

4339

2013-2014 Regular Sessions

I N   S E N A T E

March 21, 2013

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Introduced by Sen. YOUNG -- (at request of the Legislative Commission on Rural Resources) -- 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 the required number of days school is in session and providing schools the option to operate one hundred eighty days of instruction or the equivalent number of hours of pupil instruction

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 a number of schools nationwide have implemented a flexible school  
3     week schedule while still maintaining the statutorily required amount of  
4     instructional time. This type of flexibility has resulted in savings on  
5     such items as energy, transportation and substitute teacher costs, along  
6     with better attendance, less time lost to extracurricular activities,  
7     more opportunities for teacher training and appointments, and longer  
8     class periods for instructional time. Many of the districts in other  
9     states which have already implemented flexible school schedules tend to  
10    be smaller and rural with long transportation routes to and from  
11    schools, and with no other option to save costs other than to close  
12    schools or layoff staff. Given the fiscal crisis facing New York as well  
13    as rising fuel, energy, and transportation costs, a flexible school week  
14    schedule based on the equivalent hours of pupil instruction may offer  
15    schools operational flexibility without jeopardizing the amount of  
16    instructional time required by law.

17    New York state is without legal authority to operate less than one  
18    hundred eighty days of instruction without forfeiting state aid. The  
19    lack of operational flexibility in school districts, in particular  
20    regard to instructional days, is a problem largely unaddressed in state  
21    statute or regulation. A well-planned alternative school week schedule

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

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1 can be cost-effective, and can provide flexibility for those school  
2 districts in fiscal crisis, while maintaining a quality education.

3 Therefore, the legislature finds that enactment of this legislation is  
4 necessary and appropriate to make certain that school boards, after  
5 thorough review and public comment, have the discretion and authority to  
6 provide local school districts with operational flexibility to modify  
7 the number of instructional days per year, while maintaining the quality  
8 of education at the particular school or schools requesting a flexible  
9 school week schedule.

10 S 2. Section 551 of the education law, as added by chapter 414 of the  
11 laws of 1972, is amended to read as follows:

12 S 551. Apportionment. 1. In order to meet proper health, welfare and  
13 safety standards in qualifying schools for the benefit of the pupils  
14 enrolled therein, there shall be apportioned health, welfare and safety  
15 grants by the commissioner to each qualifying school for the school  
16 years beginning on and after July first, nineteen hundred seventy-one,  
17 an amount equal to the product of thirty dollars multiplied by the aver-  
18 age daily OR EQUIVALENT HOURLY attendance of pupils receiving instruc-  
19 tion in such school, to be applied for costs of maintenance and repair.  
20 Such apportionment shall be increased by ten dollars multiplied by the  
21 average daily OR EQUIVALENT HOURLY attendance of pupils receiving  
22 instruction in a school building constructed prior to nineteen hundred  
23 forty-seven. In no event shall the per pupil annual allowance computed  
24 under this section exceed fifty per centum of the average per pupil cost  
25 of equivalent maintenance and repair in the public schools of the state  
26 on a state-wide basis, as determined by the commissioner, and in no  
27 event shall the apportionment to a qualifying school exceed the amount  
28 of expenditures for maintenance and repair of such school as reported  
29 pursuant to section five hundred fifty-two of this article.

30 2. The apportionment pursuant to this section shall be reduced by one  
31 one hundred eightieth for each day less than one hundred eighty days  
32 that such school was actually in total session in the base year, OR A  
33 SCHOOL FAILING TO COMPLY WITH THE EQUIVALENT NUMBER OF HOURS OF PUPIL  
34 INSTRUCTION SHALL FORFEIT FROM ITS APPORTIONMENT AN AMOUNT DETERMINED BY  
35 APPLYING A RATIO OF THE NUMBER OF HOURS THE SCHOOL WAS IN NONCOMPLIANCE  
36 IN RELATION TO THE REQUIRED MINIMUM EQUIVALENT NUMBER OF HOURS OF PUPIL  
37 INSTRUCTION, except that the commissioner may disregard such reduction  
38 up to five days OR THE EQUIVALENT NUMBER OF HOURS if he finds that the  
39 school was not in session for one hundred eighty days OR THE EQUIVALENT  
40 NUMBER OF HOURS OF PUPIL INSTRUCTION because of extraordinary adverse  
41 weather conditions, impairment of heating facilities, insufficiency of  
42 water supply, shortage of fuel or the destruction of a school building,  
43 and if the commissioner further finds that such school cannot make up  
44 such days OR THE EQUIVALENT NUMBER OF HOURS of instruction during the  
45 school year. No such reduction shall be made, however, for any day on  
46 which such school was in session for the purpose of administering the  
47 regents examinations or the regents scholarship examinations, or any  
48 day, not to exceed three days, OR THE EQUIVALENT NUMBER OF HOURS when  
49 such school was not in session because of a conference of teachers  
50 called by the principal of the school.

