
A BILL FOR AN ACT

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

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

1 SECTION 1. 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 **PURPOSE**

15 It is the purpose of this compact 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 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
7 which 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
9 active uniformed service of the United States, including members
10 of the National Guard and Reserve on active duty orders pursuant
11 to 10 U.S.C. Sections 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 through six (6) months after return to their
21 home 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
11 activity 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: a base, camp, post,
6 station, yard, center, homeport facility for any ship, or other
7 activity under the jurisdiction of the Department of Defense,
8 including any leased facility, which is located within any of
9 the several States, the District of Columbia, the Commonwealth
10 of Puerto Rico, the U.S. Virgin Islands, Guam, American Samoa,
11 the Northern Marianas Islands and any other U.S. Territory. Such
12 term does not include any facility used primarily for civil
13 works, rivers and harbors projects, or flood control projects.

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

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

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

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

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

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

12 P. "Student" means: the child of a military family for
13 whom the local education agency receives public funding and who
14 is formally enrolled in Kindergarten through Twelfth (12th)
15 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
21 Force, Marine Corps, Coast Guard as well as the Commissioned

1 Corps of the National Oceanic and Atmospheric Administration,
2 and Public 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
12 National Guard and Reserve on active duty orders
13 pursuant to 10 U.S.C. Sections 1209 and 1211;

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

18 3. Members of the uniformed services who die on active
19 duty or as a result of injuries sustained on active
20 duty for a 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. Department of Defense personnel and other
10 federal agency civilian and contract employees not
11 defined as active duty members of the uniformed
12 services.

13 **ARTICLE IV**

14 **EDUCATIONAL RECORDS AND ENROLLMENT**

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

1 appropriately place the student based on the information
2 provided in the unofficial records pending validation by the
3 official records, as quickly as possible.

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

13 C. Immunizations - Compacting states shall give thirty
14 (30) days from the date of enrollment or within such time as is
15 reasonably determined under the rules promulgated by the
16 Interstate Commission, for students to obtain any
17 immunization(s) required by the receiving state. For a series
18 of immunizations, initial vaccinations must be obtained within
19 thirty (30) days or within such time as is reasonably determined
20 under the rules promulgated by the Interstate Commission.

21 D. Kindergarten and First grade entrance age - Students
22 shall be allowed to continue their enrollment at grade level in

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

11 **ARTICLE V**

12 **PLACEMENT AND ATTENDANCE**

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

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

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

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

1 29 U.S.C.A. Section 794, and with Title II of the Americans with
2 Disabilities Act, 42 U.S.C.A. Sections 12131-12165, the
3 receiving state shall make reasonable accommodations and
4 modifications to address the needs of incoming students with
5 disabilities, subject to an existing 504 or Title II Plan, to
6 provide the student with equal access to education. This does
7 not preclude the school in the receiving state from performing
8 subsequent evaluations to ensure appropriate placement of the
9 student.

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

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

1 or her parent or legal guardian relative to such leave or
2 deployment of the parent or guardian.

3 **ARTICLE VI**

4 **ELIGIBILITY**

5 A. Eligibility for enrollment

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

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

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

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

6 **ARTICLE VII**

7 **GRADUATION**

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

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

20 B. Exit exams - States shall accept: 1) exit or end-of-
21 course exams required for graduation from the sending state; or
22 2) national norm-referenced achievement tests or 3) alternative

1 testing, in lieu of testing requirements for graduation in the
2 receiving state. In the event the above alternatives cannot be
3 accommodated by the receiving state for a student transferring
4 in his or her Senior year, then the provisions of Article VII,
5 Section C shall apply.

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

18 **ARTICLE VIII**

19 **STATE COORDINATION**

20 A. Each member state shall, through the creation of a
21 State Council or use of an existing body or board, provide for
22 the coordination among its agencies of government, local

1 education agencies and military installations concerning the
2 state's participation in, and compliance with, this compact and
3 Interstate Commission activities. While each member state may
4 determine the membership of its own State Council, its
5 membership must include at least: the state superintendent of
6 education, superintendent of a school district with a high
7 concentration of military children, representative from a
8 military installation, one representative each from the
9 legislative and executive branches of government, and other
10 offices and stakeholder groups the State Council deems
11 appropriate. A member state that does not have a school
12 district deemed to contain a high concentration of military
13 children may appoint a superintendent from another school
14 district to represent local education agencies on the State
15 Council.

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

20 C. The compact commissioner responsible for the
21 administration and management of the state's participation in

1 the compact shall be appointed by the Governor or as otherwise
2 determined by each member state.

