

By Senator Storms

10-00544A-10

20101060__

1 A bill to be entitled
 2 An act relating to the Interstate Compact on
 3 Educational Opportunity for Military Children;
 4 repealing s. 5 of ch. 2008-225, Laws of Florida;
 5 abrogating the future repeal of ss. 1000.36, 1000.37,
 6 1000.38, and 1000.39, F.S., relating to the compact;
 7 amending s. 1000.36, F.S.; deleting provisions
 8 relating to the disclosure of information and records
 9 and the closure of meetings by the Interstate
 10 Commission on Educational Opportunity for Military
 11 Children; providing for future legislative review and
 12 repeal of the compact; providing an effective date.

14 Be It Enacted by the Legislature of the State of Florida:

16 Section 1. Section 5 of chapter 2008-225, Laws of Florida,
 17 is repealed.

18 Section 2. Section 1000.36, Florida Statutes, is amended to
 19 read:

20 1000.36 Interstate Compact on Educational Opportunity for
 21 Military Children.—The Governor is authorized and directed to
 22 execute the Interstate Compact on Educational Opportunity for
 23 Military Children on behalf of this state with any other state
 24 or states legally joining therein in the form substantially as
 25 follows:

26 Interstate Compact on Educational
 27 Opportunity for Military Children

28 ARTICLE I

29 PURPOSE.—It is the purpose of this compact to remove

10-00544A-10

20101060__

30 barriers to educational success imposed on children of military
31 families because of frequent moves and deployment of their
32 parents by:

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

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

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

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

47 E. Providing for the adoption and enforcement of
48 administrative rules implementing this compact.

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

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

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

57 ARTICLE II

58 DEFINITIONS.—As used in this compact, unless the context

10-00544A-10

20101060__

59 clearly requires a different construction, the term:

60 A. "Active duty" means the full-time duty status in the
61 active uniformed service of the United States, including members
62 of the National Guard and Reserve on active duty orders pursuant
63 to 10 U.S.C. ss. 1209 and 1211.

64 B. "Children of military families" means school-aged
65 children, enrolled in kindergarten through 12th grade, in the
66 household of an active-duty member.

67 C. "Compact commissioner" means the voting representative
68 of each compacting state appointed under Article VIII of this
69 compact.

70 D. "Deployment" means the period 1 month before the service
71 members' departure from their home station on military orders
72 through 6 months after return to their home station.

73 E. "Educational records" or "education records" means those
74 official records, files, and data directly related to a student
75 and maintained by the school or local education agency,
76 including, but not limited to, records encompassing all the
77 material kept in the student's cumulative folder such as general
78 identifying data, records of attendance and of academic work
79 completed, records of achievement and results of evaluative
80 tests, health data, disciplinary status, test protocols, and
81 individualized education programs.

82 F. "Extracurricular activities" means a voluntary activity
83 sponsored by the school or local education agency or an
84 organization sanctioned by the local education agency.
85 Extracurricular activities include, but are not limited to,
86 preparation for and involvement in public performances,
87 contests, athletic competitions, demonstrations, displays, and

10-00544A-10

20101060__

88 club activities.

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

93 H. "Local education agency" means a public authority
94 legally constituted by the state as an administrative agency to
95 provide control of, and direction for, kindergarten through 12th
96 grade public educational institutions.

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

99 J. "Military installation" means a base, camp, post,
100 station, yard, center, homeport facility for any ship, or other
101 activity under the jurisdiction of the Department of Defense,
102 including any leased facility, which is located within any of
103 the several states, the District of Columbia, the Commonwealth
104 of Puerto Rico, the United States Virgin Islands, Guam, American
105 Samoa, the Northern Marianas Islands, and any other United
106 States Territory. The term does not include any facility used
107 primarily for civil works, rivers and harbors projects, or flood
108 control projects.

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

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

114 M. "Rule" means a written statement by the Interstate
115 Commission adopted under Article XII of this compact which is of
116 general applicability, implements, interprets, or prescribes a

10-00544A-10

20101060__

117 policy or provision of the compact, or an organizational,
118 procedural, or practice requirement of the Interstate
119 Commission, and has the force and effect of statutory law in a
120 member state, and includes the amendment, repeal, or suspension
121 of an existing rule.

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

125 O. "State" means a state of the United States, the District
126 of Columbia, the Commonwealth of Puerto Rico, the United States
127 Virgin Islands, Guam, American Samoa, the Northern Marianas
128 Islands, and any other United States Territory.

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

132 Q. "Transition" means:

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

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

138 R. "Uniformed services" means the Army, Navy, Air Force,
139 Marine Corps, Coast Guard as well as the Commissioned Corps of
140 the National Oceanic and Atmospheric Administration, and Public
141 Health Services.

