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

10446

I N A S S E M B L Y

May 29, 2012

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

AN ACT to amend the education law, in relation to retaining quality teachers (Part A); to amend the education law, in relation to tenured teacher discipline (Part B); to amend the education law, in relation to health care premium contributions for school district employees (Part C); establishing a special advisory committee to review laws and regulations relating to special education (Part D); and to amend the general municipal law, in relation to shared purchasing among political subdivisions (Part E)

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

Section 1. This act enacts into law major components of legislation which are necessary to enact the New York State Mandate Relief for School Districts Act. Each component is wholly contained within a Part identified as Parts A through E. The effective date for each particular provision contained within such Part is set forth in the last section of such Part. Any provision in any section contained within a Part, including the effective date of the Part, which makes reference to a section "of this act", when used in connection with that particular component, shall be deemed to mean and refer to the corresponding section of the Part in which it is found. Section four of this act sets forth the general effective date of this act.

S 2. This act shall be known and may be cited as the "New York State Mandate Relief for School Districts Act".

PART A

Section 1. Section 1604 of the education law is amended by adding a new subdivision 8-a to read as follows:

8-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER A BOARD OF EDUCATION ABOLISHES OR REDUCES A POSITION OR POSITIONS UNDER THIS CHAPTER, THE SUPERINTENDENT FOR THE SCHOOL DISTRICT SHALL RECOMMEND WHICH TEACHER OR TEACHERS SHOULD BE RETAINED. SUCH RECOMMENDA-

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

LBD15980-02-2

TIONS SHALL BE BASED ON AN EVALUATION OF THE TEACHER'S PERFORMANCE AND QUALIFICATIONS AND THE EDUCATIONAL NEEDS OF THE SCHOOL, INCLUDING BUT NOT LIMITED TO:

(I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

(II) THE SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS, OFFICE OR SCHOOL NEEDS, INCLUDING CURRICULUM, SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE;

(III) FAILURE TO OBTAIN PERMANENT CERTIFICATION WITHIN THE STATUTORILY PRESCRIBED TIME LIMITS;

(IV) THE LENGTH OF SERVICE; PROVIDED, THAT THE TEACHER'S SALARY SHALL NOT BE CONSIDERED IN MAKING A LAYOFF RECOMMENDATION.

THE BOARD OF EDUCATION SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE OR REJECT THE RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE THE ADVERSE IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE SCHOOL DISTRICT.

S 2. Section 1709 of the education law is amended by adding a new subdivision 16-a to read as follows:

16-A. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER A BOARD OF EDUCATION ABOLISHES OR REDUCES A POSITION OR POSITIONS UNDER THIS CHAPTER, THE SUPERINTENDENT FOR THE SCHOOL DISTRICT SHALL RECOMMEND WHICH TEACHER OR TEACHERS SHOULD BE RETAINED. SUCH RECOMMENDATIONS SHALL BE BASED ON AN EVALUATION OF THE TEACHER'S PERFORMANCE AND QUALIFICATIONS AND THE EDUCATIONAL NEEDS OF THE SCHOOL, INCLUDING BUT NOT LIMITED TO:

(I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

(II) THE SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS, OFFICE OR SCHOOL NEEDS, INCLUDING CURRICULUM, SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE;

(III) FAILURE TO OBTAIN PERMANENT CERTIFICATION WITHIN THE STATUTORILY PRESCRIBED TIME LIMITS;

(IV) THE LENGTH OF SERVICE; PROVIDED, THAT THE TEACHER'S SALARY SHALL NOT BE CONSIDERED IN MAKING A LAY OFF RECOMMENDATION.

THE BOARD OF EDUCATION SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE OR REJECT THE RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE THE ADVERSE IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE SCHOOL DISTRICT.

S 3. Section 1804 of the education law is amended by adding a new subdivision 13 to read as follows:

13. NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER A BOARD OF EDUCATION ABOLISHES OR REDUCES A POSITION OR POSITIONS UNDER THIS CHAPTER, THE SUPERINTENDENT FOR THE SCHOOL DISTRICT SHALL RECOMMEND WHICH TEACHER OR TEACHERS SHOULD BE RETAINED. SUCH RECOMMENDATIONS SHALL BE BASED ON AN EVALUATION OF THE TEACHER'S PERFORMANCE AND QUALIFICATIONS AND THE EDUCATIONAL NEEDS OF THE SCHOOL, INCLUDING BUT NOT LIMITED TO:

(I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

(II) THE SCHOOL NEEDS FOR PARTICULAR LICENSE AREAS, OFFICE OR SCHOOL NEEDS, INCLUDING CURRICULUM, SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE;

(III) FAILURE TO OBTAIN PERMANENT CERTIFICATION WITHIN THE STATUTORILY PRESCRIBED TIME LIMITS;

(IV) THE LENGTH OF SERVICE; PROVIDED, THAT THE TEACHER'S SALARY SHALL NOT BE CONSIDERED IN MAKING A LAY OFF RECOMMENDATION.

