

IN THE HOUSE OF REPRESENTATIVES

HOUSE BILL NO. 324

BY WAYS AND MEANS COMMITTEE

AN ACT

1 RELATING TO THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
2 CHILDREN; REPEALING SECTION 33-212, IDAHO CODE, RELATING TO EDUCA-
3 TIONAL OPPORTUNITY FOR MILITARY CHILDREN; AND AMENDING TITLE 33, IDAHO
4 CODE, BY THE ADDITION OF A NEW CHAPTER 57, TITLE 33, IDAHO CODE, TO ES-
5 TABLISH THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
6 CHILDREN, TO PROVIDE A PURPOSE, TO PROVIDE DEFINITIONS, TO PROVIDE FOR
7 APPLICABILITY, TO PROVIDE FOR EDUCATIONAL RECORDS AND ENROLLMENT, TO
8 PROVIDE FOR PLACEMENT AND ATTENDANCE, TO PROVIDE FOR ELIGIBILITY, TO
9 PROVIDE FOR GRADUATION, TO PROVIDE FOR STATE COORDINATION, TO PROVIDE
10 FOR THE INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY
11 CHILDREN, TO PROVIDE FOR POWERS AND DUTIES, TO PROVIDE FOR THE ORGAN-
12 IZATION AND OPERATION OF THE COMMISSION, TO PROVIDE FOR RULEMAKING,
13 TO PROVIDE FOR OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION, TO PRO-
14 VIDE FOR FINANCING, TO ESTABLISH PROVISIONS RELATING TO MEMBER STATES,
15 EFFECTIVE DATES AND AMENDMENTS, TO PROVIDE FOR WITHDRAWAL AND DISSOLU-
16 TION, TO PROVIDE FOR SEVERABILITY AND CONSTRUCTION AND TO PROVIDE FOR
17 BINDING EFFECT OF COMPACT AND OTHER LAWS.
18

19 Be It Enacted by the Legislature of the State of Idaho:

20 SECTION 1. That Section [33-212](#), Idaho Code, be, and the same is hereby
21 repealed.

22 SECTION 2. That Title 33, Idaho Code, be, and the same is hereby amended
23 by the addition thereto of a NEW CHAPTER, to be known and designated as Chap-
24 ter 57, Title 33, Idaho Code, and to read as follows:

25 CHAPTER 57

26 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

27 33-5701. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
28 CHILDREN. The "Interstate Compact on Educational Opportunity for Military
29 Children" is hereby enacted into law and entered into by this state with any
30 other states legally joining therein in the form substantially as follows:

1 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

2 ARTICLE I

3 PURPOSE

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

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

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

14 C. Facilitating the qualification and eligibility for enrollment,
15 educational programs, and participation in extracurricular academic, ath-
16 letic, and social activities.

17 D. Facilitating the on-time graduation of children of military fami-
18 lies.

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

21 F. Providing for the uniform collection and sharing of information be-
22 tween and among member states, schools and military families under this com-
23 pact.

24 G. Promoting coordination between this compact and other compacts af-
25 fecting military children.

26 H. Promoting flexibility and cooperation between the educational sys-
27 tem, parents and the student in order to achieve educational success for the
28 student.

29 ARTICLE II

30 DEFINITIONS

31 As used in this compact, unless the context clearly requires a different con-
32 struction:

33 A. "Active duty" means: full-time duty status in the active uniformed
34 service of the United States, including members of the national guard and re-
35 serve on active duty orders pursuant to 10 U.S.C. sections 1209 and 1211.

36 B. "Children of military families" means: a school-aged child(ren),
37 enrolled in kindergarten through twelfth grade, in the household of an ac-
38 tive duty member.

39 C. "Compact commissioner" means: the voting representative of each
40 compacting state appointed pursuant to article VIII of this compact.

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

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

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

17 G. "Interstate Commission on Educational Opportunity for Military
18 Children" means: the commission that is created under article IX of this
19 compact, which is generally referred to as the interstate commission.

20 H. "Local education agency" means: a public authority legally consti-
21 tuted by the state as an administrative agency to provide control of and di-
22 rection for kindergarten through twelfth grade public educational institu-
23 tions.

