

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007

S

3

SENATE BILL 1541
Rules and Operations of the Senate Committee Substitute Adopted 5/22/07
House Committee Substitute Favorable 6/23/08

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

Sponsors:

Referred to:

March 28, 2007

1 A BILL TO BE ENTITLED
2 AN ACT TO ENACT THE INTERSTATE COMPACT ON EDUCATIONAL
3 OPPORTUNITY FOR MILITARY CHILDREN.

4 The General Assembly of North Carolina enacts:

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

7 "Article 29B.

8 "Interstate Compact on Educational Opportunity for Military Children.

9 "§ 115C-407.5. Interstate Compact on Educational Opportunity for Military
10 Children.

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

14 Part 1. Purpose.

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

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

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

25 (c) Facilitating the qualification and eligibility for enrollment, educational
26 programs, and participation in extracurricular academic, athletic, and social activities.

27 (d) Facilitating the on-time graduation of children of military families.

1 (e) Providing for the promulgation and enforcement of administrative rules
2 implementing the provisions of this compact.

3 (f) Providing for the uniform collection and sharing of information between and
4 among member states, schools, and military families under this compact.

5 (g) Promoting coordination between this compact and other compacts affecting
6 military children.

7 (h) Promoting flexibility and cooperation between the educational system,
8 parents, and the student in order to achieve educational success for the student.

9 Part 2. Definitions.

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

11 (a) "Active duty" means full-time duty status in the active uniformed service of
12 the United States, including members of the National Guard and Reserve on active duty
13 orders pursuant to 10 U.S.C. § 12301, et. seq., and 10 U.S.C. § 12401, et. seq.

14 (b) "Children of military families" means a school-aged child(ren), enrolled in
15 kindergarten through twelfth grade, in the household of an active duty member.

16 (c) "Compact commissioner" means the voting representative of each
17 compacting state appointed pursuant to Part 8 of this Article.

18 (d) "Deployment" means the period one month prior to the service members'
19 departure from their home station on military orders though six months after return to
20 their home station.

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

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

32 (g) "Interstate Commission on Educational Opportunity for Military Children"
33 means the commission that is created under Part 9 of this Article, which is generally
34 referred to as Interstate Commission.

35 (h) "Local education agency" means a public authority legally constituted by the
36 state as an administrative agency to provide control of and direction for kindergarten
37 through twelfth grade public educational institutions.

38 (i) "Member state" means a state that has enacted this compact.

39 (j) "Military installation" means a base, camp, post, station, yard, center,
40 homeport facility for any ship, or other activity under the jurisdiction of the Department
41 of Defense, including any leased facility, which is located within any of the several
42 states, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
43 Islands, Guam, American Samoa, the Northern Marianas Islands, and any other U.S.

1 territory. Such term does not include any facility used primarily for civil works, rivers
2 and harbors projects, or flood control projects.

3 (k) "Nonmember state" means a state that has not enacted this compact.

4 (l) "Receiving state" means the state to which a child of a military family is sent,
5 brought, or caused to be sent or brought.

6 (m) "Rule" means a written statement by the Interstate Commission promulgated
7 pursuant to Part 12 of this Article that is of general applicability, implements, interprets,
8 or prescribes a policy or provision of the compact, or an organizational, procedural, or
9 practice requirement of the Interstate Commission, and has the force and effect of rules
10 promulgated under the Administrative Procedures Act as found in Chapter 150B of the
11 North Carolina General Statutes, and includes the amendment, repeal, or suspension of
12 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 grade.

21 (q) "Transition" means (i) the formal and physical process of transferring from
22 school to school or (ii) 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 was
28 discharged or released therefrom under conditions other than dishonorable.

29 Part 3. Applicability.

30 (a) Except as otherwise provided in subsection (b) of this Part, this compact shall
31 apply to the children of:

32 (1) Active duty members of the uniformed services as defined in this
33 compact, including members of the National Guard and Reserve on
34 active duty orders pursuant to 10 U.S.C. § 12301, et. seq., and 10
35 U.S.C. § 12401, et seq.;

36 (2) Members or veterans of the uniformed services who are severely
37 injured and medically discharged or retired for a period of one 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 year after
41 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 subsection (a) of this Part;
- 4 (3) Veterans of the uniformed services, except as provided in subsection
5 (a) of this Part; and other U.S. Department of Defense personnel and
6 other federal agency civilian and contract employees not defined as
7 active duty members of the uniformed services.

