
A BILL FOR AN ACT

RELATING TO INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR
MILITARY CHILDREN.

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

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

4 **"CHAPTER**

5 **INTERSTATE COMPACT ON EDUCATIONAL**

6 **OPPORTUNITY FOR MILITARY CHILDREN**

7 § -1 **Enactment of compact.** The interstate compact on
8 educational opportunity for military children is hereby enacted
9 into law and entered into by the State of Hawaii as a party, and
10 is in full force and effect between the State and any other
11 state joining therein in accordance with the terms of the
12 compact, which compact is substantially as follows:

13 **ARTICLE I**

14 **PURPOSE**

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

- 1 (1) Facilitating the timely enrollment of children of
2 military families and ensuring that they are not
3 placed at a disadvantage due to difficulty in the
4 transfer of education records from the previous school
5 district or variations in entrance and age
6 requirements;
- 7 (2) Facilitating the student placement process through
8 which children of military families are not
9 disadvantaged by variations in attendance
10 requirements, scheduling, sequencing, grading, course
11 content, or assessment;
- 12 (3) Facilitating the qualification and eligibility for
13 enrollment, educational programs, and participation in
14 extracurricular academic, athletic, and social
15 activities;
- 16 (4) Facilitating the on-time graduation of children of
17 military families;
- 18 (5) Providing for the promulgation and enforcement of
19 administrative rules implementing the provisions of
20 this compact;

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

9 **ARTICLE II**

10 **DEFINITIONS**

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

13 "Active duty" means full-time duty status in the active
14 uniformed service of the United States, including members of the
15 national guard and military reserves on active duty orders
16 pursuant to 10 U.S.C. Sections 1209 and 1211.

17 "Appropriate education agency" means a public authority
18 legally constituted by a state as an administrative agency to
19 provide control of and direction for kindergarten through
20 twelfth grade public educational institutions.

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

4 "Compact" means the interstate compact on educational
5 opportunity for military children.

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

9 "Deployment" means the period of one month prior to the
10 service members' departure from their home station on military
11 orders though six months after return to their home station.

12 "Education records" means those official records, files,
13 and data directly related to a student and maintained by the
14 school or appropriate education agency including but not limited
15 to records encompassing all the material kept in the student's
16 cumulative folder such as general identifying data, records of
17 attendance and of academic work completed, records of
18 achievement and results of evaluative tests, health data,
19 disciplinary status, test protocols, and individualized
20 education programs.

21 "Extracurricular activities" means a voluntary activity
22 sponsored by the school or appropriate education agency or an

1 organization sanctioned by the appropriate education agency.
2 Extracurricular activities include but are not limited to
3 preparation for and involvement in public performances,
4 contests, athletic competitions, demonstrations, displays, and
5 club activities.

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

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

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

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

1 primarily for civil works, rivers and harbors projects, or flood
2 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**

1 (a) Except as otherwise provided in subsection (b), this
2 compact shall apply to the children of:

3 (1) Active duty members of the uniformed services as
4 defined in this compact, including members of the
5 national guard and military reserves on active duty
6 orders pursuant to 10 U.S.C. Sections 1209 and 1211;

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 on active
12 duty or as a result of injuries sustained on active
13 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 days or
8 within such time as is reasonably determined under the rules
9 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 must 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 does not
20 prohibit state department of health requirements concerning
21 tuberculosis examinations.

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

ARTICLE V

PLACEMENT AND ATTENDANCE

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

1 includes but is not limited to honors, international
2 baccalaureate, advanced placement, vocational, technical, and
3 career pathways courses. Continuing the student's academic
4 program from the previous school and promoting placement in
5 academically and career challenging courses should be paramount
6 when considering placement. This subsection does not preclude
7 the school in the receiving state from performing subsequent
8 evaluations to ensure appropriate placement and continued
9 enrollment of the student in the course.

10 (b) Educational program placement. The receiving state
11 school shall initially honor placement of the student in
12 educational programs based on current educational assessments
13 conducted at the school in the sending state or participation
14 and placement in like programs in the sending state; provided
15 that these programs exist in the receiving state school and
16 space is available as determined by the principal. The programs
17 include but are not limited to gifted and talented programs and
18 English as a second language programs. This subsection does not
19 preclude the school in the receiving state from performing
20 subsequent evaluations to ensure appropriate placement of the
21 student.

