

Substitute for HOUSE BILL No. 2102

By Committee on Education

2-11

1 AN ACT concerning school districts; relating to enrollment; providing for
2 the advance enrollment of a military student whose parent or person
3 acting as parent will be stationed in this state; correcting federal
4 statutory citations in the interstate compact on educational opportunity
5 for military children; amending K.S.A. 72-8268 and repealing the
6 existing section.
7

8 *Be it enacted by the Legislature of the State of Kansas:*

9 New Section 1. (a) A school district shall enroll any military student
10 prior to such student physically residing in this state if such student
11 provides evidence that such student's parent or person acting as parent will
12 be stationed at a military installation in this state during the current or
13 immediately succeeding school year. No proof of address shall be required
14 at the time of such enrollment. Residency within the district may be
15 required for attendance if the school district does not have open seats at the
16 time of enrollment as determined by K.S.A. 72-3123, and amendments
17 thereto. If such student has an individualized education program (IEP) or a
18 504 plan, the school district shall take appropriate measures to ensure such
19 student will receive the required education and related services upon
20 attending school in the district.

21 (b) As used in this section, "military student" means the same as
22 defined in K.S.A. 72-5139, and amendments thereto.

23 Sec. 2. K.S.A. 72-8268 is hereby amended to read as follows: 72-
24 8268. The interstate compact on educational opportunity for military
25 children is hereby enacted into law and entered into with all jurisdictions
26 legally joining therein, in the form substantially as follows:

27 Interstate Compact on Educational Opportunity for Military Children

28 ARTICLE I. PURPOSE

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

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

36 B. Facilitating the student placement process through which children of

1 military families are not disadvantaged by variations in attendance
2 requirements, scheduling, sequencing, grading, course content or
3 assessment.

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

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

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

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

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

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

18 ARTICLE II. DEFINITIONS

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

21 A. "Active duty" means full-time duty status in the active uniformed
22 service of the United States, including members of the national guard and
23 reserve on active duty orders pursuant to 10 U.S.C. ~~section~~ *chapter* 1209
24 and 1211.

25 B. "Children of military families" means school-aged children, enrolled
26 in kindergarten or any of the grades one through 12, in the household of an
27 active duty member.

28 C. "Compact commissioner" means the voting representative of each
29 compacting state appointed pursuant to article VIII of this compact.

30 D. "Deployment" means the period one month prior to the service
31 members' departure from their home station on military orders through six
32 months after return to their home station.

33 E. "Educational records" means those official records, files and data
34 directly related to a student and maintained by the school or local
35 education agency, including but not limited to records encompassing all
36 the material kept in the student's cumulative folder such as general
37 identifying data, records of attendance and of academic work completed,
38 records of achievement and results of evaluative tests, health data,
39 disciplinary status, test protocols and individualized education programs.

40 F. "Extracurricular activities" means voluntary activities sponsored by
41 the school or local education agency or an organization sanctioned by the
42 local education agency. Extracurricular activities include, but are not
43 limited to, preparation for and involvement in public performances,

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

3 G. "Interstate commission on educational opportunity for military
4 children" means the commission that is created under article IX of this
5 compact, which is generally referred to as interstate commission.

6 H. "Local education agency" means a public authority legally
7 constituted by the state as an administrative agency to provide control of
8 and direction for kindergarten and grades one through 12 in public schools.

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

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

18 K. "Non-member state" means a state that has not enacted this compact.

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

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

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

30 O. "State" means a state of the United States, the District of Columbia,
31 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
32 American Samoa, the Northern Marianas Islands and any other U.S.
33 Territory.

34 P. "Student" means: the child of a military family for whom the local
35 education agency receives public funding and who is formally enrolled in
36 kindergarten or any of the grades one through 12.

37 Q. "Transition" means (1) the formal and physical process of
38 transferring from school to school or (2) the period of time in which a
39 student moves from one school in the sending state to another school in the
40 receiving state.

41 R. "Uniformed services" means the army, navy, air force, marine corps,
42 coast guard as well as the commissioned corps of the national oceanic and
43 atmospheric administration and public health services.

1 S. "Veteran" means a person who served in the uniformed services and
2 who was discharged or released there from under conditions other than
3 dishonorable.

