

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

D

SENATE DRS35585-LE-383E* (5/9)

Short Title: Interstate Compact/Educ. of Military Children. (Public)

Sponsors: Senator Rand.

Referred to:

A BILL TO BE ENTITLED

AN ACT TO ENACT THE INTERSTATE COMPACT ON EDUCATIONAL
OPPORTUNITY FOR MILITARY CHILDREN.

The General Assembly of North Carolina enacts:

SECTION 1. Subchapter VI of Chapter 115C of the General Statutes is amended by adding a new Article to read:

"Article 29B.

"Interstate Compact on Educational Opportunity for Military Children.

"§ 115C-407.5. Interstate Compact on Educational Opportunity for Military Children.

The Interstate Compact on Educational Opportunity for Military Children is hereby enacted into law and entered into with all jurisdictions legally joining therein in the form substantially as follows:

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:

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

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

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

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

2 E. Providing for the promulgation and enforcement of administrative rules
3 implementing the provisions of this compact.

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

6 G. Promoting coordination between this compact and other compacts affecting
7 military children.

8 H. Promoting flexibility and cooperation between the educational system,
9 parents and the student in order to achieve educational success for the student.

10 ARTICLE II.

11 DEFINITIONS.

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

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

16 B. "Children of military families" means: a school-aged child(ren), enrolled in
17 Kindergarten through Twelfth (12th) grade, in the household of an active duty member.

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

20 D. "Deployment" means: the period one (1) month prior to the service members'
21 departure from their home station on military orders though six (6) months after return
22 to their home station.

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

29 F. "Extracurricular activities" means: a voluntary activity sponsored by the
30 school or local education agency or an organization sanctioned by the local education
31 agency. Extracurricular activities include, but are not limited to, preparation for and
32 involvement in public performances, contests, athletic competitions, demonstrations,
33 displays, and club activities.

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

37 H. "Local education agency" means: a public authority legally constituted by the
38 state as an administrative agency to provide control of and direction for Kindergarten
39 through Twelfth (12th) grade public educational institutions.

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

41 J. "Military installation" means: means a base, camp, post, station, yard, center,
42 homeport facility for any ship, or other activity under the jurisdiction of the Department
43 of Defense, including any leased facility, which is located within any of the several
44 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin

1 Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S.
2 Territory. Such term does not include any facility used primarily for civil works, rivers
3 and harbors projects, or flood control projects.

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

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

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

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

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

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

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

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

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

29 ARTICLE III.

30 APPLICABILITY.

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

33 1. active duty members of the uniformed services as defined in this
34 compact, including members of the National Guard and Reserve on
35 active duty orders pursuant to 10 U.S.C. Section 1209 and 1211;

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

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

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

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

- 1 1. inactive members of the national guard and military reserves;
- 2 2. members of the uniformed services now retired, except as provided in
- 3 Section A;
- 4 3. veterans of the uniformed services, except as provided in Section A;
- 5 and other U.S. Dept. of Defense personnel and other federal agency
- 6 civilian and contract employees not defined as active duty members of
- 7 the uniformed services.

ARTICLE IV.

EDUCATIONAL RECORDS & ENROLLMENT.

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

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

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

31 D. Kindergarten and First grade entrance age – Students shall be allowed to
32 continue their enrollment at grade level in the receiving state commensurate with their
33 grade level (including Kindergarten) from a local education agency in the sending state
34 at the time of transition, regardless of age. A student that has satisfactorily completed
35 the prerequisite grade level in the local education agency in the sending state shall be
36 eligible for enrollment in the next highest grade level in the receiving state, regardless
37 of age. A student transferring after the start of the school year in the receiving state shall
38 enter the school in the receiving state on their validated level from an accredited school
39 in the sending state.

ARTICLE V.

PLACEMENT & ATTENDANCE.

