

# House Bill 3679

Sponsored by COMMITTEE ON VETERANS AND EMERGENCY SERVICES

## SUMMARY

The following summary is not prepared by the sponsors of the measure and is not a part of the body thereof subject to consideration by the Legislative Assembly. It is an editor's brief statement of the essential features of the measure **as introduced**.

Enacts Interstate Compact on Educational Opportunity for Military Children.

## A BILL FOR AN ACT

Relating to education of children of military families.

**Be It Enacted by the People of the State of Oregon:**

**SECTION 1. The Interstate Compact on Educational Opportunity for Military Children is enacted into law and entered into on behalf of this state with all other jurisdictions legally joining therein in the form substantially as follows:**

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## ARTICLE I

### PURPOSE

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

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

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

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

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

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

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

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

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

## ARTICLE II

**NOTE:** Matter in **boldfaced** type in an amended section is new; matter *[italic and bracketed]* is existing law to be omitted. New sections are in **boldfaced** type.

## DEFINITIONS

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2  
3 As used in this compact, unless the context clearly requires a different construction:

4 A. "Active duty" means full-time duty status in the active uniformed service of the  
5 United States, including members of the National Guard or the military reserve forces who  
6 are on active duty orders pursuant to 10 U.S.C. 1209 and 1211.

7 B. "Children of military families" means a school-aged child, enrolled in kindergarten  
8 through grade 12, in the household of an active duty member.

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

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

14 E. "Education records" means official records, files and data directly related to a student  
15 and maintained by the school or local education agency, including but not limited to records  
16 encompassing all the material kept in the student's cumulative folder such as general iden-  
17 tifying data, records of attendance and of academic work completed, records of achievement  
18 and results of evaluative tests, health data, disciplinary status, test protocols and individ-  
19 ualized education programs.

20 F. "Extracurricular activities" means a voluntary activity sponsored by the school, the  
21 local education agency or an organization sanctioned by the local education agency. Extra-  
22 curricular activities include, but are not limited to, preparation for and involvement in public  
23 performance, contests, athletic competitions, demonstrations, displays and club activities.

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

27 H. "Local education agency" means the Department of Education.

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

29 J. "Military installation" means a base, camp, post, station, yard, center, home port fa-  
30 cility for any ship or other activity under the jurisdiction of the Department of Defense, in-  
31 cluding any leased facility, which is located within any of the several states, the District of  
32 Columbia, the Commonwealth of Puerto Rico, the United States Virgin Islands, Guam,  
33 American Samoa, the Northern Marianas Islands and any other United States territory. The  
34 term does not include any facility used primarily for civil works, rivers and harbors projects  
35 or flood control projects.

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

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

39 M. "Rule" means a written statement by the Interstate Commission promulgated pursu-  
40 ant to Article XII of this compact that is of general applicability, that implements, interprets  
41 or prescribes a policy or provision of this compact, or that is an organizational, procedural  
42 or practice requirement of the Interstate Commission, and that has the force and effect of  
43 statutory law in a member state, and includes the amendment, repeal or suspension of an  
44 existing rule.

45 N. "Sending state" means the state from which a child of a military family is sent,

1 brought or caused to be sent or brought.

2 O. "State" means a state of the United States, the District of Columbia, the Common-  
3 wealth of Puerto Rico, the United States Virgin Islands, Guam, American Samoa, the  
4 Northern Marianas Islands and any other United States territory.

5 P. "Student" means the child of a military family for whom the local education agency  
6 receives public funding and who is formally enrolled in kindergarten through grade 12.

7 Q. "Transition" means:

8 1. The formal and physical process of transferring from school to school; or

9 2. The period of time in which a student moves from one school in the sending state to  
10 another school in the receiving state.

11 R. "Uniformed service" means the Army, Navy, Air Force, Marine Corps, Coast Guard,  
12 the commissioned corps of the National Oceanic and Atmospheric Administration and the  
13 commissioned corps of the United States Public Health Service.

14 S. "Veteran" means a person who served in the uniformed services and who was dis-  
15 charged or released from the uniformed services under conditions other than dishonorable.

