

JAN 21 2011

A BILL FOR AN ACT

RELATING TO THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY
FOR MILITARY CHILDREN.

BE IT ENACTED BY THE LEGISLATURE OF THE STATE OF HAWAII:

1 SECTION 1. Act 152, Session Laws of Hawaii 2009, is
2 amended by amending section 1 to read as follows:

3 "SECTION 1. The Hawaii Revised Statutes is amended by
4 adding a new chapter to be appropriately designated and to read
5 as follows:

6 "CHAPTER

7 INTERSTATE COMPACT ON EDUCATIONAL
8 OPPORTUNITY FOR MILITARY CHILDREN

9 § -1 **Enactment of compact.** The interstate compact on
10 educational opportunity for military children is hereby enacted
11 into law and entered into by the State of Hawaii as a party, and
12 is in full force and effect between the State and any other
13 state joining therein in accordance with the terms of the
14 compact, which compact is substantially as follows:

15 ARTICLE I

16 PURPOSE



1 The purpose of this compact is to remove barriers to
2 educational success imposed on children of military families
3 because of frequent moves and deployment of their parents by:

4 (1) Facilitating the timely enrollment of children of
5 military families and ensuring that they are not
6 placed at a disadvantage due to difficulty in the
7 transfer of education records from the previous school
8 district or variations in entrance and age
9 requirements;

10 (2) Facilitating the student placement process through
11 which children of military families are not
12 disadvantaged by variations in attendance
13 requirements, scheduling, sequencing, grading, course
14 content, or assessment;

15 (3) Facilitating the qualification and eligibility for
16 enrollment, educational programs, and participation in
17 extracurricular academic, athletic, and social
18 activities;

19 (4) Facilitating the on-time graduation of children of
20 military families;



- 1 (5) Providing for the adoption and enforcement of
2 administrative rules implementing the provisions of
3 this compact;
- 4 (6) Providing for the uniform collection and sharing of
5 information between and among member states, schools,
6 and military families under this compact;
- 7 (7) Promoting coordination between this compact and other
8 compacts affecting military children; and
- 9 (8) Promoting flexibility and cooperation between the
10 educational system, parents, and the student to
11 achieve educational success for the student.

12 **ARTICLE II**

13 **DEFINITIONS**

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

16 "Active duty" means full-time duty status in the active
17 uniformed service of the United States, including members of the
18 national guard and reserve on active duty orders pursuant to 10
19 United States Code Section 101(d)(1) and Section 101(d)(6)(A).

20 "Appropriate education agency" means a public authority
21 legally constituted by a state as an administrative agency to



1 provide control of and direction for kindergarten through
2 twelfth grade public educational institutions.

3 "Children of military families" means school-aged children,
4 enrolled in kindergarten through twelfth grade, in the
5 households of active duty members.

6 "Compact" means the interstate compact on educational
7 opportunity for military children.

8 "Compact commissioner" means the voting representative of
9 each compacting state appointed pursuant to article VIII of this
10 compact.

11 "Deployment" means the period of [~~one month~~] three months
12 prior to the service members' departure from their home station
13 on military orders through six months after return to their home
14 station.

15 "Education records" means those official records, files,
16 and data directly related to a student and maintained by the
17 school or appropriate education agency, including records
18 encompassing all the material kept in the student's cumulative
19 folder such as general identifying data, records of attendance
20 and of academic work completed, records of achievement and
21 results of evaluative tests, health data, disciplinary status,
22 test protocols, and individualized education programs.



1 "Extracurricular activities" means a voluntary activity
2 sponsored by the school or appropriate education agency or an
3 organization sanctioned by the appropriate education agency.

4 Extracurricular activities include preparation for and
5 involvement in public performances, contests, athletic
6 competitions, demonstrations, displays, and club activities.

7 "Interstate commission on educational opportunity for
8 military children" or "interstate commission" means the
9 commission that is created under article IX of this compact.

10 "Local education agency" means a public authority legally
11 constituted by a state as an administrative agency to provide
12 control of and direction for kindergarten through twelfth grade
13 public educational institutions.

14 "Member state" means a state that has enacted this compact.

15 "Military installation" means a base, camp, post, station,
16 yard, center, homeport facility for any ship, or other activity
17 under the jurisdiction of the United States Department of
18 Defense, including any leased facility, which is located within
19 any of the several states, the District of Columbia, the
20 Commonwealth of Puerto Rico, the United States Virgin Islands,
21 Guam, American Samoa, the Northern Marianas Islands, and any
22 other United States territory. The term shall not include any



1 facility used primarily for civil works, rivers and harbors
2 projects, or flood control projects.

3 "Non-member state" means a state that has not enacted this
4 compact.

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

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

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

19 "State" means a state of the United States, the District of
20 Columbia, the Commonwealth of Puerto Rico, the United States
21 Virgin Islands, Guam, American Samoa, the Northern Marianas
22 Islands, and any other United States territory.