8 Part 4. Educational Records & Enrollment.

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

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

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

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

38 Part 5. Placement and Attendance.

39 (a) Course Placement. – When the student transfers before or during the school
40 year, the receiving state school shall initially honor placement of the student in
41 educational courses based on the student's enrollment in the sending state school and/or
42 educational assessments conducted at the school in the sending state if the courses are
43 offered. Course placement includes, but is not limited to, Honors, International
44 Baccalaureate, Advanced Placement, vocational, technical and career pathways courses.

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

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

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

24 (d) Placement Flexibility. – Local education agency administrative officials shall
25 have flexibility in waiving course/program prerequisites, or other preconditions for
26 placement in courses/programs offered under the jurisdiction of the local education
27 agency.

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

35 Part 6. Eligibility.

36 (a) Eligibility for Enrollment. – Children of military families shall be eligible for
37 enrollment in the public schools of North Carolina pursuant to the provisions of
38 G.S. 115C-366, including the provisions of G.S. 115C-366(a3) that provides for
39 admission, without the payment of tuition, of children of military families not domiciled
40 within the school district, provided that the affidavits provided for in that section and
41 other specified conditions are met.

42 (b) Eligibility for extracurricular participation – State and local education
43 agencies shall facilitate the opportunity for transitioning military children's inclusion in

1 extracurricular activities, regardless of application deadlines, to the extent they are
2 otherwise qualified.

3 Article VII.

4 Graduation.

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

7 (a) Waiver requirements – Local education agency administrative officials shall
8 waive specific courses required for graduation if similar course work has been
9 satisfactorily completed in another local education agency or shall provide reasonable
10 justification for denial. Should a waiver not be granted to a student who would qualify
11 to graduate from the sending school, the local education agency shall provide an
12 alternative means of acquiring required coursework so that graduation may occur on
13 time.

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

20 (c) Transfers during Senior year – Should a military student transferring at the
21 beginning or during his or her Senior year be ineligible to graduate from the receiving
22 local education agency after all alternatives have been considered, the sending and
23 receiving local education agencies shall ensure the receipt of a diploma from the
24 sending local education agency, if the student meets the graduation requirements of the
25 sending local education agency. In the event that one of the states in question is not a
26 member of this compact, the member state shall use best efforts to facilitate the on-time
27 graduation of the student in accordance with Sections A and B of this Article.

28 Article VIII.

29 State Coordination.

30 (a) Each member state shall, through the creation of a State Council or use of an
31 existing body or board, provide for the coordination among its agencies of government,
32 local education agencies and military installations concerning the state's participation in,
33 and compliance with, this compact and Interstate Commission activities. While each
34 member state may determine the membership of its own State Council, its membership
35 must include at least: the state superintendent of education, superintendent of a school
36 district with a high concentration of military children, representative from a military
37 installation, one representative each from the legislative and executive branches of
38 government, and other offices and stakeholder groups the State Council deems
39 appropriate. A member state that does not have a school district deemed to contain a
40 high concentration of military children may appoint a superintendent from another
41 school district to represent local education agencies on the State Council.

42 (b) The State Council of each member state shall appoint or designate a military
43 family education liaison to assist military families and the state in facilitating the
44 implementation of this compact.

1 (c) The compact commissioner responsible for the administration and
2 management of the state's participation in the compact shall be appointed by the
3 Governor or as otherwise determined by each member state.

4 (d) The compact commissioner and the military family education liaison
5 designated herein shall be ex-officio members of the State Council, unless either is
6 already a full voting member of the State Council.

7 Article IX

8 Interstate Commission on Educational Opportunity for Military Children

9 The member states hereby create the "Interstate Commission on Educational
10 Opportunity for Military Children." The activities of the Interstate Commission are the
11 formation of public policy and are a discretionary state function. The Interstate
12 Commission shall:

13 (a) Be a body corporate and joint agency of the member states and shall have all
14 the responsibilities, powers and duties set forth herein, and such additional powers as
15 may be conferred upon it by a subsequent concurrent action of the respective
16 legislatures of the member states in accordance with the terms of this compact.