16  
17 **ARTICLE III**  
18 **APPLICABILITY**

19  
20 A. Except as otherwise provided in Section B of this Article, this compact shall apply to  
21 the children of:

22 1. Active duty members of the uniformed services as defined in this compact, including  
23 members of the National Guard or the military reserve forces who are on active duty orders  
24 pursuant to 10 U.S.C. 1209 and 1211;

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

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

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

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

32 1. Inactive members of the National Guard or the military reserve forces;

33 2. Members of the uniformed services now retired, except as provided in Section A of this  
34 Article;

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

37 4. Other Department of Defense personnel and other federal agency civilian and contract  
38 employees not defined as active duty members of the uniformed services.

39  
40 **ARTICLE IV**  
41 **EDUCATION RECORDS AND ENROLLMENT**

42  
43 A. Unofficial or hand-carried education records. In the event that official education re-  
44 cords cannot be released to the parents for the purpose of transfer, the custodian of the  
45 records in the sending state shall prepare and furnish to the parent a complete set of unof-

1 **official education records containing uniform information as determined by the Interstate**  
 2 **Commission. Upon receipt of the unofficial education records by a school in the receiving**  
 3 **state, the school shall enroll and appropriately place the student based on the information**  
 4 **provided in the unofficial records pending validation by the official records, as quickly as**  
 5 **possible.**

6 **B. Official education records and transcripts. Simultaneous with the enrollment and**  
 7 **conditional placement of the student, the school in the receiving state shall request the**  
 8 **student’s official education record from the school in the sending state. Upon receipt of this**  
 9 **request, the school in the sending state will process and furnish the official education re-**  
 10 **ords to the school in the receiving state within 10 days or within such time as is reasonably**  
 11 **determined under the rules promulgated by the Interstate Commission.**

12 **C. Immunizations. Compacting states shall give 30 days from the date of enrollment, or**  
 13 **within such time as is reasonably determined under the rules promulgated by the Interstate**  
 14 **Commission, for students to obtain any immunizations required by the receiving state. For**  
 15 **a series of immunizations, initial vaccinations must be obtained within 30 days or within such**  
 16 **time as is reasonably determined under the rules promulgated by the Interstate Commission.**

17 **D. Kindergarten and first grade entrance age. Students shall be allowed to continue their**  
 18 **enrollment at grade level in the receiving state commensurate with their grade level, in-**  
 19 **cluding kindergarten, from a local education agency in the sending state at the time of**  
 20 **transition, regardless of age. A student that has satisfactorily completed the prerequisite**  
 21 **grade level in the local education agency in the sending state shall be eligible for enrollment**  
 22 **in the next highest grade level in the receiving state, regardless of age. A student trans-**  
 23 **ferring after the start of the school year in the receiving state shall enter the school in the**  
 24 **receiving state on their validated level from an accredited school in the sending state.**

25  
 26 **ARTICLE V**  
 27 **PLACEMENT AND ATTENDANCE**  
 28

29 **A. Course placement. When the student transfers before or during the school year, the**  
 30 **receiving state school shall initially honor placement of the student in educational courses**  
 31 **based on the student’s enrollment in the sending state school or educational assessments**  
 32 **conducted at the school in the sending state if the courses are offered. Course placement**  
 33 **includes but is not limited to honors, International Baccalaureate, advanced placement, vo-**  
 34 **catational, technical and career pathways courses. Continuing the student’s academic program**  
 35 **from the previous school and promoting placement in academically and career challenging**  
 36 **courses should be paramount when considering placement. This does not preclude the school**  
 37 **in the receiving state from performing subsequent evaluations to ensure appropriate place-**  
 38 **ment and continued enrollment of the student in a course.**

39 **B. Educational program placement. The receiving state school shall initially honor**  
 40 **placement of the student in educational programs based on current educational assessments**  
 41 **conducted at the school in the sending state or based on participation or placement in like**  
 42 **programs in the sending state. Such programs include, but are not limited to, talented and**  
 43 **gifted programs and English as a second language programs. This does not preclude the**  
 44 **school in the receiving state from performing subsequent evaluations to ensure appropriate**  
 45 **placement of the student.**



1 education agencies shall incorporate the following procedures:

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

8 B. Exit exams. States shall accept exit or end-of-course exams required for graduation  
 9 from the sending state, national norm-referenced achievement tests or alternative testing  
 10 that is given in lieu of testing requirements for graduation in the receiving state. In the  
 11 event the above alternatives cannot be accommodated by the receiving state for a student  
 12 transferring in the student's senior year, then the provisions of Section C of this Article  
 13 shall apply.

