

8042

2009-2010 Regular Sessions

I N   A S S E M B L Y

May 1, 2009

---

Introduced by M. of A. NOLAN, ABBATE, BARRON, BENEDETTO, BENJAMIN, CASTRO, CHRISTENSEN, EDDINGTON, ESPAILLAT, GALEF, GREENE, JAFFEE, MAISEL, MARKEY, MILLMAN, PAULIN, SCHROEDER, PERRY, PHEFFER, ROSENTHAL, RUSSELL, STIRPE, TOWNS -- Multi-Sponsored by -- M. of A. DESTITO, GABRYSZAK, GLICK, JOHN, MENG -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to strengthening early childhood education by requiring full-day kindergarten and lowering the age of compulsory attendance to age five

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

1     Section 1. Legislative findings. The legislature finds and declares  
2     that early childhood education is of critical importance in improving  
3     student academic achievement in New York's elementary, middle and  
4     secondary schools and preparing our children to meet the challenges they  
5     will face in competing in a global economy in a rapidly changing world.  
6     If our children are to have the skills necessary to compete successfully  
7     in a marketplace that is increasingly global, places a premium on tech-  
8     nology and information transfer, and is evolving at a very rapid pace,  
9     they need a solid foundation in pre-kindergarten and kindergarten. In  
10    the aggregate, students who have the benefit of quality pre-kindergarten  
11    and kindergarten educational programs show higher reading achievement in  
12    later grades, while students who fall behind in the early grades often  
13    have difficulty catching up with their peers. The legislature further  
14    finds and declares that the existing provisions of the education law  
15    that make kindergarten optional and allow school districts to offer only  
16    half-day kindergarten programs hinder the effort to improve early child-  
17    hood education and do not provide all students with the same opportunity  
18    for and access to a public school kindergarten program on a full-time  
19    basis. Moreover, because the provisions of part 1 of article 65 of the  
20    education law on compulsory education do not currently apply to 5 year

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

LBD11086-01-9

olds who attend kindergarten, school officials cannot require most kindergarten students to attend school after their parents enroll them. Students who do not regularly attend school cannot be expected to keep up with their peers who do attend regularly and risk falling behind. On the other hand, parents may have legitimate concerns that their child is not ready to enter school at the required age. Therefore, the legislature further finds and declares that the compulsory school age should be lowered to age 5, but with a mechanism for parents to elect not to have their child enroll in school for an additional year.

S 2. Subdivision 11 of section 2 of the education law, as amended by chapter 363 of the laws of 1990, is amended to read as follows:

11. Compulsory school ages. The term "child of compulsory school age" means any child [between six and sixteen years of age] lawfully required to attend upon instruction PURSUANT TO SECTION THIRTY-TWO HUNDRED FIVE OF THIS CHAPTER.

S 3. Subdivision 1 of section 1712 of the education law is amended to read as follows:

1. The TRUSTEES OR board of education of each school district [may] SHALL maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for admission to such kindergartens FOR CHILDREN WHO BECOME FIVE YEARS OF AGE AFTER THE SCHOOL YEAR HAS COMMENCED TO THE EXTENT CONSISTENT WITH SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED TWO AND SECTION THIRTY-TWO HUNDRED FIVE OF THIS CHAPTER. IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND THEREAFTER, ALL SUCH KINDERGARTENS SHALL BE OPERATED ON A FULL-TIME BASIS.

S 4. Subdivision 1 of section 2514 of the education law, as added by chapter 762 of the laws of 1950, is amended to read as follows:

1. The board of education of each city school district [may] SHALL maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for admission to such kindergartens FOR CHILDREN WHO BECOME FIVE YEARS OF AGE AFTER THE SCHOOL YEAR HAS COMMENCED TO THE EXTENT CONSISTENT WITH SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED TWO AND SECTION THIRTY-TWO HUNDRED FIVE OF THIS CHAPTER. IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND THEREAFTER, ALL SUCH KINDERGARTENS SHALL BE OPERATED ON A FULL-TIME BASIS.