51 S 3. Subdivision 2 of section 1704 of the education law, as amended by  
52 chapter 543 of the laws of 1971, is amended to read as follows:

53 2. Except as otherwise provided by law, no board of education or  
54 community board in the city school district of the city of New York  
55 shall provide for a school year consisting of fewer than one hundred

1 eighty days of school OR THE EQUIVALENT NUMBER OF HOURS OF PUPIL  
2 INSTRUCTION.

3 S 4. Paragraphs a and c of subdivision 2 of section 2117 of the educa-  
4 tion law, as added by chapter 744 of the laws of 1952, are amended to  
5 read as follows:

6 a. The whole time school has been maintained in their district during  
7 the year ending on June thirtieth previous to the date of such report,  
8 and stating what portion of the time such school has been taught by  
9 qualified teachers, and the whole number of days, OR THE EQUIVALENT  
10 NUMBER OF HOURS OF PUPIL INSTRUCTION, including holidays, in which the  
11 school was taught by qualified teachers.

12 c. The number of children taught in the district during such year by  
13 qualified teachers, and the aggregate days' OR EQUIVALENT HOURS' attend-  
14 ance of all such children.

15 S 5. The first undesignated paragraph of section 3107 of the education  
16 law, as amended by chapter 784 of the laws of 1961, is amended to read  
17 as follows:

18 In cities having a population of one million or more, employees of the  
19 board of education who are members of the New York city teachers'  
20 retirement system shall be granted sick leave due to personal illness.  
21 Such sick leave shall be on the basis of at least ten days for each year  
22 of service, cumulative to a maximum of two hundred days. Members shall  
23 upon application be granted a retirement leave of absence with full pay  
24 consisting of one-half of their accumulated unused sick leave, up to a  
25 maximum of one school term or the equivalent number of school days OR  
26 THE EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION.

27 S 6. Paragraph a of subdivision 4 of section 3204 of the education law  
28 is amended to read as follows:

29 a. A full time day school or class, except as otherwise prescribed,  
30 shall be in session for not less than one hundred ninety days each year,  
31 OR THE EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION, inclusive of  
32 legal holidays that occur during the term of said school and exclusive  
33 of Saturdays.

34 S 7. Paragraphs d, k and l of subdivision 1 of section 3602 of the  
35 education law, as amended by section 11 of part B of chapter 57 of the  
36 laws of 2007, are amended to read as follows:

37 d. "Average daily attendance" shall mean the total number of attend-  
38 ance days OR THE EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION of  
39 pupils in a public school of a school district in kindergarten through  
40 grade twelve, or equivalent ungraded programs, plus the total number of  
41 instruction days OR THE EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION  
42 for such pupils receiving homebound instruction including pupils receiv-  
43 ing instruction through a two-way telephone communication system,  
44 divided by the number of days OR EQUIVALENT HOURS the district school  
45 was in session as provided in this section. The attendance of pupils  
46 with disabilities attending under the provisions of paragraph c of  
47 subdivision two of section forty-four hundred one of this chapter shall  
48 be added to average daily OR EQUIVALENT HOURLY attendance.

49 (1) Equivalent attendance shall mean the quotient of the total number  
50 of student hours of instruction in programs in a public school of a  
51 school district or a board of cooperative educational services leading  
52 to a high school diploma or a high school equivalency diploma as defined  
53 in regulations of the commissioner for pupils under the age of twenty-  
54 one not on a regular day school register of the district, divided by one  
55 thousand. Average daily OR EQUIVALENT HOURLY attendance shall include  
56 the equivalent attendance of the school district. For the purposes of

secondary school weighting, such equivalent attendance shall be considered as average daily OR EQUIVALENT HOURLY attendance in grades seven through twelve.

