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# A BILL FOR AN ACT

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

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

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

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

6 "CHAPTER

7 INTERSTATE COMPACT ON EDUCATIONAL

8 OPPORTUNITY FOR MILITARY CHILDREN

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



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**ARTICLE I**  
**PURPOSE**

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

- (1) 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 or variations in entrance and age requirements;
- (2) 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;
- (3) Facilitating the qualification and eligibility for enrollment, educational programs, and participation in extracurricular academic, athletic, and social activities;
- (4) Facilitating the on-time graduation of children of military families;

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

12 **ARTICLE II**

13 **DEFINITIONS**

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

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

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



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

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

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

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

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

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



1 "Extracurricular activities" means a voluntary activity  
2 sponsored by the school or appropriate education agency or an  
3 organization sanctioned by the appropriate education agency.  
4 Extracurricular activities include preparation for and  
5 involvement in public performances, contests, athletic  
6 competitions, demonstrations, displays, and club activities.

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

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

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

15 "Military installation" means a base, camp, post, station,  
16 yard, center, homeport facility for any ship, or other  
17 [~~activity~~] facility under the jurisdiction of the United States  
18 Department of Defense, including any leased facility, which is  
19 located within any of the several states, the District of  
20 Columbia, the Commonwealth of Puerto Rico, the United States  
21 Virgin Islands, Guam, American Samoa, the Northern Marianas  
22 Islands, and any other United States territory. The term shall



1 not include any facility used primarily for civil works, rivers  
2 and harbors projects, or flood control projects.

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

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

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

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

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



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

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

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

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

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

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

20 **ARTICLE III**

21 **APPLICABILITY**

22 (a) Except as otherwise provided in subsection [~~(b)~~] (c),



1 this compact shall apply to the children of:

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

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

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

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

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

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

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





1 (3) Veterans of the uniformed services, except as provided  
2 in subsection (a); and

3 (4) Other United States Department of Defense personnel  
4 and other federal agency civilian and contract  
5 employees not defined as active duty members of the  
6 uniformed services.

7 **ARTICLE IV**

8 **EDUCATIONAL RECORDS AND ENROLLMENT**

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



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

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



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

14 **ARTICLE V**

15 **PLACEMENT AND ATTENDANCE**

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



1 ~~available as determined by the principal]~~. Course placement  
2 includes honors, international baccalaureate, advanced  
3 placement, vocational, technical, and career pathways courses.  
4 Continuing the student's academic program from the previous  
5 school and promoting placement in academically and career  
6 challenging courses should be paramount when considering  
7 placement. This subsection shall not preclude the school in the  
8 receiving state from performing subsequent evaluations to ensure  
9 appropriate placement and continued enrollment of the student in  
10 the course. The receiving state school may allow the student to  
11 attend similar educational courses within the school district if  
12 the receiving state school does not offer such educational  
13 courses.

14 (b) Educational program placement. The receiving state  
15 school shall initially honor placement of the student in  
16 educational programs based on current educational assessments  
17 conducted at the school in the sending state or participation  
18 and placement in like programs in the sending state; provided  
19 that these programs exist in the receiving state school [~~and~~  
20 ~~space is available as determined by the principal]~~. The  
21 programs include gifted and talented programs and English as a  
22 second language programs. This subsection shall not preclude



1 the school in the receiving state from performing subsequent  
2 evaluations to ensure appropriate placement of the student. The  
3 receiving state school may allow the student to attend similar  
4 educational courses within the school district if the receiving  
5 state school does not offer such educational programs.

6 (c) Special education services.

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

13 (2) In compliance with the requirements of Section 504 of  
14 the Rehabilitation Act, 29 [~~U.S.C.A.~~] United States  
15 Code Annotated Section 794, and with Title II of the  
16 Americans with Disabilities Act, 42 [~~U.S.C.A.~~] United  
17 States Code Annotated Sections 12131-12165, the  
18 receiving state shall make reasonable accommodations  
19 and modifications to address the needs of incoming  
20 students with disabilities, subject to an existing 504  
21 or Title II Plan, to provide the student with equal  
22 access to education. This paragraph shall not



1 preclude the school in the receiving state from  
2 performing subsequent evaluations to ensure  
3 appropriate placement of the student.

4 (d) Placement flexibility. Appropriate education agency  
5 administrative officials shall have flexibility in waiving a  
6 course or program [~~prerequisites~~] prerequisite, or other  
7 precondition for placement in courses or programs offered under  
8 the jurisdiction of the appropriate education agency.

