

By: Van de Putte, et al.

S.B. No. 90

A BILL TO BE ENTITLED

AN ACT

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

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

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

CHAPTER 162. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR
MILITARY CHILDREN

Sec. 162.001. DEFINITIONS. In this chapter:

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

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

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

INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY
CHILDREN

ARTICLE I. PURPOSE

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

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

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

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

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

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

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

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

4 ARTICLE III. APPLICABILITY

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

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

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

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

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

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

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

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

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

27 4. other U.S. Department of Defense personnel and

1 other federal agency civilian and contract employees not defined as
2 active duty members of the uniformed services.

3 ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

4 A. Unofficial or "hand-carried" education records--In the
5 event that official education records cannot be released to the
6 parents for the purpose of transfer, the custodian of the records in
7 the sending state shall prepare and furnish to the parent a complete
8 set of unofficial education records containing uniform information
9 as determined by the Interstate Commission. Upon receipt of the
10 unofficial education records by a school in the receiving state,
11 the school shall enroll and appropriately place the student based
12 on the information provided in the unofficial records pending
13 validation by the official records, as quickly as 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 that does not
25 exceed thirty (30) days as is reasonably determined under the rules
26 promulgated by the Interstate Commission, for students to obtain
27 any immunization(s) required by the receiving state. For a series

1 of immunizations, initial vaccinations must be obtained within
2 thirty (30) days or within such time that does not exceed thirty
3 (30) days as is reasonably determined under the rules promulgated
4 by the Interstate Commission. The collection and exchange of
5 information pertaining to immunizations shall be subject to
6 confidentiality provisions prescribed by federal law.

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

19 ARTICLE V. PLACEMENT AND ATTENDANCE

20 A. Course placement--When the student transfers before or
21 during the school year, the receiving state school shall initially
22 honor placement of the student in educational courses based on the
23 student's enrollment in the sending state school and/or educational
24 assessments conducted at the school in the sending state if the
25 courses are offered. Course placement includes but is not limited
26 to honors, international baccalaureate, advanced placement,
27 vocational, technical, and career pathways courses. Continuing the

1 student's academic program from the previous school and promoting
2 placement in academically and career challenging courses should be
3 paramount when considering placement. This does not preclude the
4 school in the receiving state from performing subsequent
5 evaluations to ensure appropriate placement and continued
6 enrollment of the student in the course(s).

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

17 C. Special education services--(1) In compliance with the
18 federal requirements of the Individuals with Disabilities
19 Education Act (IDEA) (20 U.S.C. Section 1400 et seq.), the
20 receiving state shall initially provide comparable services to a
21 student with disabilities based on his/her current Individualized
22 Education Program (IEP); and (2) In compliance with the
23 requirements of Section 504 of the Rehabilitation Act (29 U.S.C.A.
24 Section 794), and with Title II of the Americans with Disabilities
25 Act (42 U.S.C.A. Sections 12131-12165), the receiving state shall
26 make reasonable accommodations and modifications to address the
27 needs of incoming students with disabilities, subject to an

1 existing 504 or Title II Plan, to provide the student with equal
2 access to education. This does not preclude the school in the
3 receiving state from performing subsequent evaluations to ensure
4 appropriate placement of the student.

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

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

19 ARTICLE VI. ELIGIBILITY

20 A. Eligibility for enrollment

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

25 2. A local education agency shall be prohibited from
26 charging local tuition to a transitioning military child placed in
27 the care of a non-custodial parent or other person standing in loco

1 parentis who lives in a jurisdiction other than that of the
2 custodial parent.

3 3. A transitioning military child, placed in the care
4 of a non-custodial parent or other person standing in loco parentis
5 who lives in a jurisdiction other than that of the custodial parent,
6 may continue to attend the school in which he/she was enrolled while
7 residing with the custodial parent.

