

SENATE BILL REPORT

SSB 5248

As Amended by House, April 13, 2009

Title: An act relating to the interstate compact on educational opportunity for military children.

Brief Description: Enacting the interstate compact on educational opportunity for military children.

Sponsors: Senate Committee on Ways & Means (originally sponsored by Senators Hobbs, King, McAuliffe, Brown, Kauffman, Holmquist, Tom, Shin, Hewitt, Brandland, McDermott, Jarrett, Kilmer, Haugen and Roach).

Brief History:

Committee Activity: Early Learning & K-12 Education: 1/21/09, 1/26/09 [DP-WM].

Ways & Means: 2/05/09, 3/02/09 [DPS].

Passed Senate: 3/10/09, 45-0.

Passed House: 4/13/09, 98-0.

SENATE COMMITTEE ON EARLY LEARNING & K-12 EDUCATION

Majority Report: Do pass and be referred to Committee on Ways & Means.

Signed by Senators McAuliffe, Chair; Kauffman, Vice Chair, Early Learning; Oemig, Vice Chair, K-12; King, Ranking Minority Member; Brandland, Hobbs, Holmquist, Jarrett, McDermott, Roach and Tom.

Staff: Susan Mielke (786-7422)

SENATE COMMITTEE ON WAYS & MEANS

Majority Report: That Substitute Senate Bill No. 5248 be substituted therefor, and the substitute bill do pass.

Signed by Senators Prentice, Chair; Fraser, Vice Chair, Capital Budget Chair; Tom, Vice Chair, Operating Budget; Zarelli, Ranking Minority Member; Brandland, Carrell, Fairley, Hobbs, Keiser, Kline, Kohl-Welles, McDermott, Murray, Parlette, Pridemore, Regala, Rockefeller and Schoesler.

Staff: Steve Jones (786-7440)

This analysis was prepared by non-partisan legislative staff for the use of legislative members in their deliberations. This analysis is not a part of the legislation nor does it constitute a statement of legislative intent.

Background: Interstate compacts are contracts between two or more states by enacting essentially identical statutes to address common problems or promote a common agenda in a uniform manner. Generally, a state must adopt a compact in precisely the terms it is offered, with only nonmaterial changes. Once a state enters into a compact agreement, then the state may not act unilaterally when addressing the issues covered by the compact without withdrawing from the compact. Washington is a party to 30 interstate compacts, including compacts addressing corrections, natural resources, energy, transportation, and other issues.

The Interstate Compact on Educational Opportunity for Military Children (Compact) was developed by a group that included the U.S. Department of Defense (DOD), the U.S. Department of Education, national education associations, and representatives of several states. Washington was not a participant in developing the Compact. Since December 2007, the Compact has been introduced in 32 states: 11 states have enacted the Compact; four states created a task force to study the Compact; and one state passed the Compact, but it was vetoed by the governor.

The Compact was introduced in the Washington Senate last year but was amended, and ultimately passed the Legislature, creating a 16-member task force to review and make recommendations regarding the Compact by December 1, 2008. The task force included four state legislators, an assistant attorney general, a representative from the U.S. Department of Defense, a representative from the Office of the Superintendent of Public Instruction (OSPI), a representative from the State Board of Education, representatives from each Educational School District, and representatives from school districts with a high concentration of military children. During the 2008 interim, the task force met six times and considered each provision of the Compact, identified issues or concerns, and issued a report with recommendations to adopt the Compact and take the following additional actions:

- When state statutes are consistent with the Compact, then there is no other legislative action necessary.
- When state statutes are silent on the areas addressed by the Compact and, therefore, the decision is currently made at the discretion of the school district, then to either:
 - amend state law to align with the Compact (addressing only children from military families in transition); or
 - amend the Compact to permit some level of discretion to the school districts.
- When the state statutes are inconsistent with the Compact, then to either:
 - amend state law to align with the Compact addressing only children from military families in transition; or
 - amend the Compact to align with state law.

Summary of Substitute Bill: The Compact is enacted with the changes recommended by the task force. The Compact and the corresponding state law changes apply only to children from military families in transition. The stated purpose of the Compact is to remove barriers to educational success imposed on children of military families because of frequent moves and deployment of their parents.

The provisions of the Compact that are consistent with state law are not summarized but include special education services, exit exams, use of national norm-referenced achievement tests, and alternative testing. The following are provisions of the Compact requiring changes to state law or changes to the Compact as recommended by the task force.

