S T A T E O F N E W Y O R K

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I N A S S E M B L Y

May 25, 2010

Introduced by M. of A. KOLB, CASTELLI, CONTE, REILICH, SALADINO, SAYWARD -- Multi-Sponsored by -- M. of A. ALFANO, AMEDORE, BACALLES, BALL, BARCLAY, BARRA, BOYLE, BUTLER, CALHOUN, CORWIN, CROUCH, ERRIGO, FINCH, FITZPATRICK, GIGLIO, HAWLEY, JORDAN, McDONOUGH, McKEVITT, J. MILLER, MOLINARO, MONTESANO, OAKS, O'MARA, RABBITT, RAIA, TEDISCO, TOBACCO, TOWNSEND -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the apportionment of aid for external defibrillators, the powers of the commissioner of education pertaining to individualized education programs, excluding the issue of the cost of criminal history records searches from collective bargaining negotiations, the adoption of professional development plans for teachers, and the frequency of safety inspections of school buildings and building condition surveys

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

Section 1. Section 3602 of the education law is amended by adding a new subdivision 6-d to read as follows:

6-D. BUILDING AID FOR AUTOMATED EXTERNAL DEFIBRILLATORS. IN ADDITION TO THE APPORTIONMENTS PAYABLE TO A SCHOOL DISTRICT PURSUANT TO SUBDIVISION SIX OF THIS SECTION, THE COMMISSIONER IS HEREBY AUTHORIZED TO APPORTION TO ANY SCHOOL DISTRICT ADDITIONAL BUILDING AID PURSUANT TO THIS SUBDIVISION FOR ITS APPROVED EXPENDITURES IN THE BASE YEAR FOR THE PURCHASE OR MAINTENANCE OF AUTOMATED EXTERNAL DEFIBRILLATORS. AIDABLE EXPENSES SHALL ALSO INCLUDE THE PURCHASE OF BATTERIES, ADAPTERS, ELECTRODES AND WALL CABINETS. FUNDS APPORTIONED TO SCHOOL DISTRICTS PURSUANT TO THIS SECTION SHALL NOT SUPPLANT FUNDS FOR EXISTING DISTRICT EXPENDITURES OR FOR EXISTING CONTRACTUAL OBLIGATIONS OF THE DISTRICT FOR AUTOMATED EXTERNAL DEFIBRILLATORS. SUCH ADDITIONAL AID SHALL EQUAL THE PRODUCT OF THE BUILDING AID RATIO COMPUTED FOR USE IN THE CURRENT YEAR PURSUANT TO PARAGRAPH C OF SUBDIVISION SIX OF THIS SECTION AND THE ACTUAL APPROVED EXPENDITURES INCURRED IN THE BASE YEAR PURSUANT TO THIS SUBDIVISION. THE COMMISSIONER SHALL ANNUALLY PRESCRIBE A SPECIAL COST ALLOWANCE FOR AUTOMATED EXTERNAL DEFIBRILLATORS, AND THE APPROVED EXPENDITURES SHALL NOT EXCEED SUCH COST ALLOWANCE.

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

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S 2. Section 305 of the education law is amended by adding a new subdivision 42 to read as follows:

42. THE COMMISSIONER SHALL IMPLEMENT REGULATIONS DIRECTING SCHOOL DISTRICTS TO EVALUATE STUDENTS WHO HAVE INDIVIDUALIZED EDUCATION PROGRAMS AND WHO ALSO REQUIRE ACADEMIC INTERVENTION SERVICES, TO DETERMINE WHICH SERVICES, IF ANY, ARE BEING REPEATED BY BOTH THE PROGRAM AND THE SERVICES. THE COMMISSIONER SHALL PROVIDE THAT IF A SCHOOL DISTRICT DETERMINES THAT AN INDIVIDUALIZED EDUCATION PROGRAM AND THE ACADEMIC INTERVENTION SERVICES REQUIRE THE SAME TASK OR SERVICE, THE SCHOOL DISTRICT SHALL NOT BE REQUIRED TO IMPLEMENT SUCH TASK OR PROVIDE SUCH SERVICE MORE THAN ONCE TO THE STUDENT.

S 3. Subdivision 2 of section 3004-b of the education law, as added by chapter 180 of the laws of 2000, is amended to read as follows:

2. Fees. Notwithstanding any [other] provision of law to the contrary, the commissioner is authorized to charge additional fees to applicants for teaching or administrative licenses or certificates in an amount equal to the fees established pursuant to law by the division of criminal justice services and the federal bureau of investigation for the searches mandated by this section. FEES PAYABLE PURSUANT TO THIS SECTION SHALL BE PAID IN ACCORDANCE WITH REGULATIONS AS PROMULGATED BY THE COMMISSIONER, AND PAYMENT OF SUCH FEES SHALL NOT BE SUBJECT TO THE PROVISIONS OF ANY COLLECTIVE BARGAINING AGREEMENT.