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

13 ARTICLE VII. GRADUATION

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

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

25 B. Exit exams--States shall accept: (1) exit or
26 end-of-course exams required for graduation from the sending state;
27 or (2) national norm-referenced achievement tests; or (3)

1 alternative testing, in lieu of testing requirements for graduation
2 in the receiving state. In the event the above alternatives cannot
3 be accommodated by the receiving state for a student transferring
4 in his or her senior year, then the provisions of Article VII,
5 Section C, shall apply.

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

17 The Texas commissioner of education shall adopt a passing
18 standard on one or more national norm-referenced achievement tests
19 for purposes of permitting a student to whom this compact applies to
20 meet that standard as a substitute for completing a specific course
21 or achieving a score on an assessment instrument otherwise required
22 by this state for graduation. Each passing standard must be at
23 least as rigorous as the applicable requirement otherwise imposed
24 by this state for graduation, and be consistent with college
25 readiness standards adopted under Section 28.008, Texas Education
26 Code. Before adopting or revising a passing standard, the
27 commissioner of education must consider any comments submitted by

1 the Texas Higher Education Coordinating Board or the State Board of
2 Education.

3 A passing standard adopted by the commissioner of education
4 is available only for a student who enrolls in a public school in
5 this state for the first time after completing the ninth grade or
6 who reenrolls in a public school in this state at or above the 10th
7 grade level after an absence of at least two years from the public
8 schools of this state. Each passing standard in effect when a
9 student first enrolls in a public high school in this state remains
10 applicable to the student for the duration of the student's high
11 school enrollment, regardless of any subsequent revision of the
12 standard.

13 The commissioner of education may adopt rules as necessary to
14 implement the commissioner's duties and authority under this
15 article of the compact.

16 The Texas Higher Education Coordinating Board shall monitor
17 the postsecondary educational performance in this state of students
18 permitted to graduate in accordance with passing standards adopted
19 by the commissioner of education for purposes of this compact.
20 Based on the educational performance of those students in private
21 and public institutions, the coordinating board shall make
22 recommendations to the commissioner of education regarding
23 appropriate revisions of the passing standards.

24 ARTICLE VIII. STATE COORDINATION

25 A. Each member state shall, through the creation of a State
26 Council or use of an existing body or board, provide for the
27 coordination among its agencies of government, local education

1 agencies, and military installations concerning the state's
2 participation in, and compliance with, this compact and Interstate
3 Commission activities. While each member state may determine the
4 membership of its own State Council, its membership must include at
5 least: the state superintendent of education, superintendent of a
6 school district with a high concentration of military children,
7 representative from a military installation, one representative
8 each from the legislative and executive branches of government, and
9 other offices and stakeholder groups the State Council deems
10 appropriate. A member state that does not have a school district
11 deemed to contain a high concentration of military children may
12 appoint a superintendent from another school district to represent
13 local education agencies on the State Council.

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

18 C. The compact commissioner responsible for the
19 administration and management of the state's participation in the
20 compact shall be appointed by the governor or as otherwise
21 determined by each member state.

22 D. The compact commissioner and the military family
23 education liaison designated herein shall be ex-officio members of
24 the State Council, unless either is already a full voting member of
25 the State Council.

1 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR
2 MILITARY CHILDREN

3 The member states hereby create the "Interstate Commission on
4 Educational Opportunity for Military Children." The activities of
5 the Interstate Commission are the formation of public policy and
6 are a discretionary state function. The Interstate Commission
7 shall:

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

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

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

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

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

1 4. The bylaws may provide for meetings of the
2 Interstate Commission to be conducted by telecommunication or
3 electronic communication.

4 C. Consist of ex-officio, non-voting representatives
5 who are members of interested organizations. Such ex-officio
6 members, as defined in the bylaws, may include but not be limited
7 to, members of the representative organizations of military family
8 advocates, local education agency officials, parent and teacher
9 groups, the U.S. Department of Defense, the Education Commission of
10 the States, the Interstate Agreement on the Qualification of
11 Educational Personnel, and other interstate compacts affecting the
12 education of children of military members.

