

JAN 22 2008

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 OPPORTUNITY FOR MILITARY**
6 **CHILDREN**

7 **§ -1 Terms and provisions of compact.** The Interstate
8 Compact on Educational Opportunity for Military Children is
9 hereby entered into and enacted into law with all contracting
10 states joining therein, in the form substantially as follows:

11 **INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY**
12 **CHILDREN**

13 **ARTICLE I**

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

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

6 B. Facilitating the student placement process through which
7 children of military families are not disadvantaged by
8 variations in attendance requirements, scheduling, sequencing,
9 grading, course content or assessment.

10 C. Facilitating the qualification and eligibility for
11 enrollment, educational programs, and participation in
12 extracurricular academic, athletic, and social activities.

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

15 E. Providing for the promulgation and enforcement of
16 administrative rules implementing the provisions of this
17 compact.

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

21 G. Promoting coordination between this compact and other
22 compacts affecting military children.

1 H. Promoting flexibility and cooperation between the
2 educational system, parents and the student in order to achieve
3 educational success for the student.

4 ARTICLE II

5 DEFINITIONS

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

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

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

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

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

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

10 F. "Extracurricular activities" means: a voluntary activity
11 sponsored by the school or local education agency or an
12 organization sanctioned by the local education agency.
13 Extracurricular activities include, but are not limited to,
14 preparation for and involvement in public performances,
15 contests, athletic competitions, demonstrations, displays, and
16 club activities.

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

21 H. "Local education agency" means: a public authority
22 legally constituted by the state as an administrative agency to

1 provide control of and direction for Kindergarten through
2 Twelfth (12th) grade public educational institutions.

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

5 J. "Military installation" means: means a base, camp, post,
6 1 station, yard, center, homeport facility for any ship, or
7 other activity under the jurisdiction of the Department of
8 Defense, including any leased facility, which is located within
9 any of the several States, the District of Columbia, the
10 Commonwealth of Puerto Rico, the U.S. Virgin Islands, Guam,
11 American Samoa, the Northern Marianas Islands and any other U.S.
12 Territory. Such term does not include any facility used
13 primarily for civil works, rivers and harbors projects, or flood
14 control projects.

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

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

20 M. "Rule" means: a written statement by the Interstate
21 Commission promulgated pursuant to Article XII of this compact
22 that is of general applicability, implements, interprets or

1 prescribes a policy or provision of the Compact, or an
2 organizational, procedural, or practice requirement of the
3 Interstate Commission, and has the force and effect of statutory
4 law in a member state, and includes the amendment, repeal, or
5 suspension of an existing rule.

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

9 O. "State" means: a state of the United States, the
10 District 1 of Columbia, the Commonwealth of Puerto Rico, the
11 U.S. Virgin Islands, Guam, American Samoa, the Northern Marianas
12 Islands and any other U.S. Territory.

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

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

20 R. "Uniformed service(s)" means: the Army, Navy, Air Force,
21 Marine Corps, Coast Guard as well as the Commissioned Corps of

1 the National Oceanic and Atmospheric Administration, and Public
2 Health Services.

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

6 ARTICLE III

7 APPLICABILITY

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

10 1. Active duty members of the uniformed services as
11 defined in this compact, including members of the National Guard
12 and Reserve on active duty orders pursuant to 10 U.S.C. Section
13 1209 and 1211;

14 2. Members or veterans of the uniformed services who are
15 severely injured and medically discharged or retired for a
16 period of one (1) year after medical discharge or retirement;
17 and

18 3. Members of the uniformed services who die on active
19 duty or as a result of injuries sustained on active duty for a
20 period of one (1) year after death.

21 B. The provisions of this interstate compact shall only
22 apply to local education agencies as defined in this compact.

1 C. The provisions of this compact shall not apply to the
2 children of:

3 1. Inactive members of the national guard and military
4 reserves;

5 2. Members of the uniformed services now retired, except
6 as provided in Section A;

7 3. Veterans of the uniformed services, except as provided
8 in Section A; and

9 4. Other U.S. Dept. of Defense personnel and other
10 federal agency civilian and contract employees not defined as
11 active duty members of the uniformed services.

