

2800

2009-2010 Regular Sessions

I N S E N A T E

March 3, 2009

Introduced by Sens. LAVALLE, FLANAGAN, FUSCHILLO, LITTLE -- 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 enacting the "truth in  
voting act"

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

1 Section 1. Legislative intent. The legislature hereby finds that the  
2 decisions and determinations of our school districts impact not only the  
3 children attending those schools, but our communities as a whole.  
4 Nowhere is this more prevalent than in the school budget process.  
5 School districts are required to provide the public with notice and  
6 information regarding the annual school budget hearing and the school  
7 budget vote. However, in the event a budget is defeated, this process  
8 may sometimes be used to push through budgets by disseminating informa-  
9 tion that may be confusing, misleading and intimidating. Residents of a  
10 school district must never feel compelled to vote for a budget based  
11 upon speculation or threats of broad sweeping cuts. Often people must  
12 choose between an untenable school property tax increase or the possible  
13 reduction or elimination of important educational programs such as full-  
14 day kindergarten, athletics, advanced placement courses, etc. If the  
15 school board's plan is to cut or reduce such programs, they need to be  
16 specific in how the cuts will be made. In order to ensure that people  
17 are armed with enough information to make an informed decision, resi-  
18 dents need to be made aware of whether the cuts are to be made across  
19 the board or whether they are to be more narrowly tailored. For  
20 instance, where a school district opts to eliminate athletics, they must  
21 articulate which sports and at what level the cost will be made (elemen-  
22 tary, freshmen, junior varsity, varsity, etc.). Also, where a school  
23 district opts to reduce or eliminate advanced placement courses, music,  
24 art or reading programs, it must specify each course by name. Attached

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

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1 to each initiative to be reduced or eliminated must be a dollar amount  
2 so that it is clearly evident to the taxpayer how much money the school  
3 district would save from such measures.

4 Residents must be afforded the most accurate information possible  
5 regarding the decisions made by their local school board. It must be the  
6 goal of every school district to enlighten the public regarding the  
7 choices made in deciding where and how school property tax dollars are  
8 spent.

9 Furthermore, this legislation would allow local taxpayers to know  
10 first hand, the consequences that accompany a contingent budget should  
11 the initial school budget be defeated. It would require school districts  
12 to compose a detailed list of those programs that would be reduced or  
13 eliminated under a contingent budget.

14 It is the intent of this legislation to provide the public with  
15 detailed information pertaining to the school budget process. Voters  
16 must be armed with knowledge rather than driven by rumors. Such informa-  
17 tion should be written in a manner that is clear, concise and easily  
18 understood by the average reader. It is the hope of the legislature that  
19 this legislation will provide communities with greater understanding of  
20 the school budget process and encourage participation of the public in  
21 their local school systems.

22 S 2. This act shall be known and may be cited as the "truth in voting  
23 act".

24 S 3. Subdivision 1 and paragraph a of subdivision 2-a of section 2022  
25 of the education law, subdivision 1 as amended by section 8 of part C of  
26 chapter 58 of the laws of 1998 and paragraph a of subdivision 2-a as  
27 added by section 3 of part A of chapter 60 of the laws of 2000, are  
28 amended to read as follows:

29 1. Notwithstanding any law, rule or regulation to the contrary, the  
30 election of trustees or members of the board of education, [and] the  
31 vote upon the appropriation of the necessary funds to meet the estimated  
32 expenditures, AND THE VOTE UPON A BOND RESOLUTION, in any common school  
33 district, union free school district, central school district or central  
34 high school district shall be held at the annual meeting and election on  
35 the third Tuesday in May, provided, however, that such election shall be  
36 held on the second Tuesday in May if the commissioner at the request of  
37 a local school board certifies no later than March first that such  
38 election would conflict with religious observances. When such election  
39 or vote is taken by recording the ayes and noes of the qualified voters  
40 attending, a majority of the qualified voters present and voting, by a  
41 hand or voice vote, may determine to take up the question of voting the  
42 necessary funds to meet the estimated expenditures for a specific item  
43 separately, and the qualified voters present and voting may increase the  
44 amount of any estimated expenditures or reduce the same, except for  
45 teachers' salaries, and the ordinary contingent expenses of the schools.  
46 The sole trustee, board of trustees or board of education of every  
47 common, union free, central or central high school district and every  
48 city school district to which this article applies shall hold a budget  
49 hearing not less than seven nor more than fourteen days prior to the  
50 annual meeting and election or special district meeting at which a  
51 school budget vote will occur, and shall prepare and present to the  
52 voters at such budget hearing a proposed school district budget AND A  
53 PROPOSED CONTINGENT BUDGET for the ensuing school year.

