

Stricken language would be deleted from and underlined language would be added to the law as it existed prior to this session of the General Assembly.

State of Arkansas
87th General Assembly
Regular Session, 2009

A Bill

SENATE BILL 18

By: Senator J. Jeffress

For An Act To Be Entitled

AN ACT TO ADOPT THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN;
AND FOR OTHER PURPOSES.

Subtitle

AN ACT TO ADOPT THE INTERSTATE COMPACT
ON EDUCATIONAL OPPORTUNITY FOR MILITARY
CHILDREN.

BE IT ENACTED BY THE GENERAL ASSEMBLY OF THE STATE OF ARKANSAS:

SECTION 1. Arkansas Code Title 6 is amended to add an additional
chapter to read as follows:

6-27-101. Interstate Compact on Educational Opportunity for Military
Children.

The Interstate Compact on Educational Opportunity for Military Children
is enacted into law and entered into with all other jurisdictions legally
joining in the compact in the form substantially as follows:

INTERSTATE COMPACT ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN

ARTICLE I

PURPOSE

It is the purpose of this compact to remove barriers to educational success



1 imposed on children of military families because of frequent moves and
2 deployment of their parents by:

3
4 A. Facilitating the timely enrollment of children of military families
5 and ensuring that they are not placed at a disadvantage due to difficulty in
6 the transfer of education records from the previous school district(s) or
7 variations in entrance/age requirements.

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

11 C. Facilitating the qualification and eligibility for enrollment,
12 educational programs, and participation in extracurricular academic, athletic,
13 and social activities.

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

16 E. Providing for the promulgation and enforcement of administrative
17 rules implementing the provisions of this compact.

18 F. Providing for the uniform collection and sharing of information
19 between and among member states, schools and military families under this
20 compact.

21 G. Promoting coordination between this compact and other compacts
22 affecting military children.

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

26 27 ARTICLE II

28 DEFINITIONS

29
30 As used in this compact, unless the context clearly requires a different
31 construction:

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

35 B. "Children of military families" means: a school-aged child(ren),
36 enrolled in Kindergarten through Twelfth (12th) grade, in the household of an

1 active duty member.

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

4
5 D. "Deployment" means: the period one (1) month prior to the service
6 members' departure from their home station on military orders though six (6)
7 months after return to their home station.

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

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

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

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

30
31 I. "Member state" means: a state that has enacted this compact.

32
33 J. "Military installation" means: means a base, camp, post, station,
34 yard, center, homeport facility for any ship, or other activity under the
35 jurisdiction of the Department of Defense, including any leased facility,
36 which is located within any of the several States, the District of Columbia,

1 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American
2 Samoa, the Northern Marianas Islands and any other U.S. Territory. Such term
3 does not include any facility used primarily for civil works, rivers and
4 harbors projects, or flood control projects.

5
6 K. "Non-member state" means: a state that has not enacted this
7 compact.

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

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

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

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

26
27 P. "Student" means: the child of a military family for whom the local
28 education agency receives public funding and who is formally enrolled in
29 Kindergarten through Twelfth (12th) grade.

30
31 Q. "Transition" means: 1) the formal and physical process of
32 transferring from school to school or 2) the period of time in which a
33 student moves from one school in the sending state to another school in the
34 receiving state.

35
36 R. "Uniformed service(s)" means: the Army, Navy, Air Force, Marine

1 Corps, Coast Guard as well as the Commissioned Corps of the National Oceanic
2 and Atmospheric Administration, and Public Health Services.

3
4 S. "Veteran" means: a person who served in the uniformed services and
5 who was discharged or released there from under conditions other than
6 dishonorable.

7
8 ARTICLE III
9 APPLICABILITY

10
11 A. Except as otherwise provided in Section B, this compact shall apply
12 to the children of:

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

16
17 2. members or veterans of the uniformed services who are severely
18 injured and medically discharged or retired for a period of one (1) year after
19 medical discharge or retirement; and

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

23
24 B. The provisions of this interstate compact shall only apply to local
25 education agencies as defined in this compact.

26
27 C. The provisions of this compact shall not apply to the children of:

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

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

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

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

1 ARTICLE IV
2 EDUCATIONAL RECORDS & ENROLLMENT
3

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

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

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

31 D. Kindergarten and First grade entrance age - Students shall be
32 allowed to continue their enrollment at grade level in the receiving state
33 commensurate with their grade level (including Kindergarten) from a local
34 education agency in the sending state at the time of transition, regardless of
35 age. A student that has satisfactorily completed the prerequisite grade level
36 in the local education agency in the sending state shall be eligible for

1 enrollment in the next highest grade level in the receiving state, regardless
2 of age. A student transferring after the start of the school year in the
3 receiving state shall enter the school in the receiving state on their
4 validated level from an accredited school in the sending state.

