

LEGISLATURE OF NEBRASKA

ONE HUNDRED FIRST LEGISLATURE

FIRST SESSION

LEGISLATIVE BILL 237

FINAL READING

Introduced by Lathrop, 12.

Read first time January 13, 2009

Committee: Judiciary

A BILL

1 FOR AN ACT relating to children; to amend section 43-1005,
2 Reissue Revised Statutes of Nebraska; to adopt the
3 Interstate Compact for Juveniles and the Interstate
4 Compact for the Placement of Children; to provide for
5 a compact administrator and an advisory council; to
6 provide for certain expenses related to the Interstate
7 Compact for Juveniles; to eliminate the Interstate
8 Compact on Juveniles and the Interstate Compact on the
9 Placement of Children and related provisions; to repeal
10 the original section; and to outright repeal sections
11 43-1001, 43-1002, 43-1003, 43-1004, 43-1006, 43-1007,
12 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102, Reissue
13 Revised Statutes of Nebraska.

LB 237

LB 237

1 Be it enacted by the people of the State of Nebraska,

1 Section 1. ARTICLE I

2 PURPOSE

3 The compacting states to this Interstate Compact
4 recognize that each state is responsible for the proper supervision
5 or return of juveniles, delinquents and status offenders who are on
6 probation or parole and who have absconded, escaped or run away
7 from supervision and control and in so doing have endangered their
8 own safety and the safety of others. The compacting states also
9 recognize that each state is responsible for the safe return of
10 juveniles who have run away from home and in doing so have left
11 their state of residence. The compacting states also recognize
12 that Congress, by enacting the Crime Control Act, 4 U.S.C. Section
13 112 (1965), has authorized and encouraged compacts for cooperative
14 efforts and mutual assistance in the prevention of crime.

15 It is the purpose of this compact, through means of
16 joint and cooperative action among the compacting states to: (A)
17 ensure that the adjudicated juveniles and status offenders subject
18 to this compact are provided adequate supervision and services
19 in the receiving state as ordered by the adjudicating judge or
20 parole authority in the sending state; (B) ensure that the public
21 safety interests of the citizens, including the victims of juvenile
22 offenders, in both the sending and receiving states are adequately
23 protected; (C) return juveniles who have run away, absconded or
24 escaped from supervision or control or have been accused of an
25 offense to the state requesting their return; (D) make contracts

1 for the cooperative institutionalization in public facilities in
2 member states for delinquent youth needing special services; (E)
3 provide for the effective tracking and supervision of juveniles;
4 (F) equitably allocate the costs, benefits and obligations of
5 the compacting states; (G) establish procedures to manage the
6 movement between states of juvenile offenders released to the
7 community under the jurisdiction of courts, juvenile departments,
8 or any other criminal or juvenile justice agency which has
9 jurisdiction over juvenile offenders; (H) insure immediate notice
10 to jurisdictions where defined offenders are authorized to travel
11 or to relocate across state lines; (I) establish procedures to
12 resolve pending charges (detainers) against juvenile offenders
13 prior to transfer or release to the community under the terms of
14 this compact; (J) establish a system of uniform data collection
15 on information pertaining to juveniles subject to this compact
16 that allows access by authorized juvenile justice and criminal
17 justice officials; and regular reporting of Compact activities
18 to heads of state executive, judicial, and legislative branches
19 and juvenile and criminal justice administrators; (K) monitor
20 compliance with rules governing interstate movement of juveniles
21 and initiate interventions to address and correct noncompliance;
22 (L) coordinate training and education regarding the regulation of
23 interstate movement of juveniles for officials involved in such
24 activity; and (M) coordinate the implementation and operation of
25 the compact with the Interstate Compact for the Placement of

1 Children, the Interstate Compact for Adult Offender Supervision
2 and other compacts affecting juveniles particularly in those cases
3 where concurrent or overlapping supervision issues arise. It is
4 the policy of the compacting states that the activities conducted
5 by the Interstate Commission created herein are the formation of
6 public policies and therefor are public business. Furthermore, the
7 compacting states shall cooperate and observe their individual and
8 collective duties and responsibilities for the prompt return and
9 acceptance of juveniles subject to the provisions of this compact.
10 The provisions of this compact shall be reasonably and liberally
11 construed to accomplish the purposes and policies of the compact.

12 ARTICLE II

13 DEFINITIONS

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

16 A. "Bylaws" means: those bylaws established by the
17 Interstate Commission for its governance, or for directing or
18 controlling its actions or conduct.

19 B. "Compact Administrator" means: the individual in each
20 compacting state appointed pursuant to the terms of this compact,
21 responsible for the administration and management of the state's
22 supervision and transfer of juveniles subject to the terms of
23 this compact, the rules adopted by the Interstate Commission and
24 policies adopted by the State Council under this compact.

25 C. "Compacting State" means: any state which has enacted

1 the enabling legislation for this compact.

2 D. "Commissioner" means: the voting representative of
3 each compacting state appointed pursuant to Article III of this
4 compact.

5 E. "Court" means: any court having jurisdiction over
6 delinquent, neglected, or dependent children.

7 F. "Deputy Compact Administrator" means: the individual,
8 if any, in each compacting state appointed to act on behalf of
9 a Compact Administrator pursuant to the terms of this compact
10 responsible for the administration and management of the state's
11 supervision and transfer of juveniles subject to the terms of
12 this compact, the rules adopted by the Interstate Commission and
13 policies adopted by the State Council under this compact.

14 G. "Interstate Commission" means: the Interstate
15 Commission for Juveniles created by Article III of this compact.

16 H. "Juvenile" means: any person defined as a juvenile in
17 any member state or by the rules of the Interstate Commission,
18 including:

19 (1) Accused Delinquent - a person charged with an offense
20 that, if committed by an adult, would be a criminal offense;

21 (2) Adjudicated Delinquent - a person found to have
22 committed an offense that, if committed by an adult, would be a
23 criminal offense;

24 (3) Accused Status Offender - a person charged with an
25 offense that would not be a criminal offense if committed by an

1 adult;

2 (4) Adjudicated Status Offender - a person found to have
3 committed an offense that would not be a criminal offense if
4 committed by an adult; and

5 (5) Nonoffender - a person in need of supervision who has
6 not been accused or adjudicated a status offender or delinquent.

7 I. "Noncompacting state" means: any state which has not
8 enacted the enabling legislation for this compact.

9 J. "Probation or Parole" means: any kind of supervision
10 or conditional release of juveniles authorized under the laws of
11 the compacting states.

12 K. "Rule" means: a written statement by the Interstate
13 Commission promulgated pursuant to Article VI of this compact that
14 is of general applicability, implements, interprets or prescribes
15 a policy or provision of the Compact, or an organizational,
16 procedural, or practice requirement of the Commission, and has
17 the force and effect of statutory law in a compacting state, and
18 includes the amendment, repeal, or suspension of an existing rule.

19 L. "State" means: a state of the United States, the
20 District of Columbia (or its designee), the Commonwealth of Puerto
21 Rico, the U.S. Virgin Islands, Guam, American Samoa, and the
22 Northern Mariana Islands.

23 ARTICLE III

24 INTERSTATE COMMISSION FOR JUVENILES

25 A. The compacting states hereby create the "Interstate

1 Commission for Juveniles." The commission shall be a body corporate
2 and joint agency of the compacting states. The commission shall
3 have all the responsibilities, powers and duties set forth herein,
4 and such additional powers as may be conferred upon it by
5 subsequent action of the respective legislatures of the compacting
6 states in accordance with the terms of this compact.

7 B. The Interstate Commission shall consist of
8 commissioners appointed by the appropriate appointing authority
9 in each state pursuant to the rules and requirements of each
10 compacting state and in consultation with the State Council for
11 Interstate Juvenile Supervision created hereunder. The commissioner
12 shall be the compact administrator, deputy compact administrator
13 or designee from that state who shall serve on the Interstate
14 Commission in such capacity under or pursuant to the applicable law
15 of the compacting state.

16 C. In addition to the commissioners who are the voting
17 representatives of each state, the Interstate Commission shall
18 include individuals who are not commissioners, but who are members
19 of interested organizations. Such noncommissioner members must
20 include a member of the national organizations of governors,
21 legislators, state chief justices, attorneys general, Interstate
22 Compact for Adult Offender Supervision, Interstate Compact for the
23 Placement of Children, juvenile justice and juvenile corrections
24 officials, and crime victims. All noncommissioner members of the
25 Interstate Commission shall be ex officio (nonvoting) members. The

1 Interstate Commission may provide in its bylaws for such additional
2 ex officio (nonvoting) members, including members of other national
3 organizations, in such numbers as shall be determined by the
4 commission.

5 D. Each compacting state represented at any meeting
6 of the commission is entitled to one vote. A majority of the
7 compacting states shall constitute a quorum for the transaction of
8 business, unless a larger quorum is required by the bylaws of the
9 Interstate Commission.

10 E. The commission shall meet at least once each calendar
11 year. The chairperson may call additional meetings and, upon the
12 request of a simple majority of the compacting states, shall call
13 additional meetings. Public notice shall be given of all meetings
14 and meetings shall be open to the public.