12 ARTICLE IV

13 EDUCATIONAL RECORDS & ENROLLMENT

14 A. Unofficial or "hand-carried" education records - In the
15 event that official education records cannot be released to the
16 parents for the purpose of transfer, the custodian of the
17 records in the sending state shall prepare and furnish to the
18 parent a complete set of unofficial educational records
19 containing uniform information as determined by the Interstate
20 Commission. Upon receipt of the unofficial education records by
21 a school in the receiving state, the school shall enroll and
22 appropriately place the student based on the information

1 provided in the unofficial records pending validation by the
2 official records, as quickly as possible.

3 B. Official education records/transcripts - Simultaneous
4 with the enrollment and conditional placement of the student,
5 the school in the receiving state shall request the student's
6 official education record from the school in the sending state.
7 Upon receipt of this request, the school in the sending state
8 will process and furnish the official education records to the
9 school in the receiving state within ten (10) days or within
10 such time as is reasonably determined 1 under the rules
11 promulgated by the Interstate Commission.

12 C. Immunizations - Compacting states shall give thirty (30)
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
16 immunization(s) required by the receiving state. For a series
17 of immunizations, initial vaccinations must be obtained within
18 thirty (30) days or within such time as is reasonably determined
19 under the rules promulgated by the Interstate Commission.

20 D. Kindergarten and First grade entrance age - Students
21 shall be allowed to continue their enrollment at grade level in
22 the receiving state commensurate with their grade level

1 (including Kindergarten) from a local education agency in the
2 sending state at the time of transition, regardless of age. A
3 student that has satisfactorily completed the prerequisite grade
4 level in the local education agency in the sending state shall
5 be eligible for enrollment in the next highest grade level in
6 the receiving state, regardless of age. A student transferring
7 after the start of the school year in the receiving state shall
8 enter the school in the receiving state on their validated level
9 from an accredited school in the sending state.

10 ARTICLE V

11 PLACEMENT & ATTENDANCE

12 A. Course placement - When the student transfers before or
13 during the school year, the receiving state school shall
14 initially honor placement of the student in educational courses
15 based on the student's enrollment in the sending state school
16 and/or educational assessments conducted at the school in the
17 sending state if the courses are offered. Course placement
18 includes but is not limited to Honors, International
19 Baccalaureate, Advanced Placement, vocational, technical and
20 career pathways courses. Continuing the student's academic
21 program from the previous school and promoting placement in
22 academically and career challenging courses should be paramount

1 when considering placement. This does not preclude the school
2 in the receiving state from performing subsequent evaluations to
3 ensure appropriate placement and continued enrollment of the
4 student in the course(s).

5 B. Educational program placement - The receiving state
6 school shall initially honor placement of the student in
7 educational programs based on current educational assessments
8 conducted at the school in the sending state or
9 participation/placement in like programs in the sending state.
10 Such programs include, but are not limited to: 1) gifted and
11 talented programs; and 2) English as a second language (ESL).
12 This does not preclude the school in the receiving state from
13 performing subsequent evaluations to ensure appropriate
14 placement of the student.

15 C. Special education services - 1) In compliance 1 with the
16 federal requirements of the Individuals with Disabilities
17 Education Act (IDEA), 20 U.S.C.A. Section 1400 et seq, the
18 receiving state shall initially provide comparable services to a
19 student with disabilities based on his/her current
20 Individualized Education Program (IEP); and 2) In compliance
21 with the requirements of Section 504 of the Rehabilitation Act,
22 29 U.S.C.A. Section 794, and with Title II of the Americans with

1 Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the
2 receiving state shall make reasonable accommodations and
3 modifications to address the needs of incoming students with
4 disabilities, subject to an existing 504 or Title II Plan, to
5 provide the student with equal access to education. This does
6 not preclude the school in the receiving state from performing
7 subsequent evaluations to ensure appropriate placement of the
8 student.

