STATE OF NEW YORK

5122

2017-2018 Regular Sessions

IN SENATE

March 8, 2017

Introduced by Sen. CARLUCCI -- 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 universal pre-kindergarten aid; and to amend part CC of chapter 56 of the laws of 2014, amending the education law relating to universal full-day pre-kindergarten, in relation to providing for the repeal of such provisions

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

Section 1. Subdivision 10 of section 3602-e of the education law, as amended by section 22 of part B of chapter 57 of the laws of 2008, the opening paragraph as amended by section 5 of part A of chapter 54 of the laws of 2016, is amended to read as follows:

10. Universal prekindergarten aid. **a.** Notwithstanding any provision of law to the contrary,

(i) for aid payable in the two thousand eight--two thousand nine school year, the grant to each eligible school district for universal prekindergarten aid shall be computed pursuant to this subdivision, and

(ii) for the two thousand nine--two thousand ten and two thousand ten--two thousand eleven school years, each school district shall be eligible for a maximum grant equal to the amount computed for such school district for the base year in the electronic data file produced by the commissioner in support of the two thousand nine--two thousand ten education, labor and family assistance budget, provided, however, that in the case of a district implementing programs for the first time or implementing expansion programs in the two thousand eight--two thousand nine school year where such programs operate for a minimum of ninety days in any one school year as provided in section 151-1.4 of the regulations of the commissioner, for the two thousand nine--two thousand ten and two thousand ten--two thousand eleven school years, such school district shall be eligible for a maximum grant equal to the amount

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

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computed pursuant to paragraph a of subdivision nine of this section in the two thousand eight--two thousand nine school year, and

(iii) for the two thousand eleven--two thousand twelve school year each school district shall be eligible for a maximum grant equal to the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2011-12 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the 2011-12 school year and entitled "SA111-2", and

(iv) for two thousand twelve--two thousand thirteen through two thousand sixteen--two thousand seventeen school years each school district shall be eligible for a maximum grant equal to the greater of [~~(i)~~] (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the 2011-12 school year and entitled "SA111-2", or [~~(ii)~~] (B) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2010-11 BASE YEAR AIDS" in the school aid computer listing produced by the commissioner on May fifteenth, two thousand eleven pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter, and [~~provided further that the maximum grant shall not exceed the total actual grant expenditures incurred by the school district in the current school year as approved by the commissioner.~~

~~a. Each school district shall be eligible to receive a grant amount equal to the sum of (i) its prekindergarten aid base plus (ii) the product of its selected aid per prekindergarten pupil multiplied by the positive difference, if any of the number of aidable prekindergarten pupils served in the current year, as determined pursuant to regulations of the commissioner, less the base aidable prekindergarten pupils calculated pursuant to this subdivision for the two thousand seven--two thousand eight school year, based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seven--two thousand eight school year and entitled "SA070-8". Provided, however, that in computing an apportionment pursuant to this paragraph, for districts where the number of aidable prekindergarten pupils served is less than the number of unserved prekindergarten pupils, such grant amount shall be the lesser of such sum computed pursuant to this paragraph or the maximum allocation computed pursuant to subdivision nine of this section.~~]

(v) for the two thousand seventeen--two thousand eighteen school year, each school district shall be eligible to receive a grant amount equal to the sum of (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" under the heading "2016-17 ESTIMATED AIDS" in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand sixteen--two thousand seventeen school year and entitled "SA161-7", where, for the purposes of such run, the selected aid per full-day kindergarten pupil shall be computed pursuant to paragraph b of this subdivision plus (B) the amount awarded to such school district for the priority full-day prekindergarten and expanded half-day prekindergarten grant program for high need students for the two thousand sixteen--two thousand seventeen school year pursuant to chapter fifty-three of the laws of two thousand fourteen, plus (C) the amount set forth for such school district in the school aid computer listing produced by the commissioner in support of the regents proposal for the two thousand seventeen--two thousand eighteen school year and entitled "PREK1-7", and

(vi) for the two thousand eighteen--two thousand nineteen school year, each school district shall be eligible to receive a grant amount equal to the sum of (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" for the current year in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand seventeen--two thousand eighteen school year plus (B) the amount awarded to such school district for the federal preschool development expansion grant for the two thousand seventeen--two thousand eighteen school year pursuant to the American Recovery and Reinvestment Act of 2009 (ARRA), Sections 14005, 14006, and 14013, Title XIV, (Public Law 112-10), as amended by section 1832(b) of Division B of the Department of Defense and Full-Year Continuing Appropriations Act, 2011 (Pub. L. 112-10), and the Department of Education Appropriations Act, 2012 (Title III Division F of Pub. L. 112-74, the Consolidated Appropriations Act, 2012), and

(vii) for the two thousand nineteen--two thousand twenty school year, each school district shall be eligible to receive a grant amount equal to the sum of (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" for the current year in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand eighteen--two thousand nineteen school year plus (B) the amount awarded to such school district for the statewide full-day prekindergarten program for the two thousand eighteen--two thousand nineteen school year pursuant to section thirty-six hundred two-ee of this part, and