S 4. Section 3004 of the education law is amended by adding a new subdivision 7 to read as follows:

7. PROFESSIONAL DEVELOPMENT PLANS REQUIRED TO BE ADOPTED BY SCHOOL DISTRICTS AND BOARDS OF COOPERATIVE EDUCATIONAL SERVICES, AND IN THE CITY OF NEW YORK EACH COMMUNITY SCHOOL DISTRICT, HIGH SCHOOL DIVISION, SPECIAL EDUCATION DIVISION AND THE CHANCELLOR'S DISTRICT, SHALL BE ADOPTED EVERY THREE YEARS AND SHALL BE REVIEWED ANNUALLY AND AMENDED AS NEEDED. THE COMMISSIONER SHALL REQUIRE CERTIFICATION, EVERY THREE YEARS, IN A FORM AS PRESCRIBED BY THE COMMISSIONER, THAT:

A. A PROFESSIONAL DEVELOPMENT PLAN IS IN PLACE FOR THE SUCCEEDING SCHOOL YEAR; AND

B. THE REQUIREMENTS OF THE PROFESSIONAL DEVELOPMENT PLAN APPLICABLE TO THE CURRENT SCHOOL YEAR HAVE BEEN COMPLIED WITH.

S 5. Subdivision 6 of section 3033 of the education law, as amended by chapter 886 of the laws of 1986, is amended to read as follows:

6. Each board of education and board of cooperative educational services which participates in the program shall file a report with the commissioner on or before August first [of each] EVERY THIRD school year concerning compliance with the requirements of the program during EACH OF the preceding THREE school [year] YEARS. Such report shall be in such form and in such manner as the commissioner may require. [The commissioner shall evaluate such programs and file a report with the legislature on or before December first, nineteen hundred eighty-seven.]

S 6. Subdivision 1 of section 409-d of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

1. Program establishment. The commissioner is authorized and directed to establish, develop and monitor a comprehensive public school building safety program which shall include a uniform inspection, safety rating and monitoring system. Such program shall require ONCE EVERY THREE YEARS the [annual] inspection of all public school buildings throughout New York state; establish a safety rating system for such school buildings to assess the need for maintenance, repairs, rehabilitation, reconstruction, construction and other improvements related to the structural

integrity and overall safety of public school buildings including but not limited to building systems related to electrical, plumbing, heating, ventilation, and air conditioning, sanitation and health, fire and accident protection; and require that such ratings be used for the purpose of developing a buildings condition survey as required pursuant to subdivision four of section thirty-six hundred forty-one of this chapter and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph b of subdivision six of section thirty-six hundred two of this chapter.

S 7. Subdivision 3 of section 409-e of the education law, as added by section 1 of part B of chapter 56 of the laws of 1998, is amended to read as follows:

3. Safety rating system. The commissioner shall develop pursuant to regulations a safety rating system to be used by all school districts and boards of cooperative educational services keyed to the structural integrity and overall safety of the building and shall be developed using data obtained from the building's [annual] inspection as required by this article. Such safety rating system shall identify and assess the condition of every major system component of every school building including interior structures; building systems such as heating, ventilation, plumbing and electrical systems; exterior structures including but not limited to roofs, masonry, stairs, and chimneys; and develop a system which rates each building component based on at least the following factors: overall safety; structural integrity; probable useful life; need for repair or replacement; and maintenance. Such safety rating shall include mechanisms which facilitate more frequent inspections and repairs as determined necessary to protect the welfare and safety of students and staff residing in such school buildings. This information shall be used for purposes of developing a buildings condition survey as required pursuant to section thirty-six hundred forty-one of this chapter [and a five year facilities plan as required pursuant to clause (i) of subparagraph two of paragraph (b) of subdivision six of section thirty-six hundred two of this chapter].

S 8. Paragraph b of subdivision 4 of section 3641 of the education law, as amended by section 27 of part A1 of chapter 58 of the laws of 2006, is amended to read as follows:

b. Building condition surveys. To be eligible for aid pursuant to subdivision six-e of section thirty-six hundred two of this article, building condition surveys shall be conducted by a licensed architect or licensed professional engineer performing under a state contract entered into pursuant to paragraph c of this subdivision AND PAID FOR BY THE DEPARTMENT, shall assess the condition of all major building systems of a school building, and shall be in the form and contain the information prescribed by the commissioner. SUCH BUILDING CONDITION SURVEYS SHALL BE CONDUCTED ONCE EVERY SIX YEARS. For purposes of this paragraph, "major building systems" shall mean the electrical, plumbing, heating, ventilation and air conditioning systems, and the roof and other major structural elements of a school building.

S 9. This act shall take effect immediately provided, however, that sections six, seven, and eight of this act shall take effect on the first of July next succeeding the date on which it shall have become a law.