14 C. Transfers during senior year. Should a military student transferring at the beginning  
 15 or during the student's senior year be ineligible to graduate from the receiving local educa-  
 16 tion agency after all alternatives have been considered, the sending and receiving local edu-  
 17 cation agencies shall ensure the receipt of a diploma from the sending local education  
 18 agency, if the student meets the graduation requirements of the sending local education  
 19 agency. In the event that one of the states in question is not a member of this compact, the  
 20 member state shall use best efforts to facilitate the on-time graduation of the student in  
 21 accordance with Sections A and B of this Article.

22  
 23 **ARTICLE VIII**  
 24 **STATE COORDINATION**  
 25

26 A. Each member state shall, through the creation of a State Council or use of an existing  
 27 body or board, provide for the coordination among its agencies of government, local educa-  
 28 tion agencies and military installations concerning the state's participation in, and compli-  
 29 ance with, this compact and Interstate Commission activities. While each member state may  
 30 determine the membership of its own State Council, its membership must include at least:  
 31 the state superintendent of education, a superintendent of a school district with a high con-  
 32 centration of military children, a representative from a military installation, one represen-  
 33 tative each from the legislative and executive branches of government, and other offices and  
 34 stakeholder groups the State Council deems appropriate. A member state that does not have  
 35 a school district deemed to contain a high concentration of military children may appoint a  
 36 superintendent from another school district to represent local education agencies on the  
 37 State Council.

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

41 C. The compact commissioner responsible for the administration and management of the  
 42 state's participation in the compact shall be appointed by the Governor or as otherwise de-  
 43 termined by each member state.

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

1 **ber of the State Council.**

2  
3 **ARTICLE IX**  
4 **INTERSTATE COMMISSION ON EDUCATIONAL**  
5 **OPPORTUNITY FOR MILITARY CHILDREN**  
6

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

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

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

16 **1. Each member state represented at a meeting of the Interstate Commission is entitled**  
17 **to one vote.**

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

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

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

26 **C. Consist of ex officio, nonvoting representatives who are members of interested or-**  
27 **ganizations. Such ex officio members, as defined in the bylaws, may include but not be lim-**  
28 **ited to members of the representative organizations of military family advocates, local**  
29 **education agency officials, parent and teacher groups, the Department of Defense, the Edu-**  
30 **cation Commission of the States, the Interstate Agreement on the Qualification of Educa-**  
31 **tional Personnel and other interstate compacts affecting the education of children of military**  
32 **members.**

33 **D. Meet at least once each calendar year. The chairperson may call additional meetings**  
34 **and, upon the request of a simple majority of the member states, shall call additional**  
35 **meetings.**

36 **E. Establish an executive committee, whose members shall include the officers of the**  
37 **Interstate Commission and such other members of the Interstate Commission as determined**  
38 **by the bylaws. Members of the executive committee shall serve a one-year term. Members**  
39 **of the executive committee shall be entitled to one vote each. The executive committee shall**  
40 **have the power to act on behalf of the Interstate Commission, with the exception of rule**  
41 **making, during periods when the Interstate Commission is not in session. The executive**  
42 **committee shall oversee the day-to-day activities of the administration of this compact, in-**  
43 **cluding enforcement and compliance with the provisions of this compact, its bylaws and**  
44 **rules, and other such duties as deemed necessary. The Department of Defense shall serve**  
45 **as an ex officio, nonvoting member of the executive committee.**

