

# STATE OF NEW YORK

9101

## IN ASSEMBLY

February 7, 2024

Introduced by M. of A. K. BROWN -- read once and referred to the Committee on Education

AN ACT to amend the education law and the retirement and social security law, in relation to increasing the required number of instructional days in a school year to two hundred

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

1 Section 1. Section 551 of the education law, as added by chapter 414  
2 of the laws of 1972, is amended to read as follows:  
3 § 551. Apportionment. 1. In order to meet proper health, welfare and  
4 safety standards in qualifying schools for the benefit of the pupils  
5 enrolled therein, there shall be apportioned health, welfare and safety  
6 grants by the commissioner to each qualifying school for the school  
7 years beginning on and after July first, nineteen hundred seventy-one,  
8 an amount equal to the product of thirty dollars multiplied by the aver-  
9 age daily attendance of pupils receiving instruction in such school, to  
10 be applied for costs of maintenance and repair. Such apportionment shall  
11 be increased by ten dollars multiplied by the average daily attendance  
12 of pupils receiving instruction in a school building constructed prior  
13 to nineteen hundred forty-seven. In no event shall the per pupil annual  
14 allowance computed under this section exceed fifty per centum of the  
15 average per pupil cost of equivalent maintenance and repair in the  
16 public schools of the state on a state-wide basis, as determined by the  
17 commissioner, and in no event shall the apportionment to a qualifying  
18 school exceed the amount of expenditures for maintenance and repair of  
19 such school as reported pursuant to section five hundred fifty-two of  
20 this article.  
21 2. The apportionment pursuant to this section shall be reduced by one  
22 [~~one hundred eightieth~~] two hundredth for each day less than [~~one~~  
23 ~~hundred eighty~~] two hundred days that such school was actually in total  
24 session in the base year, except that the commissioner may disregard  
25 such reduction up to five days if he finds that the school was not in  
26 session for [~~one hundred eighty~~] two hundred days because of extraor-  
27 dinary adverse weather conditions, impairment of heating facilities,

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

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1 insufficiency of water supply, shortage of fuel or the destruction of a  
2 school building, and if the commissioner further finds that such school  
3 cannot make up such days of instruction during the school year. No such  
4 reduction shall be made, however, for any day on which such school was  
5 in session for the purpose of administering the regents examinations or  
6 the regents scholarship examinations, or any day, not to exceed three  
7 days, when such school was not in session because of a conference of  
8 teachers called by the principal of the school.

9 § 2. Subdivision 2 of section 1704 of the education law, as amended by  
10 chapter 543 of the laws of 1971, is amended to read as follows:

11 2. Except as otherwise provided by law, no board of education or  
12 community board in the city school district of the city of New York  
13 shall provide for a school year consisting of fewer than [~~one hundred~~  
14 ~~eighty~~] two hundred days of school.

15 § 3. Paragraph a of subdivision 4 of section 3204 of the education  
16 law, as amended by section 7 of part A of chapter 56 of the laws of  
17 2022, is amended to read as follows:

18 a. A full time day school or class, except as otherwise prescribed,  
19 shall be in session for not less than [~~one hundred eighty~~] two hundred  
20 days each year, exclusive of legal holidays that occur during the term  
21 of said school and exclusive of Saturdays.

22 § 4. Paragraph m of subdivision 12 and subdivision 16 of section  
23 3602-e of the education law, paragraph m of subdivision 12 as amended by  
24 section 19 of part B of chapter 57 of the laws of 2007 and subdivision  
25 16 as amended by section 18 of part A of chapter 57 of the laws of 2013,  
26 are amended to read as follows:

27 m. a process for the waiver of the time requirements established  
28 pursuant to this subdivision in order to authorize the operation of a  
29 summer universal prekindergarten program limited to the months of July  
30 and August, upon a finding by the commissioner that the school district  
31 is unable to operate the program during the regular school session  
32 because of a lack of available space pursuant to regulations of the  
33 commissioner. Notwithstanding any other provision of this section to the  
34 contrary, such process shall provide for a reduction of the aid per  
35 prekindergarten pupil payable for pupils served pursuant to such waiver  
36 by one [~~one hundred eightieth~~] two hundredth of the aid per prekinde-  
37 rgarten pupil determined pursuant to paragraph a of subdivision ten [~~or~~  
38 ~~subparagraph (i) of paragraph b of subdivision ten-a~~] of this section  
39 for each day less than [~~one hundred eighty~~] two hundred days that the  
40 summer program is in session.

