

# HOUSE BILL No. 5960

April 8, 2008, Introduced by Rep. Opsommer and referred to the Committee on Military and Veterans Affairs and Homeland Security.

A bill entering into the interstate compact on educational opportunity for military children: and for related purposes.

## 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:

### Interstate Compact on Educational Opportunity for Military Children

#### ARTICLE I

#### PURPOSE

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

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

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

10          C. Facilitating the qualification and eligibility for  
11 enrollment, educational programs, and participation in  
12 extracurricular academic, athletic, and social activities.

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

15          E. Providing for the promulgation and enforcement of  
16 administrative rules implementing the provisions of this compact.

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

20          G. Promoting coordination between this compact and other  
21 compacts affecting military children.

22          H. Promoting flexibility and cooperation between the  
23 educational system, parents and the student in order to achieve  
24 educational success for the student.

## 25                                   ARTICLE II

### 26                                   DEFINITIONS

27          As used in this compact, unless the context clearly requires a

1 different construction:

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

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

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

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

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

23       F. "Extracurricular activities" means: a voluntary activity  
24 sponsored by the school or local education agency or an  
25 organization sanctioned by the local education agency.  
26 Extracurricular activities include, but are not limited to,  
27 preparation for and involvement in public performances, contests,

1 athletic competitions, demonstrations, displays, and club  
2 activities.

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

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

11 I. "Member state" means: a state that has enacted this  
12 compact.

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

22 K. "Non-member state" means: a state that has not enacted this  
23 compact.

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

26 M. "Rule" means: a written statement by the Interstate  
27 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 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 O. "State" means: a state of the United States, the District  
10 of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin  
11 Islands, Guam, American Samoa, the Northern Marianas Islands and  
12 any other U.S. Territory.

13 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 Q. "Transition" means: 1) the formal and physical process of  
17 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 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.

24 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

## APPLICABILITY

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

1. active duty 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 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 &amp; ENROLLMENT

1           A. Unofficial or "hand-carried" education records - In the  
2 event that official education records cannot be released to the  
3 parents for the purpose of transfer, the custodian of the records  
4 in the sending state shall prepare and furnish to the parent a  
5 complete set of unofficial educational records containing uniform  
6 information as determined by the Interstate Commission. Upon  
7 receipt of the unofficial education records by a school in the  
8 receiving state, the school shall enroll and appropriately place  
9 the student based on the information provided in the unofficial  
10 records pending validation by the official records, as quickly as  
11 possible.

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

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

1 by the Interstate Commission.

2 D. Kindergarten and First grade entrance age - Students shall  
3 be allowed to continue their enrollment at grade level in the  
4 receiving state commensurate with their grade level (including  
5 Kindergarten) from a local education agency in the sending state at  
6 the time of transition, regardless of age. A student that has  
7 satisfactorily completed the prerequisite grade level in the local  
8 education agency in the sending state shall be eligible for  
9 enrollment in the next highest grade level in the receiving state,  
10 regardless of age. A student transferring after the start of the  
11 school year in the receiving state shall enter the school in the  
12 receiving state on their validated level from an accredited school  
13 in the sending state.

#### 14 ARTICLE V

##### 15 PLACEMENT & ATTENDANCE

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



1 evaluations to ensure appropriate placement and continued  
2 enrollment of the student in the course(s).

3 B. Educational program placement - The receiving state school  
4 shall initially honor placement of the student in educational  
5 programs based on current educational assessments conducted at the  
6 school in the sending state or participation/placement in like  
7 programs in the sending state. Such programs include, but are not  
8 limited to: 1) gifted and talented programs; and 2) English as a  
9 second language (ESL). This does not preclude the school in the  
10 receiving state from performing subsequent evaluations to ensure  
11 appropriate placement of the student.

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

27 D. Placement flexibility - Local education agency

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

5 E. Absence as related to deployment activities - A student  
6 whose parent or 21 legal guardian is an active duty member of the  
7 uniformed services, as defined by the compact, and has been called  
8 to duty for, is on leave from, or immediately returned from  
9 deployment to a combat zone or combat support posting, shall be  
10 granted additional excused absences at the discretion of the local  
11 education agency superintendent to visit with his or her parent or  
12 legal guardian relative to such leave or deployment of the parent  
13 or guardian.

