

1 HOUSE BILL NO. 257

2 INTRODUCED BY F. WILMER

3

4 A BILL FOR AN ACT ENTITLED: "AN ACT ADOPTING THE INTERSTATE COMPACT ON EDUCATIONAL
5 OPPORTUNITIES FOR MILITARY CHILDREN."

6

7 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF MONTANA:

8

9 NEW SECTION. **Section 1. Enactment -- provisions.** The Interstate Compact on Educational
10 Opportunity for Military Children is enacted into law and entered into with all other jurisdictions legally joining in
11 the compact in the form substantially as follows:

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ARTICLE I

13

PURPOSE

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

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17 (1) facilitating the timely enrollment of children of military families and ensuring that they are not placed
18 at a disadvantage due to difficulty in the transfer of education records from the previous school districts or
19 variations in entrance or age requirements;

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21 (2) facilitating the student placement process through which children of military families are not
22 disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or
23 assessment;

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25 (3) facilitating the qualification and eligibility for enrollment, educational programs, and participation in
26 extracurricular academic, athletic, and social activities;

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28 (4) facilitating the on-time graduation of children of military families;
29 (5) providing for the promulgation and enforcement of administrative rules implementing the provisions
30 of this compact;

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32 (6) providing for the uniform collection and sharing of information between and among member states,
33 schools, and military families under this compact;

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35 (7) promoting coordination between this compact and other compacts affecting military children;

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37 (8) promoting flexibility and cooperation between the educational system, parents, and the student in

1 order to achieve educational success for the student.

2 ARTICLE II

3 DEFINITIONS

4 As used in this compact, unless the context clearly requires a different construction, the following definitions
5 apply:

6 (1) "Active duty" means full-time duty status in the active uniformed service of the United States,
7 including members of the national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

8 (2) "Children of military families" means school-aged children enrolled in kindergarten through 12th
9 grade, in the household of an active duty member.

10 (3) "Compact commissioner" means the voting representative of each member state appointed pursuant
11 to Article VIII of this compact.

12 (4) "Deployment" means the period 1 month prior to the service member's departure from the service
13 member's home station on military orders though 6 months after return to the service member's home station.

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

19 (5) "Extracurricular activities" means voluntary activities sponsored by the school or local education
20 agency or an organization sanctioned by the local education agency. Extracurricular activities include but are not
21 limited to preparation for and involvement in public performances, contests, athletic competitions, demonstrations,
22 displays, and club activities.

23 (6) "Interstate Commission on Educational Opportunity for Military Children" or "Interstate Commission"
24 means the commission that is created under Article IX of this compact.

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

28 (8) "Member state" means a state that has enacted this compact.

29 (9) "Military installation" means a base, camp, post, station, yard, center, homeport facility for any ship,
30 or other activity under the jurisdiction of the department of defense, including any leased facility, which is located

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

4 (10) "Nonmember state" means a state that has not enacted this compact.

5 (11) "Receiving state" means the state to which a child of a military family is sent, brought, or caused
6 to be sent or brought.

7 (12) "Rule" means a written statement by the Interstate Commission promulgated pursuant to Article XII
8 of this compact that is of general applicability, that implements, interprets, or prescribes a policy or provision of
9 the compact, or that is an organizational, procedural, or practice requirement of the Interstate Commission and
10 has the force and effect of statutory law in a member state. The term includes the amendment, repeal, or
11 suspension of an existing rule.

12 (13) "Sending state" means the state from which a child of a military family is sent, brought, or caused
13 to be sent or brought.

14 (14) "State" means a state of the United States, the District of Columbia, the Commonwealth of Puerto
15 Rico, the U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S.
16 territory.

17 (15) "Student" means the child of a military family for whom the local education agency receives public
18 funding and who is formally enrolled in kindergarten through 12th grade.

19 (16) "Transition" means:

20 (a) the formal and physical process of transferring from school to school; or

21 (b) the period of time during which a student moves from one school in the sending state to another
22 school in the receiving state.

23 (17) "Uniformed service" means the army, navy, air force, marine corps, or coast guard, as well as the
24 commissioned corps of the national oceanic and atmospheric administration and public health services.

25 (18) "Veteran" means a person who served in the uniformed services and who was discharged or
26 released from service under conditions other than dishonorable.

