

S. 1621

A. 4292

2009-2010 Regular Sessions

S E N A T E - A S S E M B L Y

February 3, 2009

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education

IN ASSEMBLY -- Introduced by M. of A. ENGLEBRIGHT -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to prekindergarten transportation

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

1 Section 1. Legislative intent. The commissioner of education in the
2 Appeal of Garvan et. al. on August 31, 2007 ruled that existing state
3 law does not provide public school districts with the authority to
4 transport students to prekindergarten programs which are not operated
5 pursuant to the "Universal Prekindergarten Program" as authorized by
6 section 3602-e of the education law. This ruling was upheld by the State
7 Supreme Court on December 7, 2007 in Board of Education of the Lawrence
8 Union Free School District Number 15 v. Garvan McColgan et. al. The
9 legislature finds that it is an appropriate public purpose to provide
10 public school districts with the authority to provide transportation to
11 children attending prekindergarten programs which are not operated
12 pursuant to section 3602-e of the education law provided that such
13 programs are located within the corporate boundaries of that school
14 district. Such transportation shall only be provided after a voter
15 approved proposition and such transportation costs shall not be eligible
16 for state transportation aid. All such transportation shall be offered
17 equally to all children in like circumstances.

18 S 2. Section 3635 of the education law is amended by adding a new
19 subdivision 1-a to read as follows:

20 1-A. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO TRANSPORTATION
21 PROVIDED TO STUDENTS WHO ARE ENROLLED IN PREKINDERGARTEN PROGRAMS OTHER
22 THAN THOSE AUTHORIZED BY SECTION THIRTY-SIX HUNDRED TWO-E OF THIS ARTI-

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

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1 CLE. A PREKINDERGARTEN PROGRAM SHALL MEAN A PUBLIC SCHOOL DISTRICT THAT
2 PROVIDES EDUCATIONAL SERVICES TO PREKINDERGARTEN CHILDREN. A SCHOOL
3 DISTRICT MAY PROVIDE TRANSPORTATION SERVICES FOR CHILDREN RESIDING WITH-
4 IN THE SCHOOL DISTRICT WHO ATTEND A PREKINDERGARTEN PROGRAM PROVIDED
5 THAT SUCH CHILDREN ARE FOUR YEARS OF AGE ON OR BEFORE DECEMBER FIRST OF
6 THE YEAR IN WHICH THEY ARE ENROLLED IN THE PREKINDERGARTEN PROGRAM OR
7 WHO ARE OTHERWISE ELIGIBLE TO ENTER PUBLIC SCHOOL KINDERGARTEN COMMENC-
8 ING WITH THE FOLLOWING YEAR. SUCH TRANSPORTATION SHALL ONLY BE PROVIDED
9 AFTER THE APPROVAL OF A SEPARATE PROPOSITION BY A MAJORITY OF THE ELIGI-
10 BLE VOTERS CASTING BALLOTS ON THE PROPOSITION AND SUCH PROPOSITION MAY
11 ONLY BE PLACED ON THE BALLOT FOR A VOTE BY A MAJORITY VOTE OF THE SCHOOL
12 BOARD AND SUCH PROPOSITION SHALL BE VOTED UPON ON THE SAME DATE AS THE
13 ANNUAL BUDGET VOTE. SUCH PROPOSITION SHALL BE IN A MANNER PRESCRIBED BY
14 THE COMMISSIONER AND SHALL SPECIFY THE DISTANCE THAT PREKINDERGARTEN
15 STUDENTS SHALL BE TRANSPORTED TO AND FROM THEIR HOMES AND THE RESPECTIVE
16 PREKINDERGARTEN PROGRAMS, PROVIDED THAT SUCH TRANSPORTATION SHALL BE
17 OFFERED EQUALLY TO ALL CHILDREN IN LIKE CIRCUMSTANCES. THE COST OF
18 PROVIDING SUCH TRANSPORTATION SHALL NOT BE AN ELIGIBLE EXPENSE FOR THE
19 PURPOSE OF CALCULATING TRANSPORTATION AID ALSO SHALL NOT BE AN ORDINARY
20 CONTINGENT EXPENSE OF THE DISTRICT. THE PROVISIONS OF THIS SECTION SHALL
21 NOT APPLY TO OR AFFECT THOSE INDIVIDUALS ENROLLED IN PROGRAMS PURSUANT
22 TO SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER.

23 S 3. This act shall take effect immediately.