THE BOARD OF EDUCATION SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE OR REJECT THE RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE THE ADVERSE IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE SCHOOL DISTRICT.

S 4. The opening paragraph of paragraph e of subdivision 4 of section 1950 of the education law is designated subparagraph 1 and a new subparagraph 2 is added to read as follows:

(2) NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER A BOARD OF COOPERATIVE EDUCATIONAL SERVICES ABOLISHES OR REDUCES A POSITION OR POSITIONS UNDER THIS CHAPTER, THE DISTRICT SUPERINTENDENT SHALL RECOMMEND WHICH TEACHER OR TEACHERS SHOULD BE RETAINED. SUCH RECOMMENDATIONS SHALL BE BASED ON AN EVALUATION OF THE TEACHER'S PERFORMANCE AND QUALIFICATIONS AND THE EDUCATIONAL NEEDS OF THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, INCLUDING BUT NOT LIMITED TO:

(I) ANNUAL PROFESSIONAL PERFORMANCE REVIEWS CONDUCTED PURSUANT TO SECTION THREE THOUSAND TWELVE-C OF THIS CHAPTER;

(II) THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES NEEDS FOR PARTICULAR LICENSE AREAS, OFFICE OR SCHOOL NEEDS, INCLUDING CURRICULUM, SPECIALIZED EDUCATION, DEGREES, LICENSES OR AREAS OF EXPERTISE;

(III) FAILURE TO OBTAIN PERMANENT CERTIFICATION WITHIN THE STATUTORILY PRESCRIBED TIME LIMITS;

(IV) THE LENGTH OF SERVICE; PROVIDED, THAT THE TEACHER'S SALARY SHALL NOT BE CONSIDERED IN MAKING A LAY OFF RECOMMENDATION.

THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL EXERCISE ITS DISCRETION AND SHALL APPROVE OR REJECT THE RECOMMENDATIONS OF THE SUPERINTENDENT SO AS TO MINIMIZE THE ADVERSE IMPACT ON STUDENTS AND THE EDUCATIONAL STRENGTH OF THE SCHOOL DISTRICT.

S 5. Subdivision 2 of section 1505-a of the education law, as added by chapter 871 of the laws of 1982, is amended to read as follows:

2. [Any] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, ANY such teacher who is unable to obtain a teaching position in any such school district to which territory is added, because the number of positions needed are less than the number of teachers eligible to be considered employees pursuant to subdivision one of this section, shall, in all such school districts to which territory is added, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher filled in such former school district. The teachers on such a preferred eligible list shall be appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district to which territory is added [in the order of their length of service in such former school district] PURSUANT TO SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER, within seven years from the date of the dissolution of such former school district.

S 6. Section 1917 of the education law, as added by chapter 732 of the laws of 1981, is amended to read as follows:

S 1917. Employees; employment rights. [Teachers] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, TEACHERS and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of creation of a central high school district, shall be granted employment rights in central high school districts in accordance with [length of service] SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIR-

TEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER, in each tenure area.

S 7. Subdivisions 1 and 4 of section 1917-a of the education law, as added by section 93 of part L of chapter 405 of the laws of 1999, are amended to read as follows:

1. [Teachers] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, TEACHERS and other staff members of component districts, except the superintendent of schools, whose services in the component districts are no longer needed because of the creation of a central high school district or the transference of students to an existing central high school district, shall be granted employment rights in central high school districts in accordance with the provisions of this section.

4. If the number of teaching and other positions needed to provide the educational services required by such central high school district is less than the number of teachers and other employees eligible to be considered employees of such central high school district as provided by subdivision three of this section, [the services of the] DECISIONS REGARDING RETENTION OF teachers and other employees [having the least seniority] in the component district within the tenure area of the position shall be [discontinued] MADE PURSUANT TO SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER. Such teachers and other employees shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the component district, the "receiving district" as defined in section three thousand fourteen-c of this chapter, from which a component district has taken back students, and the central high school district similar to the one such teacher or other employee filled in such component district. The teachers and other employees on such preferred lists shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the component district or the central high school district [in the order of their length of service in such component district,] within seven years from the date of the abolition of such office or position PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

S 8. Paragraph f of subdivision 5 of section 2218 of the education law, as added by section 83 of part L of chapter 405 of the laws of 1999, is amended to read as follows:

f. [Members] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, MEMBERS of the teaching and supervisory staff of the pre-existing school district at the time of the reorganization shall have the right to select the school district in which he or she shall be considered an employee, with the same tenure status he or she maintained in the pre-existing school district. Such selection shall be based on each teacher's seniority in the pre-existing school district, with the right of selection passing from such teachers with the most seniority to such teachers with the least seniority. Any such teacher who is unable to obtain a teaching position in the new school district because the number of positions needed is less than the number of teachers eligible to be considered employees pursuant to this paragraph shall, in such new school district and in the remaining school district, be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in a position similar to the one such teacher

filled in the pre-existing school district. Such teachers shall be appointed to vacancies in such corresponding or similar positions [in the order of their length of service in the pre-existing school district] PURSUANT TO SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER, within seven years from the date of the reorganization pursuant to this section. For such teachers, for salary, sick leave or any other purpose, the length of service credited in the pre-existing school district shall be credited as employment time with the new school district or the remaining school district, as applicable.