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

20 **ARTICLE VI**

21 **ELIGIBILITY**

22 (a) Eligibility for enrollment.



- 1           (1) Special power of attorney, relating to the  
2           guardianship of a child of a military family and  
3           executed under applicable law, shall be sufficient for  
4           the purposes of enrollment and all other actions  
5           requiring parental participation and consent.
- 6           (2) The appropriate education agency shall be prohibited  
7           from charging local tuition to a transitioning  
8           military child placed in the care of a non-custodial  
9           parent or other person standing in loco parentis who  
10          lives in a jurisdiction other than that of the  
11          custodial parent.
- 12          (3) A transitioning military child, placed in the care of  
13          a non-custodial parent or other person standing in  
14          loco parentis who lives in a jurisdiction other than  
15          that of the custodial parent, may continue to attend  
16          the school in which the child was permanently enrolled  
17          while residing with the custodial parent. Upon the  
18          return of the custodial parent, the child shall be  
19          allowed to finish the school year in the school  
20          currently enrolled, but shall enroll in the school  
21          within the jurisdiction of the custodial parent during  
22          the following school year.



1 (b) Eligibility for extracurricular participation. State  
2 education agencies and appropriate education agencies shall  
3 facilitate the opportunity for transitioning military children's  
4 inclusion in extracurricular activities, regardless of  
5 application deadlines, to the extent the children are otherwise  
6 qualified and space is available in the receiving state school  
7 as determined by the principal.

8 **ARTICLE VII**

9 **GRADUATION**

10 To facilitate the on-time graduation of children of  
11 military families, state and appropriate education agencies  
12 shall incorporate the following procedures:

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





1 time. This section shall not obligate the school or  
2 appropriate education agency to pay for an online  
3 course if funding is unavailable.

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

6 (A) Exit or end-of-course exams required for  
7 graduation from the sending state;

8 (B) National norm-referenced achievement tests; or

9 (C) Alternative testing, in lieu of testing  
10 requirements for graduation in the receiving  
11 state.

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

16 (3) Transfers during senior year. If a military student  
17 transferring at the beginning or during the senior  
18 year is ineligible to graduate from the receiving  
19 appropriate education agency after all alternatives  
20 have been considered, the sending and receiving  
21 appropriate education agencies shall ensure the  
22 receipt of a diploma from the sending appropriate



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

13 **ARTICLE VIII**

14 **STATE COORDINATION**

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



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

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

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

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



## ARTICLE IX

1 INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY  
2 FOR MILITARY CHILDREN

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

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

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

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

20 (B) A majority of the total member states shall  
21 constitute a quorum for the transaction of



1 business, unless a larger quorum is required by  
2 the bylaws of the interstate commission.

3 (C) A representative shall not delegate a vote to  
4 another member state. In the event the compact  
5 commissioner is unable to attend a meeting of the  
6 interstate commission, the governor or state  
7 council may delegate voting authority to another  
8 person from their state for a specified meeting.

9 (D) The bylaws may provide for meetings of the  
10 interstate commission to be conducted by  
11 telecommunication or electronic communication;

12 (3) Include ex-officio, non-voting representatives who are  
13 members of interested organizations. The ex-officio  
14 members, as defined in the bylaws, may include members  
15 of the representative organizations of military family  
16 advocates, appropriate education agency officials,  
17 parent and teacher groups, the United States  
18 Department of Defense, the Education Commission of the  
19 States, the Interstate Agreement on the Qualification  
20 of Educational Personnel, and other interstate  
21 compacts affecting the education of children of  
22 military members;



- 1           (4) Meet at least once each calendar year. The  
2           chairperson may call additional meetings and, upon the  
3           request of a simple majority of the member states,  
4           shall call additional meetings;
- 5           (5) Establish an executive committee, whose members shall  
6           include the officers of the interstate commission and  
7           such other members of the interstate commission as  
8           determined by the bylaws. Members of the executive  
9           committee shall serve a one-year term. Members of the  
10          executive committee shall be entitled to one vote  
11          each. The executive committee shall have the power to  
12          act on behalf of the interstate commission, with the  
13          exception of rulemaking, during periods when the  
14          interstate commission is not in session. The  
15          executive committee shall oversee the day-to-day  
16          activities of the administration of the compact,  
17          including enforcement and compliance with the  
18          provisions of the compact, its bylaws and rules, and  
19          other such duties as deemed necessary. The United  
20          States Department of Defense shall serve as an ex-  
21          officio, nonvoting member of the executive committee;  
22          and



1           (6) Establish bylaws and rules that provide for conditions  
2           and procedures under which the interstate commission  
3           shall make its information and official records  
4           available to the public for inspection or copying.