4 ARTICLE III. APPLICABILITY

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

7 1. Active duty members of the uniformed services as defined in this
8 compact, including members of the national guard and reserve on active
9 duty orders pursuant to 10 U.S.C. ~~section~~ *chapter* 1209 and 1211;

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

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

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

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

19 1. Inactive members of the national guard and military reserves;

20 2. members of the uniformed services now retired, except as provided
21 in paragraph 1;

22 3. veterans of the uniformed services, except as provided in paragraph
23 1; and

24 4. other United States department of defense personnel and other
25 federal agency civilian and contract employees not defined as active duty
26 members of the uniformed services.

27 ARTICLE IV. EDUCATIONAL RECORDS & ENROLLMENT

28 A. Unofficial or "hand-carried" education records - In the event that
29 official education records cannot be released to the parents for the purpose
30 of transfer, the custodian of the records in the sending state shall prepare
31 and furnish to the parent a complete set of unofficial educational records
32 containing uniform information as determined by the interstate
33 commission. Upon receipt of the unofficial education records by a school
34 in the receiving state, the school shall enroll and appropriately place the
35 student based on the information provided in the unofficial records
36 pending validation by the official records, as quickly as possible.

37 B. Official education records or transcripts - Simultaneous with the
38 enrollment and conditional placement of the student, the school in the
39 receiving state shall request the student's official education record from the
40 school in the sending state. Upon receipt of this request, the school in the
41 sending state will process and furnish the official education records to the
42 school in the receiving state within 10 days or within such time as is
43 reasonably determined under the rules promulgated by the interstate

1 commission.

2 C. Immunizations - Compacting states shall allow 30 days from the
3 date of enrollment or within such time as is reasonably determined under
4 the rules promulgated by the Interstate Commission, for students to obtain
5 any immunizations required by the receiving state. For a series of
6 immunizations, initial vaccinations must be obtained within 30 days or
7 within such time as is reasonably determined under the rules promulgated
8 by the interstate commission.

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

19 ARTICLE V. PLACEMENT & ATTENDANCE

20 A. Course placement - When the student transfers before or during the
21 school year, the receiving state school initially shall honor placement of
22 the student in educational courses based on the student's enrollment in the
23 sending state school or educational assessments conducted at the school in
24 the sending state if the courses are offered. Course placement includes but
25 is not limited to honors, international baccalaureate, advanced placement,
26 vocational, technical and career pathways courses. Continuing the
27 student's academic program from the previous school and promoting
28 placement in academically and career challenging courses should be
29 paramount when considering placement. This does not preclude the school
30 in the receiving state from performing subsequent evaluations to ensure
31 appropriate placement and continued enrollment of the student in such
32 courses.

33 B. Educational program placement - The receiving state school initially
34 shall honor placement of the student in educational programs based on
35 current educational assessments conducted at the school in the sending
36 state or participation or placement in like programs in the sending state.
37 Such programs include, but are not limited to, gifted and talented programs
38 and English as a second language (ESL). This does not preclude the school
39 in the receiving state from performing subsequent evaluations to ensure
40 appropriate placement of the student.

41 C. Special education services - (1) In compliance with the federal
42 requirements of the individuals with disabilities education act (IDEA), 20
43 U.S.C.A. section 1400 et seq., the receiving state initially shall provide

1 comparable services to a student with disabilities based on the student's
2 current individualized education program (IEP). (2) In compliance with
3 the requirements of section 504 of the rehabilitation act, 29 U.S.C.A.
4 section 794, and with Title II of the Americans with disabilities act, 42
5 U.S.C.A. sections 12131-12165, the receiving state shall make reasonable
6 accommodations and modifications to address the needs of incoming
7 students with disabilities, subject to an existing 504 or Title II plan, to
8 provide the student with equal access to education. This does not preclude
9 the school in the receiving state from performing subsequent evaluations
10 to ensure appropriate placement of the student.

11 D. Placement flexibility - Local education agency administrative
12 officials shall have flexibility in waiving course and program prerequisites
13 or other preconditions for placement in courses and programs offered
14 under the jurisdiction of the local education agency.