S 5. Subdivision 1 of section 2555 of the education law, such section as renumbered by chapter 762 of the laws of 1950, is amended to read as follows:

1. The board of education of each city [may] SHALL maintain kindergartens which shall be free to resident children between the ages of four and six years, provided, however, such board may fix a higher minimum age for admission to such kindergartens FOR CHILDREN WHO BECOME FIVE YEARS OF AGE AFTER THE SCHOOL YEAR HAS COMMENCED TO THE EXTENT CONSISTENT WITH SUBDIVISION ONE OF SECTION THIRTY-TWO HUNDRED TWO AND SECTION THIRTY-TWO HUNDRED FIVE OF THIS CHAPTER. IN THE TWO THOUSAND ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR AND THEREAFTER, ALL SUCH KINDERGARTENS SHALL BE OPERATED ON A FULL-TIME BASIS.

S 6. Subdivisions 1 and 2 of section 3205 of the education law, subdivision 1 as amended by chapter 262 of the laws of 1959, paragraphs a and b of subdivision 1 as amended by chapter 296 of the laws of 1969, paragraph c of subdivision 1 as amended by chapter 518 of the laws of 1993, paragraph b of subdivision 2 as amended by chapter 975 of the laws of 1966 and paragraph c of subdivision 2 as added by chapter 546 of the laws of 1987, are amended to read as follows:

1 1. a. In each school district of the state, each minor from [six] FIVE  
2 to sixteen years of age shall attend upon full time instruction.

3 b. Each minor from [six] FIVE to sixteen years of age on an Indian  
4 reservation shall attend upon full time day instruction.

5 c. For purposes of this article, a minor who becomes [six] FIVE years  
6 of age on or before the first of December in any school year OR ON OR  
7 BEFORE A LATER DATE IN SUCH SCHOOL YEAR, NOT LATER THAN DECEMBER THIR-  
8 TY-FIRST, ESTABLISHED BY THE TRUSTEES OR BOARD OF EDUCATION FOR ADMIS-  
9 SION TO THE PUBLIC SCHOOLS IN SUCH MINOR'S SCHOOL DISTRICT OF RESIDENCE  
10 shall be required to attend upon full time instruction from the first  
11 day that the appropriate public schools are in session in September of  
12 such school year, and a minor who becomes [six] FIVE years of age after  
13 the first of December in any school year OR A LATER DATE IN SUCH SCHOOL  
14 YEAR, NOT LATER THAN DECEMBER THIRTY-FIRST, ESTABLISHED BY THE TRUSTEES  
15 OR BOARD OF EDUCATION FOR ADMISSION TO THE PUBLIC SCHOOLS IN SUCH  
16 MINOR'S SCHOOL DISTRICT OF RESIDENCE shall be required to attend upon  
17 full time instruction from the first day of session in the following  
18 September; and, except as otherwise provided in subdivision three of  
19 this section, shall be required to remain in attendance until the last  
20 day of session in the school year in which the minor becomes sixteen  
21 years of age.

22 2. Exceptions. a. A minor who has completed a four-year high school  
23 course of study shall not be subject to the provisions of part one of  
24 this article in respect to required attendance upon instruction.

25 b. A minor for whom application for a full-time employment certificate  
26 has been made and who is eligible therefor may, though unemployed, be  
27 permitted to attend part time school not less than twenty hours per week  
28 instead of full time school.

29 c. [The board of education of the Syracuse city school district is  
30 hereby authorized to require minors who are five years of age on or  
31 before December first to attend kindergarten instruction. However, the  
32 provisions of this paragraph shall not apply to:

33 (i) Minors whose parents elect not to enroll their children in school  
34 until the following September.

