

10290

I N   A S S E M B L Y

May 18, 2012

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Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to establishing Earth day; to amend the education law, in relation to mandate relief for school districts and certain other educational entities; to amend the education law, in relation to removing references to subcommittees on special education; to amend the education law, in relation to the provision of special education programs and services to students parentally placed in non-public schools through dual enrollment in the public schools; to amend the education law, in relation to eliminating the requirement that the commissioner of education make appointments to the state-supported schools; to amend the education law, in relation to the committee on special education membership requirements; to amend the education law, in relation to eliminating the requirement for written parental consent prior to initial placement of a student with a disability in a July/August program; to amend the education law, in relation to transportation of students with disabilities parentally placed in a private school; to amend the education law, in relation to establishing that all school districts are approved evaluators of preschool students suspected of having a disability; to amend the education law, in relation to the statute of limitations for special education due process hearings; to amend the education law relating to committee on preschool special education membership; to amend the education law, in relation to the selection of a preschool evaluator; to amend the education law, in relation to referrals to state adult service agencies for certain students with disabilities who have reached the age of 18; to amend the general municipal law, in relation to school districts or board of cooperative educational services option to purchase goods and services; to amend the general municipal law, in relation to authorizing award of contracts for goods or services on the basis of better value; to amend the environmental conservation law, in relation to state smart growth public infrastructure criteria; to amend the vehicle and traffic law, in relation to school omnibus signs complying with federal motor vehicle safety standards; to repeal paragraph d of subdivision 4 of section 3641 of the education law relating to special apportionments to school districts; to repeal subdivision 15 of section 353 of the

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

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executive law relating to the duties of the director of the division of veterans' affairs; to repeal subdivision 17 of section 1950 of the education law relating to board of cooperative educational services special education space plans; to repeal clause (h) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to reports on certain children of Vietnam veterans; to repeal clause (d) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law relating to subcommittees on special education; to repeal clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to the requirement that boards of education develop plans and policies for appropriate declassification of students with disabilities; and to repeal subdivision 18 of section 4403 of the education law relating to commissioner approval of certain early intervention programs

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

1 Section 1. Section 810 of the education law, as amended by chapter 616  
2 of the laws of 1969 and subdivision 1 as amended by chapter 96 of the  
3 laws of 1978, is amended to read as follows:

4 S 810. [Conservation] EARTH day. [1. The last Friday in April each  
5 year is hereby made and declared to be known as Conservation day, and  
6 observed in accordance with the provisions of this chapter, except that  
7 for the year nineteen hundred seventy-eight, Conservation day shall be  
8 May third.

9 2. It shall be the duty of the authorities of every public school in  
10 this state to assemble the pupils in their charge on that day in the  
11 school building, or elsewhere, as they may deem proper, and to provide  
12 for and conduct (1) such exercises as shall tend to encourage the plant-  
13 ing, protection and preservation of trees and shrubs, and an acquaint-  
14 ance with the best methods to be adopted to accomplish such results, and  
15 (2) such lectures, pictures or tours, as shall tend to increase the  
16 interest and knowledge of such pupils in the fish and wild life, soil  
17 and water of the state.

18 3. The commissioner of education may prescribe from time to time a  
19 course of exercises and instruction in the subjects hereinbefore  
20 mentioned, which shall be adopted and observed by the public school  
21 authorities on Conservation day. Upon receipt of copies of such course  
22 sufficient in number to supply all the schools under their supervision,  
23 the school authorities aforesaid shall promptly provide each of the  
24 schools under their charge with a copy, and cause it to be observed]  
25 ANNUALLY, IT SHALL BE THE DUTY OF THE AUTHORITIES OF EVERY PUBLIC SCHOOL  
26 IN THIS STATE TO OBSERVE EARTH DAY AS THEY MAY DEEM PROPER AND TO  
27 ENCOURAGE INSTRUCTION ON THE EARTH'S NATURAL ENVIRONMENT AS APPROPRIATE.

28 S 2. Subdivision 4 of section 1950 of the education law is amended by  
29 adding a new paragraph oo to read as follows:

30 OO. AT THE REQUEST OF ONE OR MORE SCHOOL DISTRICTS, CONTRACT FOR THE  
31 PROCUREMENT OF TELECOMMUNICATIONS EQUIPMENT ON BEHALF OF SUCH SCHOOL  
32 DISTRICTS, SUBJECT TO THE REQUIREMENTS OF SECTION ONE HUNDRED THREE AND  
33 SECTION ONE HUNDRED FOUR-B OF THE GENERAL MUNICIPAL LAW, PROVIDED THAT  
34 THE COSTS OF SUCH CONTRACTS SHALL BE ELIGIBLE FOR AID PURSUANT TO SUBDI-  
35 VISION FIVE OF THIS SECTION IF APPROVED BY THE COMMISSIONER AS AN AIDA-  
36 BLE SHARED SERVICE UPON REQUEST OF TWO OR MORE COMPONENT SCHOOL  
37 DISTRICTS.

1 S 3. Section 3035 of the education law is amended by adding a new  
2 subdivision 3-b to read as follows:

3 3-B. UPON REQUEST FROM A PROSPECTIVE EMPLOYEE WHO HAS BEEN CLEARED BY  
4 THE COMMISSIONER OF MOTOR VEHICLES PURSUANT TO SECTION FIVE HUNDRED  
5 NINE-CC OR SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAF-  
6 FIC LAW, THE DEPARTMENT OF MOTOR VEHICLES SHALL BE AUTHORIZED TO FORWARD  
7 A COPY OF SUCH INDIVIDUAL'S CRIMINAL HISTORY RECORD AND SUCH INDIVID-  
8 UAL'S FINGERPRINTS TO THE COMMISSIONER FOR PURPOSES OF CONDUCTING A  
9 CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION. FURTHERMORE,  
10 UPON NOTIFICATION THAT SUCH PROSPECTIVE EMPLOYEE HAS BEEN CLEARED FOR  
11 EMPLOYMENT BY THE COMMISSIONER PURSUANT TO THIS SECTION, THE DIVISION OF  
12 CRIMINAL JUSTICE SERVICES SHALL HAVE THE AUTHORITY TO PROVIDE SUBSEQUENT  
13 CRIMINAL HISTORY NOTIFICATIONS DIRECTLY TO THE COMMISSIONER.

14 S 4. Paragraph d of subdivision 4 of section 3641 of the education law  
15 is REPEALED.

16 S 5. Paragraph a of subdivision 14 of section 305 of the education  
17 law, as amended by section 1 of chapter 273 of the laws of 1999, is  
18 amended to read as follows:

19 a. All contracts for the transportation of school children, all  
20 contracts to maintain school buses owned or leased by a school district  
21 that are used for the transportation of school children, all contracts  
22 for mobile instructional units, and all contracts to provide, maintain  
23 and operate cafeteria or restaurant service by a private food service  
24 management company shall be subject to the approval of the commissioner,  
25 who may disapprove a proposed contract if, in his opinion, the best  
26 interests of the district will be promoted thereby. Except as provided  
27 in paragraph e of this subdivision, all such contracts involving an  
28 annual expenditure in excess of the amount specified for purchase  
29 contracts in the bidding requirements of the general municipal law shall  
30 be awarded to the lowest responsible bidder, which responsibility shall  
31 be determined by the board of education or the trustee of a district,  
32 with power hereby vested in the commissioner to reject any or all bids  
33 if, in his opinion, the best interests of the district will be promoted  
34 thereby and, upon such rejection of all bids, the commissioner shall  
35 order the board of education or trustee of the district to seek, obtain  
36 and consider new proposals. All proposals for such transportation, main-  
37 tenance, mobile instructional units, or cafeteria and restaurant service  
38 shall be in such form as the commissioner may prescribe. Advertisement  
39 for bids shall be published in a newspaper or newspapers designated by  
40 the board of education or trustee of the district having general circu-  
41 lation within the district for such purpose OR IN THE STATE'S PROCURE-  
42 MENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE  
43 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement  
44 of the time when and place where all bids received pursuant to such  
45 advertisement will be publicly opened and read either by the school  
46 authorities or by a person or persons designated by them. All bids  
47 received shall be publicly opened and read at the time and place so  
48 specified. At least five days shall elapse between the first publication  
49 of such advertisement and the date so specified for the opening and  
50 reading of bids. The requirement for competitive bidding shall not apply  
51 to an award of a contract for the transportation of pupils or a contract  
52 for mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERA-  
53 TION OF CAFETERIA OR RESTAURANT SERVICE, if such award is based on an  
54 evaluation of proposals in response to a request for proposals pursuant  
55 to paragraph e of this subdivision. The requirement for competitive  
56 bidding shall not apply to annual, biennial, or triennial extensions of

1 a contract nor shall the requirement for competitive bidding apply to  
2 quadrennial or quinquennial year extensions of a contract involving  
3 transportation of pupils, maintenance of school buses or mobile instruc-  
4 tional units secured either through competitive bidding or through eval-  
5 uation of proposals in response to a request for proposals pursuant to  
6 paragraph e of this subdivision, when such extensions (1) are made by  
7 the board of education or the trustee of a district, under rules and  
8 regulations prescribed by the commissioner, and, (2) do not extend the  
9 original contract period beyond five years from the date cafeteria and  
10 restaurant service commenced thereunder and in the case of contracts for  
11 the transportation of pupils, for the maintenance of school buses or for  
12 mobile instructional units, that such contracts may be extended, except  
13 that power is hereby vested in the commissioner, in addition to his  
14 existing statutory authority to approve or disapprove transportation or  
15 maintenance contracts, (i) to reject any extension of a contract beyond  
16 the initial term thereof if he finds that amount to be paid by the  
17 district to the contractor in any year of such proposed extension fails  
18 to reflect any decrease in the regional consumer price index for the  
19 N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban  
20 consumers (CPI-U) during the preceding twelve month period; and (ii) to  
21 reject any extension of a contract after ten years from the date trans-  
22 portation or maintenance service commenced thereunder, or mobile  
23 instructional units were first provided, if in his opinion, the best  
24 interests of the district will be promoted thereby. Upon such rejection  
25 of any proposed extension, the commissioner may order the board of  
26 education or trustee of the district to seek, obtain and consider bids  
27 pursuant to the provisions of this section. The board of education or  
28 the trustee of a school district electing to extend a contract as  
29 provided herein, may, in its discretion, increase the amount to be paid  
30 in each year of the contract extension by an amount not to exceed the  
31 regional consumer price index increase for the N.Y., N.Y.-Northeastern,  
32 N.J. area, based upon the index for all urban consumers (CPI-U), during  
33 the preceding twelve month period, provided it has been satisfactorily  
34 established by the contractor that there has been at least an equivalent  
35 increase in the amount of his cost of operation, during the period of  
36 the contract.