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

22 ARTICLE VI. ELIGIBILITY

23 A. Eligibility for enrollment:

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

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

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

36 B. Eligibility for extracurricular participation - State and local
37 education agencies shall facilitate the opportunity for transitioning military
38 children's inclusion in extracurricular activities, regardless of application
39 deadlines, to the extent they are otherwise qualified.

40 ARTICLE VII. GRADUATION

41 In order to facilitate the on-time graduation of children of military
42 families:

43 A. Waiver requirements - Local education agency administrative

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

8 B. Exit exams - States shall accept: (1) Exit or end-of-course exams
9 required for graduation from the sending state; or (2) national norm-
10 referenced achievement tests or (3) alternative testing, in lieu of testing
11 requirements for graduation in the receiving state. In the event the above
12 alternatives cannot be accommodated by the receiving state for a student
13 transferring in the senior year, then the provisions of paragraph C of this
14 article shall apply.

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

25 ARTICLE VIII. STATE COORDINATION

26 A. Each member state, through the creation of a state council or use of
27 an existing body or board, shall provide for the coordination among its
28 agencies of government, local education agencies and military installations
29 concerning the state's participation in, and compliance with, this compact
30 and interstate commission activities. While each member state may
31 determine the membership of its own state council, its membership must
32 include: The commissioner of education, a superintendent of a school
33 district with a high concentration of military children, a representative
34 from a military installation, one representative each from the legislative
35 and executive branches of government and other offices and stakeholder
36 groups the state council deems appropriate. A member state that does not
37 have a school district deemed to contain a high concentration of military
38 children may appoint a superintendent from another school district to
39 represent local education agencies on the state council.

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

43 C. The compact commissioner responsible for the administration and

1 management of the state's participation in the compact shall be appointed
2 by the governor or as otherwise determined by each member state.

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

6 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL
7 OPPORTUNITY FOR MILITARY CHILDREN

8 The member states hereby create the "interstate commission on
9 educational opportunity for military children." The activities of the
10 interstate commission are the formation of public policy and are a
11 discretionary state function. The interstate commission shall:

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

17 B. Consist of one interstate commission voting representative from
18 each member state who shall be that state's compact commissioner.

19 1. Each member state represented at a meeting of the interstate
20 commission is entitled to one vote.

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

24 3. A representative shall not delegate a vote to another member state. In
25 the event the compact commissioner is unable to attend a meeting of the
26 interstate commission, the governor or state council may delegate voting
27 authority to another person from their state for a specified meeting.

28 4. The bylaws may provide for meetings of the interstate commission to
29 be conducted by telecommunication or electronic communication.

30 C. Consist of ex-officio, non-voting representatives who are members
31 of interested organizations. Such ex-officio members, as defined in the
32 bylaws, may include but not be limited to, members of the representative
33 organizations of military family advocates, local education agency
34 officials, parent and teacher groups, the United States department of
35 defense, the education commission of the states, the interstate agreement
36 on the qualification of educational personnel and other interstate compacts
37 affecting the education of children of military members.

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

41 E. Establish an executive committee, whose members shall include the
42 officers of the interstate commission and such other members of the
43 interstate commission as determined by the bylaws. Members of the

1 executive committee shall serve a one year term. Members of the
2 executive committee shall be entitled to one vote each. The executive
3 committee shall have the power to act on behalf of the interstate
4 commission, with the exception of rulemaking, during periods when the
5 interstate commission is not in session. The executive committee shall
6 oversee the day-to-day activities of the administration of the compact
7 including enforcement and compliance with the provisions of the compact,
8 its bylaws and rules, and other such duties as deemed necessary. The
9 United States department of defense, shall serve as an ex-officio,
10 nonvoting member of the executive committee.

11 F. Establish bylaws and rules that provide for conditions and
12 procedures under which the interstate commission shall make its
13 information and official records available to the public for inspection or
14 copying. The interstate commission may exempt from disclosure
15 information or official records to the extent they would adversely affect
16 personal privacy rights or proprietary interests.

