

Senate Bill 345

By: Senators Harbison of the 15th, Douglas of the 17th, Moody of the 56th, Hooks of the 14th and Seay of the 34th

**AS PASSED**

**A BILL TO BE ENTITLED**

**AN ACT**

1 To amend Title 20 of the Official Code of Georgia Annotated, relating to education, so as to  
 2 adopt the Interstate Compact on Educational Opportunity for Military Children; to provide  
 3 for a short title; to provide for the purpose and policy of said compact; to define the  
 4 terminology used in said compact; to provide for applicability; to provide for educational  
 5 records and enrollment; to provided for placement and attendance; to provide for eligibility;  
 6 to provide for graduation; to provide for state coordination services; to create the Interstate  
 7 Commission on Educational Opportunity for Military Children; to provide for the members  
 8 of the interstate commission and their service; provide for an executive committee and its  
 9 membership and duties; to provide for the powers, duties, organization, and operations of the  
 10 commission; to provide for oversight, enforcement, and dispute resolution; to provide for  
 11 financing of the interstate commission; to provide for member states, effective date, and  
 12 amendments; to provide for withdrawal and dissolution; to provide for binding effect and  
 13 other laws; to provide for other related matters; to repeal conflicting laws; and for other  
 14 purposes.

15 **BE IT ENACTED BY THE GENERAL ASSEMBLY OF GEORGIA:**

16 **SECTION 1.**

17 Title 20 of the Official Code of Georgia Annotated, relating to education, is amended by  
 18 adding at the end a new chapter to read as follows:

19 "CHAPTER 17

20 20-17-1.

21 This chapter shall be known and may be cited as the 'Interstate Compact on Educational  
 22 Opportunity for Military Children.'

1 20-17-2.  
 2 The Interstate Compact on Educational Opportunity for Military Children is enacted into  
 3 law and entered into by the State of Georgia with any and all states legally joining therein  
 4 in the form substantially as follows:

5 Interstate Compact on Educational Opportunity for Military Children

6 The Contracting States solemnly agree that:

7 ARTICLE I

8 PURPOSE

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

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

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

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

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

21 E. Providing for the promulgation and enforcement of administrative rules implementing  
 22 the provisions of this compact.

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

25 G. Promoting coordination between this compact and other compacts affecting military  
 26 children.

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

29 ARTICLE II

30 DEFINITIONS

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

- 1 A. "Active duty" means: full-time duty status in the active uniformed service of the  
2 United States, including members of the National Guard and Reserve on active duty  
3 orders pursuant to 10 U.S.C. Section 1209 and 1211.
- 4 B. "Children of military families" means: a school-aged child(ren), enrolled in  
5 Kindergarten through Twelfth (12th) grade, in the household of an active duty member.
- 6 C. "Compact commissioner" means: the voting representative of each compacting state  
7 appointed pursuant to Article VIII of this compact.
- 8 D. "Deployment" means: the period one (1) month prior to the service members'  
9 departure from their home station on military orders though six (6) months after return  
10 to their home station.
- 11 E. "Education(al) records" means: those official records, files, and data directly related  
12 to a student and maintained by the school or local education agency, including but not  
13 limited to records encompassing all the material kept in the student's cumulative folder  
14 such as general identifying data, records of attendance and of academic work completed,  
15 records of achievement and results of evaluative tests, health data, disciplinary status, test  
16 protocols, and individualized education programs.
- 17 F. "Extracurricular activities" means: a voluntary activity sponsored by the school or  
18 local education agency or an organization sanctioned by the local education agency.  
19 Extracurricular activities include, but are not limited to, preparation for and involvement  
20 in public performances, contests, athletic competitions, demonstrations, displays, and  
21 club activities.
- 22 G. "Interstate Commission on Educational Opportunity for Military Children" means:  
23 the commission that is created under Article IX of this compact, which is generally  
24 referred to as Interstate Commission.
- 25 H. "Local education agency" means: a public authority legally constituted by the state  
26 as an administrative agency to provide control of and direction for Kindergarten through  
27 Twelfth (12th) grade public educational institutions.
- 28 I. "Member state" means: a state that has enacted this compact.
- 29 J. "Military installation" means: means a base, camp, post, station, yard, center,  
30 homeport facility for any ship, or other activity under the jurisdiction of the Department  
31 of Defense, including any leased facility, which is located within any of the several  
32 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin  
33 Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S.  
34 Territory. Such term does not include any facility used primarily for civil works, rivers  
35 and harbors projects, or flood control projects.
- 36 K. "Non-member state" means: a state that has not enacted this compact.

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

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

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

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

14 P. "Student" means: the child of a military family for whom the local education agency  
15 receives public funding and who is formally enrolled in Kindergarten through Twelfth  
16 (12th) grade.