37 S 5-a. Paragraph a of subdivision 14 of section 305 of the education  
38 law, as amended by section 2 of chapter 273 of the laws of 1999, is  
39 amended to read as follows:

40 a. All contracts for the transportation of school children, all  
41 contracts to maintain school buses owned or leased by a school district  
42 that are used for the transportation of school children, all contracts  
43 for mobile instructional units, and all contracts to provide, maintain  
44 and operate cafeteria or restaurant service by a private food service  
45 management company shall be subject to the approval of the commissioner,  
46 who may disapprove a proposed contract if, in his opinion, the best  
47 interests of the district will be promoted thereby. All such contracts  
48 involving an annual expenditure in excess of the amount specified for  
49 purchase contracts in the bidding requirements of the general municipal  
50 law shall be awarded to the lowest responsible bidder, which responsi-  
51 bility shall be determined by the board of education or the trustee of a  
52 district, with power hereby vested in the commissioner to reject any or  
53 all bids if, in his opinion, the best interests of the district will be  
54 promoted thereby and, upon such rejection of all bids, the commissioner  
55 shall order the board of education or trustee of the district to seek,  
56 obtain and consider new proposals. All proposals for such transporta-

tion, maintenance, mobile instructional units, or cafeteria and restaurant service shall be in such form as the commissioner may prescribe. Advertisement for bids shall be published in a newspaper or newspapers designated by the board of education or trustee of the district having general circulation within the district for such purpose OR IN THE STATE'S PROCUREMENT OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement of the time when and place where all bids received pursuant to such advertisement will be publicly opened and read either by the school authorities or by a person or persons designated by them. All bids received shall be publicly opened and read at the time and place so specified. At least five days shall elapse between the first publication of such advertisement and the date so specified for the opening and reading of bids. The requirement for competitive bidding shall not apply to annual, biennial, or triennial extensions of a contract nor shall the requirement for competitive bidding apply to quadrennial or quinquennial year extensions of a contract involving transportation of pupils, maintenance of school buses or mobile instructional units OR THE PROVISION, MAINTENANCE AND OPERATION OF CAFETERIA OR RESTAURANT SERVICE secured through competitive bidding when such extensions (1) are made by the board of education or the trustee of a district, under rules and regulations prescribed by the commissioner, and, (2) do not extend the original contract period beyond five years from the date cafeteria and restaurant service commenced thereunder and in the case of contracts for the transportation of pupils, for the maintenance of school buses or for mobile instructional units, that such contracts may be extended, except that power is hereby vested in the commissioner, in addition to his existing statutory authority to approve or disapprove transportation or maintenance contracts, (i) to reject any extension of a contract beyond the initial term thereof if he finds that amount to be paid by the district to the contractor in any year of such proposed extension fails to reflect any decrease in the regional consumer price index for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U) during the preceding twelve month period; and (ii) to reject any extension of a contract after ten years from the date transportation or maintenance service commenced thereunder, or mobile instructional units were first provided, if in his opinion, the best interests of the district will be promoted thereby. Upon such rejection of any proposed extension, the commissioner may order the board of education or trustee of the district to seek, obtain and consider bids pursuant to the provisions of this section. The board of education or the trustee of a school district electing to extend a contract as provided herein, may, in its discretion, increase the amount to be paid in each year of the contract extension by an amount not to exceed the regional consumer price index increase for the N.Y., N.Y.-Northeastern, N.J. area, based upon the index for all urban consumers (CPI-U), during the preceding twelve month period, provided it has been satisfactorily established by the contractor that there has been at least an equivalent increase in the amount of his cost of operation, during the period of the contract.

S 6. Paragraph e of subdivision 14 of section 305 of the education law, as amended by chapter 464 of the laws of 1997, is amended to read as follows:

e. Notwithstanding the provisions of any general, special or local law or charter, a board of education or a trustee of a district, pursuant to rules and regulations promulgated by the commissioner, may award a

1 contract for the transportation of pupils or a contract for mobile  
2 instructional units OR FOR THE PROVISION, MAINTENANCE AND OPERATION OF  
3 CAFETERIA OR RESTAURANT SERVICE BY A PRIVATE FOOD SERVICE MANAGEMENT  
4 COMPANY involving an annual expenditure in excess of the amount speci-  
5 fied for purchase contracts in the bidding requirements of the general  
6 municipal law in compliance with the provisions of paragraph a of this  
7 subdivision or subsequent to an evaluation of proposals submitted in  
8 response to a request for proposals prepared by or for the board of  
9 education or trustee of a district. A CONTRACT AWARDED THROUGH A REQUEST  
10 FOR PROPOSALS SHALL BE AWARDED BASED ON BEST VALUE IN ACCORDANCE WITH  
11 SUBDIVISION ONE-C OF SECTION ONE HUNDRED THREE OF THE GENERAL MUNICIPAL  
12 LAW. The commissioner, in addition to his existing statutory authority  
13 to approve or disapprove transportation contracts, may reject any award  
14 of a transportation contract or a contract for mobile instructional  
15 units that is based on an evaluation of proposals submitted in response  
16 to a request for proposals if he finds that (1) the contractor is not  
17 the most responsive to the request for proposals, or (2) that the best  
18 interests of the district will be promoted thereby.

19 S 7. Subdivision 14 of section 305 of the education law is amended by  
20 adding a new paragraph g to read as follows:

21 G. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVISION, SECTION ONE  
22 HUNDRED THREE OF THE GENERAL MUNICIPAL LAW, OR ANY OTHER PROVISION OF  
23 LAW TO THE CONTRARY, THE BOARD OF EDUCATION SHALL BE AUTHORIZED TO ENTER  
24 INTO A PIGGYBACK CONTRACT WITH ANOTHER SCHOOL DISTRICT THAT TRANSPORTS  
25 STUDENTS PURSUANT TO A CONTRACT WITH A PRIVATE TRANSPORTATION CONTRAC-  
26 TOR, PROVIDED THAT THE BOARD FINDS THAT THE CONTRACT COST IS APPROPRIATE  
27 AND ENTRY INTO A PIGGYBACK CONTRACT WILL RESULT IN A COST SAVINGS TO THE  
28 SCHOOL DISTRICT. FOR PURPOSES OF THIS PARAGRAPH, A "PIGGYBACK CONTRACT"  
29 MEANS A CONTRACT FOR THE TRANSPORTATION OF STUDENTS THAT: (I) PROVIDES  
30 TRANSPORTATION TO A LOCATION OUTSIDE THE STUDENTS' SCHOOL DISTRICT OF  
31 RESIDENCE TO WHICH ANOTHER SCHOOL DISTRICT IS ALREADY PROVIDING TRANS-  
32 PORTATION TO ITS OWN STUDENTS THROUGH AN EXISTING CONTRACT WITH A  
33 PRIVATE TRANSPORTATION CONTRACTOR, OTHER THAN A COOPERATIVELY BID  
34 CONTRACT; (II) IS ENTERED INTO BY THE PRIVATE TRANSPORTATION CONTRACTOR  
35 AND EACH SCHOOL DISTRICT INVOLVED; AND (III) PROVIDES FOR TRANSPORTATION  
36 IN ACCORDANCE WITH THE TERMS AND CONDITIONS OF SUCH EXISTING TRANSPORTA-  
37 TION CONTRACT.

38 S 8. Subdivision 1-b of section 103 of the general municipal law, as  
39 added by section 4 of subpart A of part C of chapter 97 of the laws of  
40 2011, is amended read as follows:

41 1-b. A political subdivision or any district therein shall have the  
42 option of purchasing information technology and telecommunications hard-  
43 ware, software and professional services through cooperative purchasing  
44 permissible pursuant to federal general services administration informa-  
45 tion technology schedule seventy or any successor schedule. A political  
46 subdivision or any district therein that purchases through general  
47 services administration schedule seventy, information technology and  
48 consolidated schedule contracts shall comply with federal schedule  
49 ordering procedures as provided in federal acquisition regulation  
50 8.405-1 or 8.405-2 or successor regulations, whichever is applicable.  
51 Adherence to such procedures shall constitute compliance with the  
52 competitive bidding requirements under this section. IN ADDITION, A  
53 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL HAVE  
54 THE OPTION OF PURCHASING OTHER GOODS OR SERVICES THROUGH COOPERATIVE  
55 PURCHASING PERMISSIBLE PURSUANT TO A GENERAL SERVICES ADMINISTRATION  
56 CONTRACT. A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES

1 THAT PURCHASES OTHER SERVICES THROUGH GENERAL SERVICE ADMINISTRATION  
2 CONTRACTS SHALL COMPLY WITH THE APPLICABLE FEDERAL SCHEDULE ORDERING  
3 PROCEDURES AS PROVIDED IN THE FEDERAL ACQUISITION REGULATIONS AS APPLI-  
4 CABLE.

5 S 9. Section 103 of the general municipal law is amended by adding a  
6 new subdivision 1-c to read as follows:

7 1-C. NOTWITHSTANDING ANY OTHER PROVISION OF THIS SECTION TO THE  
8 CONTRARY, THE TRUSTEES OR BOARD OF EDUCATION OF A SCHOOL DISTRICT OR A  
9 BOARD OF COOPERATIVE EDUCATIONAL SERVICES MAY DETERMINE THAT IT IS IN  
10 THE BEST INTEREST OF THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCA-  
11 TIONAL SERVICES TO ADOPT A POLICY AUTHORIZING THE AWARD OF CONTRACTS FOR  
12 SERVICES ON THE BASIS OF BEST VALUE AS DEFINED IN SECTION ONE HUNDRED  
13 SIXTY-THREE OF THE STATE FINANCE LAW TO RESPONSIVE AND RESPONSIBLE  
14 OFFERS. SUCH A CONTRACT FOR SERVICES MAY BE AWARDED ON THE BASIS OF BEST  
15 VALUE PROVIDED THAT THE CONTRACTING PROCESS AND AWARD SHALL COMPLY WITH  
16 THE GUIDELINES ESTABLISHED UNDER SECTION ONE HUNDRED SIXTY-THREE OF THE  
17 STATE FINANCE LAW BY THE STATE PROCUREMENT COUNCIL. ANY PROCUREMENT  
18 MADE UNDER THIS SUBDIVISION SHALL BE APPROVED BY THE TRUSTEES OR BOARD  
19 OF EDUCATION OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES, AS APPLICA-  
20 BLE. THE PROVISIONS OF THIS SUBDIVISION SHALL APPLY TO CONTRACTS  
21 SUBJECT TO THE PROVISIONS OF SUBDIVISION FOURTEEN OF SECTION THREE  
22 HUNDRED FIVE OF THE EDUCATION LAW, TO THE EXTENT PROVIDED IN SUCH SUBDI-  
23 VISION FOURTEEN OF SECTION THREE HUNDRED FIVE OF THE EDUCATION LAW.

24 S 10. Subdivision 2 of section 103 of the general municipal law, as  
25 amended by section 4 of chapter 608 of the laws of 2011, is amended to  
26 read as follows:

27 2. Advertisement for bids and offers shall be published in the offi-  
28 cial newspaper or newspapers, if any, or otherwise in a newspaper or  
29 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT  
30 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE  
31 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement  
32 of the time when and place where all bids received pursuant to such  
33 notice will be publicly opened and read and where the identity of all  
34 offerers will be publicly disclosed, and the designation of the receiv-  
35 ing device if the political subdivision or district has authorized the  
36 receipt of bids and offers in an electronic format. Such board or agency  
37 may by resolution designate any officer or employee to open the bids and  
38 offers at the time and place specified in the notice. Such designee  
39 shall make a record of such bids and offers in such form and detail as  
40 the board or agency shall prescribe and present the same at the next  
41 regular or special meeting of such board or agency. All bids received  
42 shall be publicly opened and read at the time and place so specified and  
43 the identity of all offerers shall be publicly disclosed at the time and  
44 place so specified. At least five days shall elapse between the first  
45 publication of such advertisement and the date so specified for the  
46 opening and reading of bids and offers.

47 S 10-a. Subdivision 2 of section 103 of the general municipal law, as  
48 amended by section 5 of chapter 608 of the laws of 2011, is amended to  
49 read as follows:

50 2. Advertisement for bids and offers shall be published in the offi-  
51 cial newspaper or newspapers, if any, or otherwise in a newspaper or  
52 newspapers designated for such purpose OR IN THE STATE'S PROCUREMENT  
53 OPPORTUNITIES NEWSLETTER IN ACCORDANCE WITH ARTICLE FOUR-C OF THE  
54 ECONOMIC DEVELOPMENT LAW. Such advertisement shall contain a statement  
55 of the time when and place where all bids received pursuant to such  
56 notice will be publicly opened and read and where the identity of all

1 offerers will be publicly disclosed. Such board or agency may by resol-  
2 ution designate any officer or employee to open the bids and offers at  
3 the time and place specified in the notice. Such designee shall make a  
4 record of such bids and offers in such form and detail as the board or  
5 agency shall prescribe and present the same at the next regular or  
6 special meeting of such board or agency. All bids received shall be  
7 publicly opened and read at the time and place so specified and the  
8 identity of all offerers shall be publicly disclosed at the time and  
9 place so specified. At least five days shall elapse between the first  
10 publication of such advertisement and the date so specified for the  
11 opening and reading of bids and offers.