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

25 J. "Military installation" means: a base, camp, post, station, yard,
26 center, homeport facility for any ship, or other activity under the juris-
27 diction of the department of defense, including any leased facility, which
28 is located within any of the several states, the District of Columbia, the
29 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa,
30 the Northern Marianas Islands and any other United States territory. Such
31 term does not include any facility used primarily for civil works, rivers and
32 harbors projects, or flood control projects.

33 K. "Nonmember state" means: a state that has not enacted this compact.

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

36 M. "Rule" means: a written statement by the interstate commission pro-
37 mulgated pursuant to article XII of this compact that is of general appli-
38 cability, implements, interprets or prescribes a policy or provision of the
39 compact, or an organizational, procedural, or practice requirement of the
40 interstate commission, and has the force and effect of statutory law in a
41 member state, and includes the amendment, repeal, or suspension of an exist-
42 ing rule.

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

45 O. "State" means: a state of the United States, the District of Colum-
46 bia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam, Ameri-
47 can Samoa, the Northern Marianas Islands and any other United States terri-
48 tory.

1 P. "Student" means: the child of a military family for whom the lo-
2 cal education agency receives public funding and who is formally enrolled in
3 kindergarten through twelfth grade.

4 Q. "Transition" means: 1) the formal and physical process of trans-
5 ferring from school to school; or 2) the period of time in which a student
6 moves from one school in the sending state to another school in the receiving
7 state.

8 R. "Uniformed service(s)" means: the army, navy, air force, marine
9 corps, and coast guard as well as the commissioned corps of the national
10 oceanic and atmospheric administration, and public health services.

11 S. "Veteran" means: a person who served in the uniformed services and
12 who was discharged or released therefrom under conditions other than dishon-
13 orable.

14 ARTICLE III

15 APPLICABILITY

16 A. Except as otherwise provided in section B. of this article, this com-
17 pact shall apply to the children of:

18 1. Active duty members of the uniformed services as defined in this com-
19 pact, including members of the national guard and reserve on active duty
20 orders pursuant to 10 U.S.C. section 1209 and 1211;

21 2. Members or veterans of the uniformed services who are severely in-
22 jured and medically discharged or retired for a period of one (1) year
23 after medical discharge or retirement; and

24 3. Members of the uniformed services who die on active duty or as a re-
25 sult of injuries sustained on active duty for a period of one (1) year
26 after death.

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

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

30 1. Inactive members of the national guard and military reserves;

31 2. Members of the uniformed services now retired, except as provided in
32 section A. of this article;

33 3. Veterans of the uniformed services, except as provided in section A.
34 of this article; and

35 4. Other United States department of defense personnel and other fed-
36 eral agency civilian and contract employees not defined as active duty
37 members of the uniformed services.

38 ARTICLE IV

39 EDUCATIONAL RECORDS AND ENROLLMENT

40 A. Unofficial or "hand-carried" educational records. In the event
41 that official educational records cannot be released to the parents for the
42 purpose of transfer, the custodian of the records in the sending state shall

1 prepare and furnish to the parent a complete set of unofficial educational
2 records containing uniform information as determined by the interstate
3 commission. Upon receipt of the unofficial educational records by a school
4 in the receiving state, the school shall enroll and appropriately place the
5 student based on the information provided in the unofficial records pending
6 validation by the official records, as quickly as possible.

7 B. Official educational records/transcripts. Simultaneous with the
8 enrollment and conditional placement of the student, the school in the re-
9 ceiving state shall request the student's official educational records from
10 the school in the sending state. Upon receipt of this request, the school in
11 the sending state will process and furnish the official educational records
12 to the school in the receiving state within ten (10) days or within such time
13 as is reasonably determined under the rules promulgated by the interstate
14 commission.

15 C. Immunizations. Compacting states shall give thirty (30) days from
16 the date of enrollment, or within such time as is reasonably determined under
17 the rules promulgated by the interstate commission, for students to obtain
18 any immunization(s) required by the receiving state. For a series of immu-
19 nizations, initial vaccinations must be obtained within thirty (30) days or
20 within such time as is reasonably determined under the rules promulgated by
21 the interstate commission.

