

GENERAL ASSEMBLY OF NORTH CAROLINA  
SESSION 2007

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HOUSE DRH30704-LE-383D (5/9)

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

Sponsors: Representatives Dickson, Martin, Glazier, and Underhill (Primary Sponsors).

Referred to:

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

4 The General Assembly of North Carolina enacts:

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

7 "Article 29B.

8 "Interstate Compact on Educational Opportunity for Military Children.

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

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

14 ARTICLE I.

15 PURPOSE.

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

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

23 B. Facilitating the student placement process through which children of military  
24 families are not disadvantaged by variations in attendance requirements, scheduling,  
25 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           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           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 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 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.

20 B. Dissolution of Compact

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.

28 ARTICLE XVII

29 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.

37 ARTICLE XVIII

38 BINDING EFFECT OF COMPACT AND OTHER LAWS

39 A Other Laws

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.

44 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.