S 9. Subdivision 2 and paragraph (a) of subdivision 3 of section 2510 of the education law, subdivision 2 as added by chapter 762 of the laws of 1950 and paragraph (a) of subdivision 3 as amended by chapter 236 of the laws of 1993, are amended to read as follows:

2. [Whenever] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER a board of education abolishes a position under this chapter, [the services of the teacher having the least seniority in the system within the tenure of the position abolished] DECISIONS REGARDING RETENTION shall be [discontinued] MADE PURSUANT TO CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

(a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions [in the order of their length of service in the system at any time] within seven years from the date of abolition or consolidation of such office or position PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER. Notwithstanding any other provision of law to the contrary, in the event that a member of the New York state teachers' retirement system, who is receiving a disability retirement allowance, shall have such disability retirement allowance rescinded, such member shall be placed upon such preferred eligible list as of the effective date of his or her disability retirement.

S 10. Subdivisions 3 and 4 of section 2585 of the education law, subdivision 4 as renumbered by chapter 521 of the laws of 1976 and such section as renumbered by chapter 762 of the laws of 1950, are amended to read as follows:

3. [Whenever] NOTWITHSTANDING ANY PROVISION OF LAW TO THE CONTRARY, WHENEVER a board of education abolishes a position under this chapter, [the services of the teacher having the least seniority in the system] DECISIONS REGARDING RETENTION within the tenure of the position abolished shall be [discontinued] MADE PURSUANT TO CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

4. If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he OR SHE has filled. The persons on such preferred list shall be reinstated or appointed to such corresponding or similar positions [in the order of their length of service in the system] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

S 11. Subdivision 2 and paragraph (a) of subdivision 3 of section 3013 of the education law, as added by chapter 737 of the laws of 1992, is amended to read as follows:

2. [Whenever] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, WHENEVER a trustee, board of trustee, board of education or board of cooperative educational services abolishes a position under this chapter, [the services of the teacher having the least seniority in the system within the tenure of the position abolished] DECISIONS REGARDING RETENTION OF TEACHERS shall be [discontinued] MADE PURSUANT TO CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE, SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR AND SUBPARAGRAPH TWO OF PARAGRAPH E OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER.

(a) If an office or position is abolished or if it is consolidated with another position without creating a new position, the person filling such position at the time of its abolishment or consolidation shall be placed upon a preferred eligible list of candidates for appointment to a vacancy that then exists or that may thereafter occur in an office or position similar to the one which such person filled without reduction in salary or increment, provided the record of such person has been one of faithful, competent service in the office or position he or she has filled. The persons on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions [in the order of their length of service in the system] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION EIGHT-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER, at any time within seven years from the date of abolition or consolidation of such office or position.

S 12. Subdivision 2 of section 3014-a of the education law, as amended by chapter 511 of the laws of 1998, is amended to read as follows:

2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF the number of teaching positions needed to provide the services required by such program by the board or boards of cooperative educational services is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such board or boards of cooperative educational services as provided by subdivision one of this section, [the services of the teachers, teaching assistants and teacher aides having the least seniority in the school district or school districts or county vocational education and extension board whose programs are taken over by the board or boards of cooperative

educational services within the tenure area or civil service title of the position] DECISIONS REGARDING LAYOFFS AND RETENTION OF SUCH EMPLOYEES shall be [discontinued] MADE PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE, SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR AND SUBPARAGRAPH TWO OF PARAGRAPH E OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the board or boards of cooperative educational services similar to the one such teacher, teaching assistant and teacher aide filled in such school district or school districts or such county vocational education and extension board. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the board or boards of cooperative educational services [in the order of their length of service in such school district or school districts or in such county vocational education and extension board] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE, SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR AND SUBPARAGRAPH TWO OF PARAGRAPH E OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER, within seven years from the date of the abolition of such office or position.