Educational Records. If the sending school cannot provide the parent a copy of the official record, an unofficial copy will be provided that may be hand-carried to the school in lieu of the official record. The receiving school must use the unofficial copy to enroll and place the student while the school sends for the official record. Once requested, the sending school has ten days to provide the official record to the receiving school. State law is amended to require school districts to furnish the unofficial copy (if requested), to permit districts to charge the actual cost of providing the copy, and to require the records to be sent in ten days. The Compact is amended to permit the official transcript to be withheld if there is an unpaid fine.

Immunizations. The Compact is amended to require students to meet the immunization documentation requirements of the State Board of Health on the first day of attendance, instead of permitting a student to start school so long as immunization occurs within 30 days.

Kindergarten and First Grade Entrance Age. Students must be allowed to continue at the same grade level in the receiving state, regardless of age requirements. State law is amended to eliminate the current school district discretion in assigning the grade level.

Program and Course Placement. When a student transfers, the receiving state school must initially honor placement of the student in programs and courses based on the student's enrollment in or assessment by the sending state school, if "like" programs and courses are offered. Programs include Highly Capable and English as a Second Language. Courses include Honors, International Baccalaureate, Advanced Placement, vocational, technical, and career pathways courses. The receiving state may conduct subsequent evaluations to ensure appropriate placement and continued enrollment of the student. State law is amended to provide school district discretion in determining whether the program in the sending state is a "like" program. The Compact is amended to add "If space is available, as determined by the school district."

Tuition. School districts are prohibited from charging tuition when the student is placed in the care of a person who lives in a jurisdiction other than that of the custodial parent. State law requiring tuition for students who live out of state is amended.

Residency. A student may continue to attend a school when placed in the care of a noncustodial parent who lives in another school district. State law giving school districts the discretion to permit the student to continue attendance is amended and specifies the continuation occurs when the custodial parent is required to relocate because of military orders, and that the nonresident school district is not required to pay transportation costs unless otherwise provided by law.

Extracurricular Activities. The state and school districts must facilitate the opportunity for inclusion in extracurricular activities to the extent the student is otherwise qualified. The Compact is amended to add "and space is available, as determined by the school district," and to clarify that the state agency responsible for implementing this provision is the Washington Interscholastic Activities Association.

Graduation. School districts must provide alternative means of acquiring required coursework so that graduation occurs on time. States must accept exit or end-of-course exams required for graduation from the sending state; national norm-referenced achievement tests; or alternative testing, in lieu of testing requirements for graduation in the receiving state. The Compact is amended to require school districts to use best efforts to provide alternative means to graduate and to apply the exit exam provisions only to 11th and 12th graders.

The following administrative issues are addressed by the Compact:

State Council. Each state must create a State Council to coordinate the state's participation in, and compliance with, the Compact. Membership must include at least the OSPI, a superintendent of a school district with a high concentration of military children, a representative from a military installation, two legislators, a representative from the Governor's Office, and other members that the State Council deems appropriate. The State Council must appoint a military family education liaison to assist military families and the state in facilitating the implementation of this Compact. The Governor must appoint a Compact commissioner who is the voting member on the Interstate Commission. The Compact is amended to encourage the Governor to appoint a practicing K-12 educator as the commissioner.

Interstate Commission. The Interstate Commission, composed of the Compact commissioner from each member state, will create and enforce rules governing the Compact's operation and maintain a variety of policy and operations committees. The Commission may initiate legal action in the U.S. District Court of the District of Columbia or the federal district court where the Commission's office is located to enforce compliance with the Compact and the Commission's rules. The Commission must charge each member state dues based on a formula to be determined by the Commission.

Withdrawal. A member state may withdraw from the Compact by repealing the Compact; however, the Compact provides that the withdrawal must not take effect until one year after the effective date of the repeal and written notice by the Governor to each member state.

State law was amended to require the State Council to review the Compact's implementation, and by December 1, 2014, recommend whether Washington should continue to be a member of the Compact.

The bill is null and void if funding is not provided in the 2009-11 omnibus budget bill.

Appropriation: None.

Fiscal Note: Available.

Committee/Commission/Task Force Created: Yes.

Effective Date: Ninety days after adjournment of session in which bill is passed.