(viii) for the two thousand twenty--two thousand twenty-one school year, each school district shall be eligible to receive a grant amount equal to the sum of (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" for the current year in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand nineteen--two thousand twenty school year plus (B) the amount awarded to such school district for the expanded prekindergarten program for three and four year-olds for the two thousand nineteen--two thousand twenty school year pursuant to chapter sixty-one of the laws of two thousand fifteen, and

(ix) for the two thousand twenty-one--two thousand twenty-two school year, each school district shall be eligible to receive a grant amount equal to the sum of (A) the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" for the current year in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand twenty--two thousand twenty-one school year plus (B) the amount awarded to such school district for the expanded prekindergarten for three year-olds in high need districts program for the two thousand twenty--two thousand twenty-one school year pursuant to chapter fifty-three of the laws of two thousand sixteen, and

(x) for the two thousand twenty-two--two thousand twenty-three school year and thereafter, each school district shall be eligible to receive a grant amount equal to the amount set forth for such school district as "UNIVERSAL PREKINDERGARTEN" for the current year in the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand twenty-one--two thousand twenty-two school year.

b. For purposes of paragraph a of this subdivision:

(i) "Selected aid per prekindergarten pupil", for the two thousand seventeen--two thousand eighteen school year and thereafter shall equal the greater of (A) the [~~product of five tenths and the~~] school

district's selected foundation aid for the current year, or (B) [~~the aid per prekindergarten pupil calculated pursuant to this subdivision for the two thousand six-two thousand seven school year, based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the two thousand six--two thousand seven school year and entitled "SA060-7"; provided, however, that in the two thousand eight--two thousand nine school year, a city school district in a city having a population of one million inhabitants or more shall not be eligible to select aid per prekindergarten pupil pursuant to clause (A) of this subparagraph~~] ten thousand dollars;

(ii) [~~"Base aidable prekindergarten pupils". "Base aidable prekindergarten pupils" shall equal the sum of the base aidable prekindergarten pupils calculated pursuant to this subdivision for the base year, based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the base year, plus the additional aidable prekindergarten pupils calculated pursuant to this subdivision for the base year, based on data on file for the school aid computer listing produced by the commissioner in support of the enacted budget for the base year~~] "Full-day prekindergarten pupils" shall equal the maximum aidable full-day prekindergarten pupils and conversion pupils in the base year in any program eligible for universal prekindergarten funding in the current year;

(iii) "Half-day prekindergarten pupils" shall equal (A) the maximum aidable half-day prekindergarten pupils and conversion pupils in the base year in any program eligible for universal prekindergarten funding in the current year minus (B) the number of half-day prekindergarten pupils converted into full-day prekindergarten pupils under any program eligible for universal prekindergarten funding in the current year;

(iv) "Base year prekindergarten maintenance of effort" shall mean the sum of maximum aidable full day four year-old prekindergarten pupils in the base year plus the product of one half (0.5) multiplied by the maximum aidable half day four year-old prekindergarten pupils in the base year, provided that three year-old pupils previously served in any program shall not be considered for any maintenance effort;

(v) "Current year prekindergarten pupils served" shall mean the sum of full-day four year-old prekindergarten pupils served in the current year plus the product of one half (0.5) multiplied by the half-day four year-old prekindergarten pupils in the current year;

(vi) "Maintenance of effort factor" shall mean the quotient arrived at when dividing the current year prekindergarten pupils served by the base year prekindergarten maintenance of effort;

(vii) "Unserved prekindergarten pupils" shall mean the product of eighty-five percent multiplied by the positive difference, if any, between the sum of the public school enrollment and the nonpublic school enrollment of children attending full day and half day kindergarten programs in the district in the year prior to the base year less the number of resident children who attain the age of three or four before December first of the base year, who were served during such school year by a prekindergarten program approved pursuant to section forty-four hundred ten of this chapter, where such services are provided for more than four hours per day[~~;~~

~~(iv) "Additional aidable prekindergarten pupils". For the two thousand seven--two thousand eight through two thousand eight--two thousand nine school years, "additional aidable prekindergarten pupils" shall equal the product of (A) the positive difference, if any, of the unserved~~

~~prekindergarten pupils less the base aidable prekindergarten pupils multiplied by (B) the prekindergarten phase-in factor;~~

~~(v) the "prekindergarten aid base" shall mean the sum of the amounts the school district received for the two thousand six--two thousand seven school year for grants awarded pursuant to this section and for targeted prekindergarten grants;~~

