



General Assembly

Substitute Bill No. 5545

February Session, 2008

* _____HB05545ED_____031908_____*

**AN ACT CONCERNING THE INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.**

Be it enacted by the Senate and House of Representatives in General Assembly convened:

1 Section 1. (NEW) (*Effective from passage*) Interstate Compact on
2 Educational Opportunity for Military Children.

3 ARTICLE I

4 PURPOSE

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

8 A. Facilitating the timely enrollment of children of military families
9 and ensuring that they are not placed at a disadvantage due to
10 difficulty in the transfer of education records from the previous school
11 districts or variations in entrance or age requirements.

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

16 C. Facilitating the qualification and eligibility for enrollment,

17 educational programs, and participation in extracurricular academic,
18 athletic, and social activities.

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

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

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

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

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

31 ARTICLE II

32 DEFINITIONS

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

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

39 B. "Children of military families" means school-aged children,
40 enrolled in kindergarten through twelfth grade, in the household of an
41 active duty member.

42 C. "Compact commissioner" means the voting representative of each
43 compacting state appointed pursuant to Article VIII of this compact.

44 D. "Deployment" means the period one month prior to the service
45 members' departure from their home station on military orders to six
46 months after return to their home station.

47 E. "Educational records" means the official records, files, and data
48 directly related to a student and maintained by the school or local
49 education agency, including, but not limited, to records encompassing
50 all the material kept in the student's cumulative folder such as general
51 identifying data, records of attendance and of academic work
52 completed, records of achievement and results of evaluative tests,
53 health data, disciplinary status, test protocols and individualized
54 education programs.

55 F. "Extracurricular activities" means a voluntary activity sponsored
56 by the school or local education agency or an organization sanctioned
57 by the local education agency. Extracurricular activities include, but
58 are not limited to, preparation for and involvement in public
59 performances, contests, athletic competitions, demonstrations, displays
60 and club activities.

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

64 H. "Local education agency" means a public authority legally
65 constituted by the state as an administrative agency to provide control
66 of and direction for kindergarten through twelfth grade public
67 educational institutions.

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

69 J. "Military installation" means a base, camp, post, station, yard,
70 center, homeport facility for any ship, or other activity under the
71 jurisdiction of the Department of Defense, including any leased
72 facility, which is located within any of the several states, the District of
73 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
74 Guam, American Samoa, the Northern Marianas Islands and any other

75 U.S. Territory. Such term does not include any facility used primarily
76 for civil works, rivers and harbors projects, or flood control projects.

77 K. "Nonmember state" means a state that has not enacted this
78 compact.

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

81 M. "Rule" means a written statement by the Interstate Commission
82 promulgated pursuant to Article XII of this compact that is of general
83 applicability, implements, interprets or prescribes a policy or provision
84 of the Compact, or an organizational, procedural or practice
85 requirement of the Interstate Commission, and has the force and effect
86 of statutory law in a member state, and includes the amendment,
87 repeal or suspension of an existing rule.

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

90 O. "State" means a state of the United States, the District of
91 Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin Islands,
92 Guam, American Samoa, the Northern Marianas Islands and any other
93 U.S. territory.

94 P. "Student" means the child of a military family for whom the local
95 education agency receives public funding and who is formally enrolled
96 in kindergarten through twelfth grade.

97 Q. "Transition" means (1) the formal and physical process of
98 transferring from school to school, or (2) the period of time in which a
99 student moves from one school in the sending state to another school
100 in the receiving state.

101 R. "Uniformed services" means the Army, Navy, Air Force, Marine
102 Corps, Coast Guard as well as the Commissioned Corps of the
103 National Oceanic and Atmospheric Administration, and Public Health
104 Services.

105 S. "Veteran" means a person who served in the uniformed services
106 and who was discharged or released therefrom under conditions other
107 than dishonorable.

108 ARTICLE III

109 APPLICABILITY

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

112 1. Active duty members of the uniformed services as defined in this
113 compact, including members of the National Guard and Reserve on
114 active duty orders pursuant to 10 USC Section 1209 and 1211;

115 2. Members or veterans of the uniformed services who are severely
116 injured and medically discharged or retired for a period of one year
117 after medical discharge or retirement; and

118 3. Members of the uniformed services who die on active duty or as a
119 result of injuries sustained on active duty for a period of one year after
120 death.