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

9           (b) Public notice shall be given by the interstate  
10          commission of all meetings and all meetings shall be open to the  
11          public, except as set forth in the rules or as otherwise  
12          provided in the compact. The interstate commission and its  
13          committees may close a meeting, or portion thereof, where it  
14          determines by two-thirds vote that an open meeting would be  
15          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;



- 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          (c)   For a meeting, or portion of a meeting, closed  
12 pursuant to subsection (b), the interstate commission's legal  
13 counsel or designee shall certify that the meeting may be closed  
14 and shall reference each relevant exemptible provision. The  
15 interstate commission shall keep minutes which shall fully and  
16 clearly describe all matters discussed in a meeting and shall  
17 provide a full and accurate summary of actions taken, and the  
18 reasons therefor, including a description of the views expressed  
19 and the record of roll call votes. All documents considered in  
20 connection with an action shall be identified in the 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 (d) The interstate commission shall collect standardized  
4 data concerning the educational transition of the children of  
5 military families under this compact as directed through its  
6 rules which shall specify the data to be collected, the means of  
7 collection, and data exchange and reporting requirements. The  
8 methods of data collection, exchange, and reporting, as is  
9 reasonably possible, shall conform to current technology and  
10 coordinate its information functions with the appropriate  
11 custodian of records as identified in the bylaws and rules.

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



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**ARTICLE X**

**POWERS AND DUTIES OF THE INTERSTATE COMMISSION**

The interstate commission shall have the following powers:

- (1) To provide for dispute resolution among member states;
- (2) To promulgate rules and take all necessary actions to effect the goals, purposes, and obligations as enumerated in this compact. The rules shall have the force and effect of statutory law and shall be binding in the compact states to the extent and in the manner provided in this compact;
- (3) To issue, upon request of a member state, advisory opinions concerning the meaning or interpretation of the interstate compact, its bylaws, rules, and actions;
- (4) To enforce compliance with the compact provisions, the rules promulgated by the interstate commission, and the bylaws, use all necessary and proper means, including the use of judicial process. Any action to enforce compliance with the compact provisions by the interstate commission shall be brought against a member state only;



- 1 (5) To establish and maintain offices which shall be  
2 located within one or more of the member states;
- 3 (6) To purchase and maintain insurance and bonds;
- 4 (7) To borrow, accept, hire, or contract for services of  
5 personnel;
- 6 (8) To establish and appoint committees including an  
7 executive committee as required by article IX,  
8 subsection (a), paragraph (5), which shall have the  
9 power to act on behalf of the interstate commission in  
10 carrying out its powers and duties hereunder;
- 11 (9) To elect or appoint such officers, attorneys,  
12 employees, agents, or consultants, and to fix their  
13 compensation, define their duties, and determine their  
14 qualifications; and to establish the interstate  
15 commission's personnel policies and programs relating  
16 to conflicts of interest, rates of compensation, and  
17 qualifications of personnel;
- 18 (10) To accept any and all donations and grants of money,  
19 equipment, supplies, materials, and services, and to  
20 receive, use, and dispose of it;



- 1       (11) To lease, purchase, or accept contributions or  
2            donations of, or otherwise to own, hold, improve, or  
3            use any property, real, personal, or mixed;
- 4       (12) To sell, convey, mortgage, pledge, lease, exchange,  
5            abandon, or otherwise dispose of any property, real,  
6            personal, or mixed;
- 7       (13) To establish a budget and make expenditures;
- 8       (14) To adopt a seal and bylaws governing the management  
9            and operation of the interstate commission;
- 10      (15) To report annually to the legislatures, governors,  
11            judiciary, and state councils of the member states  
12            concerning the activities of the interstate commission  
13            during the preceding year. The reports shall include  
14            any recommendations that may have been adopted by the  
15            interstate commission;
- 16      (16) To coordinate education, training, and public  
17            awareness regarding the compact[~~7~~] and its  
18            implementation and operation for officials and parents  
19            involved in such activity;
- 20      (17) To establish uniform standards for the reporting,  
21            collecting, and exchanging of data;





