

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2007**

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HOUSE BILL 2683

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

Sponsors: Representatives Dickson, Martin, Glazier, Underhill (Primary Sponsors);
Braxton, Church, Coates, Cotham, Faison, Fisher, Goodwin, Hall,
T. Harrell, Harrison, Howard, Lucas, McAllister, McElraft, and
Wainwright.

Referred to: Education, if favorable, Appropriations.

May 28, 2008

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.

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

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

4 E. Providing for the promulgation and enforcement of administrative rules
5 implementing the provisions of this compact.

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

8 G. Promoting coordination between this compact and other compacts affecting
9 military children.

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

12 ARTICLE II.

13 DEFINITIONS.

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

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

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

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

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

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

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

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

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

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

43 J. "Military installation" means: means a base, camp, post, station, yard, center,
44 homeport facility for any ship, or other activity under the jurisdiction of the Department

1 of Defense, including any leased facility, which is located within any of the several
2 States, the District of Columbia, the Commonwealth of Puerto Rico, the U.S. Virgin
3 Islands, Guam, American Samoa, the Northern Marianas Islands and any other U.S.
4 Territory. Such term does not include any facility used primarily for civil works, rivers
5 and harbors projects, or flood control projects.

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

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

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

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

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

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

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

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

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

31 ARTICLE III.

32 APPLICABILITY.

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

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

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

- 1 1. Special power of attorney, relative to the guardianship of a child of a
2 military family and executed under applicable law shall be sufficient
3 for the purposes of enrollment and all other actions requiring parental
4 participation and consent.
- 5 2. A local education agency shall be prohibited from charging local
6 tuition to a transitioning military child placed in the care of a
7 non-custodial parent or other person standing in loco parentis who
8 lives in a jurisdiction other than that of the custodial parent.
- 9 3. A transitioning military child, placed in the care of a noncustodial
10 parent or other person standing in loco parentis who lives in a
11 jurisdiction other than that of the custodial parent, may continue to
12 attend the school in which he/she was enrolled while residing with the
13 custodial parent.

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

18 ARTICLE VII.
19 GRADUATION.

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

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

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

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

43 ARTICLE VIII.
44 STATE COORDINATION.

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

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

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

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

22 ARTICLE IX

23 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR 24 MILITARY CHILDREN

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

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

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

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

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

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

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

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

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

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

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

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

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

- 1 7. Specifically relate to the Interstate Commission's participation in a
2 civil action or other legal proceeding.
- 3 H. Shall cause its legal counsel or designee to certify that a meeting may be
4 closed and shall reference each relevant exemptible provision for any meeting, or
5 portion of a meeting, which is closed pursuant to this provision. The Interstate
6 Commission shall keep minutes which shall fully and clearly describe all matters
7 discussed in a meeting and shall provide a full and accurate summary of actions taken,
8 and the reasons therefore, including a description of the views expressed and the record
9 of a roll call vote. All documents considered in connection with an action shall be
10 identified in such minutes. All minutes and documents of a closed meeting shall remain
11 under seal, subject to release by a majority vote of the Interstate Commission.
- 12 I. Shall collect standardized data concerning the educational transition of the
13 children of military families under this compact as directed through its rules which shall
14 specify the data to be collected, the means of collection and data exchange and reporting
15 requirements. Such methods of data collection, exchange and reporting shall, in so far as
16 is reasonably possible, conform to current technology and coordinate its information
17 functions with the appropriate custodian of records as identified in the bylaws and rules.
- 18 J. Shall create a process that permits military officials, education officials and
19 parents to inform the Interstate Commission if and when there are alleged violations of
20 the compact or its rules or when issues subject to the jurisdiction of the compact or its
21 rules are not addressed by the state or local education agency. This section shall not be
22 construed to create a private right of action against the Interstate Commission or any
23 member state.