41 16. The grant payable to a school district pursuant to this section in  
42 the current year shall be reduced by [~~one one hundred eightieth~~] two  
43 hundredth for each day less than [~~one hundred eighty~~] two hundred days  
44 that the universal prekindergarten classes of the district were actually  
45 in session, except that the commissioner may disregard such reduction  
46 for any deficiency that may be disregarded in computing total foundation  
47 aid pursuant to subdivision seven or eight of section thirty-six hundred  
48 four of this [~~chapter~~] part and in addition may disregard a reduction  
49 for any deficiency that is caused by a delay in the opening of public  
50 school classes due to extraordinarily adverse weather conditions or  
51 other cause cited in such subdivision seven of section thirty-six  
52 hundred four that results in cancellation of the prekindergarten program  
53 or of transportation to such program.

54 § 5. Subdivisions 7 and 8 of section 3604 of the education law, subdi-  
55 vision 7 as amended by chapter 107 of the laws of 2020 and subdivision 8

1 as amended by chapter 359 of the laws of 2023, are amended to read as  
2 follows:

3 7. No district shall be entitled to any portion of such school moneys  
4 on such apportionment unless the report of the trustees or board of  
5 education for the preceding school year shall show that the public  
6 schools were actually in session in the district and taught by a quali-  
7 fied teacher or by successive qualified teachers or by qualified teach-  
8 ers for not less than [~~one hundred eighty~~] two hundred days. The moneys  
9 payable to a school district pursuant to section thirty-six hundred  
10 nine-a of this part in the current year shall be reduced by one [~~one-~~  
11 ~~hundred-eightieth~~] two hundredth of the district's total foundation aid  
12 for the base year for each day less than [~~one hundred eighty~~] two  
13 hundred days that the schools of the district were actually in session,  
14 except that the commissioner may disregard such reduction in the appor-  
15 tionment of public money: (i) for any day or days on which session had  
16 been previously scheduled but the superintendent was required to close  
17 the school or schools due to a properly executed declaration of a state  
18 or local state of emergency pursuant to article two-B of the executive  
19 law; or (ii) for up to five days if he or she finds that the schools of  
20 the district were not in session for [~~one hundred eighty~~] two hundred  
21 days because of extraordinarily adverse weather conditions, impairment  
22 of heating facilities, insufficiency of water supply, shortage of fuel,  
23 lack of electricity, natural gas leakage, unacceptable levels of chemi-  
24 cal substances, a credible threat to student safety as reasonably deter-  
25 mined by a lead school official or the destruction of a school building  
26 either in whole or in part, and if, further, the commissioner finds that  
27 such district cannot make up such days of instruction by using for the  
28 secondary grades all scheduled vacation days which occur prior to the  
29 first scheduled regents examination day in June, and for the elementary  
30 grades all scheduled vacation days which occur prior to the last sched-  
31 uled regents examination day in June; or (iii) for any day or days in  
32 the two thousand nineteen -- two thousand twenty school year on which  
33 session had been previously scheduled but the chancellor of the city  
34 school district of the city of New York or the superintendent of a  
35 district closed the school or schools due to a determination by the  
36 chancellor or superintendent that it was in the best interest of public  
37 health or safety of the school district to close the school or schools  
38 in response to the novel coronavirus, COVID-19. For the purposes of this  
39 subdivision, "scheduled vacation days" shall mean days on which the  
40 schools of the district are not in session and for which no prohibition  
41 exists in subdivision eight of this section for them to be in session.