- 1           (4) Providing reasonable procedures for calling and  
2           conducting meetings of the interstate commission, and  
3           ensuring 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  
8           funds that may exist upon the termination of the  
9           compact after the payment and reserving of all of its  
10          debts and obligations; and
- 11          (7) Providing "start up" rules for the initial  
12          administration of the compact.
- 13          (b) The interstate commission, by a majority of the  
14 members, shall elect annually from among its members a  
15 chairperson, a vice-chairperson, and a treasurer, each of whom  
16 shall have such authority and duties as may be specified in the  
17 bylaws. The chairperson or, in the chairperson's absence or  
18 disability, the vice-chairperson, shall preside at all meetings  
19 of the interstate commission. The officers elected shall serve  
20 without compensation or remuneration from the interstate  
21 commission; provided that, subject to the availability of  
22 budgeted funds, the officers shall be reimbursed for ordinary



1 and necessary costs incurred by them in the performance of their  
2 responsibilities as officers of the interstate commission.

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

5 (1) Managing the affairs of the interstate commission in a  
6 manner consistent with the bylaws and purposes of the  
7 interstate commission;

8 (2) Overseeing an organizational structure within, and  
9 appropriate procedures for, the interstate commission  
10 to provide for the creation of rules, operating  
11 procedures, and administrative and technical support  
12 functions; and

13 (3) Planning, implementing, and coordinating  
14 communications and activities with other state,  
15 federal, and local government organizations to advance  
16 the goals of the interstate commission.

17 (d) The executive committee, subject to the approval of  
18 the interstate commission, may appoint or retain an executive  
19 director for such period, upon such terms and conditions and for  
20 such compensation, as the interstate commission may deem  
21 appropriate. The executive director shall serve as secretary to  
22 the interstate commission, but shall not be a member of the



1 interstate commission. The executive director shall hire and  
2 supervise such other persons as may be authorized by the  
3 interstate commission.

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

16 (1) The liability of the interstate commission's executive  
17 director and employees or interstate commission  
18 representatives, acting within the scope of such  
19 person's employment or duties for acts, errors, or  
20 omissions occurring within the person's state may not  
21 exceed the limits of liability set forth under the  
22 constitution and laws of that state for state





1 officials, employees, and agents. The interstate  
2 commission is considered to be an instrumentality of  
3 the states for the purposes of any such action.  
4 Nothing in this paragraph shall be construed to  
5 protect such person from suit or liability for damage,  
6 loss, injury, or liability caused by the intentional  
7 or wilful and wanton misconduct of such person.  
8 (2) The interstate commission shall defend the executive  
9 director and its employees and, subject to the  
10 approval of the attorney general or other appropriate  
11 legal counsel of the member state represented by an  
12 interstate commission representative, shall defend  
13 such interstate commission representative in any civil  
14 action seeking to impose liability arising out of an  
15 actual or alleged act, error, or omission that  
16 occurred within the scope of interstate commission  
17 employment, duties, or responsibilities, or that the  
18 defendant had a reasonable basis for believing  
19 occurred within the scope of interstate commission  
20 employment, duties, or responsibilities; provided that  
21 the actual or alleged act, error, or omission did not



1 result from intentional or wilful and wanton  
2 misconduct on the part of such person.

3 (3) To the extent not covered by the state involved, a  
4 member state, the interstate commission, or the  
5 representatives or employees of the interstate  
6 commission shall be held harmless in the amount of a  
7 settlement or judgment, including attorney's fees and  
8 costs, obtained against such persons arising out of an  
9 actual or alleged act, error, or omission that  
10 occurred within the scope of interstate commission  
11 employment, duties, or responsibilities, or that such  
12 persons had a reasonable basis for believing occurred  
13 within the scope of interstate commission employment,  
14 duties, or responsibilities; provided that the actual  
15 or alleged act, error, or omission did not result from  
16 intentional or wilful and wanton misconduct on the  
17 part of such persons.

18 (f) The compact commissioner and any person representing  
19 the state in the interstate commission, in their individual or  
20 official capacity, and the member state, shall be immune from  
21 suit and liability caused by or arising out of actions, errors,  
22 or omissions of the interstate commission.



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**ARTICLE XII**

**RULEMAKING FUNCTIONS OF THE INTERSTATE COMMISSION**

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

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

(c) Not later than thirty days after a rule is promulgated, any person may file a petition for judicial review of the rule; provided that the filing of such a petition shall not stay or otherwise prevent the rule from becoming effective unless the court finds that the petitioner has a substantial likelihood of success. The court shall give deference to the actions of the interstate commission consistent with applicable law and shall not find the rule to be unlawful if the rule



1 represents a reasonable exercise of the interstate commission's  
2 authority.