13 D. Meet at least once each calendar year. The
14 chairperson may call additional meetings and, upon the request of a
15 simple majority of the member states, shall call additional
16 meetings.

17 E. Establish an executive committee, whose members
18 shall include the officers of the Interstate Commission and such
19 other members of the Interstate Commission as determined by the
20 bylaws. Members of the executive committee shall serve a one year
21 term. Members of the executive committee shall be entitled to one
22 vote each. The executive committee shall have the power to act on
23 behalf of the Interstate Commission, with the exception of
24 rulemaking, during periods when the Interstate Commission is not in
25 session. The executive committee shall oversee the day-to-day
26 activities of the administration of the compact including
27 enforcement and compliance with the provisions of the compact, its

1 bylaws and rules, and other such duties as deemed necessary. The
2 U.S. Department of Defense shall serve as an ex-officio, non-voting
3 member of the executive committee.

4 F. Establish bylaws and rules that provide for
5 conditions and procedures under which the Interstate Commission
6 shall make its information and official records available to the
7 public for inspection or copying. The Interstate Commission may
8 exempt from disclosure information or official records to the
9 extent they would adversely affect personal privacy rights or
10 proprietary interests.

11 G. Give public notice of all meetings and all meetings
12 shall be open to the public, except as set forth in the rules or as
13 otherwise provided in the compact. The Interstate Commission and
14 its committees may close a meeting, or portion thereof, where it
15 determines by two-thirds vote that an open meeting would be likely
16 to:

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

19 2. Disclose matters specifically exempted from
20 disclosure by federal and state statute;

21 3. Disclose trade secrets or commercial or
22 financial information which is privileged or confidential;

23 4. Involve accusing a person of a crime, or
24 formally censuring a person;

25 5. Disclose information of a personal nature
26 where disclosure would constitute a clearly unwarranted invasion of
27 personal privacy;

1 6. Disclose investigative records compiled for
2 law enforcement purposes; or

3 7. Specifically relate to the Interstate
4 Commission's participation in a civil action or other legal
5 proceeding.

6 H. Shall cause its legal counsel or designee to
7 certify that a meeting may be closed and shall reference each
8 relevant exemptible provision for any meeting, or portion of a
9 meeting, which is closed pursuant to this provision. The
10 Interstate Commission shall keep minutes which shall fully and
11 clearly describe all matters discussed in a meeting and shall
12 provide a full and accurate summary of actions taken, and the
13 reasons therefore, including a description of the views expressed
14 and the record of a roll call vote. All documents considered in
15 connection with an action shall be identified in such minutes. All
16 minutes and documents of a closed meeting shall remain under seal,
17 subject to release by a majority vote of the Interstate Commission.

18 I. Shall collect standardized data concerning the
19 educational transition of the children of military families under
20 this compact as directed through its rules which shall specify the
21 data to be collected, the means of collection and data exchange, and
22 reporting requirements. Such methods of data collection, exchange,
23 and reporting shall, in so far as is reasonably possible, conform to
24 current technology and coordinate its information functions with
25 the appropriate custodian of records as identified in the bylaws
26 and rules.

27 J. Shall create a process that permits military

1 officials, education officials, and parents to inform the
2 Interstate Commission if and when there are alleged violations of
3 the compact or its rules or when issues subject to the jurisdiction
4 of the compact or its rules are not addressed by the state or local
5 education agency. This section shall not be construed to create a
6 private right of action against the Interstate Commission or any
7 member state.

8 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

9 The Interstate Commission shall have the following powers:

10 A. To provide for dispute resolution among member
11 states.

12 B. To promulgate rules and take all necessary actions
13 to effect the goals, purposes, and obligations as enumerated in
14 this compact. The rules shall have the force and effect of
15 statutory law and shall be binding in the compact states to the
16 extent and in the manner provided in this compact.

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

20 D. To enforce compliance with the compact provisions,
21 the rules promulgated by the Interstate Commission, and the bylaws,
22 using all necessary and proper means, including but not limited to
23 the use of judicial process.