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

7 **ARTICLE IX**

8 **INTERSTATE COMMISSION ON EDUCATIONAL**

9 **OPPORTUNITY FOR MILITARY CHILDREN**

10 The member states hereby create the "Interstate Commission
11 on Educational Opportunity for Military Children." The
12 activities of the Interstate Commission are the formation of
13 public policy and are a discretionary state function. The
14 Interstate Commission shall:

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

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

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

6 2. A majority of the total member states shall constitute
7 a quorum for the transaction of business, unless a
8 larger quorum is required by the bylaws of the
9 Interstate Commission.

10 3. A representative shall not delegate a vote to another
11 member state. In the event the compact commissioner is
12 unable to attend a meeting of the Interstate Commission,
13 the Governor or State Council may delegate voting
14 authority to another person from their state for a
15 specified meeting.

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

19 C. Consist of ex-officio, non-voting representatives who
20 are members of interested organizations. Such ex-officio
21 members, as defined in the bylaws, may include but not be
22 limited to, members of the representative organizations of

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

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

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

1 deemed necessary. The U.S. Department of Defense, shall serve
2 as an ex-officio, nonvoting member of the executive committee.

3 F. Establish bylaws and rules that provide for conditions
4 and procedures under which the Interstate Commission shall make
5 its information and official records available to the public for
6 inspection or copying. The Interstate Commission may exempt
7 from disclosure information or official records to the extent
8 they would adversely affect personal privacy rights or
9 proprietary interests.

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

- 16 1. Relate solely to the Interstate Commission's internal
17 personnel practices and procedures;
- 18 2. Disclose matters specifically exempted from disclosure
19 by federal and state statute;
- 20 3. Disclose trade secrets or commercial or financial
21 information which is privileged or confidential;

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- 1 4. Involve accusing a person of a crime, or formally
- 2 censuring a person;
- 3 5. Disclose information of a personal nature where
- 4 disclosure would constitute a clearly unwarranted
- 5 invasion of personal privacy;
- 6 6. Disclose investigative records compiled for law
- 7 enforcement purposes; or
- 8 7. Specifically relate to the Interstate Commission's
- 9 participation in a civil action or other legal
- 10 proceeding.

11 H. Cause its legal counsel or designee to certify that a

12 meeting may be closed and shall reference each relevant

13 exemptible provision for any meeting, or portion of a meeting,

14 which is closed pursuant to this provision. The Interstate

15 Commission shall keep minutes which shall fully and clearly

16 describe all matters discussed in a meeting and shall provide a

17 full and accurate summary of actions taken, and the reasons

18 therefore, including a description of the views expressed and the

19 record of a roll call vote. All documents considered in

20 connection with an action shall be identified in such minutes.

21 All minutes and documents of a closed meeting shall remain under

1 seal, subject to release by a majority vote of the Interstate
2 Commission.

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

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

20 **ARTICLE X**

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

22 The Interstate Commission shall have the following powers:

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

2 B. To promulgate rules and take all necessary actions to
3 effect the goals, purposes and obligations as enumerated in this
4 compact. The rules shall have the force and effect of statutory
5 law and shall be binding in the compact states to the extent and
6 in the manner provided in this compact.

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

10 D. To enforce compliance with the compact provisions, the
11 rules promulgated by the Interstate Commission, and the bylaws,
12 using all necessary and proper means, including but not limited
13 to the use of judicial process.

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

16 F. To purchase and maintain insurance and bonds.

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

19 H. To establish and appoint committees including, but not
20 limited to, an executive committee as required by Article IX,
21 Section E, which shall have the power to act on behalf of the

1 Interstate Commission in carrying out its powers and duties
2 hereunder.

3 I. 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 Commission's
7 personnel policies and programs relating to conflicts of
8 interest, rates of compensation, and qualifications of
9 personnel.

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

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

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

19 M. To establish a budget and make expenditures.

20 N. To adopt a seal and bylaws governing the management and
21 operation of the Interstate Commission.

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

6 P. To coordinate education, training and public awareness
7 regarding the compact, its implementation and operation for
8 officials and parents involved in such activity.

9 Q. To establish uniform standards for the reporting,
10 collecting and exchanging of data.

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

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

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

18 **ARTICLE XI**

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

20 A. The Interstate Commission shall, by a majority of the
21 members present and voting, within twelve (12) months after the
22 first Interstate Commission meeting, adopt bylaws to govern its

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- 1 conduct as may be necessary or appropriate to carry out the
2 purposes of the compact, including, but not limited to:
- 3 1. Establishing the fiscal year of the Interstate
4 Commission;
 - 5 2. Establishing an executive committee, and such other
6 Committees as may be necessary;
 - 7 3. Providing for the establishment of committees and for
8 governing any general or specific delegation of
9 authority or function of the Interstate Commission;
 - 10 4. Providing reasonable procedures for calling and
11 conducting meetings of the Interstate Commission, and
12 ensuring reasonable notice of each such meeting;
 - 13 5. Establishing the titles and responsibilities of the
14 officers and staff of the Interstate Commission;
 - 15 6. Providing a mechanism for concluding the operations of
16 the Interstate Commission and the return of surplus
17 funds that may exist upon the termination of the
18 compact after the payment and reserving of all of its
19 debts and obligations.
 - 20 7. Providing "start up" rules for initial administration
21 of the compact.