27 ARTICLE III

28 APPLICABILITY

29 (1) Except as otherwise provided in subsection (2), this compact applies to the children of:

30 (a) active duty members of the uniformed services as defined in this compact, including members of the

1 national guard and reserve on active duty orders pursuant to 10 U.S.C. 1209 and 1211;

2 (b) members or veterans of the uniformed services who are severely injured and medically discharged
3 or retired for a period of 1 year after medical discharge or retirement; and

4 (c) members of the uniformed services who die on active duty or as a result of injuries sustained on active
5 duty for a period of 1 year after death.

6 (2) The provisions of this compact apply only to local education agencies as defined in this compact.

7 (3) The provisions of this compact do not apply to the children of:

8 (a) inactive members of the national guard and military reserves;

9 (b) members of the uniformed services now retired, except as provided in subsection (1);

10 (c) veterans of the uniformed services, except as provided in subsection (1); and

11 (d) other U.S. department of defense personnel and other federal agency civilian and contract employees
12 not defined as active duty members of the uniformed services.

13 ARTICLE IV

14 EDUCATIONAL RECORDS AND ENROLLMENT

15 (1) In the event that official education records cannot be released to the parents for the purpose of
16 transfer, the custodian of the records in the sending state shall prepare and furnish to the parent a complete set
17 of unofficial educational records containing uniform information as determined by the Interstate Commission.
18 Upon receipt of the unofficial education records by a school in the receiving state, the school shall enroll and
19 appropriately place the student based on the information provided in the unofficial records, pending validation
20 by the official records, as quickly as possible.

21 (2) Simultaneous with the enrollment and conditional placement of the student, the school in the
22 receiving state shall request the student's official education record from the school in the sending state. Upon
23 receipt of this request, the school in the sending state shall process and furnish the official education records to
24 the school in the receiving state within 10 days or within a time that is reasonably determined under the rules
25 promulgated by the Interstate Commission.

26 (3) Member states shall give 30 days from the date of enrollment or a time as is reasonably determined
27 under the rules promulgated by the Interstate Commission for students to obtain any immunizations required by
28 the receiving state. For a series of immunizations, initial vaccinations must be obtained within 30 days or within
29 a time that is reasonably determined under the rules promulgated by the Interstate Commission.

30 (4) Students must be allowed to continue their enrollment at grade level in the receiving state

1 commensurate with their grade level, including kindergarten, from a local education agency in the sending state
2 at the time of transition regardless of age. A student that has satisfactorily completed the prerequisite grade level
3 in the local education agency in the sending state must be eligible for enrollment in the next highest grade level
4 in the receiving state regardless of age. A student transferring after the start of the school year in the receiving
5 state shall enter the school in the receiving state on the student's validated level from an accredited school in the
6 sending state.

7 ARTICLE V

8 PLACEMENT AND ATTENDANCE

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

17 (2) The receiving state school shall initially honor placement of the student in educational programs
18 based on current educational assessments conducted at the school in the sending state or participation or
19 placement in like programs in the sending state. Such programs include but are not limited to gifted and talented
20 programs and English as a second language. This does not preclude the school in the receiving state from
21 performing subsequent evaluations to ensure appropriate placement of the student.

22 (3) (a) In compliance with the federal requirements of the Individuals with Disabilities Education Act, 20
23 U.S.C. 1400, et seq. the receiving state shall initially provide comparable services to a student with disabilities
24 based on the student's current individualized education program.

25 (b) In compliance with the requirements of section 504 of the Rehabilitation Act, 29 U.S.C. 794, and with
26 Title II of the Americans with Disabilities Act, 42 U.S.C. 12131 through 12165, the receiving state shall make
27 reasonable accommodations and modifications to address the needs of incoming students with disabilities,
28 subject to an existing 504 or Title II plan, to provide the student with equal access to education. This does not
29 preclude the school in the receiving state from performing subsequent evaluations to ensure appropriate
30 placement of the student.

1 (4) Local education agency administrative officials have flexibility in waiving course or program
2 prerequisites or other preconditions for placement in courses or programs offered under the jurisdiction of the
3 local education agency.

