

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.

(3) "Council" means the Texas State Council on Educational Opportunity for Military Children established under Section 162.005.

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

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

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

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

13 C. Facilitating the qualification and eligibility for
14 enrollment, educational programs, and participation in
15 extracurricular academic, athletic, and social activities.

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

18 E. Providing for the promulgation and enforcement of
19 administrative rules implementing the provisions of this compact.

20 F. Providing for the uniform collection and sharing of
21 information between and among member states, schools, and military
22 families under this compact.

23 G. Promoting coordination between this compact and
24 other compacts affecting military children.

25 H. Promoting flexibility and cooperation between the
26 educational system, parents, and the student in order to achieve
27 educational success for the student.

1 activity sponsored by the school or local education agency or an
2 organization sanctioned by the local education agency.
3 Extracurricular activities include, but are not limited to,
4 preparation for and involvement in public performances, contests,
5 athletic competitions, demonstrations, displays, and club
6 activities.

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

11 H. "Local education agency" means: a public authority
12 legally constituted by the state as an administrative agency to
13 provide control of and direction for kindergarten through twelfth
14 (12th) grade public educational institutions.

15 I. "Member state" means: a state that has enacted this
16 compact.

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

27 K. "Non-member state" means: a state that has not

1 enacted this compact.

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

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

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

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

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

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

26 R. "Uniformed service(s)" means: the Army, Navy, Air
27 Force, Marine Corps, Coast Guard, as well as the Commissioned Corps

1 of the National Oceanic and Atmospheric Administration, and Public
2 Health Services.

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

6 ARTICLE III. APPLICABILITY

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

9 1. active duty members of the uniformed services as
10 defined in this compact, including members of the National Guard
11 and Reserve on active duty orders pursuant to 10 U.S.C. Sections
12 1209 and 1211;

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

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

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

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

23 1. inactive members of the national guard and military
24 reserves;

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

27 3. veterans of the uniformed services, except as

1 provided in Section A; and

2 4. other U.S. Department of Defense personnel and
3 other federal agency civilian and contract employees not defined as
4 active duty members of the uniformed services.

5 ARTICLE IV. EDUCATIONAL RECORDS AND ENROLLMENT

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

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

26 C. Immunizations--Compacting states shall give thirty (30)
27 days from the date of enrollment or within such time as is

1 reasonably determined under the rules promulgated by the Interstate
2 Commission, for students to obtain any immunization(s) required by
3 the receiving state. For a series of immunizations, initial
4 vaccinations must be obtained within thirty (30) days or within
5 such time as is reasonably determined under the rules promulgated
6 by the Interstate Commission.

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. Such
12 programs include, but are not limited to: (1) gifted and talented
13 programs; and (2) English as a second language (ESL). This does not
14 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
7 while 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 ARTICLE VIII. STATE COORDINATION

18 A. Each member state shall, through the creation of a State
19 Council or use of an existing body or board, provide for the
20 coordination among its agencies of government, local education
21 agencies, and military installations concerning the state's
22 participation in, and compliance with, this compact and Interstate
23 Commission activities. While each member state may determine the
24 membership of its own State Council, its membership must include at
25 least: the state superintendent of education, superintendent of a
26 school district with a high concentration of military children,
27 representative from a military installation, one representative

1 each from the legislative and executive branches of government, and
2 other offices and stakeholder groups the State Council deems
3 appropriate. A member state that does not have a school district
4 deemed to contain a high concentration of military children may
5 appoint a superintendent from another school district to represent
6 local education agencies on the State Council.

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

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

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

19 ARTICLE IX. INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR
20 MILITARY CHILDREN

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

26 A. Be a body corporate and joint agency of the member
27 states and shall have all the responsibilities, powers, and duties

1 set forth herein, and such additional powers as may be conferred
2 upon it by a subsequent concurrent action of the respective
3 legislatures of the member states in accordance with the terms of
4 this compact.

5 B. Consist of one Interstate Commission voting
6 representative from each member state who shall be that state's
7 compact commissioner.

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

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

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

19 4. The bylaws may provide for meetings of the
20 Interstate Commission to be conducted by telecommunication or
21 electronic communication.

22 C. Consist of ex-officio, non-voting representatives
23 who are members of interested organizations. Such ex-officio
24 members, as defined in the bylaws, may include but not be limited
25 to, members of the representative organizations of military family
26 advocates, local education agency officials, parent and teacher
27 groups, the U.S. Department of Defense, the Education Commission of

1 the States, the Interstate Agreement on the Qualification of
2 Educational Personnel, and other interstate compacts affecting the
3 education of children of military members.

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

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

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

1 proprietary interests.