22 D. Kindergarten and first grade entrance age. Except as provided for
23 elsewhere in this subsection D., students shall be allowed to continue
24 their enrollment at grade level in the receiving state commensurate with
25 their grade level, including kindergarten, from a local education agency
26 in the sending state at the time of transition. Provided however, that
27 the provisions of section 33-201, Idaho Code, relating to requirements for
28 kindergarten and first grade shall apply. A student who has satisfactorily
29 completed the prerequisite grade level in the local education agency in the
30 sending state shall be eligible for enrollment in the next highest grade
31 level in the receiving state, regardless of age. A student transferring
32 after the start of the school year in the receiving state shall enter the
33 school in the receiving state on his or her validated level from an accred-
34 ited school in the sending state.

35 ARTICLE V

36 PLACEMENT AND ATTENDANCE

37 A. Course placement. When the student transfers before or during the
38 school year, the receiving state school shall initially honor placement of
39 the student in educational courses based on the student's enrollment in the
40 sending state school and/or educational assessments conducted at the school
41 in the sending state if the courses are offered. Course placement includes,
42 but is not limited to, honors, international baccalaureate, advanced place-
43 ment, vocational, technical and career pathways courses. Continuing the
44 student's academic program from the previous school and promoting placement
45 in academically and career challenging courses should be paramount when con-
46 sidering placement. This does not preclude the school in the receiving state

1 from performing subsequent evaluations to ensure appropriate placement and
2 continued enrollment of the student in the course(s).

3 B. Educational program placement. The receiving state school shall
4 initially honor placement of the student in educational programs based on
5 current educational assessments conducted at the school in the sending state
6 or participation/placement in like programs in the sending state. Such pro-
7 grams include, but are not limited to: 1) gifted and talented programs; and
8 2) English as a second language (ESL). This does not preclude the school in
9 the receiving state from performing subsequent evaluations to ensure appro-
10 priate placement of the student.

11 C. Special education services. 1) In compliance with the federal re-
12 quirements of the individuals with disabilities education act (IDEA), 20
13 U.S.C.A. section 1400 et seq., the receiving state shall initially provide
14 comparable services to a student with disabilities based on his or her cur-
15 rent individualized education program (IEP); and 2) In compliance with the
16 requirements of section 504 of the rehabilitation act, 29 U.S.C.A. section
17 794, and with title II of the Americans with disabilities act, 42 U.S.C.A.
18 sections 12131-12165, the receiving state shall make reasonable accommo-
19 dations and modifications to address the needs of incoming students with
20 disabilities, subject to an existing 504 or title II plan, to provide the
21 student with equal access to education. This does not preclude the school in
22 the receiving state from performing subsequent evaluations to ensure appro-
23 priate placement of the student.

24 D. Placement flexibility. Local education agency administrative of-
25 ficials shall have flexibility in waiving course/program prerequisites, or
26 other preconditions for placement in courses/programs offered under the ju-
27 risdiction of the local education agency.

28 E. Absence as related to deployment activities. A student whose parent
29 or legal guardian is an active duty member of the uniformed services, as de-
30 fined by the compact, and has been called to duty for, is on leave from, or im-
31 mediately returned from deployment to a combat zone or combat support post-
32 ing, shall be granted additional excused absences at the discretion of the
33 local education agency superintendent to visit with his or her parent or le-
34 gal guardian relative to such leave or deployment of the parent or guardian.

35 ARTICLE VI

36 ELIGIBILITY

37 A. Eligibility for enrollment.

38 1. Special power of attorney, relative to the guardianship of a child of
39 a military family and executed under applicable law shall be sufficient
40 for the purposes of enrollment and all other actions requiring parental
41 participation and consent.

42 2. A local education agency shall be prohibited from charging local tu-
43 tion to a transitioning military child placed in the care of a noncus-
44 todial parent or other person standing in loco parentis who lives in a
45 jurisdiction other than that of the custodial parent.

1 agencies of government, local education agencies and military installations
 2 concerning the state's participation in, and compliance with, this compact
 3 and interstate commission activities. While each member state may deter-
 4 mine the membership of its own state council, its membership must include at
 5 least: the state superintendent of education, a superintendent of a school
 6 district with a high concentration of military children, a representative
 7 from a military installation, one (1) representative each from the legisla-
 8 tive and executive branches of government, and other offices and stakeholder
 9 groups the state council deems appropriate. A member state that does not
 10 have a school district deemed to contain a high concentration of military
 11 children may appoint a superintendent from another school district to repre-
 12 sent local education agencies on the state council.

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

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

19 D. The compact commissioner and the military family education liaison
 20 designated herein shall be ex officio members of the state council, unless
 21 either is already a full voting member of the state council.