4 (5) A student whose parent or legal guardian is an active duty member of the uniformed services, as
5 defined by the compact, and has been called to duty for, is on leave from, or has immediately returned from
6 deployment to a combat zone or combat support posting must be granted additional excused absences at the
7 discretion of the local education agency superintendent to visit with the student's parent or legal guardian relative
8 to the leave or deployment of the parent or guardian.

9 ARTICLE VI

10 ELIGIBILITY

11 (1) A special power of attorney, relative to the guardianship of a child of a military family and executed
12 under applicable law, is sufficient for the purposes of enrollment and all other actions requiring parental
13 participation and consent.

14 (2) A local education agency is prohibited from charging local tuition to a transitioning military child
15 placed in the care of a noncustodial parent or other person standing in loco parentis who lives in a jurisdiction
16 other than that of the custodial parent.

17 (3) A transitioning military child, placed in the care of a noncustodial parent or other person standing in
18 loco parentis who lives in a jurisdiction other than that of the custodial parent may continue to attend the school
19 in which the child was enrolled while residing with the custodial parent.

20 (4) State and local education agencies shall facilitate the opportunity for transitioning military children's
21 inclusion in extracurricular activities, regardless of application deadlines, to the extent they are otherwise
22 qualified.

23 ARTICLE VII

24 GRADUATION

25 In order to facilitate the on-time graduation of children of military families, states and local education agencies
26 shall incorporate the following procedures:

27 (1) Local education agency administrative officials shall waive specific courses required for graduation
28 if similar course work has been satisfactorily completed in another local education agency or shall provide
29 reasonable justification for denial. If a waiver is not granted to a student who would qualify to graduate from the
30 sending school, the local education agency shall provide an alternative means of acquiring required coursework

1 so that graduation may occur on time.

2 (2) (a) In lieu of testing requirements for graduation in the receiving state, states shall accept:

3 (i) exit or end-of-course exams required for graduation from the sending state;

4 (ii) national norm-referenced achievement tests; and

5 (iii) alternative testing.

6 (b) In the event that the above alternatives cannot be accommodated by the receiving state for a student
7 transferring to the school during the student's senior year, then the provisions of subsection (3) apply.

8 (3) If a military student transferring at the beginning or during the student's senior year is ineligible to
9 graduate from the receiving local education agency after all alternatives have been considered, the sending and
10 receiving local education agencies shall ensure the receipt of a diploma from the sending local education agency
11 if the student meets the graduation requirements of the sending local education agency. In the event that one of
12 the states in question is not a member of this compact, the member state shall use best efforts to facilitate the
13 on-time graduation of the student in accordance with subsections (1) and (2) of this Article.

14 ARTICLE VIII

15 STATE COORDINATION

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

26 (2) The state council of each member state shall appoint or designate a military family education liaison
27 to assist military families and the state in facilitating the implementation of this compact.

28 (3) The compact commissioner responsible for the administration and management of the state's
29 participation in the compact must be appointed by the governor or as otherwise determined by each member
30 state.

1 (4) The compact commissioner and the military family education liaison designated herein are ex-officio
2 members of the state council unless either is already a full voting member of the state council.

3 ARTICLE IX

4 INTERSTATE COMMISSION ON EDUCATIONAL
5 OPPORTUNITY FOR MILITARY CHILDREN

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

9 (1) The Interstate Commission is a body corporate and joint agency of the member states and has all
10 the responsibilities, powers, and duties set forth herein and additional powers that may be conferred upon it by
11 a subsequent concurrent action of the respective legislatures of the member states in accordance with the terms
12 of this compact.

13 (2) (a) The Interstate Commission consists of one voting representative from each member state who
14 is that state's compact commissioner.

15 (b) Each member state represented at a meeting of the Interstate Commission is entitled to one vote.

16 (c) A majority of the total member states constitute a quorum for the transaction of business unless a
17 larger quorum is required by the bylaws of the Interstate Commission.

18 (d) A representative may not delegate a vote to another member state. In the event that the compact
19 commissioner is unable to attend a meeting of the Interstate Commission, the governor or state council may
20 delegate voting authority to another person from the state for a specified meeting.

21 (e) The bylaws may provide for meetings of the Interstate Commission to be conducted by
22 telecommunication or electronic communication.

