

By: Geren

H.B. No. 503

A BILL TO BE ENTITLED

1 AN ACT

2 relating to adoption of the Interstate Compact on Educational  
3 Opportunity for Military Children.

4 BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF TEXAS:

5 SECTION 1. Title 4, Education Code, is amended by adding  
6 Chapter 162 to read as follows:

7 CHAPTER 162. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR  
8 MILITARY CHILDREN

9 Sec. 162.001. DEFINITIONS. In this chapter:

10 (1) "Compact" means the Interstate Compact on  
11 Educational Opportunity for Military Children executed under  
12 Section 162.002.

13 (2) "Compact commissioner" means the individual  
14 appointed under Section 162.004.

15 Sec. 162.002. EXECUTION OF COMPACT. This state enacts the  
16 Interstate Compact on Educational Opportunity for Military  
17 Children and enters into the compact with all other states legally  
18 joining in the compact in substantially the following form:

19 INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY  
20 CHILDREN

21 ARTICLE I. PURPOSE

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

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

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

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

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

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

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

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

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

25                           ARTICLE II. DEFINITIONS

26           As used in this compact, unless the context clearly requires  
27 a different construction:

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

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

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

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

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

24           F. "Extracurricular activities" means: a voluntary  
25 activity sponsored by the school or local education agency or an  
26 organization sanctioned by the local education agency.  
27 Extracurricular activities include, but are not limited to,

1 preparation for and involvement in public performances, contests,  
2 athletic competitions, demonstrations, displays, and club  
3 activities.

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

8 H. "Local education agency" means: a public authority  
9 legally constituted by the state as an administrative agency to  
10 provide control of and direction for kindergarten through twelfth  
11 (12th) grade public educational institutions.

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

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

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

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

1 brought.

2 M. "Rule" means: a written statement by the Interstate  
3 Commission promulgated pursuant to Article XII of this compact that  
4 is of general applicability, implements, interprets, or prescribes  
5 a policy or provision of the compact, or an organizational,  
6 procedural, or practice requirement of the Interstate Commission,  
7 and has the force and effect of statutory law in a member state, and  
8 includes the amendment, repeal, or suspension of an existing rule.

9 N. "Sending state" means: the state from which a child  
10 of a military family is sent, brought, or caused to be sent or  
11 brought.

12 O. "State" means: a state of the United States, the  
13 District of Columbia, the Commonwealth of Puerto Rico, the United  
14 States Virgin Islands, Guam, American Samoa, the Northern Marianas  
15 Islands and any other United States territory.

16 P. "Student" means: the child of a military family for  
17 whom the local education agency receives public funding and who is  
18 formally enrolled in kindergarten through twelfth (12th) grade.

19 Q. "Transition" means: (1) the formal and physical  
20 process of transferring from school to school; or (2) the period of  
21 time in which a student moves from one school in the sending state  
22 to another school in the receiving state.

23 R. "Uniformed service(s)" means: the Army, Navy, Air  
24 Force, Marine Corps, Coast Guard, as well as the Commissioned Corps  
25 of the National Oceanic and Atmospheric Administration, and Public  
26 Health Services.

27 S. "Veteran" means: a person who served in the

1 uniformed services and who was discharged or released therefrom  
2 under conditions other than dishonorable.

3 ARTICLE III. APPLICABILITY

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

6 1. active duty members of the uniformed services as  
7 defined in this compact, including members of the National Guard  
8 and Reserve on active duty orders pursuant to 10 U.S.C. Sections  
9 1209 and 1211;

10 2. members or veterans of the uniformed services who  
11 are severely injured and medically discharged or retired for a  
12 period of one (1) year after medical discharge or retirement; and

13 3. members of the uniformed services who die on active  
14 duty or as a result of injuries sustained on active duty for a  
15 period of one (1) year after death.

