

# MAINE STATE LEGISLATURE

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# 124th MAINE LEGISLATURE

## FIRST REGULAR SESSION-2009

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Legislative Document

No. 1324

H.P. 928

House of Representatives, March 31, 2009

### **An Act To Adopt the Interstate Compact on Educational Opportunity for Military Children**

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Reference to the Committee on Education and Cultural Affairs suggested and ordered printed.

*Millicent M. MacFarland*  
MILLICENT M. MacFARLAND  
Clerk

Presented by Representative CROCKETT of Bethel.  
Cosponsored by Senator BRYANT of Oxford, Senator MILLS of Somerset and  
Representatives: CORNELL du HOUX of Brunswick, PRIEST of Brunswick, SAVIELLO of  
Wilton, TRINWARD of Waterville, Senator: GOOLEY of Franklin.

1 **Be it enacted by the People of the State of Maine as follows:**

2 **Sec. 1. 20-A MRSA Pt. 10** is enacted to read:

3 **PART 10**

4 **INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR**  
5 **MILITARY CHILDREN**

6 **CHAPTER 901**

7 **INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR**  
8 **MILITARY CHILDREN**

9 **§20101. Short title - Article 1**

10 This chapter may be known and cited as "the Interstate Compact on Educational  
11 Opportunity for Military Children," which is referred to in this chapter as "the compact."

12 **§20102. Definitions - Article 2**

13 As used in this chapter, unless the context otherwise indicates, the following terms  
14 have the following meanings:

15 **1. Active duty.** "Active duty" means full-time duty status in the active uniformed  
16 service of the United States, including members of the National Guard and Reserve on  
17 active duty orders pursuant to 10 United States Code, Sections 1209 and 1211.

18 **2. Child of a military family.** "Child of a military family" means a school-aged  
19 child enrolled in kindergarten to grade 12 in the household of an active duty member.

20 **3. Compact.** "Compact" means the Interstate Compact on Educational Opportunity  
21 for Military Children.

22 **4. Compact commissioner.** "Compact commissioner" means the voting  
23 representative of each member state appointed pursuant to section 20109.

24 **5. Deployment.** "Deployment" means the period one month prior to a service  
25 member's departure from the service member's home station on military orders to 6  
26 months after return to the service member's home station.

27 **6. Educational records.** "Educational records" means those official records, files  
28 and data directly related to a student and maintained by the school or local education  
29 agency, including but not limited to records encompassing all the material kept in the  
30 child's cumulative folder such as general identifying data, records of attendance and of  
31 academic work completed, records of achievement and results of evaluative tests, health  
32 data, disciplinary status, test protocols and individualized education programs.

33 **7. Extracurricular activities.** "Extracurricular activities" means voluntary activities  
34 sponsored by the school or local education agency or an organization sanctioned by the

1 local education agency. Extracurricular activities include, but are not limited to,  
2 preparation for and involvement in public performances, contests, athletic competitions,  
3 demonstrations, displays and club activities.

4 **8. Interstate commission.** "Interstate commission" means the Interstate Commission  
5 on Educational Opportunity for Military Children established under section 20109.

6 **9. Local education agency.** "Local education agency" means a public authority  
7 legally constituted by a member state as an administrative agency to provide control of  
8 and direction for kindergarten to grade 12 public educational institutions.

9 **10. Member state.** "Member state" means a state that has enacted the compact.

10 **11. Military installation.** "Military installation" means a base, camp, post, station,  
11 yard, center or homeport facility for any ship, or other activity under the jurisdiction of  
12 the federal Department of Defense, including any leased facility, that is located within  
13 any of the several states, the District of Columbia, the Commonwealth of Puerto Rico, the  
14 United States Virgin Islands, Guam, American Samoa, the Northern Marianas Islands and  
15 any other United States territory. "Military installation" does not include any facility used  
16 primarily for civil works, rivers and harbors projects or flood control projects.

17 **12. Nonmember state.** "Nonmember state" means a state that has not enacted the  
18 compact.

19 **13. Receiving state.** "Receiving state" means the state to which a child of a military  
20 family is sent, brought or caused to be sent or brought.

21 **14. Rule.** "Rule" means a written statement by the interstate commission adopted  
22 pursuant to section 20112 that is of general applicability; implements, interprets or  
23 prescribes a policy or provision of the compact or an organizational, procedural or  
24 practice requirement of the interstate commission; has the force and effect of statutory  
25 law in a member state; and includes the amendment, repeal or suspension of an existing  
26 rule.

27 **15. Sending state.** "Sending state" means the state from which a child of a military  
28 family is sent, brought or caused to be sent or brought.