22 (c) Special education services.

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

7 (2) In compliance with the requirements of Section 504 of
8 the Rehabilitation Act, 29 U.S.C.A. Section 794, and
9 with Title II of the Americans with Disabilities Act,
10 42 U.S.C.A. Sections 12131-12165, the receiving state
11 shall make reasonable accommodations and modifications
12 to address the needs of incoming students with
13 disabilities, subject to an existing 504 or Title II
14 Plan, to provide the student with equal access to
15 education. This paragraph shall not preclude the
16 school in the receiving state from performing
17 subsequent evaluations to ensure appropriate placement
18 of the student.

19 (d) Placement flexibility. Appropriate education agency
20 administrative officials shall have flexibility in waiving a
21 course or program prerequisites, or other precondition for

1 placement in courses or programs offered under the jurisdiction
2 of the appropriate education agency.

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

14 ARTICLE VI

15 ELIGIBILITY

16 (a) Eligibility for enrollment.

17 (1) Special power of attorney, relating to the
18 guardianship of a child of a military family and
19 executed under applicable law, shall be sufficient for
20 the purposes of enrollment and all other actions
21 requiring parental participation and consent.

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

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

18 (b) Eligibility for extracurricular participation. State
19 education agencies and appropriate education agencies shall
20 facilitate the opportunity for transitioning military children's
21 inclusion in extracurricular activities, regardless of
22 application deadlines, to the extent the children are otherwise

1 qualified and space is available in the receiving state school
2 as determined by the principal.

3 **ARTICLE VII**

4 **GRADUATION**

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

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

21 (2) Exit exams. For students entering high school in the
22 eleventh or twelfth grade, states shall accept:

- 1 (A) Exit or end-of-course exams required for
2 graduation from the sending state;
3 (B) National norm-referenced achievement tests, or
4 (C) Alternative testing, in lieu of testing
5 requirements for graduation in the receiving
6 state.

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

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

1 the student in accordance with paragraphs (1) and (2)
2 of this article. This paragraph permits but does not
3 require a sending state to deny a diploma to a student
4 transferring to a receiving state with an exit exam
5 requirement if the student does not meet the
6 graduation requirements of the appropriate education
7 agency of the sending state.

8 **ARTICLE VIII**

9 **STATE COORDINATION**

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

1 not have a school district deemed to contain a high
2 concentration of military children may appoint a superintendent
3 from another school district to represent appropriate education
4 agencies on the state council.

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

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

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

17 **ARTICLE IX**

18 **INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY**

19 **FOR MILITARY CHILDREN**

20 (a) The member states hereby create the "interstate
21 commission on educational opportunity for military children".

22 The activities of the interstate commission are the formation of

1 public policy and are a discretionary state function. The
2 interstate commission shall:

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

10 (2) Consist of one interstate commission voting
11 representative from each member state who shall be
12 that state's compact commissioner.

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

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

19 (C) A representative shall not delegate a vote to
20 another member state. In the event the compact
21 commissioner is unable to attend a meeting of the
22 interstate commission, the governor or state

1 council may delegate voting authority to another
2 person from their state for a specified meeting.

3 (D) The bylaws may provide for meetings of the
4 interstate commission to be conducted by
5 telecommunication or electronic communication;

6 (3) Include of ex-officio, non-voting representatives who
7 are members of interested organizations. The
8 ex-officio members, as defined in the bylaws, may
9 include but not be limited to, members of the
10 representative organizations of military family
11 advocates, appropriate education agency officials,
12 parent and teacher groups, the United States
13 Department of Defense, the Education Commission of the
14 States, the Interstate Agreement on the Qualification
15 of Educational Personnel, and other interstate
16 compacts affecting the education of children of
17 military members;

18 (4) Meet at least once each calendar year. The
19 chairperson may call additional meetings and, upon the
20 request of a simple majority of the member states,
21 shall call additional meetings;

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

1 information or official records to the extent they
2 would adversely affect personal privacy rights or
3 proprietary interests.

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

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

1 (6) Disclose investigative records compiled for law
2 enforcement purposes; or

3 (7) Specifically relate to the interstate commission's
4 participation in a civil action or other legal
5 proceeding.