(2) In computing average daily OR EQUIVALENT HOURLY attendance, school districts may, with the commissioner's approval, exclude attendance for those days OR EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION, on which school attendance was adversely affected because of an epidemic or manmade or natural disaster or act of terrorism. In computing such attendance, the school district shall: (i) determine the number of religious holidays which fall on a school day IN WHICH SCHOOL IS SCHEDULED TO BE IN SESSION within a school year according to regulations established by the commissioner, such religious holidays to be duly recognized as such for purposes of this section by duly adopted resolution of the board of education; (ii) deduct the aggregate attendance on such religious holidays from the total aggregate attendance, by grade level; (iii) deduct such religious holidays from the total number of days OR EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION of session, by grade level; and (iv) compute the average daily OR EQUIVALENT HOURLY attendance for the school year.

k. "Attendance ratio" shall mean the number computed to four decimals without rounding when the aggregate days OR EQUIVALENT HOURS attendance is divided by the possible aggregate attendance of all pupils in attendance in the district, as computed for each school district by the commissioner by June first of the year following the attendance year.

l. "Average daily membership" shall mean the possible aggregate attendance of all pupils in attendance in a public school of the school district in kindergarten through grade twelve, or equivalent ungraded programs, including possible aggregate attendance for such pupils receiving homebound instruction, including pupils receiving instruction through a two-way telephone communication system, with the possible aggregate attendance of such pupils in one-half day kindergartens multiplied by one-half, divided by the number of days OR EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION the district school was in session as provided in this section. The full time equivalent enrollment of pupils with disabilities attending under the provisions of paragraph c of subdivision two of section forty-four hundred one of this chapter shall be added to average daily OR EQUIVALENT HOURLY membership. Average daily OR EQUIVALENT HOURLY membership shall include the equivalent attendance of the school district, as computed pursuant to paragraph d of this subdivision. In any instance where a pupil is a resident of another state or an Indian pupil is a resident of any portion of a reservation located wholly or partly within the borders of the state pursuant to subdivision four of section forty-one hundred one of this chapter or a pupil is living on federally owned land or property, such pupil's possible aggregate attendance shall be counted as part of the possible aggregate attendance of the school district in which such pupil is enrolled.

S 8. Paragraphs a and b of subdivision 2 of section 3602 of the education law, as amended by section 13 of part B of chapter 57 of the laws of 2007, are amended to read as follows:

a. Computation of resident weighted average daily OR EQUIVALENT HOURLY attendance. For purposes of this section weighted average daily OR EQUIVALENT HOURLY attendance of a school district for any school year shall be computed as follows:

(1) Weighted average daily OR EQUIVALENT HOURLY attendance shall be determined by using the average daily OR EQUIVALENT HOURLY attendance of

1 public school pupils in a full-day kindergarten and grades one through  
2 six as the basic unit, with the attendance of such pupils in one-half  
3 day kindergartens measured at one-half of such basic unit and the  
4 attendance of such pupils in grades seven through twelve measured at one  
5 and one-quarter of such basic unit. The sum of all such units of  
6 attendance shall be the weighted average daily OR EQUIVALENT HOURLY  
7 attendance.

8 (2) In computing such attendance, the school district shall (i) deter-  
9 mine the number of religious holidays which fall on a school day IN  
10 WHICH SCHOOL IS SCHEDULED TO BE IN SESSION within a school year accord-  
11 ing to regulations established by the commissioner, such religious holi-  
12 days to be duly recognized as such for purposes of this section by duly  
13 adopted resolution of the board of education; (ii) deduct the aggregate  
14 attendance on such religious holidays from the total aggregate attend-  
15 ance, by grade level; (iii) deduct such religious holidays from the  
16 total number of days OR EQUIVALENT NUMBER OF HOURS of session, by grade  
17 level; (iv) compute the weighted average daily OR EQUIVALENT HOURLY  
18 attendance for the school year.

19 (3) In any instance where a pupil is a resident of another state or an  
20 Indian pupil is a resident of any portion of a reservation located whol-  
21 ly or partly within the borders of the state pursuant to subdivision  
22 four of section forty-one hundred one of this chapter or a pupil is  
23 living on federally owned land or property, such pupil's attendance  
24 shall be counted as part of the weighted average daily OR EQUIVALENT  
25 HOURLY attendance of the school district in which such pupil is  
26 enrolled.