29 **16. State.** "State" means a state of the United States, the District of Columbia, the  
30 Commonwealth of Puerto Rico, the United States Virgin Islands, Guam, American  
31 Samoa, the Northern Marianas Islands and any other United States territory.

32 **17. State council.** "State council" means the state council on educational opportunity  
33 for military children established in section 20108.

34 **18. Student.** "Student" means the child of a military family for whom the local  
35 education agency receives public funding and who is formally enrolled in kindergarten to  
36 grade 12.

37 **19. Transition.** "Transition" means:

- 1           A. The formal and physical process of transferring from school to school; or  
2           B. The period of time in which a student moves from one school in the sending state  
3           to another school in the receiving state.

4           **20. Uniformed service.** "Uniformed service" means the Army, the Navy, the Air  
5           Force, the Marine Corps, the Coast Guard, the National Oceanic and Atmospheric  
6           Administration Commissioned Corps or the United States Public Health Service  
7           Commissioned Corps.

8           **21. Veteran.** "Veteran" means a person who served in the uniformed services and  
9           who was discharged or released therefrom under conditions other than dishonorable.

10           **§20103. Applicability - Article 3**

11           **1. Application to children.** Except as otherwise provided in subsection 2, this  
12           chapter applies to the children of:

- 13           A. Active duty members of the uniformed services;  
14           B. Members or veterans of the uniformed services who are severely injured and  
15           medically discharged or retired for a period of one year after medical discharge or  
16           retirement; and  
17           C. Members of the uniformed services who die on active duty or as a result of  
18           injuries sustained on active duty for a period of one year after death.

19           **2. Application to local education agencies.** This chapter applies to local education  
20           agencies.

21           **3. Exemption.** This chapter does not apply to children of:

- 22           A. Inactive members of the national guard and military reserves;  
23           B. Members of the uniformed services now retired, except as provided in subsection  
24           1;  
25           C. Veterans of the uniformed services, except as provided in subsection 1; and  
26           D. Other federal Department of Defense personnel and other federal agency civilian  
27           and contract employees not defined as active duty members of the uniformed  
28           services.

29           **§20104. Educational records and enrollment - Article 4**

30           This section applies to the transition of students subject to this chapter pursuant to  
31           section 20103.

32           **1. Unofficial educational records.** If official educational records cannot be released  
33           to the parent or parents of the transitioning student, the custodian of the records in the  
34           sending state shall prepare and furnish to the parent a complete set of unofficial  
35           educational records containing uniform information as determined by the interstate  
36           commission. Upon receipt of the unofficial educational records by a school in the  
37           receiving state, the school in the receiving state, as quickly as possible, shall enroll and

1 appropriately place the student based on the information provided in the unofficial  
2 records pending validation by the official records.

3 **2. Official educational records.** Simultaneous with the enrollment and conditional  
4 placement of the student, the school in the receiving state shall request the student's  
5 official educational record from the school in the sending state. Upon receipt of this  
6 request, the school in the sending state shall process and furnish the official educational  
7 records to the school in the receiving state within 10 days or within such time as is  
8 reasonably determined under the rules promulgated by the interstate commission.

9 **3. Immunizations.** A member state shall give 30 days from the date of enrollment or  
10 within such time as is reasonably determined under the rules promulgated by the  
11 interstate commission for students to obtain any immunizations required by the receiving  
12 state. For a series of immunizations, initial vaccinations must be obtained within 30 days  
13 or within such time as is reasonably determined under the rules promulgated by the  
14 interstate commission.

15 **4. Kindergarten and first grade entrance age.** A student must be allowed to  
16 continue enrollment at grade level in the receiving state commensurate with that student's  
17 grade level from a local education agency in the sending state at the time of transition,  
18 regardless of age. A student that has satisfactorily completed the prerequisite grade level  
19 in the local education agency in the sending state is eligible for enrollment in the next  
20 highest grade level in the receiving state, regardless of age. A student transferring after  
21 the start of the school year in the receiving state must enter the school in the receiving  
22 state on that student's validated level from an accredited school in the sending state.

23 **§20105. Placement and attendance - Article 5**

24 **1. Course placement.** When a student transfers before or during the school year, the  
25 school in the receiving state shall initially honor placement of the student in educational  
26 courses based on the student's enrollment in the school in the sending state and any  
27 educational assessments conducted at the school in the sending state if the courses are  
28 offered. Course placement includes but is not limited to courses designated as "honors,"  
29 "international baccalaureate," "advanced placement," "vocational," "technical" and  
30 "career pathways" courses. Continuing a student's academic program from a previous  
31 school and promoting placement in academically and career challenging courses is  
32 paramount when considering placement. Nothing in this subsection precludes the school  
33 in the receiving state from performing subsequent evaluations to ensure appropriate  
34 placement and continued enrollment of the student in a course.