S 13. Subdivision 2 of section 3014-b of the education law, as amended by chapter 511 of the laws of 1998, is amended to read as follows:

2. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF the number of teaching positions needed to provide the services required by such program by the school district is less than the number of teachers, teaching assistants and teacher aides eligible to be considered employees of such school district as provided by subdivision one of this section, [the services of the teachers, teaching assistants and teacher aides having the least seniority in the board of cooperative educational services whose programs are taken over by the school district within the tenure area or civil service title of the position] DECISIONS REGARDING RETENTION OF SUCH EMPLOYEES shall be [discontinued] MADE PURSUANT TO CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE, SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR AND SUBPARAGRAPH TWO OF PARAGRAPH E OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER. Such teachers, teaching assistants and teacher aides shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the school district similar to the one such teacher, teaching assistant and teacher aide filled in such board of cooperative educational services. The teachers, teaching assistants and teacher aides on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the school district [in the order of their length of service in such board of cooperative educational services, within seven years from the date of the abolition of such office or position] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE, SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR AND SUBPARAGRAPH

TWO OF PARAGRAPH E OF SUBDIVISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER.

S 14. Subdivision 3 of section 3014-c of the education law, as added by chapter 706 of the laws of 1989, is amended to read as follows:

3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF the number of teaching positions needed to provide the educational services required by such sending district is less than the number of teachers eligible to be considered employees of such sending district as provided by subdivision two of this section, [the services of the teachers having the least seniority in the receiving district whose students are taken back by the sending district within the tenure area of the position] DECISIONS REGARDING RETENTION OF TEACHERS shall be [discontinued] MADE PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such receiving district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district [in the order of their length of service in such receiving district, within seven years from the date of the abolition of such office or position] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER.

S 15. Subdivision 3 of section 3014-d of the education law, as added by chapter 706 of the laws of 1989, is amended to read as follows:

3. [If] NOTWITHSTANDING ANY OTHER PROVISION OF LAW TO THE CONTRARY, IF the number of teaching positions needed to provide the educational services required by such receiving district is less than the number of teachers eligible to be considered employees of such receiving district as provided by subdivision two of this section, [the services of the teachers having the least seniority in the sending district within the tenure area of the position] DECISIONS REGARDING RETENTION shall be [discontinued] MADE PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER. Such teachers shall be placed on a preferred eligible list of candidates for appointment to a vacancy that may thereafter occur in an office or position under the jurisdiction of the sending district and the receiving district similar to the one such teacher filled in such sending district. The teachers on such preferred list shall be reinstated or appointed to such vacancies in such corresponding or similar positions under the jurisdiction of the sending district or the receiving district [in the order of their length of service in such sending district] PURSUANT TO THE CRITERIA OUTLINED IN SUBDIVISION EIGHT-A OF SECTION SIXTEEN HUNDRED FOUR, SUBDIVISION SIXTEEN-A OF SECTION SEVENTEEN HUNDRED NINE AND SUBDIVISION THIRTEEN OF SECTION EIGHTEEN HUNDRED FOUR OF THIS CHAPTER, within seven years from the date of the abolition of such office or position.

S 16. This act shall take effect on the first of July next succeeding the date on which it shall have become a law.

PART B

Section 1. Paragraph b of subdivision 2 of section 3020-a of the education law, as amended by section 1 of part B of chapter 57 of the laws of 2012, is amended to read as follows:

b. The employee may be suspended pending a hearing on the charges and the final determination thereof. The suspension shall be with pay FOR A PERIOD OF ONE HUNDRED TWENTY DAYS, except the employee may be suspended without pay IMMEDIATELY if the employee has entered a guilty plea to or has been convicted of a felony crime concerning the criminal sale or possession of a controlled substance, a precursor of a controlled substance, or drug paraphernalia as defined in article two hundred twenty or two hundred twenty-one of the penal law; or a felony crime involving the physical abuse of a minor or student. The employee shall be terminated without a hearing, as provided for in this section, upon conviction of a sex offense, as defined in subparagraph two of paragraph b of subdivision seven-a of section three hundred five of this chapter. To the extent this section applies to an employee acting as a school administrator or supervisor, as defined in subparagraph three of paragraph b of subdivision seven-b of section three hundred five of this chapter, such employee shall be terminated without a hearing, as provided for in this section, upon conviction of a felony offense defined in subparagraph two of paragraph b of subdivision seven-b of section three hundred five of this chapter.

S 2. Subdivisions 3, 4 and 5 of section 3020-a of the education law, as amended by section 1 of part B of chapter 57 of the laws of 2012, are amended to read as follows:

3. Hearings. a. Notice of hearing. Upon receipt of a request for a hearing in accordance with subdivision two of this section, the commissioner shall forthwith notify the American Arbitration Association (hereinafter "association") of the need for a hearing and shall request the association to provide to the commissioner forthwith a list of names of persons [chosen by the association] from the association's panel of labor arbitrators to potentially serve as hearing officers together with relevant biographical information on each arbitrator. Upon receipt of said list and biographical information, the commissioner shall [forthwith send a copy of both simultaneously] WITHIN TEN BUSINESS DAYS APPOINT A HEARING OFFICER FROM SAID LIST OF NAMES PROVIDED BY THE ASSOCIATION. UPON APPOINTMENT, THE COMMISSIONER SHALL IMMEDIATELY SEND NOTIFICATION OF THE HEARING OFFICER to the employing board and the employee. [The commissioner shall also simultaneously notify both the employing board and the employee of each potential hearing officer's record in the last five cases of commencing and completing hearings within the time periods prescribed in this section.]

