

GENERAL ASSEMBLY OF NORTH CAROLINA  
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SENATE BILL 1541  
Rules and Operations of the Senate Committee Substitute Adopted 5/22/07  
House Committee Substitute Favorable 6/23/08  
House Committee Substitute #2 Favorable 6/25/08

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

Sponsors:

Referred to:

March 28, 2007

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. § 12301, et. seq. and 10 U.S.C. § 12401, et. seq.

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: 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 rules promulgated under the Administrative Procedures Act as found in  
12 Chapter 150B of the North Carolina General Statutes, and includes the amendment,  
13 repeal, or suspension of an existing rule.

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

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

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

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

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

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

30 ARTICLE III.

31 APPLICABILITY.

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

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

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

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

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

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

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

11 ARTICLE IV.

12 EDUCATIONAL RECORDS & ENROLLMENT.

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

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

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

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

43 ARTICLE V.

44 PLACEMENT & ATTENDANCE.

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

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

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

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

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

41                               ARTICLE VI.  
42                               ELIGIBILITY.

43       A. Eligibility for enrollment – Children of military families shall be eligible for  
44 enrollment in the public schools of North Carolina pursuant to the provisions of

1 G.S. 115C-366, including the provisions of G.S. 115C-366(a3) that provides for  
2 admission, without the payment of tuition, of children of military families not domiciled  
3 within the school district, provided that the affidavits provided for in that section and  
4 other specified conditions are met.

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

9 ARTICLE VII.

10 GRADUATION.

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

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

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

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

34 ARTICLE VIII.

35 STATE COORDINATION.

36 A. Each member state shall, through the creation of a State Council or use of an  
37 existing body or board, provide for the coordination among its agencies of government,  
38 local education agencies and military installations concerning the state's participation in,  
39 and compliance with, this compact and Interstate Commission activities. While each  
40 member state may determine the membership of its own State Council, its membership  
41 must include at least: the state superintendent of education, superintendent of a school  
42 district with a high concentration of military children, representative from a military  
43 installation, one representative each from the legislative and executive branches of  
44 government, and other offices and stakeholder groups the State Council deems

1 appropriate. A member state that does not have a school district deemed to contain a  
2 high concentration of military children may appoint a superintendent from another  
3 school district to represent local education agencies on the State Council.

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

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

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

13 ARTICLE IX

14 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR  
15 MILITARY CHILDREN

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

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

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

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

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

31 3. A representative shall not delegate a vote to another member state. In  
32 the event the compact commissioner is unable to attend a meeting of  
33 the Interstate Commission, the Governor or State Council may  
34 delegate voting authority to another person from their state for a  
35 specified meeting.

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

38 C. Consist of ex-officio, non-voting representatives who are members of  
39 interested organizations. Such ex-officio members, as defined in the bylaws, may  
40 include but not be limited to, members of the representative organizations of military  
41 family advocates, local education agency officials, parent and teacher groups, the U.S.  
42 Department of Defense, the Education Commission of the States, the Interstate  
43 Agreement on the Qualification of Educational Personnel and other interstate compacts  
44 affecting the education of children of military members.

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

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

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

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

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

37 H. Shall cause its legal counsel or designee to certify that a meeting may be  
38 closed and shall reference each relevant exemptible provision for any meeting, or  
39 portion of a meeting, which is closed pursuant to this provision. The Interstate  
40 Commission shall keep minutes which shall fully and clearly describe all matters  
41 discussed in a meeting and shall provide a full and accurate summary of actions taken,  
42 and the reasons therefore, including a description of the views expressed and the record  
43 of a roll call vote. All documents considered in connection with an action shall be



1 identified in such minutes. All minutes and documents of a closed meeting shall remain  
2 under seal, subject to release by a majority vote of the Interstate Commission.

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

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

#### 15 ARTICLE X.

#### 16 POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

17 The Interstate Commission shall have the following powers:

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

19 B. To promulgate rules and take all necessary actions to effect the goals,  
20 purposes and obligations as enumerated in this compact. The rules shall have the force  
21 and effect of rules promulgated under the Administrative Procedures Act as found in  
22 Chapter 150B of the North Carolina General Statutes and shall be binding in the  
23 compact states to the extent and in the manner provided in this compact.

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

26 D. To enforce compliance with the compact provisions, the rules promulgated by  
27 the Interstate Commission, and the bylaws, using all necessary and proper means,  
28 including but not limited to the use of judicial process. Any action to enforce  
29 compliance with the compact provisions by the Interstate Commission shall be brought  
30 against a member state only.

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

33 F. To purchase and maintain insurance and bonds.

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

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

39 I. To elect or appoint such officers, attorneys, employees, agents, or  
40 consultants, and to fix their compensation, define their duties and determine their  
41 qualifications; and to establish the Interstate Commission's personnel policies and  
42 programs relating to conflicts of interest, rates of compensation, and qualifications of  
43 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 rules promulgated under the  
17 Administrative Procedures Act as found in Chapter 150B of the North  
18 Carolina General Statutes.

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

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

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

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

37 2. Provide remedial training and specific technical assistance regarding  
38 the default.