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

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

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

### 25 ARTICLE III

#### 26 APPLICABILITY

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

- 29 1. active duty members of the uniformed services as defined in this compact, including  
30 members of the National Guard and Reserve on active duty orders pursuant to 10  
31 U.S.C. Section 1209 and 1211;
- 32 2. members or veterans of the uniformed services who are severely injured and  
33 medically discharged or retired for a period of one (1) year after medical discharge or  
34 retirement; and

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

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

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

- 6 1. inactive members of the national guard and military reserves;
- 7 2. members of the uniformed services now retired, except as provided in Section A;
- 8 3. veterans of the uniformed services, except as provided in Section A; and
- 9 4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract  
10 employees not defined as active duty members of the uniformed services.

#### 11 ARTICLE IV

#### 12 EDUCATIONAL RECORDS & ENROLLMENT

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

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

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

33 D. Kindergarten and First grade entrance age — Students shall be allowed to continue  
34 their enrollment at grade level in the receiving state commensurate with their grade level  
35 (including Kindergarten) from a local education agency in the sending state at the time

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

## 7 ARTICLE V

### 8 PLACEMENT & ATTENDANCE

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

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

27 C. Special education services — 1) In compliance with the federal requirements of the  
28 Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the  
29 receiving state shall initially provide comparable services to a student with disabilities  
30 based on his/her current Individualized Education Program (IEP); and 2) In compliance  
31 with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794,  
32 and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections  
33 12131-12165, the receiving state shall make reasonable accommodations and  
34 modifications to address the needs of incoming students with disabilities, subject to an  
35 existing 504 or Title II Plan, to provide the student with equal access to education. This

1 does not preclude the school in the receiving state from performing subsequent  
2 evaluations to ensure appropriate placement of the student.

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

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

## 13 ARTICLE VI

### 14 ELIGIBILITY

#### 15 A. Eligibility for enrollment

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

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

23 3. A transitioning military child, placed in the care of a non-custodial parent or other  
24 person standing in loco parentis who lives in a jurisdiction other than that of the  
25 custodial parent, may continue to attend the school in which he/she was enrolled while  
26 residing with the custodial parent.

27 B. Eligibility for extracurricular participation — State and local education agencies shall  
28 facilitate the opportunity for transitioning military children's inclusion in extracurricular  
29 activities, regardless of application deadlines, to the extent they are otherwise qualified.

## 30 ARTICLE VII

### 31 GRADUATION

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

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

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

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

## 21 ARTICLE VIII

### 22 STATE COORDINATION

23 A. Each member state shall, through the creation of a State Council or use of an existing  
 24 body or board, provide for the coordination among its agencies of government, local  
 25 education agencies and military installations concerning the state's participation in, and  
 26 compliance with, this compact and Interstate Commission activities. While each member  
 27 state may determine the membership of its own State Council, its membership must  
 28 include at least: the state superintendent of education, superintendent of a school district  
 29 with a high concentration of military children, representative from a military installation,  
 30 one representative each from the legislative and executive branches of government, and  
 31 other offices and stakeholder groups the State Council deems appropriate. A member  
 32 state that does not have a school district deemed to contain a high concentration of  
 33 military children may appoint a superintendent from another school district to represent  
 34 local education agencies on the State Council.



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

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

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

## 10 ARTICLE IX

### 11 INTERSTATE COMMISSION ON EDUCATIONAL 12 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

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

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

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

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

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

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

24 G. Public notice shall be given by the Interstate Commission of all meetings and all  
25 meetings shall be open to the public, except as set forth in the rules or as otherwise  
26 provided in the compact. The Interstate Commission and its committees may close a  
27 meeting, or portion thereof, where it determines by two-thirds vote that an open meeting  
28 would be likely to:

- 29 1. Relate solely to the Interstate Commission's internal personnel practices and  
30 procedures;
- 31 2. Disclose matters specifically exempted from disclosure by federal and state statute;
- 32 3. Disclose trade secrets or commercial or financial information which is privileged or  
33 confidential;
- 34 4. Involve accusing a person of a crime, or formally censuring a person;
- 35 5. Disclose information of a personal nature where disclosure would constitute a  
36 clearly unwarranted invasion of personal privacy;
- 37 6. Disclose investigative records compiled for law enforcement purposes; or

