

Senate Bill 137

By: Senator Harbison of the 15th

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 style="text-align:center">**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 style="text-align:center">"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.'

23 20-17-2.
 24 The Interstate Compact on Educational Opportunity for Military Children is enacted into
 25 law and entered into by the State of Georgia with any and all states legally joining therein
 26 in the form substantially as follows:

27 Interstate Compact on Educational Opportunity for Military Children

28 The Contracting States solemnly agree that:

29 ARTICLE I

30 PURPOSE

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

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

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

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

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

43 E. Providing for the promulgation and enforcement of administrative rules implementing
 44 the provisions of this compact.

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

47 G. Promoting coordination between this compact and other compacts affecting military
 48 children.

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

51 ARTICLE II

52 DEFINITIONS

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

- 54 A. "Active duty" means: full-time duty status in the active uniformed service of the
55 United States, including members of the National Guard and Reserve on active duty
56 orders pursuant to 10 U.S.C. Section 1209 and 1211.
- 57 B. "Children of military families" means: a school-aged child(ren), enrolled in
58 Kindergarten through Twelfth (12th) grade, in the household of an active duty member.
- 59 C. "Compact commissioner" means: the voting representative of each compacting state
60 appointed pursuant to Article VIII of this compact.
- 61 D. "Deployment" means: the period one (1) month prior to the service members'
62 departure from their home station on military orders though six (6) months after return
63 to their home station.
- 64 E. "Education(al) records" means: those official records, files, and data directly related
65 to a student and maintained by the school or local education agency, including but not
66 limited to records encompassing all the material kept in the student's cumulative folder
67 such as general identifying data, records of attendance and of academic work completed,
68 records of achievement and results of evaluative tests, health data, disciplinary status, test
69 protocols, and individualized education programs.
- 70 F. "Extracurricular activities" means: a voluntary activity sponsored by the school or
71 local education agency or an organization sanctioned by the local education agency.
72 Extracurricular activities include, but are not limited to, preparation for and involvement
73 in public performances, contests, athletic competitions, demonstrations, displays, and
74 club activities.
- 75 G. "Interstate Commission on Educational Opportunity for Military Children" means:
76 the commission that is created under Article IX of this compact, which is generally
77 referred to as Interstate Commission.
- 78 H. "Local education agency" means: a public authority legally constituted by the state
79 as an administrative agency to provide control of and direction for Kindergarten through
80 Twelfth (12th) grade public educational institutions.
- 81 I. "Member state" means: a state that has enacted this compact.
- 82 J. "Military installation" means: a base, camp, post, station, yard, center, homeport
83 facility for any ship, or other activity under the jurisdiction of the Department of
84 Defense, including any leased facility, which is located within any of the several States,
85 the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
86 Guam, American Samoa, the Northern Marianas Islands and any other U.S. Territory.
87 Such term does not include any facility used primarily for civil works, rivers and harbors
88 projects, or flood control projects.
- 89 K. "Non-member state" means: a state that has not enacted this compact.

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

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

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

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

103 P. "Student" means: the child of a military family for whom the local education agency
 104 receives public funding and who is formally enrolled in Kindergarten through Twelfth
 105 (12th) grade.

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

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

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

114 ARTICLE III

115 APPLICABILITY

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

118 1. active duty members of the uniformed services as defined in this compact, including
 119 members of the National Guard and Reserve on active duty orders pursuant to 10
 120 U.S.C. Section 1209 and 1211;

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

- 124 3. members of the uniformed services who die on active duty or as a result of injuries
 125 sustained on active duty for a period of one (1) year after death.
- 126 B. The provisions of this interstate compact shall only apply to local education agencies
 127 as defined in this compact.
- 128 C. The provisions of this compact shall not apply to the children of:
- 129 1. inactive members of the national guard and military reserves;
 130 2. members of the uniformed services now retired, except as provided in Section A;
 131 3. veterans of the uniformed services, except as provided in Section A; and
 132 4. other U.S. Dept. of Defense personnel and other federal agency civilian and contract
 133 employees not defined as active duty members of the uniformed services.

134 ARTICLE IV

135 EDUCATIONAL RECORDS & ENROLLMENT

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

159 of transition, regardless of age. A student that has satisfactorily completed the
160 prerequisite grade level in the local education agency in the sending state shall be eligible
161 for enrollment in the next highest grade level in the receiving state, regardless of age. A
162 student transferring after the start of the school year in the receiving state shall enter the
163 school in the receiving state on their validated level from an accredited school in the
164 sending state.