17 (b) Consist of one Interstate Commission voting representative from each
18 member state who shall be that state's compact commissioner.

19 (1) Each member state represented at a meeting of the Interstate
20 Commission is entitled to one vote.

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

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

29 (4) The bylaws may provide for meetings of the Interstate Commission to
30 be conducted by telecommunication or electronic communication.

31 (c) Consist of ex-officio, non-voting representatives who are members of
32 interested organizations. Such ex-officio members, as defined in the bylaws, may
33 include but not be limited to, members of the representative organizations of military
34 family advocates, local education agency officials, parent and teacher groups, the U.S.
35 Department of Defense, the Education Commission of the States, the Interstate
36 Agreement on the Qualification of Educational Personnel and other interstate compacts
37 affecting the education of children of military members.

38 (d) Meet at least once each calendar year. The chairperson may call additional
39 meetings and, upon the request of a simple majority of the member states, shall call
40 additional meetings.

41 (e) Establish an executive committee, whose members shall include the officers
42 of the Interstate Commission and such other members of the Interstate Commission as
43 determined by the bylaws. Members of the executive committee shall serve a one year
44 term. Members of the executive committee shall be entitled to one vote each. The

1 executive committee shall have the power to act on behalf of the Interstate Commission,
2 with the exception of rulemaking, during periods when the Interstate Commission is not
3 in session. The executive committee shall oversee the day-to-day activities of the
4 administration of the compact including enforcement and compliance with the
5 provisions of the compact, its bylaws and rules, and other such duties as deemed
6 necessary. The U.S. Dept. of Defense shall serve as an ex-officio, nonvoting member of
7 the executive committee.

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

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

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

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

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

23 (4) Involve accusing a person of a crime, or formally censuring a person;

24 (5) Disclose information of a personal nature where disclosure would
25 constitute a clearly unwarranted invasion of personal privacy;

26 (6) Disclose investigative records compiled for law enforcement purposes;
27 or

28 (7) Specifically relate to the Interstate Commission's participation in a
29 civil action or other legal proceeding.

30 (h) Shall cause its legal counsel or designee to certify that a meeting may be
31 closed and shall reference each relevant exemptible provision for any meeting, or
32 portion of a meeting, which is closed pursuant to this provision. The Interstate
33 Commission shall keep minutes which shall fully and clearly describe all matters
34 discussed in a meeting and shall provide a full and accurate summary of actions taken,
35 and the reasons therefore, including a description of the views expressed and the record
36 of a roll call vote. All documents considered in connection with an action shall be
37 identified in such minutes. All minutes and documents of a closed meeting shall remain
38 under seal, subject to release by a majority vote of the Interstate Commission.

39 (i) Shall collect standardized data concerning the educational transition of the
40 children of military families under this compact as directed through its rules which shall
41 specify the data to be collected, the means of collection and data exchange and reporting
42 requirements. Such methods of data collection, exchange and reporting shall, in so far as
43 is reasonably possible, conform to current technology and coordinate its information
44 functions with the appropriate custodian of records as identified in the bylaws and rules.

1 (o) To report annually to the legislatures, governors, judiciary, and state councils
2 of the member states concerning the activities of the Interstate Commission during the
3 preceding year. Such reports shall also include any recommendations that may have
4 been adopted by the Interstate Commission.

5 (p) To coordinate education, training, and public awareness regarding the
6 compact, its implementation, and operation for officials and parents involved in such
7 activity.

8 (q) To establish uniform standards for the reporting, collecting, and exchanging
9 of data.

10 (r) To maintain corporate books and records in accordance with the bylaws.

11 (s) To perform such functions as may be necessary or appropriate to achieve the
12 purposes of this compact.