42 A. Course placement – When the student transfers before or during the school
43 year, the receiving state school shall initially honor placement of the student in
44 educational courses based on the student's enrollment in the sending state school and/or

1 educational assessments conducted at the school in the sending state if the courses are
2 offered. Course placement includes but is not limited to Honors, International
3 Baccalaureate, Advanced Placement, vocational, technical and career pathways courses.
4 Continuing the student's academic program from the previous school and promoting
5 placement in academically and career challenging courses should be paramount when
6 considering placement. This does not preclude the school in the receiving state from
7 performing subsequent evaluations to ensure appropriate placement and continued
8 enrollment of the student in the course(s).

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

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

27 D. Placement flexibility – Local education agency administrative officials shall
28 have flexibility in waiving course/program prerequisites, or other preconditions for
29 placement in courses/programs offered under the jurisdiction of the local education
30 agency.

31 E. Absence as related to deployment activities – A student whose parent or legal
32 guardian is an active duty member of the uniformed services, as defined by the compact,
33 and has been called to duty for, is on leave from, or immediately returned from
34 deployment to a combat zone or combat support posting, shall be granted additional
35 excused absences at the discretion of the local education agency superintendent to visit
36 with his or her parent or legal guardian relative to such leave or deployment of the
37 parent or guardian.

38 ARTICLE VI.
39 ELIGIBILITY.

40 A. Eligibility for enrollment

- 41 1. Special power of attorney, relative to the guardianship of a child of a
42 military family and executed under applicable law shall be sufficient
43 for the purposes of enrollment and all other actions requiring parental
44 participation and consent.

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

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

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

14 ARTICLE VII.

15 GRADUATION.

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

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

25 B. Exit exams – States shall accept: 1) exit or end-of-course exams required for
26 graduation from the sending state; or 2) national norm-referenced achievement tests or
27 3) alternative testing, in lieu of testing requirements for graduation in the receiving
28 state. In the event the above alternatives cannot be accommodated by the receiving state
29 for a student transferring in his or her Senior year, then the provisions of Article VII,
30 Section C shall apply.

31 C. Transfers during Senior year – Should a military student transferring at the
32 beginning or during his or her Senior year be ineligible to graduate from the receiving
33 local education agency after all alternatives have been considered, the sending and
34 receiving local education agencies shall ensure the receipt of a diploma from the
35 sending local education agency, if the student meets the graduation requirements of the
36 sending local education agency. In the event that one of the states in question is not a
37 member of this compact, the member state shall use best efforts to facilitate the on-time
38 graduation of the student in accordance with Sections A and B of this Article.

39 ARTICLE VIII.

40 STATE COORDINATION.

41 A. Each member state shall, through the creation of a State Council or use of an
42 existing body or board, provide for the coordination among its agencies of government,
43 local education agencies and military installations concerning the state's participation in,
44 and compliance with, this compact and Interstate Commission activities. While each

1 member state may determine the membership of its own State Council, its membership
2 must include at least: the state superintendent of education, superintendent of a school
3 district with a high concentration of military children, representative from a military
4 installation, one representative each from the legislative and executive branches of
5 government, and other offices and stakeholder groups the State Council deems
6 appropriate. A member state that does not have a school district deemed to contain a
7 high concentration of military children may appoint a superintendent from another
8 school district to represent local education agencies on the State Council.

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

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

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

18 ARTICLE IX

19 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR 20 MILITARY CHILDREN

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

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

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

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

33 2. A majority of the total member states shall constitute a quorum for the
34 transaction of business, unless a larger quorum is required by the
35 bylaws of the Interstate Commission.

36 3. A representative shall not delegate a vote to another member state. In
37 the event the compact commissioner is unable to attend a meeting of
38 the Interstate Commission, the Governor or State Council may
39 delegate voting authority to another person from their state for a
40 specified meeting.

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

43 C. Consist of ex-officio, non-voting representatives who are members of
44 interested organizations. Such ex-officio members, as defined in the bylaws, may

1 include but not be limited to, members of the representative organizations of military
2 family advocates, local education agency officials, parent and teacher groups, the U.S.
3 Department of Defense, the Education Commission of the States, the Interstate
4 Agreement on the Qualification of Educational Personnel and other interstate compacts
5 affecting the education of children of military members.