27 (4) Resident weighted average daily OR EQUIVALENT HOURLY attendance  
28 for purposes of determining the aid ratio of a school district for any  
29 school year shall be the weighted average daily OR EQUIVALENT HOURLY  
30 attendance for the school year immediately preceding the base year, less  
31 the weighted average daily OR EQUIVALENT HOURLY attendance of nonresi-  
32 dent pupils attending public schools in the district for such school  
33 year, plus the weighted average daily OR EQUIVALENT HOURLY attendance of  
34 pupils resident in the district but attending public schools in another  
35 district or state plus the weighted average daily OR EQUIVALENT HOURLY  
36 attendance of pupils resident in the district but attending full-time a  
37 school operated by a board of cooperative educational services or a  
38 county vocational education and extension board for such school year.  
39 The attendance of nonresident pupils attending public school in the  
40 district and resident pupils attending such schools outside of the  
41 district shall be determined by applying to the number of such pupils  
42 registered during the school year in each case the ratio of aggregate  
43 days OR EQUIVALENT HOURS attendance to the possible aggregate days OR  
44 EQUIVALENT HOURS attendance of all pupils in attendance in the district.  
45 Indian pupils of a reservation attending public school, or pupils living  
46 on the United States military reservation at West Point attending public  
47 school, shall be deemed to be resident pupils of the district providing  
48 such school, for purposes of this paragraph. Where a school district has  
49 entered into a contract with the state university pursuant to subdivi-  
50 sion two of section three hundred fifty-five of this chapter under which  
51 the school district makes payments in the nature of tuition for the  
52 education of certain children residing in the district, such children  
53 for whom such tuition payments are made shall be deemed to be resident  
54 pupils of such district for the purposes of this paragraph.

55 (5) In determining the resident weighted average daily OR EQUIVALENT  
56 HOURLY attendance of a component school district of a central high

1 school district for computing the aid ratio the weighted average daily  
2 OR EQUIVALENT HOURLY attendance of high school pupils residing in such  
3 component district and attending the central high school shall be  
4 included. The resident weighted average daily OR EQUIVALENT HOURLY  
5 attendance of a central high school district itself shall be the sum of  
6 the resident weighted average daily OR EQUIVALENT HOURLY attendance of  
7 each component school district computed as provided in the first  
8 sentence of this paragraph.

9 (6) Notwithstanding the provisions of subparagraphs four and five of  
10 this paragraph, when a school district shall experience an increase in  
11 resident weighted average daily OR EQUIVALENT HOURLY attendance during  
12 the current year because of the closing in whole, or in part, of a non-  
13 public school or a campus school, or a school previously operated by the  
14 United States government on the United States military reservation at  
15 West Point, the commissioner, in computing any aid ratio of such  
16 district, shall permit the use of such additional resident weighted  
17 average daily OR EQUIVALENT HOURLY attendance for aid ratio purposes  
18 during the current year and the next succeeding year, provided that such  
19 additional resident weighted average daily OR EQUIVALENT HOURLY attend-  
20 ance attributable to such closing, or part thereof, shall be in excess  
21 of one hundred students; provided, however, that such district which  
22 qualifies for an increase in total wealth pupil units pursuant to para-  
23 graph f of this subdivision, shall use the increase in resident weighted  
24 average daily OR EQUIVALENT HOURLY attendance, even if such increase in  
25 resident weighted average daily OR EQUIVALENT HOURLY attendance is less  
26 than one hundred.

27 b. Computation of adjusted average daily OR EQUIVALENT HOURLY attend-  
28 ance. For purposes of this section adjusted average daily OR EQUIVALENT  
29 HOURLY attendance of a school district for any school year shall be  
30 computed as follows:

31 (1) Adjusted average daily OR EQUIVALENT HOURLY attendance shall be  
32 determined by using the average daily OR EQUIVALENT HOURLY attendance of  
33 public school pupils in a full-day kindergarten and grades one through  
34 twelve as the basic unit, with the attendance of such pupils in one-half  
35 day kindergartens measured at one-half of such basic unit. The sum of  
36 all such units of attendance shall be the adjusted average daily OR  
37 EQUIVALENT HOURLY attendance.