15 F. The Interstate Commission shall establish an executive
16 committee, which shall include commission officers, members, and
17 others as determined by the bylaws. The executive committee shall
18 have the power to act on behalf of the Interstate Commission during
19 periods when the Interstate Commission is not in session, with
20 the exception of rulemaking and/or amendment to the compact. The
21 executive committee shall oversee the day-to-day activities of the
22 administration of the compact managed by an executive director and
23 Interstate Commission staff; administers enforcement and compliance
24 with the provisions of the compact, its bylaws and rules, and
25 performs such other duties as directed by the Interstate Commission

1 or set forth in the bylaws.

2 G. Each member of the Interstate Commission shall have
3 the right and power to cast a vote to which that compacting
4 state is entitled and to participate in the business and affairs
5 of the Interstate Commission. A member shall vote in person and
6 shall not delegate a vote to another compacting state. However,
7 a commissioner, in consultation with the state council, shall
8 appoint another authorized representative, in the absence of the
9 commissioner from that state, to cast a vote on behalf of the
10 compacting state at a specified meeting. The bylaws may provide for
11 members' participation in meetings by telephone or other means of
12 telecommunication or electronic communication.

13 H. The Interstate Commission's bylaws shall establish
14 conditions and procedures under which the Interstate Commission
15 shall make its information and official records available to the
16 public for inspection or copying. The Interstate Commission may
17 exempt from disclosure any information or official records to
18 the extent they would adversely affect personal privacy rights or
19 proprietary interests.

20 I. Public notice shall be given of all meetings and all
21 meetings shall be open to the public, except as set forth in
22 the Rules or as otherwise provided in the Compact. The Interstate
23 Commission and any of its committees may close a meeting to the
24 public where it determines by two-thirds vote that an open meeting
25 would be likely to:

- 1 1. Relate solely to the Interstate Commission's internal
2 personnel practices and procedures;
- 3 2. Disclose matters specifically exempted from disclosure
4 by statute;
- 5 3. Disclose trade secrets or commercial or financial
6 information which is privileged or confidential;
- 7 4. Involve accusing any person of a crime, or formally
8 censuring any person;
- 9 5. Disclose information of a personal nature where
10 disclosure would constitute a clearly unwarranted invasion of
11 personal privacy;
- 12 6. Disclose investigative records compiled for law
13 enforcement purposes;
- 14 7. Disclose information contained in or related to
15 examination, operating or condition reports prepared by, or on
16 behalf of or for the use of, the Interstate Commission with respect
17 to a regulated person or entity for the purpose of regulation or
18 supervision of such person or entity;
- 19 8. Disclose information, the premature disclosure of
20 which would significantly endanger the stability of a regulated
21 person or entity; or
- 22 9. Specifically relate to the Interstate Commission's
23 issuance of a subpoena, or its participation in a civil action or
24 other legal proceeding.
- 25 J. For every meeting closed pursuant to this provision,

1 the Interstate Commission's legal counsel shall publicly certify
 2 that, in the legal counsel's opinion, the meeting may be closed to
 3 the public, and shall reference each relevant exemptive provision.
 4 The Interstate Commission shall keep minutes which shall fully
 5 and clearly describe all matters discussed in any meeting and
 6 shall provide a full and accurate summary of any actions taken,
 7 and the reasons therefor, including a description of each of the
 8 views expressed on any item and the record of any roll call
 9 vote (reflected in the vote of each member on the question).
 10 All documents considered in connection with any action shall be
 11 identified in such minutes.

12 K. The Interstate Commission shall collect standardized
 13 data concerning the interstate movement of juveniles as directed
 14 through its rules which shall specify the data to be collected, the
 15 means of collection and data exchange and reporting requirements.
 16 Such methods of data collection, exchange and reporting shall
 17 insofar as is reasonably possible conform to up-to-date technology
 18 and coordinate its information functions with the appropriate
 19 repository of records.

20 ARTICLE IV

21 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

22 The commission shall have the following powers and
 23 duties:

- 24 1. To provide for dispute resolution among compacting
 25 states.

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

6 3. To oversee, supervise and coordinate the interstate
7 movement of juveniles subject to the terms of this compact and any
8 bylaws adopted and rules promulgated by the Interstate Commission.

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

13 5. To establish and maintain offices which shall be
14 located within one or more of the compacting states.

15 6. To purchase and maintain insurance and bonds.

16 7. To borrow, accept, hire or contract for services of
17 personnel.

18 8. To establish and appoint committees and hire staff
19 which it deems necessary for the carrying out of its functions
20 including, but not limited to, an executive committee as required
21 by Article III which shall have the power to act on behalf of
22 the Interstate Commission in carrying out its powers and duties
23 hereunder.

24 9. To elect or appoint such officers, attorneys,
25 employees, agents, or consultants, and to fix their compensation,

1 define their duties and determine their qualifications; and to
2 establish the Interstate Commission's personnel policies and
3 programs relating to, inter alia, conflicts of interest, rates of
4 compensation, and qualifications of personnel.

5 10. To accept any and all donations and grants of money,
6 equipment, supplies, materials, and services, and to receive,
7 utilize, and dispose of it.

8 11. To lease, purchase, accept contributions or donations
9 of, or otherwise to own, hold, improve or use any property, real,
10 personal, or mixed.

11 12. To sell, convey, mortgage, pledge, lease, exchange,
12 abandon, or otherwise dispose of any property, real, personal or
13 mixed.

14 13. To establish a budget and make expenditures and levy
15 dues as provided in Article VIII of this compact.

16 14. To sue and be sued.

17 15. To adopt a seal and bylaws governing the management
18 and operation of the Interstate Commission.

19 16. To perform such functions as may be necessary or
20 appropriate to achieve the purposes of this compact.

21 17. To report annually to the legislatures, governors,
22 judiciary, and state councils of the compacting states concerning
23 the activities of the Interstate Commission during the preceding
24 year. Such reports shall also include any recommendations that may
25 have been adopted by the Interstate Commission.

1 18. To coordinate education, training and public
2 awareness regarding the interstate movement of juveniles for
3 officials involved in such activity.

4 19. To establish uniform standards of the reporting,
5 collecting and exchanging of data.

6 20. The Interstate Commission shall maintain its
7 corporate books and records in accordance with the bylaws.

8 ARTICLE V

9 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

10 Section A. Bylaws

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

16 a. Establishing the fiscal year of the Interstate
17 Commission;

18 b. Establishing an executive committee and such other
19 committees as may be necessary;

20 c. Provide for the establishment of committees governing
21 any general or specific delegation of any authority or function of
22 the Interstate Commission;

23 d. Providing reasonable procedures for calling and
24 conducting meetings of the Interstate Commission, and ensuring
25 reasonable notice of each such meeting;

1 e. Establishing the titles and responsibilities of the
2 officers of the Interstate Commission;

3 f. Providing a mechanism for concluding the operations of
4 the Interstate Commission and the return of any surplus funds that
5 may exist upon the termination of the Compact after the payment
6 and/or reserving of all of its debts and obligations;

7 g. Providing "startup" rules for initial administration
8 of the compact; and

9 h. Establishing standards and procedures for compliance
10 and technical assistance in carrying out the compact.

11 Section B. Officers and Staff

12 1. The Interstate Commission shall, by a majority of the
13 members, elect annually from among its members a chairperson and
14 a vice-chairperson, each of whom shall have such authority and
15 duties as may be specified in the bylaws. The chairperson or, in
16 the chairperson's absence or disability, the vice-chairperson shall
17 preside at all meetings of the Interstate Commission. The officers
18 so elected shall serve without compensation or remuneration
19 from the Interstate Commission; provided that, subject to the
20 availability of budgeted funds, the officers shall be reimbursed
21 for any ordinary and necessary costs and expenses incurred by them
22 in the performance of their duties and responsibilities as officers
23 of the Interstate Commission.

24 2. The Interstate Commission shall, through its executive
25 committee, appoint or retain an executive director for such period,

1 upon such terms and conditions and for such compensation as the
2 Interstate Commission may deem appropriate. The executive director
3 shall serve as secretary to the Interstate Commission, but shall
4 not be a Member and shall hire and supervise such other staff as
5 may be authorized by the Interstate Commission.

6 Section C. Qualified Immunity, Defense and
7 Indemnification

8 1. The Commission's executive director and employees
9 shall be immune from suit and liability, either personally or in
10 their official capacity, for any claim for damage to or loss of
11 property or personal injury or other civil liability caused or
12 arising out of or relating to any actual or alleged act, error, or
13 omission that occurred, or that such person had a reasonable basis
14 for believing occurred within the scope of Commission employment,
15 duties, or responsibilities; provided, that any such person shall
16 not be protected from suit or liability for any damage, loss,
17 injury, or liability caused by the intentional or willful and
18 wanton misconduct of any such person.