165 ARTICLE V

166 PLACEMENT & ATTENDANCE

167 A. Course placement — When the student transfers before or during the school year, the
168 receiving state school shall initially honor placement of the student in educational courses
169 based on the student's enrollment in the sending state school and/or educational
170 assessments conducted at the school in the sending state if the courses are offered.
171 Course placement includes but is not limited to Honors, International Baccalaureate,
172 Advanced Placement, vocational, technical and career pathways courses. Continuing the
173 student's academic program from the previous school and promoting placement in
174 academically and career challenging courses should be paramount when considering
175 placement. This does not preclude the school in the receiving state from performing
176 subsequent evaluations to ensure appropriate placement and continued enrollment of the
177 student in the course(s).

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

185 C. Special education services — 1) In compliance with the federal requirements of the
186 Individuals with Disabilities Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the
187 receiving state shall initially provide comparable services to a student with disabilities
188 based on his/her current Individualized Education Program (IEP); and 2) In compliance
189 with the requirements of Section 504 of the Rehabilitation Act, 29 U.S.C.A. Section 794,
190 and with Title II of the Americans with Disabilities Act, 42 U.S.C.A. Sections
191 12131-12165, the receiving state shall make reasonable accommodations and
192 modifications to address the needs of incoming students with disabilities, subject to an
193 existing 504 or Title II Plan, to provide the student with equal access to education. This

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

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

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

206 ARTICLE VI

207 ELIGIBILITY

208 A. Eligibility for enrollment

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

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

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

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

223 ARTICLE VII

224 GRADUATION

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

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

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

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

247 ARTICLE VIII

248 STATE COORDINATION

249 A. Each member state shall, through the creation of a State Council or use of an existing
 250 body or board, provide for the coordination among its agencies of government, local
 251 education agencies and military installations concerning the state's participation in, and
 252 compliance with, this compact and Interstate Commission activities. While each member
 253 state may determine the membership of its own State Council, its membership must
 254 include at least: the state superintendent of education, superintendent of a school district
 255 with a high concentration of military children, representative from a military installation,
 256 one representative each from the legislative and executive branches of government, and
 257 other offices and stakeholder groups the State Council deems appropriate. A member
 258 state that does not have a school district deemed to contain a high concentration of
 259 military children may appoint a superintendent from another school district to represent
 260 local education agencies on the State Council.

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

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

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

270 ARTICLE IX

271 INTERSTATE COMMISSION ON EDUCATIONAL 272 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

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

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

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

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

303 E. Establish an executive committee, whose members shall include the officers of the
304 Interstate Commission and such other members of the Interstate Commission as
305 determined by the bylaws. Members of the executive committee shall serve a one year
306 term. Members of the executive committee shall be entitled to one vote each. The
307 executive committee shall have the power to act on behalf of the Interstate Commission,
308 with the exception of rulemaking, during periods when the Interstate Commission is not
309 in session. The executive committee shall oversee the day-to-day activities of the
310 administration of the compact including enforcement and compliance with the provisions
311 of the compact, its bylaws and rules, and other such duties as deemed necessary. The
312 U.S. Dept. of Defense, shall serve as an ex-officio, nonvoting member of the executive
313 committee.

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

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

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

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

327 3. Disclose trade secrets or commercial or financial information which is privileged or
328 confidential;

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

330 5. Disclose information of a personal nature where disclosure would constitute a
331 clearly unwarranted invasion of personal privacy;

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

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

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

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

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

357 ARTICLE X

358 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

359 The Interstate Commission shall have the following powers:

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

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

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

- 367 D. To enforce compliance with the compact provisions, the rules promulgated by the
368 Interstate Commission, and the bylaws, using all necessary and proper means, including
369 but not limited to the use of judicial process.
- 370 E. To establish and maintain offices which shall be located within one or more of the
371 member states.
- 372 F. To purchase and maintain insurance and bonds.
- 373 G. To borrow, accept, hire or contract for services of personnel.
- 374 H. To establish and appoint committees including, but not limited to, an executive
375 committee as required by Article IX, Section E, which shall have the power to act on
376 behalf of the Interstate Commission in carrying out its powers and duties hereunder.
- 377 I. To elect or appoint such officers, attorneys, employees, agents, or consultants, and to
378 fix their compensation, define their duties and determine their qualifications; and to
379 establish the Interstate Commission's personnel policies and programs relating to conflicts
380 of interest, rates of compensation, and qualifications of personnel.
- 381 J. To accept any and all donations and grants of money, equipment, supplies, materials,
382 and services, and to receive, utilize, and dispose of it.
- 383 K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,
384 improve or use any property, real, personal, or mixed.
- 385 L. To sell, convey, mortgage, pledge, lease, exchange, abandon, or otherwise dispose of
386 any property, real, personal or mixed.
- 387 M. To establish a budget and make expenditures.
- 388 N. To adopt a seal and bylaws governing the management and operation of the Interstate
389 Commission.
- 390 O. To report annually to the legislatures, governors, judiciary, and state councils of the
391 member states concerning the activities of the Interstate Commission during the
392 preceding year. Such reports shall also include any recommendations that may have been
393 adopted by the Interstate Commission.
- 394 P. To coordinate education, training and public awareness regarding the compact, its
395 implementation and operation for officials and parents involved in such activity.
- 396 Q. To establish uniform standards for the reporting, collecting and exchanging of data.
- 397 R. To maintain corporate books and records in accordance with the bylaws.
- 398 S. To perform such functions as may be necessary or appropriate to achieve the purposes
399 of this compact.
- 400 T. To provide for the uniform collection and sharing of information between and among
401 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