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

145 ARTICLE III

10-00544A-10

20101060__

146 APPLICABILITY.—

147 A. Except as otherwise provided in Section C, this compact
148 applies to the children of:

149 1. Active duty members of the uniformed services, including
150 members of the National Guard and Reserve on active-duty orders
151 pursuant to 10 U.S.C. ss. 1209 and 1211;

152 2. Members or veterans of the uniformed services who are
153 severely injured and medically discharged or retired for a
154 period of 1 year after medical discharge or retirement; and

155 3. Members of the uniformed services who die on active duty
156 or as a result of injuries sustained on active duty for a period
157 of 1 year after death.

158 B. This interstate compact applies to local education
159 agencies.

160 C. This compact does not apply to the children of:

161 1. Inactive members of the National Guard and military
162 reserves;

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

165 3. Veterans of the uniformed services, except as provided
166 in Section A; and

167 4. Other United States Department of Defense personnel and
168 other federal agency civilian and contract employees not defined
169 as active-duty members of the uniformed services.

170 ARTICLE IV

171 EDUCATIONAL RECORDS AND ENROLLMENT.—

172 A. If a child's official education records cannot be
173 released to the parents for the purpose of transfer, the
174 custodian of the records in the sending state shall prepare and

10-00544A-10

20101060

175 furnish to the parent a complete set of unofficial educational
176 records containing uniform information as determined by the
177 Interstate Commission. Upon receipt of the unofficial education
178 records by a school in the receiving state, that school shall
179 enroll and appropriately place the student based on the
180 information provided in the unofficial records pending
181 validation by the official records, as quickly as possible.

182 B. Simultaneous with the enrollment and conditional
183 placement of the student, the school in the receiving state
184 shall request the student's official education record from the
185 school in the sending state. Upon receipt of the request, the
186 school in the sending state shall process and furnish the
187 official education records to the school in the receiving state
188 within 10 days or within such time as is reasonably determined
189 under the rules adopted by the Interstate Commission.

190 C. Compact states must give 30 days from the date of
191 enrollment or within such time as is reasonably determined under
192 the rules adopted by the Interstate Commission for students to
193 obtain any immunization required by the receiving state. For a
194 series of immunizations, initial vaccinations must be obtained
195 within 30 days or within such time as is reasonably determined
196 under the rules promulgated by the Interstate Commission.

197 D. Students shall be allowed to continue their enrollment
198 at grade level in the receiving state commensurate with their
199 grade level, including kindergarten, from a local education
200 agency in the sending state at the time of transition,
201 regardless of age. A student who has satisfactorily completed
202 the prerequisite grade level in the local education agency in
203 the sending state is eligible for enrollment in the next highest

10-00544A-10

20101060__

204 grade level in the receiving state, regardless of age. A student
205 transferring after the start of the school year in the receiving
206 state shall enter the school in the receiving state on their
207 validated level from an accredited school in the sending state.

ARTICLE V

PLACEMENT AND ATTENDANCE.—

209 A. If a student transfers before or during the school year,
210 the receiving state school shall initially honor placement of
211 the student in educational courses based on the student's
212 enrollment in the sending state school or educational
213 assessments conducted at the school in the sending state if the
214 courses are offered. Course placement includes, but is not
215 limited to, Honors, International Baccalaureate, Advanced
216 Placement, vocational, technical, and career pathways courses.
217 Continuing the student's academic program from the previous
218 school and promoting placement in academically and career
219 challenging courses should be paramount when considering
220 placement. A school in the receiving state is not precluded from
221 performing subsequent evaluations to ensure appropriate
222 placement and continued enrollment of the student in the
223 courses.

225 B. The receiving state school must initially honor
226 placement of the student in educational programs based on
227 current educational assessments conducted at the school in the
228 sending state or participation or placement in like programs in
229 the sending state. Such programs include, but are not limited
230 to:

- 231 1. Gifted and talented programs; and
- 232 2. English as a second language (ESL).

10-00544A-10

20101060__

233 A school in the receiving state is not precluded from performing
234 subsequent evaluations to ensure appropriate placement and
235 continued enrollment of the student in the courses.

236 C. A receiving state must initially provide comparable
237 services to a student with disabilities based on his or her
238 current individualized education program (IEP) in compliance
239 with the requirements of the Individuals with Disabilities
240 Education Act (IDEA), 20 U.S.C. s. 1400, et seq. A receiving
241 state must make reasonable accommodations and modifications to
242 address the needs of incoming students with disabilities,
243 subject to an existing section 504 or title II plan, to provide
244 the student with equal access to education, in compliance with
245 the provisions of Section 504 of the Rehabilitation Act, 29
246 U.S.C.A. s. 794, and with title II of the Americans with
247 Disabilities Act, 42 U.S.C. ss. 12131-12165. A school in the
248 receiving state is not precluded from performing subsequent
249 evaluations to ensure appropriate placement and continued
250 enrollment of the student in the courses.