12 S 11. Subdivision 1 of section 6-0107 of the environmental conserva-  
13 tion law, as added by chapter 433 of the laws of 2010, is amended to  
14 read as follows:

15 1. In addition to meeting other criteria and requirements of law  
16 governing approval, development, financing and state aid for the  
17 construction of new or expanded public infrastructure or the recon-  
18 struction thereof, no state infrastructure agency shall approve, under-  
19 take, support or finance a public infrastructure project, including  
20 providing grants, awards, loans or assistance programs, unless, to the  
21 extent practicable, it is consistent with the relevant criteria speci-  
22 fied in subdivision two of this section. NOTWITHSTANDING THE PROVISIONS  
23 OF THIS SUBDIVISION OR ANY OTHER PROVISION OF THIS ARTICLE TO THE  
24 CONTRARY, PROJECTS FOR THE RECONSTRUCTION, RENOVATION, REPAIR OR  
25 IMPROVEMENT OF EXISTING PUBLIC SCHOOL FACILITIES OR EXISTING LIBRARY  
26 FACILITIES, AND PROJECTS FOR THE CONSTRUCTION OF NEW OR EXPANDED PUBLIC  
27 SCHOOL OR LIBRARY FACILITIES IN CITIES HAVING A POPULATION OF ONE  
28 HUNDRED TWENTY-FIVE THOUSAND INHABITANTS OR MORE, SHALL NOT BE DEEMED  
29 PUBLIC INFRASTRUCTURE PROJECTS SUBJECT TO THE REQUIREMENTS OF THIS ARTI-  
30 CLE.

31 S 12. Subparagraph 1 of paragraph (b) and paragraphs (c) and (d) of  
32 subdivision 20 of section 375 of the vehicle and traffic law, subpara-  
33 graph 1 of paragraph (b) as amended by chapter 242 of the laws of 1992,  
34 paragraph (c) as amended by chapter 96 of the laws of 1973 and paragraph  
35 (d) as amended by chapter 567 of the laws of 1985, are amended to read  
36 as follows:

37 (1) In addition to such signal lamps, two signs shall be conspicuously  
38 displayed on the exterior of every such omnibus designating it as a  
39 school omnibus by the use of the words "SCHOOL BUS" which shall be  
40 painted or otherwise inscribed thereon in black letters. Such letters  
41 shall be of uniform size, at least eight inches in height, and each  
42 stroke of each letter shall be not less than one inch in width. The  
43 background of each such sign shall be painted [the color known as  
44 "national school bus chrome"] ON A BACKGROUND OF RETRO REFLECTIVE  
45 NATIONAL SCHOOL BUS YELLOW MATERIAL. THE MATERIAL SHALL BE THE SAME  
46 QUALITY AND TYPE AS FEDERAL MOTOR VEHICLE SAFETY STANDARDS REQUIRES FOR  
47 THE MARKING OF EMERGENCY EXITS. For each such omnibus having a seating  
48 capacity in excess of fifteen children, such signs shall be securely  
49 mounted on top of such vehicle, one of which shall be affixed on the  
50 front and one on the rear thereof. For each such omnibus having a seat-  
51 ing capacity of not more than fifteen children, such signs shall be  
52 securely mounted on top of such vehicle, one of which shall face the  
53 front and one of which shall face the rear thereof. Each such sign shall  
54 be visible and readable from a point at least two hundred feet distant.

55 (c) [In the event such vehicle is operated on a public highway during  
56 the period between one-half hour after sunset and one-half hour before



1 sunrise, the signs required by paragraph (b) of this subdivision shall  
2 be illuminated as to be visible from a point at least five hundred feet  
3 distant.

4 (d)] Every such omnibus shall be equipped as provided in paragraphs  
5 (a) and (b) of this subdivision, [and such signs shall be displayed and  
6 illuminated in accordance with paragraphs (b) and (c) of this subdivi-  
7 sion,] and such signal lamps shall be operated as provided in paragraph  
8 (a) of this subdivision at all times when such omnibus shall be engaged  
9 in transporting pupils to and from school or school activities or in  
10 transporting children to and from child care centers maintained for  
11 children of migrant farm and food processing laborers, or in transport-  
12 ing children to and from camp or camp activities or transporting chil-  
13 dren to and from religious services or instruction or transporting  
14 persons with disabilities on any such omnibus used by any state facility  
15 or not-for-profit agency licensed by the state.

16 S 13. Subdivision 15 of section 353 of the executive law is REPEALED.

17 S 14. The commissioner of education, in consultation with the office  
18 of the state comptroller, shall conduct a study of the feasibility and  
19 desirability of authorizing school districts and boards of cooperative  
20 educational services to enter national credit card contracts as a cost-  
21 saving measure, with appropriate safeguards. The commissioner shall  
22 submit a report to the board of regents, the governor and the legisla-  
23 ture by no later than January fifteenth, two thousand thirteen, with  
24 recommendations on whether and under what conditions such credit card  
25 contracts should be authorized and identifying any legislative or regu-  
26 latory changes that would be needed to authorize such credit card  
27 contracts.

28 S 15. Subdivision 17 of section 1950 of the education law is REPEALED.

29 S 16. Section 2215 of the education law is amended by adding a new  
30 subdivision 17 to read as follows:

31 17. TO DETERMINE THE ADEQUACY AND APPROPRIATENESS OF THE FACILITIES  
32 SPACE AVAILABLE TO HOUSE SPECIAL EDUCATION PROGRAMS IN THE GEOGRAPHIC  
33 AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CONSISTENT  
34 WITH THE LEAST RESTRICTIVE ENVIRONMENT REQUIREMENT AND TO ENSURE THE  
35 STABILITY AND CONTINUITY OF PROGRAM PLACEMENTS FOR STUDENTS WITH DISA-  
36 BILITIES, INCLUDING PROCEDURES THAT ENSURE THAT SPECIAL EDUCATION  
37 PROGRAMS AND SERVICES LOCATED IN APPROPRIATE FACILITIES WILL NOT BE  
38 RELOCATED WITHOUT ADEQUATE CONSIDERATION OF THE NEEDS OF PARTICIPATING  
39 STUDENTS WITH DISABILITIES.

40 S 17. Subparagraph 2 of paragraph (b) of subdivision 4 of section  
41 2590-b of the education law, as amended by chapter 345 of the laws of  
42 2009, is amended to read as follows:

43 (2) advise and comment on the process of establishing committees  
44 [and/or subcommittees] on special education in community school  
45 districts pursuant to section forty-four hundred two of this chapter;

46 S 18. Paragraph (a) of subdivision 4 of section 2853 of the education  
47 law, as amended by chapter 378 of the laws of 2007, is amended to read  
48 as follows:

49 (a) For purposes of sections seven hundred one, seven hundred eleven,  
50 seven hundred fifty-one and nine hundred twelve of this chapter, a char-  
51 ter school shall be deemed a nonpublic school in the school district  
52 within which the charter school is located. Special education programs  
53 and services shall be provided to students with a disability attending a  
54 charter school in accordance with the individualized education program  
55 recommended by the committee [or subcommittee] on special education of  
56 the student's school district of residence. The charter school may

1 arrange to have such services provided by such school district of resi-  
2 dence or by the charter school directly or by contract with another  
3 provider. Where the charter school arranges to have the school district  
4 of residence provide such special education programs or services, such  
5 school district shall provide services in the same manner as it serves  
6 students with disabilities in other public schools in the school  
7 district, including the provision of supplementary and related services  
8 on site to the same extent to which it has a policy or practice of  
9 providing such services on the site of such other public schools.

10 S 18-a. Paragraph (a) of subdivision 4 of section 2853 of the educa-  
11 tion law, as added by chapter 4 of the laws of 1998, is amended to read  
12 as follows:

13 (a) For purposes of sections seven hundred one, seven hundred eleven,  
14 seven hundred fifty-one and nine hundred twelve of this chapter, a char-  
15 ter school shall be deemed a nonpublic school in the school district  
16 within which the charter school is located. Special education programs  
17 and services shall be provided to students with a disability attending a  
18 charter school in accordance with the individualized education program  
19 recommended by the committee [or subcommittee] on special education of  
20 the student's school district of residence. The charter school may  
21 arrange to have such services provided by such school district of resi-  
22 dence or by the charter school directly or by contract with another  
23 provider.

24 S 19. Paragraph a of subdivision 1 and paragraph a and subparagraph 1  
25 of paragraph b of subdivision 2 of section 3602-c of the education law,  
26 paragraph a of subdivision 1 as amended by chapter 474 of the laws of  
27 2004, paragraph a and subparagraph 1 of paragraph b of subdivision 2 as  
28 amended by chapter 378 of the laws of 2007, are amended and a new para-  
29 graph e is added to subdivision 2 to read as follows:

30 a. "Services" shall mean instruction in the areas of gifted pupils,  
31 career education and education for students with disabilities, and coun-  
32 seling, psychological and social work services related to such instruc-  
33 tion provided during the regular school year for pupils enrolled in a  
34 nonpublic school located in a school district, INCLUDING SPECIAL EDUCA-  
35 TION PROGRAMS AND RELATED SERVICES AS DEFINED IN SUBDIVISION TWO OF  
36 SECTION FORTY-FOUR HUNDRED ONE OF THIS CHAPTER OTHER THAN AN APPROVED  
37 PRIVATE RESIDENTIAL OR NON-RESIDENTIAL SCHOOL FOR THE EDUCATION OF  
38 STUDENTS WITH DISABILITIES, provided that such instruction is given to  
39 pupils enrolled in the public schools of such district. SUCH TERM SHALL  
40 ALSO INCLUDE EDUCATION FOR STUDENTS WITH DISABILITIES ENROLLED IN SUCH A  
41 NONPUBLIC SCHOOL WHICH IS PROVIDED IN JULY AND AUGUST IN ACCORDANCE WITH  
42 PARAGRAPH E OF SUBDIVISION TWO OF THIS SECTION.

43 a. Boards of education of all school districts of the state shall  
44 furnish services to students who are residents of this state and who  
45 attend nonpublic schools located in such school districts, upon the  
46 written request of the parent or person in parental relation of any such  
47 student. Such a request for career education or services to gifted  
48 students shall be filed with the board of education of the school  
49 district in which the parent or person in parental relation of the  
50 student resides on or before the first day of June preceding the school  
51 year for which the request is made. In the case of education for  
52 students with disabilities, such a request shall be filed with the trus-  
53 tees or board of education of the school district of location on or  
54 before the first of [June] APRIL preceding the school year for which the  
55 request is made[, or by July first, two thousand seven for the two thou-  
56 sand seven--two thousand eight school year only,] FOR THOSE STUDENTS FOR

1 WHOM AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM WAS DEVELOPED AND  
2 IMPLEMENTED PURSUANT TO THIS SECTION PRIOR TO SUCH DATE, AND ON OR  
3 BEFORE THE FIRST OF JUNE PRECEDING THE SCHOOL YEAR FOR WHICH THE REQUEST  
4 IS MADE FOR THOSE STUDENTS WHO WILL BE FIRST RECEIVING EDUCATION FOR  
5 STUDENTS WITH DISABILITIES PURSUANT TO THIS SECTION IN THE SCHOOL YEAR  
6 FOR WHICH THE REQUEST IS MADE OR FOR WHOM AN INDIVIDUALIZED EDUCATION  
7 SERVICE PROGRAM IS FIRST DEVELOPED AND IMPLEMENTED ON OR AFTER APRIL  
8 FIRST AND ON OR BEFORE JUNE FIRST; provided that where a student is  
9 first identified as a student with a disability after the first day of  
10 June preceding the school year for which the request is made, [or thirty  
11 days after the chapter of the laws of two thousand seven which amended  
12 this paragraph, takes effect where applicable, and prior to the first  
13 day of April of such current school year,] such request shall be submit-  
14 ted within thirty days after AN INDIVIDUALIZED EDUCATION SERVICE PROGRAM  
15 IS DEVELOPED FOR such student [is first identified]. [For students first  
16 identified after March first of the current school year, any such  
17 request for education for students with disabilities in the current  
18 school year that is submitted on or after April first of such current  
19 school year, shall be deemed a timely request for such services in the  
20 following school year.]