22 ARTICLE IX

23 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

24 The member states hereby create the "Interstate Commission on Educational
 25 Opportunity for Military Children." The activities of the interstate com-
 26 mission are the formation of public policy and are a discretionary state
 27 function. The interstate commission shall:

28 A. Be a body corporate and joint agency of the member states and shall
 29 have all the responsibilities, powers and duties set forth herein, and such
 30 additional powers as may be conferred upon it by a subsequent concurrent ac-
 31 tion of the respective legislatures of the member states in accordance with
 32 the terms of this compact.

33 B. Consist of one (1) interstate commission voting representative from
 34 each member state who shall be that state's compact commissioner.

35 1. Each member state represented at a meeting of the interstate commis-
 36 sion is entitled to one (1) vote.

37 2. A majority of the total member states shall constitute a quorum for
 38 the transaction of business, unless a larger quorum is required by the
 39 bylaws of the interstate commission.

40 3. A representative shall not delegate a vote to another member state.
 41 In the event the compact commissioner is unable to attend a meeting of
 42 the interstate commission, the governor or state council may delegate
 43 voting authority to another person from their state for a specified
 44 meeting.

45 4. The bylaws may provide for meetings of the interstate commission to
 46 be conducted by telecommunication or electronic communication.

1 C. Consist of ex officio, nonvoting representatives who are members of
2 interested organizations. Such ex officio members, as defined in the by-
3 laws, may include, but not be limited to, members of the representative or-
4 ganizations of military family advocates, local education agency officials,
5 parent and teacher groups, the United States department of defense, the ed-
6 ucation commission of the states, the interstate agreement on the qualifi-
7 cation of educational personnel and other interstate compacts affecting the
8 education of children of military members.

9 D. Meet at least once each calendar year. The chairperson may call ad-
10 ditional meetings and, upon the request of a simple majority of the member
11 states, shall call additional meetings.

12 E. Establish an executive committee, whose members shall include the
13 officers of the interstate commission and such other members of the inter-
14 state commission as determined by the bylaws. Members of the executive com-
15 mittee shall serve a one (1) year term. Members of the executive committee
16 shall be entitled to one (1) vote each. The executive committee shall have
17 the power to act on behalf of the interstate commission, with the exception
18 of rulemaking, during periods when the interstate commission is not in ses-
19 sion. The executive committee shall oversee the day-to-day activities of
20 the administration of the compact including enforcement and compliance with
21 the provisions of the compact, its bylaws and rules, and other such duties as
22 deemed necessary. The United States department of defense shall serve as an
23 ex officio, nonvoting member of the executive committee.

24 F. Establish bylaws and rules that provide for conditions and proce-
25 dures under which the interstate commission shall make its information and
26 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 G. Give public notice of all meetings and all meetings shall be open to
31 the public, except as set forth in the rules or as otherwise provided in the
32 compact. The interstate commission and its committees may close a meeting,
33 or portion thereof, where it determines by two-thirds (2/3) vote that an open
34 meeting would be likely to:

- 35 1. Relate solely to the interstate commission's internal personnel
36 practices and procedures;
- 37 2. Disclose matters specifically exempted from disclosure by federal
38 and state statute;
- 39 3. Disclose trade secrets or commercial or financial information which
40 is privileged or confidential;
- 41 4. Involve accusing a person of a crime or formally censuring a person;
- 42 5. Disclose information of a personal nature where disclosure would
43 constitute a clearly unwarranted invasion of personal privacy;
- 44 6. Disclose investigative records compiled for law enforcement pur-
45 poses; or
- 46 7. Specifically relate to the interstate commission's participation in
47 a civil action or other legal proceeding.

48 H. Shall cause its legal counsel or designee to certify that a meeting
49 may be closed and shall reference each relevant exemptible provision for any
50 meeting, or portion of a meeting, which is closed pursuant to this provision.

1 The interstate commission shall keep minutes which shall fully and clearly
2 describe all matters discussed in a meeting and shall provide a full and ac-
3 curate summary of actions taken, and the reasons therefore, including a de-
4 scription of the views expressed and the record of a roll call vote. All doc-
5 uments considered in connection with an action shall be identified in such
6 minutes. All minutes and documents of a closed meeting shall remain under
7 seal, subject to release by a majority vote of the interstate commission.