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

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

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

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

- 29 1. Relate solely to the Interstate Commission's internal personnel
30 practices and procedures;
- 31 2. Disclose matters specifically exempted from disclosure by federal and
32 state statute;
- 33 3. Disclose trade secrets or commercial or financial information which is
34 privileged or confidential;
- 35 4. Involve accusing a person of a crime, or formally censuring a person;
- 36 5. Disclose information of a personal nature where disclosure would
37 constitute a clearly unwarranted invasion of personal privacy;
- 38 6. Disclose investigative records compiled for law enforcement purposes;
39 or
- 40 7. Specifically relate to the Interstate Commission's participation in a
41 civil action or other legal proceeding.

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

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

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

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

19 ARTICLE X.

20 POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

21 The Interstate Commission shall have the following powers:

22 A. To provide for dispute resolution among member states.

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

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

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

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

34 F. To purchase and maintain insurance and bonds.

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

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

40 I. To elect or appoint such officers, attorneys, employees, agents, or
41 consultants, and to fix their compensation, define their duties and determine their
42 qualifications; and to establish the Interstate Commission's personnel policies and
43 programs relating to conflicts of interest, rates of compensation, and qualifications of
44 personnel.

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

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

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

7 M. To establish a budget and make expenditures.

8 N. To adopt a seal and bylaws governing the management and operation of the
9 Interstate Commission.

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

14 P. To coordinate education, training and public awareness regarding the
15 compact, its implementation and operation for officials and parents involved in such
16 activity.

17 Q. To establish uniform standards for the reporting, collecting and exchanging of
18 data.

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

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

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

24 ARTICLE XI

25 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

30 1. Establishing the fiscal year of the Interstate Commission;

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

33 3. Providing for the establishment of committees and for governing any
34 general or specific delegation of authority or function of the Interstate
35 Commission;

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

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

41 6. Providing a mechanism for concluding the operations of the Interstate
42 Commission and the return of surplus funds that may exist upon the
43 termination of the compact after the payment and reserving of all of its
44 debts and obligations.

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

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

11 C. Executive Committee, Officers and Personnel

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

14 a. Managing the affairs of the Interstate Commission in a manner
15 consistent with the bylaws and purposes of the Interstate
16 Commission;

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

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

25 2. The executive committee may, subject to the approval of the Interstate
26 Commission, appoint or retain an executive director for such period,
27 upon such terms and conditions and for such compensation, as the
28 Interstate Commission may deem appropriate. The executive director
29 shall serve as secretary to the Interstate Commission, but shall not be a
30 Member of the Interstate Commission. The executive director shall
31 hire and supervise such other persons as may be authorized by the
32 Interstate Commission.

33 D. The Interstate Commission's executive director and its employees shall be
34 immune from suit and liability, either personally or in their official capacity, for a claim
35 for damage to or loss of property or personal injury or other civil liability caused or
36 arising out of or relating to an actual or alleged act, error, or omission that occurred, or
37 that such person had a reasonable basis for believing occurred, within the scope of
38 Interstate Commission employment, duties, or responsibilities; provided, that such
39 person shall not be protected from suit or liability for damage, loss, injury, or liability
40 caused by the intentional or willful and wanton misconduct of such person.

41 1. The liability of the Interstate Commission's executive director and
42 employees or Interstate Commission representatives, acting within the
43 scope of such person's employment or duties for acts, errors, or
44 omissions occurring within such person's state may not exceed the

1 limits of liability set forth under the Constitution and laws of that state
2 for state officials, employees, and agents. The Interstate Commission
3 is considered to be an instrumentality of the states for the purposes of
4 any such action. Nothing in this subsection shall be construed to
5 protect such person from suit or liability for damage, loss, injury, or
6 liability caused by the intentional or willful and wanton misconduct of
7 such person.