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

7 **ARTICLE XIII**

8 **OVERSIGHT, ENFORCEMENT, AND DISPUTE RESOLUTION**

9 (a) Oversight.

10 (1) The executive, legislative, and judicial branches of  
11 state government in each member state shall enforce  
12 this compact and shall take all actions necessary and  
13 appropriate to effectuate the compact's purposes and  
14 intent. The provisions of this compact and the rules  
15 adopted hereunder shall have the force and effect of  
16 law.

17 (2) All courts shall take judicial notice of the compact  
18 and the rules in any judicial or administrative  
19 proceeding in a member state pertaining to the subject  
20 matter of this compact which may affect the powers,  
21 responsibilities, or actions of the interstate  
22 commission.



1           (3) The interstate commission shall be entitled to receive  
2           all service of process in any such proceeding, and  
3           shall have standing to intervene in the proceeding for  
4           all purposes. Failure to provide service of process  
5           to the interstate commission shall render a judgment  
6           or order void as to the interstate commission, this  
7           compact, or promulgated rules.

8           (b) Default, technical assistance, suspension, and  
9           termination. If the interstate commission determines that a  
10          member state has defaulted in the performance of its obligations  
11          or responsibilities under this compact, or the bylaws or  
12          promulgated rules, the interstate commission shall:

13          (1) Provide written notice to the defaulting state and  
14          other member states, of the nature of the default, the  
15          means of curing the default, and any action taken by  
16          the interstate commission. The interstate commission  
17          shall specify the conditions by which the defaulting  
18          state must cure its default; and

19          (2) Provide remedial training and specific technical  
20          assistance regarding the default.

21          (c) If the defaulting state fails to cure the default, the  
22          defaulting state shall be terminated from the compact upon an



1 affirmative vote of a majority of the member states and all  
2 rights, privileges, and benefits conferred by this compact shall  
3 be terminated from the effective date of termination. A cure of  
4 the default shall not relieve the offending state of obligations  
5 or liabilities incurred during the period of the default.

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

12 (e) The state which has been suspended or terminated is  
13 responsible for all assessments, obligations, and liabilities  
14 incurred through the effective date of suspension or termination  
15 including obligations, the performance of which extends beyond  
16 the effective date of suspension or termination.

17 (f) The interstate commission shall not bear any costs  
18 relating to any state that has been found to be in default or  
19 which has been suspended or terminated from the compact, unless  
20 otherwise mutually agreed upon in writing between the interstate  
21 commission and the defaulting state.



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

7 (h) Dispute resolution.

8 (1) The interstate commission shall attempt, upon the  
9 request of a member state, to resolve disputes which  
10 are subject to the compact and which may arise among  
11 member states and between member and non-member  
12 states.

13 (2) The interstate commission shall promulgate rules  
14 providing for both mediation and binding dispute  
15 resolution for disputes as appropriate.

16 (i) Enforcement.

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

20 (2) The interstate commission may, by majority vote of the  
21 members, initiate legal action in the United States  
22 District Court for the District of Columbia or, at the



1 discretion of the interstate commission, in the  
2 federal district where the interstate commission has  
3 its principal offices, to enforce compliance with the  
4 provisions of this compact, its promulgated rules and  
5 bylaws, against a member state in default. The relief  
6 sought may include both injunctive relief and damages.  
7 In the event judicial enforcement is necessary, the  
8 prevailing party shall be awarded all costs of such  
9 litigation, including reasonable attorney's fees.

10 (3) The remedies herein shall not be the exclusive  
11 remedies of the interstate commission. The interstate  
12 commission may avail itself of any other remedies  
13 available under state law or the regulation of a  
14 profession.

#### 15 ARTICLE XIV

#### 16 FINANCING OF THE INTERSTATE COMMISSION

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

20 (b) The interstate commission may levy on and collect an  
21 annual assessment from each member state to cover the cost of  
22 the operations and activities of the interstate commission and





1 its staff, which shall be in a total amount sufficient to cover  
2 the interstate commission's annual budget as approved each year.  
3 The aggregate annual assessment amount shall be allocated based  
4 upon a formula to be determined by the interstate commission,  
5 which shall promulgate rules binding upon all member states.

6 (c) The interstate commission shall not incur obligations  
7 of any kind prior to securing the funds adequate to meet the  
8 same; nor shall the interstate commission pledge the credit of  
9 any of the member states, except by and with the authority of  
10 the member state.