35 **2. Educational program placement.** A school in a receiving state shall initially  
36 honor placement of a student in educational programs based on current educational  
37 assessments conducted at the school in the sending state or participation or placement in  
38 like programs in the sending state, including but not limited to gifted and talented  
39 programs and English as a Second Language programs. Nothing in this subsection  
40 precludes the school in the receiving state from performing subsequent evaluations to  
41 ensure appropriate placement of the student.

42 **3. Special education services.** In compliance with:

1 A. The requirements of the federal Individuals with Disabilities Education Act, 20  
2 United States Code, Chapter 33, the receiving state shall initially provide comparable  
3 services to a student with disabilities based on the student's current individualized  
4 education program; and

5 B. The requirements of Section 504 of the Rehabilitation Act, 29 United States Code,  
6 Section 794, and with Title II of the Americans with Disabilities Act, 42 United  
7 States Code, Sections 12131 to 12165, the receiving state shall make reasonable  
8 accommodations and modifications to address the needs of incoming students with  
9 disabilities, subject to an existing plan under Section 504 of the Rehabilitation Act  
10 and the Americans with Disabilities Act or a federal Title II plan, to provide the  
11 student with equal access to education. Nothing in this subsection precludes the  
12 school in the receiving state from performing subsequent evaluations to ensure  
13 appropriate placement of the student.

14 **4. Placement flexibility.** Local education agency administrative officials may waive  
15 course or program prerequisites or other preconditions for placement in courses or  
16 programs offered under the jurisdiction of the local education agency.

17 **5. Absence as related to deployment activities.** A student whose parent or legal  
18 guardian is an active duty member of the uniformed services, and has been called to duty  
19 for, is on leave from, or immediately returned from deployment to a combat zone or  
20 combat support posting, must be granted additional excused absences at the discretion of  
21 the local education agency superintendent to visit with the student's parent or legal  
22 guardian relative to such leave or deployment of the parent or legal guardian.

23 **§20106. Eligibility for enrollment, extracurricular activities - Article 6**

24 **1. Eligibility for enrollment.** Eligibility for enrollment is governed by this  
25 subsection.

26 A. Special power of attorney, relative to the guardianship of a child of a military  
27 family and executed under applicable law, is sufficient for the purposes of enrollment  
28 and all other actions requiring parental participation and consent.

29 B. A local education agency may not charge local tuition to a transitioning child of a  
30 military family placed in the care of a noncustodial parent or other person standing in  
31 loco parentis who lives in a jurisdiction other than that of the custodial parent.

32 C. A transitioning child of a military family, placed in the care of a noncustodial  
33 parent or other person standing in loco parentis who lives in a jurisdiction other than  
34 that of the custodial parent, may continue to attend the school in which the child was  
35 enrolled while residing with the custodial parent.

36 **2. Eligibility for extracurricular participation.** State and local education agencies  
37 shall facilitate the opportunity for inclusion of a transitioning child of a military family in  
38 extracurricular activities, regardless of application deadlines, to the extent that child is  
39 otherwise qualified.

1           **§20107. Graduation - Article 7**

2           In order to facilitate the on-time graduation of a child of a military family, states and  
3           local education agencies shall incorporate the procedures set forth in this section.

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

10          **2. Exit examinations.** States shall accept, in lieu of testing requirements for  
11          graduation in the receiving state:

12           A. Exit or end-of-course examinations required for graduation from the sending  
13           state;

14           B. National norm-referenced achievement tests; or

15           C. Alternative testing.

16          If the alternatives set forth in paragraphs A to C cannot be accommodated by the  
17          receiving state for a student transferring in the student's senior year of high school, then  
18          the provisions of subsection 3 apply.

19          **3. Transfers during senior year of high school.** If a student transferring at the  
20          beginning or during the student's senior year of high school is ineligible to graduate from  
21          the receiving local education agency after all alternatives set forth in subsection 2 have  
22          been considered, the sending and receiving local education agencies shall ensure the  
23          receipt of a diploma from the sending local education agency, if the student meets the  
24          graduation requirements of the sending local education agency. In the event that one of  
25          the states in question is not a member of the compact, the member state shall use best  
26          efforts to facilitate the on-time graduation of the student in accordance with subsections 1  
27          and 2.