17 G. Public notice shall be given by the interstate commission of all
18 meetings and all meetings shall be open to the public, except as set forth in
19 the rules or as otherwise provided in the compact. The interstate
20 commission and its committees may close a meeting, or portion thereof,
21 where it determines by two-thirds vote that an open meeting would be
22 likely to:

23 1. Relate solely to the interstate commission's internal personnel
24 practices and procedures;

25 2. disclose matters specifically exempted from disclosure by federal
26 and state statute;

27 3. disclose trade secrets or commercial or financial information which
28 is privileged or confidential;

29 4. involve accusing a person of a crime, or formally censuring a person;

30 5. disclose information of a personal nature where disclosure would
31 constitute a clearly unwarranted invasion of personal privacy;

32 6. disclose investigative records compiled for law enforcement
33 purposes; or

34 7. specifically relate to the interstate commission's participation in a
35 civil action or other legal proceeding.

36 H. For a meeting, or portion of a meeting, closed pursuant to this
37 provision, the interstate commission's legal counsel or designee shall
38 certify that the meeting may be closed and shall reference each relevant
39 exemptible provision. The interstate commission shall keep minutes which
40 shall fully and clearly describe all matters discussed in a meeting and shall
41 provide a full and accurate summary of actions taken, and the reasons
42 therefore, including a description of the views expressed and the record of
43 a roll call vote. All documents considered in connection with an action

1 shall be identified in such minutes. All minutes and documents of a closed
2 meeting shall remain under seal, subject to release by a majority vote of
3 the interstate commission.

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

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

19 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE
20 COMMISSION

21 The interstate commission shall have the power to:

22 A. Provide for dispute resolution among member states.

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

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

30 D. Enforce compliance with the compact provisions, the rules
31 promulgated by the interstate commission, and the bylaws, using all
32 necessary and proper means, including, but not limited to, the use of
33 judicial process.

34 E. Establish and maintain offices which shall be located within one or
35 more of the member states.

36 F. Purchase and maintain insurance and bonds.

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

38 H. Establish and appoint committees including, but not limited to, an
39 executive committee as required by article IX, which shall have the power
40 to act on behalf of the interstate commission in carrying out its powers and
41 duties hereunder.

42 I. Elect or appoint such officers, attorneys, employees, agents, or
43 consultants, and to fix their compensation, define their duties and

1 determine their qualifications; and to establish the interstate commission's
2 personnel policies and programs relating to conflicts of interest, rates of
3 compensation, and qualifications of personnel.

4 J. Accept any and all donations and grants of money, equipment,
5 supplies, materials and services, and to receive, utilize, and dispose of it.

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

8 L. Sell, convey, mortgage, pledge, lease, exchange, abandon, or
9 otherwise dispose of any property, real, personal or mixed.

10 M. Establish a budget and make expenditures.

11 N. Adopt a seal and bylaws governing the management and operation
12 of the interstate commission.

13 O. Report annually to the legislatures, governors, judiciary, and state
14 councils of the member states concerning the activities of the interstate
15 commission during the preceding year. Such reports shall also include any
16 recommendations that may have been adopted by the interstate
17 commission.

18 P. Coordinate education, training and public awareness regarding the
19 compact, its implementation and operation for officials and parents
20 involved in such activity.

21 Q. Establish uniform standards for the reporting, collecting and
22 exchanging of data.

23 R. Maintain corporate books and records in accordance with the
24 bylaws.

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

27 T. Provide for the uniform collection and sharing of information
28 between and among member states, schools and military families under
29 this compact.

30 ARTICLE XI. ORGANIZATION AND OPERATION OF THE
31 INTERSTATE COMMISSION

32 A. The interstate commission, by a majority of the members present
33 and voting, within 12 months after the first interstate commission meeting,
34 shall adopt bylaws to govern its conduct as may be necessary or
35 appropriate to carry out the purposes of the compact, including, but not
36 limited to:

37 1. Establishing the fiscal year of the interstate commission;
38 2. establishing an executive committee, and such other committees as
39 may be necessary;

40 3. providing for the establishment of committees and for governing any
41 general or specific delegation of authority or function of the interstate
42 commission;

43 4. providing reasonable procedures for calling and conducting meetings

1 of the interstate commission, and ensuring reasonable notice of each such
2 meeting;

3 5. establishing the titles and responsibilities of the officers and staff of
4 the interstate commission;

5 6. providing a mechanism for concluding the operations of the
6 interstate commission and the return of surplus funds that may exist upon
7 the termination of the compact after the payment and reserving of all of its
8 debts and obligations; and

9 7. providing "start up" rules for initial administration of the compact.