21 (1) For the purpose of obtaining education for students with disabili-  
22 ties, as defined in paragraph d of subdivision one of this section, such  
23 request shall be reviewed by the committee on special education of the  
24 school district of location, which shall develop an individualized  
25 education service program for the student based on the student's indi-  
26 vidual needs in the same manner and with the same contents as an indi-  
27 vidualized education program, EXCEPT AS OTHERWISE PROVIDED IN THIS  
28 SUBPARAGRAPH. The committee on special education shall assure that  
29 special education programs and services are made available to students  
30 with disabilities attending nonpublic schools located within the school  
31 district on an equitable basis, as compared to special education  
32 programs and services provided to other students with disabilities  
33 attending public or nonpublic schools located within the school  
34 district, EXCEPT THAT THERE SHALL BE NO ENTITLEMENT UNDER THIS SECTION  
35 TO THE PROVISION OF A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES,  
36 AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER, BY THE  
37 SCHOOL DISTRICT OF LOCATION FOR ALL OR PART OF THE SCHOOL DAY. Review  
38 of the recommendation of the committee on special education may be  
39 obtained by the parent or person in parental relation of the pupil  
40 pursuant to the provisions of section forty-four hundred four of this  
41 chapter; PROVIDED THAT A DUE PROCESS COMPLAINT, OTHER THAN A DUE PROCESS  
42 COMPLAINT RELATING TO CHILD FIND REQUIREMENTS BROUGHT PURSUANT TO PARA-  
43 GRAPH C OF THIS SUBDIVISION, SUBMITTED ON OR AFTER SEPTEMBER FIRST, TWO  
44 THOUSAND TWELVE SHALL BE SUBMITTED TO MEDIATION PURSUANT TO SECTION  
45 FORTY-FOUR HUNDRED FOUR-A OF THIS CHAPTER AND AT LEAST ONE MEDIATION  
46 SESSION SHALL BE HELD PRIOR TO MAKING A REQUEST FOR AN IMPARTIAL HEARING  
47 IN ACCORDANCE WITH A TIMELINE PRESCRIBED BY THE COMMISSIONER.

48 E. A NONPUBLIC SCHOOL STUDENT WHOSE DISABILITY IS SEVERE ENOUGH TO  
49 EXHIBIT THE NEED FOR A STRUCTURED LEARNING ENVIRONMENT OF TWELVE MONTHS  
50 DURATION TO MAINTAIN DEVELOPMENTAL LEVELS SHALL BE ELIGIBLE TO RECEIVE  
51 SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY AND AUGUST IN ACCORDANCE  
52 WITH THE INDIVIDUALIZED EDUCATION SERVICE PROGRAM DEVELOPED BY THE  
53 COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT OF LOCATION AND  
54 THE PROVISIONS OF SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.  
55 PROVIDED, HOWEVER, THAT DURING A JULY/AUGUST SPECIAL EDUCATION PROGRAM,  
56 A NONPUBLIC SCHOOL STUDENT SHALL NOT BE ENTITLED PURSUANT TO THIS

SECTION TO PLACEMENT IN A SPECIAL CLASS OR INTEGRATED CO-TEACHING SERVICES, AS SUCH TERMS ARE DEFINED IN THE REGULATIONS OF THE COMMISSIONER. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, THE SCHOOL DISTRICT OF LOCATION SHALL BE ELIGIBLE FOR STATE AID FOR SUCH SERVICES EXCLUSIVELY PURSUANT TO SECTION FORTY-FOUR HUNDRED EIGHT OF THIS CHAPTER.

S 20. Subdivision 7 of section 3602-c of the education law, as amended by chapter 378 of the laws of 2007, is amended to read as follows:

7. a. Boards of education of districts providing career education and gifted education services to non-resident students shall be entitled to recover tuition from the district of residence of such students in accordance with a formula promulgated by the commissioner by regulation.

b. In the case of the education for students with disabilities who are residents of New York, a school district of location providing services to non-resident students shall be entitled to recover costs of services, costs of evaluation, and costs of committee on special education administration directly from the district of residence of the student if consent of the parent or person in parental relation is obtained to release of personally identifiable information concerning their child. If such consent is not obtained, the school district of location shall submit to the commissioner, in a form prescribed by the commissioner, a claim for costs of services, evaluation costs, and committee on special education administrative costs that includes the address of the student's permanent residence, including the school district of residence, and a certification by officials of the nonpublic school attended by the student that such address is the address of record of such student. Upon certification by the commissioner of the amount of such claim, the state comptroller shall deduct such amount from any state funds which become due to such school district of residence.

c. The amount charged by the school district of location for services, evaluation[, eligible due process costs] and committee on special education administrative costs shall not exceed the actual cost to the school district of location, after deducting any costs paid with federal or state funds. The commissioner shall adopt regulations prescribing a dispute resolution mechanism that will be available to a school district of residence where such district disagrees with the amount of tuition or costs charged by the school district of location.

D. THE COMMISSIONER SHALL ESTABLISH REGIONAL RATE METHODOLOGIES FOR COMPUTING REGIONAL RATES TO DETERMINE ACTUAL COSTS FOR EACH OF THE FOLLOWING CATEGORIES OF COSTS: (I) COSTS OF SERVICES, (II) EVALUATIONS AND (III) SPECIAL EDUCATION ADMINISTRATION. THE SCHOOL DISTRICT OF LOCATION MAY ELECT TO USE ANY SUCH REGIONAL RATE METHODOLOGIES IN EFFECT FOR THE CURRENT SCHOOL YEAR FOR ALL NONRESIDENT STUDENTS RECEIVING SERVICES PURSUANT TO SUBDIVISION TWO OF THIS SECTION IN SUCH SCHOOL YEAR OR MAY OPT TO COMPUTE ACTUAL COSTS ON AN INDIVIDUAL STUDENT BASIS. IF SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL RATES FOR SERVICES, IT SHALL USE ALL REGIONAL RATES THEN IN EFFECT FOR BILLING SERVICES FOR ALL SUCH NONRESIDENT STUDENTS AND IF SUCH SCHOOL DISTRICT ELECTS TO USE REGIONAL RATES FOR BILLING EVALUATION OR SPECIAL EDUCATION ADMINISTRATION COSTS, IT SHALL USE SUCH RATES FOR BILLING FOR SUCH COSTS FOR ALL SUCH NONRESIDENT STUDENTS. THE SCHOOL DISTRICT OF LOCATION MAY, HOWEVER, ELECT TO USE REGIONAL RATES FOR ONE OR MORE CATEGORIES OF COSTS, AND NOT FOR THE OTHER CATEGORIES.

E. NO CLAIM SHALL BE PAYABLE PURSUANT TO THIS SUBDIVISION UNLESS IT IS SUBMITTED TO THE SCHOOL DISTRICT OF RESIDENCE, OR THE COMMISSIONER WHERE APPLICABLE, WITHIN ONE YEAR OF THE END OF THE SCHOOL YEAR IN WHICH THE

1 COSTS WERE INCURRED, OR WITHIN SIXTY DAYS OF THE EFFECTIVE DATE OF THIS  
2 PARAGRAPH, WHICHEVER IS LATER.

3 S 21. Subdivision 8 of section 3604 of the education law, as amended  
4 by section 46 of part H of chapter 83 of the laws of 2002, is amended to  
5 read as follows:

6 8. No school shall be in session on a Saturday or a legal holiday,  
7 except general election day, Washington's birthday and Lincoln's birth-  
8 day, and except that driver education classes may be conducted on a  
9 Saturday. A deficiency not exceeding [three] FOUR days during any school  
10 year caused by teachers' attendance upon conferences held by superinten-  
11 dents of schools of city school districts or other school districts  
12 employing superintendents of schools shall be excused by the commission-  
13 er, NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE  
14 CONTRARY, A SCHOOL DISTRICT MAY ELECT TO SCHEDULE SUCH CONFERENCE DAYS  
15 IN THE LAST TWO WEEKS OF AUGUST AND SUCH DAYS SHALL BE COUNTED TOWARDS  
16 THE REQUIRED ONE HUNDRED EIGHTY DAYS OF SESSION, provided however,  
17 [notwithstanding any other provision of law, that during the nineteen  
18 hundred ninety-two--ninety-three through the two thousand two--two thou-  
19 sand three school years and thereafter, the] THAT SUCH SCHEDULING SHALL  
20 NOT ALTER THE OBLIGATION OF THE SCHOOL DISTRICT TO PROVIDE TRANSPORTA-  
21 TION TO STUDENTS IN NON-PUBLIC ELEMENTARY AND SECONDARY SCHOOLS OR CHAR-  
22 TER SCHOOLS. THE commissioner shall excuse a deficiency not exceeding  
23 four days during such school year caused by teachers' attendance upon  
24 conferences held by such superintendents, provided that at least two  
25 such conference days during such school year shall be dedicated to staff  
26 attendance upon conferences providing staff development relating to  
27 implementation of the new high learning standards and assessments, as  
28 adopted by the board of regents. Notwithstanding any other provision of  
29 law, rule or regulation to the contrary, school districts may elect to  
30 use one or more of such allowable conference days in units of not less  
31 than one hour each to provide staff development activities relating to  
32 implementation of the new high learning standards and assessments. A  
33 district making such election may provide such staff development during  
34 the regularly scheduled daily session and apply such units to satisfy a  
35 deficiency in the length of one or more daily sessions of instruction  
36 for pupils as specified in regulations of the commissioner. The commis-  
37 sioner shall assure that such conference days include appropriate school  
38 violence prevention and intervention training, and may require that up  
39 to one such conference day be dedicated for such purpose.

40 S 22. Paragraph e of subdivision 2 of section 4002 of the education  
41 law, as added by chapter 563 of the laws of 1980, is amended to read as  
42 follows:

43 e. Appointment by the commissioner to a state [or state-supported]  
44 school in accordance with article [eighty-five,] eighty-seven or eight-  
45 y-eight of this chapter OR ENROLLMENT IN A STATE-SUPPORTED SCHOOL IN  
46 ACCORDANCE WITH ARTICLE EIGHTY-FIVE OF THIS CHAPTER.

47 S 23. Subdivision 2 of section 4201 of the education law is amended to  
48 read as follows:

49 2. It shall be the duty of the commissioner:

50 a. To inquire into the organization of the several schools and the  
51 methods of instruction employed therein.

52 b. To prescribe courses of study and methods of instruction that will  
53 meet the requirements of the state for the education of [state] pupils  
54 ATTENDING SUCH SCHOOLS.

1 c. [To make appointments of pupils to the several schools, to transfer  
2 such pupils from one school to another as circumstances may require; to  
3 cancel appointments for sufficient reason.

4 d.] To ascertain by a comparison with other similar institutions  
5 whether any improvements in instruction and discipline can be made; and  
6 for that purpose to appoint from time to time, suitable persons to visit  
7 the schools.