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

15 Part 11. Organization and Operation of the Interstate Commission.

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

20 (1) Establishing the fiscal year of the Interstate Commission;

21 (2) Establishing an executive committee, and such other committees as
22 may be necessary;

23 (3) Providing for the establishment of committees and for governing any
24 general or specific delegation of authority or function of the Interstate
25 Commission;

26 (4) Providing reasonable procedures for calling and conducting meetings
27 of the Interstate Commission, and ensuring reasonable notice of each
28 such meeting;

29 (5) Establishing the titles and responsibilities of the officers and staff of
30 the Interstate Commission;

31 (6) Providing a mechanism for concluding the operations of the Interstate
32 Commission and the return of surplus funds that may exist upon the
33 termination of the compact after the payment and reserving of all of its
34 debts and obligations.

35 (7) Providing "start up" rules for initial administration of the compact.

36 (b) The Interstate Commission shall, by a majority of the members, elect
37 annually from among its members a chairperson, a vice-chairperson, and a treasurer,
38 each of whom shall have such authority and duties as may be specified in the bylaws.
39 The chairperson or, in the chairperson's absence or disability, the vice-chairperson, shall
40 preside at all meetings of the Interstate Commission. The officers so elected shall serve
41 without compensation or remuneration from the Interstate Commission; provided that,
42 subject to the availability of budgeted funds, the officers shall be reimbursed for
43 ordinary and necessary costs and expenses incurred by them in the performance of their
44 responsibilities as officers of the Interstate Commission.

1 (c) Executive Committee, Officers and Personnel

2 (1) The executive committee shall have such authority and duties as may
3 be set forth in the bylaws, including but not limited to:

4 (a) Managing the affairs of the Interstate Commission in a manner
5 consistent with the bylaws and purposes of the Interstate
6 Commission;

7 (b) Overseeing an organizational structure within, and appropriate
8 procedures for the Interstate Commission to provide for the
9 creation of rules, operating procedures, and administrative and
10 technical support functions; and

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

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

23 (c) The Interstate Commission's executive director and its employees shall be
24 immune from suit and liability, either personally or in their official capacity, for a claim
25 for damage to or loss of property or personal injury or other civil liability caused or
26 arising out of or relating to an actual or alleged act, error, or omission that occurred, or
27 that such person had a reasonable basis for believing occurred, within the scope of
28 Interstate Commission employment, duties, or responsibilities; provided, that such
29 person shall not be protected from suit or liability for damage, loss, injury, or liability
30 caused by the intentional or willful and wanton misconduct of such person.

31 (1) The liability of the Interstate Commission's executive director and
32 employees or Interstate Commission representatives, acting within the
33 scope of such person's employment or duties for acts, errors, or
34 omissions occurring within such person's state may not exceed the
35 limits of liability set forth under the Constitution and laws of that state
36 for state officials, employees, and agents. The Interstate Commission
37 is considered to be an instrumentality of the states for the purposes of
38 any such action. Nothing in this subsection shall be construed to
39 protect such person from suit or liability for damage, loss, injury, or
40 liability caused by the intentional or willful and wanton misconduct of
41 such person.

42 (2) The Interstate Commission shall defend the executive director and its
43 employees and, subject to the approval of the Attorney General or
44 other appropriate legal counsel of the member state represented by an

1 Interstate Commission representative, shall defend such Interstate
2 Commission representative in any civil action seeking to impose
3 liability arising out of an actual or alleged act, error or omission that
4 occurred within the scope of Interstate Commission employment,
5 duties or responsibilities, or that the defendant had a reasonable basis
6 for believing occurred within the scope of Interstate Commission
7 employment, duties, or responsibilities, provided that the actual or
8 alleged act, error, or omission did not result from intentional or willful
9 and wanton misconduct on the part of such person.

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

21 Part 12. Rulemaking Functions of the Interstate Commission.

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

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

32 (c) Not later than thirty (30) days after a rule is promulgated, any person may file
33 a petition for judicial review of the rule; provided, that the filing of such a petition shall
34 not stay or otherwise prevent the rule from becoming effective unless the court finds
35 that the petitioner has a substantial likelihood of success. The court shall give deference
36 to the actions of the Interstate Commission consistent with applicable law and shall not
37 find the rule to be unlawful if the rule represents a reasonable exercise of the Interstate
38 Commission's authority.

39 (d) If a majority of the legislatures of the compacting states rejects a Rule by
40 enactment of a statute or resolution in the same manner used to adopt the compact, then
41 such rule shall have no further force and effect in any compacting state.