42 8. No school shall be in session on a Saturday, the first day of the  
43 second lunar month after the winter solstice in the preceding calendar  
44 year known as Asian Lunar New Year, or a legal holiday, except general  
45 election day, Washington's birthday and Lincoln's birthday, and except  
46 that driver education classes may be conducted on a Saturday. A defi-  
47 ciency not exceeding four days during any school year caused by teach-  
48 ers' attendance upon conferences held by superintendents of schools of  
49 city school districts or other school districts employing superinten-  
50 dents of schools shall be excused by the commissioner, notwithstanding  
51 any provision of law, rule or regulation to the contrary, a school  
52 district may elect to schedule such conference days in the [~~last~~] first  
53 two weeks of August, subject to collective bargaining requirements  
54 pursuant to article fourteen of the civil service law, and such days  
55 shall be counted towards the required [~~one hundred eighty~~] two hundred  
56 days of session, provided however, that such scheduling shall not alter

1 the obligation of the school district to provide transportation to  
2 students in non-public elementary and secondary schools or charter  
3 schools. At least two such conference days during such school year shall  
4 be dedicated to staff attendance upon conferences providing staff devel-  
5 opment relating to implementation of the new high learning standards and  
6 assessments, as adopted by the board of regents. Notwithstanding any  
7 other provision of law, rule or regulation to the contrary, school  
8 districts may elect to use one or more of such allowable conference days  
9 in units of not less than one hour each to provide staff development  
10 activities relating to implementation of the new high learning standards  
11 and assessments. A district making such election may provide such staff  
12 development on any day during which sessions are allowed and apply such  
13 units to satisfy a deficiency in the length of one or more daily  
14 sessions of instruction for pupils as specified in regulations of the  
15 commissioner. The commissioner shall assure that such conference days  
16 include appropriate school violence prevention and intervention train-  
17 ing, and may require that up to one such conference day be dedicated for  
18 such purpose.

19 § 6. Subdivision 2-a of section 3635 of the education law, as amended  
20 by chapter 359 of the laws of 2023, is amended to read as follows:

21 2-a. The superintendent of each city school district, in a city having  
22 a population in excess of one million, shall prepare a public school  
23 calendar and shall notify officials of nonpublic schools to which trans-  
24 portation has been requested not later than the first day of June in  
25 each year, of the days on which the public schools will be in session in  
26 the following school year. Such school district which provides transpor-  
27 tation to nonpublic schools shall provide such transportation for the  
28 same number of days as the public schools are open but shall not provide  
29 transportation services for more than [~~one hundred eighty~~] two hundred  
30 days. Officials of each nonpublic school to which transportation is  
31 provided by a city school district of a city having a population in  
32 excess of one million may notify such district, not later than the first  
33 day of July of each school year, of a maximum of five days, exclusive of  
34 Saturdays, Sundays or legal holidays upon which public schools are  
35 required to be closed, on which the public schools are scheduled to be  
36 closed, except that in any year in which the first or last day of Pass-  
37 over and Easter Sunday are separated by more than seven days, such offi-  
38 cials may notify the district of a maximum of ten days, but such school  
39 district will be required to provide for transportation to such nonpub-  
40 lic school provided that such five or ten additional days, whichever is  
41 applicable, are limited to the following: the Tuesday, Wednesday, Thurs-  
42 day and Friday after Labor Day, Rosh Hashanah, Yom Kippur, the week in  
43 which public schools are closed for spring recess, December twenty-  
44 fourth and the week between Christmas day and New Year's day, the Tues-  
45 day, Wednesday, Thursday and Friday after the observance of Washington's  
46 birthday, the first day of the second lunar month after the winter sols-  
47 tice in the preceding calendar year, known as Asian Lunar New Year, and,  
48 in the boroughs of Brooklyn and Queens only, Anniversary Day as desig-  
49 nated in section twenty-five hundred eighty-six of this chapter.

50 § 7. Subdivision f of section 446 of the retirement and social securi-  
51 ty law, as amended by chapter 210 of the laws of 1996, is amended to  
52 read as follows:

53 f. Notwithstanding any other provision of law, any member of the New  
54 York state and local employees' retirement system who is subject to the  
55 provisions of this article and who is employed by a school district, a  
56 board of cooperative educational services, a vocational education and

1 extension board, an institution for the instruction of the deaf and of  
2 the blind as enumerated in section four thousand two hundred one of the  
3 education law, or a school district as enumerated in section one of  
4 chapter five hundred sixty-six of the laws of nineteen hundred sixty-  
5 seven as amended to date, shall have their service credit for service  
6 rendered on or after January first, nineteen hundred ninety determined  
7 by dividing the number of days worked in a school year by one hundred  
8 eighty for days worked prior to the effective date of the chapter of the  
9 laws of two thousand twenty-three which amended this subdivision and  
10 determined by dividing the number of days worked in a school year by  
11 two hundred for days worked after the effective date of the chapter of  
12 the laws of two thousand twenty-three which amended this subdivision.