6 (c) For a meeting, or portion of a meeting, closed
7 pursuant to subsection (b), the interstate commission's legal
8 counsel or designee shall certify that the meeting may be closed
9 and shall reference each relevant exemptible provision. The
10 interstate commission shall keep minutes which shall fully and
11 clearly describe all matters discussed in a meeting and shall
12 provide a full and accurate summary of actions taken, and the
13 reasons therefor, including a description of the views expressed
14 and the record of roll call votes. All documents considered in
15 connection with an action shall be identified in the minutes.
16 All minutes and documents of a closed meeting shall remain under
17 seal, subject to release by a majority vote of the interstate
18 commission.

19 (d) The interstate commission shall collect standardized
20 data concerning the educational transition of the children of
21 military families under this compact as directed through its
22 rules which shall specify the data to be collected, the means of

1 collection, and data exchange and reporting requirements. The
2 methods of data collection, exchange, and reporting, as is
3 reasonably possible, shall conform to current technology and
4 coordinate its information functions with the appropriate
5 custodian of records as identified in the bylaws and rules.

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

15 ARTICLE X

16 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

17 The interstate commission shall have the following powers:

- 18 (1) To provide for dispute resolution among member states;
19 (2) To promulgate rules and take all necessary actions to
20 effect the goals, purposes, and obligations as
21 enumerated in this compact. The rules shall have the
22 force and effect of statutory law and shall be binding

1 in the compact states to the extent and in the manner
2 provided in this compact;

3 (3) To issue, upon request of a member state, advisory
4 opinions concerning the meaning or interpretation of
5 the interstate compact, its bylaws, rules, and
6 actions;

7 (4) To enforce compliance with the compact provisions, the
8 rules promulgated by the interstate commission, and
9 the bylaws, use all necessary and proper means,
10 including but not limited to the use of judicial
11 process. Any action to enforce compliance with the
12 compact provisions by the interstate commission shall
13 be brought against a member state only;

14 (5) To establish and maintain offices which shall be
15 located within one or more of the member states;

16 (6) To purchase and maintain insurance and bonds;

17 (7) To borrow, accept, hire, or contract for services of
18 personnel;

19 (8) To establish and appoint committees including but not
20 limited to an executive committee as required by
21 article IX, subsection (a), paragraph (5), which shall
22 have the power to act on behalf of the interstate

1 commission in carrying out its powers and duties
2 hereunder;

3 (9) To elect or appoint such officers, attorneys,
4 employees, agents, or consultants, and to fix their
5 compensation, define their duties, and determine their
6 qualifications; and to establish the interstate
7 commission's personnel policies and programs relating
8 to conflicts of interest, rates of compensation, and
9 qualifications of personnel;

10 (10) To accept any and all donations and grants of money,
11 equipment, supplies, materials, and services, and to
12 receive, utilize, and dispose of it;

13 (11) To lease, purchase, accept contributions or donations
14 of, or otherwise to own, hold, improve, or use any
15 property, real, personal, or mixed;

16 (12) To sell, convey, mortgage, pledge, lease, exchange,
17 abandon, or otherwise dispose of any property, real,
18 personal, or mixed;

19 (13) To establish a budget and make expenditures;

20 (14) To adopt a seal and bylaws governing the management
21 and operation of the interstate commission;

1 (15) To report annually to the legislatures, governors,
2 judiciary, and state councils of the member states
3 concerning the activities of the interstate commission
4 during the preceding year. The reports shall include
5 any recommendations that may have been adopted by the
6 interstate commission;

7 (16) To coordinate education, training, and public
8 awareness regarding the compact, its implementation
9 and operation for officials and parents involved in
10 such activity;

11 (17) To establish uniform standards for the reporting,
12 collecting, and exchanging of data;

13 (18) To maintain corporate books and records in accordance
14 with the bylaws;

15 (19) To perform such functions as may be necessary or
16 appropriate to achieve the purposes of this compact;
17 and

18 (20) To provide for the uniform collection and sharing of
19 information between and among member states, schools,
20 and military families under this compact.

