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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.

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

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

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

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

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

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

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

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

32 ARTICLE III.

33 APPLICABILITY.

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

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

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

1 enter the school in the receiving state on their validated level from an accredited school
2 in the sending state.

3 ARTICLE V.

4 PLACEMENT & ATTENDANCE.

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

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

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

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

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

ARTICLE VI.
ELIGIBILITY.

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

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

ARTICLE VII.
GRADUATION.

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

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

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

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

ARTICLE VIII.
STATE COORDINATION.

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

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

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

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

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

17 ARTICLE IX

18 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR
19 MILITARY CHILDREN

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

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

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

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

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

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

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

42 C. Consist of ex-officio, non-voting representatives who are members of
43 interested organizations. Such ex-officio members, as defined in the bylaws, may
44 include but not be limited to, members of the representative organizations of military

1 family advocates, local education agency officials, parent and teacher groups, the U.S.
2 Department of Defense, the Education Commission of the States, the Interstate
3 Agreement on the Qualification of Educational Personnel and other interstate compacts
4 affecting the education of children of military members.

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

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

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

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

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

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

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

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

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

18 ARTICLE X.

19 POWERS AND DUTIES OF THE INTERSTATE COMMISSION.

20 The Interstate Commission shall have the following powers:

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

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

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

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

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

36 F. To purchase and maintain insurance and bonds.

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

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

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

1 programs relating to conflicts of interest, rates of compensation, and qualifications of
2 personnel.

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

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

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

9 M. To establish a budget and make expenditures.

10 N. To adopt a seal and bylaws governing the management and operation of the
11 Interstate Commission.

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

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

19 Q. To establish uniform standards for the reporting, collecting and exchanging of
20 data.

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

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

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

26 ARTICLE XI

27 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

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

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

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

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

41 5. Establishing the titles and responsibilities of the officers and staff of
42 the Interstate Commission;

43 6. Providing a mechanism for concluding the operations of the Interstate
44 Commission and the return of surplus funds that may exist upon the

1 termination of the compact after the payment and reserving of all of its
2 debts and obligations.

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

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

13 C. Executive Committee, Officers and Personnel

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

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

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

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

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

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

43 1. The liability of the Interstate Commission's executive director and
44 employees or Interstate Commission representatives, acting within the

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

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

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

33 ARTICLE XII

34 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

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

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

1 termination. A cure of the default does not relieve the offending state
2 of obligations or liabilities incurred during the period of the default.

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

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

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

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

23 C. Dispute Resolution

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

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

30 D. Enforcement

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

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

43 3. The remedies herein shall not be the exclusive remedies of the
44 Interstate Commission. The Interstate Commission may avail itself of

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

B. Dissolution of Compact

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

ARTICLE XVII

SEVERABILITY AND CONSTRUCTION

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

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

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

ARTICLE XVIII

BINDING EFFECT OF COMPACT AND OTHER LAWS

A Other Laws

- 1. Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.
- 2. All member states' laws conflicting with this compact are superseded 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-407.6. 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-407.7. Appointment of compact commissioner.**

22 As required by Article VIII of the compact, the Governor shall appoint as compact
23 commissioner a licensed North Carolina attorney who represents at least one local board
24 of education, with preference given to an attorney representing a local board of
25 education with a high concentration of military children or an attorney familiar with
26 military issues. The compact commissioner shall be responsible for the administration
27 and management of the State's participation in the compact.

28 **"§ 115C-407.8. Effective date of compact.**

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

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

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

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

41 For purposes of this sub-subdivision, the term "active duty" does not
42 include periods of active duty for training for less than 30 days.
43 Assignment under this sub-subdivision is only available if some

1 evidence of the deployment is tendered with the affidavits required
2 under subdivision (3) of this subsection."

3 **SECTION 3.** It is the goal of the General Assembly to ensure that
4 low-wealth schools are enabled to administer and comply with the requirements of the
5 Interstate Compact on Educational Opportunity for Military Children. It is the intent of
6 the General Assembly to appropriate funds in the sum of twenty-five thousand dollars
7 (\$25,000) annually to the Department of Public Instruction to offset costs for
8 low-wealth schools for administration of the Interstate Compact on Educational
9 Opportunity for Military Children, beginning with the 2009-2010 school year or the
10 enactment of the compact, whichever occurs later.

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