8 I. Shall collect standardized data concerning the educational tran-
9 sition of the children of military families under this compact as directed
10 through its rules which shall specify the data to be collected, the means of
11 collection and data exchange and reporting requirements. Such methods of
12 data collection, exchange and reporting shall, in so far as is reasonably
13 possible, conform to current technology and coordinate its information
14 functions with the appropriate custodian of records as identified in the
15 bylaws and rules.

16 J. Shall create a process that permits military officials, education
17 officials and parents to inform the interstate commission if and when there
18 are alleged violations of the compact or its rules or when issues subject to
19 the jurisdiction of the compact or its rules are not addressed by the state or
20 local education agency. This section shall not be construed to create a pri-
21 vate right of action against the interstate commission or any member state.

22 ARTICLE X

23 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

24 The interstate commission shall have the following powers:

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

26 B. To promulgate rules and take all necessary actions to effect the
27 goals, purposes and obligations as enumerated in this compact. The rules
28 shall have the force and effect of statutory law and shall be binding in the
29 compact states to the extent and in the manner provided in this compact.

30 C. To issue, upon request of a member state, advisory opinions concern-
31 ing the meaning or interpretation of the interstate compact, its bylaws,
32 rules and actions.

33 D. To enforce compliance with the compact provisions, the rules promul-
34 gated by the interstate commission, and the bylaws, using all necessary and
35 proper means including, but not limited to, the use of judicial process.

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

38 F. To purchase and maintain insurance and bonds.

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

40 H. To establish and appoint committees including, but not limited to,
41 an executive committee as required by article IX, section E., which shall
42 have the power to act on behalf of the interstate commission in carrying out
43 its powers and duties hereunder.

44 I. To elect or appoint such officers, attorneys, employees, agents,
45 or consultants, and to fix their compensation, define their duties and de-
46 termine their qualifications; and to establish the interstate commission's

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

3 J. To accept any and all donations and grants of money, equipment, sup-
4 plies, materials, and services, and to receive, utilize, and dispose of it.

5 K. To lease, purchase, accept contributions or donations of, or other-
6 wise to own, hold, improve or use any property, real, personal, or mixed.

7 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or oth-
8 erwise dispose of any property, real, personal or mixed.

9 M. To establish a budget and make expenditures.

10 N. To adopt a seal and bylaws governing the management and operation of
11 the interstate commission.

12 O. To report annually to the legislatures, governors, judiciary, and
13 state councils of the member states concerning the activities of the inter-
14 state commission during the preceding year. Such reports shall also include
15 any recommendations that may have been adopted by the interstate commission.

16 P. To coordinate education, training and public awareness regarding
17 the compact, its implementation and operation for officials and parents in-
18 volved in such activity.

19 Q. To establish uniform standards for the reporting, collecting and ex-
20 changing of data.

21 R. To maintain corporate books and records in accordance with the by-
22 laws.

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

25 T. To provide for the uniform collection and sharing of information be-
26 tween and among member states, schools and military families under this com-
27 pact.

28 ARTICLE XI

29 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

30 A. The interstate commission shall, by a majority of the members
31 present and voting, within twelve (12) months after the first interstate
32 commission meeting, adopt bylaws to govern its conduct as may be necessary
33 or appropriate to carry out the purposes of the compact including, but not
34 limited to:

- 35 1. Establishing the fiscal year of the interstate commission;
- 36 2. Establishing an executive committee and such other committees as may
37 be necessary;
- 38 3. Providing for the establishment of committees and for governing any
39 general or specific delegation of authority or function of the inter-
40 state commission;
- 41 4. Providing reasonable procedures for calling and conducting meetings
42 of the interstate commission and ensuring reasonable notice of each
43 such meeting;
- 44 5. Establishing the titles and responsibilities of the officers and
45 staff of the interstate commission;

1 6. Providing a mechanism for concluding the operations of the inter-
2 state commission and the return of surplus funds that may exist upon the
3 termination of the compact after the payment and reserving of all of its
4 debts and obligations.

5 7. Providing "start up" rules for initial administration of the com-
6 pact.