251 D. Local education agency administrative officials may
252 waive course or program prerequisites, or other preconditions
253 for placement in courses or programs offered under the
254 jurisdiction of the local education agency.

255 E. A student whose parent or legal guardian is an active-
256 duty member of the uniformed services and has been called to
257 duty for, is on leave from, or immediately returned from
258 deployment to, a combat zone or combat support posting shall be
259 granted additional excused absences at the discretion of the
260 local education agency superintendent to visit with his or her
261 parent or legal guardian relative to such leave or deployment of

10-00544A-10

20101060__

262 the parent or guardian.

263 ARTICLE VI

264 ELIGIBILITY.—

265 A. When considering the eligibility of a child for
266 enrolling in a school:

267 1. A special power of attorney relative to the guardianship
268 of a child of a military family and executed under applicable
269 law is sufficient for the purposes of enrolling the child in
270 school and for all other actions requiring parental
271 participation and consent.

272 2. A local education agency is prohibited from charging
273 local tuition to a transitioning military child placed in the
274 care of a noncustodial parent or other person standing in loco
275 parentis who lives in a school's jurisdiction different from
276 that of the custodial parent.

277 3. A transitioning military child, placed in the care of a
278 noncustodial parent or other person standing in loco parentis
279 who lives in a school's jurisdiction different from that of the
280 custodial parent, may continue to attend the school in which he
281 or she was enrolled while residing with the custodial parent.

282 B. State and local education agencies must facilitate the
283 opportunity for transitioning military children's inclusion in
284 extracurricular activities, regardless of application deadlines,
285 to the extent they are otherwise qualified.

286 ARTICLE VII

287 GRADUATION.—In order to facilitate the on-time graduation
288 of children of military families, states and local education
289 agencies shall incorporate the following procedures:

290 A. Local education agency administrative officials shall

10-00544A-10

20101060__

291 waive specific courses required for graduation if similar
292 coursework has been satisfactorily completed in another local
293 education agency or shall provide reasonable justification for
294 denial. If a waiver is not granted to a student who would
295 qualify to graduate from the sending school, the local education
296 agency must provide an alternative means of acquiring required
297 coursework so that graduation may occur on time.

298 B. States shall accept exit or end-of-course exams required
299 for graduation from the sending state; national norm-referenced
300 achievement tests; or alternative testing, in lieu of testing
301 requirements for graduation in the receiving state. If these
302 alternatives cannot be accommodated by the receiving state for a
303 student transferring in his or her senior year, then the
304 provisions of Article VII, Section C shall apply.

305 C. If a military student transfers at the beginning of or
306 during his or her senior year and is not eligible to graduate
307 from the receiving local education agency after all alternatives
308 have been considered, the sending and receiving local education
309 agencies must ensure the receipt of a diploma from the sending
310 local education agency, if the student meets the graduation
311 requirements of the sending local education agency. If one of
312 the states in question is not a member of this compact, the
313 member state shall use its best efforts to facilitate the on-
314 time graduation of the student in accordance with Sections A and
315 B of this Article.

316 ARTICLE VIII

317 STATE COORDINATION.—Each member state shall, through the
318 creation of a state council or use of an existing body or board,
319 provide for the coordination among its agencies of government,

10-00544A-10

20101060

320 local education agencies, and military installations concerning
321 the state's participation in, and compliance with, this compact
322 and Interstate Commission activities.

323 A. Each member state may determine the membership of its
324 own state council, but the membership must include at least: the
325 state superintendent of education, the superintendent of a
326 school district that has a high concentration of military
327 children, a representative from a military installation, one
328 representative each from the legislative and executive branches
329 of government, and other offices and stakeholder groups the
330 state council deems appropriate. A member state that does not
331 have a school district deemed to contain a high concentration of
332 military children may appoint a superintendent from another
333 school district to represent local education agencies on the
334 state council.

335 B. The state council of each member state shall appoint or
336 designate a military family education liaison to assist military
337 families and the state in facilitating the implementation of
338 this compact.

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

343 D. The compact commissioner and the military family
344 education liaison shall be ex officio members of the state
345 council, unless either is already a full voting member of the
346 state council.