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

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

20 1. inactive members of the national guard and military  
21 reserves;

22 2. members of the uniformed services now retired,  
23 except as provided in Section A;

24 3. veterans of the uniformed services, except as  
25 provided in Section A; and

26 4. other U.S. Department of Defense personnel and  
27 other federal agency civilian and contract employees not defined as

1 active duty members of the uniformed services.

2 ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

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

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

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

1 vaccinations must be obtained within thirty (30) days or within  
2 such time as is reasonably determined under the rules promulgated  
3 by the Interstate Commission.

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

16 ARTICLE V. PLACEMENT AND ATTENDANCE

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



1 school in the receiving state from performing subsequent  
2 evaluations to ensure appropriate placement and continued  
3 enrollment of the student in the course(s).

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

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

1 appropriate placement of the student.

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

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

16 ARTICLE VI. ELIGIBILITY

17 A. Eligibility for enrollment

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

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

27 3. A transitioning military child, placed in the care

1 of a non-custodial parent or other person standing in loco parentis  
2 who lives in a jurisdiction other than that of the custodial parent,  
3 may continue to attend the school in which he/she was enrolled  
4 while residing with the custodial parent.

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

10 ARTICLE VII. GRADUATION

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

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

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

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

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

14 ARTICLE VIII. STATE COORDINATION

15 A. Each member state shall, through the creation of a State  
16 Council or use of an existing body or board, provide for the  
17 coordination among its agencies of government, local education  
18 agencies, and military installations concerning the state's  
19 participation in, and compliance with, this compact and Interstate  
20 Commission activities. While each member state may determine the  
21 membership of its own State Council, its membership must include at  
22 least: the state superintendent of education, superintendent of a  
23 school district with a high concentration of military children,  
24 representative from a military installation, one representative  
25 each from the legislative and executive branches of government, and  
26 other offices and stakeholder groups the State Council deems  
27 appropriate. A member state that does not have a school district

1 deemed to contain a high concentration of military children may  
2 appoint a superintendent from another school district to represent  
3 local education agencies on the State Council.

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

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

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

16 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR  
17 MILITARY CHILDREN

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

23 A. Be a body corporate and joint agency of the member  
24 states and shall have all the responsibilities, powers, and duties  
25 set forth herein, and such additional powers as may be conferred  
26 upon it by a subsequent concurrent action of the respective  
27 legislatures of the member states in accordance with the terms of

1 this compact.

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

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

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

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

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

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

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

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

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

26           G. Give public notice of all meetings and all meetings  
27 shall be open to the public, except as set forth in the rules or as

1 otherwise provided in the compact. The Interstate Commission and  
2 its committees may close a meeting, or portion thereof, where it  
3 determines by two-thirds vote that an open meeting would be likely  
4 to:

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

7 2. Disclose matters specifically exempted from  
8 disclosure by federal and state statute;

9 3. Disclose trade secrets or commercial or  
10 financial information which is privileged or confidential;

11 4. Involve accusing a person of a crime, or  
12 formally censuring a person;

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

16 6. Disclose investigative records compiled for  
17 law enforcement purposes; or

18 7. Specifically relate to the Interstate  
19 Commission's participation in a civil action or other legal  
20 proceeding.

21 H. Shall cause its legal counsel or designee to  
22 certify that a meeting may be closed and shall reference each  
23 relevant exemptible provision for any meeting, or portion of a  
24 meeting, which is closed pursuant to this provision. The Interstate  
25 Commission shall keep minutes which shall fully and clearly  
26 describe all matters discussed in a meeting and shall provide a full  
27 and accurate summary of actions taken, and the reasons therefore,



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

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

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

23 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

24 The Interstate Commission shall have the following powers:

25 A. To provide for dispute resolution among member  
26 states.

27 B. To promulgate rules and take all necessary actions

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

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

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

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

14 F. To purchase and maintain insurance and bonds.

15 G. To borrow, accept, hire, or contract for services  
16 of personnel.

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

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

1           J. To accept any and all donations and grants of money,  
2 equipment, supplies, materials, and services, and to receive,  
3 utilize, and dispose of it.