24 **ARTICLE X.**

25 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION.**

26 The Interstate Commission shall have the following powers:

- 27 A. To provide for dispute resolution among member states.
- 28 B. To promulgate rules and take all necessary actions to effect the goals,
29 purposes and obligations as enumerated in this compact. The rules shall have the force
30 and effect of statutory law and shall be binding in the compact states to the extent and in
31 the manner provided in this compact.
- 32 C. To issue, upon request of a member state, advisory opinions concerning the
33 meaning or interpretation of the interstate compact, its bylaws, rules and actions.
- 34 D. To enforce compliance with the compact provisions, the rules promulgated by
35 the Interstate Commission, and the bylaws, using all necessary and proper means,
36 including but not limited to the use of judicial process.
- 37 E. To establish and maintain offices which shall be located within one or more
38 of the member states.
- 39 F. To purchase and maintain insurance and bonds.
- 40 G. To borrow, accept, hire or contract for services of personnel.
- 41 H. To establish and appoint committees including, but not limited to, an
42 executive committee as required by Article IX, Section E, which shall have the power to
43 act on behalf of the Interstate Commission in carrying out its powers and duties
44 hereunder.

1 I. To elect or appoint such officers, attorneys, employees, agents, or
2 consultants, and to fix their compensation, define their duties and determine their
3 qualifications; and to establish the Interstate Commission's personnel policies and
4 programs relating to conflicts of interest, rates of compensation, and qualifications of
5 personnel.

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

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

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

12 M. To establish a budget and make expenditures.

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

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

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

22 Q. To establish uniform standards for the reporting, collecting and exchanging of
23 data.

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

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

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

29 ARTICLE XI

30 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

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

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

38 3. Providing for the establishment of committees and for governing any
39 general or specific delegation of authority or function of the Interstate
40 Commission;

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

- 1 5. Establishing the titles and responsibilities of the officers and staff of
2 the Interstate Commission;
- 3 6. Providing a mechanism for concluding the operations of the Interstate
4 Commission and the return of surplus funds that may exist upon the
5 termination of the compact after the payment and reserving of all of its
6 debts and obligations.
- 7 7. Providing "start up" rules for initial administration of the compact.

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

17 C. Executive Committee, Officers and Personnel

- 18 1. The executive committee shall have such authority and duties as may
19 be set forth in the bylaws, including but not limited to:
 - 20 a. Managing the affairs of the Interstate Commission in a manner
21 consistent with the bylaws and purposes of the Interstate
22 Commission;
 - 23 b. Overseeing an organizational structure within, and appropriate
24 procedures for the Interstate Commission to provide for the
25 creation of rules, operating procedures, and administrative and
26 technical support functions; and
 - 27 c. Planning, implementing, and coordinating communications and
28 activities with other state, federal and local government
29 organizations in order to advance the goals of the Interstate
30 Commission.
- 31 2. The executive committee may, subject to the approval of the Interstate
32 Commission, appoint or retain an executive director for such period,
33 upon such terms and conditions and for such compensation, as the
34 Interstate Commission may deem appropriate. The executive director
35 shall serve as secretary to the Interstate Commission, but shall not be a
36 Member of the Interstate Commission. The executive director shall
37 hire and supervise such other persons as may be authorized by the
38 Interstate Commission.

39 D. The Interstate Commission's executive director and its employees shall be
40 immune from suit and liability, either personally or in their official capacity, for a claim
41 for damage to or loss of property or personal injury or other civil liability caused or
42 arising out of or relating to an actual or alleged act, error, or omission that occurred, or
43 that such person had a reasonable basis for believing occurred, within the scope of
44 Interstate Commission employment, duties, or responsibilities; provided, that such

1 person shall not be protected from suit or liability for damage, loss, injury, or liability
2 caused by the intentional or willful and wanton misconduct of such person.

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

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

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

ARTICLE XII

RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

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

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

ARTICLE XIII

OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

A. Oversight

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

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

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

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

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

41 2. Provide remedial training and specific technical assistance regarding
42 the default.

43 3. If the defaulting state fails to cure the default, the defaulting state shall
44 be terminated from the compact upon an affirmative vote of a majority

1 of the member states and all rights, privileges and benefits conferred
2 by this compact shall be terminated from the effective date of
3 termination. A cure of the default does not relieve the offending state
4 of obligations or liabilities incurred during the period of the default.