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

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

124 1. Inactive members of the national guard and military reserves;

125 2. Members of the uniformed services now retired, except as
126 provided in Section A;

127 3. Veterans of the uniformed services, except as provided in Section
128 A of this Article; and

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

132 ARTICLE IV

133 EDUCATIONAL RECORDS & ENROLLMENT

134 A. In the event that official education records cannot be released to
135 the parents for the purpose of transfer, the custodian of the records in
136 the sending state shall prepare and furnish to the parent a complete set
137 of unofficial educational records containing uniform information as
138 determined by the Interstate Commission. Upon receipt of the
139 unofficial education records by a school in the receiving state, the
140 school shall enroll and appropriately place the student based on the
141 information provided in the unofficial records pending validation by
142 the official records, as quickly as possible.

143 B. Simultaneous with the enrollment and conditional placement of
144 the student, the school in the receiving state shall request the student's
145 official education record from the school in the sending state. Upon
146 receipt of this request, the school in the sending state will process and
147 furnish the official education records to the school in the receiving
148 state within ten days or within such time as is reasonably determined
149 under the rules promulgated by the Interstate Commission.

150 C. Compacting states shall give thirty days from the date of
151 enrollment or within such time as is reasonably determined under the
152 rules promulgated by the Interstate Commission, for students to obtain
153 any immunizations required by the receiving state. For a series of
154 immunizations, initial vaccinations must be obtained within thirty
155 days or within such time as is reasonably determined under the rules
156 promulgated by the Interstate Commission.

157 D. Students shall be allowed to continue their enrollment at grade
158 level in the receiving state commensurate with their grade level,
159 including kindergarten, from a local education agency in the sending
160 state at the time of transition, regardless of age. A student that has
161 satisfactorily completed the prerequisite grade level in the local
162 education agency in the sending state shall be eligible for enrollment in
163 the next highest grade level in the receiving state, regardless of age. A

164 student transferring after the start of the school year in the receiving
165 state shall enter the school in the receiving state on their validated
166 level from an accredited school in the sending state.

167 ARTICLE V

168 PLACEMENT & ATTENDANCE

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

182 B. The receiving state school shall initially honor placement of the
183 student in educational programs based on current educational
184 assessments conducted at the school in the sending state or
185 participation and placement in like programs in the sending state.
186 Such programs include, but are not limited to: (1) Gifted and talented
187 programs; and (2) English as a second language. This does not
188 preclude the school in the receiving state from performing subsequent
189 evaluations to ensure appropriate placement of the student.

190 C. (1) In compliance with the federal requirements of the
191 Individuals with Disabilities Education Act, 20 U.S.C.A. Section 1400 et
192 seq, the receiving state shall initially provide comparable services to a
193 student with disabilities based on his current Individualized Education
194 Program; and (2) In compliance with the requirements of Section 504 of
195 the Rehabilitation Act, 29 U.S.C.A. Section 794, and with Title II of the

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

203 D. Local education agency administrative officials shall have
204 flexibility in waiving course and program prerequisites, or other
205 preconditions for placement in courses and programs offered under
206 the jurisdiction of the local education agency.

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

215 ARTICLE VI

216 ELIGIBILITY

217 A. Eligibility for enrollment

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

222 2. A local education agency shall be prohibited from charging local
223 tuition to a transitioning military child placed in the care of a
224 noncustodial parent or other person standing in loco parentis who
225 lives in a jurisdiction other than that of the custodial parent.

226 3. A transitioning military child, placed in the care of a noncustodial
227 parent or other person standing in loco parentis who lives in a
228 jurisdiction other than that of the custodial parent, may continue to
229 attend the school in which he was enrolled while residing with the
230 custodial parent.

231 B. State and local education agencies shall facilitate the opportunity
232 for transitioning military children's inclusion in extracurricular
233 activities, regardless of application deadlines, to the extent they are
234 otherwise qualified.

235 ARTICLE VII

236 GRADUATION

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

240 A. Local education agency administrative officials shall waive
241 specific courses required for graduation if similar course work has
242 been satisfactorily completed in another local education agency or
243 shall provide reasonable justification for denial. Should a waiver not
244 be granted to a student who would qualify to graduate from the
245 sending school, the local education agency shall provide an alternative
246 means of acquiring required coursework so that graduation may occur
247 on time.