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

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

31 ARTICLE XII

32 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

33 A. Rulemaking Authority – The Interstate Commission shall promulgate
34 reasonable rules in order to effectively and efficiently achieve the purposes of this
35 Compact. Notwithstanding the foregoing, in the event the Interstate Commission
36 exercises its rulemaking authority in a manner that is beyond the scope of the purposes
37 of this Act, or the powers granted hereunder, then such an action by the Interstate
38 Commission shall be invalid and have no force or effect.

39 B. Rulemaking Procedure – Rules shall be made pursuant to a rulemaking
40 process that substantially conforms to the "Model State Administrative Procedure Act,"
41 of 1981 Act, Uniform Laws Annotated, Vol. 15, p.1 (2000) as amended, as may be
42 appropriate to the operations of the Interstate Commission.

43 C. Not later than thirty (30) days after a rule is promulgated, any person may file
44 a petition for judicial review of the rule; provided, that the filing of such a petition shall

1 not stay or otherwise prevent the rule from becoming effective unless the court finds
2 that the petitioner has a substantial likelihood of success. The court shall give deference
3 to the actions of the Interstate Commission consistent with applicable law and shall not
4 find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate
5 Commission's authority.

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

9 ARTICLE XIII

10 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

11 A. Oversight

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

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

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

26 B. Default, Technical Assistance, Suspension and Termination – If the Interstate
27 Commission determines that a member state has defaulted in the performance of its
28 obligations or responsibilities under this compact, or the bylaws or promulgated rules,
29 the Interstate Commission shall:

30 1. Provide written notice to the defaulting state and other member states,
31 of the nature of the default, the means of curing the default and any
32 action taken by the Interstate Commission. The Interstate Commission
33 shall specify the conditions by which the defaulting state must cure its
34 default.

35 2. Provide remedial training and specific technical assistance regarding
36 the default.

37 3. If the defaulting state fails to cure the default, the defaulting state shall
38 be terminated from the compact upon an affirmative vote of a majority
39 of the member states and all rights, privileges and benefits conferred
40 by this compact shall be terminated from the effective date of
41 termination. A cure of the default does not relieve the offending state
42 of obligations or liabilities incurred during the period of the default.

43 4. Suspension or termination of membership in the compact shall be
44 imposed only after all other means of securing compliance have been

1 exhausted. Notice of intent to suspend or terminate shall be given by
2 the Interstate Commission to the Governor, the majority and minority
3 leaders of the defaulting state's legislature, and each of the member
4 states.

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

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

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

19 C. Dispute Resolution

20 1. The Interstate Commission shall attempt, upon the request of a
21 member state, to resolve disputes which are subject to the compact and
22 which may arise among member states and between member and
23 non-member states.

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

26 D. Enforcement

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

29 2. The Interstate Commission, may by majority vote of the members,
30 initiate legal action in the United States District Court for the District
31 of Columbia or, at the discretion of the Interstate Commission, in the
32 federal district where the Interstate Commission has its principal
33 offices, to enforce compliance with the provisions of the compact, its
34 promulgated rules and bylaws, against a member state in default. The
35 relief sought may include both injunctive relief and damages. In the
36 event judicial enforcement is necessary the prevailing party shall be
37 awarded all costs of such litigation including reasonable attorney's
38 fees.

39 3. The remedies herein shall not be the exclusive remedies of the
40 Interstate Commission. The Interstate Commission may avail itself of
41 any other remedies available under state law or the regulation of a
42 profession.

43 ARTICLE XIV

44 FINANCING OF THE INTERSTATE COMMISSION

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

3 B. The Interstate Commission may levy on and collect an annual assessment
4 from each member state to cover the cost of the operations and activities of the
5 Interstate Commission and its staff which must be in a total amount sufficient to cover
6 the Interstate Commission's annual budget as approved each year. The aggregate annual
7 assessment amount shall be allocated based upon a formula to be determined by the
8 Interstate Commission, which shall promulgate a rule binding upon all member states.

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

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

19 ARTICLE XV

20 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

29 C. The Interstate Commission may propose amendments to the compact for
30 enactment by the member states. No amendment shall become effective and binding
31 upon the Interstate Commission and the member states unless and until it is enacted into
32 law by unanimous consent of the member states.