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

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

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

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

## 25 ARTICLE X

### 26 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

27 The Interstate Commission shall have the following powers:

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

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

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

- 1 D. To enforce compliance with the compact provisions, the rules promulgated by the  
2 Interstate Commission, and the bylaws, using all necessary and proper means, including  
3 but not limited to the use of judicial process.
- 4 E. To establish and maintain offices which shall be located within one or more of the  
5 member states.
- 6 F. To purchase and maintain insurance and bonds.
- 7 G. To borrow, accept, hire or contract for services of personnel.
- 8 H. To establish and appoint committees including, but not limited to, an executive  
9 committee as required by Article IX, Section E, which shall have the power to act on  
10 behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- 11 I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to  
12 fix their compensation, define their duties and determine their qualifications; and to  
13 establish the Interstate Commission's personnel policies and programs relating to  
14 conflicts of interest, rates of compensation, and qualifications of personnel.
- 15 J. To accept any and all donations and grants of money, equipment, supplies, materials,  
16 and services, and to receive, utilize, and dispose of it.
- 17 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,  
18 improve or use any property, real, personal, or mixed.
- 19 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of  
20 any property, real, personal or mixed.
- 21 M. To establish a budget and make expenditures.
- 22 N. To adopt a seal and bylaws governing the management and operation of the Interstate  
23 Commission.
- 24 O. To report annually to the legislatures, governors, judiciary, and state councils of the  
25 member states concerning the activities of the Interstate Commission during the  
26 preceding year. Such reports shall also include any recommendations that may have been  
27 adopted by the Interstate Commission.
- 28 P. To coordinate education, training and public awareness regarding the compact, its  
29 implementation and operation for officials and parents involved in such activity.
- 30 Q. To establish uniform standards for the reporting, collecting and exchanging of data.
- 31 R. To maintain corporate books and records in accordance with the bylaws.
- 32 S. To perform such functions as may be necessary or appropriate to achieve the purposes  
33 of this compact.
- 34 T. To provide for the uniform collection and sharing of information between and among  
35 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.

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

## C. Executive Committee, Officers and Personnel

1. The executive committee shall have such authority and duties as may be set forth in the bylaws, including but not limited to:
  - a. Managing the affairs of the Interstate Commission in a manner consistent with the bylaws and purposes of the Interstate Commission;
  - b. Overseeing an organizational structure within, and appropriate procedures for the Interstate Commission to provide for the creation of rules, operating procedures, and administrative and technical support functions; and

1 c. Planning, implementing, and coordinating communications and activities with  
2 other state, federal and local government organizations in order to advance the goals  
3 of the Interstate Commission.

4 3. The executive committee may, subject to the approval of the Interstate Commission,  
5 appoint or retain an executive director for such period, upon such terms and conditions  
6 and for such compensation, as the Interstate Commission may deem appropriate. The  
7 executive director shall serve as secretary to the Interstate Commission, but shall not  
8 be a Member of the Interstate Commission. The executive director shall hire and  
9 supervise such other persons as may be authorized by the Interstate Commission.

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

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

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

1 3. To the extent not covered by the state involved, member state, or the Interstate  
2 Commission, the representatives or employees of the Interstate Commission shall be  
3 held harmless in the amount of a settlement or judgment, including attorney's fees and  
4 costs, obtained against such persons arising out of an actual or alleged act, error, or  
5 omission that occurred within the scope of Interstate Commission employment, duties,  
6 or responsibilities, or that such persons had a reasonable basis for believing occurred  
7 within the scope of Interstate Commission employment, duties, or responsibilities,  
8 provided that the actual or alleged act, error, or omission did not result from intentional  
9 or willful and wanton misconduct on the part of such persons.

## 10 ARTICLE XII

### 11 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

## ARTICLE XIII

## OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

## A. Oversight

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

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

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

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

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

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

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

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



1 5. The state which has been suspended or terminated is responsible for all assessments,  
2 obligations and liabilities incurred through the effective date of suspension or  
3 termination including obligations, the performance of which extends beyond the  
4 effective date of suspension or termination.

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

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

### 13 C. Dispute Resolution

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

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

### 19 D. Enforcement

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

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

30 3. The remedies herein shall not be the exclusive remedies of the Interstate  
31 Commission. The Interstate Commission may avail itself of any other remedies  
32 available under state law or the regulation of a profession.

## ARTICLE XIV

## FINANCING OF THE INTERSTATE COMMISSION

1  
2  
3 A. The Interstate Commission shall pay, or provide for the payment of the reasonable  
4 expenses of its establishment, organization and ongoing activities.

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

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

14 D. The Interstate Commission shall keep accurate accounts of all receipts and  
15 disbursements. The receipts and disbursements of the Interstate Commission shall be  
16 subject to the audit and accounting procedures established under its bylaws. However,  
17 all receipts and disbursements of funds handled by the Interstate Commission shall be  
18 audited yearly by a certified or licensed public accountant and the report of the audit shall  
19 be included in and become part of the annual report of the Interstate Commission.

## ARTICLE XV

## MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

20  
21  
22 A. Any state is eligible to become a member state.

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

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

- 1 B. The provisions of this compact shall be liberally construed to effectuate its purposes.  
2 C. Nothing in this compact shall be construed to prohibit the applicability of other  
3 interstate compacts to which the states are members.

4 **ARTICLE XVIII**

5 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

6 **A. Other Laws**

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

11 **B. Binding Effect of the Compact**

- 12 1. All lawful actions of the Interstate Commission, including all rules and bylaws  
13 promulgated by the Interstate Commission, are binding upon the member states.  
14 2. All agreements between the Interstate Commission and the member states are  
15 binding in accordance with their terms.  
16 3. In the event any provision of this compact exceeds the constitutional limits imposed  
17 on the legislature of any member state, such provision shall be ineffective to the extent  
18 of the conflict with the constitutional provision in question in that member state."

19 **SECTION 2.**

20 All laws and parts of laws in conflict with this Act are repealed.