10 B. The interstate commission, by a majority of the members, shall elect
11 annually from among its members a chairperson, a vice-chairperson, and a
12 treasurer, each of whom shall have such authority and duties as may be
13 specified in the bylaws. The chairperson or, in the chairperson's absence or
14 disability, the vice-chairperson, shall preside at all meetings of the
15 interstate commission. The officers so elected shall serve without
16 compensation or remuneration from the interstate commission. Subject to
17 the availability of budgeted funds, the officers shall be reimbursed for
18 ordinary and necessary costs and expenses incurred by them in the
19 performance of their responsibilities as officers of the interstate
20 commission.

21 C. Executive Committee, Officers and Personnel

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

24 a. Managing the affairs of the interstate commission in a manner
25 consistent with the bylaws and purposes of the interstate commission;

26 b. overseeing an organizational structure within, and appropriate
27 procedures for the interstate commission to provide for the creation of
28 rules, operating procedures, and administrative and technical support
29 functions; and

30 c. planning, implementing, and coordinating communications and
31 activities with other state, federal and local government organizations in
32 order to advance the goals of the interstate commission.

33 2. The executive committee may, subject to the approval of the
34 interstate commission, appoint or retain an executive director for such
35 period, upon such terms and conditions and for such compensation, as the
36 interstate commission may deem appropriate. The executive director shall
37 serve as secretary to the interstate commission, but shall not be a member
38 of the interstate commission. The executive director shall hire and
39 supervise such other persons as may be authorized by the interstate
40 commission.

41 D. The interstate commission's executive director and its employees
42 shall be immune from suit and liability, either personally or in their official
43 capacity, for a claim for damage to or loss of property or personal injury or

1 other civil liability caused by or arising out of or relating to an actual or
2 alleged act, error, or omission that occurred, or that such person had a
3 reasonable basis for believing occurred, within the scope of interstate
4 commission employment, duties, or responsibilities; provided, that such
5 person shall not be protected from suit or liability for damage, loss, injury,
6 or liability caused by the intentional or willful and wanton misconduct of
7 such person.

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

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

29 3. To the extent not covered by the state involved, member state, or the
30 interstate commission, the representatives or employees of the interstate
31 commission shall be held harmless in the amount of a settlement or
32 judgment, including attorney's fees and costs, obtained against such
33 persons arising out of an actual or alleged act, error, or omission that
34 occurred within the scope of interstate commission employment, duties, or
35 responsibilities, or that such persons had a reasonable basis for believing
36 occurred within the scope of interstate commission employment, duties, or
37 responsibilities, provided that the actual or alleged act, error, or omission
38 did not result from intentional or willful and wanton misconduct on the
39 part of such persons.

40 ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE 41 COMMISSION

42 A. Rulemaking Authority - The interstate commission shall promulgate
43 reasonable rules in order to effectively and efficiently achieve the purposes

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

6 B. Rulemaking Procedure - Rules shall be made pursuant to a
7 rulemaking process that substantially conforms to the "model state
8 administrative procedure act," of 1981 Act, uniform laws annotated, Vol.
9 15, p.1 (2000) as amended, as may be appropriate to the operations of the
10 interstate commission.

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

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

23 ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE 24 RESOLUTION

25 A. Oversight

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

31 2. All courts shall take judicial notice of the compact and the rules in
32 any judicial or administrative proceeding in a member state pertaining to
33 the subject matter of this compact which may affect the powers,
34 responsibilities or actions of the interstate commission.

35 3. The interstate commission shall be entitled to receive all service of
36 process in any such proceeding, and shall have standing to intervene in the
37 proceeding for all purposes. Failure to provide service of process to the
38 interstate commission shall render a judgment or order void as to the
39 interstate commission, this compact or promulgated rules.

40 B. Default, Technical Assistance, Suspension and Termination - If the
41 interstate commission determines that a member state has defaulted in the
42 performance of its obligations or responsibilities under this compact, or the
43 bylaws or promulgated rules, the interstate commission shall:

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

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

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

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

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

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

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

31 C. Dispute Resolution

32 1. The interstate commission shall attempt, upon the request of a
33 member state, to resolve disputes which are subject to the compact and
34 which may arise among member states and between member and non-
35 member states.