23 (3) The Interstate Commission consists of ex-officio, nonvoting representatives who are members of
24 interested organizations. The ex-officio members, as defined in the bylaws, may include but may not be limited
25 to members of the representative organizations of military family advocates, local education agency officials,
26 parent and teacher groups, the U.S. department of defense, the education commission of the states, the
27 Interstate Agreement on the Qualification of Educational Personnel, and other interstate compacts affecting the
28 education of children of military members.

29 (4) The Interstate Commission shall meet at least once each calendar year. The chairperson may call
30 additional meetings and, upon the request of a simple majority of the member states, shall call additional

1 meetings.

2 (5) The Interstate Commission shall establish an executive committee, whose members must include
3 the officers of the Interstate Commission and any other members of the Interstate Commission as determined
4 by the bylaws. Members of the executive committee shall serve a 1-year term. Members of the executive
5 committee are entitled to one vote each. The executive committee has the power to act on behalf of the Interstate
6 Commission, with the exception of rulemaking, during periods when the Interstate Commission is not in session.
7 The executive committee shall oversee the day-to-day activities of the administration of the compact, including
8 enforcement and compliance with the provisions of the compact and its bylaws and rules and other duties
9 considered necessary. The U.S. department of defense, shall serve as an ex-officio, nonvoting member of the
10 executive committee.

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

15 (7) Public notice must be given by the Interstate Commission of all meetings and all meetings must be
16 open to the public except as set forth in the rules or as otherwise provided in the compact. The Interstate
17 Commission and its committees may close a meeting or portion thereof if it determines by a two-thirds vote that
18 an open meeting would be likely to:

- 19 (a) relate solely to the Interstate Commission's internal personnel practices and procedures;
20 (b) disclose matters specifically exempted from disclosure by federal and state statute;
21 (c) disclose trade secrets or commercial or financial information that is privileged or confidential;
22 (d) involve accusing a person of a crime or formally censuring a person;
23 (e) disclose information of a personal nature when disclosure would constitute a clearly unwarranted
24 invasion of personal privacy;
25 (f) disclose investigative records compiled for law enforcement purposes; or
26 (g) specifically relate to the Interstate Commission's participation in a civil action or other legal
27 proceeding.

28 (8) For a meeting or portion of a meeting closed pursuant to this provision, the Interstate Commission's
29 legal counsel or designee shall certify that the meeting may be closed and shall reference each relevant
30 exemptible provision. The Interstate Commission shall keep minutes, which shall fully and clearly describe all

1 matters discussed in a meeting, and shall provide a full and accurate summary of actions taken and the reasons
2 therefore, including a description of the views expressed and the record of a roll call vote. All documents
3 considered in connection with an action must be identified in the minutes. All minutes and documents of a closed
4 meeting must remain under seal, subject to release by a majority vote of the Interstate Commission.

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

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

16 ARTICLE X

17 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

18 The Interstate Commission may:

- 19 (1) provide for dispute resolution among member states;
- 20 (2) promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as
21 enumerated in this compact. The rules have the force and effect of statutory law and are binding in the member
22 states to the extent and in the manner provided in this compact.
- 23 (3) issue, upon request of a member state, advisory opinions concerning the meaning or interpretation
24 of the interstate compact and its bylaws, rules, and actions;
- 25 (4) enforce compliance with the compact provisions, the rules promulgated by the Interstate Commission,
26 and the bylaws, using all necessary and proper means, including but not limited to the use of judicial process;
- 27 (5) establish and maintain offices, which must be located within one or more of the member states;
- 28 (6) purchase and maintain insurance and bonds;
- 29 (7) borrow, accept, hire, or contract for services of personnel;
- 30 (8) establish and appoint committees, including but not limited to an executive committee as required

1 by Article IX, subsection (5), which has the power to act on behalf of the Interstate Commission in carrying out
2 its powers and duties under this compact;

3 (9) elect or appoint officers, attorneys, employees, agents, or consultants, fix their compensation, define
4 their duties, and determine their qualifications, and establish the Interstate Commission's personnel policies and
5 programs relating to conflicts of interest, rates of compensation, and qualifications of personnel;

6 (10) accept any and all donations and grants of money, equipment, supplies, materials, and services and
7 receive, utilize, and dispose of it;

8 (11) lease, purchase, accept contributions or donations of, or otherwise own, hold, improve, or use any
9 property, whether real, personal, or mixed;

10 (12) sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of any property,
11 whether real, personal, or mixed;

12 (13) establish a budget and make expenditures;

13 (14) adopt a seal and bylaws governing the management and operation of the Interstate Commission;

14 (15) report annually to the legislatures, governors, judiciary, and state councils of the member states
15 concerning the activities of the Interstate Commission during the preceding year. The reports must also include
16 any recommendations that may have been adopted by the Interstate Commission.