5
6 ARTICLE V
7 PLACEMENT & ATTENDANCE
8

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

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

30
31 C. Special education services - 1) In compliance with the federal
32 requirements of the Individuals with Disabilities Education Act (IDEA), 20
33 U.S.C.A. Section 1400 et seq, the receiving state shall initially provide
34 comparable services to a student with disabilities based on his/her current
35 Individualized Education Program (IEP); and 2) In compliance with the
36 requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section

1 794, and with Title II of the Americans with Disabilities Act, 42 U.S.C.A.
2 Sections 12131-12165, the receiving state shall make reasonable accommodations
3 and modifications to address the needs of incoming students with disabilities,
4 subject to an existing 504 or Title II Plan, to provide the student with equal
5 access to education. This does not preclude the school in the receiving state
6 from performing subsequent evaluations to ensure appropriate placement of the
7 students.

8
9 D. Placement flexibility - Local education agency administrative
10 officials shall have flexibility in waiving course/program prerequisites, or
11 other preconditions for placement in courses/programs offered under the
12 jurisdiction of the local education agency.

13
14 E. Absence as related deployment activities - A student whose parent
15 or legal guardian is an active duty member of the uniformed services, as
16 defined by the compact, and has been called to duty for, is on leave from, or
17 immediately returned from deployment to a combat zone or combat support
18 posting, shall be granted additional excused absences at the discretion of the
19 local education agency superintendent to visit with his or her parent or legal
20 guardian relative to such leave or deployment of the parent or guardian.

21
22 ARTICLE VI
23 ELIGIBILITY

24
25 A. Eligibility for enrollment

26
27 1. Special power of attorney, relative to the guardianship of a
28 child of a military family and executed under applicable law shall be
29 sufficient for the purposes of enrollment and all other actions requiring
30 parental participation and consent.

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

35 3. A transitioning military child, placed in the care of a non-
36 custodial parent or other person standing in loco parentis who lives in a

1 jurisdiction other than that of the custodial parent, may continue to attend
2 the school in which he/she was enrolled while residing with the custodial
3 parent.

4
5 B. Eligibility for extracurricular participation - State and local
6 education agencies shall facilitate the opportunity for transitioning military
7 children's inclusion in extracurricular activities, regardless of application
8 deadlines, to the extent they are otherwise qualified.

9
10 ARTICLE VII

11 GRADUATION

12
13 In order to facilitate the on-time graduation of children of military families
14 states and local education agencies shall incorporate the following
15 procedures:

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

24
25 B. Exit exams - States shall accept: 1) exit or end-of-course exams
26 required for graduation from the sending state; or 2) national norm-
27 referenced achievement tests or 3) alternative testing, in lieu of testing
28 requirements for graduation in the receiving state. In the event the above
29 alternatives cannot be accommodated by the receiving state for a student
30 transferring in his or her Senior year, then the provisions of Article VII,
31 Section C shall apply.

32
33 C. Transfers during Senior year - Should a military student
34 transferring at the beginning or during his or her Senior year be ineligible
35 to graduate from the receiving local education agency after all alternatives
36 have been considered, the sending and receiving local education agencies shall

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

8 ARTICLE VIII

9 STATE COORDINATION

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

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

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

35 D. The compact commissioner and the military family education liaison
36 designated herein shall be ex-officio members of the State Council, unless

1 either is already a full voting member of the State Council.

2
3 ARTICLE IX

4 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

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

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

16
17 B. Consist of one Interstate Commission voting representative from
18 each member state who shall be that state's compact commissioner.

19
20 1. Each member state represented at a meeting of the Interstate
21 Commission is entitled to one vote.

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

25
26 3. A representative shall not delegate a vote to another member
27 state. In the event the compact commissioner is unable to attend a meeting of
28 the Interstate Commission, the Governor or State Council may delegate voting
29 authority to another person from their state for a specified meeting.

30
31 4. The bylaws may provide for meetings of the Interstate
32 Commission to be conducted by telecommunication or electronic communication.

33
34 C. Consist of ex-officio, non-voting representatives who are members
35 of interested organizations. Such ex-officio members, as defined in the
36 bylaws, may include but not be limited to, members of the representative

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

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

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

23
24 F. Establish bylaws and rules that provide for conditions and
25 procedures under which the Interstate Commission shall make its information
26 and official records available to the public for inspection or copying. The
27 Interstate Commission may exempt from disclosure information or official
28 records to the extent they would adversely affect personal privacy rights or
29 proprietary interests.