11 (d) The interstate commission shall keep accurate accounts  
12 of all receipts and disbursements. The receipts and  
13 disbursements of the interstate commission shall be subject to  
14 the audit and accounting procedures established under its  
15 bylaws. All receipts and disbursements of funds handled by the  
16 interstate commission shall be audited yearly by a certified or  
17 licensed public accountant and the report of the audit shall be  
18 included in and become part of the annual report of the  
19 interstate commission.

20 **ARTICLE XV**

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

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



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

10 (c) The interstate commission may propose amendments to  
11 the compact for enactment by the member states. No amendment  
12 shall become effective and binding upon the interstate  
13 commission and the member states unless and until it is enacted  
14 into law by unanimous consent of the member states.

15 **ARTICLE XVI**

16 **WITHDRAWAL AND DISSOLUTION**

17 (a) Withdrawal.

18 (1) Once effective, the compact shall continue in force  
19 and remain binding upon each and every member state;  
20 provided that a member state may withdraw from the  
21 compact by specifically repealing the statute which  
22 enacted the compact into law.



- 1           (2) Withdrawal from this compact shall be by the enactment  
2           of a statute repealing the same, but shall not take  
3           effect until one year after the effective date of such  
4           statute and until written notice of the withdrawal has  
5           been given by the withdrawing state to the governor of  
6           each other member state.
- 7           (3) The withdrawing state shall immediately notify the  
8           chairperson of the interstate commission in writing  
9           upon the introduction of legislation repealing this  
10          compact in the withdrawing state. The interstate  
11          commission shall notify the other member states of the  
12          withdrawing state's intent to withdraw within sixty  
13          days of its receipt thereof.
- 14          (4) The withdrawing state is responsible for all  
15          assessments, obligations, and liabilities incurred  
16          through the effective date of withdrawal, including  
17          obligations, the performance of which extend beyond  
18          the effective date of withdrawal.
- 19          (5) Reinstatement following withdrawal of a member state  
20          shall occur upon the withdrawing state reenacting the  
21          compact or upon such later date as determined by the  
22          interstate commission.



1 (b) Dissolution of compact.

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

6 (2) Upon the dissolution of this compact, the compact  
7 becomes void and shall be of no further force or  
8 effect, and the business and affairs of the interstate  
9 commission shall be concluded and surplus funds shall  
10 be distributed in accordance with the bylaws.

11 **ARTICLE XVII**

12 **SEVERABILITY AND CONSTRUCTION**

13 (a) The provisions of this compact shall be severable, and  
14 if any phrase, clause, sentence, or provision is deemed  
15 unenforceable, the remaining provisions of the compact shall be  
16 enforceable.

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

19 (c) Nothing in this compact shall be construed to prohibit  
20 the applicability of other interstate compacts to which the  
21 states are members.



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**ARTICLE XVIII**

**BINDING EFFECT OF COMPACT AND OTHER LAWS**

- (a) Other laws.
  - (1) Nothing herein prevents the enforcement of any other law of a member state that is not inconsistent with this compact.
  - (2) All member states' laws conflicting with this compact shall be superseded to the extent of the conflict.
- (b) Binding effect of the compact.
  - (1) All lawful actions of the interstate commission, including all rules and bylaws promulgated by the interstate commission, shall be binding upon the member states.
  - (2) All agreements between the interstate commission and the member states shall be binding in accordance with their terms.
  - (3) If any provision of this compact exceeds the constitutional limits imposed on the legislature of any member state, such provision shall be ineffective to the extent of the conflict with the constitutional provision in question in that member state.



1           **§ -2 State council.** There is established within the  
 2 board of education for administrative purposes the state council  
 3 on educational opportunity for military children. The board of  
 4 education shall establish the state council, as required by  
 5 article VIII of the compact. The membership of the state  
 6 council shall include, at a minimum:

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

- 1           (8) The chairperson of the senate education committee or  
2           the chairperson's designee;
- 3           (9) The chairperson of the house education committee or  
4           the chairperson's designee; and
- 5           (10) Other offices and stakeholder groups the state council  
6           deems necessary.

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

16           The council shall establish policies and procedures  
17 governing its operations but subject to the open meeting  
18 requirements of chapter 92.

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



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

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

5 SECTION 2. Statutory material to be repealed is bracketed  
6 and stricken. New statutory material is underscored.

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





**Report Title:**

Education; Military Children

**Description:**

Makes permanent the interstate compact on educational opportunity for military children. Deletes the definition of "test period". Deletes provisions relating to the furnishing of unofficial education records and principal's determination of available space. Clarifies military representation on state council on educational opportunity for military children within BOE. Effective June 30, 2011. (HB4 HD2)

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

