 Court for the District of Columbia or, at the discretion of the
725 Interstate Commission, in the federal district where the
726 Interstate Commission has its principal offices to enforce
727 compliance with the provisions of the compact, its promulgated
728 rules and bylaws against a member state in default. The relief
729 sought may include both injunctive relief and damages. In the
730 event judicial enforcement is necessary, the prevailing party
731 shall be awarded all costs of such litigation including reasonable
732 attorney's fees.

733 3. The remedies herein shall not be the exclusive
734 remedies of the Interstate Commission. The Interstate Commission
735 may avail itself of any other remedies available under state law
736 or the regulation of a profession.

737 **ARTICLE XIV**

738 **FINANCING OF THE INTERSTATE COMMISSION**

739 **SECTION 14.** A. The Interstate Commission shall pay or
740 provide for the payment of the reasonable expenses of its
741 establishment, organization, and ongoing activities.

742 B. The Interstate Commission may levy on and collect an
743 annual assessment from each member state to cover the cost of the
744 operations and activities of the Interstate Commission and its
745 staff, which must be in a total amount sufficient to cover the

746 Interstate Commission's annual budget as approved each year. The
747 aggregate annual assessment amount shall be allocated based upon a
748 formula to be determined by the Interstate Commission, which shall
749 promulgate a rule binding upon all member states.

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

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

763 **ARTICLE XV**

764 **MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

765 **SECTION 15.** A. Any state is eligible to become a member
766 state.

767 B. The compact shall become effective and binding upon
768 legislative enactment of the compact into law by no less than ten
769 (10) of the states. The effective date shall be no earlier than
770 December 1, 2008. Thereafter it shall become effective and
771 binding as to any other member state upon enactment of the compact
772 into law by that state. The Governors of nonmember states or
773 their designees shall be invited to participate in the activities
774 of the Interstate Commission on a nonvoting basis prior to
775 adoption of the compact by all states.

776 C. The Interstate Commission may propose amendments to the
777 compact for enactment by the member states. No amendment shall
778 become effective and binding upon the Interstate Commission and



779 the member states unless and until it is enacted into law by
780 unanimous consent of the member states.

781 **ARTICLE XVI**

782 **WITHDRAWAL AND DISSOLUTION**

783 **SECTION 16.** A. Withdrawal.

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

788 2. Withdrawal from this compact shall be by the
789 enactment of a statute repealing the same, but shall not take
790 effect until one (1) year after the effective date of such statute
791 and until written notice of the withdrawal has been given by the
792 withdrawing state to the Governor of each other member
793 jurisdiction.

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

800 4. The withdrawing state is responsible for all
801 assessments, obligations, and liabilities incurred through the
802 effective date of withdrawal, including obligations the
803 performance of which extends beyond the effective date of
804 withdrawal.

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

808 B. Dissolution of compact.

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



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

817 **ARTICLE XVII**

818 **SEVERABILITY AND CONSTRUCTION**

819 **SECTION 17.** A. The provisions of this compact shall be
820 severable and if any phrase, clause, sentence, or provision is
821 deemed unenforceable, the remaining provisions of the compact
822 shall be enforceable.

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

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

828 **ARTICLE XVIII**

829 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

830 **SECTION 18.** A. Other laws.

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

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

835 B. Binding effect of the compact.

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

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

841 3. In the event any provision of this compact exceeds
842 the constitutional limits imposed on the Legislature of any member
843 state, such provision shall be ineffective to the extent of the



844 conflict with the constitutional provision in question in that
845 member state.

846 **SECTION 19.** This act shall take effect and be in force when
847 enacted into law by no less than ten (10) of the fifty (50) United
848 States.