347 ARTICLE IX

348 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR

10-00544A-10

20101060__

349 MILITARY CHILDREN.—The member states hereby create the
350 “Interstate Commission on Educational Opportunity for Military
351 Children.” The activities of the Interstate Commission are the
352 formation of public policy and are a discretionary state
353 function. The Interstate Commission shall:

354 A. Be a body corporate and joint agency of the member
355 states and shall have all the responsibilities, powers, and
356 duties set forth herein, and such additional powers as may be
357 conferred upon it by a subsequent concurrent action of the
358 respective legislatures of the member states in accordance with
359 the terms of this compact.

360 B. Consist of one Interstate Commission voting
361 representative from each member state who shall be that state’s
362 compact commissioner.

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

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

368 3. A representative shall not delegate a vote to another
369 member state. In the event the compact commissioner is unable to
370 attend a meeting of the Interstate Commission, the Governor or
371 state council may delegate voting authority to another person
372 from their state for a specified meeting.

373 4. The bylaws may provide for meetings of the Interstate
374 Commission to be conducted by telecommunication or electronic
375 communication.

376 C. Consist of ex officio, nonvoting representatives who are
377 members of interested organizations. The ex officio members, as

10-00544A-10

20101060__

378 defined in the bylaws, may include, but not be limited to,
379 members of the representative organizations of military family
380 advocates, local education agency officials, parent and teacher
381 groups, the United States Department of Defense, the Education
382 Commission of the States, the Interstate Agreement on the
383 Qualification of Educational Personnel, and other interstate
384 compacts affecting the education of children of military
385 members.

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

389 E. Establish an executive committee, whose members shall
390 include the officers of the Interstate Commission and such other
391 members of the Interstate Commission as determined by the
392 bylaws. Members of the executive committee shall serve a 1-year
393 term. Members of the executive committee are entitled to one
394 vote each. The executive committee shall have the power to act
395 on behalf of the Interstate Commission, with the exception of
396 rulemaking, during periods when the Interstate Commission is not
397 in session. The executive committee shall oversee the day-to-day
398 activities of the administration of the compact, including
399 enforcement and compliance with the compact, its bylaws and
400 rules, and other such duties as deemed necessary. The United
401 States Department of Defense shall serve as an ex officio,
402 nonvoting member of the executive committee.

403 ~~F. Establish bylaws and rules that provide for conditions~~
404 ~~and procedures under which the Interstate Commission shall make~~
405 ~~its information and official records available to the public for~~
406 ~~inspection or copying. The Interstate Commission may exempt from~~

10-00544A-10

20101060__

407 ~~disclosure information or official records to the extent they~~
408 ~~would adversely affect personal privacy rights or proprietary~~
409 ~~interests.~~

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

416 ~~1. Relate solely to the Interstate Commission's internal~~
417 ~~personnel practices and procedures;~~

418 ~~2. Disclose matters specifically exempted from disclosure~~
419 ~~by federal and state statute;~~

420 ~~3. Disclose trade secrets or commercial or financial~~
421 ~~information which is privileged or confidential;~~

422 ~~4. Involve accusing a person of a crime, or formally~~
423 ~~censuring a person;~~

424 ~~5. Disclose information of a personal nature where~~
425 ~~disclosure would constitute a clearly unwarranted invasion of~~
426 ~~personal privacy;~~

427 ~~6. Disclose investigative records compiled for law~~
428 ~~enforcement purposes; or~~

429 ~~7. Specifically relate to the Interstate Commission's~~
430 ~~participation in a civil action or other legal proceeding.~~

431 ~~H. For a meeting, or portion of a meeting, closed pursuant~~
432 ~~to this provision, the Interstate Commission's legal counsel or~~
433 ~~designee shall certify that the meeting may be closed and shall~~
434 ~~reference each relevant exemptible provision. The Interstate~~
435 ~~Commission shall keep minutes which shall fully and clearly~~

10-00544A-10

20101060__

436 ~~describe all matters discussed in a meeting and shall provide a~~
437 ~~full and accurate summary of actions taken, and the reasons~~
438 ~~therefor, including a description of the views expressed and the~~
439 ~~record of a roll call vote. All documents considered in~~
440 ~~connection with an action shall be identified in such minutes.~~
441 ~~All minutes and documents of a closed meeting shall remain under~~
442 ~~seal, subject to release by a majority vote of the Interstate~~
443 ~~Commission.~~

444 F.I. The Interstate Commission shall collect standardized
445 data concerning the educational transition of the children of
446 military families under this compact as directed through its
447 rules which shall specify the data to be collected, the means of
448 collection and data exchange, and reporting requirements. The
449 methods of data collection, exchange, and reporting shall,
450 insofar as is reasonably possible, conform to current technology
451 and coordinate its information functions with the appropriate
452 custodian of records as identified in the bylaws and rules.