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

441 3. The executive committee may, subject to the approval of the Interstate Commission,
442 appoint or retain an executive director for such period, upon such terms and conditions
443 and for such compensation, as the Interstate Commission may deem appropriate. The
444 executive director shall serve as secretary to the Interstate Commission, but shall not
445 be a Member of the Interstate Commission. The executive director shall hire and
446 supervise such other persons as may be authorized by the Interstate Commission.

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

455 1. The liability of the Interstate Commission's executive director and employees or
456 Interstate Commission representatives, acting within the scope of such person's
457 employment or duties for acts, errors, or omissions occurring within such person's state
458 may not exceed the limits of liability set forth under the Constitution and laws of that
459 state for state officials, employees, and agents. The Interstate Commission is
460 considered to be an instrumentality of the states for the purposes of any such action.
461 Nothing in this subsection shall be construed to protect such person from suit or
462 liability for damage, loss, injury, or liability caused by the intentional or willful and
463 wanton misconduct of such person.

464 2. The Interstate Commission shall defend the executive director and its employees
465 and, subject to the approval of the Attorney General or other appropriate legal counsel
466 of the member state represented by an Interstate Commission representative, shall
467 defend such Interstate Commission representative in any civil action seeking to impose
468 liability arising out of an actual or alleged act, error or omission that occurred within
469 the scope of Interstate Commission employment, duties or responsibilities, or that the
470 defendant had a reasonable basis for believing occurred within the scope of Interstate
471 Commission employment, duties, or responsibilities, provided that the actual or alleged
472 act, error, or omission did not result from intentional or willful and wanton misconduct
473 on the part of such person.

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

483 ARTICLE XII

484 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

505

ARTICLE XIII

506

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

507

A. Oversight

508

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.

509

510

511

512

513

514

515

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.

516

517

518

519

520

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.

521

522

523

524

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:

525

526

527

528

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.

529

530

531

532

533

534

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.

535

536

537

538

539

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.

540 5. The state which has been suspended or terminated is responsible for all assessments,
541 obligations and liabilities incurred through the effective date of suspension or
542 termination including obligations, the performance of which extends beyond the
543 effective date of suspension or termination.

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

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

552 C. Dispute Resolution

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

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

558 D. Enforcement

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

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

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

572

ARTICLE XIV

573

FINANCING OF THE INTERSTATE COMMISSION

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

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

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

585 D. The Interstate Commission shall keep accurate accounts of all receipts and
586 disbursements. The receipts and disbursements of the Interstate Commission shall be
587 subject to the audit and accounting procedures established under its bylaws. However,
588 all receipts and disbursements of funds handled by the Interstate Commission shall be
589 audited yearly by a certified or licensed public accountant and the report of the audit shall
590 be included in and become part of the annual report of the Interstate Commission.

591

ARTICLE XV

592

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

601 C. The Interstate Commission may propose amendments to the compact for enactment
602 by the member states. No amendment shall become effective and binding upon the
603 Interstate Commission and the member states unless and until it is enacted into law by
604 unanimous consent of the member states.

605

ARTICLE XVI

606

WITHDRAWAL AND DISSOLUTION

607

A. Withdrawal

608

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.

609

610

611

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.

612

613

614

615

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.

616

617

618

619

620

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.

621

622

623

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.

624

625

626

B. Dissolution of Compact

627

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.

628

629

630

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.

631

632

633

634

ARTICLE XVII

635

SEVERABILITY AND CONSTRUCTION

636

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.

637

638

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

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

642 ARTICLE XVIII

643 BINDING EFFECT OF COMPACT AND OTHER LAWS

644 A. Other Laws

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

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

649 B. Binding Effect of the Compact

650 1. All lawful actions of the Interstate Commission, including all rules and bylaws
651 promulgated by the Interstate Commission, are binding upon the member states.

652 2. All agreements between the Interstate Commission and the member states are
653 binding in accordance with their terms.

654 3. In the event any provision of this compact exceeds the constitutional limits imposed
655 on the legislature of any member state, such provision shall be ineffective to the extent
656 of the conflict with the constitutional provision in question in that member state."

657 **SECTION 2.**

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