Staff Summary of Public Testimony (Early Learning & K-12 Education): PRO: The bill is necessary to lessen the disadvantages and sacrifice that children from military families must make even though they were not the ones to sign up. There was a wisdom in Washington having the task force because it provided a level of scrutiny that is higher than the Compact received in any other state. The task force review was comprehensive and led to a unanimous vote to recommend the Compact with the recommended changes. Changes were made to the Compact because we tried to strike a balance – we don't want to overburden the schools but we need to assist these families. Other students transfer schools but students from military families move all the time and it causes them to lose out on opportunities to participate in sports, clubs, specialized programs, and other things that help keep kids interested in school. Our soldiers need to be focused on the battlefield and not be worried about the difficulties their children are encountering. Washington has the seventh largest number of active duty and reserve military in the nation. Washington school districts do a good job supporting students from military families but the Compact will institutionalize what is already being done, provide consistency and shared expectations among the school districts and the states who enact the Compact, and demonstrate to the non-member states that this is how military families should be assisted. The Interstate Commission will get to adopt rules to implement the Compact, and Washington should be at the next meeting in the Fall of 2009.

OTHER: There are still some unanswered questions about the Compact. Will the Interstate Commission accept the changes to the Compact recommended by the task force? Can the Interstate Commission be asked if they would accept these changes so we know whether we should go through all the efforts to pass the bill? How does this impact the school governance structure? Would it be greater support to our military families not to adopt the Compact and avoid the unknown rules but instead direct the current state education agencies, the OSPI and the State Board of Education to monitor all the rules adopted by the Commission and then act to bring those to the Legislature or act to put the rules into effect in Washington?

Persons Testifying (Early Learning & K-12 Education): PRO: Senator Hobbs, prime sponsor; Senator King, Compact member; Mark Sansouci, DOD state liaison; Martin Mueller, OSPI; Todd Goldsmith, McChord AFB; Gary Wilson, Deborah Labaeau, Clover Park School District; Jerry Bender, Association of Washington School Principals; Justin Reynolds, McChord AFB; Norma Melo, Steven B. Winters, Fort Lewis.

OTHER: Barbara Mertens, Washington Association of School Administrators.

Staff Summary of Public Testimony (Ways & Means): PRO: Men and women in the military make great sacrifices for our country - sometimes the ultimate sacrifice - but their families and children shouldn't have to sacrifice. Frequent moves are a burden on military families. Just one example: a child takes a Texas assessment exam, moves to Washington and finds he has to take the WASL, and the Texas exam he took doesn't count. Sometimes these barriers cause children to not graduate on time, or not receive the courses they need to get into college. It is hoped this bill will smooth all that out. Eleven states have enacted the Compact, exceeding the ten-state threshold, so the Interstate Commission has met one time. Nineteen other states are actively considering adoption. Washington is the seventh largest state in terms of active-duty and reserve population. Every year 25 to 33 percent of families

move; the average active-duty military child moves six to 12 times during the K-12 period, usually twice during high school.

To put into context the fiscal impact of the bill, a Washington OFM 2004 report estimated defense payroll spending is \$3.7 billion annually. The Puget Sound Regional Council supports the Compact; the Council estimated that defense contracts in Washington State totaled \$4.6 billion in 2006. In Washington we have 49,000 active-duty military children: 28,952 of those children are between the ages of five and 18. The Compact fees are assessed at \$1 per active-duty child. In many cases our school districts already provide most of these accommodations.

This Compact is about children both coming into and leaving the state. There was wisdom in convening a Task Force to review of the Compact. The Compact received more scrutiny in Washington than in any other state. Rick Masters, the special counsel for interstate compacts at the Council of State Governments and interim counsel to this Commission, has provided a memo stating his opinion that the proposed amendments to the Compact in SB 5248 do not substantially deviate from the material provisions of the Compact. This is the right thing to do for military children; and what's good for military children is good for all our children. In difficult economic times, military children will not be the only populations coming and going from out of state. We are a nation at war. Washington State is heavily impacted by the military, and we have an obligation to our military families to support the Compact. It is very disconcerting and frustrating for individual families to change schools so frequently and meet administrative barriers. We want military families to want to come to Washington and to prefer this state over others. Men and women on the line do not want to call home and hear that the school districts in their states are not being responsive to their children; and it's not out of lack of want but out of lack of information.

Persons Testifying (Ways & Means): PRO: Senator Hobbs, prime sponsor; Mark San Souci, DOD state liaison; Greg Lynch, Central Kitsap School District; Kris Brouker, Bremerton Naval Hospital; Tanya and Chelsea Brown, Fort Lewis; Norma Melo, Fort Lewis School Liaison; Todd Goldsmith, Community Relations, McChord Air Force Base.

House Amendment(s): The null and void clause is removed.