13 For the purpose of this section a school year will begin on July first  
14 and end the following June thirtieth. No more than one year of service  
15 may be credited during any such fiscal year. Credit for service rendered  
16 before January first, nineteen hundred ninety shall be determined in the  
17 same manner if a person eligible for such benefit shall file the appro-  
18 priate application with the state comptroller on or before August  
19 second, nineteen hundred ninety-six and, within five years of filing  
20 such application, make payment for all costs necessary to finance the  
21 receipt of such service credit.

22 § 8. Subdivision f of section 513 of the retirement and social securi-  
23 ty law, as amended by chapter 210 of the laws of 1996, is amended to  
24 read as follows:

25 f. Notwithstanding any other provision of law, any member of the New  
26 York state and local employees' retirement system who is subject to the  
27 provisions of this article and who is employed by a school district, a  
28 board of cooperative educational services, a vocational education and  
29 extension board, an institution for the instruction of the deaf and of  
30 the blind as enumerated in section four thousand two hundred one of the  
31 education law, or a school district as enumerated in section one of  
32 chapter five hundred sixty-six of the laws of nineteen hundred sixty-  
33 seven as amended to date, shall have their service credit for service  
34 rendered on or after January first, nineteen hundred ninety determined  
35 by dividing the number of days worked in a school year by one hundred  
36 eighty for days worked prior to the effective date of the chapter of the  
37 laws of two thousand twenty-three which amended this subdivision and  
38 determined by dividing the number of days worked in a school year by  
39 two hundred for days worked after the effective date of the chapter of  
40 the laws of two thousand twenty three which amended this subdivision.

41 For the purpose of this section a school year will begin on July first  
42 and end the following June thirtieth. No more than one year of service  
43 may be credited during any such fiscal year. Credit for service rendered  
44 before January first, nineteen hundred ninety shall be determined in the  
45 same manner if a person eligible for such benefit shall file the appro-  
46 priate application with the state comptroller on or before August  
47 second, nineteen hundred ninety-six and, within five years of filing  
48 such application, make payment for all costs necessary to finance the  
49 receipt of such service credit.

50 § 9. Subdivision f of section 609 of the retirement and social securi-  
51 ty law, as amended by chapter 210 of the laws of 1996, is amended to  
52 read as follows:

53 f. Notwithstanding any other provision of law, any member of the New  
54 York state and local employees' retirement system who is subject to the  
55 provisions of this article and who is employed by a school district, a  
56 board of cooperative educational services, a vocational education and

1 extension board, an institution for the instruction of the deaf and of  
2 the blind as enumerated in section four thousand two hundred one of the  
3 education law, or a school district as enumerated in section one of  
4 chapter five hundred sixty-six of the laws of nineteen hundred sixty-  
5 seven as amended to date, shall have their service credit for service  
6 rendered on or after January first, nineteen hundred ninety determined  
7 by dividing the number of days worked in a school year by one hundred  
8 eighty for days worked prior to the effective date of the chapter of the  
9 laws of two thousand twenty-three which amended this subdivision and  
10 determined by dividing the number of days worked in a school year by two  
11 hundred for days worked after the effective date of the chapter of the  
12 laws of two thousand twenty three which amended this subdivision. For  
13 the purpose of this section a school year will begin on July first and  
14 end the following June thirtieth. No more than one year of service may  
15 be credited during any such fiscal year. Credit for service rendered  
16 before January first, nineteen hundred ninety shall be determined in the  
17 same manner if a person eligible for such benefit shall file the appro-  
18 priate application with the state comptroller on or before August  
19 second, nineteen hundred ninety-six and, within five years of filing  
20 such application, make payment for all costs necessary to finance the  
21 receipt of such service credit.

22 § 10. This act shall take effect on the first of July next succeeding  
23 the date on which it shall have become a law. Effective immediately, the  
24 addition, amendment and/or repeal of any rule or regulation necessary  
25 for the implementation of this act on its effective date are authorized  
26 to be made and completed on or before such effective date.