21 **ARTICLE XI**

22 **ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION**

1 (a) The interstate commission, by a majority of the
2 members present and voting, within twelve months after the first
3 interstate commission meeting, shall adopt bylaws to govern its
4 conduct as may be necessary or appropriate to carry out the
5 purposes of the compact including but not limited to:

6 (1) Establishing the fiscal year of the interstate
7 commission;

8 (2) Establishing an executive committee and such other
9 committees as may be necessary;

10 (3) Providing for the establishment of committees and for
11 governing any general or specific delegation of
12 authority or function of the interstate commission;

13 (4) Providing reasonable procedures for calling and
14 conducting meetings of the interstate commission, and
15 ensuring reasonable notice of each such meeting;

16 (5) Establishing the titles and responsibilities of the
17 officers and staff of the interstate commission;

18 (6) Providing a mechanism for concluding the operations of
19 the interstate commission and the return of surplus
20 funds that may exist upon the termination of the
21 compact after the payment and reserving of all of its
22 debts and obligations; and

1 (7) Providing "start up" rules for the initial
2 administration of the compact.

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

15 (c) The executive committee shall have such authority and
16 duties as may be set forth in the bylaws, including but not
17 limited to:

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

21 (2) Overseeing an organizational structure within, and
22 appropriate procedures for, the interstate commission

1 to provide for the creation of rules, operating
2 procedures, and administrative and technical support
3 functions; and

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

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

17 (e) The interstate commission's executive director and its
18 employees shall be immune from suit and liability, either
19 personally or in their official capacity, for a claim for damage
20 to or loss of property or personal injury or other civil
21 liability caused or arising out of or relating to an actual or
22 alleged act, error, or omission that occurred, or that such

1 person had a reasonable basis for believing occurred, within the
2 scope of interstate commission employment, duties, or
3 responsibilities; provided that such person shall not be
4 protected from suit or liability for damage, loss, injury, or
5 liability caused by the intentional or wilful and wanton
6 misconduct of such person.

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

21 (2) The interstate commission shall defend the executive
22 director and its employees and, subject to the

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

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

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

8 ARTICLE XII

9 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

10 (a) The interstate commission shall promulgate reasonable
11 rules to effectively and efficiently achieve the purposes of
12 this compact. Notwithstanding the foregoing, in the event the
13 interstate commission exercises its rulemaking authority in a
14 manner that is beyond the scope of the purposes of this compact,
15 then the action by the interstate commission shall be invalid
16 and have no force or effect.

17 (b) Rules shall be made pursuant to a rulemaking process
18 that substantially conforms to the Model State Administrative
19 Rules Act of 1981, as may be appropriate to the operations of
20 the interstate commission.

21 (c) Not later than thirty days after a rule is
22 promulgated, any person may file a petition for judicial review

1 of the rule; provided that the filing of such a petition shall
2 not stay or otherwise prevent the rule from becoming effective
3 unless the court finds that the petitioner has a substantial
4 likelihood of success. The court shall give deference to the
5 actions of the interstate commission consistent with applicable
6 law and shall not find the rule to be unlawful if the rule
7 represents a reasonable exercise of the interstate commission's
8 authority.

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

13 ARTICLE XIII

14 OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION

15 (a) Oversight.

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

1 (2) All courts shall take judicial notice of the compact
2 and the rules in any judicial or administrative
3 proceeding in a member state pertaining to the subject
4 matter of this compact which may affect the powers,
5 responsibilities, or actions of the interstate
6 commission.

7 (3) The interstate commission shall be entitled to receive
8 all service of process in any such proceeding, and
9 shall have standing to intervene in the proceeding for
10 all purposes. Failure to provide service of process
11 to the interstate commission shall render a judgment
12 or order void as to the interstate commission, this
13 compact, or promulgated rules.

14 (b) Default, technical assistance, suspension and
15 termination. If the interstate commission determines that a
16 member state has defaulted in the performance of its obligations
17 or responsibilities under this compact, or the bylaws or
18 promulgated rules, the interstate commission shall:

19 (1) Provide written notice to the defaulting state and
20 other member states, of the nature of the default, the
21 means of curing the default, and any action taken by
22 the interstate commission. The interstate commission

1 shall specify the conditions by which the defaulting
2 state must cure its default; and

3 (2) Provide remedial training and specific technical
4 assistance regarding the default.