19 2. The liability of any commissioner, or the employee or
20 agent of a commissioner, acting within the scope of such person's
21 employment or duties for acts, errors, or omissions occurring
22 within such person's state may not exceed the limits of liability
23 set forth under the Constitution and laws of that state for state
24 officials, employees, and agents. Nothing in this subsection shall
25 be construed to protect any such person from suit or liability for

1 any damage, loss, injury, or liability caused by the intentional or
2 willful and wanton misconduct of any such person.

3 3. The Interstate Commission shall defend the executive
4 director or the employees or representatives of the Interstate
5 Commission and, subject to the approval of the Attorney General
6 of the state represented by any commissioner of a compacting
7 state, shall defend such commissioner or the commissioner's
8 representatives or employees in any civil action seeking to impose
9 liability arising out of any actual or alleged act, error or
10 omission that occurred within the scope of Interstate Commission
11 employment, duties or responsibilities, or that the defendant
12 had a reasonable basis for believing occurred within the scope
13 of Interstate Commission employment, duties, or responsibilities,
14 provided that the actual or alleged act, error, or omission did
15 not result from intentional or willful and wanton misconduct on the
16 part of such person.

17 4. The Interstate Commission shall indemnify and hold
18 the commissioner of a compacting state, or the commissioner's
19 representatives or employees, or the Interstate Commission's
20 representatives or employees, harmless in the amount of any
21 settlement or judgment obtained against such persons arising out
22 of any actual or alleged act, error, or omission that occurred
23 within the scope of Interstate Commission employment, duties, or
24 responsibilities, or that such persons had a reasonable basis
25 for believing occurred within the scope of Interstate Commission

1 employment, duties, or responsibilities, provided that the actual
2 or alleged act, error, or omission did not result from intentional
3 or willful and wanton misconduct on the part of such persons.

4 ARTICLE VI

5 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

6 A. The Interstate Commission shall promulgate and publish
7 rules in order to effectively and efficiently achieve the purposes
8 of the compact.

9 B. Rulemaking shall occur pursuant to the criteria
10 set forth in this article and the bylaws and rules adopted
11 pursuant thereto. Such rulemaking shall substantially conform to
12 the principles of the "Model State Administrative Procedures Act,"
13 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
14 other administrative procedures act, as the Interstate Commission
15 deems appropriate consistent with due process requirements under
16 the U.S. Constitution as now or hereafter interpreted by the U.S.
17 Supreme Court. All rules and amendments shall become binding as of
18 the date specified, as published with the final version of the rule
19 as approved by the Commission.

20 C. When promulgating a rule, the Interstate Commission
21 shall, at a minimum:

22 1. publish the proposed rule's entire text stating the
23 reason(s) for that proposed rule;

24 2. allow and invite any and all persons to submit written
25 data, facts, opinions and arguments, which information shall be

1 added to the record, and be made publicly available;

2 3. provide an opportunity for an informal hearing if
3 petitioned by ten (10) or more persons; and

4 4. promulgate a final rule and its effective date, if
5 appropriate, based on input from state or local officials, or
6 interested parties.

7 D. Allow, not later than sixty days after a rule is
8 promulgated, any interested person to file a petition in the
9 United States District Court for the District of Columbia or
10 in the Federal District Court where the Interstate Commission's
11 principal office is located for judicial review of such rule.
12 If the court finds that the Interstate Commission's action is
13 not supported by substantial evidence in the rulemaking record,
14 the court shall hold the rule unlawful and set it aside.
15 For purposes of this subsection, evidence is substantial if it
16 would be considered substantial evidence under the Model State
17 Administrative Procedures Act.

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

23 F. The existing rules governing the operation of the
24 Interstate Compact on Juveniles superceded by this compact shall be
25 null and void twelve (12) months after the first meeting of the

1 Interstate Commission created hereunder.

2 G. Upon determination by the Interstate Commission that
3 a state of emergency exists, it may promulgate an emergency rule
4 which shall become effective immediately upon adoption, provided
5 that the usual rulemaking procedures provided hereunder shall be
6 retroactively applied to said rule as soon as reasonably possible,
7 but no later than ninety (90) days after the effective date of the
8 emergency rule.

9 ARTICLE VII

10 OVERSIGHT, ENFORCEMENT AND DISPUTE RESOLUTION BY THE
11 INTERSTATE COMMISSION

12 Section A. Oversight

13 1. The Interstate Commission shall oversee the
14 administration and operations of the interstate movement of
15 juveniles subject to this compact in the compacting states and
16 shall monitor such activities being administered in noncompacting
17 states which may significantly affect compacting states.

18 2. The courts and executive agencies in each compacting
19 state shall enforce this compact and shall take all actions
20 necessary and appropriate to effectuate the compact's purposes and
21 intent. The provisions of this compact and the rules promulgated
22 hereunder shall be received by all the judges, public officers,
23 commissions, and departments of the state government as evidence of
24 the authorized statute and administrative rules. All courts shall
25 take judicial notice of the compact and the rules. In any judicial

1 or administrative proceeding in a compacting state pertaining
2 to the subject matter of this compact which may affect the
3 powers, responsibilities or actions of the Interstate Commission,
4 it shall be entitled to receive all service of process in any such
5 proceeding, and shall have standing to intervene in the proceeding
6 for all purposes.

7 Section B. Dispute Resolution

8 1. The compacting states shall report to the Interstate
9 Commission on all issues and activities necessary for the
10 administration of the compact as well as issues and activities
11 pertaining to compliance with the provisions of the compact and its
12 bylaws and rules.

13 2. The Interstate Commission shall attempt, upon the
14 request of a compacting state, to resolve any disputes or other
15 issues which are subject to the compact and which may arise among
16 compacting states and between compacting and noncompacting states.
17 The commission shall promulgate a rule providing for both mediation
18 and binding dispute resolution for disputes among the compacting
19 states.

20 3. The Interstate Commission, in the reasonable exercise
21 of its discretion, shall enforce the provisions and rules of this
22 compact using any or all means set forth in Article XI of this
23 compact.

24 ARTICLE VIII

25 FINANCE

1 A. The Interstate Commission shall pay or provide for
2 the payment of the reasonable expenses of its establishment,
3 organization and ongoing activities.

4 B. The Interstate Commission shall levy on and collect an
5 annual assessment from each compacting state to cover the cost of
6 the internal operations and activities of the Interstate Commission
7 and its staff which must be in a total amount sufficient to cover
8 the Interstate Commission's annual budget as approved each year.
9 The aggregate annual assessment amount shall be allocated based
10 upon a formula to be determined by the Interstate Commission,
11 taking into consideration the population of each compacting state
12 and the volume of interstate movement of juveniles in each
13 compacting state and shall promulgate a rule binding upon all
14 compacting states which governs said assessment.

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

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

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

3 ARTICLE IX

4 THE STATE COUNCIL

5 Each member state shall create a State Council for
6 Interstate Juvenile Supervision. While each state may determine the
7 membership of its own state council, its membership must include
8 at least one representative from the legislative, judicial, and
9 executive branches of government, victims groups, and the compact
10 administrator, deputy compact administrator or designee. Each
11 compacting state retains the right to determine the qualifications
12 of the compact administrator or deputy compact administrator. Each
13 state council will advise and may exercise oversight and advocacy
14 concerning that state's participation in Interstate Commission
15 activities and other duties as may be determined by that state,
16 including but not limited to, development of policy concerning
17 operations and procedures of the compact within that state.

18 ARTICLE X

19 COMPACTING STATES, EFFECTIVE DATE AND AMENDMENT

20 A. Any state, the District of Columbia (or its designee),
21 the Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
22 American Samoa, and the Northern Mariana Islands as defined in
23 Article II of this compact is eligible to become a compacting
24 state.

25 B. The compact shall become effective and binding upon

1 legislative enactment of the compact into law by no less than 35
2 of the states. The initial effective date shall be the later of
3 July 1, 2004, or upon enactment into law by the 35th jurisdiction.
4 Thereafter it shall become effective and binding as to any other
5 compacting state upon enactment of the compact into law by that
6 state. The governors of nonmember states or their designees shall
7 be invited to participate in the activities of the Interstate
8 Commission on a nonvoting basis prior to adoption of the compact by
9 all states and territories of the United States.

10 C. The Interstate Commission may propose amendments to
11 the compact for enactment by the compacting states. No amendment
12 shall become effective and binding upon the Interstate Commission
13 and the compacting states unless and until it is enacted into law
14 by unanimous consent of the compacting states.

15 ARTICLE XI

16 WITHDRAWAL, DEFAULT, TERMINATION AND JUDICIAL ENFORCEMENT

17 Section A. Withdrawal

18 1. Once effective, the compact shall continue in
19 force and remain binding upon each and every compacting state;
20 provided that a compacting state may withdraw from the compact by
21 specifically repealing the statute which enacted the compact into
22 law.

23 2. The effective date of withdrawal is the effective date
24 of the repeal.

25 3. The withdrawing state shall immediately notify

1 the chairperson of the Interstate Commission in writing upon
2 the introduction of legislation repealing this compact in the
3 withdrawing state. The Interstate Commission shall notify the other
4 compacting states of the withdrawing state's intent to withdraw
5 within sixty days of its receipt thereof.

