

HOUSE BILL No. 5963

April 9, 2008, Introduced by Reps. Polidori, Opsommer, Pastor, Espinoza, Spade, Clack, Hood, Gonzales, Hopgood, Gillard, Lindberg, Young, Brown, Kathleen Law, Vagnozzi, Constan, Cushingberry, Griffin, Clemente, Robert Jones, Leland, Sheltroun, Rick Jones, Farrah, Hune, Hammel, Virgil Smith, Emmons, Stakoe, Accavitti, Wojno, Byrnes, Bennett, Dean, Sheen, Rocca and Bieda and referred to the Committee on Military and Veterans Affairs and Homeland Security.

A bill entering into the interstate compact on educational opportunity for military children: and for related purposes.

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

1 Sec. 1. The interstate compact on educational opportunity for
2 military children is enacted into law and entered into with all
3 jurisdictions legally joining in the compact, in the form
4 substantially as follows:

5 Interstate Compact on Educational
6 Opportunity for Military Children

7 ARTICLE I

8 PURPOSE

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

1 different construction:

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

6 B. "Children of military families" means: a school-aged
7 child(ren), enrolled in Kindergarten through Twelfth (12th) grade,
8 in the household of an active duty member.

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

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

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

23 F. "Extracurricular activities" means: a voluntary activity
24 sponsored by the school or local education agency or an
25 organization sanctioned by the local education agency.
26 Extracurricular activities include, but are not limited to,
27 preparation for and involvement in public performances, contests,

1 athletic competitions, demonstrations, displays, and club
2 activities.

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

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

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

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

22 K. "Non-member state" means: a state that has not enacted this
23 compact.

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

26 M. "Rule" means: a written statement by the Interstate
27 Commission promulgated pursuant to Article XII of this compact that

1 is of general applicability, implements, interprets or prescribes a
2 policy or provision of the Compact, or an organizational,
3 procedural, or practice requirement of the Interstate Commission,
4 and has the force and effect of statutory law in a member state,
5 and includes the amendment, repeal, or suspension of an existing
6 rule.

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

9 O. "State" means: a state of the United States, the District
10 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
11 Islands, Guam, American Samoa, the Northern Marianas Islands and
12 any other U.S. Territory.

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

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

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

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

27 ARTICLE III

28 APPLICABILITY

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

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

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

1 by the Interstate Commission.

2 D. Kindergarten and First grade entrance age - Students shall
3 be allowed to continue their enrollment at grade level in the
4 receiving state commensurate with their grade level (including
5 Kindergarten) from a local education agency in the sending state at
6 the time of transition, regardless of age. A student that has
7 satisfactorily completed the prerequisite grade level in the local
8 education agency in the sending state shall be eligible for
9 enrollment in the next highest grade level in the receiving state,
10 regardless of age. A student transferring after the start of the
11 school year in the receiving state shall enter the school in the
12 receiving state on their validated level from an accredited school
13 in the sending state.

14 ARTICLE V

15 PLACEMENT & ATTENDANCE

16 A. Course placement - When the student transfers before or
17 during the school year, the receiving state school shall initially
18 honor placement of the student in educational courses based on the
19 student's enrollment in the sending state school and/or educational
20 assessments conducted at the school in the sending state if the
21 courses are offered. Course placement includes but is not limited
22 to Honors, International Baccalaureate, Advanced Placement,
23 vocational, technical and career pathways courses. Continuing the
24 student's academic program from the previous school and promoting
25 placement in academically and career challenging courses should be
26 paramount when considering placement. This does not preclude the
27 school in the receiving state from performing subsequent

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

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

12 C. Special education services - 1) In compliance with the
13 federal requirements of the Individuals with Disabilities Education
14 Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the receiving state
15 shall initially provide comparable services to a student with
16 disabilities based on his/her current Individualized Education
17 Program (IEP); and 2) In compliance with the requirements of
18 Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794, and
19 with Title II of the Americans with Disabilities Act, 42 U.S.C.A.
20 Sections 12131-12165, the receiving state shall make reasonable
21 accommodations and modifications to address the needs of incoming
22 students with disabilities, subject to an existing 504 or Title II
23 Plan, to provide the student with equal access to education. This
24 does not preclude the school in the receiving state from performing
25 subsequent evaluations to ensure appropriate placement of the
26 student.