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

14 C. Executive Committee, Officers and Personnel

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

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

21 b. Overseeing an organizational structure within, and
22 appropriate procedures for the Interstate

1 Commission to provide for the creation of rules,
2 operating procedures, and administrative and
3 technical support functions; and
4 c. 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 2. The executive committee may, subject to the approval of
9 the Interstate Commission, appoint or retain an
10 executive director for such period, upon such terms and
11 conditions and for such compensation, as the Interstate
12 Commission may deem appropriate. The executive
13 director shall serve as secretary to the Interstate
14 Commission, but shall not be a Member of the Interstate
15 Commission. The executive director shall hire and
16 supervise such other persons as may be authorized by
17 the Interstate Commission.
18 D. The Interstate Commission's executive director and its
19 employees shall be immune from suit and liability, either
20 personally or in their official capacity, for a claim for damage
21 to or loss of property or personal injury or other civil
22 liability caused or arising out of or relating to an actual or

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

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

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

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

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

10 **ARTICLE XII**

11 **RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

12 A. Rulemaking Authority - The Interstate Commission shall
13 promulgate reasonable rules in order to effectively and
14 efficiently achieve the purposes of this Compact.

15 Notwithstanding the foregoing, in the event the Interstate
16 Commission exercises its rulemaking authority in a manner that
17 is beyond the scope of the purposes of this Act, or the powers
18 granted hereunder, then such an action by the Interstate
19 Commission shall be invalid and have no force or effect.

20 B. Rulemaking Procedure - Rules shall be made pursuant to
21 a rulemaking process that substantially conforms to the "Model
22 State Administrative Procedure Act," of 1981 Act, Uniform Laws

1 Annotated, Vol. 15, p.1 (2000) as amended, as may be appropriate
2 to the operations of the Interstate Commission.

3 C. Not later than thirty (30) days after a rule is
4 promulgated, any person may file a petition for judicial review
5 of the rule; provided that the filing of such a petition shall
6 not stay or otherwise prevent the rule from becoming effective
7 unless the court finds that the petitioner has a substantial
8 likelihood of success. The court shall give deference to the
9 actions of the Interstate Commission consistent with applicable
10 law and shall not find the rule to be unlawful if the rule
11 represents a reasonable exercise of the Interstate Commission's
12 authority.

13 D. If a majority of the legislatures of the compacting
14 states rejects a Rule by enactment of a statute or resolution in
15 the same manner used to adopt the compact, then such rule shall
16 have no further force and effect in any compacting state.

17 **ARTICLE XIII**

18 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

19 A. Oversight

20 1. The executive, legislative and judicial branches of
21 state government in each member state shall enforce
22 this compact and shall take all actions necessary and

1 appropriate to effectuate the compact's purposes and
2 intent. The provisions of this compact and the rules
3 promulgated hereunder shall have standing as statutory
4 law.

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

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

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

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1 leaders of the defaulting state's legislature, and each
2 of the member states.

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

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

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

22 C. Dispute Resolution

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

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

8 D. Enforcement

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

12 2. The Interstate Commission, may by majority vote of the
13 members, initiate legal action in the United States
14 District Court for the District of Columbia or, at the
15 discretion of the Interstate Commission, in the federal
16 district where the Interstate Commission has its
17 principal offices, to enforce compliance with the
18 provisions of the compact, its promulgated rules and
19 bylaws, against a member state in default. The relief
20 sought may include both injunctive relief and damages.
21 In the event judicial enforcement is necessary the

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

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

8 **ARTICLE XIV**

9 **FINANCING OF THE INTERSTATE COMMISSION**

10 A. The Interstate Commission shall pay, or provide for the
11 payment of the reasonable expenses of its establishment,
12 organization and ongoing activities.