6 4. The withdrawing state is responsible for all
7 assessments, obligations and liabilities incurred through the
8 effective date of withdrawal, including any obligations, the
9 performance of which extend beyond the effective date of
10 withdrawal.

11 5. Reinstatement following withdrawal of any compacting
12 state shall occur upon the withdrawing state reenacting the compact
13 or upon such later date as determined by the Interstate Commission.

14 Section B. Technical Assistance, Fines, Suspension,
15 Termination and Default

16 1. If the Interstate Commission determines that any
17 compacting state has at any time defaulted in the performance of
18 any of its obligations or responsibilities under this compact, or
19 the bylaws or duly promulgated rules, the Interstate Commission may
20 impose any or all of the following penalties:

21 a. Remedial training and technical assistance as directed
22 by the Interstate Commission;

23 b. Alternative Dispute Resolution;

24 c. Fines, fees, and costs in such amounts as are deemed
25 to be reasonable as fixed by the Interstate Commission; and

1 d. Suspension or termination of membership in the
2 compact, which shall be imposed only after all other reasonable
3 means of securing compliance under the bylaws and rules have been
4 exhausted and the Interstate Commission has therefor determined
5 that the offending state is in default. Immediate notice of
6 suspension shall be given by the Interstate Commission to the
7 Governor, the Chief Justice or the Chief Judicial Officer of
8 the state, the majority and minority leaders of the defaulting
9 state's legislature, and the state council. The grounds for default
10 include, but are not limited to, failure of a compacting state
11 to perform such obligations or responsibilities imposed upon it
12 by this compact, the bylaws, or duly promulgated rules and any
13 other grounds designated in commission bylaws and rules. The
14 Interstate Commission shall immediately notify the defaulting state
15 in writing of the penalty imposed by the Interstate Commission
16 and of the default pending a cure of the default. The commission
17 shall stipulate the conditions and the time period within which the
18 defaulting state must cure its default. If the defaulting state
19 fails to cure the default within the time period specified by
20 the commission, the defaulting state shall be terminated from the
21 compact upon an affirmative vote of a majority of the compacting
22 states and all rights, privileges and benefits conferred by this
23 compact shall be terminated from the effective date of termination.

24 2. Within sixty days of the effective date of termination
25 of a defaulting state, the Commission shall notify the Governor,

1 the Chief Justice or Chief Judicial Officer, the Majority and
2 Minority Leaders of the defaulting state's legislature, and the
3 state council of such termination.

4 3. The defaulting state is responsible for all
5 assessments, obligations and liabilities incurred through the
6 effective date of termination including any obligations, the
7 performance of which extends beyond the effective date of
8 termination.

9 4. The Interstate Commission shall not bear any costs
10 relating to the defaulting state unless otherwise mutually
11 agreed upon in writing between the Interstate Commission and the
12 defaulting state.

13 5. Reinstatement following termination of any compacting
14 state requires both a reenactment of the compact by the defaulting
15 state and the approval of the Interstate Commission pursuant to the
16 rules.

17 Section C. Judicial Enforcement

18 The Interstate Commission may, by majority vote of the
19 members, initiate legal action in the United States District
20 Court for the District of Columbia or, at the discretion of
21 the Interstate Commission, in the federal district where the
22 Interstate Commission has its offices, to enforce compliance with
23 the provisions of the compact, its duly promulgated rules and
24 bylaws, against any compacting state in default. In the event
25 judicial enforcement is necessary the prevailing party shall

1 be awarded all costs of such litigation including reasonable
2 attorney's fees.

3 Section D. Dissolution of Compact

4 1. The compact dissolves effective upon the date of
5 the withdrawal or default of the compacting state, which reduces
6 membership in the compact to one compacting state.

7 2. Upon the dissolution of this compact, the compact
8 becomes null and void and shall be of no further force or effect,
9 and the business and affairs of the Interstate Commission shall be
10 concluded and any surplus funds shall be distributed in accordance
11 with the bylaws.

12 ARTICLE XII

13 SEVERABILITY AND CONSTRUCTION

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

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

20 ARTICLE XIII

21 BINDING EFFECT OF COMPACT AND OTHER LAWS

22 Section A. Other Laws

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

1 2. All compacting states' laws other than state
2 Constitutions and other interstate compacts conflicting with this
3 compact are superseded to the extent of the conflict.

4 Section B. Binding Effect of the Compact

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

8 2. All agreements between the Interstate Commission and
9 the compacting states are binding in accordance with their terms.

10 3. Upon the request of a party to a conflict over
11 meaning or interpretation of Interstate Commission actions, and
12 upon a majority vote of the compacting states, the Interstate
13 Commission may issue advisory opinions regarding such meaning or
14 interpretation.

15 4. In the event any provision of this compact exceeds the
16 constitutional limits imposed on the legislature of any compacting
17 state, the obligations, duties, powers or jurisdiction sought to be
18 conferred by such provision upon the Interstate Commission shall
19 be ineffective and such obligations, duties, powers or jurisdiction
20 shall remain in the compacting state and shall be exercised by
21 the agency thereof to which such obligations, duties, powers or
22 jurisdiction are delegated by law in effect at the time this
23 compact becomes effective.

24 Sec. 2. Section 43-1005, Reissue Revised Statutes of
25 Nebraska, is amended to read:

1 43-1005 The expense of returning juveniles to this state
2 pursuant to the Interstate Compact ~~on~~ for Juveniles shall be paid
3 as follows:

4 (1) In the case of a runaway, ~~under Article IV,~~ the
5 court making the requisition shall inquire summarily regarding the
6 financial ability of the petitioner to bear the expense and if
7 it finds he or she is able to do so shall order that he or
8 she pay all such expenses; otherwise the court shall arrange for
9 the transportation at the expense of the county and order that
10 the county reimburse the person, if any, who returns the juvenile
11 for his or her actual and necessary expenses; and the court may
12 order that the petitioner reimburse the county for so much of
13 said expense as the court finds he or she is able to pay. If the
14 petitioner fails, without good cause, or refuses to pay such sum,
15 he or she may be proceeded against for contempt.

16 (2) In the case of an escapee or absconder, ~~under Article~~
17 ~~V or Article VI,~~ if the juvenile is in the legal custody of the
18 Department of Health and Human Services it shall bear the expense
19 of his or her return; otherwise the appropriate court shall, on
20 petition of the person entitled to his or her custody or charged
21 with his or her supervision, arrange for the transportation at
22 the expense of the county and order that the county reimburse the
23 person, if any, who returns the juvenile, for his or her actual and
24 necessary expenses. In this subdivision appropriate court means the
25 juvenile court which adjudged the juvenile to be delinquent or, if

1 the juvenile is under supervision for another state, ~~under Article~~
2 ~~VII of the compact,~~ then the juvenile court of the county of the
3 juvenile's residence during such supervision.

4 (3) In the case of a voluntary return of a runaway
5 without requisition, ~~under Article VI,~~ the person entitled to his
6 or her legal custody shall pay the expense of transportation and
7 the actual and necessary expenses of the person, if any, who
8 returns such juvenile; but if he or she is financially unable to
9 pay all the expenses he or she may petition the juvenile court of
10 the county of the petitioner's residence for an order arranging for
11 the transportation as provided in subdivision (1) of this section.
12 The court shall inquire summarily into the financial ability of the
13 petitioner, and, if it finds he or she is unable to bear any or all
14 of the expense, the court shall arrange for such transportation at
15 the expense of the county and shall order the county to reimburse
16 the person, if any, who returns the juvenile, for his or her actual
17 and necessary expenses. The court may order that the petitioner
18 reimburse the county for so much of said expense as the court finds
19 he or she is able to pay. If the petitioner fails, without good
20 cause, or refuses to pay such sum, he or she may be proceeded
21 against for contempt.

22 Sec. 3. ARTICLE I. PURPOSE

23 The purpose of this Interstate Compact for the Placement
24 of Children is to:

25 A. Provide a process through which children subject to

1 this compact are placed in safe and suitable homes in a timely
2 manner.

3 B. Facilitate ongoing supervision of a placement, the
4 delivery of services, and communication between the states.

5 C. Provide operating procedures that will ensure that
6 children are placed in safe and suitable homes in a timely manner.

7 D. Provide for the promulgation and enforcement of
8 administrative rules implementing the provisions of this compact
9 and regulating the covered activities of the member states.

10 E. Provide for uniform data collection and information
11 sharing between member states under this compact.

12 F. Promote coordination between this compact, the
13 Interstate Compact for Juveniles, the Interstate Compact on
14 Adoption and Medical Assistance and other compacts affecting the
15 placement of and which provide services to children otherwise
16 subject to this compact.

17 G. Provide for a state's continuing legal jurisdiction
18 and responsibility for placement and care of a child that it would
19 have had if the placement were intrastate.

20 H. Provide for the promulgation of guidelines, in
21 collaboration with Indian tribes, for interstate cases involving
22 Indian children as is or may be permitted by federal law.