453 G.J. The Interstate Commission shall create a procedure
454 that permits military officials, education officials, and
455 parents to inform the Interstate Commission if and when there
456 are alleged violations of the compact or its rules or when
457 issues subject to the jurisdiction of the compact or its rules
458 are not addressed by the state or local education agency. This
459 section does not create a private right of action against the
460 Interstate Commission or any member state.

461 ARTICLE X

462 POWERS AND DUTIES OF THE INTERSTATE COMMISSION.—The
463 Interstate Commission has the power to:

464 A. Provide for dispute resolution among member states.

10-00544A-10

20101060__

465 B. Adopt rules and take all necessary actions to effect the
466 goals, purposes, and obligations as enumerated in this compact.
467 The rules have the force and effect of statutory law and are
468 binding in the compact states to the extent and in the manner
469 provided in this compact.

470 C. Issue, upon request of a member state, advisory opinions
471 concerning the meaning or interpretation of the interstate
472 compact, its bylaws, rules, and actions.

473 D. Enforce compliance with the compact provisions, the
474 rules adopted by the Interstate Commission, and the bylaws,
475 using all necessary and proper means, including, but not limited
476 to, the use of judicial process.

477 E. Establish and maintain offices that shall be located
478 within one or more of the member states.

479 F. Purchase and maintain insurance and bonds.

480 G. Borrow, accept, hire, or contract for services of
481 personnel.

482 H. Establish and appoint committees, including, but not
483 limited to, an executive committee as required by Article IX,
484 Section E, which shall have the power to act on behalf of the
485 Interstate Commission in carrying out its powers and duties
486 hereunder.

487 I. Elect or appoint such officers, attorneys, employees,
488 agents, or consultants, and to fix their compensation, define
489 their duties, and determine their qualifications; and to
490 establish the Interstate Commission's personnel policies and
491 programs relating to conflicts of interest, rates of
492 compensation, and qualifications of personnel.

493 J. Accept any and all donations and grants of money,

10-00544A-10

20101060__

494 equipment, supplies, materials, and services, and to receive,
495 utilize, and dispose of it.

496 K. Lease, purchase, accept contributions or donations of,
497 or otherwise to own, hold, improve, or use any property, real,
498 personal, or mixed.

499 L. Sell, convey, mortgage, pledge, lease, exchange,
500 abandon, or otherwise dispose of any property, real, personal,
501 or mixed.

502 M. Establish a budget and make expenditures.

503 N. Adopt a seal and bylaws governing the management and
504 operation of the Interstate Commission.

505 O. Report annually to the legislatures, governors,
506 judiciary, and state councils of the member states concerning
507 the activities of the Interstate Commission during the preceding
508 year. Such reports shall also include any recommendations that
509 may have been adopted by the Interstate Commission.

510 P. Coordinate education, training, and public awareness
511 regarding the compact, its implementation, and operation for
512 officials and parents involved in such activity.

513 Q. Establish uniform standards for the reporting,
514 collecting, and exchanging of data.

515 R. Maintain corporate books and records in accordance with
516 the bylaws.

517 S. Perform such functions as may be necessary or
518 appropriate to achieve the purposes of this compact.

519 T. Provide for the uniform collection and sharing of
520 information between and among member states, schools, and
521 military families under this compact.

522 ARTICLE XI

10-00544A-10

20101060

523 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION.—

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

529 1. Establishing the fiscal year of the Interstate
530 Commission;

531 2. Establishing an executive committee and such other
532 committees as may be necessary;

533 3. Providing for the establishment of committees and for
534 governing any general or specific delegation of authority or
535 function of the Interstate Commission;

536 4. Providing reasonable procedures for calling and
537 conducting meetings of the Interstate Commission and ensuring
538 reasonable notice of each such meeting;

539 5. Establishing the titles and responsibilities of the
540 officers and staff of the Interstate Commission;

541 6. Providing a mechanism for concluding the operations of
542 the Interstate Commission and the return of surplus funds that
543 may exist upon the termination of the compact after the payment
544 and reserving of all of its debts and obligations.

545 7. Providing "start up" rules for initial administration of
546 the compact.

547 B. The Interstate Commission shall, by a majority of the
548 members, elect annually from among its members a chairperson, a
549 vice chairperson, and a treasurer, each of whom shall have such
550 authority and duties as may be specified in the bylaws. The
551 chairperson or, in the chairperson's absence or disability, the

10-00544A-10

20101060__

552 vice chairperson shall preside at all meetings of the Interstate
553 Commission. The officers so elected shall serve without
554 compensation or remuneration from the Interstate Commission;
555 provided that, subject to the availability of budgeted funds,
556 the officers shall be reimbursed for ordinary and necessary
557 costs and expenses incurred by them in the performance of their
558 responsibilities as officers of the Interstate Commission.