28          **§20108. State coordination - Article 8**

29          **1. Establishment or designation of board, state council.** Each member state shall,  
30          through the creation of a state council or use of an existing body or board, provide for the  
31          coordination among its agencies of government, local education agencies and military  
32          installations concerning the state's participation in, and compliance with, this compact  
33          and interstate commission activities. While each member state may determine the  
34          membership of its own state council, its membership must include at least:

35           A. The state superintendent of education;

36           B. The superintendent of a school district with a high concentration of military  
37           children. A member state that does not have a school district considered to contain a  
38           high concentration of children of military families may appoint a superintendent from  
39           another school district to represent local education agencies on the state council;



1        C. One representative from a military installation;

2        D. One representative each from the legislative and executive branches of  
3        government; and

4        E. Other offices and stakeholder groups the state council determines appropriate.

5        **2. Military family education liaison.** The state council shall appoint a military  
6        family education liaison to assist military families and the state in facilitating the  
7        implementation of this chapter. The state council of each member state shall appoint or  
8        designate a military family education liaison to assist military families and the state in  
9        facilitating the implementation of this compact.

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

13       **4. Ex officio members.** The military family education liaison appointed pursuant to  
14       subsection 2 and the compact commissioner appointed pursuant to subsection 3 serve as  
15       ex officio members of the state council, unless either is already a full voting member of  
16       the state council.

17       **§20109. Interstate Commission on Educational Opportunity for Military Children -**  
18       **Article 9**

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

23       **1. Body corporate.** Is a body corporate and joint agency of the member states and  
24       has all the responsibilities, powers and duties set forth in this section and such additional  
25       powers as may be conferred upon it by a subsequent concurrent action of the respective  
26       legislatures of the member states in accordance with the terms of this compact;

27       **2. Voting representative.** Consists of one interstate commission voting  
28       representative from each member state who is that state's compact commissioner.

29       A. Each member state represented at a meeting of the interstate commission is  
30       entitled to one vote.

31       B. A majority of the total member states constitutes a quorum for the transaction of  
32       business, unless a larger quorum is required by the bylaws of the interstate  
33       commission.

34       C. A representative may not delegate a vote to another member state. If the compact  
35       commissioner is unable to attend a meeting of the interstate commission, the  
36       Governor or state council may delegate voting authority to another person from its  
37       state for a specified meeting.

38       D. The bylaws may provide for meetings of the interstate commission to be  
39       conducted by telecommunication or electronic communication;

1           **3. Ex officio representatives.** Consists of ex officio, nonvoting representatives who  
2 are members of interested organizations. These ex officio members, as defined in the  
3 bylaws, may include but are not limited to:

4           A. Members of the representative organizations of military family advocates;

5           B. Local education agency officials;

6           C. Parent and teacher groups;

7           D. The United States Department of Defense;

8           E. A national education commission dedicated to helping states develop effective  
9 policy and practice for public education by providing data, research, analysis and  
10 leadership; and

11           F. Representatives from parties to interstate agreements on qualification of  
12 educational personnel and other interstate compacts affecting the education of  
13 children of military members;

14           **4. Meetings.** Meets at least once each calendar year. The chair may call additional  
15 meetings and, upon the request of a simple majority of the member states, must call  
16 additional meetings;

17           **5. Executive committee.** Shall establish an executive committee whose members  
18 include the officers of the interstate commission and such other members of the interstate  
19 commission as determined by the bylaws. Members of the executive committee serve  
20 one-year terms. Members of the executive committee are entitled to one vote each. The  
21 executive committee has the power to act on behalf of the interstate commission, with the  
22 exception of rulemaking, during periods when the interstate commission is not in session.  
23 The executive committee shall oversee the day-to-day activities of the administration of  
24 the compact, including enforcement and compliance with the provisions of the compact,  
25 its bylaws and rules, and other such duties as considered necessary. The United States  
26 Department of Defense serves as an ex officio, nonvoting member of the executive  
27 committee;

28           **6. Bylaws; rules.** Shall establish bylaws and rules that provide for conditions and  
29 procedures under which the interstate commission makes its information and official  
30 records available to the public for inspection or copying. The interstate commission may  
31 exempt from disclosure information or official records to the extent they would adversely  
32 affect personal privacy rights or proprietary interests;

33           **7. Public notice.** Shall give public notice of all meetings, and all meetings must be  
34 open to the public, except as set forth in the rules or as otherwise provided in the  
35 compact. The interstate commission and its committees may close a meeting, or portion  
36 of a meeting, when it determines by a 2/3 vote that an open meeting would be likely to:

37           A. Relate solely to the interstate commission's internal personnel practices and  
38 procedures;

39           B. Disclose matters specifically exempted from disclosure by federal and state law;

1 C. Disclose trade secrets or commercial or financial information that is privileged or  
2 confidential;

3 D. Involve accusing a person of a crime or formally censuring a person;

4 E. Disclose information of a personal nature when disclosure would constitute a  
5 clearly unwarranted invasion of personal privacy;

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

7 G. Specifically relate to the interstate commission's participation in a civil action or  
8 other legal proceeding.

9 For a meeting, or portion of a meeting, closed pursuant to this subsection, the interstate  
10 commission's legal counsel or designee shall certify that the meeting may be closed and  
11 shall reference each relevant exemptible provision. The interstate commission shall keep  
12 minutes that must fully and clearly describe all matters discussed in a meeting and  
13 provide a full and accurate summary of actions taken and the reasons for the actions,  
14 including a description of the views expressed and the record of a roll call vote. All  
15 documents considered in connection with an action must be identified in such minutes.  
16 All minutes and documents of a closed meeting must remain under seal, subject to release  
17 by a majority vote of the interstate commission;

18 **8. Data collection.** Shall collect standardized data concerning the educational  
19 transition of the children of military families under this compact as directed through the  
20 interstate commission's rules, which must specify the data to be collected, the means of  
21 collection and data exchange and reporting requirements. Such methods of data  
22 collection, exchange and reporting must, insofar as is reasonably possible, conform to  
23 current technology and coordinate the interstate commission's information functions with  
24 the appropriate custodian of records as identified in the bylaws and rules; and

25 **9. Violations.** Shall create a process that permits military officials, education  
26 officials and parents to inform the interstate commission if and when there are alleged  
27 violations of the compact or the interstate commission's rules or when issues subject to  
28 the jurisdiction of the compact or the interstate commission's rules are not addressed by  
29 the member state or local education agency. This section may not be construed to create a  
30 private right of action against the Interstate Commission or any member state.

31 **§20110. Powers of the interstate commission - Article 10**

32 The interstate commission may:

33 **1. Dispute resolution.** Provide for dispute resolution among member states;

34 **2. Rules.** Promulgate rules and take all necessary actions to effect the goals,  
35 purposes and obligations as enumerated in this compact. The rules have the force and  
36 effect of law and are binding in the member states to the extent and in the manner  
37 provided in this compact;

38 **3. Advisory opinions.** Issue, upon request of a member state, advisory opinions  
39 concerning the meaning or interpretation of the interstate compact and its bylaws, rules  
40 and actions;

1           **4. Enforce compliance.** Enforce compliance with the compact provisions, the rules  
2 promulgated by the interstate commission and the bylaws, using all necessary and proper  
3 means, including but not limited to the use of judicial process;

4           **5. Offices.** Establish and maintain offices located within one or more of the member  
5 states;

6           **6. Insurance; bonds.** Purchase and maintain insurance and bonds;

7           **7. Personnel.** Borrow, accept, hire or contract for services of personnel;

8           **8. Committees.** Establish and appoint committees, including, but not limited to, an  
9 executive committee as required by section 20109, subsection 5, which may act on behalf  
10 of the interstate commission in carrying out the commission's powers and duties;

11           **9. Elect; appoint.** Elect or appoint officers, attorneys, employees, agents or  
12 consultants, and fix their compensation, define their duties and determine their  
13 qualifications; and establish the interstate commission's personnel policies and programs  
14 relating to conflicts of interest, rates of compensation and qualifications of personnel;

15           **10. Donations; grants.** Accept, receive, use and dispose of donations and grants of  
16 money, equipment, supplies, materials and services;

17           **11. Acquire property.** Lease, purchase or accept contributions or donations of or  
18 otherwise own, hold, improve or use any property, real, personal or mixed;

19           **12. Dispose of property.** Sell, convey, mortgage, pledge, lease, exchange, abandon  
20 or otherwise dispose of any property, real, personal or mixed;

21           **13. Budget.** Establish a budget and make expenditures;

22           **14. Seal.** Adopt a seal and bylaws governing the management and operation of the  
23 interstate commission;

24           **15. Report.** Report annually to the legislatures, governors, judiciaries and state  
25 councils of the member states concerning the activities of the interstate commission  
26 during the preceding year. These reports must also include any recommendations that  
27 may have been adopted by the interstate commission;

28           **16. Education.** Coordinate education, training and public awareness regarding the  
29 compact and its implementation and operation for officials and parents and legal  
30 guardians affected by the compact;

31           **17. Data.** Establish uniform standards for the reporting, collecting and exchanging  
32 of data;

33           **18. Corporate books and records.** Maintain corporate books and records in  
34 accordance with the bylaws;

35           **19. Additional functions.** Perform such functions as may be necessary or  
36 appropriate to achieve the purposes of the compact; and

1           **20. Information.** Provide for the uniform collection and sharing of information  
2 between and among member states, schools and military families under the compact.