23 ARTICLE II. DEFINITIONS

24 As used in this compact,

25 A. "Approved placement" means the public child-placing

1 agency in the receiving state has determined that the placement is
2 both safe and suitable for the child.

3 B. "Assessment" means an evaluation of a prospective
4 placement by a public child-placing agency in the receiving
5 state to determine if the placement meets the individualized
6 needs of the child, including, but not limited to, the child's
7 safety and stability, health and well-being, and mental, emotional,
8 and physical development. An assessment is only applicable to a
9 placement by a public child-placing agency.

10 C. "Child" means an individual who has not attained the
11 age of eighteen (18).

12 D. "Certification" means to attest, declare or swear to
13 before a judge or notary public.

14 E. "Default" means the failure of a member state to
15 perform the obligations or responsibilities imposed upon it by this
16 compact, the bylaws or rules of the Interstate Commission.

17 F. "Home study" means an evaluation of a home environment
18 conducted in accordance with the applicable requirements of the
19 state in which the home is located, and documents the preparation
20 and the suitability of the placement resource for placement of a
21 child in accordance with the laws and requirements of the state in
22 which the home is located.

23 G. "Indian tribe" means any Indian tribe, band, nation,
24 or other organized group or community of Indians recognized as
25 eligible for services provided to Indians by the Secretary of the

1 Interior because of their status as Indians, including any Alaskan
2 native village as defined in section 3(c) of the Alaska Native
3 Claims Settlement Act, 43 U.S.C. 11 section 1602(c).

4 H. "Interstate Commission for the Placement of Children"
5 means the commission that is created under Article VIII of this
6 compact and which is generally referred to as the Interstate
7 Commission.

8 I. "Jurisdiction" means the power and authority of a
9 court to hear and decide matters.

10 J. "Legal Risk Placement" ("Legal Risk Adoption") means
11 a placement made preliminary to an adoption where the prospective
12 adoptive parents acknowledge in writing that a child can be ordered
13 returned to the sending state or the birth mother's state of
14 residence, if different from the sending state, and a final decree
15 of adoption shall not be entered in any jurisdiction until all
16 required consents are obtained or are dispensed with in accordance
17 with applicable law.

18 K. "Member state" means a state that has enacted this
19 compact.

20 L. "Noncustodial parent" means a person who, at the time
21 of the commencement of court proceedings in the sending state, does
22 not have sole legal custody of the child or has joint legal custody
23 of a child, and who is not the subject of allegations or findings
24 of child abuse or neglect.

25 M. "Nonmember state" means a state which has not enacted

1 this compact.

2 N. "Notice of residential placement" means information
3 regarding a placement into a residential facility provided to the
4 receiving state including, but not limited to, the name, date, and
5 place of birth of the child, the identity and address of the parent
6 or legal guardian, evidence of authority to make the placement,
7 and the name and address of the facility in which the child
8 will be placed. Notice of residential placement shall also include
9 information regarding a discharge and any unauthorized absence from
10 the facility.

11 O. "Placement" means the act by a public or private
12 child-placing agency intended to arrange for the care or custody of
13 a child in another state.

14 P. "Private child-placing agency" means any private
15 corporation, agency, foundation, institution, or charitable
16 organization, or any private person or attorney that facilitates,
17 causes, or is involved in the placement of a child from one state
18 to another and that is not an instrumentality of the state or
19 acting under color of state law.

20 Q. "Provisional placement" means a determination made
21 by the public child-placing agency in the receiving state that
22 the proposed placement is safe and suitable, and, to the extent
23 allowable, the receiving state has temporarily waived its standards
24 or requirements otherwise applicable to prospective foster or
25 adoptive parents so as to not delay the placement. Completion of

1 the receiving state requirements regarding training for prospective
2 foster or adoptive parents shall not delay an otherwise safe and
3 suitable placement.

4 R. "Public child-placing agency" means any government
5 child welfare agency or child protection agency or a private entity
6 under contract with such an agency, regardless of whether they act
7 on behalf of a state, county, municipality or other governmental
8 unit and which facilitates, causes, or is involved in the placement
9 of a child from one state to another.

10 S. "Receiving state" means the state to which a child is
11 sent, brought, or caused to be sent or brought.

12 T. "Relative" means someone who is related to the child
13 as a parent, stepparent, sibling by half or whole blood or
14 by adoption, grandparent, aunt, uncle, or first cousin or a
15 nonrelative with such significant ties to the child that they may
16 be regarded as relatives as determined by the court in the sending
17 state.

18 U. "Residential Facility" means a facility providing
19 a level of care that is sufficient to substitute for parental
20 responsibility or foster care and is beyond what is needed for
21 assessment or treatment of an acute condition. For purposes of
22 the compact, residential facilities do not include institutions
23 primarily educational in character, hospitals, or other medical
24 facilities.

25 V. "Rule" means a written directive, mandate, standard,

1 or principle issued by the Interstate Commission promulgated
2 pursuant to Article XI of this compact that is of general
3 applicability and that implements, interprets, or prescribes a
4 policy or provision of the compact. "Rule" has the force and effect
5 of an administrative rule in a member state, and includes the
6 amendment, repeal, or suspension of an existing rule.

7 W. "Sending state" means the state from which the
8 placement of a child is initiated.

9 X. "Service member's permanent duty station" means the
10 military installation where an active duty Armed Services member is
11 currently assigned and is physically located under competent orders
12 that do not specify the duty as temporary.

13 Y. "Service member's state of legal residence" means the
14 state in which the active duty Armed Services member is considered
15 a resident for tax and voting purposes.

16 Z. "State" means a state of the United States, the
17 District of Columbia, the Commonwealth of Puerto Rico, the U.S.
18 Virgin Islands, Guam, American Samoa, the Northern Mariana Islands,
19 and any other territory of the United States.

20 AA. "State court" means a judicial body of a state
21 that is vested by law with responsibility for adjudicating cases
22 involving abuse, neglect, deprivation, delinquency, or status
23 offenses of individuals who have not attained the age of eighteen
24 (18).

25 BB. "Supervision" means monitoring provided by the

1 receiving state once a child has been placed in a receiving state
2 pursuant to this compact.

3 ARTICLE III. APPLICABILITY

4 A. Except as otherwise provided in Article III, Section
5 B, this compact shall apply to:

6 1. The interstate placement of a child subject to ongoing
7 court jurisdiction in the sending state, due to allegations or
8 findings that the child has been abused, neglected, or deprived as
9 defined by the laws of the sending state, provided, however, that
10 the placement of such a child into a residential facility shall
11 only require notice of residential placement to the receiving state
12 prior to placement.

13 2. The interstate placement of a child adjudicated
14 delinquent or unmanageable based on the laws of the sending
15 state and subject to ongoing court jurisdiction of the sending
16 state if:

17 a. the child is being placed in a residential facility in
18 another member state and is not covered under another compact; or

19 b. the child is being placed in another member state and
20 the determination of safety and suitability of the placement and
21 services required is not provided through another compact.

22 3. The interstate placement of any child by a public
23 child-placing agency or private child-placing agency as defined in
24 this compact as a preliminary step to a possible adoption.

25 B. The provisions of this compact shall not apply to:

1 1. The interstate placement of a child in a custody
2 proceeding in which a public child-placing agency is not a party,
3 provided the placement is not intended to effectuate an adoption.

4 2. The interstate placement of a child with a nonrelative
5 in a receiving state by a parent with the legal authority to
6 make such a placement provided, however, that the placement is not
7 intended to effectuate an adoption.

8 3. The interstate placement of a child by one relative
9 with the lawful authority to make such a placement directly with a
10 relative in a receiving state.

11 4. The placement of a child, not subject to Article III,
12 Section A, into a residential facility by his or her parent.

13 5. The placement of a child with a noncustodial parent
14 provided that:

15 a. The noncustodial parent proves to the satisfaction of
16 a court in the sending state a substantial relationship with the
17 child; and

18 b. The court in the sending state makes a written
19 finding that placement with the noncustodial parent is in the best
20 interests of the child; and

21 c. The court in the sending state dismisses its
22 jurisdiction in interstate placements in which the public
23 child-placing agency is a party to the proceeding.

24 6. A child entering the United States from a foreign
25 country for the purpose of adoption or leaving the United States

1 to go to a foreign country for the purpose of adoption in that
2 country.

3 7. Cases in which a U.S. citizen child living overseas
4 with his family, at least one of whom is in the U.S. Armed
5 Services, and who is stationed overseas, is removed and placed in
6 a state.

7 8. The sending of a child by a public child-placing
8 agency or a private child-placing agency for a visit as defined by
9 the rules of the Interstate Commission.

10 C. For purposes of determining the applicability of this
11 compact to the placement of a child with a family in the Armed
12 Services, the public child-placing agency or private child-placing
13 agency may choose the state of the service member's permanent duty
14 station or the service member's declared legal residence.