1           **F. Establish bylaws and rules that provide for conditions and procedures under which the**  
 2 **Interstate Commission shall make its information and official records available to the public**  
 3 **for inspection or copying. The Interstate Commission may exempt from disclosure informa-**  
 4 **tion or official records to the extent they would adversely affect personal privacy rights or**  
 5 **proprietary interests.**

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

- 10           **1. Relate solely to the Interstate Commission’s internal personnel practices and proce-**  
 11 **dures;**
- 12           **2. Disclose matters specifically exempted from disclosure by federal and state statute;**
- 13           **3. Disclose trade secrets or commercial or financial information that is privileged or**  
 14 **confidential;**
- 15           **4. Involve accusing a person of a crime or formally censuring a person;**
- 16           **5. Disclose information of a personal nature if disclosure would constitute a clearly un-**  
 17 **warranted invasion of personal privacy;**
- 18           **6. Disclose investigative records compiled for law enforcement purposes; or**
- 19           **7. Specifically relate to the Interstate Commission’s participation in a civil action or**  
 20 **other legal proceeding.**

21           **H. Cause its legal counselor designee to certify that a meeting may be closed and shall**  
 22 **reference each relevant exemptible provision for any meeting, or portion of a meeting, which**  
 23 **is closed pursuant to this provision. The Interstate Commission shall keep minutes that shall**  
 24 **fully and clearly describe all matters discussed in a meeting and shall provide a full and ac-**  
 25 **curate summary of actions taken, and the reasons therefore, including a description of the**  
 26 **views expressed and the record of a roll call vote. All documents considered in connection**  
 27 **with an action shall be identified in such minutes. All minutes and documents of a closed**  
 28 **meeting shall remain under seal, subject to release by a majority vote of the Interstate**  
 29 **Commission.**

30           **I. Collect standardized data concerning the educational transition of the children of mil-**  
 31 **itary families under this compact as directed through its rules, which shall specify the data**  
 32 **to be collected, the means of collection and data exchange and reporting requirements. Such**  
 33 **methods of data collection, exchange and reporting shall, in so far as is reasonably possible,**  
 34 **conform to current technology and coordinate its information functions with the appropriate**  
 35 **custodian of records as identified in the bylaws and rules.**

36           **J. Create a process that permits military officials, education officials and parents to in-**  
 37 **form the Interstate Commission if and when there are alleged violations of this compact or**  
 38 **its rules or when issues subject to the jurisdiction of this compact or its rules are not ad-**  
 39 **ressed by the state or local education agency. This section shall not be construed to create**  
 40 **a private right of action against the Interstate Commission or any member state.**

41  
 42   **ARTICLE X**  
 43   **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**  
 44

45           **The Interstate Commission shall have the following powers:**



1       **A. To provide for dispute resolution among member states.**

2       **B. To promulgate rules and take all necessary actions to effect the goals, purposes and**  
3 **obligations as enumerated in this compact. The rules shall have the force and effect of**  
4 **statutory law and shall be binding in the compact states to the extent and in the manner**  
5 **provided in this compact.**

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

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

11       **E. To establish and maintain offices that shall be located within one or more of the**  
12 **member states.**

13       **F. To purchase and maintain insurance and bonds.**

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

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

18       **I. To elect or appoint such officers, attorneys, employees, agents or consultants, and to**  
19 **fix their compensation, define their duties and determine their qualifications, and to estab-**  
20 **lish the Interstate Commission's personnel policies and programs relating to conflicts of in-**  
21 **terest, rates of compensation and qualifications of personnel.**

22       **J. To accept any and all donations and grants of money, equipment, supplies, materials**  
23 **and services, and to receive, utilize and dispose of it.**

24       **K. To lease, purchase, accept contributions or donations of, or otherwise to own, hold,**  
25 **improve or use any property, real, personal or mixed.**

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

28       **M. To establish a budget and make expenditures.**

29       **N. To adopt a seal and bylaws governing the management and operation of the Interstate**  
30 **Commission.**

31       **O. To report annually to the legislatures, governors, judiciary and state councils of the**  
32 **member states concerning the activities of the Interstate Commission during the preceding**  
33 **year. Such reports shall also include any recommendations that may have been adopted by**  
34 **the Interstate Commission.**