1 "Student" means the child of a military family for whom the
2 local education agency receives public funding and who is
3 formally enrolled in kindergarten through twelfth grade.

4 "Student financial obligation" means any unpaid or
5 outstanding fines or fees.

6 [~~"Test period" means the date(s) in which schools are~~
7 ~~conducting testing, assessments, or both, that are required by~~
8 ~~federal or state laws.~~]

9 "Transition" means the formal and physical process of
10 transferring from school to school, or the period of time in
11 which a student moves from one school in the sending state to
12 another school in the receiving state.

13 "Uniformed service" means the Army, Navy, Air Force, Marine
14 Corps, Coast Guard as well as the Commissioned Corps of the
15 National Oceanic and Atmospheric Administration, and Public
16 Health Services.

17 "Veteran" means a person who served in the uniformed
18 services and who was discharged or released therefrom under
19 honorable conditions.

20 **ARTICLE III**

21 **APPLICABILITY**

22 (a) Except as otherwise provided in subsection (b), this



1 compact shall apply to the children of:

2 (1) Active duty members of the uniformed services as
3 defined in this compact, including members of the
4 national guard and military reserves on active duty
5 orders pursuant to 10 United States Code Section
6 101(d)(1) and Section 101(d)(6)(A);

7 (2) Members or veterans of the uniformed services who are
8 severely injured and medically discharged or retired,
9 for a period of one year after medical discharge or
10 retirement; and

11 (3) Members of the uniformed services who die while on
12 active duty or as a result of injuries sustained while
13 on active duty, for a period of one year after death.

14 (b) This interstate compact shall only apply to
15 appropriate education agencies as defined in this compact.

16 (c) The provisions of this compact shall not apply to the
17 children of:

18 (1) Inactive members of the national guard and military
19 reserves;

20 (2) Members of the uniformed services now retired, except
21 as provided in subsection (a);



- 1 (3) Veterans of the uniformed services, except as provided
- 2 in subsection (a); and
- 3 (4) Other United States Department of Defense personnel
- 4 and other federal agency civilian and contract
- 5 employees not defined as active duty members of the
- 6 uniformed services.

7 **ARTICLE IV**

8 **EDUCATIONAL RECORDS AND ENROLLMENT**

9 (a) Unofficial or "hand-carried" education records. If
10 official education records cannot be released to the parents for
11 the purpose of transfer, the custodian of the records in the
12 sending state shall prepare and furnish to the parent a complete
13 set of unofficial education records containing uniform
14 information as determined by the interstate commission. [The
15 ~~unofficial education records shall only be furnished to the~~
16 ~~parents if all student financial obligations have been met.]~~
17 Upon receipt of the unofficial education records by a school in
18 the receiving state, the school shall enroll and appropriately
19 place the student based on the information provided in the
20 unofficial records pending validation by the official records,
21 as quickly as possible.



1 (b) Official education records and transcripts.
2 Simultaneous with the enrollment and conditional placement of
3 the student, the school in the receiving state shall request the
4 student's official education record from the school in the
5 sending state. Upon receipt of this request, the school in the
6 sending state will process and furnish the official education
7 records to the school in the receiving state within ten business
8 days or within such time as is reasonably determined under the
9 rules promulgated by the interstate commission. [~~The official~~
10 ~~education records shall only be furnished to the parents if all~~
11 ~~student financial and school obligations have been met.~~]

12 (c) Immunizations. Compacting states shall give thirty
13 days from the date of enrollment or within such time as is
14 reasonably determined under the rules promulgated by the
15 interstate commission, for students to obtain any immunizations
16 required by the receiving state. For a series of immunizations,
17 initial vaccinations shall be obtained within thirty days or
18 within such time as is reasonably determined under the rules
19 promulgated by the interstate commission. This section shall
20 not prohibit state department of health requirements concerning
21 tuberculosis examinations.



1 (d) Kindergarten and first grade entrance age. Students
2 ~~may~~ shall continue their enrollment at grade level in the
3 receiving state commensurate with their grade level (including
4 kindergarten) from an appropriate education agency in the
5 sending state at the time of transition, regardless of age. A
6 student that has satisfactorily completed the prerequisite grade
7 level in the appropriate education agency in the sending state
8 shall be eligible for enrollment in the next higher grade level
9 in the receiving state, regardless of age. A student
10 transferring after the start of the school year in the receiving
11 state shall enter the school in the receiving state on their
12 validated level from an accredited school in the sending state.

