

**SUBSTITUTE FOR
HOUSE BILL NO. 4813**

A bill to amend 2008 PA 160, entitled
"An act entering into the interstate compact on educational
opportunity for military children: and for related purposes,"
by amending sections 1 and 2 (MCL 3.1041 and 3.1042).

THE PEOPLE OF THE STATE OF MICHIGAN ENACT:

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

5 Interstate Compact on Educational
6 Opportunity for Military Children

ARTICLE I

PURPOSE



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

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

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

13 C. Facilitating the qualification and eligibility for
14 enrollment, educational programs, and participation in
15 extracurricular academic, athletic, and social activities.

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

18 E. Providing for the promulgation and enforcement of
19 administrative rules implementing the provisions of this compact.

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

23 G. Promoting coordination between this compact and other
24 compacts affecting military children.

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

28 ARTICLE II

29 DEFINITIONS



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

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

B. **"Armed Forces of the United States" means the Army, Navy, Air Force, Marine Corps, Space Force, and Coast Guard, including the National Guard and any reserve components.**

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

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

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

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

G. ~~F.~~ "Extracurricular activities" means: a voluntary activity sponsored by the school or local education agency or an organization sanctioned by the local education agency.



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

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

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

13 **J. I.**—"Member state" means: a state that has enacted this
14 compact.

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

24 **L. K.**—"Non-member state" means: a state that has not enacted
25 this compact.

26 **M. L.**—"Receiving state" means: the state to which a child of a
27 military family is sent, brought, or caused to be sent or brought.

28 **N. M.**—"Rule" means: a written statement by the Interstate
29 Commission promulgated pursuant to Article XII of this compact that



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

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

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

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

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

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

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

27 ARTICLE III

28 APPLICABILITY

29 A. Except as otherwise provided in Section B, this compact



shall apply to the children of:

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

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

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

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

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

1. inactive members of the national guard and military reserves;

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

3. veterans of the uniformed services, except as provided in Section A; and

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

ARTICLE IV

EDUCATIONAL RECORDS & ENROLLMENT

A. Unofficial or "hand-carried" education records - In the event that official education records cannot be released to the parents for the purpose of transfer, the custodian of the records



1 in the sending state shall prepare and furnish to the parent a
2 complete set of unofficial educational records containing uniform
3 information as determined by the Interstate Commission. Upon
4 receipt of the unofficial education records by a school in the
5 receiving state, the school shall enroll and appropriately place
6 the student based on the information provided in the unofficial
7 records pending validation by the official records, as quickly as
8 possible.

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

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

26 D. Kindergarten and First grade entrance age - Students shall
27 be allowed to continue their enrollment at grade level in the
28 receiving state commensurate with their grade level (including
29 Kindergarten) from a local education agency in the sending state at



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

9 ARTICLE V

10 PLACEMENT & ATTENDANCE

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

25 B. Educational program placement - The receiving state school
26 shall initially honor placement of the student in educational
27 programs based on current educational assessments conducted at the
28 school in the sending state or participation/placement in like
29 programs in the sending state. Such programs include, but are not



1 limited to: 1) gifted and talented programs; and 2) English as a
2 second language (ESL). This does not preclude the school in the
3 receiving state from performing subsequent evaluations to ensure
4 appropriate placement of the student.

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

20 D. Placement flexibility - Local education agency
21 administrative officials shall have flexibility in waiving
22 course/program prerequisites, or other preconditions for placement
23 in courses/programs offered under the jurisdiction of the local
24 education agency.

25 E. Absence as related to deployment activities - A student
26 whose parent or legal guardian is an active duty member of the
27 uniformed services, as defined by the compact, and has been called
28 to duty for, is on leave from, or immediately returned from
29 deployment to a combat zone or combat support posting, shall be



1 granted additional excused absences at the discretion of the local
2 education agency superintendent to visit with his or her parent or
3 legal guardian relative to such leave or deployment of the parent
4 or guardian.