35       **P. To coordinate education, training and public awareness regarding this compact, its**  
36 **implementation and operation for officials and parents involved in such activity.**

37       **Q. To establish uniform standards for the reporting, collecting and exchanging of data.**

38       **R. To maintain corporate books and records in accordance with the bylaws.**

39       **S. To perform such functions as may be necessary or appropriate to achieve the purposes**  
40 **of this compact.**

41       **T. To provide for the uniform collection and sharing of information between and among**  
42 **member states, schools and military families under this compact.**

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44  
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**ARTICLE XI**  
**ORGANIZATION AND OPERATION OF THE**

INTERSTATE COMMISSION

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

- 7           **1. Establishing the fiscal year of the Interstate Commission;**  
8           **2. Establishing an executive committee and such other committees as may be necessary;**  
9           **3. Providing for the establishment of committees and for governing any general or spe-**  
10 **cific delegation of authority or function of the Interstate Commission;**  
11           **4. Providing reasonable procedures for calling and conducting meetings of the Interstate**  
12 **Commission, and ensuring reasonable notice of each such meeting;**  
13           **5. Establishing the titles and responsibilities of the officers and staff of the Interstate**  
14 **Commission;**  
15           **6. Providing a mechanism for concluding the operations of the Interstate Commission**  
16 **and the return of surplus funds that may exist upon the termination of this compact after**  
17 **the payment and reserving of all of its debts and obligations; and**  
18           **7. Providing start-up rules for initial administration of this compact.**

19       **B. The Interstate Commission shall, by a majority of the members, elect annually from**  
20 **among its members a chairperson, a vice chairperson and a treasurer, each of whom shall**  
21 **have such authority and duties as may be specified in the bylaws. The chairperson or, in the**  
22 **chairperson’s absence or disability, the vice chairperson, shall preside at all meetings of the**  
23 **Interstate Commission. The officers so elected shall serve without compensation or**  
24 **remuneration from the Interstate Commission provided that, subject to the availability of**  
25 **budgeted funds, the officers shall be reimbursed for ordinary and necessary costs and ex-**  
26 **penses incurred by them in the performance of their responsibilities as officers of the**  
27 **Interstate Commission.**

28       **C. Executive committee, officers and personnel.**

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

- 31           **a. Managing the affairs of the Interstate Commission in a manner consistent with the**  
32 **bylaws and purposes of the Interstate Commission;**  
33           **b. Overseeing an organizational structure within, and appropriate procedures for, the**  
34 **Interstate Commission to provide for the creation of rules, operating procedures and ad-**  
35 **ministrative and technical support functions; and**  
36           **c. Planning, implementing and coordinating communications and activities with other**  
37 **state, federal and local government organizations in order to advance the goals of the**  
38 **Interstate Commission.**

39           **2. The executive committee may, subject to the approval of the Interstate Commission,**  
40 **appoint or retain an executive director for such period, upon such terms and conditions and**  
41 **for such compensation, as the Interstate Commission may deem appropriate. The executive**  
42 **director shall serve as secretary to the Interstate Commission, but shall not be a member**  
43 **of the Interstate Commission. The executive director shall hire and supervise such other**  
44 **persons as may be authorized by the Interstate Commission.**

45       **D. The Interstate Commission’s executive director and its employees shall be immune**

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

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

16 2. The Interstate Commission shall defend the executive director and its employees and,  
 17 subject to the approval of the Attorney General or other appropriate legal counsel of the  
 18 member state represented by an Interstate Commission representative, shall defend such  
 19 Interstate Commission representative in any civil action seeking to impose liability arising  
 20 out of an actual or alleged act, error or omission that occurred within the scope of Interstate  
 21 Commission employment, duties or responsibilities, or that the defendant had a reasonable  
 22 basis for believing occurred within the scope of Interstate Commission employment, duties  
 23 or responsibilities, provided that the actual or alleged act, error or omission did not result  
 24 from intentional or willful and wanton misconduct on the part of such person.