13 ARTICLE V

14 PLACEMENT AND ATTENDANCE

15 (a) Course placement. If the student transfers before or
16 during the school year, the receiving state school shall
17 initially honor placement of the student in educational courses
18 based on the student's enrollment in the sending state school or
19 educational assessments conducted at the school in the sending
20 state if the courses are offered or both; provided that these
21 programs exist in the receiving state school [~~and space is~~
22 ~~available as determined by the principal~~]. If space is limited,



1 the receiving state school shall accommodate the student as a
2 continuing student, to the best of the school's ability. If
3 space is not available, the receiving state school shall provide
4 an appropriate alternative educational experience such as by
5 providing similar courses or on-line courses. Course placement
6 includes honors, international baccalaureate, advanced
7 placement, vocational, technical, and career pathways courses.
8 Continuing the student's academic program from the previous
9 school in a timely manner and promoting placement in
10 academically and career challenging courses should be paramount
11 when considering placement. This subsection shall not preclude
12 the school in the receiving state from performing subsequent
13 evaluations to ensure appropriate placement and continued
14 enrollment of the student in the course.

15 (b) Educational program placement. The receiving state
16 school shall initially honor placement of the student in
17 educational programs based on current educational assessments
18 conducted at the school in the sending state or participation
19 and placement in like programs in the sending state; provided
20 that these programs exist in the receiving state school [~~and~~
21 ~~space is available as determined by the principal~~]. The
22 programs include gifted and talented programs and English as a



1 second language programs. This subsection shall not preclude
2 the school in the receiving state from performing subsequent
3 evaluations to ensure appropriate placement of the student.

4 (c) Special education services.

5 (1) In compliance with the federal requirements of the
6 Individuals with Disabilities Education Act (IDEA), 20
7 U.S.C. Section 1400 et seq., the receiving state shall
8 initially provide comparable services to a student
9 with disabilities based on the student's current
10 individualized education program.

11 (2) In compliance with the requirements of Section 504 of
12 the Rehabilitation Act, 29 U.S.C.A. Section 794, and
13 with Title II of the Americans with Disabilities Act,
14 42 U.S.C.A. Sections 12131-12165, the receiving state
15 shall make reasonable accommodations and modifications
16 to address the needs of incoming students with
17 disabilities, subject to an existing 504 or Title II
18 Plan, to provide the student with equal access to
19 education. This paragraph shall not preclude the
20 school in the receiving state from performing
21 subsequent evaluations to ensure appropriate placement
22 of the student.



1 (d) Placement flexibility. Appropriate education agency
2 administrative officials shall have flexibility in waiving a
3 course or program prerequisites, or other precondition for
4 placement in courses or programs offered under the jurisdiction
5 of the appropriate education agency.

6 (e) Absence as related to deployment activities. A
7 student whose parent or legal guardian is an active duty member
8 of the uniformed services, as defined by the compact, and has
9 been called to duty for, is on leave from, or immediately
10 returned from deployment to a combat zone or combat support
11 posting, shall be granted additional excused absences at the
12 discretion of the appropriate education agency superintendent to
13 visit with the student's parent or legal guardian relative to
14 such leave or deployment of the parent or guardian. [~~This~~
15 ~~subsection shall not require excused absences to be granted~~
16 ~~during test periods.~~]

17 **ARTICLE VI**

18 **ELIGIBILITY**

19 (a) Eligibility for enrollment.

20 (1) Special power of attorney, relating to the
21 guardianship of a child of a military family and
22 executed under applicable law, shall be sufficient for



1 the purposes of enrollment and all other actions
2 requiring parental participation and consent.

3 (2) The appropriate education agency shall be prohibited
4 from charging local tuition to a transitioning
5 military child placed in the care of a non-custodial
6 parent or other person standing in loco parentis who
7 lives in a jurisdiction other than that of the
8 custodial parent.

9 (3) A transitioning military child, placed in the care of
10 a non-custodial parent or other person standing in
11 loco parentis who lives in a jurisdiction other than
12 that of the custodial parent, may continue to attend
13 the school in which the child was permanently enrolled
14 while residing with the custodial parent. Upon the
15 return of the custodial parent, the child shall be
16 allowed to finish the school year in the school
17 currently enrolled, but shall enroll in the school
18 within the jurisdiction of the custodial parent during
19 the following school year.

20 (b) Eligibility for extracurricular participation. State
21 education agencies and appropriate education agencies shall
22 facilitate the opportunity for transitioning military children's



1 inclusion in extracurricular activities, regardless of
2 application deadlines, to the extent the children are otherwise
3 qualified and space is available in the receiving state school
4 as determined by the principal.

5 **ARTICLE VII**

6 **GRADUATION**

7 To facilitate the on-time graduation of children of
8 military families, state and appropriate education agencies
9 shall incorporate the following procedures:

- 10 (1) Waiver requirements. Appropriate education agency
11 administrative officials [~~may~~] shall waive specific
12 courses required for graduation if similar coursework
13 has been satisfactorily completed in another
14 appropriate education agency or shall provide
15 reasonable justification for denial. If a waiver is
16 not granted to a student who would qualify to graduate
17 from the sending school, the appropriate education
18 agency shall provide an alternative means of acquiring
19 required coursework so that graduation may occur on
20 time. This section shall not obligate the school or
21 appropriate education agency to pay for an online
22 course if funding is unavailable.