9 D. Placement flexibility - Local education agency
10 administrative officials shall have flexibility in waiving
11 course/program prerequisites, or other preconditions for
12 placement in courses/programs offered under the jurisdiction of
13 the local education agency.

14 E. Absence as related to deployment activities - A student
15 whose parent or legal guardian is an active duty member of the
16 uniformed services, as defined by the compact, and has been
17 called to duty for, is on leave from, or immediately returned
18 from deployment to a combat zone or combat support posting,
19 shall be granted additional excused absences at the discretion
20 of the local education agency superintendent to visit with his
21 or her parent or legal guardian relative to such leave 1 or
22 deployment of the parent or guardian.

1 ARTICLE VI

2 ELIGIBILITY

3 A. Eligibility for enrollment

4 1. Special power of attorney, relative to the
5 guardianship of a child of a military family and executed under
6 applicable law shall be sufficient for the purposes of
7 enrollment and all other actions requiring parental
8 participation and consent.

9 2. A local education agency shall be prohibited from
10 charging local tuition to a transitioning military child placed
11 in the care of a non-custodial parent or other person standing
12 in loco parentis who lives in a jurisdiction other than that of
13 the custodial parent.

14 3. A transitioning military child, placed in the care of
15 a non-custodial parent or other person standing in loco parentis
16 who lives in a jurisdiction other than that of the custodial
17 parent, may continue to attend the school in which he/she was
18 enrolled while residing with the custodial parent.

19 B. Eligibility for extracurricular participation - State
20 and local education agencies shall facilitate the opportunity
21 for transitioning military children's inclusion in

1 extracurricular activities, regardless of application deadlines,
2 to the extent they are otherwise qualified.

3 ARTICLE VII

4 GRADUATION

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

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

17 B. Exit exams - States shall accept: 1) exit or end-of-
18 course exams required for graduation from the sending state; or
19 2) national norm referenced achievement tests or 3) alternative
20 testing, in lieu of testing requirements for graduation in the
21 receiving state. In the event the above alternatives cannot be
22 accommodated by the receiving state for a student transferring

1 in his or her senior year, then the provisions of Article VII,
2 Section C shall apply.

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

14 ARTICLE VIII

15 STATE COORDINATION

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

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

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

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

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

1 ARTICLE IX

2 INTERSTATE COMMISSION ON EDUCATIONAL
3 OPPORTUNITY FOR MILITARY CHILDREN

4 The member states hereby create the "Interstate Commission
5 on Educational Opportunity for Military Children." The
6 activities of the Interstate Commission are the formation of
7 public policy and are a discretionary state function. The
8 Interstate Commission shall:

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

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

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

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

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

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

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

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

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

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

1 G. Public notice shall be given by the Interstate
2 Commission of all meetings and all meetings shall be open to the
3 public, except as set forth in the rules or as otherwise
4 provided in the compact. The Interstate Commission and its
5 committees may close a meeting, or portion thereof, where it
6 determines by two-thirds vote that an open meeting would be
7 likely to:

8

9 1. Relate solely to the Interstate Commission's internal
10 personnel practices and procedures;

11 2. Disclose matters specifically exempted from disclosure
12 by federal and state statute;

13 3. Disclose trade secrets or commercial or financial
14 information which is privileged or confidential;

15 4. Involve accusing a person of a crime, or formally
16 censuring a person;

17 5. Disclose information of a personal nature where
18 disclosure would constitute a clearly unwarranted invasion of
19 personal privacy;

20 6. Disclose investigative records compiled for law
21 enforcement purposes; or

1 7. Specifically relate to the Interstate Commission's
2 participation in a civil action or other legal proceeding.

3 H. For a meeting, or portion of a meeting, closed pursuant
4 to this provision, the Interstate Commission's legal counsel or
5 designee shall certify that the meeting may be closed and shall
6 reference each relevant exemptible provision. The Interstate
7 Commission shall keep minutes which shall fully and clearly
8 describe all matters discussed in a meeting and shall provide a
9 full and accurate summary of actions taken, and the reasons
10 therefore, including a description of the views expressed and
11 the record of a roll call vote. All documents considered in
12 connection with an action shall be identified in such minutes.
13 All minutes and documents of a closed meeting shall remain under
14 seal, subject to release by a majority vote of the Interstate
15 Commission.