15 D. Nothing in this compact shall be construed to prohibit
16 the concurrent application of the provisions of this compact with
17 other applicable interstate compacts, including the Interstate
18 Compact for Juveniles and the Interstate Compact on Adoption and
19 Medical Assistance. The Interstate Commission may in cooperation
20 with other interstate compact commissions having responsibility
21 for the interstate movement, placement, or transfer of children,
22 promulgate like rules to ensure the coordination of services,
23 timely placement of children, and the reduction of unnecessary or
24 duplicative administrative or procedural requirements.

25 ARTICLE IV. JURISDICTION

1 A. Except as provided in Article IV, Section H, and
2 Article V, Section B, paragraph two and three, concerning private
3 and independent adoptions, and in interstate placements in which
4 the public child-placing agency is not a party to a custody
5 proceeding, the sending state shall retain jurisdiction over a
6 child with respect to all matters of custody and disposition of the
7 child which it would have had if the child had remained in the
8 sending state. Such jurisdiction shall also include the power to
9 order the return of the child to the sending state.

10 B. When an issue of child protection or custody is
11 brought before a court in the receiving state, such court shall
12 confer with the court of the sending state to determine the most
13 appropriate forum for adjudication.

14 C. In cases that are before courts and subject to
15 this compact, the taking of testimony for hearings before any
16 judicial officer may occur in person or by telephone, audio-video
17 conference, or such other means as approved by the rules of the
18 Interstate Commission; and Judicial officers may communicate with
19 other judicial officers and persons involved in the interstate
20 process as may be permitted by their Canons of Judicial Conduct and
21 any rules promulgated by the Interstate Commission.

22 D. In accordance with its own laws, the court in the
23 sending state shall have authority to terminate its jurisdiction
24 if:

25 1. The child is reunified with the parent in the

- 1 receiving state who is the subject of allegations or findings
2 of abuse or neglect, only with the concurrence of the public
3 child-placing agency in the receiving state; or
- 4 2. The child is adopted; or
- 5 3. The child reaches the age of majority under the laws
6 of the sending state; or
- 7 4. The child achieves legal independence pursuant to the
8 laws of the sending state; or
- 9 5. A guardianship is created by a court in the receiving
10 state with the concurrence of the court in the sending state; or
- 11 6. An Indian tribe has petitioned for and received
12 jurisdiction from the court in the sending state; or
- 13 7. The public child-placing agency of the sending state
14 requests termination and has obtained the concurrence of the public
15 child-placing agency in the receiving state.
- 16 E. When a sending state court terminates its
17 jurisdiction, the receiving state child-placing agency shall be
18 notified.
- 19 F. Nothing in this article shall defeat a claim of
20 jurisdiction by a receiving state court sufficient to deal with an
21 act of truancy, delinquency, crime, or behavior involving a child
22 as defined by the laws of the receiving state committed by the
23 child in the receiving state which would be a violation of its
24 laws.
- 25 G. Nothing in this article shall limit the receiving

1 state's ability to take emergency jurisdiction for the protection
2 of the child.

3 H. The substantive laws of the state in which an
4 adoption will be finalized shall solely govern all issues relating
5 to the adoption of the child and the court in which the
6 adoption proceeding is filed shall have subject matter jurisdiction
7 regarding all substantive issues relating to the adoption, except:

8 1. when the child is a ward of another court that
9 established jurisdiction over the child prior to the placement; or

10 2. when the child is in the legal custody of a public
11 agency in the sending state; or

12 3. when a court in the sending state has otherwise
13 appropriately assumed jurisdiction over the child, prior to the
14 submission of the request for approval of placement.

15 I. A final decree of adoption shall not be entered in
16 any jurisdiction until the placement is authorized as an "approved
17 placement" by the public child-placing agency in the receiving
18 state.

19 ARTICLE V. PLACEMENT EVALUATION

20 A. Prior to sending, bringing, or causing a child to be
21 sent or brought into a receiving state, the public child-placing
22 agency shall provide a written request for assessment to the
23 receiving state.

24 B. For placements by a private child-placing agency, a
25 child may be sent or brought, or caused to be sent or brought,

1 into a receiving state, upon receipt and immediate review of the
2 required content in a request for approval of a placement in both
3 the sending and receiving state public child-placing agency. The
4 required content to accompany a request for approval shall include
5 all of the following:

6 1. A request for approval identifying the child, the
7 birth parent(s), the prospective adoptive parent(s), and the
8 supervising agency, signed by the person requesting approval;
9 and

10 2. The appropriate consents or relinquishments signed by
11 the birth parents in accordance with the laws of the sending state,
12 or, where permitted, the laws of the state where the adoption will
13 be finalized; and

14 3. Certification by a licensed attorney or authorized
15 agent of a private adoption agency that the consent or
16 relinquishment is in compliance with the applicable laws of the
17 sending state, or where permitted the laws of the state where
18 finalization of the adoption will occur; and

19 4. A home study; and

20 5. An acknowledgment of legal risk signed by the
21 prospective adoptive parents.

22 C. The sending state and the receiving state may request
23 additional information or documents prior to finalization of
24 an approved placement, but they may not delay travel by the
25 prospective adoptive parents with the child if the required content

1 for approval has been submitted, received, and reviewed by the
2 public child-placing agency in both the sending state and the
3 receiving state.

4 D. Approval from the public child-placing agency in the
5 receiving state for a provisional or approved placement is required
6 as provided for in the rules of the Interstate Commission.

7 E. The procedures for making and the request for an
8 assessment shall contain all information and be in such form as
9 provided for in the rules of the Interstate Commission.

10 F. Upon receipt of a request from the public
11 child-placing agency of the sending state, the receiving state
12 shall initiate an assessment of the proposed placement to determine
13 its safety and suitability. If the proposed placement is a
14 placement with a relative, the public child-placing agency of
15 the sending state may request a determination for a provisional
16 placement.

17 G. The public child-placing agency in the receiving state
18 may request from the public child-placing agency or the private
19 child-placing agency in the sending state, and shall be entitled to
20 receive supporting or additional information necessary to complete
21 the assessment or approve the placement.

22 H. The public child-placing agency in the receiving state
23 shall approve a provisional placement and complete or arrange for
24 the completion of the assessment within the timeframes established
25 by the rules of the Interstate Commission.

1 I. For a placement by a private child-placing agency,
2 the sending state shall not impose any additional requirements to
3 complete the home study that are not required by the receiving
4 state, unless the adoption is finalized in the sending state.

5 J. The Interstate Commission may develop uniform
6 standards for the assessment of the safety and suitability of
7 interstate placements.

8 ARTICLE VI. PLACEMENT AUTHORITY

9 A. Except as otherwise provided in this compact, no child
10 subject to this compact shall be placed into a receiving state
11 until approval for such placement is obtained.

12 B. If the public child-placing agency in the receiving
13 state does not approve the proposed placement then the child
14 shall not be placed. The receiving state shall provide written
15 documentation of any such determination in accordance with the
16 rules promulgated by the Interstate Commission. Such determination
17 is not subject to judicial review in the sending state.

18 C. If the proposed placement is not approved, any
19 interested party shall have standing to seek an administrative
20 review of the receiving state's determination.

21 1. The administrative review and any further judicial
22 review associated with the determination shall be conducted in
23 the receiving state pursuant to its applicable administrative
24 procedures act.

25 2. If a determination not to approve the placement of

1 the child in the receiving state is overturned upon review, the
2 placement shall be deemed approved, provided, however, that all
3 administrative or judicial remedies have been exhausted or the time
4 for such remedies has passed.

5 ARTICLE VII. PLACING AGENCY RESPONSIBILITY

6 A. For the interstate placement of a child made by a
7 public child-placing agency or state court:

8 1. The public child-placing agency in the sending state
9 shall have financial responsibility for:

10 a. the ongoing support and maintenance for the child
11 during the period of the placement, unless otherwise provided for
12 in the receiving state; and

13 b. as determined by the public child-placing agency
14 in the sending state, services for the child beyond the public
15 services for which the child is eligible in the receiving state.

16 2. The receiving state shall only have financial
17 responsibility for:

18 a. any assessment conducted by the receiving state; and

19 b. supervision conducted by the receiving state at the
20 level necessary to support the placement as agreed upon by the
21 public child-placing agencies of the receiving and sending state.

22 3. Nothing in this provision shall prohibit public
23 child-placing agencies in the sending state from entering into
24 agreements with licensed agencies or persons in the receiving state
25 to conduct assessments and provide supervision.

1 B. For the placement of a child by a private
2 child-placing agency preliminary to a possible adoption, the
3 private child-placing agency shall be:

4 1. Legally responsible for the child during the period of
5 placement as provided for in the law of the sending state until the
6 finalization of the adoption.

7 2. Financially responsible for the child absent a
8 contractual agreement to the contrary.

9 C. The public child-placing agency in the receiving state
10 shall provide timely assessments, as provided for in the rules of
11 the Interstate Commission.

12 D. The public child-placing agency in the receiving state
13 shall provide, or arrange for the provision of, supervision and
14 services for the child, including timely reports, during the period
15 of the placement.

16 E. Nothing in this compact shall be construed as to limit
17 the authority of the public child-placing agency in the receiving
18 state from contracting with a licensed agency or person in the
19 receiving state for an assessment or the provision of supervision
20 or services for the child or otherwise authorizing the provision of
21 supervision or services by a licensed agency during the period of
22 placement.