b. [(i)] APPOINTMENT. APPOINTMENT FROM SUCH LIST SHALL BE MADE ON A SEQUENTIAL BASIS BEGINNING WITH THE FIRST NAME APPEARING ON SUCH LIST. SHOULD THAT HEARING OFFICER DECLINE APPOINTMENT, OR IF, WITHIN FORTY-EIGHT HOURS, THE HEARING OFFICER FAILS TO RESPOND OR IS UNREACHABLE AFTER REASONABLE EFFORTS BY THE COMMISSIONER, EACH SUCCESSIVE HEARING OFFICER WHOSE NAME NEXT APPEARS ON THE LIST SHALL BE OFFERED AN APPOINTMENT, UNTIL SUCH APPOINTMENT IS ACCEPTED. ARBITRATORS MAY NOT ACCEPT AN APPOINTMENT UNLESS THEY ARE AVAILABLE TO COMMENCE AND COMPLETE THE HEARING WITHIN THE TIMEFRAMES SPECIFIED IN THIS SECTION. AN ARBITRATOR'S UNEXCUSED FAILURE TO COMPLY WITH THE TIMEFRAMES SPECIFIED IN THIS SECTION SHALL BE DEEMED GOOD AND SUFFICIENT GROUNDS FOR DISQUALIFYING HIM OR HER FROM CONSIDERATION FOR APPOINTMENT FROM SUCH LIST

SPECIFIED IN PARAGRAPH A OF THIS SUBDIVISION. IF, AFTER COMMENCEMENT OF A HEARING AND BY MUTUAL AGREEMENT OF THE PARTIES, THE HEARING OFFICER IS DEEMED INCAPACITATED OR OTHERWISE UNAVAILABLE OR UNWILLING TO CONTINUE THE HEARING OR ISSUE THE DECISION, THE COMMISSIONER SHALL RESCIND THE APPOINTMENT OF THE HEARING OFFICER AND APPOINT A NEW HEARING OFFICER IN ACCORDANCE WITH THE PROCEDURES AS SET FORTH IN THIS SUBDIVISION, AND THE NEW HEARING OFFICER SHALL RESUME AND CONTINUE THE HEARING AT THE POINT AT WHICH IT WAS INTERRUPTED.

C. TRAINING PROGRAM. (I) THE COMMISSIONER SHALL ESTABLISH A TRAINING PROGRAM WHICH SHALL BE COMPLETED TO THE SATISFACTION OF THE COMMISSIONER AS A CONDITION FOR ELIGIBILITY FOR INCLUSION ON THE LIST OF NAMES OF PERSONS FROM THE ASSOCIATION'S PANEL OF LABOR ARBITRATORS TO POTENTIALLY SERVE AS HEARING OFFICERS UNDER THIS SECTION.

(II) EFFECTIVE SIX MONTHS FROM THE EFFECTIVE DATE OF THIS SUBPARAGRAPH, AS A CONDITION FOR ELIGIBILITY FOR INCLUSION ON THE LIST OF NAMES OF PERSONS CHOSEN BY THE ASSOCIATION FROM THE ASSOCIATION'S PANEL OF LABOR ARBITRATORS TO POTENTIALLY SERVE AS A HEARING OFFICER, AN ARBITRATOR SHALL:

(A) HAVE SUCCESSFULLY COMPLETED A TRAINING PROGRAM PURSUANT TO SUBPARAGRAPH (I) OF THIS PARAGRAPH;

(B) ATTEND SUCH PERIODIC UPDATE PROGRAMS AS MAY BE SCHEDULED BY THE COMMISSIONER;

(C) POSSES KNOWLEDGE OF, AND THE ABILITY TO UNDERSTAND, THE PROVISIONS OF APPLICABLE LAW AND REGULATIONS PERTAINING TO THE DISCIPLINE OF TENURED EMPLOYEES UNDER THIS SECTION AND ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS OF SUCH LAW AND REGULATIONS;

(D) POSSESS KNOWLEDGE OF THE PROCEDURES INVOLVED IN CONDUCTING A HEARING, AND IN REACHING AND WRITING A DECISION AND THE ABILITY TO CONDUCT HEARINGS IN ACCORDANCE WITH APPROPRIATE, STANDARD LEGAL PRACTICE; AND

(E) ANNUALLY SUBMIT, IN A FORMAT AND BY A DATE PRESCRIBED BY THE COMMISSIONER, A CERTIFICATION THAT THE HEARING OFFICER MEETS THE REQUIREMENTS OF THIS SUBDIVISION.

(III) THE COMMISSIONER SHALL ESTABLISH STANDARDS ALLOWING ARBITRATORS TO DOCUMENT THEIR QUALIFICATION TO BE IMMEDIATELY ELIGIBLE FOR APPOINTMENT FROM SUCH LIST SPECIFIED IN PARAGRAPH A OF THIS SUBDIVISION.