16 I. The Interstate Commission shall collect standardized
17 data concerning the educational transition of the children of
18 military families under this compact as directed through its
19 rules which shall specify the data to be collected, the means of
20 collection and data exchange and reporting requirements. Such
21 methods of data collection, exchange and reporting shall, in so
22 far as is reasonably possible, conform to current technology and

1 coordinate its information functions with the appropriate
2 custodian of records as identified in the bylaws and rules.

3 J. The Interstate Commission shall create a process that
4 permits military officials, education officials and parents to
5 inform the Interstate Commission if and when there are alleged
6 violations of the compact or its rules or when issues subject to
7 the jurisdiction of the compact or its rules are not addressed
8 by the state or local education agency. This section shall not
9 be construed to create a private right of action against the
10 Interstate Commission or any member state.

11 ARTICLE X

12 POWERS AND DUTIES OF THE INTERSTATE COMMISSION

13 The Interstate Commission shall have the following powers:

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

15 B. To promulgate rules and take all necessary actions to
16 effect the goals, purposes and obligations as enumerated in this
17 compact. The rules shall have the force and effect of statutory
18 law and shall be binding in the compact states to the extent and
19 in the manner provided in this compact.

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

1 D. To enforce compliance with the compact provisions, the
2 rules promulgated by the Interstate Commission, and the bylaws,
3 using all necessary and proper means, including but not limited
4 to the use of judicial process.

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

7 F. To purchase and maintain insurance and bonds.

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

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

15 I. To elect or appoint such officers, attorneys, employees,
16 agents, or consultants, and to fix their compensation, define
17 their duties and determine their qualifications; and to
18 establish the Interstate Commission's personnel policies and
19 programs relating to conflicts of interest, rates of
20 compensation, and qualifications of personnel.

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

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

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

10 M. To establish a budget and make expenditures.

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

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

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

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

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

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

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

8 ARTICLE XI

9 ORGANIZATION AND OPERATION OF THE INTERSTATE COMMISSION

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

15 1. Establishing the fiscal year of the Interstate
16 Commission;

17 2. Establishing an executive committee, and such other
18 Committees as may be necessary;

19 3. Providing for the establishment of committees and for
20 governing any general or specific delegation of authority or
21 function of the Interstate Commission;

1 4. Providing reasonable procedures for calling and
2 conducting meetings of the Interstate Commission, and ensuring
3 reasonable notice of each such meeting;

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

6 6. Providing a mechanism for concluding the operations of
7 the Interstate Commission and the return of surplus funds that
8 may exist upon the termination of the compact after the payment
9 and reserving of all of its debts and obligations.

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

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

1 performance of their responsibilities as officers of the
2 Interstate Commission.

3 C. Executive Committee, Officers and Personnel

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

7 a. Managing the affairs of the Interstate Commission in a
8 manner consistent with the bylaws and purposes of the Interstate
9 Commission;

10 b. Overseeing an organizational structure within, and
11 appropriate procedures for the Interstate Commission to provide
12 for the creation of rules, operating procedures, and
13 administrative and technical support functions; and

14 c. Planning, implementing, and coordinating
15 communications and activities with other state, federal and
16 local government organizations in order to advance the goals of
17 the Interstate Commission.

18 2. The executive committee may, subject to the approval
19 of the Interstate Commission, appoint or retain an executive
20 director for such period, upon such terms and conditions and for
21 such compensation, as the Interstate Commission may deem
22 appropriate. The executive director shall serve as secretary to

1 the Interstate Commission, but shall not be a Member of the
2 Interstate Commission. The executive director shall hire and
3 supervise such other persons as may be authorized by the
4 Interstate Commission.

