

Sixty-first  
Legislative Assembly  
of North Dakota

## HOUSE BILL NO.

Introduced by

Representative Koppelman

1 A BILL for an Act to provide children of military families with smooth transitions between  
2 schools in different states and to ensure that children of military families are afforded the same  
3 opportunities for educational success and the achievement of their educational goals as other  
4 children.

5 **BE IT ENACTED BY THE LEGISLATIVE ASSEMBLY OF NORTH DAKOTA:**

6 **SECTION 1. Compact on educational opportunity for military children.** The  
7 compact on educational opportunity for military children is entered into with all jurisdictions  
8 legally joining therein, in the form substantially as follows:

9 ARTICLE I

10 PURPOSE

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

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

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

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

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

23 E. Providing for the promulgation and enforcement of administrative rules  
24 implementing the provisions of this compact.

- 1       F. Providing for the uniform collection and sharing of information between and among  
2       member states, schools and military families under this compact.
- 3       G. Promoting coordination between this compact and other compacts affecting military  
4       children.
- 5       H. Promoting flexibility and cooperation between the educational system, parents and  
6       the student in order to achieve educational success for the student.

7                               ARTICLE II

8                               DEFINITIONS

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

- 10       A. "Active duty" means: full-time duty status in the active uniformed service of the  
11       United States, including members of the National Guard and Reserve on active  
12       duty orders pursuant to 10 U.S.C. Section 1209 and 1211.
- 13       B. "Children of military families" means: a school-aged child(ren), enrolled in  
14       Kindergarten through Twelfth (12<sup>th</sup>) grade, kin the household of an active duty  
15       member.
- 16       C. "Compact commissioner" means: the voting representative of each compacting  
17       state appointed pursuant to Article VIII of this compact.
- 18       D. "Deployment" means: the period one (1) month prior to the service members'  
19       departure from their home station on military orders though six (6) months after  
20       return to their home station.
- 21       E. "Education(al) records" means: those official records, files, and data directly  
22       related to a student and maintained by the school or local education agency,  
23       including but not limited to records encompassing all the material kept in the  
24       student's cumulative folder such as general identifying data, records of attendance  
25       and of academic work completed, records of achievement and results of evaluative  
26       tests, health data, disciplinary status, test protocols, and individualized education  
27       programs.
- 28       F. "Extracurricular activities" means: a voluntary activity sponsored by the school or  
29       local education agency or an organization sanctioned by the local education  
30       agency. Extracurricular activities include, but are not limited to, preparation for the

1 involvement in public performances, contests, athletic competitions,  
2 demonstrations, displays, and club activities.

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

6 H. "Local education agency" means: a public authority legally constituted by the state  
7 as an administrative agency to provide control of and direction for Kindergarten  
8 through Twelfth (12<sup>th</sup>) grade public educational institutions.

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

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

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

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

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

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

28 O. "State" means: a state of the United 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 U.S. Territory.

1       P. "Student" means: the child of a military family for whom the local education agency  
2       receives public funding and who is formally enrolled in Kindergarten through  
3       Twelfth (12<sup>th</sup>) grade.

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

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

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

### 12                                   ARTICLE III

### 13                                   APPLICABILITY

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

- 16          1. active duty members of the uniformed services as defined in this compact,  
17          including members of the National Guard and Reserve on active duty orders  
18          pursuant to 10 U.S.C. Section 1209 and 1211;
- 19          2. members or veterans of the uniformed services who are severely injured and  
20          medically discharged or retired for a period of one (1) year after medical  
21          discharge or retirement; and
- 22          3. members of the uniformed services who die on active duty or as a result of  
23          injuries sustained on active duty for a period of one (1) year after death.

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

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

- 27          1. inactive members of the national guard and military reserves;
- 28          2. members of the uniformed services now retired, except as provided in  
29          Section A;
- 30          3. veterans of the uniformed services, except as provided in Section A; and