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

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

10 2. Disclose matters specifically exempted from
11 disclosure by federal and state statute;

12 3. Disclose trade secrets or commercial or
13 financial information which is privileged or confidential;

14 4. Involve accusing a person of a crime, or
15 formally censuring a person;

16 5. Disclose information of a personal nature
17 where disclosure would constitute a clearly unwarranted invasion of
18 personal privacy;

19 6. Disclose investigative records compiled for
20 law enforcement purposes; or

21 7. Specifically relate to the Interstate
22 Commission's participation in a civil action or other legal
23 proceeding.

24 H. Shall cause its legal counsel or designee to
25 certify that a meeting may be closed and shall reference each
26 relevant exemptible provision for any meeting, or portion of a
27 meeting, which is closed pursuant to this provision. The Interstate

1 Commission shall keep minutes which shall fully and clearly
2 describe all matters discussed in a meeting and shall provide a full
3 and accurate summary of actions taken, and the reasons therefore,
4 including a description of the views expressed and the record of a
5 roll call vote. All documents considered in connection with an
6 action shall be identified in such minutes. All minutes and
7 documents of a closed meeting shall remain under seal, subject to
8 release by a majority vote of the Interstate Commission.

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

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

26 ARTICLE X. POWERS AND DUTIES OF THE INTERSTATE COMMISSION

27 The Interstate Commission shall have the following powers:

1 A. To provide for dispute resolution among member
2 states.

3 B. To promulgate rules and take all necessary actions
4 to effect the goals, purposes, and obligations as enumerated in
5 this compact. The rules shall have the force and effect of statutory
6 law and shall be binding in the compact states to the extent and in
7 the manner provided in this compact.

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

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

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

17 F. To purchase and maintain insurance and bonds.

18 G. To borrow, accept, hire, or contract for services
19 of personnel.

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

25 I. To elect or appoint such officers, attorneys,
26 employees, agents, or consultants, and to fix their compensation,
27 define their duties, and determine their qualifications; and to

1 establish the Interstate Commission's personnel policies and
2 programs relating to conflicts of interest, rates of compensation,
3 and qualifications of personnel.

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

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

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

13 M. To establish a budget and make expenditures.

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

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

21 P. To coordinate education, training, and public
22 awareness regarding the compact, its implementation and operation
23 for officials and parents involved in such activity.

24 Q. To establish uniform standards for the reporting,
25 collecting, and exchanging of data.

26 R. To maintain corporate books and records in
27 accordance with the bylaws.

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

3 T. To provide for the uniform collection and sharing
4 of information between and among member states, schools, and
5 military families under this compact.

6 ARTICLE XI. ORGANIZATION AND OPERATION OF THE INTERSTATE

7 COMMISSION

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

13 1. Establishing the fiscal year of the Interstate
14 Commission;

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

17 3. Providing for the establishment of committees and
18 for governing any general or specific delegation of authority or
19 function of the Interstate Commission;

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

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

25 6. Providing a mechanism for concluding the operations
26 of the Interstate Commission and the return of surplus funds that
27 may exist upon the termination of the compact after the payment and

1 reserving of all of its debts and obligations;

2 7. Providing "start up" rules for initial
3 administration of the compact.

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

16 C. Executive Committee, Officers, and Personnel

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

20 a. Managing the affairs of the Interstate
21 Commission in a manner consistent with the bylaws and purposes of
22 the Interstate Commission;

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

27 c. Planning, implementing, and coordinating

1 communications and activities with other state, federal, and local
2 government organizations in order to advance the goals of the
3 Interstate Commission.

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

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

24 1. The liability of the Interstate Commission's
25 executive director and employees or Interstate Commission
26 representatives, acting within the scope of such person's
27 employment or duties for acts, errors, or omissions occurring

1 within such person's state may not exceed the limits of liability
2 set forth under the constitution and laws of that state for state
3 officials, employees, and agents. The Interstate Commission is
4 considered to be an instrumentality of the states for the purposes
5 of any such action. Nothing in this subsection shall be construed to
6 protect such person from suit or liability for damage, loss,
7 injury, or liability caused by the intentional or wilful and wanton
8 misconduct of such person.

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

23 3. To the extent not covered by the state involved, the
24 member state, or the Interstate Commission, the representatives or
25 employees of the Interstate Commission shall be held harmless in
26 the amount of a settlement or judgment, including attorney's fees
27 and costs, obtained against such persons arising out of an actual or

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

8 ARTICLE XII. RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

22 C. Not later than thirty (30) days after a rule is
23 promulgated, any person may file a petition for judicial review of
24 the rule; provided, that the filing of such a petition shall not
25 stay or otherwise prevent the rule from becoming effective unless
26 the court finds that the petitioner has a substantial likelihood of
27 success. The court shall give deference to the actions of the

1 Interstate Commission consistent with applicable law and shall not
2 find the rule to be unlawful if the rule represents a reasonable
3 exercise of the Interstate Commission's authority.