559 C. The executive committee has the authority and duties as
560 may be set forth in the bylaws, including, but not limited to:

561 1. Managing the affairs of the Interstate Commission in a
562 manner consistent with the bylaws and purposes of the Interstate
563 Commission;

564 2. Overseeing an organizational structure within, and
565 appropriate procedures for, the Interstate Commission to provide
566 for the adoption of rules, operating procedures, and
567 administrative and technical support functions; and

568 3. Planning, implementing, and coordinating communications
569 and activities with other state, federal, and local government
570 organizations in order to advance the goals of the Interstate
571 Commission.

572 D. The executive committee may, subject to the approval of
573 the Interstate Commission, appoint or retain an executive
574 director for such period, upon such terms and conditions and for
575 such compensation, as the Interstate Commission may deem
576 appropriate. The executive director shall serve as secretary to
577 the Interstate Commission but is not a member of the Interstate
578 Commission. The executive director shall hire and supervise such
579 other persons as may be authorized by the Interstate Commission.

580 E. The Interstate Commission's executive director and its

10-00544A-10

20101060__

581 employees are immune from suit and liability, either personally
582 or in their official capacity, for a claim for damage to or loss
583 of property or personal injury or other civil liability caused
584 or arising out of, or relating to, an actual or alleged act,
585 error, or omission that occurred, or that such person had a
586 reasonable basis for believing occurred, within the scope of
587 Interstate Commission employment, duties, or responsibilities,
588 provided that the person is not protected from suit or liability
589 for damage, loss, injury, or liability caused by the intentional
590 or willful and wanton misconduct of the person.

591 1. The liability of the Interstate Commission's executive
592 director and employees or Interstate Commission representatives,
593 acting within the scope of the person's employment or duties,
594 for acts, errors, or omissions occurring within the person's
595 state may not exceed the limits of liability set forth under the
596 constitution and laws of that state for state officials,
597 employees, and agents. The Interstate Commission is considered
598 to be an instrumentality of the states for the purposes of any
599 such action. This subsection does not protect the person from
600 suit or liability for damage, loss, injury, or liability caused
601 by the intentional or willful and wanton misconduct of the
602 person.

603 2. The Interstate Commission shall defend the executive
604 director and its employees and, subject to the approval of the
605 Attorney General or other appropriate legal counsel of the
606 member state represented by an Interstate Commission
607 representative, shall defend an Interstate Commission
608 representative in any civil action seeking to impose liability
609 arising out of an actual or alleged act, error, or omission that

10-00544A-10

20101060

610 occurred within the scope of Interstate Commission employment,
611 duties, or responsibilities, or that the defendant had a
612 reasonable basis for believing occurred within the scope of
613 Interstate Commission employment, duties, or responsibilities,
614 provided that the actual or alleged act, error, or omission did
615 not result from intentional or willful and wanton misconduct on
616 the part of the person.

617 3. To the extent not covered by the state involved, a
618 member state, the Interstate Commission, and the representatives
619 or employees of the Interstate Commission shall be held harmless
620 in the amount of a settlement or judgment, including attorney's
621 fees and costs, obtained against a person arising out of an
622 actual or alleged act, error, or omission that occurred within
623 the scope of Interstate Commission employment, duties, or
624 responsibilities, or that the person had a reasonable basis for
625 believing occurred within the scope of Interstate Commission
626 employment, duties, or responsibilities, provided that the
627 actual or alleged act, error, or omission did not result from
628 intentional or willful and wanton misconduct on the part of the
629 person.

630 ARTICLE XII

631 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION.—The
632 Interstate Commission shall adopt rules to effectively and
633 efficiently implement this act to achieve the purposes of this
634 compact.

635 A. If the Interstate Commission exercises its rulemaking
636 authority in a manner that is beyond the scope of the purposes
637 of this act, or the powers granted hereunder, the action
638 undertaken by the Interstate Commission is invalid and has no

10-00544A-10

20101060__

639 force or effect.

640 B. Rules must be adopted pursuant to a rulemaking process
641 that substantially conforms to the "Model State Administrative
642 Procedure Act," of 1981 Act, Uniform Laws Annotated, Vol. 15, p.
643 1 (2000) as amended, as may be appropriate to the operations of
644 the Interstate Commission.