5 D. The Interstate Commission's executive director and its
6 employees shall be immune from suit and liability, either
7 personally or in their official capacity, for a claim for damage
8 to or loss of property or personal injury or other civil
9 liability caused or arising out of or relating to an actual or
10 alleged act, error, or omission that occurred, or that such
11 person had a reasonable basis for believing occurred, within the
12 scope of Interstate Commission employment, duties, or
13 responsibilities; provided, that such person shall not be
14 protected from suit or liability for damage, loss, injury, or
15 liability caused by the intentional or willful and wanton
16 misconduct of such person.

17 1. The liability of the Interstate Commission's executive
18 director and employees or Interstate Commission representatives,
19 acting within the scope of such person's employment or duties
20 for acts, errors, or omissions occurring within such person's
21 state may not exceed the limits of liability set forth under the
22 Constitution and laws of that state for state officials,

1 employees, and agents. The Interstate Commission is considered
2 to be an instrumentality of the states for the purposes of any
3 such action. Nothing in this subsection shall be construed to
4 protect such person from suit or liability for damage, loss,
5 injury, or liability caused by the intentional or willful and
6 wanton misconduct of such person.

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

21 3. To the extent not covered by the state involved,
22 member state, or the Interstate Commission, the representatives

1 or employees of the Interstate Commission shall be held harmless
2 in the amount of a settlement or judgment, including attorney's
3 fees and costs, obtained against such persons arising out of an
4 actual or alleged act, error, or omission that occurred within
5 the scope of Interstate Commission employment, duties, or
6 responsibilities, or that such persons had a reasonable basis
7 for believing occurred within the scope of Interstate Commission
8 employment, duties, or responsibilities, provided that the
9 actual or alleged act, error, or omission did not result from
10 intentional or willful and wanton misconduct on the part of such
11 persons.

12 ARTICLE XII

13 RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION

14 A. Rulemaking Authority - The Interstate Commission shall
15 promulgate reasonable rules in order to effectively and
16 efficiently achieve the purposes of this Compact.
17 Notwithstanding the foregoing, in the event the Interstate
18 Commission exercises its rulemaking authority in a manner that
19 is beyond the scope of the purposes of this Act, or the powers
20 granted hereunder, then such an action by the Interstate
21 Commission shall be invalid and have no force or effect.

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

7 2. All courts shall take judicial notice of the compact
8 and the rules in any judicial or administrative proceeding in a
9 member state pertaining to the subject matter of this compact
10 which may affect the powers, responsibilities or actions of the
11 Interstate Commission.

12 3. The Interstate Commission shall be entitled to receive
13 all service of process in any such proceeding, and shall have
14 standing to intervene in the proceeding for all purposes.
15 Failure to provide service of process to the Interstate
16 Commission shall render a judgment or order void as to the
17 Interstate Commission, this compact or promulgated rules.

18 B. Default, Technical Assistance, Suspension and
19 Termination - If the Interstate Commission determines that a
20 member state has defaulted in the performance of its obligations
21 or responsibilities under this compact, or the bylaws or
22 promulgated rules, the Interstate Commission shall:

- 1 1. Provide written notice to the defaulting state and
2 other member states, of the nature of the default, the means of
3 curing the default and any action taken by the Interstate
4 Commission. The Interstate Commission shall specify the
5 conditions by which the defaulting state must cure its default.
- 6 2. Provide remedial training and specific technical
7 assistance regarding the default.
- 8 3. If the defaulting state fails to cure the default, the
9 defaulting state shall be terminated from the compact upon an
10 affirmative vote of a majority of the member states and all
11 rights, privileges and benefits conferred by this compact shall
12 be terminated from the effective date of termination. A cure of
13 the default does not relieve the offending state of obligations
14 or liabilities incurred during the period of the default.
- 15 4. Suspension or termination of membership in the compact
16 shall be imposed only after all other means of securing
17 compliance have been exhausted. Notice of intent to suspend or
18 terminate shall be given by the Interstate Commission to the
19 Governor, the majority and minority leaders of the defaulting
20 state's legislature, and each of the member states.
- 21 5. The state which has been suspended or terminated is
22 responsible for all assessments, obligations and liabilities

1 incurred through the effective date of suspension or termination
2 including obligations, the performance of which extends beyond
3 the effective date of suspension or termination.