36 2. The interstate commission shall promulgate a rule providing for both
37 mediation and binding dispute resolution for disputes as appropriate.

38 D. Enforcement

39 1. The interstate commission, in the reasonable exercise of its
40 discretion, shall enforce the provisions and rules of this compact.

41 2. The interstate commission, by majority vote of the members, may
42 initiate legal action in the United States district court for the District of
43 Columbia or, at the discretion of the interstate commission, in the federal

1 district where the interstate commission has its principal offices, to enforce
2 compliance with the provisions of the compact, its promulgated rules and
3 bylaws, against a member state in default. The relief sought may include
4 both injunctive relief and damages. In the event judicial enforcement is
5 necessary the prevailing party shall be awarded all costs of such litigation
6 including reasonable attorney's fees.

7 3. The remedies herein shall not be the exclusive remedies of the
8 interstate commission. The interstate commission may avail itself of any
9 other remedies available under state law or the regulation of a profession.

10 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

11 A. The interstate commission shall pay, or provide for the payment of
12 the reasonable expenses of its establishment, organization and ongoing
13 activities.

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

22 C. The interstate commission shall not incur obligations of any kind
23 prior to securing the funds adequate to meet the same. The interstate
24 commission shall not pledge the credit of any of the member states, except
25 by and with the authority of the member state.

26 D. The interstate commission shall keep accurate accounts of all
27 receipts and disbursements. The receipts and disbursements of the
28 interstate commission shall be subject to the audit and accounting
29 procedures established under its bylaws. All receipts and disbursements of
30 funds handled by the interstate commission shall be audited yearly by a
31 certified or licensed public accountant and the report of the audit shall be
32 included in and become part of the annual report of the interstate
33 commission.

34 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE AND 35 AMENDMENT

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

37 B. The compact shall become effective and binding upon legislative
38 enactment of the compact into law by no less than 10 of the states. The
39 effective date shall be no earlier than December 1, 2007. Thereafter it shall
40 become effective and binding as to any other member state upon
41 enactment of the compact into law by that state. The governors of non-
42 member states or their designees shall be invited to participate in the
43 activities of the interstate commission on a non-voting basis prior to

1 adoption of the compact by all states.

2 C. The interstate commission may propose amendments to the compact
3 for enactment by the member states. No amendment shall become
4 effective and binding upon the interstate commission and the member
5 states unless and until it is enacted into law by unanimous consent of the
6 member states.

7 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

8 A. Withdrawal

9 1. Once effective, the compact shall continue in force and remain
10 binding upon each and every member state. A member state may withdraw
11 from the compact specifically repealing the statute, which enacted the
12 compact into law.

13 2. Withdrawal from this compact shall be by the enactment of a statute
14 repealing the same, but shall not take effect until one year after the
15 effective date of such statute and until written notice of the withdrawal has
16 been given by the withdrawing state to the governor of each other member
17 jurisdiction.

18 3. The withdrawing state immediately shall notify the chairperson of
19 the interstate commission in writing upon the introduction of legislation
20 repealing this compact in the withdrawing state. The interstate commission
21 shall notify the other member states of the withdrawing state's intent to
22 withdraw within 60 days of its receipt thereof.

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

27 5. Reinstatement following withdrawal of a member state shall occur
28 upon the withdrawing state reenacting the compact or upon such later date
29 as determined by the interstate commission.

30 B. Dissolution of Compact

31 1. This compact shall dissolve effective upon the date of the withdrawal
32 or default of the member state which reduces the membership in the
33 compact to one member state.

34 2. Upon the dissolution of this compact, the compact becomes null and
35 void and shall be of no further force or effect, and the business and affairs
36 of the interstate commission shall be concluded and surplus funds shall be
37 distributed in accordance with the bylaws.

38 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

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

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

3 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER
4 LAWS

5 A. Other Laws

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

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

10 B. Binding Effect of the Compact

11 1. All lawful actions of the interstate commission, including all rules
12 and bylaws promulgated by the interstate commission, are binding upon
13 the member states.

14 2. All agreements between the interstate commission and the member
15 states are binding in accordance with their terms.

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

20 Sec. 3. K.S.A. 72-8268 is hereby repealed.

21 Sec. 4. This act shall take effect and be in force from and after its
22 publication in the statute book.