248 B. States shall accept: (1) Exit or end-of-course exams required for
249 graduation from the sending state; or (2) national norm-referenced
250 achievement tests; or (3) alternative testing, in lieu of testing
251 requirements for graduation in the receiving state. In the event the
252 above alternatives cannot be accommodated by the receiving state for a
253 student transferring in his senior year, then the provisions of Article
254 VII, Section C shall apply.

255 C. Should a military student transferring at the beginning or during

256 his or her senior year be ineligible to graduate from the receiving local
257 education agency after all alternatives have been considered, the
258 sending and receiving local education agencies shall ensure the receipt
259 of a diploma from the sending local education agency, if the student
260 meets the graduation requirements of the sending local education
261 agency. In the event that one of the states in question is not a member
262 of this compact, the member state shall use best efforts to facilitate the
263 on-time graduation of the student in accordance with Sections A and B
264 of this Article.

265 ARTICLE VIII

266 STATE COORDINATION

267 A. Each member state shall, through the creation of a State Council
268 or use of an existing body or board, provide for the coordination
269 among its agencies of government, local education agencies and
270 military installations concerning the state's participation in, and
271 compliance with, this compact and Interstate Commission activities.
272 While each member state may determine the membership of its own
273 State Council, its membership must include at least: The state
274 superintendent of education, superintendent of a school district with a
275 high concentration of military children, representative from a military
276 installation, one representative each from the legislative and executive
277 branches of government, and other offices and stakeholder groups the
278 State Council deems appropriate. A member state that does not have a
279 school district deemed to contain a high concentration of military
280 children may appoint a superintendent from another school district to
281 represent local education agencies on the State Council.

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

285 C. The compact commissioner responsible for the administration
286 and management of the state's participation in the compact shall be
287 appointed by the Governor or as otherwise determined by each

288 member state.

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

293 ARTICLE IX

294 INTERSTATE COMMISSION ON EDUCATIONAL

295 OPPORTUNITY FOR MILITARY CHILDREN

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

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

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

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

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

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

316 specified meeting.

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

320 C. Consist of ex-officio, nonvoting representatives who are members
321 of interested organizations. Such ex-officio members, as defined in the
322 bylaws, may include, but not be limited to, members of the
323 representative organizations of military family advocates, local
324 education agency officials, parent and teacher groups, the U.S.
325 Department of Defense, the Education Commission of the States, the
326 Interstate Agreement on the Qualification of Educational Personnel
327 and other interstate compacts affecting the education of children of
328 military members.

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

332 E. Establish an executive committee, whose members shall include
333 the officers of the Interstate Commission and such other members of
334 the Interstate Commission as determined by the bylaws. Members of
335 the executive committee shall serve a one-year term. Members of the
336 executive committee shall be entitled to one vote each. The executive
337 committee shall have the power to act on behalf of the Interstate
338 Commission, with the exception of rulemaking, during periods when
339 the Interstate Commission is not in session. The executive committee
340 shall oversee the day-to-day activities of the administration of the
341 compact including enforcement and compliance with the provisions of
342 the compact, its bylaws and rules, and other such duties as deemed
343 necessary. The U.S. Dept. of Defense, shall serve as an ex-officio,
344 nonvoting member of the executive committee.

345 F. Establish bylaws and rules that provide for conditions and
346 procedures under which the Interstate Commission shall make its
347 information and official records available to the public for inspection

348 or copying. The Interstate Commission may exempt from disclosure
349 information or official records to the extent they would adversely
350 affect personal privacy rights or proprietary interests.