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

26 F. To purchase and maintain insurance and bonds.

27 G. To borrow, accept, hire, or contract for services

1 of personnel.

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

7 I. To elect or appoint such officers, attorneys,
8 employees, agents, or consultants, and to fix their compensation,
9 define their duties, and determine their qualifications; and to
10 establish the Interstate Commission's personnel policies and
11 programs relating to conflicts of interest, rates of compensation,
12 and qualifications of personnel.

13 J. To accept any and all donations and grants of money,
14 equipment, supplies, materials, and services, and to receive,
15 utilize, and dispose of it.

16 K. To lease, purchase, accept contributions or
17 donations of, or otherwise to own, hold, improve or use any
18 property, real, personal, or mixed.

19 L. To sell, convey, mortgage, pledge, lease, exchange,
20 abandon, or otherwise dispose of any property, real, personal or
21 mixed.

22 M. To establish a budget and make expenditures.

23 N. To adopt a seal and bylaws governing the management
24 and operation of the Interstate Commission.

25 O. To report annually to the legislatures, governors,
26 judiciary, and state councils of the member states concerning the
27 activities of the Interstate Commission during the preceding year.

1 Such reports shall also include any recommendations that may have
2 been adopted by the Interstate Commission.

3 P. To coordinate education, training, and public
4 awareness regarding the compact, its implementation and operation
5 for officials and parents involved in such activity.

6 Q. To establish uniform standards for the reporting,
7 collecting, and exchanging of data.

8 R. To maintain corporate books and records in
9 accordance with the bylaws.

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

12 T. To provide for the uniform collection and sharing
13 of information between and among member states, schools, and
14 military families under this compact.

15 ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE

16 COMMISSION

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

22 1. Establishing the fiscal year of the Interstate
23 Commission;

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

26 3. Providing for the establishment of committees and
27 for governing any general or specific delegation of authority or

1 function of the Interstate Commission;

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

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

7 6. Providing a mechanism for concluding the operations
8 of the Interstate Commission and the return of surplus funds that
9 may exist upon the termination of the compact after the payment and
10 reserving of all of its debts and obligations;

11 7. Providing "start-up" rules for initial
12 administration of the compact.

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

25 C. Executive Committee, Officers, and Personnel

26 1. The executive committee shall have such authority
27 and duties as may be set forth in the bylaws, including but not

1 limited to:

2 a. Managing the affairs of the Interstate
3 Commission in a manner consistent with the bylaws and purposes of
4 the Interstate Commission;

5 b. Overseeing an organizational structure
6 within, and appropriate procedures for the Interstate Commission to
7 provide for the creation of rules, operating procedures, and
8 administrative and technical support functions; and

9 c. Planning, implementing, and coordinating
10 communications and activities with other state, federal, and local
11 government organizations in order to advance the goals of the
12 Interstate Commission.

13 2. The executive committee may, subject to the
14 approval of the Interstate Commission, appoint or retain an
15 executive director for such period, upon such terms and conditions
16 and for such compensation, as the Interstate Commission may deem
17 appropriate. The executive director shall serve as secretary to
18 the Interstate Commission, but shall not be a member of the
19 Interstate Commission. The executive director shall hire and
20 supervise such other persons as may be authorized by the Interstate
21 Commission.

22 D. The Interstate Commission's executive director and its
23 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
26 caused or arising out of or relating to an actual or alleged act,
27 error, or omission that occurred, or that such person had a

1 reasonable basis for believing occurred, within the scope of
2 Interstate Commission employment, duties, or responsibilities;
3 provided, that such person shall not be protected from suit or
4 liability for damage, loss, injury, or liability caused by the
5 intentional or wilful and wanton misconduct of such person.