33 ARTICLE XVI

34 WITHDRAWAL AND DISSOLUTION

35 A. Withdrawal

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

40 2. Withdrawal from this compact shall be by the enactment of a statute
41 repealing the same, but shall not take effect until one (1) year after the
42 effective date of such statute and until written notice of the withdrawal
43 has been given by the withdrawing state to the Governor of each other
44 member jurisdiction.

- 1 3. The withdrawing state shall immediately notify the chairperson of the
2 Interstate Commission in writing upon the introduction of legislation
3 repealing this compact in the withdrawing state. The Interstate
4 Commission shall notify the other member states of the withdrawing
5 state's intent to withdraw within sixty (60) days of its receipt thereof.
- 6 4. The withdrawing state is responsible for all assessments, obligations
7 and liabilities incurred through the effective date of withdrawal,
8 including obligations, the performance of which extend beyond the
9 effective date of withdrawal.
- 10 5. Reinstatement following withdrawal of a member state shall occur
11 upon the withdrawing state reenacting the compact or upon such later
12 date as determined by the Interstate Commission.

13 B. Dissolution of Compact

- 14 1. This compact shall dissolve effective upon the date of the withdrawal
15 or default of the member state which reduces the membership in the
16 compact to one (1) member state.
- 17 2. Upon the dissolution of this compact, the compact becomes null and
18 void and shall be of no further force or effect, and the business and
19 affairs of the Interstate Commission shall be concluded and surplus
20 funds shall be distributed in accordance with the bylaws.

21 ARTICLE XVII

22 SEVERABILITY AND CONSTRUCTION

- 23 A. The provisions of this compact shall be severable, and if any phrase, clause,
24 sentence or provision is deemed unenforceable, the remaining provisions of the compact
25 shall be enforceable.
- 26 B. The provisions of this compact shall be liberally construed to effectuate its
27 purposes.
- 28 C. Nothing in this compact shall be construed to prohibit the applicability of
29 other interstate compacts to which the states are members.

30 ARTICLE XVIII

31 BINDING EFFECT OF COMPACT AND OTHER LAWS

32 A Other Laws

- 33 1. Nothing herein prevents the enforcement of any other law of a member
34 state that is not inconsistent with this compact.
- 35 2. All member states' laws conflicting with this compact are superseded
36 to the extent of the conflict.

37 B. Binding Effect of the Compact

- 38 1. All lawful actions of the Interstate Commission, including all rules and
39 bylaws promulgated by the Interstate Commission, are binding upon
40 the member states.
- 41 2. All agreements between the Interstate Commission and the member
42 states are binding in accordance with their terms.
- 43 3. In the event any provision of this compact exceeds the constitutional
44 limits imposed on the legislature of any member state, such provision

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

3 **"§ 115C-407.5. Creation of a State Council.**

4 The State Board of Education shall establish a State Council, as required by Article
5 VIII of the compact. The membership of the State Council shall include, at a minimum,
6 the Superintendent of Public Instruction, a superintendent of a local school
7 administrative unit with a high concentration of military children, a representative from
8 a military installation, a representative of the executive branch of government, a
9 representative of the North Carolina School Boards Association, a representative of the
10 North Carolina Association of School Administrators, a member appointed by the
11 General Assembly upon the recommendation of the President Pro Tempore of the
12 Senate, and a member appointed by the General Assembly upon the recommendation of
13 the Speaker of the House of Representatives.

14 **"§ 115C-407.6. Effective date of compact.**

15 This Article becomes effective July 1, 2008, or upon enactment of the compact into
16 law by nine other states, whichever date occurs later."

17 **SECTION 2.** There is appropriated from the General Fund to the
18 Department of Public Instruction the sum of fifty-eight thousand six hundred thirty-six
19 dollars (\$58,636) for the 2008-2009 fiscal year for administrative costs related to the
20 Interstate Compact on Educational Opportunity for Military Children.

21 **SECTION 3.** This act is effective when it becomes law.