23 F. Each member state shall provide for coordination among
24 its branches of government concerning the state's participation
25 in, and compliance with, the compact and Interstate Commission

1 activities, through the creation of an advisory council or use of
2 an existing body or board.

3 G. Each member state shall establish a central state
4 compact office, which shall be responsible for state compliance
5 with the compact and the rules of the Interstate Commission.

6 H. The public child-placing agency in the sending state
7 shall oversee compliance with the provisions of the Indian Child
8 Welfare Act, 25 U.S.C. 1901, et seq., for placements subject to the
9 provisions of this compact, prior to placement.

10 I. With the consent of the Interstate Commission, states
11 may enter into limited agreements that facilitate the timely
12 assessment and provision of services and supervision of placements
13 under this compact.

14 ARTICLE VIII. INTERSTATE COMMISSION FOR THE PLACEMENT OF
15 CHILDREN

16 The member states hereby establish, by way of this
17 compact, a commission known as the "Interstate Commission for the
18 Placement of Children." The activities of the Interstate Commission
19 are the formation of public policy and are a discretionary state
20 function. The Interstate Commission shall:

21 A. Be a joint commission of the member states and shall
22 have the responsibilities, powers and duties set forth herein, and
23 such additional powers as may be conferred upon it by subsequent
24 concurrent action of the respective legislatures of the member
25 states.

1 B. Consist of one commissioner from each member state
2 who shall be appointed by the executive head of the state human
3 services administration with ultimate responsibility for the child
4 welfare program. The appointed commissioner shall have the legal
5 authority to vote on policy related matters governed by this
6 compact binding the state.

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

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

12 3. A representative shall not delegate a vote to another
13 member state.

14 4. A representative may delegate voting authority to
15 another person from their state for a specified meeting.

16 C. In addition to the commissioners of each member state,
17 the Interstate Commission shall include persons who are members
18 of interested organizations as defined in the bylaws or rules of
19 the Interstate Commission. Such members shall be ex officio and
20 shall not be entitled to vote on any matter before the Interstate
21 Commission.

22 D. Establish an executive committee which shall have
23 the authority to administer the day-to-day operations and
24 administration of the Interstate Commission. It shall not have the
25 power to engage in rulemaking.

1 ARTICLE IX. POWERS AND DUTIES OF THE INTERSTATE
2 COMMISSION

3 The Interstate Commission shall have the following
4 powers:

5 A. To promulgate rules and take all necessary actions to
6 effect the goals, purposes, and obligations as enumerated in this
7 compact.

8 B. To provide for dispute resolution among member states.

9 C. To issue, upon request of a member state, advisory
10 opinions concerning the meaning or interpretation of the interstate
11 compact, its bylaws, rules, or actions.

12 D. To enforce compliance with this compact or the bylaws
13 or rules of the Interstate Commission pursuant to Article XII of
14 this compact.

15 E. To collect standardized data concerning the interstate
16 placement of children subject to this compact as directed through
17 its rules which shall specify the data to be collected, the means
18 of collection and data exchange and reporting requirements.

19 F. To establish and maintain offices as may be necessary
20 for the transacting of its business.

21 G. To purchase and maintain insurance and bonds.

22 H. To hire or contract for services of personnel or
23 consultants as necessary to carry out its functions under the
24 compact and establish personnel qualification policies, and rates
25 of compensation.

1 I. To establish and appoint committees and officers,
2 including, but not limited to, an executive committee as required
3 by Article X of this compact.

4 J. To accept any and all donations and grants of money,
5 equipment, supplies, materials, and services, and to receive,
6 utilize, and dispose thereof.

7 K. To lease, purchase, accept contributions or donations
8 of, or otherwise to own, hold, improve, or use any property, real,
9 personal, or mixed.

10 L. To sell, convey, mortgage, pledge, lease, exchange,
11 abandon, or otherwise dispose of any property, real, personal, or
12 mixed.

13 M. To establish a budget and make expenditures.

14 N. To adopt a seal and bylaws governing the management
15 and operation of the Interstate Commission.

16 O. To report annually to the legislatures, governors,
17 the judiciary, and state advisory councils of the member states
18 concerning the activities of the Interstate Commission during the
19 preceding year. Such reports shall also include any recommendations
20 that may have been adopted by the Interstate Commission.

21 P. To coordinate and provide education, training and
22 public awareness regarding the interstate movement of children for
23 officials involved in such activity.

24 Q. To maintain books and records in accordance with the
25 bylaws of the Interstate Commission.

1 R. To perform such functions as may be necessary or
2 appropriate to achieve the purposes of this compact.

3 ARTICLE X. ORGANIZATION AND OPERATION OF THE INTERSTATE
4 COMMISSION

5 A. Bylaws

6 1. Within twelve months after the first Interstate
7 Commission meeting, the Interstate Commission shall adopt bylaws to
8 govern its conduct as may be necessary or appropriate to carry out
9 the purposes of the compact.

10 2. The Interstate Commission's bylaws and rules shall
11 establish conditions and procedures under which the Interstate
12 Commission shall make its information and official records
13 available to the public for inspection or copying. The Interstate
14 Commission may exempt from disclosure information or official
15 records to the extent they would adversely affect personal privacy
16 rights or proprietary interests.

17 B. Meetings

18 1. The Interstate Commission shall meet at least once
19 each calendar year. The chairperson may call additional meetings
20 and, upon the request of a simple majority of the member states
21 shall call additional meetings.

22 2. Public notice shall be given by the Interstate
23 Commission of all meetings and all meetings shall be open to the
24 public, except as set forth in the rules or as otherwise provided
25 in the compact. The Interstate Commission and its committees

1 may close a meeting, or portion thereof, where it determines by
2 two-thirds vote that an open meeting would be likely to:

3 a. relate solely to the Interstate Commission's internal
4 personnel practices and procedures; or

5 b. disclose matters specifically exempted from disclosure
6 by federal law; or

7 c. disclose financial or commercial information which is
8 privileged, proprietary, or confidential in nature; or

9 d. involve accusing a person of a crime, or formally
10 censuring a person; or

11 e. disclose information of a personal nature where
12 disclosure would constitute a clearly unwarranted invasion of
13 personal privacy or physically endanger one or more persons; or

14 f. disclose investigative records compiled for law
15 enforcement purposes; or

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

18 3. For a meeting, or portion of a meeting, closed
19 pursuant to this provision, the Interstate Commission's legal
20 counsel or designee shall certify that the meeting may be
21 closed and shall reference each relevant exemption provision.

22 The Interstate Commission shall keep minutes which shall fully
23 and clearly describe all matters discussed in a meeting and shall
24 provide a full and accurate summary of actions taken, and the
25 reasons therefor, including a description of the views expressed

1 and the record of a roll call vote. All documents considered in
2 connection with an action shall be identified in such minutes. All
3 minutes and documents of a closed meeting shall remain under seal,
4 subject to release by a majority vote of the Interstate Commission
5 or by court order.

6 4. The bylaws may provide for meetings of the Interstate
7 Commission to be conducted by telecommunication or other electronic
8 communication.

9 C. Officers and Staff

10 1. The Interstate Commission may, through its executive
11 committee, appoint or retain a staff director for such period,
12 upon such terms and conditions and for such compensation as the
13 Interstate Commission may deem appropriate. The staff director
14 shall serve as secretary to the Interstate Commission, but shall
15 not have a vote. The staff director may hire and supervise such
16 other staff as may be authorized by the Interstate Commission.

17 2. The Interstate Commission shall elect, from among its
18 members, a chairperson and a vice-chairperson of the executive
19 committee and other necessary officers, each of whom shall have
20 such authority and duties as may be specified in the bylaws.

21 D. Qualified Immunity, Defense and Indemnification

22 1. The Interstate Commission's staff director and
23 its employees shall be immune from suit and liability, either
24 personally or in their official capacity, for a claim for damage to
25 or loss of property or personal injury or other civil liability

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

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

20 b. The Interstate Commission shall defend the staff
21 director and its employees and, subject to the approval of the
22 Attorney General or other appropriate legal counsel of the member
23 state shall defend the commissioner of a member state in a civil
24 action seeking to impose liability arising out of an actual or
25 alleged act, error, or omission that occurred within the scope of

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

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

19 ARTICLE XI. RULEMAKING FUNCTIONS OF THE INTERSTATE
 20 COMMISSION

21 A. The Interstate Commission shall promulgate and publish
 22 rules in order to effectively and efficiently achieve the purposes
 23 of the compact.

24 B. Rulemaking shall occur pursuant to the criteria
 25 set forth in this article and the bylaws and rules adopted

1 pursuant thereto. Such rulemaking shall substantially conform to
2 the principles of the "Model State Administrative Procedures Act,"
3 1981 Act, Uniform Laws Annotated, Vol. 15, p. 1 (2000), or such
4 other administrative procedure acts as the Interstate Commission
5 deems appropriate consistent with due process requirements under
6 the United States Constitution as now or hereafter interpreted by
7 the United States Supreme Court. All rules and amendments shall
8 become binding as of the date specified, as published with the
9 final version of the rule as approved by the Interstate Commission.