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

8 ARTICLE XIII. OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

9 A. Oversight

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

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

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

27 B. Default, Technical Assistance, Suspension, and

1 Termination--If the Interstate Commission determines that a member
2 state has defaulted in the performance of its obligations or
3 responsibilities under this compact, or the bylaws or promulgated
4 rules, the Interstate Commission shall:

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

10 2. Provide remedial training and specific technical
11 assistance regarding the default.

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

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

25 5. The state which has been suspended or terminated is
26 responsible for all assessments, obligations, and liabilities
27 incurred through the effective date of suspension or termination

1 including obligations, the performance of which extends beyond the
2 effective date of suspension or termination.

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

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

14 C. Dispute Resolution

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

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

22 D. Enforcement

23 1. The Interstate Commission, in the reasonable
24 exercise of its discretion, shall enforce the provisions and rules
25 of this compact.

26 2. The Interstate Commission may, by majority vote of
27 the members, initiate legal action in the U.S. District Court for

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

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

13 ARTICLE XIV. FINANCING OF THE INTERSTATE COMMISSION

14 A. The Interstate Commission shall pay, or provide for the
15 payment of the reasonable expenses of its establishment,
16 organization, and ongoing activities.

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

25 C. The Interstate Commission shall not incur obligations of
26 any kind prior to securing the funds adequate to meet the same; nor
27 shall the Interstate Commission pledge the credit of any of the

1 member states, except by and with the authority of the member state.

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

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

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

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

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

26 ARTICLE XVI. WITHDRAWAL AND DISSOLUTION

27 A. Withdrawal

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

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

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

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

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

25 B. Dissolution of Compact

26 1. This compact shall dissolve effective upon the date
27 of the withdrawal or default of the member state which reduces the

1 membership in the compact to one (1) member state.

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

7 ARTICLE XVII. SEVERABILITY AND CONSTRUCTION

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

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

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

16 ARTICLE XVIII. BINDING EFFECT OF COMPACT AND OTHER LAWS

17 A. Other Laws

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

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

23 B. Binding Effect of the Compact

24 1. All lawful actions of the Interstate Commission,
25 including all rules and bylaws promulgated by the Interstate
26 Commission, are binding upon the member states.

27 2. All agreements between the Interstate Commission

1 and the member states are binding in accordance with their terms.

2 3. In the event any provision of this compact exceeds
3 the constitutional limits imposed on the legislature of any member
4 state, such provision shall be ineffective to the extent of the
5 conflict with the constitutional provision in question in that
6 member state.

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

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

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

21 (c) The compact commissioner serves at the will of the
22 governor.

23 Sec. 162.005. TEXAS STATE COUNCIL ON EDUCATIONAL
24 OPPORTUNITY FOR MILITARY CHILDREN. (a) The Texas State Council on
25 Educational Opportunity for Military Children is established.

26 (b) The council consists of:

27 (1) the commissioner of education;

1 (2) the superintendent of a school district in this
2 state with a high concentration of students who are the dependents
3 of military personnel, appointed by the commissioner of education;

4 (3) a representative from a military installation in
5 this state, appointed by the governor;

6 (4) a representative from the house of
7 representatives, appointed by the speaker of the house of
8 representatives;

9 (5) a representative from the senate, appointed by the
10 lieutenant governor;

11 (6) a representative from the governor's office,
12 appointed by the governor;

13 (7) as ex officio nonvoting members:

14 (A) the military family education liaison
15 designated under Subsection (d)(2), unless the individual serving
16 as liaison is otherwise included in the council as a voting member;
17 and

18 (B) the compact commissioner, unless the
19 individual serving as compact commissioner is otherwise included in
20 the council as a voting member; and

21 (8) any other representatives of offices or
22 stakeholder groups whose inclusion is considered appropriate by at
23 least a majority of the voting council members, selected in a manner
24 determined by the respective office or group.

25 (c) A member of the council described by Subsections
26 (b)(2)-(6) serves at the pleasure of the appointing officer. A
27 member of the council described by Subsection (b)(8) serves at the

1 pleasure of the office or group represented by the member.

2 (d) The council shall:

3 (1) provide for coordination among state agencies,
4 school districts, and military installations concerning the
5 state's participation in and compliance with the compact and the
6 activities of the Interstate Commission created under the compact;

7 (2) designate an individual to serve, at the pleasure
8 of the council, as a military family education liaison to assist
9 military families and this state in facilitating the implementation
10 of the compact; and

11 (3) perform other functions delegated to the council
12 in accordance with the compact.

13 (e) A member of the council serves without compensation, but
14 is entitled to reimbursement for actual and necessary expenses
15 incurred in performing functions of the council, subject to any
16 applicable limitation on reimbursement provided by the General
17 Appropriations Act.

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

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

26 SECTION 3. This Act takes effect immediately if it receives
27 a vote of two-thirds of all the members elected to each house, as

S.B. No. 90

1 provided by Section 39, Article III, Texas Constitution. If this
2 Act does not receive the vote necessary for immediate effect, this
3 Act takes effect September 1, 2009.