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

#### ARTICLE IV

##### EDUCATIONAL RECORDS & ENROLLMENT

- A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set of unofficial educational records containing uniform information as determined by the Interstate Commission. Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and appropriately place the student based on the information provided in the unofficial records pending validation by the official records, as quickly as possible.
- B. Official education records/transcripts 0- Simultaneous with the enrollment and conditional placement of the student, the school in the receiving state shall request the student's official education record from the school in the sending state. Upon receipt of this request, the school in the sending state will process and furnish the official education records to the school in the receiving state within ten (10) days or with such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- C. Immunizations - Compacting states shall give thirty (30) days from the date of enrollment or within such time as is reasonably determined under the rules promulgated by the Interstate Commission, for students to obtain any immunization(s) required by the receiving state. For a series of immunizations, initial vaccinations must be obtained within thirty (30) days or within such time as is reasonably determined under the rules promulgated by the Interstate Commission.
- D. Kindergarten and First grade entrance age - Students shall be allowed to continue their enrollment at grade level in the receiving state commensurate with their grade level (including Kindergarten) from a local education agency in the sending state at the time of transition, regardless of age. A student that has satisfactorily completed the prerequisite grade level in the local education agency in the sending



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

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

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

## ARTICLE VI

### ELIGIBILITY

A. Eligibility for enrollment:

1. Special power of attorney, relative to the guardianship of a child of a military family and executed under applicable law shall be sufficient for the purposes of enrollment and all other actions requiring parental participation and consent.
2. A local education agency shall be prohibited from charging local tuition to a transitioning military child placed in care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than that of the custodial parent.
3. A transitioning military child, placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction other than

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

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

7                                   ARTICLE VII

8                                   GRADUATION

9 In order to facilitate the on-time graduation of children of military families state and local  
10 education agencies shall incorporate the following procedures:

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

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

- 24          C. Transfers during Senior year - Should a military student transferring at the  
25          beginning or during his or her Senior year be ineligible to graduate from the  
26          receiving local education agency after all alternatives have been considered, the  
27          sending and receiving local education agencies shall ensure the receipt of a  
28          diploma from the sending local education agency, if the student meets the  
29          graduation requirements of the sending local education agency. In the event that  
30          one of the states in question is not a member of this compact, the member state



1           shall use best efforts to facilitate the on-time graduation of the student in  
2           accordance with Sections A and B of this Article.

3                                 ARTICLE VIII

4                                 STATE COORDINATION

- 5           A. Each member state shall, through the creation of a State Council or use of an  
6           existing body or board, provide for the coordination among its agencies of  
7           government, local education agencies and military installations concerning the  
8           state's participation in, and compliance with, this compact and Interstate  
9           Commission activities. While each member state may determine the membership  
10          of its own State Council, its membership must include at least: The state  
11          superintendent of education, superintendent of a school district with a high  
12          concentration of military children, representative from a military installation, one  
13          representative each from the legislative and executive branches of government,  
14          and other offices and stakeholder groups the State Council deems appropriate. A  
15          member state that does not have a school district deemed to contain a high  
16          concentration of military children may appoint a superintendent from another  
17          school district to represent local education agencies on the State Council.
- 18          B. The State Council of each member state shall appoint or designate a military family  
19          education liaison to assist military families and the state in facilitating the  
20          implementation of this compact.
- 21          C. The compact commissioner responsible for the administration and management of  
22          the state's participation in the compact shall be appointed by the Governor or as  
23          otherwise determined by each member state.
- 24          D. The compact commissioner and the military family education liaison designated  
25          herein shall be ex-officio members of the State Council, unless either is already a  
26          full voting member of the State Council.

27                                 ARTICLE IX

28                                 INTERSTATE COMMISSION ON EDUCATIONAL

29                                 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

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

21 C. Consist of ex-officio, nonvoting representatives who are members of interested  
22 organizations. Such ex-officio members, as defined in the bylaws, may include but  
23 not be limited to, members of the representative organizations of military family  
24 advocates, local education agency officials, parent and teacher groups, the U.S.  
25 Department of Defense, the Education Commission of the States, the Interstate  
26 Agreement on the Qualification of Educational Personnel and other interstate  
27 compacts affecting the education of children of military members.