3           **§20111. Organization and operation of the interstate commission - Article 11**

4           **1. Bylaws.** The interstate commission shall, by a majority of the members present  
5 and voting, within 12 months after the first interstate commission meeting, adopt bylaws  
6 to govern its conduct as may be necessary or appropriate to carry out the purposes of the  
7 compact, including, but not limited to:

8           A. Establishing the fiscal year of the interstate commission;

9           B. Establishing an executive committee and such other committees as may be  
10 necessary;

11           C. Providing for the establishment of committees and for governing any general or  
12 specific delegation of authority or function of the interstate commission;

13           D. Providing reasonable procedures for calling and conducting meetings of the  
14 interstate commission and ensuring reasonable notice of each meeting;

15           E. Establishing the titles and responsibilities of the officers and staff of the interstate  
16 commission;

17           F. Providing a mechanism for concluding the operations of the interstate commission  
18 and the return of surplus funds that may exist upon the termination of the compact  
19 after the payment and reserving of all of its debts and obligations; and

20           G. Providing rules for initial administration of the compact.

21           **2. Elect officers.** The interstate commission shall, by a majority vote of the  
22 members, elect annually from among its members a chair, a vice-chair and a treasurer,  
23 each of whom has such authority and duties as may be specified in the bylaws. The chair  
24 or, in the chair's absence or disability, the vice-chair shall preside at all meetings of the  
25 interstate commission. The elected officers serve without compensation or remuneration  
26 from the interstate commission except that subject to the availability of budgeted funds,  
27 the officers may be reimbursed for ordinary and necessary costs and expenses incurred by  
28 them in the performance of their responsibilities as officers of the interstate commission.

29           **3. Executive committee; powers and duties.** The executive committee has those  
30 powers and duties set forth in the bylaws, including but not limited to:

31           A. Managing the affairs of the interstate commission in a manner consistent with the  
32 bylaws and purposes of the interstate commission;

33           B. Overseeing an organizational structure within, and appropriate procedures for, the  
34 interstate commission to provide for the creation of rules, operating procedures and  
35 administrative and technical support functions; and

36           C. Planning, implementing and coordinating communications and activities with  
37 other state, federal and local government organizations in order to advance the goals  
38 of the interstate commission.

1           4. Executive director. Subject to the approval of the interstate commission, the  
2 executive committee may appoint or retain an executive director for such period, upon  
3 such terms and conditions and for such compensation, as the interstate commission may  
4 consider appropriate. The executive director serves as secretary to the interstate  
5 commission, but is not a member of the interstate commission. The executive director  
6 shall hire and supervise such other persons as may be authorized by the interstate  
7 commission.

8           5. Immunity. The interstate commission's executive director and its employees and  
9 interstate commission representatives are immune from suit and liability in accordance  
10 with this subsection.

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

20           B. The liability of the interstate commission's executive director and employees or  
21 interstate commission representatives, acting within the scope of such person's  
22 employment or duties, for acts, errors or omissions occurring within such person's  
23 state may not exceed the limits of liability set forth under the constitution and laws of  
24 that state for state officials, employees and agents. The interstate commission is  
25 considered to be an instrumentality of the states for the purposes of any such action.  
26 This subsection may not be construed to protect the interstate commission's executive  
27 director and employees or interstate commission representatives from suit or liability  
28 for damage, loss, injury or liability caused by the intentional or willful and wanton  
29 misconduct of such person.

30           C. The interstate commission shall defend the executive director and its employees  
31 and, subject to the approval of the attorney general or other appropriate legal counsel  
32 of the member state represented by an interstate commission representative, shall  
33 defend such interstate commission representative in any civil action seeking to  
34 impose liability arising out of an actual or alleged act, error or omission that occurred  
35 within the scope of interstate commission employment, duties or responsibilities, or  
36 that the defendant had a reasonable basis for believing occurred within the scope of  
37 interstate commission employment, duties or responsibilities, as long as the actual or  
38 alleged act, error or omission did not result from intentional or willful and wanton  
39 misconduct on the part of such person.