10 C. When promulgating a rule, the Interstate Commission
11 shall, at a minimum:

12 1. Publish the proposed rule's entire text stating the
13 reason(s) for that proposed rule; and

14 2. Allow and invite any and all persons to submit written
15 data, facts, opinions, and arguments, which information shall be
16 added to the record, and be made publicly available; and

17 3. Promulgate a final rule and its effective date, if
18 appropriate, based on input from state or local officials, or
19 interested parties.

20 D. Rules promulgated by the Interstate Commission shall
21 have the force and effect of administrative rules and shall be
22 binding in the compacting states to the extent and in the manner
23 provided for in this compact.

24 E. Not later than sixty days after a rule is promulgated,
25 an interested person may file a petition in the U.S. District

1 Court for the District of Columbia or in the Federal District
2 Court where the Interstate Commission's principal office is located
3 for judicial review of such rule. If the court finds that the
4 Interstate Commission's action is not supported by substantial
5 evidence in the rulemaking record, the court shall hold the rule
6 unlawful and set it aside.

7 F. If a majority of the legislatures of the member states
8 rejects a rule, those states may by enactment of a statute or
9 resolution in the same manner used to adopt the compact cause that
10 such rule shall have no further force and effect in any member
11 state.

12 G. The existing rules governing the operation of the
13 Interstate Compact on the Placement of Children superseded by this
14 compact shall be null and void no less than twelve but no more
15 than twenty-four months after the first meeting of the Interstate
16 Commission created hereunder, as determined by the members during
17 the first meeting.

18 H. Within the first twelve months of operation, the
19 Interstate Commission shall promulgate rules addressing the
20 following:

- 21 1. Transition rules
- 22 2. Forms and procedures
- 23 3. Timelines
- 24 4. Data collection and reporting
- 25 5. Rulemaking

- 1 6. Visitation
- 2 7. Progress reports/supervision
- 3 8. Sharing of information/confidentiality
- 4 9. Financing of the Interstate Commission
- 5 10. Mediation, arbitration, and dispute resolution
- 6 11. Education, training, and technical assistance
- 7 12. Enforcement
- 8 13. Coordination with other interstate compacts
- 9 I. Upon determination by a majority of the members of the
10 Interstate Commission that an emergency exists:
- 11 1. The Interstate Commission may promulgate an emergency
12 rule only if it is required to:
- 13 a. Protect the children covered by this compact from an
14 imminent threat to their health, safety and well-being; or
- 15 b. Prevent loss of federal or state funds; or
- 16 c. Meet a deadline for the promulgation of an
17 administrative rule required by federal law.
- 18 2. An emergency rule shall become effective immediately
19 upon adoption, provided that the usual rulemaking procedures
20 provided hereunder shall be retroactively applied to said rule
21 as soon as reasonably possible, but no later than ninety days after
22 the effective date of the emergency rule.
- 23 3. An emergency rule shall be promulgated as provided for
24 in the rules of the Interstate Commission.
- 25 ARTICLE XII. OVERSIGHT, DISPUTE RESOLUTION, ENFORCEMENT

1 A. Oversight

2 1. The Interstate Commission shall oversee the
3 administration and operation of the compact.

4 2. The executive, legislative and judicial branches of
5 state government in each member state shall enforce this compact
6 and the rules of the Interstate Commission and shall take all
7 actions necessary and appropriate to effectuate the compact's
8 purposes and intent. The compact and its rules shall be binding in
9 the compacting states to the extent and in the manner provided for
10 in this compact.

11 3. All courts shall take judicial notice of the compact
12 and the rules in any judicial or administrative proceeding in a
13 member state pertaining to the subject matter of this compact.

14 4. The Interstate Commission shall be entitled to receive
15 service of process in any action in which the validity of a
16 compact provision or rule is the issue for which a judicial
17 determination has been sought and shall have standing to intervene
18 in any proceedings. Failure to provide service of process to the
19 Interstate Commission shall render any judgment, order or other
20 determination, however so captioned or classified, void as to the
21 Interstate Commission, this compact, its bylaws or rules of the
22 Interstate Commission.

23 B. Dispute Resolution

24 1. The Interstate Commission shall attempt, upon the
25 request of a member state, to resolve disputes which are subject

1 to the compact and which may arise among member states and between
2 member and nonmember states.

3 2. The Interstate Commission shall promulgate a rule
4 providing for both mediation and binding dispute resolution for
5 disputes among compacting states. The costs of such mediation or
6 dispute resolution shall be the responsibility of the parties to
7 the dispute.

8 C. Enforcement

9 1. If the Interstate Commission determines that a member
10 state has defaulted in the performance of its obligations or
11 responsibilities under this compact, its bylaws, or rules, the
12 Interstate Commission may:

13 a. Provide remedial training and specific technical
14 assistance; or

15 b. Provide written notice to the defaulting state and
16 other member states, of the nature of the default and the means
17 of curing the default. The Interstate Commission shall specify the
18 conditions by which the defaulting state must cure its default; or

19 c. By majority vote of the members, initiate against a
20 defaulting member state legal action in the United States District
21 Court for the District of Columbia or, at the discretion of the
22 Interstate Commission, in the federal district where the Interstate
23 Commission has its principal office, to enforce compliance with
24 the provisions of the compact, its bylaws or rules. The relief
25 sought may include both injunctive relief and damages. In the

1 event judicial enforcement is necessary the prevailing party shall
2 be awarded all costs of such litigation including reasonable
3 attorney's fees; or

4 d. Avail itself of any other remedies available under
5 state law or the regulation of official or professional conduct.

6 ARTICLE XIII. FINANCING OF THE COMMISSION

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

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

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

24 D. The Interstate Commission shall keep accurate accounts
25 of all receipts and disbursements. The receipts and disbursements

1 of the Interstate Commission shall be subject to the audit and
2 accounting procedures established under its bylaws. However, all
3 receipts and disbursements of funds handled by the Interstate
4 Commission shall be audited yearly by a certified or licensed
5 public accountant and the report of the audit shall be included in
6 and become part of the annual report of the Interstate Commission.

7 ARTICLE XIV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

9 B. The compact shall become effective and binding upon
10 legislative enactment of the compact into law by no less than
11 thirty-five states. The effective date shall be the later of
12 July 1, 2007, or upon enactment of the compact into law by
13 the thirty-fifth state. Thereafter it shall become effective and
14 binding as to any other member state upon enactment of the compact
15 into law by that state. The executive heads of the state human
16 services administration with ultimate responsibility for the child
17 welfare program of nonmember states or their designees shall
18 be invited to participate in the activities of the Interstate
19 Commission on a nonvoting basis prior to adoption of the compact by
20 all states.

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

25 ARTICLE XV. WITHDRAWAL AND DISSOLUTION

1 A. Withdrawal

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

6 2. Withdrawal from this compact shall be by the enactment
7 of a statute repealing the same. The effective date of withdrawal
8 shall be the effective date of the repeal of the statute.

9 3. The withdrawing state shall immediately notify
10 the president of the Interstate Commission in writing upon
11 the introduction of legislation repealing this compact in the
12 withdrawing state. The Interstate Commission shall then notify the
13 other member states of the withdrawing state's intent to withdraw.

14 4. The withdrawing state is responsible for all
15 assessments, obligations, and liabilities incurred through the
16 effective date of withdrawal.

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

21 B. Dissolution of compact

22 1. This compact shall dissolve effective upon the date
23 of the withdrawal or default of the member state which reduces the
24 membership in the compact to one member state.

25 2. Upon the dissolution of this compact, the compact

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

5 ARTICLE XVI. SEVERABILITY AND CONSTRUCTION

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

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

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

15 ARTICLE XVII. BINDING EFFECT OF COMPACT AND OTHER LAWS

16 A. Other Laws

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

19 B. Binding Effect of the compact

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

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

25 3. In the event any provision of this compact exceeds

1 the constitutional limits imposed on the legislature of any member
2 state, such provision shall be ineffective to the extent of the
3 conflict with the constitutional provision in question in that
4 member state.

5 ARTICLE XVIII. INDIAN TRIBES

6 Notwithstanding any other provision in this compact, the
7 Interstate Commission may promulgate guidelines to permit Indian
8 tribes to utilize the compact to achieve any or all of the purposes
9 of the compact as specified in Article I of this compact. The
10 Interstate Commission shall make reasonable efforts to consult with
11 Indian tribes in promulgating guidelines to reflect the diverse
12 circumstances of the various Indian tribes.

13 Sec. 4. Original section 43-1005, Reissue Revised
14 Statutes of Nebraska, is repealed.

15 Sec. 5. The following sections are outright repealed:
16 Sections 43-1001, 43-1002, 43-1003, 43-1004, 43-1006, 43-1007,
17 43-1008, 43-1009, 43-1010, 43-1101, and 43-1102, Reissue Revised
18 Statutes of Nebraska.