4           K. To lease, purchase, accept contributions or  
5 donations of, or otherwise to own, hold, improve or use any  
6 property, real, personal, or mixed.

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

10          M. To establish a budget and make expenditures.

11          N. To adopt a seal and bylaws governing the management  
12 and operation of the Interstate Commission.

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

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

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

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

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

27          T. To provide for the uniform collection and sharing

1 of information between and among member states, schools, and  
2 military families under this compact.

3 ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE

4 COMMISSION

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

10 1. Establishing the fiscal year of the Interstate  
11 Commission;

12 2. Establishing an executive committee, and such other  
13 committees as may be necessary;

14 3. Providing for the establishment of committees and  
15 for governing any general or specific delegation of authority or  
16 function of the Interstate Commission;

17 4. Providing reasonable procedures for calling and  
18 conducting meetings of the Interstate Commission, and ensuring  
19 reasonable notice of each such meeting;

20 5. Establishing the titles and responsibilities of the  
21 officers and staff of the Interstate Commission;

22 6. Providing a mechanism for concluding the operations  
23 of the Interstate Commission and the return of surplus funds that  
24 may exist upon the termination of the compact after the payment and  
25 reserving of all of its debts and obligations;

26 7. Providing "start up" rules for initial  
27 administration of the compact.

1       B. The Interstate Commission shall, by a majority of the  
2 members, elect annually from among its members a chairperson, a  
3 vice-chairperson, and a treasurer, each of whom shall have such  
4 authority and duties as may be specified in the bylaws. The  
5 chairperson or, in the chairperson's absence or disability, the  
6 vice-chairperson, shall preside at all meetings of the Interstate  
7 Commission. The officers so elected shall serve without  
8 compensation or remuneration from the Interstate Commission;  
9 provided that, subject to the availability of budgeted funds, the  
10 officers shall be reimbursed for ordinary and necessary costs and  
11 expenses incurred by them in the performance of their  
12 responsibilities as officers of the Interstate Commission.

13       C. Executive Committee, Officers, and Personnel

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

17                   a. Managing the affairs of the Interstate  
18 Commission in a manner consistent with the bylaws and purposes of  
19 the Interstate Commission;

20                   b. Overseeing an organizational structure  
21 within, and appropriate procedures for the Interstate Commission to  
22 provide for the creation of rules, operating procedures, and  
23 administrative and technical support functions; and

24                   c. Planning, implementing, and coordinating  
25 communications and activities with other state, federal, and local  
26 government organizations in order to advance the goals of the  
27 Interstate Commission.

1           2. The executive committee may, subject to the  
2 approval of the Interstate Commission, appoint or retain an  
3 executive director for such period, upon such terms and conditions  
4 and for such compensation, as the Interstate Commission may deem  
5 appropriate. The executive director shall serve as secretary to  
6 the Interstate Commission, but shall not be a member of the  
7 Interstate Commission. The executive director shall hire and  
8 supervise such other persons as may be authorized by the Interstate  
9 Commission.

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

21           1. The liability of the Interstate Commission's  
22 executive director and employees or Interstate Commission  
23 representatives, acting within the scope of such person's  
24 employment or duties for acts, errors, or omissions occurring  
25 within such person's state may not exceed the limits of liability  
26 set forth under the constitution and laws of that state for state  
27 officials, employees, and agents. The Interstate Commission is

1 considered to be an instrumentality of the states for the purposes  
2 of any such action. Nothing in this subsection shall be construed to  
3 protect such person from suit or liability for damage, loss,  
4 injury, or liability caused by the intentional or wilful and wanton  
5 misconduct of such person.