40           D. To the extent not covered by the state involved, member state or interstate  
41 commission, the representatives or employees of the interstate commission must be  
42 held harmless in the amount of a settlement or judgment, including attorney's fees  
43 and costs, obtained against the representatives or employees of the interstate  
44 commission arising out of an actual or alleged act, error or omission that occurred  
45 within the scope of interstate commission employment, duties or responsibilities, or

1           that such persons had a reasonable basis for believing occurred within the scope of  
2           interstate commission employment, duties or responsibilities, as long as the actual or  
3           alleged act, error or omission did not result from intentional or willful and wanton  
4           misconduct on the part of such persons.

5           **§20112. Rule-making functions of the interstate commission - Article 12**

6           **1. Authority.** The interstate commission shall promulgate reasonable rules in order  
7           to effectively and efficiently achieve the purposes of the compact; however, if the  
8           interstate commission exercises its rule-making authority in a manner that is beyond the  
9           scope of the purposes of this chapter or the powers granted under this chapter, then such  
10           an action by the interstate commission is invalid and has no force or effect.

11           **2. Procedure.** Rules must be promulgated pursuant to a rule-making process that  
12           substantially conforms to the "Model State Administrative Procedure Act," of 1981 Act,  
13           Uniform Laws Annotated, Vol. 15, p. 1 (2000) as amended, as may be appropriate to the  
14           operations of the interstate commission.

15           **3. Judicial review.** Not later than 30 days after a rule is promulgated, any person  
16           may file a petition for judicial review of the rule. The filing of a petition pursuant to this  
17           subsection does not stay or otherwise prevent the rule from taking effect unless the court  
18           finds that the petitioner has a substantial likelihood of success. The court shall give  
19           deference to the actions of the interstate commission consistent with applicable law and  
20           may not find the rule to be unlawful if the rule represents a reasonable exercise of the  
21           interstate commission's authority.

22           **4. Rejection by a majority of states.** If a majority of the legislatures of the  
23           compacting states rejects a rule by enactment of a law or resolution in the same manner  
24           used to adopt the compact, then that rule has no further force and effect in any member  
25           state.

26           **§20113. Oversight, enforcement and dispute resolution - Article 13**

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

31           All courts shall take judicial notice of the compact and the rules in any judicial or  
32           administrative proceeding in a member state pertaining to the subject matter of the  
33           compact that may affect the powers, responsibilities or actions of the interstate  
34           commission. The interstate commission is entitled to receive all service of process in any  
35           such proceeding and has standing to intervene in the proceeding for all purposes. Failure  
36           to provide service of process to the interstate commission renders a judgment or order  
37           void as to the interstate commission, the compact or promulgated rules.

38           **2. Default.** If the interstate commission determines that a member state has defaulted  
39           in the performance of its obligations or responsibilities under the compact or the bylaws  
40           or promulgated rules, the interstate commission shall:

1           A. Provide written notice to the defaulting state and other member states of the  
2           nature of the default, the means of curing the default and any action taken by the  
3           interstate commission. The interstate commission shall specify the conditions by  
4           which the defaulting state must cure its default; and

5           B. Provide remedial training and specific technical assistance regarding the default.

6           3. Failure to cure. If the defaulting state fails to cure the default, the defaulting state  
7           must be terminated from the compact upon an affirmative vote of a majority of the  
8           member states and all rights, privileges and benefits conferred by the compact must be  
9           terminated from the effective date of termination.

10          4. Cure; obligations or liabilities incurred during default. A cure of the default  
11          does not relieve the offending state of obligations or liabilities incurred during the period  
12          of the default.

13          5. Suspension; termination. Suspension or termination of membership in the  
14          compact may be imposed only after all other means of securing compliance have been  
15          exhausted. Notice of intent to suspend or terminate must be given by the interstate  
16          commission to the governor, the majority and minority leaders of the defaulting state's  
17          legislature and each of the member states.

18          6. Responsibility after suspension; termination. The member state that has been  
19          suspended or terminated is responsible for all assessments, obligations and liabilities  
20          incurred through the effective date of suspension or termination including obligations, the  
21          performance of which extends beyond the effective date of suspension or termination.

22          7. Responsibility of commission. The interstate commission does not bear any  
23          costs relating to any state that has been found to be in default or that has been suspended  
24          or terminated from the compact, unless otherwise mutually agreed upon in writing  
25          between the interstate commission and the defaulting state.

26          8. Appeal. The defaulting state may appeal the action of the interstate commission  
27          by petitioning the United States District Court for the District of Columbia or the federal  
28          district where the interstate commission has its principal offices. The prevailing party  
29          must be awarded all costs of such litigation including reasonable attorney's fees.