- 1 (2) Exit exams. For students entering high school in the
2 eleventh or twelfth grade, states shall accept:
3 (A) Exit or end-of-course exams required for
4 graduation from the sending state;
5 (B) National norm-referenced achievement tests; or
6 (C) Alternative testing, in lieu of testing
7 requirements for graduation in the receiving
8 state.

9 If subparagraphs (A), (B), and (C) cannot be
10 accommodated by the receiving state for a student
11 transferring in student's senior year, then paragraph
12 (3) shall apply.

- 13 (3) Transfers during senior year. If a military student
14 transferring at the beginning or during the senior
15 year is ineligible to graduate from the receiving
16 appropriate education agency after all alternatives
17 have been considered, the sending and receiving
18 appropriate education agencies shall ensure the
19 receipt of a diploma from the sending appropriate
20 education agency, if the student meets the graduation
21 requirements of the sending appropriate education
22 agency. If one of the states in question is not a



1 member of this compact, the member state shall use
2 best efforts to facilitate the on-time graduation of
3 the student in accordance with paragraphs (1) and (2)
4 of this article. This paragraph permits but shall not
5 require a sending state to deny a diploma to a student
6 transferring to a receiving state with an exit exam
7 requirement if the student does not meet the
8 graduation requirements of the appropriate education
9 agency of the sending state.

10 **ARTICLE VIII**

11 **STATE COORDINATION**

12 (a) Each member state, through the creation of a state
13 council or use of an existing body or board, shall provide for
14 the coordination among its agencies of government, appropriate
15 education agencies, and military installations concerning the
16 state's participation in, and compliance with, this compact and
17 interstate commission activities. While each member state may
18 determine the membership of its state council, its membership
19 shall include at least the state superintendent of education,
20 superintendent of a school district with a high concentration of
21 military children, representative from a military installation,
22 one representative each from the legislative and executive



1 branches of government, and other offices and stakeholder groups
2 the state council deems appropriate. A member state that does
3 not have a school district deemed to contain a high
4 concentration of military children may appoint a superintendent
5 from another school district to represent appropriate education
6 agencies on the state council.

7 (b) The state council of each member state shall appoint
8 or designate a military family education liaison to assist
9 military families and the state in facilitating the
10 implementation of this compact.

11 (c) The compact commissioner responsible for the
12 administration and management of the state's participation in
13 the compact shall be recommended by the superintendent of
14 education with the approval of the board of education.

15 (d) The compact commissioner and the military family
16 education liaison designated herein shall be ex-officio members
17 of the state council, unless either is already a full voting
18 member of the state council.

19 **ARTICLE IX**

20 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

21 **FOR MILITARY CHILDREN**



1 (a) The member states hereby create the "interstate
2 commission on educational opportunity for military children".
3 The activities of the interstate commission are the formation of
4 public policy and are a discretionary state function. The
5 interstate commission shall:

6 (1) Be a body corporate and joint agency of the member
7 states and shall have all the responsibilities,
8 powers, and duties set forth herein, and such
9 additional powers as may be conferred upon it by a
10 subsequent concurrent action of the respective
11 legislatures of the member states in accordance with
12 the terms of this compact;

13 (2) Consist of one interstate commission voting
14 representative from each member state who shall be
15 that state's compact commissioner.

16 (A) Each member state represented at a meeting of the
17 interstate commission is entitled to one vote.

18 (B) A majority of the total member states shall
19 constitute a quorum for the transaction of
20 business, unless a larger quorum is required by
21 the bylaws of the interstate commission.



- 1 (C) A representative shall not delegate a vote to
2 another member state. In the event the compact
3 commissioner is unable to attend a meeting of the
4 interstate commission, the governor or state
5 council may delegate voting authority to another
6 person from their state for a specified meeting.
- 7 (D) The bylaws may provide for meetings of the
8 interstate commission to be conducted by
9 telecommunication or electronic communication;
- 10 (3) Include ex-officio, non-voting representatives who are
11 members of interested organizations. The ex-officio
12 members, as defined in the bylaws, may include members
13 of the representative organizations of military family
14 advocates, appropriate education agency officials,
15 parent and teacher groups, the United States
16 Department of Defense, the Education Commission of the
17 States, the Interstate Agreement on the Qualification
18 of Educational Personnel, and other interstate
19 compacts affecting the education of children of
20 military members;
- 21 (4) Meet at least once each calendar year. The
22 chairperson may call additional meetings and, upon the



1 request of a simple majority of the member states,
2 shall call additional meetings;

- 3 (5) Establish an executive committee, whose members shall
4 include the officers of the interstate commission and
5 such other members of the interstate commission as
6 determined by the bylaws. Members of the executive
7 committee shall serve a one-year term. Members of the
8 executive committee shall be entitled to one vote
9 each. The executive committee shall have the power to
10 act on behalf of the interstate commission, with the
11 exception of rulemaking, during periods when the
12 interstate commission is not in session. The
13 executive committee shall oversee the day-to-day
14 activities of the administration of the compact,
15 including enforcement and compliance with the
16 provisions of the compact, its bylaws and rules, and
17 other such duties as deemed necessary. The United
18 States Department of Defense shall serve as an ex-
19 officio, nonvoting member of the executive committee;
- 20 (6) Establish bylaws and rules that provide for conditions
21 and procedures under which the interstate commission
22 shall make its information and official records



1 available to the public for inspection or copying.