25 3. To the extent not covered by the state involved, a member state, the Interstate Com-  
 26 mission or the representatives or employees of the Interstate Commission shall be held  
 27 harmless in the amount of a settlement or judgment, including attorney’s fees and costs,  
 28 obtained against such persons arising out of an actual or alleged act, error or omission that  
 29 occurred within the scope of Interstate Commission employment, duties or responsibilities,  
 30 or that such persons had a reasonable basis for believing occurred within the scope of  
 31 Interstate Commission employment, duties or responsibilities, provided that the actual or  
 32 alleged act, error or omission did not result from intentional or willful and wanton miscon-  
 33 duct on the part of such persons.

34  
 35 **ARTICLE XII**

36 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

37  
 38 **A. Rulemaking authority.** The Interstate Commission shall promulgate reasonable rules  
 39 in order to effectively and efficiently achieve the purposes of this compact. Notwithstanding  
 40 the foregoing, in the event the Interstate Commission exercises its rulemaking authority in  
 41 a manner that is beyond the scope of the purposes of this compact, or the powers granted  
 42 hereunder, then such an action by the Interstate Commission shall be invalid and have no  
 43 force or effect.

44 **B. Rulemaking procedure.** Rules shall be made pursuant to a rulemaking process that  
 45 substantially conforms to the “Model State Administrative Procedure Act,” of 1981, Uniform

1 Laws Annotated, Vol. 15, p. I (2000), as amended, as may be appropriate to the operations  
 2 of the Interstate Commission.

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

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

12  
 13 **ARTICLE XIII**  
 14 **OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION**  
 15

16 **A. Oversight.**

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

21 2. All courts shall take judicial notice of this compact and the rules in any judicial or  
 22 administrative proceeding in a member state pertaining to the subject matter of this com-  
 23 pact that may affect the powers, responsibilities or actions of the Interstate Commission.

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

28 **B. Default, technical assistance, suspension and termination.**

29 1. If the Interstate Commission determines that a member state has defaulted in the  
 30 performance of its obligations or responsibilities under this compact, or the bylaws or  
 31 promulgated rules, the Interstate Commission shall provide written notice to the defaulting  
 32 state and other member states of the nature of the default, the means of curing the default  
 33 and any action taken by the Interstate Commission. The Interstate Commission shall specify  
 34 the conditions by which the defaulting state must cure its default.

35 2. If a member state has defaulted, the Interstate Commission shall provide remedial  
 36 training and specific technical assistance regarding the default.

37 3. If the defaulting state fails to cure the default, the defaulting state shall be terminated  
 38 from this compact upon an affirmative vote of a majority of the member states and all  
 39 rights, privileges and benefits conferred by this compact shall be terminated from the effec-  
 40 tive date of termination. A cure of the default does not relieve the offending state of obli-  
 41 gations or liabilities incurred during the period of the default.

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

1       **5. The state that has been suspended or terminated is responsible for all assessments,**  
 2 **obligations and liabilities incurred through the effective date of suspension or termination**  
 3 **including obligations, the performance of which extends beyond the effective date of sus-**  
 4 **pension or termination.**

5       **6. The Interstate Commission shall not bear any costs relating to any state that has been**  
 6 **found to be in default or that has been suspended or terminated from this compact, unless**  
 7 **otherwise mutually agreed upon in writing between the Interstate Commission and the de-**  
 8 **faulting state.**

9       **7. The defaulting state may appeal the action of the Interstate Commission by petitioning**  
 10 **the United States District Court for the District of Columbia or the federal district where**  
 11 **the Interstate Commission has its principal offices. The prevailing party shall be awarded all**  
 12 **costs of such litigation including reasonable attorney fees.**

13       **C. Dispute resolution.**

14       **1. The Interstate Commission shall attempt, upon the request of a member state, to re-**  
 15 **solve disputes that are subject to this compact and that may arise among member states and**  
 16 **between member and nonmember states.**

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

19       **D. Enforcement.**

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

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

29       **3. The remedies herein shall not be the exclusive remedies of the Interstate Commission.**  
 30 **The Interstate Commission may avail itself of any other remedies available under state law**  
 31 **or the regulation of a profession.**