D. Hearing officers. All hearings pursuant to this section shall be conducted before and by a single hearing officer selected as provided for in this section. A hearing officer shall not be eligible to serve in such position if he or she is a resident of the school district, other than the city of New York, under the jurisdiction of the employing board, an employee, agent or representative of the employing board or of any labor organization representing employees of such employing board, has served as such agent or representative within two years of the date of the scheduled hearing, or if he or she is then serving as a mediator or fact finder in the same school district.

[(A)] (I) Notwithstanding any other provision of law, for hearings commenced by the filing of charges prior to April first, two thousand twelve, the hearing officer shall be compensated by the department with the customary fee paid for service as an arbitrator under the auspices of the association for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties. All other expenses of the disciplinary proceedings commenced by the filing of charges prior to April first, two thousand twelve shall be paid in accordance with rules promulgated by the commissioner. Claims for such compensation for days of actual service and reimbursement for necessary travel and other expenses for hearings commenced by the filing

of charges prior to April first, two thousand twelve shall be paid from an appropriation for such purpose in the order in which they have been approved by the commissioner for payment, provided payment shall first be made for any other hearing costs payable by the commissioner, including the costs of transcribing the record, and provided further that no such claim shall be set aside for insufficiency of funds to make a complete payment, but shall be eligible for a partial payment in one year and shall retain its priority date status for appropriations designated for such purpose in future years.

[(B)] (II) Notwithstanding any other provision of law, rule or regulation to the contrary, for hearings commenced by the filing of charges on or after April first, two thousand twelve, the hearing officer shall be compensated by the department for each day of actual service plus necessary travel and other reasonable expenses incurred in the performance of his or her duties, provided that the commissioner shall establish a schedule for maximum rates of compensation of hearing officers based on customary and reasonable fees for service as an arbitrator and provide for limitations on the number of study hours that may be claimed.

[(ii) The commissioner shall mail to the employing board and the employee the list of potential hearing officers and biographies provided to the commissioner by the association, the employing board and the employee, individually or through their agents or representatives, shall by mutual agreement select a hearing officer from said list to conduct the hearing and shall notify the commissioner of their selection.

(iii) Within fifteen days after receiving the list of potential hearing officers as described in subparagraph (ii) of this paragraph, the employing board and the employee shall each notify the commissioner of their agreed upon hearing officer selection. If the employing board and the employee fail to agree on an arbitrator to serve as a hearing officer from the list of potential hearing officers, or fail to notify the commissioner of a selection within such fifteen day time period, the commissioner shall appoint a hearing officer from the list. The provisions of this subparagraph shall not apply in cities with a population of one million or more with alternative procedures specified in section three thousand twenty of this article.

(iv) In those cases in which the employee elects to have the charges heard by a hearing panel, the hearing panel shall consist of the hearing officer, selected in accordance with this subdivision, and two additional persons, one selected by the employee and one selected by the employing board, from a list maintained for such purpose by the commissioner. The list shall be composed of professional personnel with administrative or supervisory responsibility, professional personnel without administrative or supervisory responsibility, chief school administrators, members of employing boards and others selected from lists of nominees submitted to the commissioner by statewide organizations representing teachers, school administrators and supervisors and the employing boards. Hearing panel members other than the hearing officer shall be compensated by the department at the rate of one hundred dollars for each day of actual service plus necessary travel and subsistence expenses. The hearing officer shall be compensated as set forth in this subdivision. The hearing officer shall be the chairperson of the hearing panel.

c.] E. Hearing procedures. (i) (A) The commissioner shall have the power to establish necessary rules and procedures for the conduct of hearings under this section.

(B) The department shall be authorized to monitor and investigate a hearing officer's compliance with statutory timelines pursuant to this section. The commissioner shall annually inform all hearing officers who have heard cases pursuant to this section during the preceding year that the time periods prescribed in this section for conducting such hearings are to be strictly followed. A record of continued failure to commence and complete hearings within the time periods prescribed in this section shall be considered grounds for the commissioner to exclude such individual from the list of potential hearing officers sent to the employing board and the employee for such hearings.

(C) Such rules shall not require compliance with technical rules of evidence. Hearings shall be conducted by the hearing officer [selected] APPOINTED pursuant to [paragraph] PARAGRAPHS A AND b of this subdivision with full and fair disclosure of [the nature of the case and evidence against the employee] ALL MATERIAL RELEVANT TO THE PROSECUTION OR DEFENSE OF THIS ACTION by the [employing board] PARTIES TEN BUSINESS DAYS PRIOR TO THE FIRST HEARING DATE and shall be public or private at the discretion of the employee. The employee shall have a reasonable opportunity to defend himself or herself and an opportunity to testify in his or her own behalf. The employee shall not be required to testify, HOWEVER, THIS RIGHT SHALL NOT BE CONSTRUED TO MEAN THAT THE EMPLOYEE MAY REFUSE TO COOPERATE IN THE EMPLOYING SCHOOL DISTRICT'S INVESTIGATION OF ALLEGATIONS OF MISCONDUCT OR INCOMPETENCE RAISED AGAINST HIM OR HER. Each party shall have the right to be represented by counsel, to subpoena witnesses, and to cross-examine witnesses. All testimony taken shall be under oath which the hearing officer is hereby authorized to administer.