42 Part 13. Oversight, Enforcement, and Dispute Resolution.

43 (a) Oversight

1 (1) The executive, legislative and judicial branches of state government in
2 each member state shall enforce this compact and shall take all actions
3 necessary and appropriate to effectuate the compact's purposes and
4 intent. The provisions of this compact and the rules promulgated
5 hereunder shall have standing as rules promulgated under the
6 Administrative Procedures Act as found in Chapter 150B of the North
7 Carolina General Statutes.

8 (2) All courts shall take judicial notice of the compact and the rules in any
9 judicial or administrative proceeding in a member state pertaining to
10 the subject matter of this compact which may affect the powers,
11 responsibilities or actions of the Interstate Commission.

12 (3) The Interstate Commission shall be entitled to receive all service of
13 process in any such proceeding, and shall have standing to intervene in
14 the proceeding for all purposes. Failure to provide service of process to
15 the Interstate Commission shall render a judgment or order void as to
16 the Interstate Commission, this compact or promulgated rules.

17 (b) Default, Technical Assistance, Suspension and Termination – If the Interstate
18 Commission determines that a member state has defaulted in the performance of its
19 obligations or responsibilities under this compact, or the bylaws or promulgated rules,
20 the Interstate Commission shall:

21 (1) Provide written notice to the defaulting state and other member states,
22 of the nature of the default, the means of curing the default and any
23 action taken by the Interstate Commission. The Interstate Commission
24 shall specify the conditions by which the defaulting state must cure its
25 default.

26 (2) Provide remedial training and specific technical assistance regarding
27 the default.

28 (3) If the defaulting state fails to cure the default, the defaulting state shall
29 be terminated from the compact upon an affirmative vote of a majority
30 of the member states and all rights, privileges and benefits conferred
31 by this compact shall be terminated from the effective date of
32 termination. A cure of the default does not relieve the offending state
33 of obligations or liabilities incurred during the period of the default.

34 (4) Suspension or termination of membership in the compact shall be
35 imposed only after all other means of securing compliance have been
36 exhausted. Notice of intent to suspend or terminate shall be given by
37 the Interstate Commission to the Governor, the majority and minority
38 leaders of the defaulting state's legislature, and each of the member
39 states.

40 (5) The state which has been suspended or terminated is responsible for all
41 assessments, obligations and liabilities incurred through the effective
42 date of suspension or termination including obligations, the
43 performance of which extends beyond the effective date of suspension
44 or termination.

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

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

10 (c) Dispute Resolution

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

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

17 (d) Enforcement

18 (1) The Interstate Commission, in the reasonable exercise of its discretion,
19 shall enforce the provisions and rules of this compact.

20 (2) The Interstate Commission, may by majority vote of the members,
21 initiate legal action in the United States District Court for the District
22 of Columbia or, at the discretion of the Interstate Commission, in the
23 federal district where the Interstate Commission has its principal
24 offices, to enforce compliance with the provisions of the compact, its
25 promulgated rules and bylaws, against a member state in default. The
26 relief sought may include both injunctive relief and damages. In the
27 event judicial enforcement is necessary the prevailing party shall be
28 awarded all costs of such litigation including reasonable attorney's
29 fees.

30 (3) The remedies herein shall not be the exclusive remedies of the
31 Interstate Commission. The Interstate Commission may avail itself of
32 any other remedies available under state law or the regulation of a
33 profession.

34 Part 14. Financing of the Interstate Commission.

35 (a) The Interstate Commission shall pay, or provide for the payment of the
36 reasonable expenses of its establishment, organization and ongoing activities.

37 (b) The Interstate Commission may levy on and collect an annual assessment
38 from each member state to cover the cost of the operations and activities of the
39 Interstate Commission and its staff which must be in a total amount sufficient to cover
40 the Interstate Commission's annual budget as approved each year. The aggregate annual
41 assessment amount shall be allocated based upon a formula to be determined by the
42 Interstate Commission, which shall promulgate a rule binding upon all member states.

43 (c) The Interstate Commission shall not incur obligations of any kind prior to
44 securing the funds adequate to meet the same; nor shall the Interstate Commission

1 pledge the credit of any of the member states, except by and with the authority of the
2 member state.