8 [e] D. To suggest to the directors of such institutions and to the  
9 legislature such improvements as he shall judge expedient.

10 [f] E. To make an annual report to the legislature on all of the  
11 matters enumerated in this subdivision and particularly as to the condi-  
12 tion of the schools, the improvement of the pupils, and their treatment  
13 in respect to board and lodging.

14 S 24. Section 4203 of the education law is amended to read as follows:

15 S 4203. Persons eligible for [appointment] ENROLLMENT as pupils to  
16 institutions for instruction of the deaf. All deaf children resident in  
17 this state, of the age of three years and upwards and of suitable capac-  
18 ity, and who shall have been resident in this state for one year imme-  
19 diately preceding the application, or, if an orphan, whose nearest  
20 friend shall have been resident in this state for one year immediately  
21 preceding the application, shall be eligible [to appointment] FOR  
22 ENROLLMENT as [state] pupils in one of the institutions for the instruc-  
23 tion of the deaf of this state, authorized by law to receive such  
24 pupils; provided, however, the foregoing requirement as to length of  
25 residence in this state may be waived in the discretion of the commis-  
26 sioner [of education]. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOM-  
27 MENDED BY THE COMMITTEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL  
28 SPECIAL EDUCATION WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE  
29 FOR EDUCATING SUCH PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE  
30 PROVISION OF SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST  
31 IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF  
32 SECTION FORTY-FOUR HUNDRED TWO OF THIS CHAPTER.

33 S 25. Subdivision 3 of section 4204 of the education law, as amended  
34 by section 51 of part A of chapter 58 of the laws of 2011, is amended to  
35 read as follows:

36 3. The regular term of instruction of any such deaf pupil shall be  
37 twelve years, or until the pupil shall have attained the age of eighteen  
38 years before the expiration of twelve years from the beginning of such  
39 term. The [commissioner] COMMITTEE ON SPECIAL EDUCATION may, in [his]  
40 ITS discretion, [extend] RECOMMEND AN EXTENSION OF the term of any pupil  
41 until his OR HER twenty-first birthday for the purpose of pursuing or  
42 completing academic or vocational courses of study. Such pupils must be  
43 recommended by the trustees of the institution in which they are in  
44 attendance before THE COMMITTEE RECOMMENDS THAT such extension of time  
45 [is granted] BE MADE.

46 S 26. Section 4206 of the education law, as amended by chapter 53 of  
47 the laws of 1990, is amended to read as follows:

48 S 4206. Persons eligible for [appointment] ENROLLMENT as pupils [to]  
49 IN institutions for instruction of the blind. 1. All blind persons of  
50 suitable age and capacity and who shall have been residents in this  
51 state for one year immediately preceding the application or, if a minor,  
52 whose parent or parents, or, if an orphan, whose nearest friend, shall  
53 have been a resident in this state for one year immediately preceding  
54 the application, shall be eligible for [appointment] ENROLLMENT as  
55 [state] pupils to the New York Institute for Special Education in the

city of New York or the Lavelle School for the Blind in the city of New York.

2. Blind babies and children of the age of fifteen years and under and possessing the other qualifications prescribed in this article and requiring kindergarten training or other special care and instruction, shall be eligible for [appointment] ENROLLMENT as [state] pupils [by the commissioner of education at his discretion] in any incorporated institution furnishing approved care, training and instruction for blind babies and children, and any such child may be transferred to the New York Institute for Special Education in the city of New York or the Lavelle School for the Blind in the city of New York, to which he or she would otherwise be eligible for [appointment] ENROLLMENT, upon arriving at suitable age[, in the discretion of the commissioner of education].

3. [All such appointments shall be made by the commissioner of education.] The requirement of this section as to length of residence in this state may be waived in the discretion of the commissioner [of education].

4. PLACEMENT IN SUCH INSTITUTIONS SHALL BE RECOMMENDED BY THE COMMITTEE ON SPECIAL EDUCATION, OR COMMITTEE ON PRESCHOOL SPECIAL EDUCATION WHERE APPLICABLE, OF THE SCHOOL DISTRICT RESPONSIBLE FOR EDUCATING SUCH PUPIL, AND SUCH RECOMMENDATION MAY INCLUDE THE PROVISION OF SPECIAL EDUCATION PROGRAMS AND SERVICES IN JULY OR AUGUST IN ACCORDANCE WITH THE PROVISIONS OF PARAGRAPH A OF SUBDIVISION TWO OF SECTION FORTY-FOUR HUNDRED TWO OF THIS CHAPTER.

S 27. Subdivisions 3 and 4 of section 4207 of the education law, as amended by section 54 of part A of chapter 58 of the laws of 2011, are amended to read as follows:

3. The regular term of instruction of any such blind pupil in the New York Institute for Special Education shall be eight years. The [commissioner] COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE PUPIL, WITH THE CONSENT OF THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION, may in [his] ITS discretion [extend] RECOMMEND EXTENSION OF the term of any pupil for a period not exceeding three years. It shall also be lawful for the [commissioner] COMMITTEE to continue such pupils [as state pupils] for an additional period of three years for the purpose of pursuing or completing a course of high school study; such pupils must be recommended by the trustees of the New York Institute for Special Education before such extension is [granted] RECOMMENDED BY THE COMMITTEE.

4. The term of appointment for blind babies and children of the age of fifteen years and under received into any institution in accordance with this article shall be at the discretion of the [commissioner] COMMITTEE ON SPECIAL EDUCATION OR PRESCHOOL COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT RESPONSIBLE FOR THE EDUCATION OF THE STUDENT AND THE TRUSTEES OF THE NEW YORK INSTITUTE FOR SPECIAL EDUCATION.

S 28. Section 4213 of the education law, as added by chapter 496 of the laws of 1986, is amended to read as follows:

S 4213. Other persons eligible for [appointment] ENROLLMENT. In accordance with the provisions of the charter of the New York Institute for Special Education, and amendments thereto, as issued by the board of regents, children with [handicapping conditions] DISABILITIES, other than [handicapping conditions] DISABILITIES which would establish eligibility for [appointment] ENROLLMENT to the schools enumerated in this article, shall be eligible for [appointment] ENROLLMENT to the New York Institute for Special Education as [state] pupils. The provisions of this article shall apply but not necessarily be limited to the [appoint-

ment] ENROLLMENT, education, maintenance and support of such pupils. Such pupils eligible for [appointment] ENROLLMENT, pursuant to this section, shall be persons over five and under twenty-one years of age who have not received a high school diploma.

S 29. Paragraph d of subdivision 2 of section 4401 of the education law, as amended by chapter 53 of the laws of 1990, is amended to read as follows:

d. Appointment by the commissioner to a state school in accordance with article eighty-seven or eighty-eight of this chapter or ENROLLMENT IN a state-supported school in accordance with article eighty-five of this chapter.

S 30. Subparagraph 2 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 352 of the laws of 2005, is amended to read as follows:

(2) Such committees [or subcommittees] shall review at least annually, the status of each student with a disability and each student thought to be disabled who is identified pursuant to paragraph a of this subdivision. Such review shall consider the educational progress and achievement of the student with a disability and the student's ability to participate in instructional programs in regular education.

S 30-a. Subparagraph 2 of paragraph b of subdivision 1 of section 4402 of the education law, as amended by chapter 82 of the laws of 1995, is amended to read as follows:

(2) Such committees [or subcommittees] shall identify, review and evaluate at least annually, the status of each child with a handicapping condition and each child thought to be handicapped who resides within the school district. Such review shall consider the educational progress and achievement of the child with a handicapping condition and the child's ability to participate in instructional programs in regular education.

S 31. Subparagraph 2 of paragraph b of subdivision 2 of section 4402 of the education law, as amended by chapter 391 of the laws of 1989, is amended to read as follows:

(2) The board shall select the most reasonable and appropriate special service or program for such children from those programs specified in paragraphs a, b, c, D, e, f, g, h, i, k, l and m of subdivision two of section forty-four hundred one of this article upon receipt of the recommendation of the committee on special education. All contracts with schools pursuant to the provisions of paragraphs d, e, f, g, h, l and m of subdivision two of section forty-four hundred one of this article shall be subject to the approval of the commissioner. All contracts under paragraph c of subdivision two of section forty-four hundred one shall be made in accordance with the provisions of subdivision four of section nineteen hundred fifty of this chapter. No child shall be placed in a residential school nor shall a board recommend placement in a residential facility specified in paragraph j of subdivision two of section forty-four hundred one unless there is no appropriate nonresidential school available consistent with the needs of the child. The board shall provide written notice of its determination to the parent or legal guardian of such child. If the determination of the board of education is not consistent with the recommendations of the committee on special education, such notice shall include the statement of the reasons for such determination which shall identify the factors considered by the committee on special education in its evaluation.

S 32. The opening paragraph of subparagraph 3 and subparagraph 3-a of paragraph b of subdivision 1 of section 4402 of the education law, the



opening paragraph of subparagraph 3 as amended by chapter 53 of the laws of 1991 and subparagraph 3-a as added by chapter 630 of the laws of 2008, are amended to read as follows:

The committee [or when applicable the subcommittee] shall:

(3-a) The members of the committee [or subcommittee] may compile a list of appropriate and/or helpful services that may be available outside of the school setting to provide the parents or person in parental relation of a child with a disability with such information. Such list shall clearly state that these services are in addition to services supplied by the school district and will not be paid for by the school district. Any member of a committee [or subcommittee] or his or her respective school district who, acting reasonably and in good faith, provides such information shall not be liable for such action.

S 33. Clause h of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law is REPEALED.

S 34. Subdivisions 8 and 9 of section 4403 of the education law, as amended by chapter 273 of the laws of 1986, are amended to read as follows:

8. To develop and distribute a handbook for parents of handicapped children and the members of committees [and subcommittees] on special education, which handbook shall explain, in layman terms, the financial and educational obligations of the state, the county or city, the home school district, the committee on special education, and the parent or legal guardian of a handicapped child, the special services or programs available pursuant to this article, and the legal procedures available to an aggrieved parent or legal guardian of a handicapped child.

9. To make provision by regulation of the commissioner to assure the confidentiality of any personally identifiable data, information, and records collected or maintained by the state department of education or any school district, including a committee [or subcommittee] on special education, and the officers, employees or members thereof, pursuant to or in furtherance of the purposes of this article, and shall establish procedures upon which any such personally identifiable data, information, or records may be disclosed.

S 35. Subdivision 17 of section 4403 of the education law, as amended by chapter 53 of the laws of 1987, is amended to read as follows:

17. Commencing with the nineteen hundred eighty-seven--eighty-eight school year, to provide for instruction during the months of July and August of students with [handicapping conditions] DISABILITIES who have received state appointments pursuant to article [eighty-five,] eighty-seven or eighty-eight of this chapter, and whose [handicapping conditions, in the judgment of the commissioner,] DISABILITIES are severe enough to exhibit the need for a structured learning environment of twelve months duration to maintain developmental levels, by making such appointments for twelve months; provided that the initial term of appointment of a student with a [handicapping condition] DISABILITY who is the minimum age eligible for such a state appointment shall not commence during the months of July or August.