32  
 33                       **ARTICLE XIV**

34                       **FINANCING OF THE INTERSTATE COMMISSION**

35  
 36       **A. The Interstate Commission shall pay, or provide for the payment of, the reasonable**  
 37 **expenses of its establishment, organization and ongoing activities.**

38       **B. The Interstate Commission may levy on and collect an annual assessment from each**  
 39 **member state to cover the cost of the operations and activities of the Interstate Commission**  
 40 **and its staff, which must be in a total amount sufficient to cover the Interstate**  
 41 **Commission's annual budget as approved each year. The aggregate annual assessment**  
 42 **amount shall be allocated based upon a formula to be determined by the Interstate Com-**  
 43 **mission, which shall promulgate a rule binding upon all member states.**

44       **C. The Interstate Commission shall not incur obligations of any kind prior to securing**  
 45 **the funds adequate to meet the same, nor shall the Interstate Commission pledge the credit**

1 of any of the member states, except by and with the authority of the member state.

2 D. The Interstate Commission shall keep accurate accounts of all receipts and disburse-  
3 ments. The receipts and disbursements of the Interstate Commission shall be subject to the  
4 audit and accounting procedures established under its bylaws. However, all receipts and dis-  
5 bursements of funds handled by the Interstate Commission shall be audited yearly by a cer-  
6 tified or licensed public accountant and the report of the audit shall be included in and  
7 become part of the annual report of the Interstate Commission.

8  
9 **ARTICLE XV**

10 **MEMBER STATES, EFFECTIVE DATE AND AMENDMENT**

11  
12 A. Any state is eligible to become a member state.

13 B. This compact shall become effective and binding upon legislative enactment of this  
14 compact into law by no less than 10 of the states. The effective date may be no earlier than  
15 December 1, 2007. Thereafter it shall become effective and binding as to any other member  
16 state upon enactment of this compact into law by that state. The governors of nonmember  
17 states or their designees shall be invited to participate in the activities of the Interstate  
18 Commission on a nonvoting basis prior to adoption of this compact by all states.

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

23  
24 **ARTICLE XVI**

25 **WITHDRAWAL AND DISSOLUTION**

26  
27 A. Withdrawal.

28 1. Once effective, this compact shall continue in force and remain binding upon each and  
29 every member state provided that a member state may withdraw from this compact by spe-  
30 cifically repealing the statute that enacted this compact into law.

31 2. Withdrawal from this compact shall be by the enactment of a statute repealing the  
32 same, but shall not take effect until one year after the effective date of such statute and  
33 until written notice of the withdrawal has been given by the withdrawing state to the Gov-  
34 ernor of each other member jurisdiction.

35 3. The withdrawing state shall immediately notify the chairperson of the Interstate  
36 Commission in writing upon the introduction of legislation repealing this compact in the  
37 withdrawing state. The Interstate Commission shall notify the other member states of the  
38 withdrawing state's intent to withdraw within 60 days of its receipt thereof.

39 4. The withdrawing state is responsible for all assessments, obligations and liabilities in-  
40 curred through the effective date of withdrawal, including obligations, the performance of  
41 which extend beyond the effective date of withdrawal.

42 5. Reinstatement following withdrawal of a member state shall occur upon the with-  
43 drawing state reenacting this compact or upon such later date as determined by the Inter-  
44 state Commission.

45 B. Dissolution of compact.

1       **1. This compact shall dissolve effective upon the date of the withdrawal or default of the**  
2 **member state that reduces the membership in this compact to one member state.**

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

6  
7   **ARTICLE XVII**  
8   **SEVERABILITY AND CONSTRUCTION**

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

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

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

16  
17   **ARTICLE XVIII**  
18   **BINDING EFFECT OF COMPACT AND OTHER LAWS**

19  
20       **A. Other laws.**

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

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

25       **B. Binding effect of the compact.**

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

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

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

33 \_\_\_\_\_  
34 \_\_\_\_\_  
35 \_\_\_\_\_