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

18 2. The Interstate Commission shall defend the
19 executive director and its employees and, subject to the approval
20 of the attorney general or other appropriate legal counsel of the
21 member state represented by an Interstate Commission
22 representative, shall defend such Interstate Commission
23 representative in any civil action seeking to impose liability
24 arising out of an actual or alleged act, error, or omission that
25 occurred within the scope of Interstate Commission employment,
26 duties, or responsibilities, or that the defendant had a reasonable
27 basis for believing occurred within the scope of Interstate

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

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

17 ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

18 A. Rulemaking Authority--The Interstate Commission shall
19 promulgate reasonable rules in order to effectively and efficiently
20 achieve the purposes of this compact. Notwithstanding the
21 foregoing, in the event the Interstate Commission exercises its
22 rulemaking authority in a manner that is beyond the scope of the
23 purposes of this Act, or the powers granted hereunder, then such an
24 action by the Interstate Commission shall be invalid and have no
25 force or effect.

26 B. Rulemaking Procedure--Rules shall be made pursuant to a
27 rulemaking process that substantially conforms to the "Model State

1 Administrative Procedure Act," of 1981 Act, Uniform Laws Annotated,
2 Volume 15, page 1 (2000), as amended, as may be appropriate to the
3 operations of the Interstate Commission.

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

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

17 ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

18 A. Oversight

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

25 2. All courts shall take judicial notice of the
26 compact and the rules in any judicial or administrative proceeding
27 in a member state pertaining to the subject matter of this compact

1 which may affect the powers, responsibilities, or actions of the
2 Interstate Commission.

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

9 B. Default, Technical Assistance, Suspension, and
10 Termination--If the Interstate Commission determines that a member
11 state has defaulted in the performance of its obligations or
12 responsibilities under this compact, or the bylaws or promulgated
13 rules, the Interstate Commission shall:

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

19 2. Provide remedial training and specific technical
20 assistance regarding the default.

21 3. If the defaulting state fails to cure the default,
22 the defaulting state shall be terminated from the compact upon an
23 affirmative vote of a majority of the member states and all rights,
24 privileges, and benefits conferred by this compact shall be
25 terminated from the effective date of termination. A cure of the
26 default does not relieve the offending state of obligations or
27 liabilities incurred during the period of the default.

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

7 5. The state which has been suspended or terminated is
8 responsible for all assessments, obligations, and liabilities
9 incurred through the effective date of suspension or termination
10 including obligations, the performance of which extends beyond the
11 effective date of suspension or termination.

12 6. The Interstate Commission shall not bear any costs
13 relating to any state that has been found to be in default or which
14 has been suspended or terminated from the compact, unless otherwise
15 mutually agreed upon in writing between the Interstate Commission
16 and the defaulting state.

17 7. The defaulting state may appeal the action of the
18 Interstate Commission by petitioning the U.S. District Court for
19 the District of Columbia or the federal district where the
20 Interstate Commission has its principal offices. The prevailing
21 party shall be awarded all costs of such litigation including
22 reasonable attorney's fees.

23 C. Dispute Resolution

24 1. The Interstate Commission shall attempt, upon the
25 request of a member state, to resolve disputes which are subject to
26 the compact and which may arise among member states and between
27 member and non-member states.

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

4 D. Enforcement

5 1. The Interstate Commission, in the reasonable
6 exercise of its discretion, shall enforce the provisions and rules
7 of this compact.

8 2. The Interstate Commission may, by majority vote of
9 the members, initiate legal action in the U.S. District Court for
10 the District of Columbia or, at the discretion of the Interstate
11 Commission, in the federal district where the Interstate Commission
12 has its principal offices, to enforce compliance with the
13 provisions of the compact, its promulgated rules and bylaws,
14 against a member state in default. The relief sought may include
15 both injunctive relief and damages. In the event judicial
16 enforcement is necessary, the prevailing party shall be awarded all
17 costs of such litigation including reasonable attorney's fees.

18 3. The remedies herein shall not be the exclusive
19 remedies of the Interstate Commission. The Interstate Commission
20 may avail itself of any other remedies available under state law or
21 the regulation of a profession.