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

9 Part 15. Member States, Effective Date and Amendment.

10 (a) Any state is eligible to become a member state.

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

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

22 Part 16. Withdrawal and Dissolution.

23 (a) Withdrawal

24 (1) Once effective, the compact shall continue in force and remain binding
25 upon each and every member state; provided that a member state may
26 withdraw from the compact by specifically repealing the statute, which
27 enacted the compact into law.

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

33 (3) The withdrawing state shall immediately notify the chairperson of the
34 Interstate Commission in writing upon the introduction of legislation
35 repealing this compact in the withdrawing state. The Interstate
36 Commission shall notify the other member states of the withdrawing
37 state's intent to withdraw within sixty (60) days of its receipt thereof.

38 (4) The withdrawing state is responsible for all assessments, obligations
39 and liabilities incurred through the effective date of withdrawal,
40 including obligations, the performance of which extend beyond the
41 effective date of withdrawal.

42 (5) Reinstatement following withdrawal of a member state shall occur
43 upon the withdrawing state reenacting the compact or upon such later
44 date as determined by the Interstate Commission.

1 (b) Dissolution of Compact

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

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

9 Part 17. Severability and Construction.

10 (a) The provisions of this compact shall be severable, and if any phrase, clause,
11 sentence or provision is deemed unenforceable, the remaining provisions of the compact
12 shall be enforceable.

13 (b) The provisions of this compact shall be liberally construed to effectuate its
14 purposes.

15 (c) Nothing in this compact shall be construed to prohibit the applicability of
16 other interstate compacts to which the states are members.

17 Part 18. Binding Effect of Compact and Other Laws.

18 (a) Other Laws

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

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

23 (b) Binding Effect of the Compact

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

27 (2) All agreements between the Interstate Commission and the member
28 states are binding in accordance with their terms.

29 (3) In the event any provision of this compact exceeds the constitutional
30 limits imposed on the legislature of any member state, such provision
31 shall be ineffective to the extent of the conflict with the constitutional
32 provision in question in that member state.

33 **"§ 115C-407.6. Creation of a state council.**

34 The State Board of Education shall establish a State Council, as required by Article
35 VIII of the compact. The membership of the State Council shall include, at a minimum,
36 the Superintendent of Public Instruction, a superintendent of a local school
37 administrative unit with a high concentration of military children, a representative from
38 a military installation, a representative of the executive branch of government, a
39 representative of the North Carolina School Boards Association, a representative of the
40 North Carolina Association of School Administrators, a member appointed by the
41 General Assembly upon the recommendation of the President Pro Tempore of the
42 Senate, and a member appointed by the General Assembly upon the recommendation of
43 the Speaker of the House of Representatives.

44 **"§ 115C-407.7. Effective date of compact.**

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

3 **SECTION 2.** G.S. 115C-366(a3)(1)(g) reads as rewritten:

4 "g. The parent or legal guardian is one of the following:

5 (1) ~~on~~On active military duty and is deployed out of the local school
6 administrative unit in which the student resides; resides;

7 (2) A member or veteran of the uniformed services who is severely injured
8 and medically discharged or retired, but only for a period of one year
9 after the medical discharge or retirement of the parent or guardian; or

10 (3) A member of the uniformed services who dies on active duty or as a
11 result of injuries sustained on active duty, but only for a period of one
12 year after death.

13 For purposes of this sub-subdivision, the term "active duty" does not
14 include periods of active duty for training for less than 30 days.
15 Assignment under this sub-subdivision is only available if some
16 evidence of the deployment is tendered with the affidavits required
17 under subdivision (3) of this subsection."

18 **SECTION 3.** It is the goal of the General Assembly to ensure that
19 low-wealth schools are enabled to administer and comply with the requirements of the
20 Interstate Compact on Educational Opportunity for Military Children. It is the intent of
21 the General Assembly to appropriate funds in the sum of twenty-five thousand dollars
22 (\$25,000) annually to the Department of Public Instruction to offset costs for
23 low-wealth schools for administration of the Interstate Compact on Educational
24 Opportunity for Military Children, beginning with the 2009-2010 school year or the
25 enactment of the Compact, whichever occurs later.

26 **SECTION 4.** This act is effective when it becomes law.