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

21 C. The Interstate Commission shall not incur obligations
22 of any kind prior to securing the funds adequate to meet the

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

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

13 **ARTICLE XV**

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

15 A. Any state is eligible to become a member state.

16 B. The compact shall become effective and binding upon
17 legislative enactment of the compact into law by no less than
18 ten (10) of the states. The effective date shall be no earlier
19 than December 1, 2007. Thereafter it shall become effective and
20 binding as to any other member state upon enactment of the
21 compact into law by that state. The governors of non-member
22 states or their designees shall be invited to participate in the

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

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

8 **ARTICLE XVI**

9 **WITHDRAWAL AND DISSOLUTION**

10 A. Withdrawal

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

16 2. Withdrawal from this compact shall be by the enactment
17 of a statute repealing the same, but shall not take
18 effect until one (1) year after the effective date of
19 such statute and until written notice of the withdrawal
20 has been given by the withdrawing state to the Governor
21 of each other member jurisdiction.

- 1 3. The withdrawing state shall immediately notify the
2 chairperson of the Interstate Commission in writing
3 upon the introduction of legislation repealing this
4 compact in the withdrawing state. The Interstate
5 Commission shall notify the other member states of the
6 withdrawing state's intent to withdraw within sixty
7 (60) days of its receipt thereof.
- 8 4. The withdrawing state is responsible for all
9 assessments, obligations and liabilities incurred
10 through the effective date of withdrawal, including
11 obligations, the performance of which extend beyond the
12 effective date of withdrawal.
- 13 5. Reinstatement following withdrawal of a member state
14 shall occur upon the withdrawing state reenacting the
15 compact or upon such later date as determined by the
16 Interstate Commission.
- 17 B. Dissolution of Compact
- 18 1. This compact shall dissolve effective upon the date of
19 the withdrawal or default of the member state which
20 reduces the membership in the compact to one (1) member
21 state.

1 2. Upon the dissolution of this compact, the compact
2 becomes null and void and shall be of no further force
3 or effect, and the business and affairs of the
4 Interstate Commission shall be concluded and surplus
5 funds shall be distributed in accordance with the
6 bylaws.

7 **ARTICLE XVII**

8 **SEVERABILITY AND CONSTRUCTION**

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

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

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

18 **ARTICLE XVIII**

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

20 A. Other Laws

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- 1 1. Nothing herein prevents the enforcement of any other
2 law of a member state that is not inconsistent with
3 this compact.
- 4 2. All member states' laws conflicting with this compact
5 are superseded to the extent of the conflict.
- 6 B. Binding Effect of the Compact
- 7 1. All lawful actions of the Interstate Commission,
8 including all rules and bylaws promulgated by the
9 Interstate Commission, are binding upon the member
10 states.
- 11 2. All agreements between the Interstate Commission and
12 the member states are binding in accordance with their
13 terms.
- 14 3. In the event any provision of this compact exceeds the
15 constitutional limits imposed on the legislature of any
16 member state, such provision shall be ineffective to
17 the extent of the conflict with the constitutional
18 provision in question in that member state.
- 19 **§ -2 Local education agency defined.** As used in this
20 compact, "local education agency" shall be the department of
21 education.

1 **§ -3 State council on educational opportunity for**
2 **military children established.** There is established within the
3 department of defense for administrative purposes the state
4 council on educational opportunity for military children
5 consisting of eleven (11) members who shall be appointed by the
6 governor in accordance with section 26-34 as follows:

7 (1) The state superintendent of education;

8 (2) One complex area superintendent of a school district
9 with a high concentration of military children shall
10 be appointed from a list of nominees submitted by the
11 superintendent of education;

12 (3) One representative from a military installation shall
13 be appointed from a list of nominees submitted by the
14 commanding officer of the United States pacific
15 command;

16 (4) One representative from the state legislature shall be
17 appointed from a list of nominees submitted by the
18 speaker of the house and president of the senate;

19 (5) One representative from the executive branch;

20 (6) One representative from the joint venture education
21 forum shall be appointed from a list of nominees
22 submitted by the co-chairs of the forum; and

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1 (7) The army, air force, coast guard, marine, and navy
2 school liaison officers.

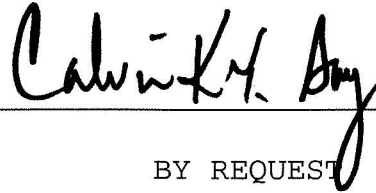
3 The members of the council shall serve without compensation but
4 shall be reimbursed for expenses, including travel expenses,
5 necessary for the performance of their duties. The council
6 shall serve as the state council under this compact."

7 SECTION 2. This Act shall take effect on July 1, 2009.

8

9

INTRODUCED BY:



BY REQUEST

JAN 26 2009

10

Report Title:

Education; Interstate Compact on Educational Opportunity for Military Children.

Description:

Removes barriers to educational success imposed on children of military families by frequent moves and deployment of their parents through the adoption of the Interstate Compact on Educational Opportunity for Military Children.

JUSTIFICATION SHEET

DEPARTMENT: Defense

TITLE: A BILL FOR AN ACT RELATING TO THE 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 chapter to the 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: July 1, 2009.