5 (c) If the defaulting state fails to cure the default, the
6 defaulting state shall be terminated from the compact upon an
7 affirmative vote of a majority of the member states and all
8 rights, privileges, and benefits conferred by this compact shall
9 be terminated from the effective date of termination. A cure of
10 the default does not relieve the offending state of obligations
11 or liabilities incurred during the period of the default.

12 (d) Suspension or termination of membership in the compact
13 shall be imposed only after all other means of securing
14 compliance have been exhausted. Notice of intent to suspend or
15 terminate shall be given by the interstate commission to the
16 governor, the majority and minority leaders of the defaulting
17 state's legislature, and each of the member states.

18 (e) The state which has been suspended or terminated is
19 responsible for all assessments, obligations, and liabilities
20 incurred through the effective date of suspension or termination
21 including obligations, the performance of which extends beyond
22 the effective date of suspension or termination.

1 (f) The interstate commission shall not bear any costs
2 relating to any state that has been found to be in default or
3 which has been suspended or terminated from the compact, unless
4 otherwise mutually agreed upon in writing between the interstate
5 commission and the defaulting state.

6 (g) The defaulting state may appeal the action of the
7 interstate commission by petitioning the United States District
8 Court for the District of Columbia or the federal district where
9 the interstate commission has its principal offices. The
10 prevailing party shall be awarded all costs of such litigation
11 including reasonable attorney's fees.

12 (h) Dispute resolution.

13 (1) The interstate commission shall attempt, upon the
14 request of a member state, to resolve disputes which
15 are subject to the compact and which may arise among
16 member states and between member and non-member
17 states.

18 (2) The interstate commission shall promulgate rules
19 providing for both mediation and binding dispute
20 resolution for disputes as appropriate.

21 (i) Enforcement.

1 (1) The interstate commission, in the reasonable exercise
2 of its discretion, shall enforce the provisions and
3 rules of this compact.

4 (2) The interstate commission may, by majority vote of the
5 members, initiate legal action in the United States
6 District Court for the District of Columbia or, at the
7 discretion of the interstate commission, in the
8 federal district where the interstate commission has
9 its principal offices, to enforce compliance with the
10 provisions of this compact, its promulgated rules and
11 bylaws, against a member state in default. The relief
12 sought may include both injunctive relief and damages.
13 In the event judicial enforcement is necessary the
14 prevailing party shall be awarded all costs of such
15 litigation including reasonable attorney's fees.

16 (3) The remedies herein shall not be the exclusive
17 remedies of the interstate commission. The interstate
18 commission may avail itself of any other remedies
19 available under state law or the regulation of a
20 profession.

21 **ARTICLE XIV**

22 **FINANCING OF THE INTERSTATE COMMISSION**

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

4 (b) The interstate commission may levy on and collect an
5 annual assessment from each member state to cover the cost of
6 the operations and activities of the interstate commission and
7 its staff which must be in a total amount sufficient to cover
8 the interstate commission's annual budget as approved each year.
9 The aggregate annual assessment amount shall be allocated based
10 upon a formula to be determined by the interstate commission,
11 which shall promulgate rules binding upon all member states.

12 (c) The interstate commission shall not incur obligations
13 of any kind prior to securing the funds adequate to meet the
14 same; nor shall the interstate commission pledge the credit of
15 any of the member states, except by and with the authority of
16 the member state.

17 (d) The interstate commission shall keep accurate accounts
18 of all receipts and disbursements. The receipts and
19 disbursements of the interstate commission shall be subject to
20 the audit and accounting procedures established under its
21 bylaws. All receipts and disbursements of funds handled by the
22 interstate commission shall be audited yearly by a certified or

1 licensed public accountant and the report of the audit shall be
2 included in and become part of the annual report of the
3 interstate commission.

4 ARTICLE XV

5 MEMBER STATES, EFFECTIVE DATE, AND AMENDMENT

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

7 (b) The compact shall become effective and binding upon
8 legislative enactment of the compact into law by no less than
9 ten of the states. The effective date shall be no earlier than
10 December 1, 2007. Thereafter it shall become effective and
11 binding as to any other member state upon enactment of the
12 compact into law by that state. The governors of non-member
13 states or their designees shall be invited to participate in the
14 activities of the interstate commission on a non-voting basis
15 prior to adoption of the compact by all states.