S 36. The opening paragraph and clauses (a), (b) and (c) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law, the opening paragraph, clauses (a) and (c) as amended by chapter 311 of the laws of 1999, subclause (viii) of clause (a) as amended by chapter 194 of the laws of 2004 and clause (b) as amended by chapter 378 of the laws of 2007, are amended to read as follows:

The board of education or trustees of each school district shall establish committees [and/or subcommittees] on special education as

1 necessary to ensure timely evaluation and placement of pupils. The board  
2 of education of the city school district of the city of New York, shall  
3 establish at least one committee on special education in each of its  
4 community school districts, provided that appointments to the community  
5 school district committees shall be made upon the approval of the commu-  
6 nity school board except that the board of education of the city school  
7 district of the city of New York, may establish one committee to serve  
8 more than one community school district, in which case, appointments  
9 thereto shall be made upon the joint approval of the affected community  
10 school boards; provided, however, that prior to such consolidation, the  
11 board shall consider the relative caseload of the committee on special  
12 education in each affected community school district, including but not  
13 limited to the following factors: the number of students evaluated by  
14 such committee; the number of referrals to special education in such  
15 community school district; the ability to comply with mandated paperwork  
16 and timelines; and other issues which the board deems pertinent.

17 (a) Such committees shall be composed of at least the following  
18 members: (i) the parents or persons in parental relationship to the  
19 student; (ii) one regular education teacher of the student whenever the  
20 student is or may be participating in the regular education environment;  
21 (iii) one special education teacher of the student, or, if appropriate,  
22 a special education provider of the student; (iv) a school psychologist  
23 WHERE THE PURPOSE OF THE MEETING IS TO DETERMINE A STUDENT'S INITIAL  
24 ELIGIBILITY FOR SPECIAL EDUCATION; (v) a representative of such school  
25 district who is qualified to provide or administer or supervise special  
26 education and is knowledgeable about the general curriculum and the  
27 availability of resources of the school district; (vi) an individual who  
28 can interpret the instructional implications of evaluation results;  
29 (vii) [a school physician; (viii) an additional parent, residing in the  
30 school district or a neighboring school district, of a student with a  
31 disability, of a student who has been declassified and is no longer  
32 eligible for an individualized education program (IEP), or a parent of a  
33 disabled child who has graduated, for a period of five years beyond the  
34 student's declassification or graduation, provided such parent shall not  
35 be employed by or under contract with the school district, and provided  
36 further that such additional parent shall not be a required member if  
37 the parents request that such additional parent member not participate;  
38 (ix)] such other persons having knowledge or special expertise regarding  
39 the student as the school district or the parents or persons in parental  
40 relationship to the student shall designate, to the extent required  
41 under federal law; and [(x)] (VIII) if appropriate, the student.

42 (b) In determining the composition of such committee pursuant to  
43 clause (a) of this subparagraph, a school district may determine that a  
44 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or  
45 [(ix)] (VII) of clause (a) of this subparagraph also fulfills the  
46 requirement of subclause (vi) of clause (a) of this subparagraph of a  
47 member who is an individual who can interpret the instructional impli-  
48 cations of evaluation results where such individuals are determined by  
49 the school district to have the knowledge and expertise to do so and/or  
50 that a member appointed pursuant to subclause (iii) or (iv) of clause  
51 (a) of this subparagraph also fulfills the requirement of subclause (v)  
52 of clause (a) of this subparagraph of a member who is a representative  
53 of the school district. The regular education teacher of the student  
54 shall participate in the development, review and revision of the indi-  
55 vidualized education program for the student, to the extent required  
56 under federal law. [The school physician need not be in attendance at

1 any meeting of the committee on special education unless specifically  
2 requested in writing, at least seventy-two hours prior to such meeting  
3 by the parents or other person in parental relation to the student in  
4 question, the student, or a member of the committee on special educa-  
5 tion. The parents or persons in parental relation of the student in  
6 question shall receive proper written notice of their right to have the  
7 school physician attend the meetings of the committee on special educa-  
8 tion upon referral of said student to the committee on special education  
9 or whenever such committee plans to modify or change the identification,  
10 evaluation or educational placement of the student and their right to  
11 request that an additional parent member not participate at any meeting  
12 of the committee regarding the student.] The committee shall invite the  
13 appropriate professionals most familiar with a student's disability or  
14 disabilities to attend any meeting concerning the educational program  
15 for such student. Except as otherwise provided in this clause or clause  
16 (b-1) or (b-2) of this subparagraph, all members of such committee shall  
17 attend meetings of the committee on special education.

18 Members of such committee shall serve at the pleasure of such board  
19 and members who are neither employees of nor under contract with such  
20 district shall serve without compensation except that such members shall  
21 be entitled to a per diem to defray expenses incurred in such service,  
22 provided, however, that any expense incurred shall be deemed an aidable  
23 operating expense for purposes of state aid.

24 (c) Districts not having available personnel may share the services of  
25 a local committee on special education with another school district or  
26 contract with a board of cooperative educational services for such  
27 personnel pursuant to regulations of the commissioner. [A district  
28 having a subcommittee on special education may share the services of a  
29 local committee on special education with another school district,  
30 provided that a representative of such school district who is qualified  
31 to provide or administer or supervise special education and is know-  
32 ledgeable about the general curriculum and the availability of resources  
33 of the school district shall be a member of such committee when it  
34 convenes on behalf of a student who is a resident of such district.]

35 S 36-a. Clause (b) of subparagraph 1 of paragraph b of subdivision 1  
36 of section 4402 of the education law, as amended by chapter 311 of the  
37 laws of 1999, is amended to read as follows:

38 (b) In determining the composition of such committee pursuant to  
39 clause (a) of this subparagraph, a school district may determine that a  
40 member appointed pursuant to one of subclause (ii), (iii), (iv), (v) or  
41 [(ix)] (VII) of clause (a) of this subparagraph also fulfills the  
42 requirement of subclause (vi) of clause (a) of this subparagraph of a  
43 member who is an individual who can interpret the instructional impli-  
44 cations of evaluation results where such individuals are determined by  
45 the school district to have the knowledge and expertise to do so and/or  
46 that a member appointed pursuant to subclause (iii) or (iv) of clause  
47 (a) of this subparagraph also fulfills the requirement of subclause (v)  
48 of clause (a) of this subparagraph of a member who is a representative  
49 of the school district. The regular education teacher of the student  
50 shall participate in the development, review and revision of the indi-  
51 vidualized education program for the student, to the extent required  
52 under federal law. [The school physician need not be in attendance at  
53 any meeting of the committee on special education unless specifically  
54 requested in writing, at least seventy-two hours prior to such meeting  
55 by the parents or other person in parental relationship to the student  
56 in question, the student, or a member of the committee on special educa-

tion. The parents or persons in parental relationship of the student in question shall receive proper written notice of their right to have the school physician attend the meetings of the committee on special education upon referral of said student to the committee on special education or whenever such committee plans to modify or change the identification, evaluation or educational placement of the student and their right to request that an additional parent member not participate at any meeting of the committee regarding the student. The committee shall invite the appropriate professionals most familiar with a student's disability or disabilities to attend any meeting concerning the educational program for such student. Members of such committee shall serve at the pleasure of such board and members who are neither employees of nor under contract with such district shall serve without compensation except that such members shall be entitled to a per diem to defray expenses incurred in such service, provided, however, that any expense incurred shall be deemed an aidable operating expense for purposes of state aid.]

S 37. Clause (d) of subparagraph 1 of paragraph b of subdivision 1 of section 4402 of the education law is REPEALED.

S 38. Clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law is REPEALED.

S 39. Subparagraphs 5 and 7 of paragraph b of subdivision 1 of section 4402 of the education law, subparagraph 5 as amended by chapter 256 of the laws of 1988 and subparagraph 7 as amended by chapter 194 of the laws of 1991, are amended to read as follows:

(5) The committee on special education or, in the case of a state operated school, the multidisciplinary team shall [provide written notice that a child who is placed in those residential programs specified in paragraphs d, g, h and l of subdivision two of section forty-four hundred one of this article is not entitled to receive tuition free educational services after the age of twenty-one, the receipt of a high school diploma or the time described in subdivision five of this section. Such written notice shall be provided to the child and to the parents or legal guardian of such child when such child attains the age of eighteen or, if such child is over the age of eighteen when placed in such a residential program, at the time of placement. Upon the first annual review after the age of fifteen of a child who is receiving non-residential special services or programs as specified in paragraph a, b, c, d, e, f, i, j, l or m of subdivision two of section forty-four hundred one of this article, or is receiving special services or programs in a day program at the human resources school; is receiving such special services or programs one hundred per centum of the school day; is receiving individualized attention or intervention because of intensive management needs or a severe handicap; and, as determined by the committee on special education or multidisciplinary team pursuant to regulations promulgated by the commissioner, may need adult services from the office of mental health, office of mental retardation and developmental disabilities, the state department of social services, a social services district, or the state education department, the committee or multidisciplinary team shall provide to such child's parent or guardian, and if such child is eighteen years of age or older, to the child, written notice that such child is not entitled to receive tuition free educational services after the receipt of a high school diploma, the age of twenty-one or the time described in subdivision five of this section] NOT LATER THAN THE ANNUAL REVIEW PRIOR TO THE EIGHTEENTH BIRTHDAY OF A STUDENT WITH A DISABILITY WHO IS PLACED IN A RESIDENTIAL PROGRAM BY THE COMMITTEE OR MULTIDISCIPLINARY TEAM, OR A STUDENT WITH A

1 DISABILITY WHO IS PLACED IN A DAY PROGRAM BUT THE COMMITTEE OR MULTIDIS-  
2 CIPLINARY TEAM HAS DETERMINED THAT THE STUDENT IS LIKELY TO REQUIRE  
3 ADULT RESIDENTIAL SERVICES, WITH THE CONSENT OF THE PARENTS, NOTIFY AND  
4 INVITE A REPRESENTATIVE OF THE OFFICE OF MENTAL HEALTH, OFFICE FOR  
5 PEOPLE WITH DEVELOPMENTAL DISABILITIES, OR THE STATE EDUCATION DEPART-  
6 MENT, AS APPROPRIATE, TO PARTICIPATE IN THE COMMITTEE ON SPECIAL EDUCA-  
7 TION MEETING FOR THE DEVELOPMENT OF A RECOMMENDATION FOR ADULT SERVICES  
8 PURSUANT TO SECTIONS 7.37 OR 13.37 OF THE MENTAL HYGIENE LAW, SECTION  
9 THREE HUNDRED NINETY-EIGHT-C OF THE SOCIAL SERVICES LAW OR SECTION  
10 FORTY-FOUR HUNDRED THREE OF THIS ARTICLE. THE COMMITTEE OR MULTIDISCI-  
11 PLINARY TEAM SHALL GIVE THE PARENT OR GUARDIAN OF THE CHILD, THE OPPOR-  
12 TUNITY TO CONSENT IN WRITING TO THE RELEASE OF RELEVANT INFORMATION TO  
13 SUCH OTHER PUBLIC AGENCY OR AGENCIES, UPON REQUEST OF SUCH AGENCY OR  
14 AGENCIES, FOR PURPOSES OF DETERMINING APPROPRIATENESS OF AN ADULT  
15 PROGRAM FOR SUCH STUDENT.

16 (a) [Written notice given pursuant to this subparagraph shall describe  
17 in detail the opportunity to consent to have the child's name and other  
18 relevant information forwarded in a report to the commissioner of mental  
19 health, commissioner of mental retardation and developmental disabili-  
20 ties, commissioner of social services, or commissioner of education, or  
21 their designees, for the purpose of determining whether such child will  
22 likely need adult services and, if so, recommending possible adult  
23 services.] For the purposes of this subparagraph "relevant information"  
24 shall be defined as that information in the possession of and used by  
25 the committee or the multidisciplinary team to ascertain the physical,  
26 mental, emotional and cultural-educational factors which contribute to  
27 the [child's handicapping condition] STUDENT'S DISABILITY, including but  
28 not limited to: (i) results of physical and psychological examinations  
29 performed by private and school district physicians and psychologists;  
30 (ii) relevant information presented by the parent, guardian and teacher;  
31 (iii) school data which bear on the [child's] STUDENT'S progress includ-  
32 ing the [child's] STUDENT'S most recent individualized education  
33 program; (iv) results of the most recent examinations and evaluations  
34 performed pursuant to clause (d) of subparagraph three of this para-  
35 graph; and (v) results of other suitable evaluations and examinations  
36 possessed by the committee or multidisciplinary team. Nothing in this  
37 subparagraph shall be construed to require any committee or multidisci-  
38 plinary team to perform any examination or evaluation not otherwise  
39 required by law.