17 (16) coordinate education, training, and public awareness regarding the compact and its implementation
18 and operation for officials and parents involved in such activity;

19 (17) establish uniform standards for the reporting, collecting, and exchanging of data;

20 (18) maintain corporate books and records in accordance with the bylaws;

21 (19) perform functions that may be necessary or appropriate to achieve the purposes of this compact;

22 (20) provide for the uniform collection and sharing of information between and among member states,
23 schools, and military families under this compact.

24 ARTICLE XI

25 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

29 (a) establishing the fiscal year of the Interstate Commission;

30 (b) establishing an executive committee and such other committees as may be necessary;

- 1 (c) providing for the establishment of committees and for governing any general or specific delegation
2 of authority or function of the Interstate Commission;
- 3 (d) providing reasonable procedures for calling and conducting meetings of the Interstate Commission
4 and ensuring reasonable notice of each meeting;
- 5 (e) establishing the titles and responsibilities of the officers and staff of the Interstate Commission;
- 6 (f) providing a mechanism for concluding the operations of the Interstate Commission and the return of
7 surplus funds that may exist upon the termination of the compact after the payment and reserving of all of its
8 debts and obligations;
- 9 (g) providing startup rules for initial administration of the compact.
- 10 (2) The Interstate Commission shall, by a majority of the members, elect annually from among its
11 members a chairperson, a vice chairperson, and a treasurer, each of whom has authority and duties as specified
12 in the bylaws. The chairperson or, in the chairperson's absence or disability, the vice chairperson, shall preside
13 at all meetings of the Interstate Commission. The officers shall serve without compensation or remuneration from
14 the Interstate Commission. However, subject to the availability of budgeted funds, the officers must be reimbursed
15 for ordinary and necessary costs and expenses incurred by them in the performance of their responsibilities as
16 officers of the Interstate Commission.
- 17 (3) The executive committee has authority and duties as set forth in the bylaws, including but not limited
18 to:
- 19 (a) managing the affairs of the Interstate Commission in a manner consistent with the bylaws and
20 purposes of the Interstate Commission;
- 21 (b) overseeing an organizational structure and appropriate procedures for the Interstate Commission
22 to provide for the creation of rules, operating procedures, and administrative and technical support functions; and
- 23 (c) planning, implementing, and coordinating communications and activities with other state, federal, and
24 local government organizations in order to advance the goals of the Interstate Commission.
- 25 (4) The executive committee may, subject to the approval of the Interstate Commission, appoint or retain
26 an executive director for a period, upon terms and conditions, and for compensation as the Interstate Commission
27 considers appropriate. The executive director shall serve as secretary to the Interstate Commission, but may not
28 be a member of the Interstate Commission. The executive director shall hire and supervise other persons as
29 authorized by the Interstate Commission.
- 30 (5) The Interstate Commission's executive director and its employees are immune from suit and liability,

1 either personally or in their official capacity, for a claim for damage to or loss of property or personal injury or
2 other civil liability caused or arising out of or relating to an actual or alleged act, error, or omission that occurred
3 or that such person had a reasonable basis for believing occurred within the scope of Interstate Commission
4 employment, duties, or responsibilities. However, that person is not protected from suit or liability for damage,
5 loss, injury, or liability caused by the person's intentional or willful and wanton misconduct.

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

13 (7) The Interstate Commission shall defend the executive director and its employees and, subject to the
14 approval of the attorney general or other appropriate legal counsel of the member state represented by an
15 Interstate Commission representative, shall defend the Interstate Commission representative in any civil action
16 seeking to impose liability arising out of an actual or alleged act, error, or omission that occurred within the scope
17 of Interstate Commission employment, duties, or responsibilities or that the defendant had a reasonable basis
18 for believing occurred within the scope of Interstate Commission employment, duties, or responsibilities if the
19 actual or alleged act, error, or omission did not result from intentional or willful and wanton misconduct on the part
20 of the person.