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

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

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

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

25 C. Dispute Resolution

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

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

32 D. Enforcement

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

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

- 1 3. The remedies herein shall not be the exclusive remedies of the
2 Interstate Commission. The Interstate Commission may avail itself of
3 any other remedies available under state law or the regulation of a
4 profession.

5 ARTICLE XIV

6 FINANCING OF THE INTERSTATE COMMISSION

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

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

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

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

25 ARTICLE XV

26 MEMBER STATES, EFFECTIVE DATE AND AMENDMENT

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

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

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

39 ARTICLE XVI

40 WITHDRAWAL AND DISSOLUTION

41 A. Withdrawal

- 42 1. Once effective, the compact shall continue in force and remain binding
43 upon each and every member state; provided that a member state may

- 1 withdraw from the compact by specifically repealing the statute, which
- 2 enacted the compact into law.
- 3 2. Withdrawal from this compact shall be by the enactment of a statute
- 4 repealing the same, but shall not take effect until one (1) year after the
- 5 effective date of such statute and until written notice of the withdrawal
- 6 has been given by the withdrawing state to the Governor of each other
- 7 member jurisdiction.
- 8 3. The withdrawing state shall immediately notify the chairperson of the
- 9 Interstate Commission in writing upon the introduction of legislation
- 10 repealing this compact in the withdrawing state. The Interstate
- 11 Commission shall notify the other member states of the withdrawing
- 12 state's intent to withdraw within sixty (60) days of its receipt thereof.
- 13 4. The withdrawing state is responsible for all assessments, obligations
- 14 and liabilities incurred through the effective date of withdrawal,
- 15 including obligations, the performance of which extend beyond the
- 16 effective date of withdrawal.
- 17 5. Reinstatement following withdrawal of a member state shall occur
- 18 upon the withdrawing state reenacting the compact or upon such later
- 19 date as determined by the Interstate Commission.

B. Dissolution of Compact

- 20
- 21 1. This compact shall dissolve effective upon the date of the withdrawal
- 22 or default of the member state which reduces the membership in the
- 23 compact to one (1) member state.
- 24 2. Upon the dissolution of this compact, the compact becomes null and
- 25 void and shall be of no further force or effect, and the business and
- 26 affairs of the Interstate Commission shall be concluded and surplus
- 27 funds shall be distributed in accordance with the bylaws.

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

- 30 A. The provisions of this compact shall be severable, and if any phrase, clause,
- 31 sentence or provision is deemed unenforceable, the remaining provisions of the compact
- 32 shall be enforceable.
- 33 B. The provisions of this compact shall be liberally construed to effectuate its
- 34 purposes.
- 35 C. Nothing in this compact shall be construed to prohibit the applicability of
- 36 other interstate compacts to which the states are members.

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A Other Laws

- 39
- 40 1. Nothing herein prevents the enforcement of any other law of a member
- 41 state that is not inconsistent with this compact.
- 42 2. All member states' laws conflicting with this compact are superseded
- 43 to the extent of the conflict.

B. Binding Effect of the Compact

- 1 1. All lawful actions of the Interstate Commission, including all rules and
2 bylaws promulgated by the Interstate Commission, are binding upon
3 the member states.
- 4 2. All agreements between the Interstate Commission and the member
5 states are binding in accordance with their terms.
- 6 3. In the event any provision of this compact exceeds the constitutional
7 limits imposed on the legislature of any member state, such provision
8 shall be ineffective to the extent of the conflict with the constitutional
9 provision in question in that member state.

10 **"§ 115C-407.5. Creation of a State Council.**

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

21 **"§ 115C-407.6. 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.** There is appropriated from the General Fund to the
25 Department of Public Instruction the sum of fifty-eight thousand six hundred thirty-six
26 dollars (\$58,636) for the 2008-2009 fiscal year for administrative costs related to the
27 Interstate Compact on Educational Opportunity for Military Children.

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