35 (ii) Students enrolled in non-public schools or in home instruction.]  
36 A MINOR WHO WILL BECOME FIVE YEARS OF AGE IN ANY SCHOOL YEAR AND WHOSE  
37 PARENT ELECTS NOT TO ENROLL THEIR CHILD IN SCHOOL IN SUCH SCHOOL YEAR  
38 AND SUBMITS A NOTICE OF ELECTION PURSUANT TO THE PROVISIONS OF THIS  
39 PARAGRAPH SHALL NOT BE REQUIRED TO ATTEND UPON FULL-TIME INSTRUCTION  
40 UNTIL THE FIRST DAY OF SESSION IN SEPTEMBER OF THE FOLLOWING SCHOOL  
41 YEAR. THE PARENT SHALL SUBMIT A WRITTEN NOTICE TO THE SUPERINTENDENT OF  
42 SCHOOLS OF THEIR CHILD'S SCHOOL DISTRICT OF RESIDENCE OF THEIR ELECTION  
43 NOT TO ENROLL THEIR CHILD BY NO LATER THAN THE FIRST DAY OF APRIL  
44 PRECEDING THE SCHOOL YEAR IN WHICH THE CHILD BECOMES FIVE YEARS OF AGE,  
45 PROVIDED HOWEVER THAT WHERE THE CHILD'S SCHOOL DISTRICT OF RESIDENCE  
46 CHANGES AFTER SUCH DATE, THE PARENT MAY SUBMIT SUCH NOTICE WITHIN THIRTY  
47 DAYS AFTER ESTABLISHING RESIDENCE IN THE NEW SCHOOL DISTRICT. THE TRUS-  
48 TEES OR BOARD OF EDUCATION SHALL SEND WRITTEN NOTICE TO THE PARENTS OF  
49 EACH CHILD IDENTIFIED THROUGH THE SCHOOL CENSUS OR CHILD FIND WHO MIGHT  
50 BE ELIGIBLE TO MAKE AN ELECTION PURSUANT TO THIS PARAGRAPH BY NO LATER  
51 THAN THE PRECEDING MARCH FIRST. THE SUPERINTENDENT OF SCHOOLS SHALL NOT  
52 REJECT A NOTICE OF ELECTION SUBMITTED BY A PARENT AS UNTIMELY IF THE  
53 PARENT ESTABLISHES THAT THE DISTRICT FAILED TO PROVIDE TIMELY NOTICE TO  
54 THE PARENT OR THAT THE DELAY WAS CAUSED BY FACTORS BEYOND THE CONTROL OF  
55 THE PARENT, INCLUDING BUT NOT LIMITED TO, THE PARENT'S ABSENCE FROM THE  
56 STATE OR COUNTRY FOR MILITARY SERVICE, THE PARENT'S INCAPACITY DUE TO

1 ILLNESS OR DISABILITY, DISRUPTION OF MAIL SERVICE DUE TO SEVERE WEATHER  
2 CONDITIONS, LOSS OF ELECTRICITY OR OTHER EMERGENCY CONDITIONS AND THE  
3 PARENT'S INABILITY TO UNDERSTAND THE SCHOOL DISTRICT'S NOTICE BECAUSE IT  
4 WAS NOT SUBMITTED IN THE NATIVE LANGUAGE OR OTHER MODE OF COMMUNICATION  
5 USED BY THE PARENT. THE COMMISSIONER SHALL PRESCRIBE THE FORM OF THE  
6 NOTICES REQUIRED BY THIS PARAGRAPH AND SHALL BE AUTHORIZED TO ADOPT  
7 REGULATIONS TO IMPLEMENT THIS PARAGRAPH. NOTHING IN THIS SUBDIVISION  
8 SHALL BE CONSTRUED TO AUTHORIZE SCHOOL OFFICIALS TO DENY ADMISSION TO A  
9 STUDENT WHO IS ENTITLED TO ATTEND SCHOOL PURSUANT TO SUBDIVISION ONE OF  
10 SECTION THIRTY-TWO HUNDRED TWO OF THIS ARTICLE AND WHOSE PARENT HAS  
11 PREVIOUSLY FILED A NOTICE OF ELECTION PURSUANT TO THIS PARAGRAPH FOR THE  
12 SCHOOL YEAR, PROVIDED THAT UPON ADMISSION SUCH STUDENT SHALL BE REQUIRED  
13 TO ATTEND UPON FULL-TIME INSTRUCTION.