## 14 ARTICLE VI

### 15 ELIGIBILITY

#### 16 A. Eligibility for enrollment

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

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

26 3. A transitioning military child, placed in the care of a  
27 non-custodial parent or other person standing in loco parentis who

1 lives in a jurisdiction other than that of the custodial parent,  
2 may continue to attend the school in which he/she was enrolled  
3 while residing with the custodial parent.

4 B. Eligibility for extracurricular participation - State and  
5 local education agencies shall facilitate the opportunity for  
6 transitioning military children's inclusion in extracurricular  
7 activities, regardless of application deadlines, to the extent they  
8 are otherwise qualified.

9 ARTICLE VII

10 GRADUATION

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

14 A. Waiver requirements - Local education agency administrative  
15 officials shall waive specific courses required for graduation if  
16 similar course work has been satisfactorily completed in another  
17 local education agency or shall provide reasonable justification  
18 for denial. Should a waiver not be granted to a student who would  
19 qualify to graduate from the sending school, the local education  
20 agency shall provide an alternative means of acquiring required  
21 coursework so that graduation may occur on time.

22 B. Exit exams - States shall accept: 1) exit or end-of-course  
23 exams required for graduation from the sending state; or 2)  
24 national norm referenced achievement tests or 3) alternative  
25 testing, in lieu of testing requirements for graduation in the  
26 receiving state. In the event the above alternatives cannot be  
27 accommodated by the receiving state for a student transferring in

1 his or her Senior year, then the provisions of Article VII, Section  
2 C shall apply.

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

#### 14 ARTICLE VIII

#### 15 STATE COORDINATION

16 A. Each member state shall, through the creation of a State  
17 Council or use of an existing body or board, provide for the  
18 coordination among its agencies of government, local education  
19 agencies and military installations concerning the state's  
20 participation in, and compliance with, this compact and Interstate  
21 Commission activities. While each member state may determine the  
22 membership of its own State Council, its membership must include at  
23 least: the state superintendent of education, superintendent of a  
24 school district with a high concentration of military children,  
25 representative from a military installation, one representative  
26 each from the legislative and executive branches of government, and  
27 other offices and stakeholder groups the State Council deems

1 appropriate. A member state that does not have a school district  
2 deemed to contain a high concentration of military children may  
3 appoint a superintendent from another school district to represent  
4 local education agencies on the State Council.

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

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

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

## 17 ARTICLE IX

### 18 INTERSTATE COMMISSION ON EDUCATIONAL 19 OPPORTUNITY FOR MILITARY CHILDREN

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

25 A. Be a body corporate and joint agency of the member states  
26 and shall have all the responsibilities, powers and duties set  
27 forth herein, and such additional powers as may be conferred upon

1 it by a subsequent concurrent action of the respective legislatures  
2 of the member states in accordance with the terms of this compact.

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

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

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

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

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

19 C. Consist of ex-officio, non-voting representatives who are  
20 members of interested organizations. Such ex-officio members, as  
21 defined in the bylaws, may include but not be limited to, members  
22 of the representative organizations of military family advocates,  
23 local education agency officials, parent and teacher groups, the  
24 U.S. Department of Defense, the Education Commission of the States,  
25 the Interstate Agreement on the Qualification of Educational  
26 Personnel and other interstate compacts affecting the education of  
27 children of military members.