54 a. Commencing with the proposed budget for the [two thousand one--two  
55 thousand two] TWO THOUSAND NINE--TWO THOUSAND TEN school year, such  
56 notice shall also include [a description of how total spending and the

1 tax levy resulting from the proposed budget would compare with a  
2 projected contingency budget adopted pursuant to section two thousand  
3 twenty-three of this article, assuming that such contingency budget is  
4 adopted on the same day as the vote on the proposed budget. Such compar-  
5 ison shall be in total and by component (program, capital and adminis-  
6 trative), and shall include a statement of the assumptions made in esti-  
7 mating the projected contingency budget], IN A FORM AND MANNER  
8 PRESCRIBED BY THE COMMISSIONER, A DETAILED LIST CONSISTING OF ANY AND  
9 ALL PROGRAMS, INITIATIVES AND ACTIVITIES THAT ARE TO BE REDUCED, ELIMI-  
10 NATED OR IN ANY OTHER WAY AFFECTED BY THE CONTINGENT BUDGET PROPOSAL FOR  
11 THE ENSUING SCHOOL YEAR. SUCH LIST SHALL BE IN AN ITEMIZED FORMAT  
12 DETAILING EVERY COURSE, PROGRAM, CURRICULAR ACTIVITY AND EXTRACURRICULAR  
13 ACTIVITY BY NAME, SO AS TO PORTRAY AN ACCURATE DEPICTION OF THE EFFECTS  
14 A CONTINGENT BUDGET WILL HAVE ON A SCHOOL DISTRICT. IN ADDITION, EACH  
15 ITEM LISTED SHALL HAVE A DOLLAR AMOUNT CORRESPONDING TO IT IN ORDER TO  
16 CLEARLY DEPICT THE AMOUNT SUCH REDUCTION OR ELIMINATION ACTUALLY  
17 DECREASES THE TOTAL SPENDING THE INITIAL BUDGET PROPOSES.

18 S 4. Subdivision 2-a of section 2022 of the education law is amended  
19 by adding a new paragraph c to read as follows:

20 C. NO SCHOOL DISTRICT SHALL USE PUBLIC FUNDS TO DISSEMINATE PARTISAN  
21 INFORMATION REGARDING A VOTE OR AN ELECTION. FURTHER, A SCHOOL DISTRICT  
22 SHALL NOT ALLOW ACCESS TO A SCHOOL'S CHANNELS OF COMMUNICATION OR TRANS-  
23 PORTATION TO ESPOUSE A PARTISAN POSITION.

24 S 5. Paragraph a of subdivision 7 of section 1608 of the education  
25 law, as amended by chapter 238 of the laws of 2007, is amended and two  
26 new subdivisions 4-a and 8 are added to read as follows:

27 a. Each year, commencing with the proposed budget for the two thou-  
28 sand--two thousand one school year, the trustee or board of trustees  
29 shall prepare a property tax report card, pursuant to regulations of the  
30 commissioner, and shall make it publicly available by transmitting it to  
31 local newspapers of general circulation, appending it to copies of the  
32 proposed budget made publicly available as required by law, making it  
33 available for distribution at the annual meeting, and otherwise dissem-  
34 inating it as required by the commissioner. Such report card shall  
35 include: (i) the amount of total spending and total estimated school tax  
36 levy that would result from adoption of the proposed budget and the  
37 percentage increase or decrease in total spending and total school tax  
38 levy from the school district budget for the preceding school year;  
39 [and] (ii) the projected enrollment growth for the school year for which  
40 the budget is prepared, and the percentage change in enrollment from the  
41 previous year; [and] (iii) the percentage increase in the consumer price  
42 index, as defined in paragraph c of this subdivision; [and] (iv) the  
43 projected amount of the unappropriated unreserved fund balance that will  
44 be retained if the proposed budget is adopted, the projected amount of  
45 the reserved fund balance, the projected amount of the appropriated fund  
46 balance, the percentage of the proposed budget that the unappropriated  
47 unreserved fund balance represents, the actual unappropriated unreserved  
48 fund balance retained in the school district budget for the preceding  
49 school year, and the percentage of the school district budget for the  
50 preceding school year that the actual unappropriated unreserved fund  
51 balance represents; AND (V) THE AMOUNT OF UNEXPENDED SURPLUS FUNDS. FOR  
52 PURPOSES OF THIS PARAGRAPH, THE TERM "SURPLUS FUNDS" SHALL MEAN ANY AND  
53 ALL OPERATING FUNDS IN EXCESS OF TWO PERCENT OF THE CURRENT SCHOOL YEAR  
54 BUDGET, REGARDLESS OF THE ACCOUNT IN WHICH SUCH FUNDS ARE HELD.

55 4-A. THE PROGRAM COMPONENT, CAPITAL COMPONENT AND THE ADMINISTRATIVE  
56 COMPONENT SHALL BE PRESENTED TO THE QUALIFIED VOTERS IN A SINGLE PROPO-

1 SITION. THERE SHALL BE NO SEPARATE PROPOSITIONS FOR ANY EXPENDITURE  
2 REQUIRED TO BE INCLUDED IN THE BUDGET UNDER SUBDIVISION FOUR OF THIS  
3 SECTION.

4 8. EACH YEAR THE BOARD OF EDUCATION SHALL PREPARE A SCHOOL BUDGET  
5 COMPARISON CARD PURSUANT TO REGULATIONS OF THE COMMISSIONER AND SHALL  
6 MAKE IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF  
7 GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET MADE  
8 PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIB-  
9 UTION AT THE ANNUAL MEETING AND OTHERWISE DISSEMINATING IT AS REQUIRED  
10 BY THE COMMISSIONER. SUCH COMPARISON CARD SHALL INCLUDE:

11 A. THE TOTAL DOLLAR AMOUNT APPROPRIATED IN THE SCHOOL BUDGET ADOPTED  
12 THE PREVIOUS YEAR;

13 B. THE TOTAL DOLLAR AMOUNT ACTUALLY SPENT PURSUANT TO THE SCHOOL BUDG-  
14 ET ADOPTED THE PREVIOUS YEAR;

15 C. THE TOTAL AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED BUDGET FOR  
16 THE ENSUING YEAR;

17 D. THE MAXIMUM AMOUNT OF MONEY AVAILABLE UNDER THE CONTINGENT BUDGET  
18 CAP FOR THE ENSUING YEAR; AND

19 E. THE TOTAL DOLLAR AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED  
20 CONTINGENT BUDGET FOR THE ENSUING YEAR.

21 S 6. Subdivision 7 of section 2601-a of the education law, as added by  
22 chapter 474 of the laws of 1996, is amended and two new subdivisions 3-a  
23 and 8 are added to read as follows:

24 7. Each year, the board of education shall prepare a school district  
25 report card, pursuant to regulations of the commissioner, and shall make  
26 it publicly available by transmitting it to local newspapers of general  
27 circulation, appending it to copies of the proposed budget made publicly  
28 available as required by law, making it available for distribution at  
29 the annual meeting, and otherwise disseminating it as required by the  
30 commissioner. Such report card shall include measures of the academic  
31 performance of the school district, on a school by school basis, and  
32 measures of the fiscal performance of the district, as prescribed by the  
33 commissioner. Pursuant to regulations of the commissioner, the report  
34 card shall also compare these measures to statewide averages for all  
35 public schools, and statewide averages for public schools of comparable  
36 wealth and need, developed by the commissioner. Such report card shall  
37 include, at a minimum, any information on the school district regarding  
38 pupil performance and expenditure per pupil required to be included in  
39 the annual report by the regents to the governor and the legislature  
40 pursuant to section two hundred fifteen-a of this chapter, THE AMOUNT OF  
41 UNEXPENDED SURPLUS FUNDS; and any other information required by the  
42 commissioner. FOR PURPOSES OF THIS SUBDIVISION, THE TERM "SURPLUS FUNDS"  
43 SHALL MEAN ANY AND ALL OPERATING FUNDS IN EXCESS OF TWO PERCENT OF THE  
44 CURRENT SCHOOL YEAR BUDGET, REGARDLESS OF THE ACCOUNT IN WHICH SUCH  
45 FUNDS ARE HELD. School districts (i) identified as having fifteen  
46 percent or more of their students in special education, or (ii) which  
47 have fifty percent or more of their students with disabilities in  
48 special education programs or services sixty percent or more of the  
49 school day in a general education building, or (iii) which have eight  
50 percent or more of their students with disabilities in special education  
51 programs in public or private separate educational settings shall indi-  
52 cate on their school district report card their respective percentages  
53 as defined in this paragraph and paragraphs (i) and (ii) of this subdivi-  
54 sion as compared to the statewide average.

55 3-A. THE PROGRAM COMPONENT, CAPITAL COMPONENT AND THE ADMINISTRATIVE  
56 COMPONENT SHALL BE PRESENTED TO THE QUALIFIED VOTERS IN A SINGLE PROPO-

1 SITION. THERE SHALL BE NO SEPARATE PROPOSITIONS FOR ANY EXPENDITURE  
2 REQUIRED TO BE INCLUDED IN THE BUDGET UNDER SUBDIVISION FOUR OF THIS  
3 SECTION.

4 8. EACH YEAR THE BOARD OF EDUCATION SHALL PREPARE A SCHOOL BUDGET  
5 COMPARISON CARD PURSUANT TO REGULATIONS OF THE COMMISSIONER AND SHALL  
6 MAKE IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF  
7 GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET MADE  
8 PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIB-  
9 UTION AT THE ANNUAL MEETING AND OTHERWISE DISSEMINATING IT AS REQUIRED  
10 BY THE COMMISSIONER. SUCH COMPARISON CARD SHALL INCLUDE:

11 A. THE TOTAL DOLLAR AMOUNT APPROPRIATED IN THE SCHOOL BUDGET ADOPTED  
12 THE PREVIOUS YEAR;

13 B. THE TOTAL DOLLAR AMOUNT ACTUALLY SPENT PURSUANT TO THE SCHOOL BUDG-  
14 ET ADOPTED THE PREVIOUS YEAR;

15 C. THE TOTAL AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED BUDGET FOR  
16 THE ENSUING YEAR;

17 D. THE MAXIMUM AMOUNT OF MONEY AVAILABLE UNDER THE CONTINGENT BUDGET  
18 CAP FOR THE ENSUING YEAR; AND

19 E. THE TOTAL DOLLAR AMOUNT TO BE APPROPRIATED UNDER THE PROPOSED  
20 CONTINGENT BUDGET FOR THE ENSUING YEAR.

21 S 7. The education law is amended by adding a new section 141 to read  
22 as follows:

23 S 141. DISCLOSURE OF VIOLATIONS. THE COMMISSIONER MAY REQUIRE THAT  
24 UPON THE FINDING THAT A SCHOOL DISTRICT HAS VIOLATED ANY PROVISION OF  
25 THIS CHAPTER, NOTICE OF SUCH VIOLATION SHALL BE PUBLICIZED BY TRANSMIT-  
26 TING A DESCRIPTION OF THE COMMISSIONER'S FINDINGS TO THE SCHOOL NEWSLET-  
27 TER OR PAPER. SUCH DESCRIPTION SHALL BE PUBLISHED AT LEAST TWICE BEFORE  
28 THE ANNUAL BUDGET HEARING. FURTHER, NOTICE OF AND A DESCRIPTION OF EACH  
29 VIOLATION SHALL BE READ INTO THE RECORD AT THE NEXT SUCCEEDING ANNUAL  
30 BUDGET HEARING.

31 S 8. This act shall take effect immediately.