5 ARTICLE VI

6 ELIGIBILITY

7 A. Eligibility for enrollment

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

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

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

22 B. Eligibility for extracurricular participation - State and
23 local education agencies shall facilitate the opportunity for
24 transitioning military children's inclusion in extracurricular
25 activities, regardless of application deadlines, to the extent they
26 are otherwise qualified.

27 ARTICLE VII

28 GRADUATION

29 In order to facilitate the on-time graduation of children of



1 military families states and local education agencies shall
2 incorporate the following procedures:

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

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

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



ARTICLE VIII

STATE COORDINATION

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

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

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

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



1 Council.

2 ARTICLE IX
3 INTERSTATE COMMISSION ON EDUCATIONAL
4 OPPORTUNITY FOR MILITARY CHILDREN

5 The member states hereby create the "Interstate Commission on
6 Educational Opportunity for Military Children." The activities of
7 the Interstate Commission are the formation of public policy and
8 are a discretionary state function. The Interstate Commission
9 shall:

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

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

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

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

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

28 4. The bylaws may provide for meetings of the Interstate
29 Commission to be conducted by telecommunication or electronic



1 communication.

2 C. Consist of ex-officio, non-voting representatives who are
3 members of interested organizations. Such ex-officio members, as
4 defined in the bylaws, may include but not be limited to, members
5 of the representative organizations of military family advocates,
6 local education agency officials, parent and teacher groups, the
7 U.S. Department of Defense, the Education Commission of the States,
8 the Interstate Agreement on the Qualification of Educational
9 Personnel and other interstate compacts affecting the education of
10 children of military members.

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

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

28 F. Establish bylaws and rules that provide for conditions and
29 procedures under which the Interstate Commission shall make its



1 information and official records available to the public for
2 inspection or copying. The Interstate Commission may exempt from
3 disclosure information or official records to the extent they would
4 adversely affect personal privacy rights or proprietary interests.

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

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

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

15 3. Disclose trade secrets or commercial or financial
16 information which is privileged or confidential;

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

19 5. Disclose information of a personal nature where disclosure
20 would constitute a clearly unwarranted invasion of personal
21 privacy;

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

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

26 H. Shall cause its legal counsel or designee to certify that a
27 meeting may be closed and shall reference each relevant exemptible
28 provision for any meeting, or portion of a meeting, which is closed
29 pursuant to this provision. The Interstate Commission shall keep



1 minutes which shall fully and clearly describe all matters
2 discussed in a meeting and shall provide a full and accurate
3 summary of actions taken, and the reasons therefore, including a
4 description of the views expressed and the record of a roll call
5 vote. All documents considered in connection with an action shall
6 be identified in such minutes. All minutes and documents of a
7 closed meeting shall remain under seal, subject to release by a
8 majority vote of the Interstate Commission.

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

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

25 ARTICLE X

26 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

27 The Interstate Commission shall have the following powers:

- 28 A. To provide for dispute resolution among member states.
29 B. To promulgate rules and take all necessary actions to



1 effect the goals, purposes and obligations as enumerated in this
2 compact. The rules shall have the force and effect of statutory law
3 and shall be binding in the compact states to the extent and in the
4 manner provided in this compact.

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

8 D. To enforce compliance with the compact provisions, the
9 rules promulgated by the Interstate Commission, and the bylaws,
10 using all necessary and proper means, including but not limited to
11 the use of judicial process.

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

14 F. To purchase and maintain insurance and bonds.

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

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

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

28 J. To accept any and all donations and grants of money,
29 equipment, supplies, materials, and services, and to receive,



1 utilize, and dispose of it.

2 K. To lease, purchase, accept contributions or donations of,
3 or otherwise to own, hold, improve or use any property, real,
4 personal, or mixed.