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

- 1        E. Establish an executive committee, whose members shall include the officers of the  
2        Interstate Commission and such other members of the Interstate Commission as  
3        determined by the bylaws. Members of the executive committee shall serve a one  
4        year term. Members of the executive committee shall be entitled to one vote each.  
5        The executive committee shall have the power to act on behalf of the Interstate  
6        Commission, with the exception of rulemaking, during periods when the Interstate  
7        Commission is not in session. The executive committee shall oversee the  
8        day-to-day activities of the administration of the compact including enforcement  
9        and compliance with the provisions of the compact, its bylaws and rules, and other  
10       such duties as deemed necessary. The U.S. Dept. of Defense, shall serve as an  
11       ex-officio, nonvoting member of the executive committee.
- 12       F. Establish bylaws and rules that provide for conditions and procedures under which  
13       the Interstate Commission shall make its information and official records available  
14       to the public for inspection or copying. The Interstate Commission may exempt  
15       from disclosure information or official records to the extent they would adversely  
16       affect personal privacy rights or proprietary interests.
- 17       G. Give public notice of all meetings and all meetings shall be open to the public,  
18       except as set forth in the rules or as otherwise provided in the compact. The  
19       Interstate Commission and its committees may close a meeting, or portion thereof,  
20       where it determines by two-thirds vote that an open meeting would be likely to:
- 21       1. Relate solely to the Interstate Commission's internal personnel practices and  
22       procedures;
  - 23       2. Disclose matters specifically exempted from disclosure by federal and state  
24       statute;
  - 25       3. Disclose trade secrets or commercial or financial information which is  
26       privileged or confidential;
  - 27       4. Involve accusing a person of a crime, or formally censuring a person;
  - 28       5. Disclose information of a personal nature where disclosure would constitute a  
29       clearly unwarranted invasion of personal privacy;
  - 30       6. Disclose investigative records compiled for law enforcement purposes; or

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

3       H.   Shall cause its legal counsel or designee to certify that a meeting may be closed  
4           and shall reference each relevant exemptible provision for any meeting, or portion  
5           of a meeting, which is closed pursuant to this provision. The Interstate  
6           Commission shall keep minutes which shall fully and clearly describe all matters  
7           discussed in a meeting and shall provide a full and accurate summary of actions  
8           taken, and the reasons therefore, including a description of the views expressed  
9           and the record of a roll call vote. All documents considered in connection with an  
10          action shall be identified in such minutes. All minutes and documents of a closed  
11          meeting shall remain under seal, subject to release by a majority vote of the  
12          Interstate Commission.

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

20       J.   Shall create a process that permits military officials, education officials and parents  
21           to inform the Interstate Commission if and when there are alleged violations of the  
22           compact or its rules or when issues subject to the jurisdiction of the compact or its  
23           rules are not addressed by the state or local education agency. This section shall  
24           not be construed to create a private right of action against the Interstate  
25           Commission or any member state.

26                                   ARTICLE X

27                   POWERS AND DUTIES OF THE INTERSTATE COMMISSION

28   The Interstate Commission shall have the following powers:

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

30       B.   To promulgate rules and take all necessary actions to effect the goals, purposes  
31           and obligations as enumerated in this compact. The rules shall have the force and

1           effect of statutory law and shall be binding in the compact states to the extent and  
2           in the manner provided in this compact.

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

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

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

10          F. To purchase and maintain insurance and bonds.

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

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

16          I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and  
17          to fix their compensation, define their duties and determine their qualifications; and  
18          to establish the Interstate Commission's personnel policies and programs relating  
19          to conflicts of interest, rates of compensation, and qualifications of personnel.

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

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

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

26          M. To establish a budget and make expenditures.

27          N. To adopt a seal and bylaws governing the management and operation of the  
28          Interstate Commission.

29          O. To report annually to the legislatures, governors, judiciary, and state councils of the  
30          member states concerning the activities of the Interstate Commission during the

preceding year. Such reports shall also include any recommendations that may have been adopted by the Interstate Commission.

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

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

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

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

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

## ARTICLE XI

### ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

1. Establishing the fiscal year of the Interstate Commission;

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

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

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

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

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

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

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

10      C. Executive Committee, Officers and Personnel

- 11      1. The executive committee shall have such authority and duties as may be set  
12      forth in the bylaws, including but not limited to:
- 13          a. Managing the affairs of the Interstate Commission in a manner  
14          consistent with the bylaws and purposes of the Interstate Commission;
- 15          b. Overseeing an organizational structure within, and appropriate  
16          procedures for the Interstate Commission to provide for the creation of  
17          rules, operating procedures, and administrative and technical support  
18          functions; and
- 19          c. Planning, implementing, and coordinating communications and  
20          activities with other state, federal and local government organizations in  
21          order to advance the goals of the Interstate Commission.
- 22      3. The executive committee may, subject to the approval of the Interstate  
23      Commission, appoint or retain an executive director for such period, upon  
24      such terms and conditions and for such compensation, as the Interstate  
25      Commission may deem appropriate. The executive director shall serve as  
26      secretary to the Interstate Commission, but shall not be a Member of the  
27      Interstate Commission. The executive director shall hire and supervise such  
28      other persons as may be authorized by the Interstate Commission.