(D) An accurate record of the proceedings shall be kept at the expense of the department at each such hearing in accordance with the regulations of the commissioner. A copy of the record of the hearings shall, upon request, be furnished without charge to the employee and the board of education involved. The department shall be authorized to utilize any new technology or such other appropriate means to transcribe or record such hearings in an accurate, reliable, efficient and cost-effective manner without any charge to the employee or board of education involved.

(i-a)(A) Where charges of incompetence are brought based solely upon a pattern of ineffective teaching or performance of a classroom teacher or principal, as defined in section three thousand twelve-c of this article, the hearing shall be conducted before and by a single hearing officer in an expedited hearing, which shall commence within seven days after the pre-hearing conference and shall be completed within sixty days after the pre-hearing conference. The hearing officer shall establish a hearing schedule at the pre-hearing conference to ensure that the expedited hearing is completed within the required timeframes and to ensure an equitable distribution of days between the employing board and the charged employee. Notwithstanding any other law, rule or regulation to the contrary, no adjournments may be granted that would extend the hearing beyond such sixty days, except as authorized in this subparagraph. A hearing officer, upon request, may grant a limited and time specific adjournment that would extend the hearing beyond such sixty days if the hearing officer determines that the delay is attributable to a circumstance or occurrence substantially beyond the control of the requesting party and an injustice would result if the adjournment were not granted.

(B) Such charges shall allege that the employing board has developed and substantially implemented a teacher or principal improvement plan in accordance with subdivision four of section three thousand twelve-c of this article for the employee following the first evaluation in which the employee was rated ineffective, and the immediately preceding evaluation if the employee was rated developing. Notwithstanding any other provision of law to the contrary, a pattern of ineffective teaching or performance as defined in section three thousand twelve-c of this article shall constitute very significant evidence of incompetence for purposes of this section. Nothing in this subparagraph shall be construed to limit the defenses which the employee may place before the hearing officer in challenging the allegation of a pattern of ineffective teaching or performance.

(C) The commissioner shall annually inform all hearing officers who have heard cases pursuant to this section during the preceding year that the time periods prescribed in this subparagraph for conducting expedited hearings are to be strictly followed. A record of continued failure to commence and complete expedited hearings within the time periods prescribed in this subparagraph shall be considered grounds for the commissioner to exclude such individual from the list of potential hearing officers sent to the employing board and the employee for such expedited hearings.

(ii) The hearing officer [selected] APPOINTED to conduct a hearing under this section shall, within ten to fifteen days of agreeing to serve in such position, hold a pre-hearing conference which shall be held in the school district or county seat of the county, or any county, wherein the employing school board is located. The pre-hearing conference shall be limited in length to one day except that the hearing officer, in his or her discretion, may allow one additional day for good cause shown.

(iii) At the pre-hearing conference the hearing officer shall have the power to:

(A) issue subpoenas;

(B) hear and decide all motions, including but not limited to motions to dismiss the charges;

(C) hear and decide all applications for bills of particular or requests for production of materials or information, including, but not limited to, any witness statement (or statements), investigatory statement (or statements) or note (notes), exculpatory evidence or any other evidence, including district or student records, relevant and material to the employee's defense.

(iv) Any pre-hearing motion or application relative to the sufficiency of the charges, application or amendment thereof, or any preliminary matters shall be made upon written notice to the hearing officer and the adverse party no less than five days prior to the date of the pre-hearing conference. Any pre-hearing motions or applications not made as provided for herein shall be deemed waived except for good cause as determined by the hearing officer.

(v) [In the event that at the pre-hearing conference the employing board presents evidence that the professional license of the employee has been revoked and all judicial and administrative remedies have been exhausted or foreclosed, the hearing officer shall schedule the date, time and place for an expedited hearing, which hearing shall commence not more than seven days after the pre-hearing conference and which shall be limited to one day. The expedited hearing shall be held in the local school district or county seat of the county or any county, where-

in the said employing board is located. The expedited hearing shall not be postponed except upon the request of a party and then only for good cause as determined by the hearing officer. At such hearing, each party shall have equal time in which to present its case] ALL RULINGS ON SUBSTANTIVE MOTIONS SHALL BE PLACED ON THE RECORD WITH A FULL EXPLANATION OF THE HEARING OFFICER'S REASONING.