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

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

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

24 G. Give public notice of all meetings and all meetings shall  
25 be open to the public, except as set forth in the rules or as  
26 otherwise provided in the compact. The Interstate Commission and  
27 its committees may close a meeting, or portion thereof, where it

1 determines by two-thirds vote that an open meeting would be likely  
2 to:

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

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

7 3. Disclose trade secrets or commercial or financial  
8 information which is privileged or confidential;

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

11 5. Disclose information of a personal nature where disclosure  
12 would constitute a clearly unwarranted invasion of personal  
13 privacy;

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

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

18 H. Shall cause its legal counsel or designee to certify that a  
19 meeting may be closed and shall reference each relevant exemptible  
20 provision for any meeting, or portion of a meeting, which is closed  
21 pursuant to this provision. The Interstate Commission shall keep  
22 minutes which shall fully and clearly describe all matters  
23 discussed in a meeting and shall provide a full and accurate  
24 summary of actions taken, and the reasons therefore, including a  
25 description of the views expressed and the record of a roll call  
26 vote. All documents considered in connection with an action shall  
27 be identified in such minutes. All minutes and documents of a



1 closed meeting shall remain under seal, subject to release by a  
2 majority vote of the Interstate Commission.

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

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

19 ARTICLE X

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

21 The Interstate Commission shall have the following powers:

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

23 B. To promulgate rules and take all necessary actions to  
24 effect the goals, purposes and obligations as enumerated in this  
25 compact. The rules shall have the force and effect of statutory law  
26 and shall be binding in the compact states to the extent and in the  
27 manner provided in this compact.

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

4 D. To enforce compliance with the compact provisions, the  
5 rules promulgated by the Interstate Commission, and the bylaws,  
6 using all necessary and proper means, including but not limited to  
7 the use of judicial process.

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

10 F. To purchase and maintain insurance and bonds.

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

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

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

24 J. To accept any and all donations and grants of money,  
25 equipment, supplies, materials, and services, and to receive,  
26 utilize, and dispose of it.

27 K. To lease, purchase, accept contributions or donations of,

1 or otherwise to own, hold, improve or use any property, real,  
2 personal, or mixed.

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

6 M. To establish a budget and make expenditures.

7 N. To adopt a seal and bylaws governing the management and  
8 operation of the Interstate Commission.

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

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

17 Q. To establish uniform standards for the reporting,  
18 collecting and exchanging of data.

19 R. To maintain corporate books and records in accordance with  
20 the bylaws.

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

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

26 ARTICLE XI

27 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

1 vice-chairperson, shall preside at all meetings of the Interstate  
2 Commission. The officers so elected shall serve without  
3 compensation or remuneration from the Interstate Commission;  
4 provided that, subject to the availability of budgeted funds, the  
5 officers shall be reimbursed for ordinary and necessary costs and  
6 expenses incurred by them in the performance of their  
7 responsibilities as officers of the Interstate Commission.

8 C. Executive Committee, Officers and Personnel

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

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

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

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

23 3. The executive committee may, subject to the approval of the  
24 Interstate Commission, appoint or retain an executive director for  
25 such period, upon such terms and conditions and for such  
26 compensation, as the Interstate Commission may deem appropriate.  
27 The executive director shall serve as secretary to the Interstate

Commission, but shall not be a Member of the Interstate Commission.  
The executive director shall hire and supervise such other persons  
as may be authorized by the Interstate Commission.

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

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

2. The Interstate Commission shall defend the executive  
director and its employees and, subject to the approval of the

1 Attorney General or other appropriate legal counsel of the member  
2 state represented by an Interstate Commission representative, shall  
3 defend such Interstate Commission representative in any civil  
4 action seeking to impose liability arising out of an actual or  
5 alleged act, error or omission that occurred within the scope of  
6 Interstate Commission employment, duties or responsibilities, or  
7 that the defendant had a reasonable basis for believing occurred  
8 within the scope of Interstate Commission employment, duties, or  
9 responsibilities, provided that the actual or alleged act, error,  
10 or omission did not result from intentional or willful and wanton  
11 misconduct on the part of such person.

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

## 24 ARTICLE XII

### 25 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

26 A. Rulemaking Authority - The Interstate Commission shall  
27 promulgate reasonable rules in order to effectively and efficiently

1 achieve the purposes of this Compact. Notwithstanding the  
2 foregoing, in the event the Interstate Commission exercises its  
3 rulemaking authority in a manner that is beyond the scope of the  
4 purposes of this Act, or the powers granted hereunder, then such an  
5 action by the Interstate Commission shall be invalid and have no  
6 force or effect.