22 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

23 A. The Interstate Commission shall pay, or provide for the
24 payment of the reasonable expenses of its establishment,
25 organization, and ongoing activities.

26 B. The Interstate Commission may levy on and collect an
27 annual assessment from each member state to cover the cost of the

1 operations and activities of the Interstate Commission and its
2 staff, which must be in a total amount sufficient to cover the
3 Interstate Commission's annual budget as approved each year. The
4 aggregate annual assessment amount shall be allocated based upon a
5 formula to be determined by the Interstate Commission, which shall
6 promulgate a rule binding upon all member states.

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

11 D. The Interstate Commission shall keep accurate accounts
12 of all receipts and disbursements. The receipts and disbursements
13 of the Interstate Commission shall be subject to the audit and
14 accounting procedures established under its bylaws. However, all
15 receipts and disbursements of funds handled by the Interstate
16 Commission shall be audited yearly by a certified or licensed
17 public accountant and the report of the audit shall be included in
18 and become part of the annual report of the Interstate Commission.

19 ARTICLE XV. MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

21 B. The compact shall become effective and binding upon
22 legislative enactment of the compact into law by no less than ten
23 (10) of the states. The effective date shall be no earlier than
24 December 1, 2007. Thereafter it shall become effective and binding
25 as to any other member state upon enactment of the compact into law
26 by that state. The governors of non-member states or their
27 designees shall be invited to participate in the activities of the

1 Interstate Commission on a non-voting basis prior to adoption of
2 the compact by all states.

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

8 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

9 A. Withdrawal

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

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

20 3. The withdrawing state shall immediately notify the
21 chairperson of the Interstate Commission in writing upon the
22 introduction of legislation repealing this compact in the
23 withdrawing state. The Interstate Commission shall notify the
24 other member states of the withdrawing state's intent to withdraw
25 within sixty (60) days of its receipt thereof.

26 4. The withdrawing state is responsible for all
27 assessments, obligations, and liabilities incurred through the

1 effective date of withdrawal, including obligations, the
2 performance of which extend beyond the effective date of
3 withdrawal.

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

7 B. Dissolution of Compact

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

11 2. Upon the dissolution of this compact, the compact
12 becomes null and void and shall be of no further force or effect,
13 and the business and affairs of the Interstate Commission shall be
14 concluded and surplus funds shall be distributed in accordance with
15 the bylaws.

16 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

20 B. The provisions of this compact shall be liberally
21 construed to effectuate its purposes.

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

25 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

26 A. Other Laws

27 1. Nothing herein prevents the enforcement of any

1 other law of a member state that is not inconsistent with this
2 compact.

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

5 B. Binding Effect of the Compact

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

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

11 3. In the event any provision of this compact exceeds
12 the constitutional limits imposed on the legislature of any member
13 state, such provision shall be ineffective to the extent of the
14 conflict with the constitutional provision in question in that
15 member state.

16 Sec. 162.003. EFFECT ON TEXAS LAWS. If the laws of this
17 state conflict with the compact or a rule adopted under that
18 compact, the compact or rule controls, except that if a conflict
19 exists between the compact or rule and the Texas Constitution, as
20 determined by the courts of this state, the Texas Constitution
21 controls.

22 Sec. 162.004. COMPACT COMMISSIONER. (a) The governor
23 shall appoint a compact commissioner to be responsible for
24 administration and management of this state's participation in the
25 compact.

26 (b) If the compact commissioner is unable to attend a
27 specific meeting of the Interstate Commission created under the

1 compact, the governor shall delegate voting authority for that
2 meeting to another individual from this state.

3 (c) The compact commissioner serves at the will of the
4 governor.

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

10 (b) To the extent that the compact requires or authorizes a
11 State Council created in accordance with Article VIII of the
12 compact to perform a duty or function, the Texas Education Agency or
13 the commissioner of education, as appropriate, shall perform that
14 duty or function.

15 SECTION 2. Subsection (a), Section 25.005, Education Code,
16 is amended to read as follows:

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

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