~~(vi) The "prekindergarten phase-in factor". For the two thousand eight--two thousand nine school year, the prekindergarten phase-in factor shall equal the positive difference, if any, of the pupil need index computed pursuant to subparagraph three of paragraph a of subdivision four of section thirty-six hundred two of this part less one, provided, however, that: (A) for any district where (1) the maximum allocation computed pursuant to subdivision nine of this section for the base year is greater than zero and (2) the amount allocated pursuant to this subdivision for the base year, based on data on file for the school aid computer listing produced by the commissioner on February fifteenth of the base year, pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter, is greater than the positive difference, if any, of such maximum allocation for the base year less twenty-seven hundred, the prekindergarten phase-in factor shall not exceed eighteen percent, and shall not be less than ten percent, and (B) for any district not subject to the provisions of clause (A) of this subparagraph where (1) the amount allocated pursuant to this subdivision for the base year is equal to zero or (2) the amount allocated pursuant to this section for the base year, based on data on file for the school aid computer listing produced by the commissioner on February fifteenth of the base year, pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter, is less than or equal to the amount allocated pursuant to this section for the year prior to the base year, based on data on file for the school aid computer listing produced by the commissioner on February fifteenth of the base year, pursuant to paragraph b of subdivision twenty-one of section three hundred five of this chapter, the prekindergarten phase-in factor shall equal zero, and (C) for any district not subject to the provisions of clause (A) or (B) of this subparagraph, the prekindergarten phase-in factor shall not exceed thirteen percent, and shall not be less than seven percent;~~

~~(vii) "Base year" shall mean the base year as defined pursuant to subdivision one of section thirty-six hundred two of this part~~].

c. Notwithstanding any other provision of this section, the total grant payable pursuant to this section shall equal the lesser of: (i) the total grant amounts computed pursuant to this subdivision for the current year, based on data on file with the commissioner as of September first of the school year immediately following **less the maintenance of effort reduction pursuant to subdivision eleven of this section** or (ii) the total actual grant expenditures incurred by the school district as approved by the commissioner.

§ 2. Subdivision 11 of section 3602-e of the education law, as amended by section 10-b of part A of chapter 57 of the laws of 2012, is amended to read as follows:

11. [~~Notwithstanding the provisions of subdivision ten of this section, where the district serves fewer children during the current year than the lesser of the children served in the two thousand ten--two thousand eleven school year or its base aidable prekindergarten pupils computed for the two thousand seven--two thousand eight school year, the school district shall have its apportionment reduced in an amount proportional to such deficiency in the current year or in the succeeding~~

~~school year, as determined by the commissioner, except such reduction shall not apply to school districts which have fully implemented a universal pre-kindergarten program by making such program available to all eligible children. Expenses incurred by the school district in implementing a pre-kindergarten program plan pursuant to this subdivision shall be deemed ordinary contingent expenses.~~] Maintenance of effort reduction. Where a school district's current year prekindergarten pupils served is less than its base year prekindergarten maintenance of effort, the school district shall have its current year apportionment reduced by the product of the maintenance of effort factor computed in paragraph b of subdivision ten of this section multiplied by the grant amount it was eligible to receive in the current year pursuant to paragraph a of subdivision ten of this section.

§ 3. Subdivision 21 of section 305 of the education law is amended by adding a new paragraph d to read as follows:

d. Notwithstanding any inconsistent provision of law to the contrary, for the purposes of determining the base year level of general support for public schools pursuant to paragraph b of this subdivision for the two thousand seventeen--two thousand eighteen through two thousand twenty-one--two thousand twenty-two school years, the commissioner is directed to include the grant amounts allocated pursuant to subdivision ten of section thirty-six hundred two-e of this chapter where such grants had previously been allocated to districts by means other than general support for public schools, provided that, notwithstanding any provision of law to the contrary, such base year grant amounts shall not be included in: (1) the allowable growth amount computed pursuant to paragraph dd of subdivision one of section thirty-six hundred two of this chapter, (2) the preliminary growth amount computed pursuant to paragraph ff of subdivision one of section thirty-six hundred two of this chapter, and (3) the allocable growth amount computed pursuant to paragraph gg of subdivision one of section thirty-six hundred two of this chapter, and shall not be considered, and shall not be available for interchange with, general support for public schools.

§ 4. Paragraph c of subdivision 1 of section 3602-e of the education law, as amended by section 19 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

c. "Eligible children" shall mean resident children who are three or four years of age on or before December first of the year in which they are enrolled or who will otherwise be first eligible to enter public school kindergarten commencing with the following school year.

§ 5. Subparagraphs (i) and (ii) of paragraph c of subdivision 8 of section 3602-ee of the education law, as added by section 1 of part CC of chapter 56 of the laws of 2014, are amended to read as follows:

(i) for teachers hired on or after the effective date of this section as the teacher for a universal full-day pre-kindergarten classroom, within [~~three~~] five years after commencing employment, at which time such certification shall be required for employment; and

(ii) for teachers hired by such provider prior to the effective date of this section for other early childhood care and education programs, no later than June thirtieth, two thousand [~~seventeen~~] nineteen, at which time such certification shall be required for employment.

§ 6. Section 2 of part CC of chapter 56 of the laws of 2014, amending the education law relating to universal full-day pre-kindergarten, is amended to read as follows:

§ 2. This act shall take effect immediately, and shall expire and be deemed repealed July 1, 2019.

§ 7. This act shall take effect immediately, provided that the amendments to section 3602-ee of the education law, made by section five of this act, shall not affect the expiration and repeal of such section, and shall expire and be deemed repealed therewith.