38 (2) In computing such attendance, the school district shall (i) deter-  
39 mine the number of religious holidays which fall on a school day IN  
40 WHICH SCHOOL IS SCHEDULED TO BE IN SESSION within a school year accord-  
41 ing to regulations established by the commissioner, such religious holi-  
42 days to be duly recognized as such for purposes of this section by duly  
43 adopted resolution of the board of education; (ii) deduct the aggregate  
44 attendance on such religious holidays from the total aggregate attend-  
45 ance, by grade level; (iii) deduct such religious holidays from the  
46 total number of days OR EQUIVALENT NUMBER OF HOURS of session, by grade  
47 level; (iv) compute the adjusted average daily OR EQUIVALENT HOURLY  
48 attendance for the school year.

49 (3) In any instance where a pupil is a resident of another state or an  
50 Indian pupil is a resident of any portion of a reservation located whol-  
51 ly or partly within the borders of the state pursuant to subdivision  
52 four of section forty-one hundred one of this chapter or a pupil is  
53 living on federally owned land or property, such pupil's attendance  
54 shall be counted as part of the adjusted average daily attendance of the  
55 school district in which such pupil is enrolled.

1 S 9. Paragraph e of subdivision 1 of section 3602-c of the education  
2 law, as amended by chapter 740 of the laws of 1982, is amended to read  
3 as follows:

4 e. "Average daily attendance" shall mean the total number of attend-  
5 ance days OR THE EQUIVALENT NUMBER OF HOURS of pupils receiving services  
6 divided by the number of days OR EQUIVALENT HOURS the public school was  
7 in session for each attendance period. For each such attendance period  
8 the total number of attendance days OR EQUIVALENT NUMBER OF HOURS for  
9 each such pupil shall be determined by multiplying the number of days OR  
10 EQUIVALENT HOURS on which each such pupil was in attendance by the ratio  
11 obtained by dividing the number of class periods of each such pupil by  
12 the total number of class periods, not to exceed five, operated by the  
13 public school during the school day. Only pupils residing in this state  
14 shall be included in such computation.

15 S 10. Paragraph m of subdivision 12 and subdivision 16 of section  
16 3602-e of the education law, as amended by section 19 of part B of chap-  
17 ter 57 of the laws of 2007, are amended to read as follows:

18 m. a process for the waiver of the time requirements established  
19 pursuant to this subdivision in order to authorize the operation of a  
20 summer universal prekindergarten program limited to the months of July  
21 and August, upon a finding by the commissioner that the school district  
22 is unable to operate the program during the regular school session  
23 because of a lack of available space pursuant to regulations of the  
24 commissioner. Notwithstanding any other provision of this section to the  
25 contrary, such process shall provide for a reduction of the aid per  
26 prekindergarten pupil payable for pupils served pursuant to such waiver  
27 by one one-hundred eightieth of the aid per prekindergarten pupil deter-  
28 mined pursuant to paragraph a of subdivision ten [or subparagraph (i) of  
29 paragraph b of subdivision ten-a] of this section for each day OR EQUIV-  
30 ALENT HOUR less than one hundred eighty days OR THE EQUIVALENT NUMBER OF  
31 HOURS that the summer program is in session.

32 16. The grant payable to a school district pursuant to this section in  
33 the current year shall be reduced by one one-hundred eightieth for each  
34 day less than one hundred eighty days that the universal prekindergarten  
35 classes of the district were actually in session, OR A DISTRICT FAILING  
36 TO COMPLY WITH THE EQUIVALENT NUMBER OF HOURS OF PUPIL INSTRUCTION SHALL  
37 FORFEIT FROM ITS TOTAL STATE AID ALLOCATION AN AMOUNT DETERMINED BY  
38 APPLYING A RATIO OF THE NUMBER OF HOURS THE DISTRICT WAS IN NONCOMPLI-  
39 ANCE IN RELATION TO THE REQUIRED MINIMUM EQUIVALENT NUMBER OF HOURS OF  
40 PUPIL INSTRUCTION, except that the commissioner may disregard such  
41 reduction for any deficiency that may be disregarded in computing total  
42 foundation aid pursuant to subdivision seven or eight of section thir-  
43 ty-six hundred four of this [chapter] PART.