30
31 G. Give public notice of all meetings and all meetings shall be open
32 to the public, except as set forth in the rules or as otherwise provided in
33 the compact. The Interstate Commission and its committees may close a
34 meeting, or portion thereof, where it determines by two-thirds vote that an
35 open meeting would be likely to:

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

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

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

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

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

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

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

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

26
27 I. Shall collect standardized data concerning the educational
28 transition of the children of military families under this compact as directed
29 through its rules which shall specify the data to be collected, the means of
30 collection and data exchange and reporting requirements. Such methods of data
31 collection, exchange and reporting shall, in so far as is reasonably possible,
32 conform to current technology and coordinate its information functions with
33 the appropriate custodian of records as identified in the bylaws and rules.

34
35 J. Shall create a process that permits military officials, education
36 officials and parents to inform the Interstate Commission if and when there

1 are alleged violations of the compact or its rules or when issues subject to
2 the jurisdiction of the compact or its rules are not addressed by the state or
3 local education agency. This section shall not be construed to create a
4 private right of action against the Interstate Commission or any member state.

6 ARTICLE X

7 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

8
9 The Interstate Commission shall have the following powers:

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

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

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

21
22 D. To enforce compliance with the compact provisions, the rules
23 promulgated by the Interstate Commission, and the bylaws, using all necessary
24 and proper means, including but not limited to the use of judicial process.

25
26 E. To establish and maintain offices which shall be located within one
27 or more of the member states.

28
29 F. To purchase and maintain insurance and bonds.

30
31 G. To borrow, accept, hire or contract for services of personnel.

32
33 H. To establish and appoint committees including, but not limited to,
34 an executive committee as required by Article IX, Section E, which shall have
35 the power to act on behalf of the Interstate Commission in carrying out its
36 powers and duties hereunder.

1
2 I. To elect or appoint such officers, attorneys, employees, agents, or
3 consultants, and to fix their compensation, define their duties and determine
4 their qualifications; and to establish the Interstate Commission's personnel
5 policies and programs relating to conflicts of interest, rates of
6 compensation, and qualifications of personnel.

7
8 J. To accept any and all donations and grants of money, equipment,
9 supplies, materials, and services, and to receive, utilize, and dispose of it.

10
11 K. To lease, purchase, accept contributions or donations of, or
12 otherwise to own, hold, improve or use any property, real, personal, or mixed.

13
14 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or
15 otherwise dispose of any property, real, personal or mixed.

16
17 M. To establish a budget and make expenditures.

18
19 N. To adopt a seal and bylaws governing the management and operation of
20 the Interstate Commission.

21
22 O. To report annually to the legislatures, governors, judiciary, and
23 state councils of the member states concerning the activities of the
24 Interstate Commission during the preceding year. Such reports shall also
25 include any recommendations that may have been adopted by the Interstate
26 Commission.

27
28 P. To coordinate education, training and public awareness regarding the
29 compact, its implementation and operation for officials and parents involved
30 in such activity.

31
32 Q. To establish uniform standards for the reporting, collecting and
33 exchanging of data.

34
35 R. To maintain corporate books and records in accordance with the
36 bylaws.

1
2 S. To perform such functions as may be necessary or appropriate to
3 achieve the purposes of this compact.
4

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

9 ARTICLE XI
10 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION
11

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

17 1. Establishing the fiscal year of the Interstate Commission;
18 2. Establishing an executive committee, and such other committees
19 as may be necessary;

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

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

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

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

32 7. Providing "start up" rules for initial administration of the
33 compact.
34

35 B. The Interstate Commission shall, by a majority of the members, elect
36 annually from among its members a chairperson, a vice-chairperson, and a

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

10
11 C. Executive Committee, Officers and Personnel
12

13 1. The executive committee shall have such authority and duties
14 as may be set forth in the bylaws, including but not limited to:
15

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

18 b. Overseeing an organizational structure within, and
19 appropriate procedures for the Interstate Commission to provide for the
20 creation of rules, Operating procedures, and administrative and technical
21 support functions; and

22 c. Planning, implementing, and coordinating communications
23 and activities with other state, federal and local government organizations in
24 order to advance the goals of the Interstate Commission.
25

26 3. The executive committee may, subject to the approval of the
27 Interstate Commission, appoint or retain an executive director for such
28 period, upon such terms and conditions and for such compensation, as the
29 Interstate Commission may deem appropriate. The executive director shall
30 serve as secretary to the Interstate Commission, but shall not be a Member of
31 the Interstate Commission. The executive director shall hire and supervise
32 such other persons as may be authorized by the Interstate Commission.
33