14 S 7. Subdivision 9 of section 3602 of the education law, as amended by  
15 section 16 of part B of chapter 57 of the laws of 2007, is amended to  
16 read as follows:

17 9. Aid for conversion to full day kindergarten. School districts may  
18 make available full day kindergarten programs for all children wishing  
19 to attend such programs, AND, COMMENCING WITH THE TWO THOUSAND  
20 ELEVEN--TWO THOUSAND TWELVE SCHOOL YEAR, SHALL MAKE FULL-DAY KINDERGAR-  
21 TEN PROGRAMS AVAILABLE TO ALL CHILDREN. For aid payable in the two thou-  
22 sand seven--two thousand eight school year and thereafter, school  
23 districts which provided any half-day kindergarten programs or had no  
24 kindergarten programs in the nineteen hundred ninety-six--ninety-seven  
25 school year and in the base year shall be eligible for aid equal to the  
26 product of the district's selected foundation aid calculated pursuant to  
27 subdivision four of this section multiplied by the positive difference  
28 resulting when the full day kindergarten enrollment of children attend-  
29 ing programs in the district in the base year is subtracted from such  
30 enrollment in the current year.

31 S 8. Subdivision 2 of section 3641 of the education law, as added by  
32 section 32 of part B of chapter 57 of the laws of 2008, is amended to  
33 read as follows:

34 2. Full-day kindergarten transition and pre-kindergarten planning  
35 grants. Within the amount appropriated for such purpose, the commission-  
36 er is hereby authorized to award grants to: (i) school districts that  
37 operated half-day kindergarten programs in the two thousand [six]  
38 EIGHT--two thousand [seven] NINE school year, CONTINUED TO OPERATE SUCH  
39 HALF-DAY PROGRAMS IN EACH YEAR THROUGH THE BASE YEAR and will continue  
40 to operate such half-day programs in the [two thousand seven--two thou-  
41 sand eight school] CURRENT year to plan for conversion to full-day  
42 kindergartens only in the school year next following the [school]  
43 CURRENT year [in which the planning grant is received], but no later  
44 than the two thousand [ten] ELEVEN--two thousand [eleven] TWELVE school  
45 year, and (ii) school districts for planning grants for the implementa-  
46 tion or expansion of universal prekindergarten programs. FOR PURPOSES  
47 OF THIS SUBDIVISION, "CURRENT YEAR" MEANS THE SCHOOL YEAR IN WHICH THE  
48 PLANNING GRANT IS RECEIVED AND "BASE YEAR" MEANS THE SCHOOL YEAR IMME-  
49 DIATELY PRECEDING THE CURRENT YEAR. The commissioner shall prescribe the  
50 procedures and criteria for the award of such grants, which shall be  
51 available to school districts to defray their additional costs for plan-  
52 ning time, the cost of classroom materials, equipment, furniture and  
53 supplies not eligible for aid pursuant to subdivisions six, six-a,  
54 six-b, six-c or six-f of section thirty-six hundred two of this article,  
55 where such additional costs are incurred in planning for the facilities  
56 and staffing that will be needed for such conversion, implementation or

1 expansion. No school district may receive more than one planning grant  
2 pursuant to this subdivision for conversion to full-day kindergarten.  
3 The commissioner shall be authorized to adopt regulations to implement  
4 the provisions of this subdivision.

5 S 9. This act shall take effect July 1, 2009, provided that if this  
6 act shall become a law after July 1, 2009, this act shall take effect  
7 immediately and shall be deemed to have been in full force and effect on  
8 and after July 1, 2009; provided further that sections one, two, three,  
9 four, five and six of this act shall take effect July 1, 2011.