44 S 11. Subdivisions 7 and 8 of section 3604 of the education law,  
45 subdivision 7 as amended by section 31 of part B of chapter 57 of the  
46 laws of 2007 and subdivision 8 as amended by chapter 260 of the laws of  
47 2012, are amended and five new subdivisions 7-b, 7-c, 7-d, 7-e and 7-f  
48 are added to read as follows:

49 7. No district shall be entitled to any portion of such school moneys  
50 on such apportionment unless the report of the trustees or board of  
51 education for the preceding school year shall show that the public  
52 schools were actually in session in the district and taught by a quali-  
53 fied teacher or by successive qualified teachers or by qualified teach-  
54 ers for not less than one hundred eighty days OR THE EQUIVALENT NUMBER  
55 OF HOURS OF PUPIL INSTRUCTION. The moneys payable to a school district  
56 pursuant to section thirty-six hundred nine-a of this [chapter] PART in

1 the current year shall be reduced by one one-hundred eightieth of the  
2 district's total foundation aid for each day less than one hundred  
3 eighty days that the schools of the district were actually in session,  
4 OR A DISTRICT FAILING TO COMPLY WITH THE EQUIVALENT NUMBER OF HOURS OF  
5 PUPIL INSTRUCTION SHALL FORFEIT FROM ITS TOTAL STATE AID ALLOCATION AN  
6 AMOUNT DETERMINED BY APPLYING A RATIO OF THE NUMBER OF HOURS THE  
7 DISTRICT WAS IN NONCOMPLIANCE IN RELATION TO THE REQUIRED MINIMUM EQUIV-  
8 ALENT NUMBER OF HOURS OF PUPIL INSTRUCTION, except that the commissioner  
9 may disregard such reduction, up to five days, OR THE EQUIVALENT NUMBER  
10 OF HOURS in the apportionment of public money, if he finds that the  
11 schools of the district were not in session for one hundred eighty days  
12 OR THE EQUIVALENT NUMBER OF HOURS because of extraordinarily adverse  
13 weather conditions, impairment of heating facilities, insufficiency of  
14 water supply, shortage of fuel, lack of electricity, natural gas leak-  
15 age, unacceptable levels of chemical substances, or the destruction of a  
16 school building either in whole or in part, and if, further, the commis-  
17 sioner finds that such district cannot make up such days OR EQUIVALENT  
18 HOURS of instruction by using for the secondary grades all scheduled  
19 vacation days which occur prior to the first scheduled regents examina-  
20 tion day in June, and for the elementary grades all scheduled vacation  
21 days which occur prior to the last scheduled regents examination day in  
22 June. For the purposes of this subdivision, "scheduled vacation days"  
23 shall mean days on which the schools of the district are not in session  
24 and for which no prohibition exists in subdivision eight of this section  
25 for them to be in session.

26 7-B. FOR THE PURPOSES OF THIS SECTION, "ONE HUNDRED EIGHTY DAYS" MEANS  
27 ONE HUNDRED EIGHTY DAYS OF INSTRUCTION OR THE EQUIVALENT NUMBER OF HOURS  
28 OF PUPIL INSTRUCTION PER SCHOOL YEAR BASED ON A DIFFERENT NUMBER OF DAYS  
29 OF INSTRUCTION APPROVED BY THE SCHOOL DISTRICT GOVERNING BOARD OR CHAR-  
30 TER SCHOOL GOVERNING BODY.

31 7-C. THE LOCAL SCHOOL BOARD, IN ITS DISCRETION, MAY AUTHORIZE SOME OR  
32 ALL OF ITS SCHOOLS TO MODIFY THE NUMBER OF INSTRUCTIONAL DAYS PER YEAR  
33 AFTER THOROUGH REVIEW AND PUBLIC COMMENT. BEFORE AUTHORIZING SOME OR  
34 ALL OF ITS SCHOOLS TO MODIFY THE NUMBER OF INSTRUCTIONAL DAYS PER YEAR,  
35 THE SCHOOL BOARD, SHALL WITHIN ITS REVIEW, INCLUDE, BUT NOT BE LIMITED  
36 TO, CONSIDERATION OF THE FOLLOWING:

37 A. HOW THE SCHOOL OR SCHOOLS WILL MAINTAIN A QUALITY EDUCATION;

38 B. THE REASON FOR THE REQUEST;

39 C. THE EDUCATIONAL BENEFIT TO PUPILS;

40 D. WAYS TO NEGOTIATE THE CHANGES WITH THE COLLECTIVE BARGAINING UNIT  
41 REPRESENTING THE EMPLOYEES AFFECTED BY THE CHANGES;

42 E. INPUT FROM EMPLOYEES AFFECTED BY THE CHANGES BUT NOT REPRESENTED BY  
43 A COLLECTIVE BARGAINING AGREEMENT;

44 F. THE IMPACT OF AN ALTERNATIVE SCHOOL WEEK SCHEDULE ON PRIMARY GRADE  
45 PUPILS; AND

46 G. THE IMPACT OF AN ALTERNATIVE SCHOOL WEEK SCHEDULE ON WORKING  
47 PARENTS WHO MAY BE REQUIRED TO FIND CHILD CARE SERVICES FOR THEIR SCHOOL  
48 AGE CHILDREN DUE TO THE SHORTENED SCHOOL WEEK.

49 7-D. AFTER REVIEW, BUT NOT LIMITED TO THE CONSIDERATIONS SET FORTH IN  
50 SUBDIVISION SEVEN-C OF THIS SECTION, A SCHOOL BOARD SHALL CONDUCT AT  
51 LEAST ONE PUBLIC HEARING, TO GATHER PUBLIC INPUT, AND TO PROVIDE AT  
52 LEAST THIRTY DAYS NOTICE TO THE PUBLIC PRIOR TO SUCH HEARING. THE  
53 SCHOOL BOARD MAY AUTHORIZE SOME OR ALL OF ITS SCHOOLS TO MODIFY THE  
54 NUMBER OF INSTRUCTIONAL DAYS PER YEAR PROVIDED THE TOTAL NUMBER OF HOURS  
55 OF INSTRUCTION PER YEAR IS NO LESS THAN THE MINIMUM NUMBER OF INSTRU-  
56 TIONAL HOURS PER YEAR ESTABLISHED BY THE COMMISSIONER'S REGULATIONS FOR



1 THAT PARTICULAR GROUP OF PUPILS. SUBJECT TO A POLICY DEVELOPED AND  
2 ADOPTED BY THE BOARD OF ANY SCHOOL DISTRICT, THE BOARD MAY PROVIDE FOR A  
3 SCHOOL TERM CONSISTING OF SCHOOL HOURS.

4 7-E. A DISTRICT FAILING TO COMPLY WITH THE REQUIRED MINIMUM HOURS OF  
5 PUPIL INSTRUCTION PER YEAR AS ESTABLISHED BY THE COMMISSIONER'S REGU-  
6 LATIONS, SHALL FORFEIT FROM ITS TOTAL STATE AID ALLOCATION AN AMOUNT  
7 DETERMINED BY APPLYING A RATIO OF THE NUMBER OF HOURS THE DISTRICT WAS  
8 IN NONCOMPLIANCE IN RELATION TO THE REQUIRED MINIMUM NUMBER OF HOURS AS  
9 ESTABLISHED BY THE COMMISSIONER. NOT LATER THAN AUGUST FIRST, THE BOARD  
10 OF EACH DISTRICT SHALL CERTIFY TO THE DEPARTMENT THE NUMBER OF HOURS OF  
11 PUPIL INSTRUCTION IN THE PREVIOUS SCHOOL YEAR. IF THE DISTRICT DID NOT  
12 PROVIDE AT LEAST THE REQUIRED MINIMUM NUMBER OF HOURS OF PUPIL INSTRU-  
13 CTION AS ESTABLISHED BY THE COMMISSIONER, THE DEDUCTION OF STATE AID  
14 SHALL BE MADE IN THE FOLLOWING FISCAL YEAR FROM THE FIRST PAYMENT OF  
15 STATE SCHOOL AID.

16 7-F. THE COMMISSIONER SHALL PROMULGATE REGULATIONS ESTABLISHING THE  
17 MINIMUM NUMBER OF HOURS OF PUPIL INSTRUCTION PER YEAR.