40 (b) Upon consent obtained pursuant to clause [(c)] (A) of this subpar-  
41 agraph, the committee or multidisciplinary team shall forward the  
42 [child's] STUDENT'S name and other relevant information in a report to  
43 the [commissioner of mental health, commissioner of mental retardation  
44 and developmental disabilities, commissioner of social services, or  
45 commissioner of education, or their designees, for the development of a  
46 recommendation for adult services pursuant to section 7.37 or 13.37 of  
47 the mental hygiene law, section three hundred ninety-eight-c of the  
48 social services law or subdivision ten of section forty-four hundred  
49 three of this article. The] APPROPRIATE PUBLIC AGENCY AS DETERMINED BY  
50 THE committee or multidisciplinary team [shall determine which commis-  
51 sioner shall receive the report by considering], BASED UPON the [child's  
52 handicapping condition] STUDENT'S DISABILITY and physical, mental,  
53 emotional and social needs. The committee shall forward additional and  
54 updated relevant information to the [commissioner of mental health,  
55 commissioner of mental retardation and developmental disabilities,  
56 commissioner of social services, or commissioner of education, or their

1 designees,] APPROPRIATE PUBLIC AGENCY upon the request for such informa-  
2 tion by such [commissioner or designee] AGENCY, WITH THE CONSENT OF THE  
3 PARENTS OR THE STUDENT, IF SUCH STUDENT IS EIGHTEEN YEARS OF AGE OR  
4 OLDER.

5 (c) [Upon receipt of the notice by the child pursuant to this subpara-  
6 graph, the child, if eighteen years of age or older, shall be given the  
7 opportunity to consent or withhold consent to the release of the rele-  
8 vant information. Such opportunity shall be given within twenty days of  
9 the receipt of the notice. An appropriate member of the staff of the  
10 educational facility shall be available to assist the child, if neces-  
11 sary, to understand the contents of the notice and the need for his or  
12 her consent for the release of the relevant information. A form,  
13 prescribed by the commissioner, shall be presented to the child for  
14 response, which shall clearly set forth the options of giving consent or  
15 withholding consent. In the event that the child exercises neither  
16 option, and the designated member of the staff of the educational facil-  
17 ity has reason to believe that the child may not be able to understand  
18 the purpose of the form, or in the event that the child is less than  
19 eighteen years of age, the committee on special education or the multi-  
20 disciplinary team shall give the parent or guardian of the child the  
21 opportunity to consent in writing to the release of the relevant infor-  
22 mation. Nothing in this clause shall be construed to be a determination  
23 of the child's mental capacity.

24 (d)] When the committee or multidisciplinary team is notified by the  
25 [commissioner who] PUBLIC AGENCY WHICH received the report that such  
26 state agency is not responsible for determining and recommending adult  
27 services for the child, the committee or multidisciplinary team shall  
28 forward the report to another [commissioner] PUBLIC AGENCY; or, if the  
29 committee or multidisciplinary team determines that there exists a  
30 dispute as to which state agency has the responsibility for determining  
31 and recommending adult services, the committee or multidisciplinary team  
32 may forward the report to the council on children and families for a  
33 resolution of such dispute.

34 [(e) The committee and multidisciplinary team shall prepare and submit  
35 an annual report to the state education department on or before October  
36 first of each year. Such annual report shall contain the number of cases  
37 submitted to each commissioner pursuant to clause (b) or (d) of this  
38 subparagraph, the type and severity of the handicapping condition  
39 involved with each such case, the number of notices received which deny  
40 responsibility for determining and recommending adult services, and  
41 other information necessary for the state education department and the  
42 council on children and families to monitor the need for adult services.  
43 Such annual report shall not contain individually identifying informa-  
44 tion. The state education department shall forward a copy of such annual  
45 report to the council on children and families. All information received  
46 by the council on children and families pursuant to this subparagraph  
47 shall be subject to the confidentiality requirements of the department.

48 (f) For purposes of this subparagraph, the term "multidisciplinary  
49 team" refers to the unit which operates in lieu of a committee on  
50 special education with respect to children in state operated schools.]

51 [(7)] (6) The committee on special education shall provide a copy of  
52 the handbook for parents of children with [handicapping conditions]  
53 DISABILITIES established under subdivision eight of section four thou-  
54 sand four hundred three of this article or a locally approved [hand-  
55 icated] booklet FOR PARENTS OF CHILDREN WITH DISABILITIES to the  
56 parents or person in parental relationship to a child as soon as practi-

1 cable after such child has been referred for evaluation to the committee  
2 on special education.

3 S 40. Paragraph a of subdivision 2 of section 4402 of the education  
4 law, as amended by chapter 243 of the laws of 1989, is amended to read  
5 as follows

6 a. The board of education or trustees of each school district shall be  
7 required to furnish suitable educational opportunities for [children  
8 with handicapping conditions] STUDENTS WITH DISABILITIES by one of the  
9 special services or programs listed in subdivision two of section  
10 forty-four hundred one. The need of the individual child shall determine  
11 which of such services shall be rendered. Each district shall provide to  
12 the maximum extent appropriate such services in a manner which enables  
13 [children with handicapping conditions] STUDENTS WITH DISABILITIES to  
14 participate in regular education services when appropriate. Such  
15 services or programs shall be furnished between the months of September  
16 and June of each year, except that for the nineteen hundred eighty-sev-  
17 en--eighty-eight school year and thereafter, with respect to the  
18 students whose [handicapping conditions] DISABILITIES are severe enough  
19 to exhibit the need for a structured learning environment of twelve  
20 months duration to maintain developmental levels, the board of education  
21 or trustees of each school district upon the recommendation of the  
22 committee on special education [and, in the first instance, the consent  
23 of the parent] shall also provide, either directly or by contract, for  
24 the provision of special services and programs as defined in section  
25 forty-four hundred one of this article during the months of July and  
26 August as contained in the individualized education program for each  
27 eligible [child] STUDENT, and with prior approval by the commissioner if  
28 required; provided that [(i) a student with a handicapping condition who  
29 is first eligible to attend public school in the nineteen hundred eight-  
30 y-seven--eighty-eight school year shall not be eligible to receive  
31 services pursuant to this paragraph during the months of July and August  
32 nineteen hundred eighty-seven and (ii) a student with a handicapping  
33 condition who is first eligible to attend public school in the nineteen  
34 hundred eighty-eight--eighty-nine school year shall not be eligible to  
35 receive services pursuant to this paragraph during the months of July  
36 and August nineteen hundred eighty-eight and (iii) a student with a  
37 handicapping condition who is eligible for services during the months of  
38 July and August nineteen hundred eighty-nine pursuant to the provisions  
39 of subdivision six of section forty-four hundred ten of this article  
40 shall not be eligible to receive services pursuant to this paragraph  
41 during such months and (iv)] a student with a [handicapping condition]  
42 DISABILITY who is eligible for services, including services during the  
43 months of July and August, pursuant to section forty-four hundred ten of  
44 this article shall not be eligible to receive services pursuant to this  
45 paragraph during the months of July and August.

46 S 41. Paragraph d of subdivision 4 of section 4402 of the education  
47 law, as amended by chapter 646 of the laws of 1992, is amended to read  
48 as follows

49 d. Notwithstanding any other provision of law, such board shall  
50 provide suitable transportation up to a distance of fifty miles to and  
51 from a nonpublic school which a [child] STUDENT with a [handicapping  
52 condition] DISABILITY attends if such [child] STUDENT has been so iden-  
53 tified by the local committee on special education and such [child]  
54 STUDENT attends such school for the purpose of receiving services or  
55 programs FROM SUCH NONPUBLIC SCHOOL THAT ARE similar to special [educa-  
56 tional programs] EDUCATION PROGRAMS AND SERVICES recommended for such

1 [child] STUDENT by the local committee on special education. NOTWITH-  
2 STANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, A NONPUBLIC STUDENT  
3 RECEIVING TRANSPORTATION PURSUANT TO THIS PARAGRAPH SHALL NOT BE ENTI-  
4 TLED TO SPECIAL EDUCATION PROGRAMS AND SERVICES FROM THE SCHOOL DISTRICT  
5 OF LOCATION PURSUANT TO SECTION THIRTY-SIX HUNDRED TWO-C OF THIS CHAP-  
6 TER. AS A CONDITION OF ELIGIBILITY FOR SUCH TRANSPORTATION, THE PARENT  
7 OR PERSON IN PARENTAL RELATION TO THE STUDENT SHALL CONSENT TO THE  
8 PROVISION OF NOTICE BY THE SCHOOL DISTRICT OF RESIDENCE TO THE CHAIR-  
9 PERSON OF THE COMMITTEE ON SPECIAL EDUCATION OF THE SCHOOL DISTRICT IN  
10 WHICH THE NONPUBLIC SCHOOL IS LOCATED IDENTIFYING SUCH STUDENT, BY NAME,  
11 ADDRESS AND SCHOOL OF ATTENDANCE, AS A STUDENT RECEIVING TRANSPORTATION  
12 PURSUANT TO THIS PARAGRAPH. THE SCHOOL DISTRICT OF RESIDENCE SHALL  
13 PROVIDE SUCH NOTICE NO LATER THAN THIRTY DAYS AFTER COMMENCING SUCH  
14 TRANSPORTATION.

15 S 42. Subdivision 18 of section 4403 of the education law is REPEALED.

16 S 43. Paragraph a of subdivision 1 of section 4404 of the education  
17 law, as amended by chapter 430 of the laws of 2006, is amended to read  
18 as follows:

19 a. If the parent or person in parental relation of a student, the  
20 board of education or trustees of a school district or a state agency  
21 responsible for providing education to students with disabilities  
22 presents a complaint with respect to any matter relating to the iden-  
23 tification, evaluation or educational placement of the student or the  
24 provision of a free appropriate public education to the student or a  
25 manifestation determination or other matter relating to placement upon  
26 discipline of a student with a disability that may be the subject of an  
27 impartial hearing pursuant to subsection (k) of section fourteen hundred  
28 fifteen of title twenty of the United States code and the implementing  
29 federal regulations, and the party presenting the complaint or their  
30 attorney provides a due process complaint notice in accordance with  
31 federal law and regulations and such complaint sets forth an alleged  
32 violation that occurred not more than [two years] ONE YEAR before the  
33 date the parent or public agency knew or should have known about the  
34 alleged action that forms the basis for the complaint, OR IN THE CASE OF  
35 A COMPLAINT SEEKING TUITION REIMBURSEMENT FOR THE UNILATERAL PARENTAL  
36 PLACEMENT OF A STUDENT IN A PRIVATE SCHOOL, SUCH TUITION CLAIM IS  
37 PRESENTED NOT MORE THAN ONE HUNDRED EIGHTY DAYS FROM THE PLACEMENT BY  
38 THE PARENT OR PERSON IN PARENTAL RELATION IN THE PRIVATE SCHOOL,  
39 PROVIDED THAT THE STUDENT SHALL BE DEEMED PLACED FOR SUCH PURPOSE ON THE  
40 FIRST DAY THE STUDENT IS ENROLLED IN AND IS LIABLE FOR TUITION IN THE  
41 PRIVATE SCHOOL, the board or agency shall appoint an impartial hearing  
42 officer to review the due process complaint notice when challenged and,  
43 if the matter is not resolved in a resolution session that has been  
44 convened as required by federal law, to preside over an impartial due  
45 process hearing and make a determination within such period of time as  
46 the commissioner by regulation shall determine, provided that the board  
47 of education or trustees shall offer the parent or person in parental  
48 relation the option of mediation pursuant to section forty-four hundred  
49 four-a of this article as an alternative to an impartial hearing. Where  
50 the parent or person in parental relation or a school district or public  
51 agency presents a complaint, the school district or public agency  
52 responsible for appointing the impartial hearing officer shall provide  
53 the parent or person in parental relation with a procedural safeguards  
54 notice as required pursuant to subsection (d) of section fourteen  
55 hundred fifteen of title twenty of the United States code and the imple-  
56 menting federal regulations. Notwithstanding any provision of this



1 subdivision to the contrary, the time limitation on presenting a  
2 complaint shall not apply to a parent or person in parental relation to  
3 the student if the parent or person in parental relation was prevented  
4 from requesting the impartial hearing due to specific misrepresentations  
5 by the school district or other public agency that it had resolved the  
6 problem forming the basis of the complaint or due to the school  
7 district's or other public agency's withholding of information from the  
8 parent or person in parental relation that was required under federal  
9 law to be provided. Nothing in this subdivision shall be construed to  
10 authorize the board of education or trustees to bring an impartial hear-  
11 ing to override the refusal of a parent or person in parental relation  
12 to consent where a local educational agency is prohibited by federal law  
13 from initiating such a hearing.