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

9 7. The defaulting state may appeal the action of the
10 Interstate Commission by petitioning the U.S. District Court for
11 the District of Columbia or the federal district where the
12 Interstate Commission has its principal offices. The prevailing
13 party shall be awarded all costs of such litigation including
14 reasonable attorney's fees.

15 C. Dispute Resolution

16 1. The Interstate Commission shall attempt, upon the
17 request of a member state, to resolve disputes which are subject
18 to the compact and which may arise among member states and
19 between member and non-member states.

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

1 D. Enforcement

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

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

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

20 ARTICLE XIV

21 FINANCING OF THE INTERSTATE COMMISSION

1 A. The Interstate Commission shall pay, or provide for the
2 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 a rule binding upon all member states.

12 C. The Interstate Commission shall not incur obligations of
13 any kind prior to securing the funds adequate to meet the same;
14 nor shall the Interstate Commission pledge the credit of any of
15 the member states, except by and with the authority of the
16 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. However, all receipts and disbursements of funds handled
22 by the Interstate Commission shall be audited yearly by a

1 certified or licensed public accountant and the report of the
2 audit shall be included in and become part of the annual report
3 of the 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 (10) of the states. The effective date shall be no earlier
10 than 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 the
17 compact for enactment by the member states. No amendment shall
18 become effective and binding upon the Interstate Commission and
19 the member states unless and until it is enacted into law by
20 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; provided
4 that a member state may withdraw from the compact specifically
5 repealing the statute, which enacted the compact into law.

6 2. Withdrawal from this compact shall be by the enactment
7 of a statute repealing the same, but shall not take effect until
8 one (1) year after the effective date of such statute and until
9 written notice of the withdrawal has been given by the
10 withdrawing state to the Governor of each other member
11 jurisdiction.

12 3. The withdrawing state shall immediately notify the
13 chairperson of the Interstate Commission in writing upon the
14 introduction of legislation repealing this compact in the
15 withdrawing state. The Interstate Commission shall notify the
16 other member states of the withdrawing state's intent to
17 withdraw within sixty (60) days of its receipt thereof.

18 4. The withdrawing state is responsible for all
19 assessments, obligations and liabilities incurred through the
20 effective date of withdrawal, including obligations, the
21 performance of which extend beyond the effective date of
22 withdrawal.

1 5. Reinstatement following withdrawal of a member state
2 shall occur upon the withdrawing state reenacting the compact or
3 upon such later date as determined by the Interstate Commission.

4 B. Dissolution of Compact

5 1. This compact shall dissolve effective upon the date of
6 the withdrawal or default of the member state which reduces the
7 membership in the compact to one (1) member state.

8 2. Upon the dissolution of this compact, the compact
9 becomes null and void and shall be of no further force or
10 effect, and the business and affairs of the Interstate
11 Commission shall be concluded and surplus funds shall be
12 distributed in accordance with the bylaws.

13 ARTICLE XVII

14 SEVERABILITY AND CONSTRUCTION

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

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

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

4 ARTICLE XVIII

5 BINDING EFFECT OF COMPACT AND OTHER LAWS

6 A. Other Laws

7 1. Nothing herein prevents the enforcement of any other
8 law of a member state that is not inconsistent with this
9 compact.

10 2. All member states' laws conflicting with this compact
11 are superseded to the extent of the conflict.

12 B. Binding Effect of the Compact

13 1. All lawful actions of the Interstate Commission,
14 including all rules and bylaws promulgated by the Interstate
15 Commission, are binding upon the member states.

16 2. All agreements between the Interstate Commission and
17 the member states are binding in accordance with their terms.

18 3. In the event any provision of this compact exceeds the
19 constitutional limits imposed on the legislature of any member
20 state, such provision shall be ineffective to the extent of the
21 conflict with the constitutional provision in question in that
22 member state.

1 **§ -2 Local education agency defined.** As used in this
2 compact, "local education agency" shall be the department of
3 education or the charter school administrative office depending
4 on the school the student enrolls in.