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

- 1           4.     Suspension or termination of membership in the compact shall be  
2           imposed only after all other means of securing compliance have been  
3           exhausted. Notice of intent to suspend or terminate shall be given by  
4           the Interstate Commission to the Governor, the majority and minority  
5           leaders of the defaulting state's legislature, and each of the member  
6           states.
- 7           5.     The state which has been suspended or terminated is responsible for all  
8           assessments, obligations and liabilities incurred through the effective  
9           date of suspension or termination including obligations, the  
10          performance of which extends beyond the effective date of suspension  
11          or termination.
- 12          6.     The Interstate Commission shall not bear any costs relating to any state  
13          that has been found to be in default or which has been suspended or  
14          terminated from the compact, unless otherwise mutually agreed upon  
15          in writing between the Interstate Commission and the defaulting state.
- 16          7.     The defaulting state may appeal the action of the Interstate  
17          Commission by petitioning the U.S. District Court for the District of  
18          Columbia or the federal district where the Interstate Commission has  
19          its principal offices. The prevailing party shall be awarded all costs of  
20          such litigation including reasonable attorney's fees.

21     C.     Dispute Resolution

- 22           1.     The Interstate Commission shall attempt, upon the request of a  
23           member state, to resolve disputes which are subject to the compact and  
24           which may arise among member states and between member and  
25           non-member states.
- 26           2.     The Interstate Commission shall promulgate a rule providing for both  
27           mediation and binding dispute resolution for disputes as appropriate.

28     D.     Enforcement

- 29           1.     The Interstate Commission, in the reasonable exercise of its discretion,  
30           shall enforce the provisions and rules of this compact.
- 31           2.     The Interstate Commission, may by majority vote of the members,  
32           initiate legal action in the United States District Court for the District  
33           of Columbia or, at the discretion of the Interstate Commission, in the  
34           federal district where the Interstate Commission has its principal  
35           offices, to enforce compliance with the provisions of the compact, its  
36           promulgated rules and bylaws, against a member state in default. The  
37           relief sought may include both injunctive relief and damages. In the  
38           event judicial enforcement is necessary the prevailing party shall be  
39           awarded all costs of such litigation including reasonable attorney's  
40           fees.
- 41           3.     The remedies herein shall not be the exclusive remedies of the  
42           Interstate Commission. The Interstate Commission may avail itself of  
43           any other remedies available under state law or the regulation of a  
44           profession.

## ARTICLE XIV

FINANCING OF THE INTERSTATE COMMISSION

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

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

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

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

## ARTICLE XV

MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

## ARTICLE XVI

WITHDRAWAL AND DISSOLUTION

A. Withdrawal

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

2. Withdrawal from this compact shall be by the enactment of a statute repealing the same, but shall not take effect until one (1) year after the effective date of such statute and until written notice of the withdrawal

1           has been given by the withdrawing state to the Governor of each other  
 2           member jurisdiction.

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

8           4. The withdrawing state is responsible for all assessments, obligations  
 9           and liabilities incurred through the effective date of withdrawal,  
 10          including obligations, the performance of which extend beyond the  
 11          effective date of withdrawal.

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

15        B. Dissolution of Compact

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

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

23                                ARTICLE XVII

24                                SEVERABILITY AND CONSTRUCTION

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

28        B. The provisions of this compact shall be liberally construed to effectuate its  
 29        purposes.

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

32                                ARTICLE XVIII

33                                BINDING EFFECT OF COMPACT AND OTHER LAWS

34        A. Other Laws

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

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

39        B. Binding Effect of the Compact

40          1. All lawful actions of the Interstate Commission, including all rules and  
 41          bylaws promulgated by the Interstate Commission, are binding upon  
 42          the member states.

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



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

5     **"§ 115C-407.6. Creation of a State Council.**

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

16    **"§ 115C-407.7. Appointment of compact commissioner.**

17    As required by Article VIII of the compact, the Governor shall appoint as compact  
18    commissioner a school board attorney for a school district with a high concentration of  
19    military children. The compact commissioner shall be responsible for the administration  
20    and management of the State's participation in the compact.

21    **"§ 115C-407.8. Effective date of compact.**

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

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

25           "(g)   The parent or legal guardian is one of the following:

- 26           (1)    ~~on~~On active military duty and is deployed out of the local school  
27                 administrative unit in which the student ~~resides.~~ resides;  
28           (2)    A member or veteran of the uniformed services who is severely injured  
29                 and medically discharged or retired, but only for a period of one year  
30                 after the medical discharge or retirement of the parent or guardian; or  
31           (3)    A member of the uniformed services who dies on active duty or as a  
32                 result of injuries sustained on active duty, but only for a period of one  
33                 year after death.

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

39           **SECTION 3.** It is the goal of the General Assembly to ensure that  
40    low-wealth schools are enabled to administer and comply with the requirements of the  
41    Interstate Compact on Educational Opportunity for Military Children. It is the intent of  
42    the General Assembly to appropriate funds in the sum of twenty-five thousand dollars  
43    (\$25,000) annually to the Department of Public Instruction to offset costs for  
44    low-wealth schools for administration of the Interstate Compact on Educational

- 1 Opportunity for Military Children, beginning with the 2009-2010 school year or the  
2 enactment of the compact, whichever occurs later.  
3           **SECTION 4.** This act is effective when it becomes law.