21 (8) To the extent not covered by the state involved, the member state, or the Interstate Commission, the
22 representatives or employees of the Interstate Commission must be held harmless in the amount of a settlement
23 or judgment, including attorney fees and costs, obtained against those persons arising out of an actual or alleged
24 act, error, or omission that occurred within the scope of Interstate Commission employment, duties, or
25 responsibilities or that the persons had a reasonable basis for believing occurred within the scope of Interstate
26 Commission employment, duties, or responsibilities if the actual or alleged act, error, or omission did not result
27 from intentional or willful and wanton misconduct on the part of the persons.

28 ARTICLE XII

29 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

30 (1) The Interstate Commission shall promulgate reasonable rules in order to effectively and efficiently

1 achieve the purposes of this compact. Notwithstanding the foregoing, in the event the Interstate Commission
2 exercises its rulemaking authority in a manner that is beyond the scope of the purposes of this compact, or the
3 powers granted under the compact, then such an action by the Interstate Commission is invalid and has no force
4 or effect.

5 (2) Rules must be made pursuant to a rulemaking process that substantially conforms to the Model State
6 Administrative Procedure Act of 1981, Uniform Laws Annotated, Vol. 15, p.1 (2000), as amended, as may be
7 appropriate to the operations of the Interstate Commission.

8 (3) Not later than 30 days after a rule is promulgated, any person may file a petition for judicial review
9 of the rule. However, the filing of a petition does not stay or otherwise prevent the rule from becoming effective
10 unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference
11 to the actions of the Interstate Commission consistent with applicable law and may not find the rule to be unlawful
12 if the rule represents a reasonable exercise of the Interstate Commission's authority.

13 (4) If a majority of the legislatures of the member states rejects a rule by enactment of a statute or
14 resolution in the same manner used to adopt the compact, then the rule has no further force and effect in any
15 member state.

16 ARTICLE XIII

17 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

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

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

24 (3) The Interstate Commission is entitled to receive all service of process in any such proceeding and
25 has standing to intervene in the proceeding for all purposes. Failure to provide service of process to the Interstate
26 Commission renders a judgment or order void as to the Interstate Commission, this compact, or promulgated
27 rules.

28 (4) If the Interstate Commission determines that a member state has defaulted in the performance of its
29 obligations or responsibilities under this compact or the bylaws or promulgated rules, the Interstate Commission
30 shall:

1 (a) provide written notice to the defaulting state and other member states of the nature of the default,
2 the means of curing the default, and any action taken by the Interstate Commission. The Interstate Commission
3 shall specify the conditions by which the defaulting state is required to cure its default.

4 (b) provide remedial training and specific technical assistance regarding the default. If the defaulting state
5 fails to cure the default, the defaulting state must be terminated from the compact upon an affirmative vote of a
6 majority of the member states and all rights, privileges, and benefits conferred by this compact must be
7 terminated from the effective date of termination. A cure of the default does not relieve the offending state of
8 obligations or liabilities incurred during the period of the default.

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

13 (6) The state that has been suspended or terminated is responsible for all assessments, obligations, and
14 liabilities incurred through the effective date of suspension or termination, including obligations for which the
15 performance extends beyond the effective date of suspension or termination.

16 (7) The Interstate Commission may not bear any costs relating to any state that has been found to be
17 in default or that has been suspended or terminated from the compact unless otherwise mutually agreed upon
18 in writing between the Interstate Commission and the defaulting state.

19 (8) The defaulting state may appeal the action of the Interstate Commission by petitioning the U.S.
20 district court for the District of Columbia or the federal district where the Interstate Commission has its principal
21 offices. The prevailing party must be awarded all costs of litigation, including reasonable attorney fees.

22 (9) The Interstate Commission shall attempt, upon the request of a member state, to resolve disputes
23 that are subject to the compact and that may arise among member states and between member and nonmember
24 states.

25 (10) The Interstate Commission shall promulgate a rule providing for both mediation and binding dispute
26 resolution for disputes as appropriate.

27 (11) The Interstate Commission, in the reasonable exercise of its discretion, shall enforce the provisions
28 and rules of this compact.

