S T A T E O F N E W Y O R K

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I N S E N A T E

January 12, 2011

Introduced by Sens. GOLDEN, DeFRANCISCO, LAVALLE, LITTLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to an interstate compact on educational opportunity for military children

THE PEOPLE OF THE STATE OF NEW YORK, REPRESENTED IN SENATE AND ASSEMBLY, DO ENACT AS FOLLOWS:

Section 1. Legislative intent. The legislature hereby finds and declares that military families are reassigned postings on a regular basis, with the result that most military children will have six to nine different school systems in their lives from kindergarten to 12th grade; and further finds that such reassignments can result in transition challenges for these children who must start their lives over in new cities and bases, changing homes, schools, friends, and relationships. The legislature further finds and declares that it is a matter of equity, fairness, and in every sense in the public interest to provide the children of military families opportunities for educational success, and to assure that they are not penalized or delayed in achieving their educational goals by inflexible state processes and procedures.

S 2. The education law is amended by adding a new article 40-B to read as follows:

ARTICLE 40-B
INTERSTATE COMPACT ON
EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN

SECTION 1982. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; COMMISSIONER AUTHORIZED TO PARTICIPATE.
1983. DEFINITIONS.
1984. ENROLLMENT.
1985. GRADUATION.

S 1982. INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN; COMMISSIONER AUTHORIZED TO PARTICIPATE. THE COMMISSIONER IS

EXPLANATION--Matter in ITALICS (underscored) is new; matter in brackets [ ] is old law to be omitted.

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HEREBY AUTHORIZED TO PARTICIPATE IN THE INTERSTATE COMPACT ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN, IF AND WHEN CREATED, AND FOR SO LONG AS SUCH COMPACT SHALL BE IN EXISTENCE, AND TO PARTICIPATE FULLY IN PROGRAMS DESIGNED BY THE COMPACT AND ITS MEMBER STATES IN MEETING THE PURPOSE OF THE COMPACT TO HELP REMOVE BARRIERS TO EDUCATIONAL SUCCESS IMPOSED ON CHILDREN OF MILITARY FAMILIES BECAUSE OF FREQUENT MOVES AND DEPLOYMENT OF THEIR PARENTS. PLACEMENT PROVISIONS OF THIS ARTICLE AND ACTIONS REQUIRED OR AUTHORIZED TO BE TAKEN HEREIN BY THE COMMISSIONER SHALL APPLY TO THE CHILDREN OF ACTIVE DUTY MEMBERS OF THE UNIFORMED SERVICES.

S 1983. DEFINITIONS. AS USED IN THIS ARTICLE, UNLESS THE CONTEXT CLEARLY REQUIRES A DIFFERENT CONSTRUCTION:

1. "ACTIVE DUTY" MEANS FULL-TIME DUTY STATUS IN THE ACTIVE UNIFORMED SERVICE OF THE UNITED STATES, INCLUDING MEMBERS OF THE NATIONAL GUARD AND RESERVE ON ACTIVE DUTY ORDERS.

2. "CHILDREN OF MILITARY FAMILIES" MEANS SCHOOL-AGED CHILDREN, ENROLLED IN KINDERGARTEN THROUGH TWELFTH GRADE, IN THE HOUSEHOLD OF AN ACTIVE DUTY MEMBER.

3. "DEPLOYMENT" MEANS THE PERIOD ONE MONTH PRIOR TO THE SERVICE MEMBERS' DEPARTURE FROM THEIR HOME STATION ON MILITARY ORDERS THROUGH SIX MONTHS AFTER RETURN TO THEIR HOME STATION.

4. "EDUCATION RECORDS" OR "EDUCATIONAL RECORDS" MEANS OFFICIAL RECORDS, FILES, AND DATA DIRECTLY RELATED TO A STUDENT AND MAINTAINED BY THE SCHOOL OR LOCAL EDUCATION AGENCY, INCLUDING BUT NOT LIMITED TO RECORDS ENCOMPASSING ALL THE MATERIAL KEPT IN THE STUDENT'S CUMULATIVE FOLDER SUCH AS GENERAL IDENTIFYING DATA, RECORDS OF ATTENDANCE AND OF ACADEMIC WORK COMPLETED, RECORDS OF ACHIEVEMENT AND RESULTS OF EVALUATIVE TESTS, HEALTH DATA, DISCIPLINARY STATUS, TEST PROTOCOLS, AND INDIVIDUALIZED EDUCATION PROGRAMS, AS SHALL BE DETERMINED BY THE COMMISSIONER.