6 2. The Interstate Commission shall defend the  
7 executive director and its employees and, subject to the approval  
8 of the attorney general or other appropriate legal counsel of the  
9 member state represented by an Interstate Commission  
10 representative, shall defend such Interstate Commission  
11 representative in any civil action seeking to impose liability  
12 arising out of an actual or alleged act, error, or omission that  
13 occurred within the scope of Interstate Commission employment,  
14 duties, or responsibilities, or that the defendant had a reasonable  
15 basis for believing occurred within the scope of Interstate  
16 Commission employment, duties, or responsibilities, provided that  
17 the actual or alleged act, error, or omission did not result from  
18 intentional or wilful and wanton misconduct on the part of such  
19 person.

20 3. To the extent not covered by the state involved, the  
21 member state, or the Interstate Commission, the representatives or  
22 employees of the Interstate Commission shall be held harmless in  
23 the amount of a settlement or judgment, including attorney's fees  
24 and costs, obtained against such persons arising out of an actual or  
25 alleged act, error, or omission that occurred within the scope of  
26 Interstate Commission employment, duties, or responsibilities, or  
27 that such persons had a reasonable basis for believing occurred

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

5 ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

6 A. Rulemaking Authority--The Interstate Commission shall  
7 promulgate reasonable rules in order to effectively and efficiently  
8 achieve the purposes of this compact. Notwithstanding the  
9 foregoing, in the event the Interstate Commission exercises its  
10 rulemaking authority in a manner that is beyond the scope of the  
11 purposes of this Act, or the powers granted hereunder, then such an  
12 action by the Interstate Commission shall be invalid and have no  
13 force or effect.

14 B. Rulemaking Procedure--Rules shall be made pursuant to a  
15 rulemaking process that substantially conforms to the "Model State  
16 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,  
17 Volume 15, page 1 (2000), as amended, as may be appropriate to the  
18 operations of the Interstate Commission.

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



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

5       ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

6       A. Oversight

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

13           2. All courts shall take judicial notice of the  
14 compact and the rules in any judicial or administrative proceeding  
15 in a member state pertaining to the subject matter of this compact  
16 which may affect the powers, responsibilities, or actions of the  
17 Interstate Commission.

18           3. The Interstate Commission shall be entitled to  
19 receive all service of process in any such proceeding, and shall  
20 have standing to intervene in the proceeding for all purposes.  
21 Failure to provide service of process to the Interstate Commission  
22 shall render a judgment or order void as to the Interstate  
23 Commission, this compact, or promulgated rules.

24       B. Default, Technical Assistance, Suspension, and  
25 Termination--If the Interstate Commission determines that a member  
26 state has defaulted in the performance of its obligations or  
27 responsibilities under this compact, or the bylaws or promulgated

1 rules, the Interstate Commission shall:

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

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

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

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

22 5. The state which has been suspended or terminated is  
23 responsible for all assessments, obligations, and liabilities  
24 incurred through the effective date of suspension or termination  
25 including obligations, the performance of which extends beyond the  
26 effective date of suspension or termination.

27 6. The Interstate Commission shall not bear any costs

1 relating to any state that has been found to be in default or which  
2 has been suspended or terminated from the compact, unless otherwise  
3 mutually agreed upon in writing between the Interstate Commission  
4 and the defaulting state.

5 7. The defaulting state may appeal the action of the  
6 Interstate Commission by petitioning the U.S. District Court for  
7 the District of Columbia or the federal district where the  
8 Interstate Commission has its principal offices. The prevailing  
9 party shall be awarded all costs of such litigation including  
10 reasonable attorney's fees.

11 C. Dispute Resolution

12 1. The Interstate Commission shall attempt, upon the  
13 request of a member state, to resolve disputes which are subject to  
14 the compact and which may arise among member states and between  
15 member and non-member states.