7 B. The interstate commission shall, by a majority of the members, elect
8 annually from among its members a chairperson, a vice-chairperson, and a
9 treasurer, each of whom shall have such authority and duties as may be spec-
10 ified in the bylaws. The chairperson or, in the chairperson's absence or
11 disability, the vice-chairperson shall preside at all meetings of the inter-
12 state commission. The officers so elected shall serve without compensation
13 or remuneration from the interstate commission; provided that, subject to
14 the availability of budgeted funds, the officers shall be reimbursed for ordi-
15 nary and necessary costs and expenses incurred by them in the performance
16 of their responsibilities as officers of the interstate commission.

17 C. Executive committee, officers and personnel.

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

20 a. Managing the affairs of the interstate commission in a manner
21 consistent with the bylaws and purposes of the interstate commis-
22 sion;

23 b. Overseeing an organizational structure within, and appropri-
24 ate procedures for, the interstate commission to provide for the
25 creation of rules, operating procedures, and administrative and
26 technical support functions; and

27 c. Planning, implementing, and coordinating communications and
28 activities with other state, federal and local government orga-
29 nizations in order to advance the goals of the interstate commis-
30 sion.

31 2. The executive committee may, subject to the approval of the inter-
32 state commission, appoint or retain an executive director for such
33 period, upon such terms and conditions and for such compensation, as
34 the interstate commission may deem appropriate. The executive director
35 shall serve as secretary to the interstate commission, but shall not be
36 a member of the interstate commission. The executive director shall
37 hire and supervise such other persons as may be authorized by the inter-
38 state commission.

39 D. The interstate commission's executive director and its employees
40 shall be immune from suit and liability, either personally or in their of-
41 ficial capacity, for a claim for damage to or loss of property or personal
42 injury or other civil liability caused or arising out of or relating to an
43 actual or alleged act, error, or omission that occurred, or that such person
44 had a reasonable basis for believing occurred, within the scope of inter-
45 state commission employment, duties, or responsibilities; provided, that
46 such person shall not be protected from suit or liability for damage, loss,
47 injury, or liability caused by the intentional or willful and wanton miscon-
48 duct of such person.

49 1. The liability of the interstate commission's executive director and
50 employees or interstate commission representatives, acting within the

1 scope of such person's employment or duties for acts, errors, or omis-
2 sions occurring within such person's state, may not exceed the limits
3 of liability set forth under the constitution and laws of that state for
4 state officials, employees, and agents. The interstate commission is
5 considered to be an instrumentality of the states for the purposes of
6 any such action. Nothing in this subsection shall be construed to pro-
7 tect such person from suit or liability for damage, loss, injury, or li-
8 ability caused by the intentional or willful and wanton misconduct of
9 such person.

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

22 3. To the extent not covered by the state involved, member state, or
23 the interstate commission, the representatives or employees of the in-
24 terstate commission shall be held harmless in the amount of a settlement
25 or judgment, including attorney's fees and costs, obtained against such
26 persons arising out of an actual or alleged act, error, or omission that
27 occurred within the scope of interstate commission employment, duties,
28 or responsibilities, or that such persons had a reasonable basis for be-
29 lieving occurred within the scope of interstate commission employment,
30 duties, or responsibilities, provided that the actual or alleged act,
31 error, or omission did not result from intentional or willful and wanton
32 misconduct on the part of such persons.

33 ARTICLE XII

34 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

35 A. Rulemaking authority. The interstate commission shall promulgate
36 reasonable rules in order to effectively and efficiently achieve the pur-
37 poses of this compact. Notwithstanding the foregoing, in the event the in-
38 terstate commission exercises its rulemaking authority in a manner that is
39 beyond the scope of the purposes of this act, or the powers granted hereun-
40 der, then such an action by the interstate commission shall be invalid and
41 have no force or effect.

42 B. Rulemaking procedure. Rules shall be made pursuant to a rulemaking
43 process that substantially conforms to the model state administrative pro-
44 cedure act of 1981, as amended, as may be appropriate to the operations of the
45 interstate commission.

1 C. Not later than thirty (30) days after a rule is promulgated, any per-
2 son may file a petition for judicial review of the rule; provided, that the
3 filing of such a petition shall not stay or otherwise prevent the rule from
4 becoming effective unless the court finds that the petitioner has a substan-
5 tial likelihood of success. The court shall give deference to the actions of
6 the interstate commission consistent with applicable law and shall not find
7 the rule to be unlawful if the rule represents a reasonable exercise of the
8 interstate commission's authority.

9 D. If a majority of the legislatures of the compacting states rejects a
10 rule by enactment of a statute or resolution in the same manner used to adopt
11 the compact, then such rule shall have no further force and effect in any com-
12 pacting state.