2 The interstate commission may exempt from disclosure
3 information or official records to the extent they
4 would adversely affect personal privacy rights or
5 proprietary interests.

6 (b) Public notice shall be given by the interstate
7 commission of all meetings and all meetings shall be open to the
8 public, except as set forth in the rules or as otherwise
9 provided in the compact. The interstate commission and its
10 committees may close a meeting, or portion thereof, where it
11 determines by two-thirds vote that an open meeting would be
12 likely to:

- 13 (1) Relate solely to the interstate commission's internal
14 personnel practices and procedures;
- 15 (2) Disclose matters specifically exempted from disclosure
16 by federal and state statute;
- 17 (3) Disclose trade secrets or commercial or financial
18 information which is privileged or confidential;
- 19 (4) Involve accusing a person of a crime, or formally
20 censuring a person;



- 1 (5) Disclose information of a personal nature where
2 disclosure would constitute a clearly unwarranted
3 invasion of personal privacy;
- 4 (6) Disclose investigative records compiled for law
5 enforcement purposes; or
- 6 (7) Specifically relate to the interstate commission's
7 participation in a civil action or other legal
8 proceeding.
- 9 (c) For a meeting, or portion of a meeting, closed
10 pursuant to subsection (b), the interstate commission's legal
11 counsel or designee shall certify that the meeting may be closed
12 and shall reference each relevant exemptible provision. The
13 interstate commission shall keep minutes which shall fully and
14 clearly describe all matters discussed in a meeting and shall
15 provide a full and accurate summary of actions taken, and the
16 reasons therefor, including a description of the views expressed
17 and the record of roll call votes. All documents considered in
18 connection with an action shall be identified in the minutes.
19 All minutes and documents of a closed meeting shall remain under
20 seal, subject to release by a majority vote of the interstate
21 commission.



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

10 (e) The interstate commission shall create a process that
11 permits military officials, education officials, and parents to
12 inform the interstate commission if and when there are alleged
13 violations of the compact or its rules or when issues subject to
14 the jurisdiction of the compact or its rules are not addressed
15 by the state or appropriate education agency. This section
16 shall not be construed to create a private right of action
17 against the interstate commission, any member state, or any
18 state education agency or appropriate education agency.

19 **ARTICLE X**

20 **POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

21 The interstate commission shall have the following powers:

22 (1) To provide for dispute resolution among member states;



- 1 (2) To promulgate rules and take all necessary actions to
2 effect the goals, purposes, and obligations as
3 enumerated in this compact. The rules shall have the
4 force and effect of statutory law and shall be binding
5 in the compact states to the extent and in the manner
6 provided in this compact;
- 7 (3) To issue, upon request of a member state, advisory
8 opinions concerning the meaning or interpretation of
9 the interstate compact, its bylaws, rules, and
10 actions;
- 11 (4) To enforce compliance with the compact provisions, the
12 rules promulgated by the interstate commission, and
13 the bylaws, use all necessary and proper means,
14 including the use of judicial process. Any action to
15 enforce compliance with the compact provisions by the
16 interstate commission shall be brought against a
17 member state only;
- 18 (5) To establish and maintain offices which shall be
19 located within one or more of the member states;
- 20 (6) To purchase and maintain insurance and bonds;
- 21 (7) To borrow, accept, hire, or contract for services of
22 personnel;



- 1 (8) To establish and appoint committees including an
2 executive committee as required by article IX,
3 subsection (a), paragraph (5), which shall have the
4 power to act on behalf of the interstate commission in
5 carrying out its powers and duties hereunder;
- 6 (9) To elect or appoint such officers, attorneys,
7 employees, agents, or consultants, and to fix their
8 compensation, define their duties, and determine their
9 qualifications; and to establish the interstate
10 commission's personnel policies and programs relating
11 to conflicts of interest, rates of compensation, and
12 qualifications of personnel;
- 13 (10) To accept any and all donations and grants of money,
14 equipment, supplies, materials, and services, and to
15 receive, use, and dispose of it;
- 16 (11) To lease, purchase, accept contributions or donations
17 of, or otherwise to own, hold, improve, or use any
18 property, real, personal, or mixed;
- 19 (12) To sell, convey, mortgage, pledge, lease, exchange,
20 abandon, or otherwise dispose of any property, real,
21 personal, or mixed;
- 22 (13) To establish a budget and make expenditures;



- 1 (14) To adopt a seal and bylaws governing the management
2 and operation of the interstate commission;
- 3 (15) To report annually to the legislatures, governors,
4 judiciary, and state councils of the member states
5 concerning the activities of the interstate commission
6 during the preceding year. The reports shall include
7 any recommendations that may have been adopted by the
8 interstate commission;
- 9 (16) To coordinate education, training, and public
10 awareness regarding the compact, its implementation
11 and operation for officials and parents involved in
12 such activity;
- 13 (17) To establish uniform standards for the reporting,
14 collecting, and exchanging of data;
- 15 (18) To maintain corporate books and records in accordance
16 with the bylaws;
- 17 (19) To perform such functions as may be necessary or
18 appropriate to achieve the purposes of this compact;
19 and
- 20 (20) To provide for the uniform collection and sharing of
21 information between and among member states, schools,
22 and military families under this compact.