645 C. No later than 30 days after a rule is adopted, a person
646 may file a petition for judicial review of the rule. The filing
647 of the petition does not stay or otherwise prevent the rule from
648 becoming effective unless a court finds that the petitioner has
649 a substantial likelihood of success on the merits of the
650 petition. The court shall give deference to the actions of the
651 Interstate Commission consistent with applicable law and shall
652 not find the rule to be unlawful if the rule represents a
653 reasonable exercise of the Interstate Commission's authority.

654 D. If a majority of the legislatures of the compacting
655 states rejects a rule by enactment of a statute or resolution in
656 the same manner used to adopt the compact, then the rule is
657 invalid and has no further force and effect in any compacting
658 state.

659 ARTICLE XIII

660 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION.-

661 A. The executive, legislative, and judicial branches of
662 state government in each member state shall enforce this compact
663 and shall take all actions necessary and appropriate to
664 effectuate the compact's purposes and intent. The provisions of
665 this compact and the rules adopted under it have the force and
666 effect of statutory law.

667 B. All courts shall take judicial notice of the compact and

10-00544A-10

20101060

668 its adopted rules in any judicial or administrative proceeding
669 in a member state pertaining to the subject matter of this
670 compact which may affect the powers, responsibilities, or
671 actions of the Interstate Commission.

672 C. The Interstate Commission is entitled to receive all
673 service of process in any such proceeding, and has standing to
674 intervene in the proceeding for all purposes. Failure to provide
675 service of process to the Interstate Commission renders a
676 judgment or order void as to the Interstate Commission, this
677 compact, or its adopted rules.

678 D. If the Interstate Commission determines that a member
679 state has defaulted in the performance of its obligations or
680 responsibilities under this compact, or the bylaws or the
681 adopted rules, the Interstate Commission shall:

682 1. Provide written notice to the defaulting state and other
683 member states of the nature of the default, the means of curing
684 the default, and any action taken by the Interstate Commission.
685 The Interstate Commission must specify the conditions by which
686 the defaulting state must cure its default.

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

689 3. If the defaulting state fails to cure the default,
690 terminate the defaulting state from the compact upon an
691 affirmative vote of a majority of the member states and all
692 rights, privileges, and benefits conferred by this compact shall
693 be terminated from the effective date of termination. A cure of
694 the default does not relieve the offending state of obligations
695 or liabilities incurred during the period of the default.

696 E. Suspension or termination of membership in the compact

10-00544A-10

20101060__

697 may not be imposed on a member until all other means of securing
698 compliance have been exhausted. Notice of the intent to suspend
699 or terminate membership must be given by the Interstate
700 Commission to the Governor, the majority and minority leaders of
701 the defaulting state's legislature, and each of the member
702 states.

703 F. A state that has been suspended or terminated is
704 responsible for all assessments, obligations, and liabilities
705 incurred through the effective date of suspension or
706 termination, including obligations, the performance of which
707 extends beyond the effective date of suspension or termination.

708 G. The remaining member states of the Interstate Commission
709 do not bear any costs arising from a state that has been found
710 to be in default or that has been suspended or terminated from
711 the compact, unless otherwise mutually agreed upon in writing
712 between the Interstate Commission and the defaulting state.

713 H. A defaulting state may appeal the action of the
714 Interstate Commission by petitioning the United States District
715 Court for the District of Columbia or the federal district where
716 the Interstate Commission has its principal offices. The
717 prevailing party shall be awarded all costs of such litigation,
718 including reasonable attorney's fees.

719 I. The Interstate Commission shall attempt, upon the
720 request of a member state, to resolve disputes that are subject
721 to the compact and that may arise among member states and
722 between member and nonmember states. The Interstate Commission
723 shall promulgate a rule providing for both mediation and binding
724 dispute resolution for disputes as appropriate.

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

10-00544A-10

20101060

726 its discretion, shall enforce the provisions and rules of this
727 compact.

728 2. The Interstate Commission may, by majority vote of the
729 members, initiate legal action in the United States District
730 Court for the District of Columbia or, at the discretion of the
731 Interstate Commission, in the federal district where the
732 Interstate Commission has its principal offices to enforce
733 compliance with the provisions of the compact, or its
734 promulgated rules and bylaws, against a member state in default.
735 The relief sought may include both injunctive relief and
736 damages. In the event judicial enforcement is necessary, the
737 prevailing party shall be awarded all costs of such litigation,
738 including reasonable attorney's fees.

739 3. The remedies herein are not the exclusive remedies of
740 the Interstate Commission. The Interstate Commission may avail
741 itself of any other remedies available under state law or the
742 regulation of a profession.

743 ARTICLE XIV

744 FINANCING OF THE INTERSTATE COMMISSION.—

745 A. The Interstate Commission shall pay, or provide for the
746 payment of, the reasonable expenses of its establishment,
747 organization, and ongoing activities.