34 D. The Interstate Commission's executive director and its employees
35 shall be immune from suit and liability, either personally or in their
36 official capacity, for a claim for damage to or loss of property or personal

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

8
9 1. The liability of the Interstate Commission's executive
10 director and employees or Interstate Commission representatives, acting within
11 the scope of such person's employment or duties for acts, errors, or omissions
12 occurring within such person's state may not exceed the limits of liability
13 set forth under the Constitution and laws of that state for state officials,
14 employees, and agents. The Interstate Commission is considered to be an
15 instrumentality of the states for the purposes of any such action. Nothing
16 in this subsection shall be construed to protect such person from suit or
17 liability for damage, loss, injury, or liability caused by the intentional or
18 willful and wanton misconduct of such person.

19
20 2. The Interstate Commission shall defend the executive director
21 and its employees and, subject to the approval of the Attorney General or
22 other appropriate legal counsel of the member state represented by an
23 Interstate Commission representative, shall defend such Interstate Commission
24 representative in any civil action seeking to impose liability arising out of
25 an actual or alleged act, error or omission that occurred within the scope of
26 Interstate Commission employment, duties or responsibilities, or that the
27 defendant had a reasonable basis for believing occurred within the scope of
28 Interstate Commission employment, duties, or responsibilities, provided that
29 the actual or alleged act, error, or omission did not result from intentional
30 or willful and wanton misconduct on the part of such person.

31
32 3. To the extent not covered by the state involved, member state,
33 or the Interstate Commission, the representatives or employees of the
34 Interstate Commission shall be held harmless in the amount of a settlement or
35 judgment, including attorney's fees and costs, obtained against such persons
36 arising out of an actual or alleged act, error, or omission that occurred

1 within the scope of Interstate Commission employment, duties, or
2 responsibilities, or that such persons had a reasonable basis for believing
3 occurred within the scope of Interstate Commission employment, duties, or
4 responsibilities, provided that the actual or alleged act, error, or omission
5 did not result from intentional or willful and wanton misconduct on the part
6 of such persons.

8 ARTICLE XII

9 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

11 A. Rulemaking Authority - The Interstate Commission shall promulgate
12 reasonable rules in order to effectively and efficiently achieve the purposes
13 of the Compact. Notwithstanding the foregoing, in the event the Interstate
14 Commission exercises its rulemaking authority in a manner that is beyond the
15 scope of the purposes of this Act, or the powers granted hereunder, then such
16 an action by the Interstate Commission shall be invalid and have no force or
17 effect.

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

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

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

ARTICLE XIII
OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

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

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

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

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

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

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

1
2 3. If the defaulting state fails to cure the default, the
3 defaulting state shall be terminated from the compact upon an affirmative vote
4 of a majority of the member states and all rights, privileges and benefits
5 conferred by this compact shall be terminated from the effective date of
6 termination. A cure of the default does not relieve the offending state of
7 obligations or liabilities incurred during the period of the default.

8
9 4. Suspension or termination of membership in the compact shall
10 be imposed only after all other means of securing compliance have been
11 exhausted. Notice of intent to suspend or terminate shall be given by the
12 Interstate Commission to the Governor, the majority and minority leaders of
13 the defaulting state's legislature, and each of the member states.

14
15 5. The state which has been suspended or terminated is
16 responsible for all assessments, obligations and liabilities incurred through
17 the effective date of suspension or termination including obligations, the
18 performance of which extends beyond the effective date of suspension or
19 termination.

20
21 6. The Interstate Commission shall not bear any costs relating to
22 any state that has been found to be in default or which has been suspended or
23 terminated from the compact, unless otherwise mutually agreed upon in writing
24 between the Interstate Commission and the defaulting state.

25
26 7. The defaulting state may appeal the action of the Interstate
27 Commission by petitioning the U.S. District Court for the District of Columbia
28 or the federal district where the Interstate Commission has its principal
29 offices. The prevailing party shall be awarded all costs of such litigation
30 including reasonable attorney's fees.