5. "EXTRACURRICULAR ACTIVITIES" MEANS A VOLUNTARY ACTIVITY SPONSORED BY THE SCHOOL OR LOCAL EDUCATION AGENCY OR AN ORGANIZATION SANCTIONED BY THE LOCAL EDUCATION AGENCY.

6. "INTERSTATE COMMISSION ON EDUCATIONAL OPPORTUNITY FOR MILITARY CHILDREN" MEANS A COMMISSION CREATED PURSUANT TO A COMPACT AMONG STATES, AND REFERRED TO HEREIN AS INTERSTATE COMMISSION.

7. "RECEIVING STATE" MEANS THE STATE TO WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT.

8. "SENDING STATE" MEANS THE STATE FROM WHICH A CHILD OF A MILITARY FAMILY IS SENT, BROUGHT, OR CAUSED TO BE SENT OR BROUGHT.

9. "STATE" MEANS A STATE OF THE UNITED STATES, THE DISTRICT OF COLUMBIA, THE COMMONWEALTH OF PUERTO RICO, THE U.S. VIRGIN ISLANDS, GUAM, AMERICAN SAMOA, THE NORTHERN MARIANAS ISLANDS AND ANY OTHER U.S. TERRITORY.

10. "STUDENT" MEANS THE CHILD OF A MILITARY FAMILY WHO IS FORMALLY ENROLLED IN KINDERGARTEN THROUGH TWELFTH GRADE.

11. "TRANSITION" MEANS: (A) THE FORMAL AND PHYSICAL PROCESS OF TRANSFERRING FROM SCHOOL TO SCHOOL; OR (B) THE PERIOD OF TIME IN WHICH A STUDENT MOVES FROM ONE SCHOOL IN THE SENDING STATE TO ANOTHER SCHOOL IN THE RECEIVING STATE.

12. "UNIFORMED SERVICE" MEANS THE ARMY, NAVY, AIR FORCE, MARINE CORPS, COAST GUARD AS WELL AS THE COMMISSIONED CORPS OF THE NATIONAL OCEANIC AND ATMOSPHERIC ADMINISTRATION, AND PUBLIC HEALTH SERVICES.

13. "VETERAN" MEANS A PERSON WHO SERVED IN THE UNIFORMED SERVICES AND WHO WAS DISCHARGED OR RELEASED THEREFROM UNDER CONDITIONS OTHER THAN DISHONORABLE.

S 1984. ENROLLMENT. 1. AT THE TIME OF ENROLLMENT AND CONDITIONAL PLACEMENT OF THE STUDENT, A SCHOOL SHALL REQUEST THE STUDENT'S OFFICIAL EDUCATION RECORDS FROM THE SCHOOL IN THE SENDING STATE. IN THE EVENT THAT OFFICIAL EDUCATION RECORDS CANNOT BE RELEASED TO THE PARENTS FOR THE PURPOSE OF TRANSFER, THE CUSTODIAN OF THE RECORDS IN THE SENDING STATE SHALL PREPARE AND FURNISH TO THE PARENT A COMPLETE SET OF UNOFFICIAL EDUCATIONAL RECORDS CONTAINING UNIFORM INFORMATION MEETING THE REQUIREMENTS OR PARAMETERS ESTABLISHED BY THE COMMISSIONER. THE COMMISSIONER SHALL REQUIRE THAT UPON RECEIPT OF SUCH UNOFFICIAL EDUCATION RECORDS, THE SCHOOL SHALL ENROLL AND APPROPRIATELY PLACE THE STUDENT PENDING VALIDATION BY OFFICIAL RECORDS. THE COMMISSIONER SHALL ADDITIONALLY ESTABLISH REQUIREMENTS FOR SITUATIONS IN WHICH THE STATE SHALL BE THE SENDING STATE AND ANOTHER STATE THE RECEIVING STATE.

2. THE COMMISSIONER SHALL PROVIDE THIRTY DAYS AFTER THE DATE OF ENROLLMENT FOR STUDENTS TO OBTAIN REQUIRED IMMUNIZATIONS OR MAY SET THE TIME TO COINCIDE WITH A TIME REASONABLY DETERMINED BY THE INTERSTATE COMMISSION.

