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

3966--A

2011-2012 Regular Sessions

I N A S S E M B L Y

January 31, 2011

Introduced by M. of A. McENENY, WEISENBERG, CLARK, P. RIVERA -- Multi-Sponsored by -- M. of A. COLTON, RABBITT -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the transportation of children residing in a school district

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

Section 1. Paragraphs a, b and e of subdivision 1 of section 3635 of the education law, paragraph a as amended by section 11 of part A of chapter 97 of the laws of 2011, paragraph b as amended by chapter 718 of the laws of 1990, subparagraph (i) of paragraph b as amended by chapter 571 of the laws of 1994 and paragraph e as amended by chapter 665 of the laws of 1990, are amended to read as follows:

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of [fifteen] TWENTY-FIVE miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and [fifteen] TWENTY-FIVE miles shall be considered for the purposes of this

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

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chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than [fifteen] TWENTY-FIVE miles may be provided by the district with the approval of the qualified voters, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

b. (i) School districts providing transportation to a nonpublic school for pupils living within a specified distance from such school shall designate one or more public schools as centralized pick-up points and shall provide transportation between such points and such nonpublic schools for students residing in the district who live too far from such nonpublic schools to qualify for transportation between home and school. The district shall not be responsible for the provision of transportation for pupils between their home and such pick-up points. The district may provide school bus transportation to a pupil if the residence of the pupil is located on an established route for the transportation of pupils to the centralized pick-up point provided such transportation does not result in additional costs to the district. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

(ii) A board of education may, at its discretion, provide transportation for pupils residing within the district to a nonpublic school located more than [fifteen] TWENTY-FIVE miles from the home of any such pupil provided that such transportation has been provided to such nonpublic school pursuant to this subdivision in at least one of the immediately preceding three school years and such transportation is provided from one or more centralized pick-up points designated pursuant to this paragraph and that the distance from such pick-up points to the nonpublic school is not more than [fifteen] TWENTY-FIVE miles. The district shall not be responsible for the provision of transportation for pupils between pupils homes and such pick-up points. The cost of providing transportation between such pick-up points and such nonpublic schools shall be an ordinary contingent expense.

(III) A BOARD OF EDUCATION SHALL PROVIDE TRANSPORTATION FOR PUPILS RESIDING WITHIN THE DISTRICT WHO ARE NOT ENTITLED TO TRANSPORTATION PURSUANT TO SUBPARAGRAPH (I) OR (II) OF THIS PARAGRAPH OR ANY OTHER PROVISION OF THIS CHAPTER TO A NONPUBLIC SCHOOL FROM THE HOME OF SUCH PUPIL, REGARDLESS OF WHETHER SUCH NONPUBLIC SCHOOL IS WITHIN OR WITHOUT SUCH DISTRICT.

e. In lieu of the transportation provided pursuant to the foregoing provisions of this subdivision, a board of education may, at its discretion, provide transportation to any child attending grades kindergarten through eight between the school such child legally attends and before-and/or-after-school child care locations. For the purposes of this subdivision, a before-and/or-after-school child care location shall mean a place, other than the child's home, where care for less than twenty-four hours a day is provided on a regular basis for a child who attends school within the school district, provided that such place is situated within the school district. This definition includes, but is not limited to, a variety of child care services such as day care centers, family day care homes and in-home care by non-relatives. Such transportation may be provided for children attending grades kindergar-

ten through eight where the distance between the school they legally attend and before-and/or-after-school child care locations is more than two miles, and may be provided for up to a distance of [fifteen] TWENTY-FIVE miles, the distance in each case being measured by the nearest available route from before-and/or-after-school child care locations to the school they legally attend, except that transportation for a lesser distance than two miles or a greater distance than [fifteen] TWENTY-FIVE miles may be provided if transportation for such distances is provided to students between home and school. Where a child receives transportation from a before-school child care location to the school he or she legally attends, such child shall be entitled to receive transportation from the school he or she legally attends to his or her home or to an after-school child care location in accordance with this subdivision. Where a child receives transportation from the school he or she legally attends to an after-school child care location, such child shall be entitled to receive transportation from home to the school he or she legally attends in accordance with this subdivision. Transportation may be provided to any child attending grades kindergarten through eight between the school the child legally attends and before-and/or-after-school child care locations upon written request of the parent or legal guardian submitted not later than the first day of April preceding the next school year, provided, however, a parent or guardian of a child not residing in the district on such date shall submit a written request within thirty days after establishing residence in the district and provided further that in order to be considered eligible for such transportation in the nineteen hundred eighty-seven--eighty-eight school year, such request must be submitted by August first, nineteen hundred eighty-seven. The provision of transportation to or from before-and/or-after-school child care locations, if provided, shall be offered equally to all children in like circumstances residing in the district, provided that a board of education furnishing transportation pursuant to this paragraph may limit the provision of such transportation to child care locations located within the attendance zone of the school the child attends, and to child day care centers and school age child care programs licensed or registered pursuant to section three hundred ninety of the social services law located anywhere within the school district. The cost of providing such transportation between two or three miles, as the case may be, and [fifteen] TWENTY-FIVE miles shall be considered for the purposes of this chapter to be a charge upon the district. Such substitute transportation expense shall be eligible for state aid in accordance with clause one of paragraph b of subdivision seven of section thirty-six hundred two of this chapter. Nothing in this subdivision shall be construed to impose a duty upon boards of education to provide transportation to or from before-and/or-after-school child care locations. Nothing in this subdivision shall be construed to authorize boards of education to provide to any child transportation between a before-and/or-after-school day care location and that child's home.

S 2. Paragraph a of subdivision 1 of section 3635 of the education law, as amended by chapter 69 of the laws of 1992, is amended to read as follows:

a. Sufficient transportation facilities (including the operation and maintenance of motor vehicles) shall be provided by the school district for all the children residing within the school district to and from the school they legally attend, who are in need of such transportation because of the remoteness of the school to the child or for the promotion of the best interest of such children. Such transportation

shall be provided for all children attending grades kindergarten through eight who live more than two miles from the school which they legally attend and for all children attending grades nine through twelve who live more than three miles from the school which they legally attend and shall be provided for each such child up to a distance of [fifteen] TWENTY-FIVE miles, the distances in each case being measured by the nearest available route from home to school. The cost of providing such transportation between two or three miles, as the case may be, and [fifteen] TWENTY-FIVE miles shall be considered for the purposes of this chapter to be a charge upon the district and an ordinary contingent expense of the district. Transportation for a lesser distance than two miles in the case of children attending grades kindergarten through eight or three miles in the case of children attending grades nine through twelve and for a greater distance than [fifteen] TWENTY-FIVE miles may be provided by the district, and, if provided, shall be offered equally to all children in like circumstances residing in the district; provided, however, that this requirement shall not apply to transportation offered pursuant to section thirty-six hundred thirty-five-b of this article.

S 3. This act shall take effect on the first of July next succeeding the date on which it shall have become a law; provided, that the amendments to paragraph a of subdivision 1 of section 3635 of the education law, made by section one of this act, shall not affect the expiration and reversion of such paragraph and shall be deemed repealed therewith, when upon such date section two of this act shall take effect.