16 (c) The interstate commission may propose amendments to
17 the compact for enactment by the member states. No amendment
18 shall become effective and binding upon the interstate
19 commission and the member states unless and until it is enacted
20 into law by unanimous consent of the member states.

21 ARTICLE XVI

22 WITHDRAWAL AND DISSOLUTION

1 (a) Withdrawal.

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

7 (2) Withdrawal from this compact shall be by the enactment
8 of a statute repealing the same, but shall not take
9 effect until one year after the effective date of such
10 statute and until written notice of the withdrawal has
11 been given by the withdrawing state to the governor of
12 each other member state.

13 (3) The withdrawing state shall immediately notify the
14 chairperson of the interstate commission in writing
15 upon the introduction of legislation repealing this
16 compact in the withdrawing state. The interstate
17 commission shall notify the other member states of the
18 withdrawing state's intent to withdraw within sixty
19 days of its receipt thereof.

20 (4) The withdrawing state is responsible for all
21 assessments, obligations, and liabilities incurred
22 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 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

1 unenforceable, the remaining provisions of the compact shall be
2 enforceable.

3 (b) The provisions of this compact shall be liberally
4 construed to effectuate its purposes.

5 (c) Nothing in this compact shall be construed to prohibit
6 the applicability of other interstate compacts to which the
7 states are members.

8 **ARTICLE XVIII**

9 **BINDING EFFECT OF COMPACT AND OTHER LAWS**

10 (a) Other laws.

11 (1) Nothing herein prevents the enforcement of any other
12 law of a member state that is not inconsistent with
13 this compact.

14 (2) All member states' laws conflicting with this compact
15 are superseded to the extent of the conflict.

16 (b) Binding effect of the compact.

17 (1) All lawful actions of the interstate commission,
18 including all rules and bylaws promulgated by the
19 interstate commission, are binding upon the member
20 states.

Report Title:

Education; Military Children

Description:

Enacts the interstate compact on educational opportunity for military children to remove barriers to educational attainment faced by children of military families due to frequent moves and deployment of parents. (SD1)

1 (2) All agreements between the interstate commission and
2 the member states are binding in accordance with their
3 terms.

4 (3) If any provision of this compact exceeds the
5 constitutional limits imposed on the legislature of
6 any member state, such provision shall be ineffective
7 to the extent of the conflict with the constitutional
8 provision in question in that member state.

9 § -2 **State council.** There is established within the
10 board of education for administrative purposes the state council
11 on educational opportunity for military children. The board of
12 education shall establish the state council, as required by
13 Article VIII of the compact. The membership of the state
14 council shall include, at a minimum, the superintendent of
15 education or the superintendent's designee; the complex area
16 superintendents of the administrative districts that contain the
17 Leilehua, Radford/Moanalua, and Kalaheo school complexes; the
18 military liaison from the department of education; one military
19 representative each from the United States Pacific Command,
20 Schofield Barracks, Naval Base Pearl Harbor, Hickam Air Force
21 Base, and Marine Corps Base Hawaii; a representative from the
22 Coast Guard; a representative of the executive branch of

1 government; the chairperson of the senate education committee or
2 the chairperson's designee; the chairperson of the house
3 education committee or the chairperson's designee; and other
4 offices and stakeholder groups the state council deems
5 necessary. Members of the state council may delegate voting
6 authority to another person for a specified meeting or meetings.
7 The state council shall appoint or designate a military family
8 education liaison to assist military families and the state in
9 facilitating the implementation of this compact. The compact
10 commissioner and the military family education liaison
11 designated herein shall be ex-officio members of the state
12 council, unless either is already a full voting member of the
13 state council.

14 The council shall establish policies and procedures
15 governing its operations without regard to the public notice,
16 public hearing, and the gubernatorial approval requirements of
17 chapter 91, but subject to the open meeting requirements of
18 chapter 92.

19 § -3 **Appointment of compact commissioner.** As required
20 by Article VIII of the compact, the state superintendent of
21 education shall recommend, with approval of the board of
22 education, the compact commissioner, who shall be responsible

1 for the administration and management of the State's
2 participation in the compact."

3 SECTION 2. This Act shall take effect upon its approval.