3. THE RULES OF THE COMMISSIONER SHALL PROVIDE THAT A STUDENT WHO HAS SATISFACTORILY COMPLETED THE APPROPRIATE GRADE LEVEL IN THE SENDING STATE SHALL BE ELIGIBLE FOR ENROLLMENT IN THE NEXT HIGHEST GRADE LEVEL. A STUDENT TRANSFERRING AFTER THE START OF THE SCHOOL YEAR IN THE RECEIVING STATE SHALL ENTER THE SCHOOL ON HIS OR HER VALIDATED LEVEL FROM AN ACCREDITED SCHOOL IN THE SENDING STATE.

4. THE COMMISSIONER MAY WAIVE OR SUBSTITUTE COURSE AND PROGRAM PREREQUISITES, OR OTHER PRECONDITIONS FOR PLACEMENT, IN ORDER TO MEET THE REQUIREMENTS AND POLICY GOALS OF THIS ARTICLE.

5. THE COMMISSIONER SHALL PROVIDE FOR SITUATIONS IN WHICH A STUDENT WHOSE PARENT OR LEGAL GUARDIAN IS AN ACTIVE DUTY MEMBER OF THE UNIFORMED SERVICES, AND HAS BEEN CALLED TO DUTY FOR, IS ON LEAVE FROM, OR IMMEDIATELY RETURNED FROM DEPLOYMENT TO A COMBAT ZONE OR COMBAT SUPPORT, BY SUCH MEASURES AS ALLOWING ADDITIONAL EXCUSED ABSENCES IF APPROVED BY THE SCHOOL TO VISIT WITH A PARENT OR LEGAL GUARDIAN RELATIVE.

6. SPECIAL POWER OF ATTORNEY, RELATIVE TO THE GUARDIANSHIP OF A CHILD OF A MILITARY FAMILY AND EXECUTED UNDER APPLICABLE LAW SHALL BE SUFFICIENT FOR THE PURPOSES OF ENROLLMENT AND ALL OTHER ACTIONS REQUIRING PARENTAL PARTICIPATION AND CONSENT.

7. THE COMMISSIONER SHALL PROMULGATE RULES TO FACILITATE THE OPPORTUNITY FOR STUDENTS TO BE INCLUDED IN EXTRACURRICULAR ACTIVITIES, REGARDLESS OF APPLICATION DEADLINES, TO THE EXTENT THEY ARE OTHERWISE QUALIFIED.

S 1985. GRADUATION. IN ORDER TO FACILITATE THE ON-TIME GRADUATION OF CHILDREN OF MILITARY FAMILIES THE COMMISSIONER SHALL INCORPORATE THE PROCEDURES INCLUDING BUT NOT LIMITED TO:

1. THE COMMISSIONER SHALL PROVIDE FOR WAIVER OF COURSES REQUIRED FOR GRADUATION WHEN SIMILAR COURSEWORK HAS BEEN COMPLETED TO THE SATISFACTION OF THE COMMISSIONER. SHOULD A WAIVER NOT BE GRANTED TO A STUDENT WHO WOULD QUALIFY TO GRADUATE FROM THE SENDING SCHOOL, THE COMMISSIONER SHALL REQUIRE THAT THE SCHOOL PROVIDE AN ALTERNATIVE MEANS OF ACQUIRING REQUIRED COURSEWORK SO THAT GRADUATION MAY OCCUR ON TIME.

2. THE COMMISSIONER SHALL REQUIRE SCHOOLS TO ACCEPT: (A) EXIT OR END-OF-COURSE EXAMS REQUIRED FOR GRADUATION FROM THE SENDING STATE; OR (B) NATIONAL NORM ACHIEVEMENT TESTS; OR (C) ALTERNATIVE TESTING, IN LIEU OF TESTING REQUIREMENTS FOR GRADUATION IN THE RECEIVING STATE, IF SUCH EXAMS, TESTS, OR ALTERNATIVE TESTING MEETING CRITERIA ARE ESTABLISHED BY THE COMMISSIONER.

3. THE COMMISSIONER SHALL ENTER INTO AGREEMENTS AS NECESSARY TO COVER A SITUATION IN WHICH A STUDENT TRANSFERS AT THE BEGINNING OR DURING SENIOR YEAR BECOMES INELIGIBLE TO GRADUATE AFTER ALL ALTERNATIVES HAVE BEEN CONSIDERED, BY PROVIDING THAT THE STUDENT MAY RECEIVE A DIPLOMA FROM THE SENDING STATE, IF THE STUDENT MEETS THE GRADUATION REQUIREMENTS OF THE SENDING SCHOOL.

S 3. This act shall take effect immediately.