30          9. Dispute resolution; rules. The interstate commission shall attempt, upon the  
31          request of a member state, to resolve disputes that are subject to the compact and that  
32          may arise among member states and between member and nonmember states.

33          The interstate commission shall promulgate a rule providing for both mediation and  
34          binding dispute resolution for disputes as appropriate.

35          10. Enforcement. The interstate commission, in the reasonable exercise of its  
36          discretion, shall enforce the provisions and rules of this compact.

37          The interstate commission may by majority vote of the members initiate legal action in  
38          the United States District Court for the District of Columbia or, at the discretion of the  
39          interstate commission, in the federal district where the interstate commission has its  
40          principal offices, to enforce compliance with the provisions of the compact and its



1 promulgated rules and bylaws, against a member state in default. The relief sought may  
2 include both injunctive relief and damages. In the event judicial enforcement is necessary,  
3 the prevailing party may be awarded all costs of such litigation including reasonable  
4 attorney's fees. The remedies set forth in this subsection are not the exclusive remedies of  
5 the interstate commission. The interstate commission may avail itself of any other  
6 remedies available under state law or the regulation of a profession.

7 **§20114. Financing of the interstate commission - Article 14**

8 **1. Payment for reasonable expenses.** The interstate commission shall pay, or  
9 provide for the payment of, the reasonable expenses of its establishment, organization and  
10 ongoing activities.

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

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

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

26 **§20115. Member states, effective date and amendment - Article 15**

27 **1. Eligibility.** Any state is eligible to become a member state.

28 **2. Effective date.** The compact becomes effective and binding upon legislative  
29 enactment of the compact into law by no fewer than 10 of the states. The effective date  
30 may be no earlier than December 1, 2007; thereafter, it becomes effective and binding as  
31 to any other member state upon enactment of the compact into law by that state. The  
32 governors of nonmember states or their designees are invited to participate in the  
33 activities of the interstate commission on a nonvoting basis prior to adoption of the  
34 compact by all states.

35 **3. Amendments.** The interstate commission may propose amendments to the  
36 compact for enactment by the member states. An amendment is not effective and binding  
37 upon the interstate commission and the member states until it is enacted into law by  
38 unanimous consent of the member states.

1           **§20116. Withdrawal and dissolution - Article 16**

2           **1. Withdrawal.** Withdrawal from the compact is governed by this subsection.

3           A. Once effective, the compact continues in force and remains binding upon each  
4           member state except that a member state may withdraw from the compact by  
5           specifically repealing the statute that enacted the compact into law.

6           B. The enactment by a member state of a law repealing the statute that enacted the  
7           compact does not take effect until one year after the effective date of that law and  
8           until written notice of the withdrawal has been given by the withdrawing state to the  
9           governor of each other member state.

10          C. The withdrawing state shall immediately notify the chair of the interstate  
11          commission in writing upon the introduction of legislation repealing this compact in  
12          the withdrawing state. The interstate commission shall notify the other member states  
13          of the withdrawing state's intent to withdraw within 60 days of its receipt of  
14          notification from the withdrawing state.

15          D. The withdrawing state is responsible for all assessments, obligations and  
16          liabilities incurred through the effective date of withdrawal, including obligations, the  
17          performance of which extend beyond the effective date of withdrawal.

18          E. Reinstatement following withdrawal of a member state occurs upon the  
19          withdrawing state reenacting the compact or upon such later date as determined by  
20          the interstate commission.

21          **2. Dissolution of compact.** This compact dissolves effective upon the date of the  
22          withdrawal or default of the member state that reduces the membership in the compact to  
23          one member state.

24          **3. Conclusion of affairs.** Upon the dissolution of this compact, the compact  
25          becomes void and is of no further effect. The business and affairs of the interstate  
26          commission must be concluded, and surplus funds must be distributed in accordance with  
27          the bylaws.

28          **§20117. Severability and construction - Article 17**

29          **1. Severability.** The provisions of this compact are severable, and if any phrase,  
30          clause, sentence or provision is unenforceable, the remaining provisions of the compact  
31          are enforceable.

32          **2. Construction.** The provisions of this compact must be liberally construed to  
33          effectuate its purposes. Nothing in this compact may be construed to prohibit the  
34          applicability of other interstate compacts to which the states are members.

35          **§20118. Binding effect of compact and other laws - Article 18**

36          **1. Other laws.** Nothing in this chapter prevents the enforcement of any other law of  
37          a member state that is not inconsistent with this chapter. All member states' laws  
38          conflicting with this compact are superseded to the extent of the conflict.