13 ARTICLE XIII

14 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION

15 A. Oversight 1. The executive, legislative and judicial branches of
16 state government in each member state shall enforce this compact and shall
17 take all actions necessary and appropriate to effectuate the compact's pur-
18 poses and intent. The provisions of this compact and the rules promulgated
19 hereunder shall have standing as statutory law.

20 2. All courts shall take judicial notice of the compact and the rules in
21 any judicial or administrative proceeding in a member state pertaining
22 to the subject matter of this compact which may affect the powers, re-
23 sponsibilities or actions of the interstate commission.

24 3. The interstate commission shall be entitled to receive all service
25 of process in any such proceeding, and shall have standing to inter-
26 vene in the proceeding for all purposes. Failure to provide service
27 of process to the interstate commission shall render a judgment or or-
28 der void as to the interstate commission, this compact or promulgated
29 rules.

30 B. Default, technical assistance, suspension and termination. If the
31 interstate commission determines that a member state has defaulted in the
32 performance of its obligations or responsibilities under this compact, or
33 the bylaws or promulgated rules, the interstate commission shall:

34 1. Provide written notice to the defaulting state and other member
35 states of the nature of the default, the means of curing the default and
36 any action taken by the interstate commission. The interstate commis-
37 sion shall specify the conditions by which the defaulting state must
38 cure its default.

39 2. Provide remedial training and specific technical assistance regard-
40 ing the default.

41 3. If the defaulting state fails to cure the default, the defaulting
42 state shall be terminated from the compact upon an affirmative vote of
43 a majority of the member states and all rights, privileges and benefits
44 conferred by this compact shall be terminated from the effective date
45 of termination. A cure of the default does not relieve the offending

1 state of obligations or liabilities incurred during the period of the
2 default.

3 4. Suspension or termination of membership in the compact shall be
4 imposed only after all other means of securing compliance have been
5 exhausted. Notice of intent to suspend or terminate shall be given by
6 the interstate commission to the governor, the majority and minority
7 leaders of the defaulting state's legislature, and each of the member
8 states.

9 5. The state which has been suspended or terminated is responsible for
10 all assessments, obligations and liabilities incurred through the ef-
11 fective date of suspension or termination, including obligations, the
12 performance of which extends beyond the effective date of suspension or
13 termination.

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

18 7. The defaulting state may appeal the action of the interstate commis-
19 sion by petitioning the United States district court for the District
20 of Columbia or the federal district where the interstate commission has
21 its principal offices. The prevailing party shall be awarded all costs
22 of such litigation including reasonable attorney's fees.

23 C. Dispute resolution. 1. The interstate commission shall attempt,
24 upon the request of a member state, to resolve disputes which are subject to
25 the compact and which may arise among member states and between member and
26 nonmember states.

27 2. The interstate commission shall promulgate a rule providing for both
28 mediation and binding dispute resolution for disputes as appropriate.

29 D. Enforcement. 1. The interstate commission, in the reasonable exer-
30 cise of its discretion, shall enforce the provisions and rules of this com-
31 pact.

32 2. The interstate commission may, by majority vote of the members, ini-
33 tiate legal action in the United States district court for the District
34 of Columbia or, at the discretion of the interstate commission, in the
35 federal district where the interstate commission has its principal of-
36 fices, to enforce compliance with the provisions of the compact, its
37 promulgated rules and bylaws, against a member state in default. The
38 relief sought may include both injunctive relief and damages. In the
39 event judicial enforcement is necessary, the prevailing party shall be
40 awarded all costs of such litigation including reasonable attorney's
41 fees.

42 3. The remedies herein shall not be the exclusive remedies of the in-
43 terstate commission. The interstate commission may avail itself of any
44 other remedies available under state law or the regulation of a profes-
45 sion.

46 ARTICLE XIV

47 FINANCING OF THE INTERSTATE COMMISSION

1 A. The interstate commission shall pay or provide for the payment of the
2 reasonable expenses of its establishment, organization and ongoing activi-
3 ties.

4 B. The interstate commission may levy on and collect an annual assess-
5 ment from each member state to cover the cost of the operations and activi-
6 ties of the interstate commission and its staff which must be in a total
7 amount sufficient to cover the interstate commission's annual budget as ap-
8 proved each year. The aggregate annual assessment amount shall be allocated
9 based upon a formula to be determined by the interstate commission, which
10 shall promulgate a rule binding upon all member states.