27 D. Placement flexibility - Local education agency

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

5 E. Absence as related to deployment activities - A student
6 whose parent or 21 legal guardian is an active duty member of the
7 uniformed services, as defined by the compact, and has been called
8 to duty for, is on leave from, or immediately returned from
9 deployment to a combat zone or combat support posting, shall be
10 granted additional excused absences at the discretion of the local
11 education agency superintendent to visit with his or her parent or
12 legal guardian relative to such leave or deployment of the parent
13 or guardian.

14 ARTICLE VI

15 ELIGIBILITY

16 A. Eligibility for enrollment

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

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

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

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

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

9 ARTICLE VII

10 GRADUATION

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

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

22 B. Exit exams - States shall accept: 1) exit or end-of-course
23 exams required for graduation from the sending state; or 2)
24 national norm referenced achievement tests or 3) alternative
25 testing, in lieu of testing requirements for graduation in the
26 receiving state. In the event the above alternatives cannot be
27 accommodated by the receiving state for a student transferring in

1 his or her Senior year, then the provisions of Article VII, Section
2 C shall apply.

3 C. Transfers during Senior year - Should a military student
4 transferring at the beginning or during his or her Senior year be
5 ineligible to graduate from the receiving local education agency
6 after all alternatives have been considered, the sending and
7 receiving local education agencies shall ensure the receipt of a
8 diploma from the sending local education agency, if the student
9 meets the graduation requirements of the sending local education
10 agency. In the event that one of the states in question is not a
11 member of this compact, the member state shall use best efforts to
12 facilitate the on-time graduation of the student in accordance with
13 Sections A and B of this Article.

14 ARTICLE VIII

15 STATE COORDINATION

16 A. Each member state shall, through the creation of a State
17 Council or use of an existing body or board, provide for the
18 coordination among its agencies of government, local education
19 agencies and military installations concerning the state's
20 participation in, and compliance with, this compact and Interstate
21 Commission activities. While each member state may determine the
22 membership of its own State Council, its membership must include at
23 least: the state superintendent of education, superintendent of a
24 school district with a high concentration of military children,
25 representative from a military installation, one representative
26 each from the legislative and executive branches of government, and
27 other offices and stakeholder groups the State Council deems

1 appropriate. A member state that does not have a school district
2 deemed to contain a high concentration of military children may
3 appoint a superintendent from another school district to represent
4 local education agencies on the State Council.

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

9 C. The compact commissioner responsible for the administration
10 and management of the state's participation in the compact shall be
11 appointed by the Governor or as otherwise determined by each member
12 state.

13 D. The compact commissioner and the military family education
14 liaison designated herein shall be ex-officio members of the State
15 Council, unless either is already a full voting member of the State
16 Council.

17 ARTICLE IX

18 INTERSTATE COMMISSION ON EDUCATIONAL

19 OPPORTUNITY FOR MILITARY CHILDREN

20 The member states hereby create the "Interstate Commission on
21 Educational Opportunity for Military Children." The activities of
22 the Interstate Commission are the formation of public policy and
23 are a discretionary state function. The Interstate Commission
24 shall:

25 A. Be a body corporate and joint agency of the member states
26 and shall have all the responsibilities, powers and duties set
27 forth herein, and such additional powers as may be conferred upon

1 it by a subsequent concurrent action of the respective legislatures
2 of the member states in accordance with the terms of this compact.

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

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

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

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

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

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

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

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

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

24 G. Give public notice of all meetings and all meetings shall
25 be open to the public, except as set forth in the rules or as
26 otherwise provided in the compact. The Interstate Commission and
27 its committees may close a meeting, or portion thereof, where it

1 determines by two-thirds vote that an open meeting would be likely
2 to:

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

5 2. Disclose matters specifically exempted from disclosure by
6 federal and state statute;

7 3. Disclose trade secrets or commercial or financial
8 information which is privileged or confidential;

9 4. Involve accusing a person of a crime, or formally censuring
10 a person;

11 5. Disclose information of a personal nature where disclosure
12 would constitute a clearly unwarranted invasion of personal
13 privacy;

14 6. Disclose investigative records compiled for law enforcement
15 purposes; or

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

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

1 closed meeting shall remain under seal, subject to release by a
2 majority vote of the Interstate Commission.