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

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

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

17 (c) The executive committee shall have such authority and
18 duties as may be set forth in the bylaws, including:

19 (1) Managing the affairs of the interstate commission in a
20 manner consistent with the bylaws and purposes of the
21 interstate commission;



1 (2) Overseeing an organizational structure within, and
2 appropriate procedures for, the interstate commission
3 to provide for the creation of rules, operating
4 procedures, and administrative and technical support
5 functions; and

6 (3) Planning, implementing, and coordinating
7 communications and activities with other state,
8 federal, and local government organizations to advance
9 the goals of the interstate commission.

10 (d) The executive committee, subject to the approval of
11 the interstate commission, may appoint or retain an executive
12 director for such period, upon such terms and conditions and for
13 such compensation, as the interstate commission may deem
14 appropriate. The executive director shall serve as secretary to
15 the interstate commission, but shall not be a member of the
16 interstate commission. The executive director shall hire and
17 supervise such other persons as may be authorized by the
18 interstate commission.

19 (e) The interstate commission's executive director and its
20 employees shall be immune from suit and liability, either
21 personally or in their official capacity, for a claim for damage
22 to or loss of property or personal injury or other civil



1 liability caused or arising out of or relating to an actual or
2 alleged act, error, or omission that occurred, or that such
3 person had a reasonable basis for believing occurred, within the
4 scope of interstate commission employment, duties, or
5 responsibilities; provided that such person shall not be
6 protected from suit or liability for damage, loss, injury, or
7 liability caused by the intentional or wilful and wanton
8 misconduct of such person.

9 (1) The liability of the interstate commission's executive
10 director and employees or interstate commission
11 representatives, acting within the scope of such
12 person's employment or duties for acts, errors, or
13 omissions occurring within the person's state may not
14 exceed the limits of liability set forth under the
15 constitution and laws of that state for state
16 officials, employees, and agents. The interstate
17 commission is considered to be an instrumentality of
18 the states for the purposes of any such action.
19 Nothing in this paragraph shall be construed to
20 protect such person from suit or liability for damage,
21 loss, injury, or liability caused by the intentional
22 or wilful and wanton misconduct of such person.



1 (2) The interstate commission shall defend the executive
2 director and its employees and, subject to the
3 approval of the attorney general or other appropriate
4 legal counsel of the member state represented by an
5 interstate commission representative, shall defend
6 such interstate commission representative in any civil
7 action seeking to impose liability arising out of an
8 actual or alleged act, error, or omission that
9 occurred within the scope of interstate commission
10 employment, duties, or responsibilities, or that the
11 defendant had a reasonable basis for believing
12 occurred within the scope of interstate commission
13 employment, duties, or responsibilities; provided that
14 the actual or alleged act, error, or omission did not
15 result from intentional or wilful and wanton
16 misconduct on the part of such person.

17 (3) To the extent not covered by the state involved, a
18 member state, the interstate commission, or the
19 representatives or employees of the interstate
20 commission shall be held harmless in the amount of a
21 settlement or judgment, including attorney's fees and
22 costs, obtained against such persons arising out of an



1 actual or alleged act, error, or omission that
2 occurred within the scope of interstate commission
3 employment, duties, or responsibilities, or that such
4 persons had a reasonable basis for believing occurred
5 within the scope of interstate commission employment,
6 duties, or responsibilities; provided that the actual
7 or alleged act, error, or omission did not result from
8 intentional or wilful and wanton misconduct on the
9 part of such persons.

10 (f) The compact commissioner and any person representing
11 the state in the interstate commission, in their individual or
12 official capacity, and the member state, shall be immune from
13 suit and liability caused by or arising out of actions, errors,
14 or omissions of the interstate commission.

15 ARTICLE XII

16 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

17 (a) The interstate commission shall promulgate reasonable
18 rules to effectively and efficiently achieve the purposes of
19 this compact. Notwithstanding the foregoing, in the event the
20 interstate commission exercises its rulemaking authority in a
21 manner that is beyond the scope of the purposes of this compact,



1 then the action by the interstate commission shall be invalid
2 and have no force or effect.

3 (b) Rules shall be made pursuant to a rulemaking process
4 that substantially conforms to the Model State Administrative
5 Procedure Act of 1981, as may be appropriate to the operations
6 of the interstate commission.

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

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

21 **ARTICLE XIII**

22 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**



1 (a) Oversight.