29      D. The Interstate Commission's executive director and its employees shall be immune  
30      from suit and liability, either personally or in their official capacity, for a claim for  
31      damage to or loss of property or personal injury or other civil liability caused or

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

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

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

28          3.   To the extent not covered by the state involved, member state, or the  
29          Interstate Commission, the representatives or employees of the Interstate  
30          Commission shall be held harmless in the amount of a settlement or  
31          judgment, including attorney's fees and costs, obtained against such persons



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

7                    ARTICLE XII

8                    RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

- 9                    A. Rulemaking Authority - The Interstate Commission shall promulgate reasonable  
10                   rules in order to effectively and efficiently achieve the purposes of this Compact.  
11                   Notwithstanding the foregoing, in the event the Interstate Commission exercises its  
12                   rulemaking authority in a manner that is beyond the scope of the purposes of this  
13                   Act, or the powers granted hereunder, then such an action by the Interstate  
14                   Commission shall be invalid and have no force or effect.
- 15                   B. Rulemaking Procedure - Rules shall be made pursuant to a rulemaking process  
16                   that substantially conforms to the "Model State Administrative Procedure Act," of  
17                   1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as amended,  
18                   as may be appropriate to the operations of the interstate Commission.
- 19                   C. Not later than thirty (30) days after a rule is promulgated, any person may file a  
20                   petition for judicial review of the rule; provided, that the filing of such a petition shall  
21                   not stay or otherwise prevent the rule from becoming effective unless the court  
22                   finds that the petitioner has a substantial likelihood of success. The court shall  
23                   give deference to the actions of the Interstate Commission consistent with  
24                   applicable law and shall not find the rule to be unlawful if the rule represents a  
25                   reasonable exercise of the Interstate Commission's authority.
- 26                   D. If a majority of the legislatures of the compacting states rejects a Rule by  
27                   enactment of a statute or resolution in the same manner used to adopt the  
28                   compact, then such rule shall have no further force and effect in any compacting  
29                   state.

30                   ARTICLE XIII

31                   OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

1       A.   Oversight

- 2           1.   The executive, legislative and judicial branches of state government in each  
3               member state shall enforce this compact and shall take all actions necessary  
4               and appropriate to effectuate the compact's purposes and intent. The  
5               provisions of this compact and the rules promulgated hereunder shall have  
6               standing as statutory law.
- 7           2.   All courts shall take judicial notice of the compact and the rules in any judicial  
8               or administrative proceeding in a member state pertaining to the subject  
9               matter of this compact which may affect the powers, responsibilities or actions  
10              of the Interstate Commission.
- 11          3.   The Interstate Commission shall be entitled to receive all service of process in  
12               any such proceeding, and shall have standing to intervene in the proceeding  
13               for all purposes. Failure to provide service of process to the Interstate  
14               Commission shall render a judgment or order void as to the Interstate  
15               Commission, this compact or promulgated rules.

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

- 20           1.   Provide written notice to the defaulting state and other member states, of the  
21               nature of the default, the means of curing the default and any action taken by  
22               the Interstate Commission. The Interstate Commission shall specify the  
23               conditions by which the defaulting state must cure its default.
- 24           2.   Provide remedial training and specific technical assistance regarding the  
25               default.
- 26           3.   If the defaulting state fails to cure the default, the defaulting state shall be  
27               terminated from the compact upon an affirmative vote of a majority of the  
28               member states and all rights, privileges and benefits conferred by this  
29               compact shall be terminated from the effective date of termination. A cure of  
30               the default does not relieve the offending state of obligations or liabilities  
31               incurred during the period of the default.

- 1           4.   Suspension or termination of membership in the compact shall be imposed  
2               only after all other means of securing compliance have been exhausted.  
3               Notice of intent to suspend or terminate shall be given by the Interstate  
4               Commission to the Governor, the majority and minority leaders of the  
5               defaulting state's legislature, and each of the members states.
- 6           5.   The state which has been suspended or terminated is responsible for all  
7               assessments, obligations and liabilities incurred through the effective date of  
8               suspension or termination including obligations, the performance of which  
9               extends beyond the effective date of suspension or termination.
- 10          6.   The Interstate Commission shall not bear any costs relating to any state that  
11               has been found to be in default or which has been suspended or terminated  
12               from the compact, unless otherwise mutually agreed upon in writing between  
13               the Interstate Commission and the defaulting state.
- 14          7.   The defaulting state may appeal the action of the Interstate Commission by  
15               petitioning the U.S. District Court for the District of Columbia or the federal  
16               district where the Interstate Commission has its principal offices. The  
17               prevailing party shall be awarded all costs of such litigation including  
18               reasonable attorney's fees.