18 8. No school shall be in session on a Saturday or a legal holiday,  
19 except general election day, Washington's birthday and Lincoln's birth-  
20 day, and except that driver education classes may be conducted on a  
21 Saturday. A deficiency not exceeding four days OR THE EQUIVALENT NUMBER  
22 OF HOURS during any school year caused by teachers' attendance upon  
23 conferences held by superintendents of schools of city school districts  
24 or other school districts employing superintendents of schools shall be  
25 excused by the commissioner, notwithstanding any provision of law, rule  
26 or regulation to the contrary, a school district may elect to schedule  
27 such conference days OR THE EQUIVALENT NUMBER OF HOURS in the last two  
28 weeks of August, subject to collective bargaining requirements pursuant  
29 to article fourteen of the civil service law, and such days OR THE  
30 EQUIVALENT NUMBER OF HOURS shall be counted towards the required one  
31 hundred eighty days of session, provided however, that such scheduling  
32 shall not alter the obligation of the school district to provide trans-  
33 portation to students in non-public elementary and secondary schools or  
34 charter schools. The commissioner shall excuse a deficiency not exceed-  
35 ing four days OR THE EQUIVALENT NUMBER OF HOURS during such school year  
36 caused by teachers' attendance upon conferences held by such superinten-  
37 dents, provided that at least two such conference days OR THE EQUIVALENT  
38 NUMBER OF HOURS during such school year shall be dedicated to staff  
39 attendance upon conferences providing staff development relating to  
40 implementation of the new high learning standards and assessments, as  
41 adopted by the board of regents. Notwithstanding any other provision of  
42 law, rule or regulation to the contrary, school districts may elect to  
43 use one or more of such allowable conference days OR THE EQUIVALENT  
44 NUMBER OF HOURS in units of not less than one hour each to provide staff  
45 development activities relating to implementation of the new high learn-  
46 ing standards and assessments. A district making such election may  
47 provide such staff development during the regularly scheduled daily OR  
48 EQUIVALENT HOURLY session and apply such units to satisfy a deficiency  
49 in the length of one or more daily OR EQUIVALENT HOURLY sessions of  
50 instruction for pupils as specified in regulations of the commissioner.  
51 The commissioner shall assure that such conference days OR THE EQUIV-  
52 ALENT NUMBER OF HOURS include appropriate school violence prevention and  
53 intervention training, and may require that up to one such conference  
54 day OR THE EQUIVALENT NUMBER OF HOURS be dedicated for such purpose.

55 S 12. Subdivision 2-a of section 3635 of the education law, as amended  
56 by chapter 424 of the laws of 2005, is amended to read as follows:

1 2-a. The superintendent of each city school district, in a city having  
2 a population in excess of one million, shall prepare a public school  
3 calendar and shall notify officials of nonpublic schools to which trans-  
4 portation has been requested not later than the first day of June in  
5 each year, of the days on which the public schools [will] ARE SCHEDULED  
6 TO be in session in the following school year. Such school district  
7 which provides transportation to nonpublic schools shall provide such  
8 transportation for the same number of days as the public schools are  
9 open but shall not provide transportation services for more than one  
10 hundred eighty days. Officials of each nonpublic school to which trans-  
11 portation is provided by a city school district of a city having a popu-  
12 lation in excess of one million may notify such district, not later than  
13 the first day of July of each school year, of a maximum of five days,  
14 exclusive of Saturdays, Sundays or legal holidays upon which public  
15 schools are required to be closed, on which the public schools are sche-  
16 duled to be closed, except that in any year in which the first or last  
17 day of Passover and Easter Sunday are separated by more than seven days,  
18 such officials may notify the district of a maximum of ten days, but  
19 such school district will be required to provide for transportation to  
20 such nonpublic school provided that such five or ten additional days,  
21 whichever is applicable, are limited to the following: the Tuesday,  
22 Wednesday, Thursday and Friday after Labor Day, Rosh Hashanah, Yom  
23 Kippur, the week in which public schools are closed for spring recess,  
24 December twenty-fourth and the week between Christmas day and New Year's  
25 day, the Tuesday, Wednesday, Thursday and Friday after the observance of  
26 Washington's birthday, and, in the boroughs of Brooklyn and Queens only,  
27 Anniversary Day as designated in section twenty-five hundred eighty-six  
28 of this chapter.

29 S 13. This act shall take effect on the first of July next succeeding  
30 the date on which it shall have become a law.