11 C. The interstate commission shall not incur obligations of any kind
12 prior to securing the funds adequate to meet the same; nor shall the inter-
13 state commission pledge the credit of any of the member states, except by and
14 with the authority of the member state.

15 D. The interstate commission shall keep accurate accounts of all re-
16 ceipts and disbursements. The receipts and disbursements of the interstate
17 commission shall be subject to the audit and accounting procedures estab-
18 lished under its bylaws. However, all receipts and disbursements of funds
19 handled by the interstate commission shall be audited yearly by a certified
20 or licensed public accountant and the report of the audit shall be included
21 in and become part of the annual report of the interstate commission.

22 ARTICLE XV

23 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

25 B. The compact shall become effective and binding upon legislative en-
26 actment of the compact into law by no less than ten (10) of the states. The
27 effective date shall be no earlier than December 1, 2007. Thereafter, it
28 shall become effective and binding as to any other member state upon enact-
29 ment of the compact into law by that state. The governors of nonmember states
30 or their designees shall be invited to participate in the activities of the
31 interstate commission on a nonvoting basis prior to adoption of the compact
32 by all states.

33 C. The interstate commission may propose amendments to the compact for
34 enactment by the member states. No amendment shall become effective and
35 binding upon the interstate commission and the member states unless and un-
36 til it is enacted into law by unanimous consent of the member states.

37 ARTICLE XVI

38 WITHDRAWAL AND DISSOLUTION

39 A. Withdrawal. 1. Once effective, the compact shall continue in force
40 and remain binding upon each and every member state; provided that a member
41 state may withdraw from the compact by specifically repealing the statute
42 which enacted the compact into law.

1 2. Withdrawal from this compact shall be by the enactment of a statute
2 repealing the same, but shall not take effect until one (1) year after
3 the effective date of such statute and until written notice of the with-
4 drawal has been given by the withdrawing state to the governor of each
5 other member jurisdiction.

6 3. The withdrawing state shall immediately notify the chairperson of
7 the interstate commission in writing upon the introduction of legisla-
8 tion repealing this compact in the withdrawing state. The interstate
9 commission shall notify the other member states of the withdraw-
10 ing state's intent to withdraw within sixty (60) days of its receipt
11 thereof.

12 4. The withdrawing state is responsible for all assessments, obli-
13 gations and liabilities incurred through the effective date of with-
14 drawal, including obligations, the performance of which extend beyond
15 the effective date of withdrawal.

16 5. Reinstatement following withdrawal of a member state shall occur
17 upon the withdrawing state reenacting the compact or upon such later
18 date as determined by the interstate commission.

19 B. Dissolution of compact. 1. This compact shall dissolve effective
20 upon the date of the withdrawal or default of the member state which reduces
21 the membership in the compact to one (1) member state.

22 2. Upon the dissolution of this compact, the compact becomes null and
23 void and shall be of no further force or effect, and the business and af-
24 fairs of the interstate commission shall be concluded and surplus funds
25 shall be distributed in accordance with the bylaws.

26 ARTICLE XVII

27 SEVERABILITY AND CONSTRUCTION

28 A. The provisions of this compact shall be severable, and if any phrase,
29 clause, sentence or provision is deemed unenforceable, the remaining provi-
30 sions of the compact shall be enforceable.

31 B. The provisions of this compact shall be liberally construed to ef-
32 fectuate its purposes.

33 C. Nothing in this compact shall be construed to prohibit the applica-
34 bility of other interstate compacts to which the states are members.

35 ARTICLE XVIII

36 BINDING EFFECT OF COMPACT AND OTHER LAWS

37 A. Other laws. 1. Nothing herein prevents the enforcement of any other
38 law of a member state that is not inconsistent with this compact.

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

1 B. Binding effect of the compact. 1. All lawful actions of the inter-
2 state commission, including all rules and bylaws promulgated by the inter-
3 state commission, are binding upon the member states.
4 2. All agreements between the interstate commission and the member
5 states are binding in accordance with their terms.
6 3. In the event any provision of this compact exceeds the constitu-
7 tional limits imposed on the legislature of any member state, such
8 provision shall be ineffective to the extent of the conflict with the
9 constitutional provision in question in that member state.