19       C.   Dispute Resolution

- 20          1.   The Interstate Commission shall attempt, upon the request of a member state,  
21               to resolve disputes which are subject to the compact and which may arise  
22               among member states and between member and nonmember states.
- 23          2.   The Interstate Commission shall promulgate a rule providing for both  
24               mediation and binding dispute resolution for disputes as appropriate.

25       D.   Enforcement

- 26          1.   The Interstate Commission, in the reasonable exercise of its discretion, shall  
27               enforce the provisions and rules of this compact.
- 28          2.   The Interstate Commission, may by majority vote of the members, initiate  
29               legal action in the United States District Court for the District of Columbia or,  
30               at the discretion of the Interstate Commission, in the federal district where the  
31               Interstate Commission has its principal offices, to enforce compliance with the

1           provisions of the compact, its promulgated rules and bylaws, against a  
2           member state in default. The relief sought may include both injunctive relief  
3           and damages. In the event judicial enforcement is necessary the prevailing  
4           party shall be awarded all costs of such litigation including reasonable  
5           attorney's fees.

- 6           3. The remedies herein shall not be the exclusive remedies of the Interstate  
7           Commission. The Interstate Commission may avail itself of any other  
8           remedies available under state law or the regulation of a profession.

#### 9                                   ARTICLE XIV

#### 10                               FINANCING OF THE INTERSTATE COMMISSION

- 11          A. The Interstate Commission shall pay, or provide for the payment of the reasonable  
12          expenses of its establishment, organization and ongoing activities.
- 13          B. The Interstate Commission may levy on and collect an annual assessment from  
14          each member state to cover the cost of the operations and activities of the  
15          Interstate Commission and its staff which must be in a total amount sufficient to  
16          cover the Interstate Commission's annual budget as approved each year. The  
17          aggregate annual assessment amount shall be allocated based upon a formula to  
18          be determined by the Interstate Commission, which shall promulgate a rule binding  
19          upon all member states.
- 20          C. The Interstate Commission shall not incur obligations of any kind prior to securing  
21          the funds adequate to meet the same; nor shall the Interstate Commission pledge  
22          the credit of any of the member states, except by and with the authority of the  
23          member state.
- 24          D. The Interstate Commission shall keep accurate accounts of all receipts and  
25          disbursements. The receipts and disbursements of the Interstate Commission  
26          shall be subject to the audit and accounting procedures established under its  
27          bylaws. However, all receipts and disbursements of funds handled by the  
28          Interstate Commission shall be audited yearly by a certified or licensed public  
29          accountant and the report of the audit shall be included in and become part of the  
30          annual report of the Interstate Commission.

ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

- A. Any state is eligible to become a member state.
- B. The compact shall become effective and binding upon legislative enactment of the compact into law by no less than ten (10) of the states. The effective date shall be no earlier than December 1, 2007. Thereafter it shall become effective and binding as to any other member state upon enactment of the compact into law by that state. The governors of nonmember states or their designees shall be invited to participate in the activities of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.
- C. The Interstate Commission may propose amendments to the compact for enactment by the member states. No amendment shall become effective and binding upon the Interstate Commission and the member states unless and until it is enacted into law by unanimous consent of the member states.

ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

- A. Withdrawal
1. Once effective, the compact shall continue in force and remain binding upon each and every member state; provided that a member state may withdraw from the compact by specifically repealing the statute, which enacted the compact into law.
2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal has been given by the withdrawing state to the Governor of each other member jurisdiction.
3. The withdrawing state shall immediately notify the chairperson of the Interstate Commission in writing upon the introduction of legislation repealing this compact in the withdrawing state. The Interstate Commission shall notify the other member states of the withdrawing state's intent to withdraw within sixty (60) days of its receipt thereof.

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

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

B. Dissolution of Compact

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

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

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

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

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

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

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A. Other laws

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

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

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