7 B. Rulemaking Procedure - Rules shall be made pursuant to a  
8 rulemaking process that substantially conforms to the "Model State  
9 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,  
10 Vol. 15, p.1 (2000) as amended, as may be appropriate to the  
11 operations of the Interstate Commission.

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

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

## 25 ARTICLE XIII

### 26 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

#### 27 A. Oversight



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

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

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

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

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

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

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

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

16          5. The state which has been suspended or terminated is  
17 responsible for all assessments, obligations and liabilities  
18 incurred through the effective date of suspension or termination  
19 including obligations, the performance of which extends beyond the  
20 effective date of suspension or termination.

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

26          7. The defaulting state may appeal the action of the  
27 Interstate Commission by petitioning the U.S. District Court for

1 the District of Columbia or the federal district where the  
2 Interstate Commission has its principal offices. The prevailing  
3 party shall be awarded all costs of such litigation including  
4 reasonable attorney's fees.

5 C. Dispute Resolution

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

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

13 D. Enforcement

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

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

27 3. The remedies herein shall not be the exclusive remedies of

1 the Interstate Commission. The Interstate Commission may avail  
2 itself of any other remedies available under state law or the  
3 regulation of a profession.

#### 4 ARTICLE XIV

##### 5 FINANCING OF THE INTERSTATE COMMISSION

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

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

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

22 D. The Interstate Commission shall keep accurate accounts of  
23 all receipts and disbursements. The receipts and disbursements of  
24 the Interstate Commission shall be subject to the audit and  
25 accounting procedures established under its bylaws. However, all  
26 receipts and disbursements of funds handled by the Interstate  
27 Commission shall be audited yearly by a certified or licensed

1 public accountant and the report of the audit shall be included in  
2 and become part of the annual report of the Interstate Commission.

3 ARTICLE XV

4 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

15 C. The Interstate Commission may propose amendments to the  
16 compact for enactment by the member states. No amendment shall  
17 become effective and binding upon the Interstate Commission and the  
18 member states unless and until it is enacted into law by unanimous  
19 consent of the member states.

20 ARTICLE XVI

21 WITHDRAWAL AND DISSOLUTION

22 A. Withdrawal

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

27 2. Withdrawal from this compact shall be by the enactment of a

1 statute repealing the same, but shall not take effect until one (1)  
2 year after the effective date of such statute and until written  
3 notice of the withdrawal has been given by the withdrawing state to  
4 the Governor of each other member jurisdiction.

5 3. The withdrawing state shall immediately notify the  
6 chairperson of the Interstate Commission in writing upon the  
7 introduction of legislation repealing this compact in the  
8 withdrawing state. The Interstate Commission shall notify the other  
9 member states of the withdrawing state's intent to withdraw within  
10 sixty (60) days of its receipt thereof.

11 4. The withdrawing state is responsible for all assessments,  
12 obligations and liabilities incurred through the effective date of  
13 withdrawal, including obligations, the performance of which extend  
14 beyond the effective date of withdrawal.

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

#### 18 B. Dissolution of Compact

19 1. This compact shall dissolve effective upon the date of the  
20 withdrawal or default of the member state which reduces the  
21 membership in the compact to one (1) member state.

22 2. Upon the dissolution of this compact, the compact becomes  
23 null and void and shall be of no further force or effect, and the  
24 business and affairs of the Interstate Commission shall be  
25 concluded and surplus funds shall be distributed in accordance with  
26 the bylaws.

#### 27 ARTICLE XVII

## SEVERABILITY AND CONSTRUCTION

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

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

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

## ARTICLE XVIII

## BINDING EFFECT OF COMPACT AND OTHER LAWS

## A. Other Laws

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

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

## B. Binding Effect of the Compact

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

2. All agreements between the Interstate Commission and the 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.

1       Sec. 2. The governor shall appoint this state's representative  
2   to the interstate commission on educational opportunity for  
3   military children created in section 1.