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

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

19 ARTICLE X

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

21 The Interstate Commission shall have the following powers:

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

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

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

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

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

10 F. To purchase and maintain insurance and bonds.

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

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

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

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

27 K. To lease, purchase, accept contributions or donations of,

1 or otherwise to own, hold, improve or use any property, real,
2 personal, or mixed.

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

6 M. To establish a budget and make expenditures.

7 N. To adopt a seal and bylaws governing the management and
8 operation of the Interstate Commission.

9 O. To report annually to the legislatures, governors,
10 judiciary, and state councils of the member states concerning the
11 activities of the Interstate Commission during the preceding year.
12 Such reports shall also include any recommendations that may have
13 been adopted by the Interstate Commission.

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

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

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

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

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

26 ARTICLE XI

27 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

28 A. The Interstate Commission shall, by a majority of the

1 members present and voting, within 12 months after the first
2 Interstate Commission meeting, adopt bylaws to govern its conduct
3 as may be necessary or appropriate to carry out the purposes of the
4 compact, including, but not limited to:

5 1. Establishing the fiscal year of the Interstate Commission;

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

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

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

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

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

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

22 B. The Interstate Commission shall, by a majority of the
23 members, elect annually from among its members a chairperson, a
24 vice-chairperson, and a treasurer, each of whom shall have such
25 authority and duties as may be specified in the bylaws. The
26 chairperson or, in the chairperson's absence or disability, the

1 vice-chairperson, shall preside at all meetings of the Interstate
2 Commission. The officers so elected shall serve without
3 compensation or remuneration from the Interstate Commission;
4 provided that, subject to the availability of budgeted funds, the
5 officers shall be reimbursed for ordinary and necessary costs and
6 expenses incurred by them in the performance of their
7 responsibilities as officers of the Interstate Commission.

8 C. Executive Committee, Officers and Personnel

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

12 a. Managing the affairs of the Interstate Commission in a
13 manner consistent with the bylaws and purposes of the Interstate
14 Commission;

15 b. Overseeing an organizational structure within, and
16 appropriate procedures for the Interstate Commission to provide for
17 the creation of rules, operating procedures, and administrative and
18 technical support functions; and

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

23 3. The executive committee may, subject to the approval of the
24 Interstate Commission, appoint or retain an executive director for
25 such period, upon such terms and conditions and for such
26 compensation, as the Interstate Commission may deem appropriate.
27 The executive director shall serve as secretary to the Interstate

1 Commission, but shall not be a Member of the Interstate Commission.
2 The executive director shall hire and supervise such other persons
3 as may be authorized by the Interstate Commission.

4 D. The Interstate Commission's executive director and its
5 employees shall be immune from suit and liability, either
6 personally or in their official capacity, for a claim for damage to
7 or loss of property or personal injury or other civil liability
8 caused or arising out of or relating to an actual or alleged act,
9 error, or omission that occurred, or that such person had a
10 reasonable basis for believing occurred, within the scope of
11 Interstate Commission employment, duties, or responsibilities;
12 provided, that such person shall not be protected from suit or
13 liability for damage, loss, injury, or liability caused by the
14 intentional or willful and wanton misconduct of such person.

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

26 2. The Interstate Commission shall defend the executive
27 director and its employees and, subject to the approval of the

1 Attorney General or other appropriate legal counsel of the member
2 state represented by an Interstate Commission representative, shall
3 defend such Interstate Commission representative in any civil
4 action seeking to impose liability arising out of an actual or
5 alleged act, error or omission that occurred within the scope of
6 Interstate Commission employment, duties or responsibilities, or
7 that the defendant had a reasonable basis for believing occurred
8 within the scope of Interstate Commission employment, duties, or
9 responsibilities, provided that the actual or alleged act, error,
10 or omission did not result from intentional or willful and wanton
11 misconduct on the part of such person.

12 3. To the extent not covered by the state involved, member
13 state, or the Interstate Commission, the representatives or
14 employees of the Interstate Commission shall be held harmless in
15 the amount of a settlement or judgment, including attorney's fees
16 and costs, obtained against such persons arising out of an actual
17 or alleged act, error, or omission that occurred within the scope
18 of Interstate Commission employment, duties, or responsibilities,
19 or that such persons had a reasonable basis for believing occurred
20 within the scope of Interstate Commission employment, duties, or
21 responsibilities, provided that the actual or alleged act, error,
22 or omission did not result from intentional or willful and wanton
23 misconduct on the part of such persons.

