

# STATE OF NEW YORK

4653

2021-2022 Regular Sessions

## IN SENATE

February 8, 2021

Introduced by Sens. JACKSON, KENNEDY -- 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 payment under  
contracts for transportation services during a declared state of emer-  
gency

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

1 Section 1. Subdivision 14 of section 305 of the education law is  
2 amended by adding a new paragraph h to read as follows:

3 h. Notwithstanding any law, rule, or regulation to the contrary, if a  
4 school district is closed due to a properly executed declaration of a  
5 state or local emergency pursuant to article two-B of the executive law,  
6 such district shall continue to make payments of benefits, compensation  
7 and emoluments pursuant to the terms of any contract for transportation  
8 of school children entered into pursuant to this subdivision that were  
9 in effect on the date of the closure as if the services for such bene-  
10 fits, compensation, and emoluments had been provided, and as if the  
11 school district had remained open. Payments received pursuant to this  
12 paragraph by a contractor providing pupil transportation services shall  
13 be used to meet payroll and fixed cost obligations of the contractor. A  
14 school district shall make all reasonable efforts to renegotiate a  
15 contract in good faith subject to this paragraph and may direct contrac-  
16 tors providing pupil transportation services who are a party to a  
17 contract and receive payments from the school district under this para-  
18 graph, to provide services on behalf of the school district which may  
19 reasonably be provided and are within the general expertise or service  
20 provisions of the original contract. Negotiations shall not include  
21 indirect costs such as fuel or tolls. As a condition of negotiations, a  
22 contractor for pupil transportation services shall reveal to the school  
23 district whether the entity has insurance coverage for the payment of  
24 benefits, compensation, and emoluments pursuant to the terms of a

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

LBD05491-01-1

1 contract with a contractor for pupil transportation services under this  
2 paragraph for services which otherwise would not have been provided had  
3 the school facilities remained open. A contractor shall divulge to its  
4 school district customers all government and private subsidies and  
5 programs which it is utilizing during the state of emergency to maintain  
6 financial solvency including, but not limited to government grants and  
7 loans, and unemployment insurance for its labor force. Nothing in this  
8 paragraph shall be construed to require a school district to make  
9 payments to a party in material breach of a contract with a contractor  
10 for pupil transportation services if the breach was not due to a closure  
11 resulting from a declared state of emergency, declared public health  
12 emergency, or a directive by an appropriate health agency or officer.

13 § 2. Notwithstanding any other provision of this act, if a school  
14 district continues to pay a school bus transportation contractor or  
15 operates its own school bus transportation, such district shall be  
16 eligible for reimbursement from the department of education at a rate  
17 the school district would have received had the pandemic of 2020 not  
18 occurred, had the minimum instruction days requirement not been waived  
19 under executive order 202.4 or had the commissioner not taken action  
20 under subdivision 7 of section 3604 of the education law.

21 § 3. This act shall take effect immediately and shall apply to any  
22 contracts or collective bargaining agreements in effect beginning with  
23 the 2019-2020 academic year.