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

19 D. Enforcement

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

23 2. The Interstate Commission may, by majority vote of  
24 the members, initiate legal action in the U.S. District Court for  
25 the District of Columbia or, at the discretion of the Interstate  
26 Commission, in the federal district where the Interstate Commission  
27 has its principal offices, to enforce compliance with the

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

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

10 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

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

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

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

26 D. The Interstate Commission shall keep accurate accounts  
27 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 XV. 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 ten  
11 (10) of the states. The effective date shall be no earlier than  
12 December 1, 2007. Thereafter it shall become effective and binding  
13 as to any other member state upon enactment of the compact into law  
14 by that state. The governors of non-member states or their  
15 designees shall be invited to participate in the activities of the  
16 Interstate Commission on a non-voting basis prior to adoption of  
17 the compact by all states.

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

23 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

24 A. Withdrawal

25 1. Once effective, the compact shall continue in force  
26 and remain binding upon each and every member state; provided that a  
27 member state may withdraw from the compact by specifically

1 repealing the statute which enacted the compact into law.

2 2. Withdrawal from this compact shall be by the  
3 enactment of a statute repealing the same, but shall not take effect  
4 until one (1) year after the effective date of such statute and  
5 until written notice of the withdrawal has been given by the  
6 withdrawing state to the governor of each other member  
7 jurisdiction.

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

14 4. The withdrawing state is responsible for all  
15 assessments, obligations, and liabilities incurred through the  
16 effective date of withdrawal, including obligations, the  
17 performance of which extend beyond the effective date of  
18 withdrawal.

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

22 B. Dissolution of Compact

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

26 2. Upon the dissolution of this compact, the compact  
27 becomes null and void and shall be of no further force or effect,

1 and the business and affairs of the Interstate Commission shall be  
2 concluded and surplus funds shall be distributed in accordance with  
3 the bylaws.

4 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

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

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

13 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

14 A. Other Laws

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

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

20 B. Binding Effect of the Compact

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

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

26 3. In the event any provision of this compact exceeds  
27 the constitutional limits imposed on the legislature of any member

1 state, such provision shall be ineffective to the extent of the  
2 conflict with the constitutional provision in question in that  
3 member state.

4 Sec. 162.003. EFFECT ON TEXAS LAWS. If the laws of this  
5 state conflict with the compact or a rule adopted under that  
6 compact, the compact or rule controls, except that if a conflict  
7 exists between the compact or rule and the Texas Constitution, as  
8 determined by the courts of this state, the Texas Constitution  
9 controls.

10 Sec. 162.004. COMPACT COMMISSIONER. (a) The governor  
11 shall appoint a compact commissioner to be responsible for  
12 administration and management of this state's participation in the  
13 compact.

14 (b) If the compact commissioner is unable to attend a  
15 specific meeting of the Interstate Commission created under the  
16 compact, the governor shall delegate voting authority for that  
17 meeting to another individual from this state.

18 (c) The compact commissioner serves at the will of the  
19 governor.

20 Sec. 162.005. STATE COORDINATION. (a) The Texas Education  
21 Agency shall provide for coordination among state agencies, school  
22 districts, and military installations concerning this state's  
23 participation in and compliance with the compact and compact  
24 activities, as required by Article VIII of the compact.

25 (b) To the extent that the compact requires or authorizes a  
26 State Council created in accordance with Article VIII of the  
27 compact to perform a duty or function, the Texas Education Agency or



1 the commissioner of education, as appropriate, shall perform that  
2 duty or function.

3 SECTION 2. Section 25.005(a), Education Code, is amended to  
4 read as follows:

5 (a) To facilitate the transfer of military personnel and  
6 their dependents to and from the public schools of this state, the  
7 agency shall pursue reciprocity agreements [~~with other states~~]  
8 governing the terms of those transfers with other states that are  
9 not parties to the Interstate Compact on Educational Opportunity  
10 for Military Children adopted under Chapter 162.

11 SECTION 3. This Act takes effect immediately if it receives  
12 a vote of two-thirds of all the members elected to each house, as  
13 provided by Section 39, Article III, Texas Constitution. If this  
14 Act does not receive the vote necessary for immediate effect, this  
15 Act takes effect September 1, 2009.