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

8 M. To establish a budget and make expenditures.

9 N. To adopt a seal and bylaws governing the management and
10 operation of the Interstate Commission.

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

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

19 Q. To establish uniform standards for the reporting,
20 collecting and exchanging of data.

21 R. To maintain corporate books and records in accordance with
22 the bylaws.

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

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

28 ARTICLE XI

29 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION



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

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

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

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

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

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

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

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

23 B. The Interstate Commission shall, by a majority of the
24 members, elect annually from among its members a chairperson, a
25 vice-chairperson, and a treasurer, each of whom shall have such
26 authority and duties as may be specified in the bylaws. The
27 chairperson or, in the chairperson's absence or disability, the
28 vice-chairperson, shall preside at all meetings of the Interstate
29 Commission. The officers so elected shall serve without



1 compensation or remuneration from the Interstate Commission;
2 provided that, subject to the availability of budgeted funds, the
3 officers shall be reimbursed for ordinary and necessary costs and
4 expenses incurred by them in the performance of their
5 responsibilities as officers of the Interstate Commission.

6 C. Executive Committee, Officers and Personnel

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

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

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

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

21 3. The executive committee may, subject to the approval of the
22 Interstate Commission, appoint or retain an executive director for
23 such period, upon such terms and conditions and for such
24 compensation, as the Interstate Commission may deem appropriate.
25 The executive director shall serve as secretary to the Interstate
26 Commission, but shall not be a Member of the Interstate Commission.
27 The executive director shall hire and supervise such other persons
28 as may be authorized by the Interstate Commission.

29 D. The Interstate Commission's executive director and its



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

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

22 2. The Interstate Commission shall defend the executive
23 director and its employees and, subject to the approval of the
24 Attorney General or other appropriate legal counsel of the member
25 state represented by an Interstate Commission representative, shall
26 defend such Interstate Commission representative in any civil
27 action seeking to impose liability arising out of an actual or
28 alleged act, error or omission that occurred within the scope of
29 Interstate Commission employment, duties or responsibilities, or



1 that the defendant had a reasonable basis for believing occurred
2 within the scope of Interstate Commission employment, duties, or
3 responsibilities, provided that the actual or alleged act, error,
4 or omission did not result from intentional or willful and wanton
5 misconduct on the part of such person.

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

18 ARTICLE XII

19 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

20 A. Rulemaking Authority - The Interstate Commission shall
21 promulgate reasonable rules in order to effectively and efficiently
22 achieve the purposes of this Compact. Notwithstanding the
23 foregoing, in the event the Interstate Commission exercises its
24 rulemaking authority in a manner that is beyond the scope of the
25 purposes of this Act, or the powers granted hereunder, then such an
26 action by the Interstate Commission shall be invalid and have no
27 force or effect.

28 B. Rulemaking Procedure - Rules shall be made pursuant to a
29 rulemaking process that substantially conforms to the "Model State



1 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,
2 Vol. 15, p.1 (2000) as amended, as may be appropriate to the
3 operations of the Interstate Commission.

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

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

17 ARTICLE XIII

18 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

19 A. Oversight

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

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



1 Commission.

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

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

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

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

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

27 4. Suspension or termination of membership in the compact
28 shall be imposed only after all other means of securing compliance
29 have been exhausted. Notice of intent to suspend or terminate shall



1 be given by the Interstate Commission to the Governor, the majority
2 and minority leaders of the defaulting state's legislature, and
3 each of the member states.

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

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

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

20 C. Dispute Resolution

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

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

28 D. Enforcement

29 1. The Interstate Commission, in the reasonable exercise of



1 its discretion, shall enforce the provisions and rules of this
2 compact.

3 2. The Interstate Commission, may by majority vote of the
4 members, initiate legal action in the United States District Court
5 for the District of Columbia or, at the discretion of the
6 Interstate Commission, in the federal district where the Interstate
7 Commission has its principal offices, to enforce compliance with
8 the provisions of the compact, its promulgated rules and bylaws,
9 against a member state in default. The relief sought may include
10 both injunctive relief and damages. In the event judicial
11 enforcement is necessary the prevailing party shall be awarded all
12 costs of such litigation including reasonable attorney's fees.