748 B. The Interstate Commission may levy on and collect an
749 annual assessment from each member state to cover the cost of
750 the operations and activities of the Interstate Commission and
751 its staff which must be in a total amount sufficient to cover
752 the Interstate Commission's annual budget as approved each year.
753 The aggregate annual assessment amount shall be allocated based
754 upon a formula to be determined by the Interstate Commission,

10-00544A-10

20101060__

755 which shall adopt a rule binding upon all member states.

756 C. The Interstate Commission may not incur any obligation
757 of any kind before securing the funds adequate to meet the
758 obligation and the Interstate Commission may not pledge the
759 credit of any of the member states, except by and with the
760 permission of the member state.

761 D. The Interstate Commission shall keep accurate accounts
762 of all receipts and disbursements. The receipts and
763 disbursements of the Interstate Commission are subject to audit
764 and accounting procedures established under its bylaws. However,
765 all receipts and disbursements of funds handled by the
766 Interstate Commission shall be audited yearly by a certified or
767 licensed public accountant, and the report of the audit shall be
768 included in and become part of the annual report of the
769 Interstate Commission.

770 ARTICLE XV

771 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT.—

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

773 B. The compact shall take effect and be binding upon
774 legislative enactment of the compact into law by not less than
775 10 of the states. The effective date shall be no earlier than
776 December 1, 2007. Thereafter, it shall become effective and
777 binding as to any other member state upon enactment of the
778 compact into law by that state. The governors of nonmember
779 states or their designees shall be invited to participate in the
780 activities of the Interstate Commission on a nonvoting basis
781 before adoption of the compact by all states.

782 C. The Interstate Commission may propose amendments to the
783 compact for enactment by the member states. An amendment does

10-00544A-10

20101060__

784 not become effective and binding upon the Interstate Commission
785 and the member states until the amendment is enacted into law by
786 unanimous consent of the member states.

787 ARTICLE XVI

788 WITHDRAWAL AND DISSOLUTION.—

789 A. Once in effect, the compact continues in force and
790 remains binding upon each and every member state, provided that
791 a member state may withdraw from the compact, specifically
792 repealing the statute that enacted the compact into law.

793 1. Withdrawal from the compact occurs when a statute
794 repealing its membership is enacted by the state, but does not
795 take effect until 1 year after the effective date of the statute
796 and until written notice of the withdrawal has been given by the
797 withdrawing state to the Governor of each other member state.

798 2. The withdrawing state must immediately notify the
799 chairperson of the Interstate Commission in writing upon the
800 introduction of legislation repealing this compact in the
801 withdrawing state. The Interstate Commission shall notify the
802 other member states of the withdrawing state's intent to
803 withdraw within 60 days after its receipt thereof.

804 3. A withdrawing state is responsible for all assessments,
805 obligations, and liabilities incurred through the effective date
806 of withdrawal, including obligations, the performance of which
807 extend beyond the effective date of withdrawal.

808 4. Reinstatement following withdrawal of a member state
809 shall occur upon the withdrawing state reenacting the compact or
810 upon such later date as determined by the Interstate Commission.

811 B. This compact shall dissolve effective upon the date of
812 the withdrawal or default of the member state which reduces the

10-00544A-10

20101060__

813 membership in the compact to one member state.

814 C. Upon the dissolution of this compact, the compact
815 becomes void and has no further force or effect, and the
816 business and affairs of the Interstate Commission shall be
817 concluded and surplus funds shall be distributed in accordance
818 with the bylaws.

819 ARTICLE XVII

820 SEVERABILITY AND CONSTRUCTION.—

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

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

827 C. This compact does not prohibit the applicability of
828 other interstate compacts to which the states are members.

829 ARTICLE XVIII

830 BINDING EFFECT OF COMPACT AND OTHER LAWS.—

831 A. This compact does not prevent the enforcement of any
832 other law of a member state that is not inconsistent with this
833 compact.

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

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

839 D. All agreements between the Interstate Commission and the
840 member states are binding in accordance with their terms.

841 E. If any part of this compact exceeds the constitutional

10-00544A-10

20101060__

842 limits imposed on the legislature of any member state, the
843 provision shall be ineffective to the extent of the conflict
844 with the constitutional provision in question in that member
845 state.

846 Section 3. Sections 1000.36, 1000.37, 1000.38, and 1000.39,
847 Florida Statutes, shall stand repealed 3 years after the
848 effective date of this act unless reviewed and saved from repeal
849 through reenactment by the Legislature.

850 Section 4. This act shall take effect upon becoming a law.