351 G. Give public notice of all meetings and all meetings shall be open
352 to the public, except as set forth in the rules or as otherwise provided
353 in the compact. The Interstate Commission and its committees may
354 close a meeting, or portion thereof, where it determines by two-thirds
355 vote that an open meeting would be likely to:

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

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

360 3. Disclose trade secrets or commercial or financial information
361 which is privileged or confidential;

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

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

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

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

370 H. Cause its legal counsel or designee to certify that a meeting may
371 be closed and shall reference each relevant exemptible provision for
372 any meeting, or portion of a meeting, which is closed pursuant to this
373 provision. The Interstate Commission shall keep minutes which shall
374 fully and clearly describe all matters discussed in a meeting and shall
375 provide a full and accurate summary of actions taken, and the reasons
376 therefore, including a description of the views expressed and the

377 record of a roll call vote. All documents considered in connection with
378 an action shall be identified in such minutes. All minutes and
379 documents of a closed meeting shall remain under seal, subject to
380 release by a majority vote of the Interstate Commission.

381 I. Collect standardized data concerning the educational transition of
382 the children of military families under this compact as directed
383 through its rules which shall specify the data to be collected, the means
384 of collection and data exchange and reporting requirements. Such
385 methods of data collection, exchange and reporting shall, in so far as is
386 reasonably possible, conform to current technology and coordinate its
387 information functions with the appropriate custodian of records as
388 identified in the bylaws and rules.

389 J. Create a process that permits military officials, education officials
390 and parents to inform the Interstate Commission if and when there are
391 alleged violations of the compact or its rules or when issues subject to
392 the jurisdiction of the compact or its rules are not addressed by the
393 state or local education agency. This section shall not be construed to
394 create a private right of action against the Interstate Commission or
395 any member state.

396 ARTICLE X

397 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

398 The Interstate Commission shall have the following powers:

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

400 B. To promulgate rules and take all necessary actions to effect the
401 goals, purposes and obligations as enumerated in this compact. The
402 rules shall have the force and effect of statutory law and shall be
403 binding in the compact states to the extent and in the manner provided
404 in this compact.

405 C. To issue, upon request of a member state, advisory opinions
406 concerning the meaning or interpretation of the interstate compact, its

407 bylaws, rules and actions.

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

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

414 F. To purchase and maintain insurance and bonds.

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

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

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

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

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

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

433 M. To establish a budget and make expenditures.

434 N. To adopt a seal and bylaws governing the management and

435 operation of the Interstate Commission.

436 O. To report annually to the legislatures, governors, judiciary, and
437 state councils of the member states concerning the activities of the
438 Interstate Commission during the preceding year. Such reports shall
439 also include any recommendations that may have been adopted by the
440 Interstate Commission.

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

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

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

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

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

453 ARTICLE XI

454 ORGANIZATION AND OPERATION OF THE INTERSTATE
455 COMMISSION

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

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

462 2. Establishing an executive committee, and such other committees

463 as may be necessary;

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

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

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

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

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

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

488 C. Executive Committee, Officers and Personnel

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

491 a. Managing the affairs of the Interstate Commission in a manner

492 consistent with the bylaws and purposes of the Interstate Commission;

493 b. Overseeing an organizational structure within, and appropriate
494 procedures for the Interstate Commission to provide for the creation of
495 rules, operating procedures, and administrative and technical support
496 functions; and

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

500 2. The executive committee may, subject to the approval of the
501 Interstate Commission, appoint or retain an executive director for such
502 period, upon such terms and conditions and for such compensation, as
503 the Interstate Commission may deem appropriate. The executive
504 director shall serve as secretary to the Interstate Commission, but shall
505 not be a member of the Interstate Commission. The executive director
506 shall hire and supervise such other persons as may be authorized by
507 the Interstate Commission.

508 D. The Interstate Commission's executive director and its employees
509 shall be immune from suit and liability, either personally or in their
510 official capacity, for a claim for damage to or loss of property or
511 personal injury or other civil liability caused or arising out of or
512 relating to an actual or alleged act, error, or omission that occurred, or
513 that such person had a reasonable basis for believing occurred, within
514 the scope of Interstate Commission employment, duties, or
515 responsibilities provided, such person shall not be protected from suit
516 or liability for damage, loss, injury, or liability caused by the
517 intentional or willful and wanton misconduct of such person.

518 1. The liability of the Interstate Commission's executive director and
519 employees or Interstate Commission representatives, acting within the
520 scope of such person's employment or duties for acts, errors, or
521 omissions occurring within such person's state may not exceed the
522 limits of liability set forth under the Constitution and laws of that state
523 for state officials, employees, and agents. The Interstate Commission is

524 considered to be an instrumentality of the states for the purposes of
525 any such action. Nothing in this subsection shall be construed to
526 protect such person from suit or liability for damage, loss, injury, or
527 liability caused by the intentional or willful and wanton misconduct of
528 such person.