31
32 C. Dispute Resolution
33

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

1
2 2. The Interstate Commission shall promulgate a rule providing
3 for both mediation and binding dispute resolution for disputes as appropriate.
4

5 D. Enforcement
6

7 1. The Interstate Commission, in the reasonable exercise of its
8 discretion, shall enforce the provisions and rules of this compact.
9

10 2. The Interstate Commission, may be majority vote of the
11 members, initiate legal action in the United State District Court for the
12 District of Columbia or, at the discretion of the Interstate Commission, in
13 the federal district where the Interstate Commission has its principal
14 offices, to enforce compliance with the provision of the compact, its
15 promulgated rules and bylaws, against a member state in default. The relief
16 sought may include both injunctive relief and damages. In the event judicial
17 enforcement is necessary the prevailing party shall be awarded all costs of
18 such litigation including reasonable attorney's fees.
19

20 3. The remedies herein shall not be the exclusive remedies of the
21 Interstate Commission. The Interstate Commission may avail itself of any
22 other remedies available under state law or the regulation of a profession.
23

24 ARTICLE XIV

25 FINANCING OF THE INTERSTATE COMMISSION
26

27 A. The Interstate Commission shall pay, or provide for the payment of
28 the reasonable expenses of its establishment, organization and ongoing
29 activities.
30

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

1 shall promulgate a rule binding upon all member states.

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

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

15 16 ARTICLE XV

17 MEMBER STATE, EFFECTIVE DATE AND AMENDMENT

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

20
21 B. The compact shall become effective and binding upon legislative
22 enactment of the compact into law by no less than ten (10) of the states. The
23 effective date shall be no earlier than December 1, 2007. Thereafter it shall
24 become effective and binding as to any other member state upon enactment of
25 the compact into law by that state. The governors of non-member states or
26 their designees shall be invited to participate in the activities of the
27 Interstate Commission on a non-voting basis prior to adoption of the compact
28 by all states.

29
30 C. The Interstate Commission may propose amendments to the compact for
31 enactment by the member states. No amendment shall become effective and
32 binding upon the Interstate Commission and the member states unless and until
33 it is enacted into law by unanimous consent of the member states.

34 35 ARTICLE XVI

36 WITHDRAWAL AND DISSOLUTION

1
2 A. Withdrawal
3

4 1. Once effective, the compact shall continue in force and remain
5 binding upon each and every member state; provided that a member state may
6 withdraw from the compact by specifically repealing the statute, which enacted
7 the compact into law.
8

9 2. Withdrawal from this compact shall be by the enactment of a
10 statute repealing the same, but shall not take effect until one (1) year after
11 the effective date of such statute and until written notice of the withdrawal
12 has been given by the withdrawing state to the Governor of each other member
13 jurisdiction.
14

15 3. The withdrawing state shall immediately notify the chairperson
16 of the Interstate Commission in writing upon the introduction of legislation
17 repealing this compact in the withdrawing state. The Interstate Commission
18 shall notify the other member states of the withdrawing state's intent to
19 withdraw within sixty (60) days of its receipt thereof.
20

21 4. The withdrawing state is responsible for all assessments,
22 obligations and liabilities incurred through the effective date of withdrawal,
23 including obligations, the performance of which extend beyond the effective
24 date of withdrawal.
25

26 5. Reinstatement following withdrawal of a member state shall
27 occur upon the withdrawing state reenacting the compact or upon such later
28 date as determined by the Interstate Commission.
29

30 B. Dissolution of Compact
31

32 1. This compact shall dissolve effective upon the date of the
33 withdrawal or default of the member state which reduces the membership in the
34 compact to one (1) member state.
35

36 2. Upon the dissolution of this compact, the compact becomes null

1 and void and shall be of no further force or effect, and the business and
2 affairs of the Interstate Commission shall be concluded and surplus funds
3 shall be distributed in accordance with the bylaws.

4
5 ARTICLE XVII

6 SEVERABILITY AND CONSTRUCTION

7
8 A. The provisions of this compact shall be severable, and if any
9 phrase, clause, sentence or provision is deemed unenforceable, the remaining
10 provisions of the compact shall be enforceable.

11
12 B. The provisions of this compact shall be liberally construed to
13 effectuate its purposes.

14
15 C. Nothing in this compact shall be construed to prohibit the
16 applicability of other interstate compacts to which the states are members.

17
18 ARTICLE XVIII

19 BINDING EFFECT OF COMPACT AND OTHER LAWS

20
21 A. Other Laws

22
23 1. Nothing herein prevents the enforcement of any other law of a
24 member state that is not inconsistent with this compact.

25
26 2. All member states' laws conflicting with this compact are
27 superseded to the extent of the conflict.

28
29 B. Binding Effect of the Compact

30
31 1. All lawful actions of the Interstate Commission, including all
32 rules and bylaws promulgated by the Interstate Commission, are binding upon
33 the member states.

34
35 2. All agreements between the Interstate Commission and the
36 member states are binding in accordance with their terms.

1
2 3. In the event any provision of this compact exceeds the
3 constitutional limits imposed on the legislature of any member state, such
4 provision shall be ineffective to the extent of the conflict with the
5 constitutional provision in question in that member state.
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