29 (12) The Interstate Commission may, by majority vote of the members, initiate legal action against a
30 member state in default in the U.S. district court for the District of Columbia or, at the discretion of the Interstate

1 Commission, in the federal district where the Interstate Commission has its principal offices to enforce compliance
2 with the provisions of the compact and its promulgated rules and bylaws. The relief sought may include both
3 injunctive relief and damages. In the event that judicial enforcement is necessary, the prevailing party must be
4 awarded all costs of litigation, including reasonable attorney fees.

5 (13) The remedies in this Article are not the exclusive remedies of the Interstate Commission. The
6 Interstate Commission may avail itself of any other remedies available under state law or the regulation of a
7 profession.

8 ARTICLE XIV

9 FINANCING OF THE INTERSTATE COMMISSION

10 (1) The Interstate Commission shall pay or provide for the payment of the reasonable expenses of its
11 establishment, organization, and ongoing activities.

12 (2) The Interstate Commission may levy on and collect an annual assessment from each member state
13 to cover the cost of the operations and activities of the Interstate Commission and its staff, which must be in a
14 total amount sufficient to cover the Interstate Commission's annual budget as approved each year. The aggregate
15 annual assessment amount must be allocated based upon a formula to be determined by the Interstate
16 Commission, which shall promulgate a rule binding upon all member states.

17 (3) The Interstate Commission may not incur obligations of any kind prior to securing the funds adequate
18 to meet the same, and the Interstate Commission may not pledge the credit of any of the member states except
19 by and with the authority of the member state.

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

25 ARTICLE XV

26 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

27 (1) Any state is eligible to become a member state.

28 (2) The compact becomes effective and binding upon legislative enactment of the compact into law by
29 no less than 10 of the states. The effective date may not be earlier than December 1, 2007. Thereafter, the
30 compact becomes effective and binding as to any other member state upon enactment of the compact into law

1 by that state. The governors of nonmember states or their designees must be invited to participate in the activities
2 of the Interstate Commission on a nonvoting basis prior to adoption of the compact by all states.

3 (3) The Interstate Commission may propose amendments to the compact for enactment by the member
4 states. An amendment may not become effective and binding upon the Interstate Commission and the member
5 states unless it is enacted into law by unanimous consent of the member states.

6 ARTICLE XVI

7 WITHDRAWAL AND DISSOLUTION

8 (1) Once effective, the compact continues in force and remains binding upon each and every member
9 state. However, a member state may withdraw from the compact by specifically repealing the statute that enacted
10 the compact into law.

11 (2) Withdrawal from this compact must be by the enactment of legislation repealing the compact, but may
12 not take effect until 1 year after the effective date of the legislation and until written notice of the withdrawal has
13 been given by the withdrawing state to the governor of each other member state.

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

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

21 (5) Reinstatement following withdrawal of a member state may occur upon the withdrawing state
22 reenacting the compact or upon a later date as determined by the Interstate Commission.

23 (6) (a) This compact dissolves on the date of the withdrawal or default of the member state that reduces
24 the membership in the compact to one member state.

25 (b) Upon the dissolution of this compact, the compact becomes null and void and is of no further force
26 or effect and the business and affairs of the Interstate Commission shall be concluded and surplus funds must
27 be distributed in accordance with the bylaws.

28 ARTICLE XVII

29 SEVERABILITY AND CONSTRUCTION

30 (1) The provisions of this compact are severable, and if any phrase, clause, sentence, or provision is

1 deemed unenforceable, the remaining provisions of the compact are enforceable.

2 (2) The provisions of this compact must be liberally construed to effectuate its purposes.

3 (3) Nothing in this compact may be construed to prohibit the applicability of other interstate compacts
4 to which the states are members.

5 ARTICLE XVIII

6 BINDING EFFECT OF COMPACT AND OTHER LAWS

7 (1) Nothing in this compact prevents the enforcement of any other law of a member state that is not
8 inconsistent with this compact. All member states' laws conflicting with this compact are superseded to the extent
9 of the conflict.

10 (2) All lawful actions of the Interstate Commission, including all rules and bylaws promulgated by the
11 Interstate Commission, are binding upon the member states.

12 (3) All agreements between the Interstate Commission and the member states are binding in accordance
13 with their terms.

14 (4) In the event that any provision of this compact exceeds the constitutional limits imposed on the
15 legislature of any member state, that provision is ineffective to the extent of the conflict with the constitutional
16 provision in question in that member state.

17 - END -