2 (1) The executive, legislative, and judicial branches of
3 state government in each member state shall enforce
4 this compact and shall take all actions necessary and
5 appropriate to effectuate the compact's purposes and
6 intent. The provisions of this compact and the rules
7 adopted hereunder shall have the force and effect of
8 law.

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

15 (3) The interstate commission shall be entitled to receive
16 all service of process in any such proceeding, and
17 shall have standing to intervene in the proceeding for
18 all purposes. Failure to provide service of process
19 to the interstate commission shall render a judgment
20 or order void as to the interstate commission, this
21 compact, or promulgated rules.



1 (b) Default, technical assistance, suspension, and
2 termination. If the interstate commission determines that a
3 member state has defaulted in the performance of its obligations
4 or responsibilities under this compact, or the bylaws or
5 promulgated rules, the interstate commission shall:

6 (1) Provide written notice to the defaulting state and
7 other member states, of the nature of the default, the
8 means of curing the default, and any action taken by
9 the interstate commission. The interstate commission
10 shall specify the conditions by which the defaulting
11 state must cure its default; and

12 (2) Provide remedial training and specific technical
13 assistance regarding the default.

14 (c) If the defaulting state fails to cure the default, the
15 defaulting state shall be terminated from the compact upon an
16 affirmative vote of a majority of the member states and all
17 rights, privileges, and benefits conferred by this compact shall
18 be terminated from the effective date of termination. A cure of
19 the default shall not relieve the offending state of obligations
20 or liabilities incurred during the period of the default.

21 (d) Suspension or termination of membership in the compact
22 shall be imposed only after all other means of securing



1 compliance have been exhausted. Notice of intent to suspend or
2 terminate shall be given by the interstate commission to the
3 governor, the majority and minority leaders of the defaulting
4 state's legislature, and each of the member states.

5 (e) The state which has been suspended or terminated is
6 responsible for all assessments, obligations, and liabilities
7 incurred through the effective date of suspension or termination
8 including obligations, the performance of which extends beyond
9 the effective date of suspension or termination.

10 (f) The interstate commission shall not bear any costs
11 relating to any state that has been found to be in default or
12 which has been suspended or terminated from the compact, unless
13 otherwise mutually agreed upon in writing between the interstate
14 commission and the defaulting state.

15 (g) The defaulting state may appeal the action of the
16 interstate commission by petitioning the United States District
17 Court for the District of Columbia or the federal district where
18 the interstate commission has its principal offices. The
19 prevailing party shall be awarded all costs of such litigation
20 including reasonable attorney's fees.

21 (h) Dispute resolution.



- 1 (1) The interstate commission shall attempt, upon the
2 request of a member state, to resolve disputes which
3 are subject to the compact and which may arise among
4 member states and between member and non-member
5 states.
- 6 (2) The interstate commission shall promulgate rules
7 providing for both mediation and binding dispute
8 resolution for disputes as appropriate.
- 9 (i) Enforcement.
- 10 (1) The interstate commission, in the reasonable exercise
11 of its discretion, shall enforce the provisions and
12 rules of this compact.
- 13 (2) The interstate commission may, by majority vote of the
14 members, initiate legal action in the United States
15 District Court for the District of Columbia or, at the
16 discretion of the interstate commission, in the
17 federal district where the interstate commission has
18 its principal offices, to enforce compliance with the
19 provisions of this compact, its promulgated rules and
20 bylaws, against a member state in default. The relief
21 sought may include both injunctive relief and damages.
22 In the event judicial enforcement is necessary, the



1 prevailing party shall be awarded all costs of such
2 litigation including reasonable attorney's fees.

3 (3) The remedies herein shall not be the exclusive
4 remedies of the interstate commission. The interstate
5 commission may avail itself of any other remedies
6 available under state law or the regulation of a
7 profession.

8 ARTICLE XIV

9 FINANCING OF THE INTERSTATE COMMISSION

10 (a) The interstate commission shall pay, or provide for
11 the payment of, the reasonable expenses of its establishment,
12 organization, and ongoing activities.

13 (b) The interstate commission may levy on and collect an
14 annual assessment from each member state to cover the cost of
15 the operations and activities of the interstate commission and
16 its staff which shall be in a total amount sufficient to cover
17 the interstate commission's annual budget as approved each year.
18 The aggregate annual assessment amount shall be allocated based
19 upon a formula to be determined by the interstate commission,
20 which shall promulgate rules binding upon all member states.

21 (c) The interstate commission shall not incur obligations
22 of any kind prior to securing the funds adequate to meet the



1 same; nor shall the interstate commission pledge the credit of
2 any of the member states, except by and with the authority of
3 the member state.

4 (d) The interstate commission shall keep accurate accounts
5 of all receipts and disbursements. The receipts and
6 disbursements of the interstate commission shall be subject to
7 the audit and accounting procedures established under its
8 bylaws. All receipts and disbursements of funds handled by the
9 interstate commission shall be audited yearly by a certified or
10 licensed public accountant and the report of the audit shall be
11 included in and become part of the annual report of the
12 interstate commission.