14 S 44. Subparagraph 1 of paragraph a of subdivision 3 of section 4410  
15 of the education law, as amended by chapter 378 of the laws of 2007, is  
16 amended to read as follows:

17 (1) Such board shall ensure that such committee is composed of at  
18 least the following members: (i) the parents of the preschool child;  
19 (ii) a regular education teacher of such child, whenever the child is or  
20 may be participating in a regular education environment; (iii) a special  
21 education teacher of the child or, if appropriate, a special education  
22 provider of the child; (iv) an appropriate professional employed by the  
23 school district who is qualified to provide, or supervise the provision  
24 of, special education, who is knowledgeable about the general curriculum  
25 of the school district and the availability of preschool special educa-  
26 tion programs and services and other resources in the school district  
27 and the municipality, and who shall serve as chairperson of the commit-  
28 tee; (v) [an additional parent of a child with a disability who resides  
29 in the school district or a neighboring school district and whose child  
30 is enrolled in a preschool or elementary level education program,  
31 provided that such parent shall not be employed by or under contract  
32 with the school district or municipality, and provided further that such  
33 additional parent shall not be a required member if the parents request  
34 that such additional parent member not participate; (vi)] an individual  
35 who can interpret the instructional implications of evaluation results,  
36 provided that such individual may be the member appointed pursuant to  
37 clause (ii), (iii), (iv) or [(vii)] (VI) of this subparagraph where such  
38 individuals are determined by the school district to have the knowledge  
39 and expertise to do so; [(vii)] OR (VI) such other persons having know-  
40 ledge or expertise regarding the child as the board or the parents shall  
41 designate, to the extent required under federal law; and for a child in  
42 transition from programs and services provided pursuant to applicable  
43 federal laws relating to early intervention services, at the request of  
44 the parent or person in parental relation to the child, the appropriate  
45 professional designated by the agency that has been charged with the  
46 responsibility for the preschool child pursuant to said applicable  
47 federal laws. In addition, the chief executive officer of the munici-  
48 pality of the preschool child's residence shall appoint an appropriately  
49 certified or licensed professional to the committee. Attendance of the  
50 appointee of the municipality shall not be required for a quorum.

51 S 44-a. Subparagraph 1 of paragraph a of subdivision 3 of section 4410  
52 of the education law, as amended by chapter 311 of the laws of 1999, is  
53 amended to read as follows:

54 (1) Such board shall ensure that such committee is composed of at  
55 least the following members: (i) the parents of the preschool child;  
56 (ii) a regular education teacher of such child, whenever the child is or

1 may be participating in a regular education environment; (iii) a special  
2 education teacher of the child or, if appropriate, a special education  
3 provider of the child; (iv) an appropriate professional employed by the  
4 school district who is qualified to provide, or supervise the provision  
5 of, special education, who is knowledgeable about the general curriculum  
6 of the school district and the availability of preschool special educa-  
7 tion programs and services and other resources in the school district  
8 and the municipality, and who shall serve as chairperson of the commit-  
9 tee; (v) [an additional parent of a child with a disability who resides  
10 in the school district or a neighboring school district and whose child  
11 is enrolled in a preschool or elementary level education program,  
12 provided that such parent shall not be employed by or under contract  
13 with the school district or municipality, and provided further that such  
14 additional parent shall not be a required member if the parents request  
15 that such additional parent member not participate; (vi)] an individual  
16 who can interpret the instructional implications of evaluation results,  
17 provided that such individual may be the member appointed pursuant to  
18 clause (ii), (iii), (iv) or [(vii)] (VI) of this subparagraph where such  
19 individuals are determined by the school district to have the knowledge  
20 and expertise to do so; [(vii)] OR (VI) such other persons having know-  
21 ledge or expertise regarding the child as the board or the parents shall  
22 designate, to the extent required under federal law; and for a child in  
23 transition from programs and services provided pursuant to applicable  
24 federal laws relating to early intervention services, the appropriate  
25 professional designated by the agency that has been charged with the  
26 responsibility for the preschool child pursuant to said applicable  
27 federal laws. In addition, the chief executive officer of the munici-  
28 pality of the preschool child's residence shall appoint an appropriately  
29 certified or licensed professional to the committee. Attendance of the  
30 appointee of the municipality shall not be required for a quorum.

31 S 45. Paragraph b of subdivision 4 of section 4410 of the education  
32 law, as added by chapter 243 of the laws of 1989, is amended to read as  
33 follows:

34 b. Each board shall, within time limits established by the commission-  
35 er, be responsible for providing the parent of a preschool child  
36 suspected of having a [handicapping condition] DISABILITY with a list of  
37 approved evaluators in the geographic area. The [parent may select the  
38 evaluator from such list] SCHOOL DISTRICT SHALL, AFTER PROVIDING THE  
39 PARENT WITH A LIST OF APPROVED PRESCHOOL EVALUATORS AND OBTAINING PARENT  
40 CONSENT TO EVALUATE, ARRANGE FOR AN EVALUATION BY THE SERVICE PROVIDER  
41 SELECTED BY THE DISTRICT WHO CAN PROVIDE THE EVALUATION OF THE STUDENT  
42 WITHIN THE TIMELINE REQUIRED BY THE DEPARTMENT. IN SELECTING THE EVALU-  
43 ATOR, THE DISTRICT SHALL CONSIDER THE PARENT'S EXPRESSED PREFERENCE, IF  
44 ANY, FOR THE EVALUATOR. Each board shall provide for dissemination of  
45 the list and other information to parents at appropriate sites including  
46 but not limited to pre-kindergarten, day care, head start programs and  
47 early childhood direction centers, pursuant to regulations of the  
48 commissioner.

49 S 46. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the  
50 education law, paragraph (a) as amended by chapter 581 of the laws of  
51 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are  
52 amended to read as follows:

53 (a) A [school district or a] group of appropriately licensed and/or  
54 certified professionals associated with a public or private agency may  
55 apply to the commissioner for approval as an evaluator on a form  
56 prescribed by the commissioner. The commissioner shall approve evalu-

ators pursuant to this subdivision consistent with the approval process for the multi-disciplinary evaluation component of programs approved pursuant to subdivision nine of this section consistent with regulations adopted pursuant to such subdivision. ALL SCHOOL DISTRICTS ARE DEEMED APPROVED EVALUATORS OF PRESCHOOL STUDENTS SUSPECTED OF HAVING A DISABILITY WITHOUT THE NEED TO SUBMIT AN APPLICATION TO THE COMMISSIONER.

Such application shall include, but not be limited to, a description of the multi-disciplinary evaluation services proposed to be provided and a demonstration that all agency employees and staff who provide such evaluation services shall have appropriate licensure and/or certification and that the individual who shall have direct supervision responsibilities over such staff shall have an appropriate level of experience in providing evaluation or services to preschool or kindergarten-aged children with disabilities. To be eligible for approval as an evaluator under this subdivision on and after July first, two thousand eleven, a group of appropriately licensed or certified professionals shall be formed as a limited liability company or professional services corporation established pursuant to article fifteen of the business corporation law, article twelve or thirteen of the limited liability company law or article eight-B of the partnership law. The approval of any groups of licensed or certified professionals that are in existence on July first, two thousand eleven and would not be eligible for approval thereafter shall terminate on July first, two thousand thirteen.

(c) The commissioner shall establish a billing and reimbursement system for services provided by SCHOOL DISTRICTS AND evaluators approved pursuant to the provisions of this subdivision consistent with billing and reimbursement for evaluation services provided by evaluators approved pursuant to the provisions of subdivision nine of this section.

S 47. Paragraph c of subdivision 1 of section 4410-b of the education law, as added by chapter 6 of the laws of 2000, is amended to read as follows:

c. "IEP team" means a committee on special education, [a subcommittee on special education,] OR a committee on preschool special education [or a subcommittee on preschool special education].

S 48. This act shall take effect July 1, 2012, provided that in the event this act shall become a law after such date, it shall take effect immediately and shall be deemed to have been in full force and effect on and after July 1, 2012 and provided further, that nothing in section twelve of this act shall be construed to require the retrofitting of school buses purchased prior to the effective date of this act, and provided further that:

(a) the amendments to paragraph a of subdivision 14 of section 305 of the education law made by section five of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapter 698 of the laws of 1996, as amended, when upon such date the provisions of section five-a of this act shall take effect;

(b) the amendments to paragraph e of subdivision 14 of section 305 of the education law made by section six of this act shall not affect the repeal of such paragraph and shall be deemed repealed therewith;

(c) the amendments to subdivision 1-b of the general municipal law made by section eight of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

(d) the amendments to subdivision 2 of section 103 of the general municipal law made by section ten of this act shall be subject to the expiration and reversion of such subdivision pursuant to section 41 of

part X of chapter 62 of the laws of 2003, as amended, when upon such date the provisions of section ten-a of this act shall take effect;

(e) the amendments to subparagraph (2) of paragraph (b) of subdivision 4 of section 2590-b of the education law made by section seventeen of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

(f) the amendments to paragraph (a) of subdivision 4 of section 2853 of the education law made by section eighteen of this act shall be subject to the expiration and reversion of such paragraph pursuant to chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section eighteen-a of this act shall take effect;

(g) the amendments to subdivision 2 of section 3602-c of the education law made by section nineteen of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith;

(h) the amendments to subdivision 7 of section 3602-c of the education law made by section twenty of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith;

(i) the amendments to subparagraph (2) of paragraph b of subdivision 1 of section 4402 of the education law made by section thirty of this act shall be subject to the expiration and reversion of such subparagraph pursuant to chapter 352 of the laws of 2005, as amended, when upon such date the provisions of section thirty-a of this act shall take effect;

(j) the amendments to clause (b) of subparagraph (1) of paragraph b of subdivision 1 of section 4402 of the education law made by section thirty-six of this act shall be subject to the expiration and reversion of such clause pursuant to chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section thirty-six-a of this act shall take effect;

(k) the amendments to paragraph a of subdivision 1 of section 4404 of the education law made by section forty-three of this act shall not affect the expiration and reversion of such subdivision and shall be deemed to expire therewith; and

(l) the amendments to subparagraph (1) of paragraph a of subdivision 3 of section 4410 of the education law made by section forty-four of this act shall be subject to the expiration and reversion of such subparagraph pursuant to chapter 378 of the laws of 2007, as amended, when upon such date the provisions of section forty-four-a of this act shall take effect.