529 2. The Interstate Commission shall defend the executive director
530 and its employees and, subject to the approval of the Attorney General
531 or other appropriate legal counsel of the member state represented by
532 an Interstate Commission representative, shall defend such Interstate
533 Commission representative in any civil action seeking to impose
534 liability arising out of an actual or alleged act, error or omission that
535 occurred within the scope of Interstate Commission employment,
536 duties or responsibilities, or that the defendant had a reasonable basis
537 for believing occurred within the scope of Interstate Commission
538 employment, duties, or responsibilities, provided that the actual or
539 alleged act, error, or omission did not result from intentional or willful
540 and wanton misconduct on the part of such person.

541 3. To the extent not covered by the state involved, member state, or
542 the Interstate Commission, the representatives or employees of the
543 Interstate Commission shall be held harmless in the amount of a
544 settlement or judgment, including attorney's fees and costs, obtained
545 against such persons arising out of an actual or alleged act, error, or
546 omission that occurred within the scope of Interstate Commission
547 employment, duties, or responsibilities, or that such persons had a
548 reasonable basis for believing occurred within the scope of Interstate
549 Commission employment, duties, or responsibilities, provided that the
550 actual or alleged act, error, or omission did not result from intentional
551 or willful and wanton misconduct on the part of such persons.

552 ARTICLE XII

553 RULEMAKING FUNCTIONS OF THE INTERSTATE
554 COMMISSION

555 A. The Interstate Commission shall promulgate reasonable rules in

556 order to effectively and efficiently achieve the purposes of this
557 Compact. Notwithstanding the foregoing, in the event the Interstate
558 Commission exercises its rulemaking authority in a manner that is
559 beyond the scope of the purposes of this compact, or the powers
560 granted hereunder, then such an action by the Interstate Commission
561 shall be invalid and have no force or effect.

562 B. Rules shall be made pursuant to a rulemaking process that
563 substantially conforms to the "Model State Administrative Procedure
564 Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as
565 amended, as may be appropriate to the operations of the Interstate
566 Commission.

567 C. Not later than thirty days after a rule is promulgated, any person
568 may file a petition for judicial review of the rule provided, the filing of
569 such a petition shall not stay or otherwise prevent the rule from
570 becoming effective unless the court finds that the petitioner has a
571 substantial likelihood of success. The court shall give deference to the
572 actions of the Interstate Commission consistent with applicable law
573 and shall not find the rule to be unlawful if the rule represents a
574 reasonable exercise of the Interstate Commission's authority.

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

579 ARTICLE XIII

580 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

581 A. Oversight

582 1. The executive, legislative and judicial branches of state
583 government in each member state shall enforce this compact and shall
584 take all actions necessary and appropriate to effectuate the compact's
585 purposes and intent. The provisions of this compact and the rules

586 promulgated hereunder shall have standing as statutory law.

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

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

597 B. If the Interstate Commission determines that a member state has
598 defaulted in the performance of its obligations or responsibilities
599 under this compact, or the bylaws or promulgated rules, the Interstate
600 Commission shall:

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

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

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

615 4. Suspension or termination of membership in the compact shall be

616 imposed only after all other means of securing compliance have been
617 exhausted. Notice of intent to suspend or terminate shall be given by
618 the Interstate Commission to the Governor, the majority and minority
619 leaders of the defaulting state's legislature, and each of the member
620 states.

621 5. The state which has been suspended or terminated is responsible
622 for all assessments, obligations and liabilities incurred through the
623 effective date of suspension or termination including obligations, the
624 performance of which extends beyond the effective date of suspension
625 or termination.

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

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

636 C. Dispute Resolution

637 1. The Interstate Commission shall attempt, upon the request of a
638 member state, to resolve disputes which are subject to the compact and
639 which may arise among member states and between member and
640 nonmember states.

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

644 D. Enforcement

645 1. The Interstate Commission, in the reasonable exercise of its

646 discretion, shall enforce the provisions and rules of this compact.