13 **ARTICLE XV**

14 **MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT**

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

16 (b) The compact shall become effective and binding upon
17 legislative enactment of the compact into law by no less than
18 ten of the states. The effective date shall be no earlier than
19 December 1, 2007. Thereafter it shall become effective and
20 binding as to any other member state upon enactment of the
21 compact into law by that state. The governors of non-member
22 states or their designees shall be invited to participate in the



1 activities of the interstate commission on a non-voting basis
2 prior to adoption of the compact by all states.

3 (c) The interstate commission may propose amendments to
4 the compact for enactment by the member states. No amendment
5 shall become effective and binding upon the interstate
6 commission and the member states unless and until it is enacted
7 into law by unanimous consent of the member states.

8 **ARTICLE XVI**

9 **WITHDRAWAL AND DISSOLUTION**

10 (a) Withdrawal.

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

16 (2) Withdrawal from this compact shall be by the enactment
17 of a statute repealing the same, but shall not take
18 effect until one year after the effective date of such
19 statute and until written notice of the withdrawal has
20 been given by the withdrawing state to the governor of
21 each other member state.



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

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

13 (5) Reinstatement following withdrawal of a member state
14 shall occur upon the withdrawing state reenacting the
15 compact or upon such later date as determined by the
16 interstate commission.

17 (b) Dissolution of compact.

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



1 (2) All member states' laws conflicting with this compact
2 shall be superseded to the extent of the conflict.

3 (b) Binding effect of the compact.

4 (1) All lawful actions of the interstate commission,
5 including all rules and bylaws promulgated by the
6 interstate commission, shall be binding upon the
7 member states.

8 (2) All agreements between the interstate commission and
9 the member states shall be binding in accordance with
10 their terms.

11 (3) If any provision of this compact exceeds the
12 constitutional limits imposed on the legislature of
13 any member state, such provision shall be ineffective
14 to the extent of the conflict with the constitutional
15 provision in question in that member state.

16 § -2 **State council.** There is established within the
17 board of education for administrative purposes the state council
18 on educational opportunity for military children. The board of
19 education shall establish the state council, as required by
20 article VIII of the compact. The membership of the state
21 council shall include, at a minimum:



- 1 (1) The superintendent of education or the
2 superintendent's designee;
- 3 (2) The complex area superintendents of the administrative
4 districts that contain the Leilehua, Radford/Moanalua,
5 and Kalaheo school complexes;
- 6 (3) A complex area superintendent from the Leeward
7 district;
- 8 (4) The military liaison from the department of education;
- 9 (5) A uniformed military representative from the United
10 States Pacific Command;
- 11 (6) One [~~installation-level~~] uniformed military
12 representative from a military installation of each
13 branch of service of the Air Force, Army, Marine
14 Corps, Navy, and Coast Guard;
- 15 (7) A representative of the executive branch of
16 government;
- 17 (8) The chairperson of the senate education committee or
18 the chairperson's designee;
- 19 (9) The chairperson of the house education committee or
20 the chairperson's designee; and
- 21 (10) Other offices and stakeholder groups the state council
22 deems necessary.



1 Members of the state council may delegate voting authority to
2 another person for a specified meeting or meetings. The state
3 council shall appoint or designate a military family education
4 liaison to assist military families and the state in
5 facilitating the implementation of this compact. The compact
6 commissioner and the military family education liaison
7 designated herein shall be ex-officio members of the state
8 council, unless either is already a full voting member of the
9 state council.

10 The council shall establish policies and procedures
11 governing its operations but subject to the open meeting
12 requirements of chapter 92.

13 § -3 **Appointment of compact commissioner.** As required
14 by article VIII of the compact, the state superintendent of
15 education shall recommend, with approval of the board of
16 education, the compact commissioner, who shall be responsible
17 for the administration and management of the State's
18 participation in the compact."

19 SECTION 2. This Act shall take effect on July 1, 2009[
20 ~~and shall be repealed on July 1, 2011.]~~"]

21 SECTION 2. Statutory material to be repealed is bracketed
22 and stricken. New statutory material is underscored.

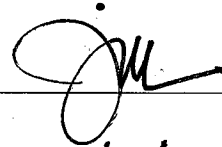


S.B. NO. 813

1 SECTION 3. This Act shall take effect on June 30, 2011.

2

INTRODUCED BY:



Will Espero

Michelle Tedoni

Rosalyn de Bob

Erzanne Chun Oakland



Clarence K. Mishiher





Report Title:

Education; Military Children

Description:

Makes permanent the interstate compact on educational opportunity for military children. Deletes the definition of "test period". Deletes provisions relating to the furnishing of unofficial education records and principal's determination of available space. Clarifies military representation on state council on educational opportunity for military children within BOE.

The summary description of legislation appearing on this page is for informational purposes only and is not legislation or evidence of legislative intent.