5 **§ -3 State council on educational opportunity for**
6 **military children established.** There is established within the
7 department of defense for administrative purposes the state
8 council on educational opportunity for military children
9 consisting of eleven members who shall be appointed by the
10 governor in accordance with section 26-34 as follows:

- 11 (1) The state superintendent of education;
- 12 (2) One complex area superintendent of a school district
13 with a high concentration of military children shall
14 be appointed from a list of nominees submitted by the
15 superintendent of education;
- 16 (3) One representative from a military installation shall
17 be appointed from a list of nominees submitted by the
18 commanding officer of the United States Pacific
19 command;
- 20 (4) One representative from the state legislature shall be
21 appointed from a list of nominees submitted by the
22 speaker of the house and president of the senate;

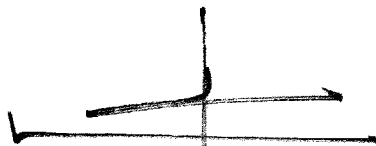
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- 1 (5) One representative from the executive branch;
- 2 (6) One representative from the joint venture education
- 3 forum shall be appointed from a list of nominees
- 4 submitted by the co-chairs of the forum; and
- 5 (7) The army, air force, coast guard, marine, and navy
- 6 school liaison officers.

7 The members of the council shall serve without compensation but
 8 shall be reimbursed for expenses, including travel expenses,
 9 necessary for the performance of their duties. The council
 10 shall serve as the state council under this compact."

11 SECTION 2. This Act shall take effect upon legislative
 12 enactment of the compact into law by no less than ten (10) of
 13 the states.

14
 15 INTRODUCED BY:

16 

 BY REQUEST

Report Title:

Relating to Interstate Compact on Educational Opportunity for Military Children.

Description:

Adopts the Interstate Compact on Educational Opportunity for Military Children.

DEPARTMENT: Office of the Governor

TITLE: A BILL FOR AN ACT RELATING TO INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN.

PURPOSE: This Act adopts the Interstate Compact on Educational Opportunity for Military Children to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents by:

- A. Facilitating the timely enrollment of children of military families and ensuring that they are not placed at a disadvantage due to difficulty in the transfer of education records from the previous school district(s) or variations in entrance/age requirements.
- B. Facilitating the student placement process through which children of military families are not disadvantaged by variations in attendance requirements, scheduling, sequencing, grading, course content, or assessment.
- C. Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities.
- D. Facilitating the on-time graduation of children of military families.
- E. Providing for the promulgation and enforcement of administrative rules implementing the provisions of this compact.
- F. Providing for the uniform collection and sharing of information between and among member states, schools, and military families under this compact.
- G. Promoting coordination between this compact and other compacts affecting military children.

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

MEANS: Add a new part VII to chapter 302A, Hawaii Revised Statutes.

JUSTIFICATION: Due to different education requirements imposed by different school systems, students whose families relocate due to military service often have difficulty transitioning into their new schools.

The Interstate Compact on Educational Opportunity for Military Children provides detailed requirements that sending and receiving schools of military children must meet in order to facilitate transition. Specific rules or timelines are provided regarding: timely transfer of educational records, timely immunization prior to enrollment, flexibility on age restrictions for kindergarten and first grade enrollment, flexibility for inclusion in extracurricular activities, flexibility in course and educational program placement, facilitation of comparable special education services, and facilitation of on-time graduation.

Adopting the compact will address key issues regarding K-12 eligibility, enrollment, placement and graduation of children whose parents are active duty servicemembers, or recent veterans of the military.

Impact on the public: Improved transition for military dependent children transferring into or out of the Hawaii public school system.

Impact on the department and other agencies: Clear timelines and requirements that will ensure a smooth transition for military

dependent children in the Hawaii public school system.

GENERAL FUND: None.

OTHER FUNDS: None.

PPBS PROGRAM DESIGNATION: None.

OTHER AFFECTED AGENCIES: None.

EFFECTIVE DATE: This Act will become effective and binding upon legislative adoption of the compact by no less than ten other states.