24 ARTICLE XII

25 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

26 A. Rulemaking Authority - The Interstate Commission shall
27 promulgate reasonable rules in order to effectively and efficiently

1 achieve the purposes of this Compact. Notwithstanding the
2 foregoing, in the event the Interstate Commission exercises its
3 rulemaking authority in a manner that is beyond the scope of the
4 purposes of this Act, or the powers granted hereunder, then such an
5 action by the Interstate Commission shall be invalid and have no
6 force or effect.

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

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

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

25 ARTICLE XIII

26 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

27 A. Oversight

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

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

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

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

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

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

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

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

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

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

26 7. The defaulting state may appeal the action of the
27 Interstate Commission by petitioning the U.S. District Court for

1 the District of Columbia or the federal district where the
2 Interstate Commission has its principal offices. The prevailing
3 party shall be awarded all costs of such litigation including
4 reasonable attorney's fees.

5 C. Dispute Resolution

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

10 2. The Interstate Commission shall promulgate a rule providing
11 for both mediation and binding dispute resolution for disputes as
12 appropriate.

13 D. Enforcement

14 1. The Interstate Commission, in the reasonable exercise of
15 its discretion, shall enforce the provisions and rules of this
16 compact.

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

27 3. The remedies herein shall not be the exclusive remedies of

1 the Interstate Commission. The Interstate Commission may avail
2 itself of any other remedies available under state law or the
3 regulation of a profession.

4 ARTICLE XIV

5 FINANCING OF THE INTERSTATE COMMISSION

6 A. The Interstate Commission shall pay, or provide for the
7 payment of the reasonable expenses of its establishment,
8 organization and ongoing activities.

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

17 C. The Interstate Commission shall not incur obligations of
18 any kind prior to securing the funds adequate to meet the same; nor
19 shall the Interstate Commission pledge the credit of any of the
20 member states, except by and with the authority of the member
21 state.

22 D. The Interstate Commission shall keep accurate accounts of
23 all receipts and disbursements. The receipts and disbursements of
24 the Interstate Commission shall be subject to the audit and
25 accounting procedures established under its bylaws. However, all
26 receipts and disbursements of funds handled by the Interstate
27 Commission shall be audited yearly by a certified or licensed

1 public accountant and the report of the audit shall be included in
2 and become part of the annual report of the Interstate Commission.

3 ARTICLE XV

4 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

6 B. The compact shall become effective and binding upon
7 legislative enactment of the compact into law by no less than ten
8 (10) of the states. The effective date shall be no earlier than
9 December 1, 2007. Thereafter it shall become effective and binding
10 as to any other member state upon enactment of the compact into law
11 by that state. The governors of non-member states or their
12 designees shall be invited to participate in the activities of the
13 Interstate Commission on a nonvoting basis prior to adoption of the
14 compact by all states.

15 C. The Interstate Commission may propose amendments to the
16 compact for enactment by the member states. No amendment shall
17 become effective and binding upon the Interstate Commission and the
18 member states unless and until it is enacted into law by unanimous
19 consent of the member states.

20 ARTICLE XVI

21 WITHDRAWAL AND DISSOLUTION

22 A. Withdrawal

23 1. Once effective, the compact shall continue in force and
24 remain binding upon each and every member state; provided that a
25 member state may withdraw from the compact by specifically
26 repealing the statute, which enacted the compact into law.

27 2. Withdrawal from this compact shall be by the enactment of a

1 statute repealing the same, but shall not take effect until one (1)
2 year after the effective date of such statute and until written
3 notice of the withdrawal has been given by the withdrawing state to
4 the Governor of each other member jurisdiction.

5 3. The withdrawing state shall immediately notify the
6 chairperson of the Interstate Commission in writing upon the
7 introduction of legislation repealing this compact in the
8 withdrawing state. The Interstate Commission shall notify the other
9 member states of the withdrawing state's intent to withdraw within
10 sixty (60) days of its receipt thereof.

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

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

18 B. Dissolution of Compact

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

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

27 ARTICLE XVII

28 SEVERABILITY AND CONSTRUCTION

1 Sec. 2. The governor shall appoint this state's representative
2 to the interstate commission on educational opportunity for
3 military children created in section 1.