13 3. The remedies herein shall not be the exclusive remedies of
14 the Interstate Commission. The Interstate Commission may avail
15 itself of any other remedies available under state law or the
16 regulation of a profession.

17 ARTICLE XIV

18 FINANCING OF THE INTERSTATE COMMISSION

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

22 B. The Interstate Commission may levy on and collect an annual
23 assessment from each member state to cover the cost of the
24 operations and activities of the Interstate Commission and its
25 staff which must be in a total amount sufficient to cover the
26 Interstate Commission's annual budget as approved each year. The
27 aggregate annual assessment amount shall be allocated based upon a
28 formula to be determined by the Interstate Commission, which shall
29 promulgate a rule binding upon all member states.



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

6 D. The Interstate Commission shall keep accurate accounts of
7 all receipts and disbursements. The receipts and disbursements of
8 the Interstate Commission shall be subject to the audit and
9 accounting procedures established under its bylaws. However, all
10 receipts and disbursements of funds handled by the Interstate
11 Commission shall be audited yearly by a certified or licensed
12 public accountant and the report of the audit shall be included in
13 and become part of the annual report of the Interstate Commission.

14 ARTICLE XV

15 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

26 C. The Interstate Commission may propose amendments to the
27 compact for enactment by the member states. No amendment shall
28 become effective and binding upon the Interstate Commission and the
29 member states unless and until it is enacted into law by unanimous



1 consent of the member states.

2 ARTICLE XVI

3 WITHDRAWAL AND DISSOLUTION

4 A. Withdrawal

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

9 2. Withdrawal from this compact shall be by the enactment of a
10 statute repealing the same, but shall not take effect until one (1)
11 year after the effective date of such statute and until written
12 notice of the withdrawal has been given by the withdrawing state to
13 the Governor of each other member jurisdiction.

14 3. The withdrawing state shall immediately notify the
15 chairperson of the Interstate Commission in writing upon the
16 introduction of legislation repealing this compact in the
17 withdrawing state. The Interstate Commission shall notify the other
18 member states of the withdrawing state's intent to withdraw within
19 sixty (60) days of its receipt thereof.

20 4. The withdrawing state is responsible for all assessments,
21 obligations and liabilities incurred through the effective date of
22 withdrawal, including obligations, the performance of which extend
23 beyond the effective date of withdrawal.

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

27 B. Dissolution of Compact

28 1. This compact shall dissolve effective upon the date of the
29 withdrawal or default of the member state which reduces the



1 membership in the compact to one (1) member state.

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

7 ARTICLE XVII

8 SEVERABILITY AND CONSTRUCTION

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

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

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

17 ARTICLE XVIII

18 BINDING EFFECT OF COMPACT AND OTHER LAWS

19 A. Other Laws

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

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

24 B. Binding Effect of the Compact

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

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



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

Sec. 2. (1) Subject to subsection (2), the governor shall appoint this state's representative to the interstate commission on educational opportunity for military children created in section 1.

(2) The governor shall appoint as this state's representative under subsection (1) a person who meets all of the following or a person who meets subdivisions (a) and (b) and is the spouse or child of a person who meets subdivisions (c) and (d):

(a) Is a resident of this state.

(b) Is a person of good moral character.

(c) Has been honorably discharged from the ~~armed forces~~ **Armed Forces** of the United States after at least 15 years of active duty service.

(d) While engaged in active duty service in the ~~armed forces~~ **Armed Forces** of the United States, had at least 1 minor child enrolled in elementary or secondary school.

~~(3) As used in this section, "armed forces of the United States" means the armed forces of the United States and their reserve components and the United States coast guard.~~