647 2. The Interstate Commission may, by majority vote of the members,
648 initiate legal action in the United States District Court for the District of
649 Columbia or, at the discretion of the Interstate Commission, in the
650 federal district where the Interstate Commission has its principal
651 offices, to enforce compliance with the provisions of the compact, its
652 promulgated rules and bylaws, against a member state in default. The
653 relief sought may include both injunctive relief and damages. In the
654 event judicial enforcement is necessary the prevailing party shall be
655 awarded all costs of such litigation including reasonable attorney's
656 fees.

657 3. The remedies herein shall not be the exclusive remedies of the
658 Interstate Commission. The Interstate Commission may avail itself of
659 any other remedies available under state law or the regulation of a
660 profession.

661 ARTICLE XIV

662 FINANCING OF THE INTERSTATE COMMISSION

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

666 B. The Interstate Commission may levy on and collect an annual
667 assessment from each member state to cover the cost of the operations
668 and activities of the Interstate Commission and its staff which must be
669 in a total amount sufficient to cover the Interstate Commission's
670 annual budget as approved each year. The aggregate annual
671 assessment amount shall be allocated based upon a formula to be
672 determined by the Interstate Commission, which shall promulgate a
673 rule binding upon all member states.

674 C. The Interstate Commission shall not incur obligations of any kind
675 prior to securing the funds adequate to meet the same; nor shall the

676 Interstate Commission pledge the credit of any of the member states,
677 except by and with the authority of the member state.

678 D. The Interstate Commission shall keep accurate accounts of all
679 receipts and disbursements. The receipts and disbursements of the
680 Interstate Commission shall be subject to the audit and accounting
681 procedures established under its bylaws. However, all receipts and
682 disbursements of funds handled by the Interstate Commission shall be
683 audited yearly by a certified or licensed public accountant and the
684 report of the audit shall be included in and become part of the annual
685 report of the Interstate Commission.

686 ARTICLE XV

687 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

689 B. The compact shall become effective and binding upon legislative
690 enactment of the compact into law by no less than ten of the states. The
691 effective date shall be no earlier than December 1, 2007. Thereafter it
692 shall become effective and binding as to any other member state upon
693 enactment of the compact into law by that state. The governors of
694 nonmember states or their designees shall be invited to participate in
695 the activities of the Interstate Commission on a nonvoting basis prior
696 to adoption of the compact by all states.

697 C. The Interstate Commission may propose amendments to the
698 compact for enactment by the member states. No amendment shall
699 become effective and binding upon the Interstate Commission and the
700 member states unless and until it is enacted into law by unanimous
701 consent of the member states.

702 ARTICLE XVI

703 WITHDRAWAL AND DISSOLUTION

704 A. Withdrawal

705 1. Once effective, the compact shall continue in force and remain
706 binding upon each and every member state provided a member state
707 may withdraw from the compact by specifically repealing the statute,
708 which enacted the compact into law.

709 2. Withdrawal from this compact shall be by the enactment of a
710 statute repealing the same, but shall not take effect until one year after
711 the effective date of such statute and until written notice of the
712 withdrawal has been given by the withdrawing state to the Governor
713 of each other member jurisdiction.

714 3. The withdrawing state shall immediately notify the chairperson
715 of the Interstate Commission in writing upon the introduction of
716 legislation repealing this compact in the withdrawing state. The
717 Interstate Commission shall notify the other member states of the
718 withdrawing state's intent to withdraw within sixty days of its receipt
719 thereof.

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

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

727 B. Dissolution of Compact

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

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

735 ARTICLE XVII

736 SEVERABILITY AND CONSTRUCTION

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

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

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

745 ARTICLE XVIII

746 BINDING EFFECT OF COMPACT AND OTHER LAWS

747 A. Other Laws

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

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

752 B. Binding Effect of the Compact

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

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

758 3. In the event any provision of this compact exceeds the
759 constitutional limits imposed on the legislature of any member state,
760 such provision shall be ineffective to the extent of the conflict with the

761 constitutional provision in question in that member state.

This act shall take effect as follows and shall amend the following sections:		
Section 1	<i>from passage</i>	New section

VA	<i>Joint Favorable Subst. C/R</i>	HED
HED	<i>Joint Favorable Subst. C/R</i>	ED
ED	<i>Joint Favorable</i>	