(vi) During the pre-hearing conference, the hearing officer shall determine the reasonable amount of time necessary for a final hearing on the charge or charges and shall schedule the location, time(s) and date(s) for the final hearing. The final hearing shall be held in the local school district or county seat of the county, or any county, wherein the said employing school board is located. In the event that the hearing officer determines that the nature of the case requires the final hearing to last more than one day, the days that are scheduled for the final hearing shall be consecutive. The day or days scheduled for the final hearing shall not be postponed except upon the request of a party and then only for good cause shown as determined by the hearing officer. In all cases, the final hearing shall be completed no later than sixty days after the pre-hearing conference unless the hearing officer determines that extraordinary circumstances warrant a limited extension.

(vii) All evidence shall be submitted by all parties within one hundred twenty-five days of the filing of charges and no additional evidence shall be accepted after such time, absent extraordinary circumstances beyond the control of the parties.

[d.] F. Limitation on claims. Notwithstanding any other provision of law, rule or regulation to the contrary, no payments shall be made by the department pursuant to this subdivision on or after April first, two thousand twelve for: (i) compensation of a hearing officer or hearing panel member, (ii) reimbursement of such hearing officers or panel members for necessary travel or other expenses incurred by them, or (iii) for other hearing expenses on a claim submitted later than one year after the final disposition of the hearing by any means, including settlement, or within ninety days after the effective date of this paragraph, whichever is later; provided that no payment shall be barred or reduced where such payment is required as a result of a court order or judgment or a final audit.

4. Post hearing procedures. a. The hearing officer shall render a written decision within thirty days of the last day of the final hearing, or in the case of an expedited hearing within ten days of such expedited hearing, and shall forward a copy thereof to the commissioner who shall immediately forward copies of the decision to the employee and to the clerk or secretary of the employing board. The written decision shall include the hearing officer's findings of fact on each charge, his or her conclusions with regard to each charge based on said findings and shall state what penalty or other action, if any, shall be taken by the employing board. At the request of the employee, in determining what, if any, penalty or other action shall be imposed, the hearing officer shall consider the extent to which the employing board made efforts towards correcting the behavior of the employee which resulted in charges being brought under this section through means including but not limited to: remediation, peer intervention or an employee assistance plan. In those cases where a penalty is imposed, such penalty may be a written reprimand, a fine, suspension for a fixed time without pay, or dismissal. In addition to or in lieu of the aforementioned penalties, the hearing officer, where he or she deems appropriate, may impose upon the employee

remedial action including but not limited to leaves of absence with or without pay, continuing education and/or study, a requirement that the employee seek counseling or medical treatment or that the employee engage in any other remedial or combination of remedial actions.

b. Within fifteen days of receipt of the hearing officer's decision the employing board shall implement the decision. If the employee is acquitted he or she shall be restored to his or her position with full pay for any period of suspension without pay and the charges expunged from the employment record. If an employee who was convicted of a felony crime specified in paragraph b of subdivision two of this section, has said conviction reversed, the employee, upon application, shall be entitled to have his or her pay and other emoluments restored, for the period from the date of his or her suspension to the date of the decision.

c. The hearing officer shall indicate in the decision whether any of the charges brought by the employing board were frivolous as defined in section eighty-three hundred three-a of the civil practice law and rules. If the hearing officer finds that all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the department the reasonable costs [said] THE department incurred as a result of the proceeding and to reimburse the employee the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges. If the hearing officer finds that some but not all of the charges brought against the employee were frivolous, the hearing officer shall order the employing board to reimburse the department a portion, in the discretion of the hearing officer, of the reasonable costs [said] THE department incurred as a result of the proceeding and to reimburse the employee a portion, in the discretion of the hearing officer, of the reasonable costs, including but not limited to reasonable attorneys' fees, the employee incurred in defending the charges.

5. Appeal. a. Not later than ten days after receipt of the hearing officer's decision, THE EMPLOYEE OR THE EMPLOYING BOARD MAY MAKE AN APPLICATION FOR REVIEW OF THE HEARING OFFICER'S DECISION TO THE STATE TENURED TEACHERS AND ADMINISTRATORS DISCIPLINARY REVIEW PANEL, (HEREAFTER REFERRED TO IN THIS SUBDIVISION AS THE "PANEL"), ESTABLISHED IN ACCORDANCE WITH SUBDIVISION FORTY-THREE OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER, AND THE RULES AND REGULATION PROMULGATED BY THE COMMISSIONER. THE PANEL MAY MODIFY OR REVERSE THE DECISION OF A HEARING OFFICER AS APPROPRIATE TO PROPERLY EFFECTUATE THE PURPOSES OF THIS SECTION. THE DECISIONS OF THE PANEL SHALL CONSTITUTE BINDING DECISIONAL LAW UNTIL MODIFIED OR REVERSED ON APPEAL BY EITHER PARTY BY THE STATE SUPREME COURT OR BY AN APPELLATE COURT ON FURTHER APPEAL. PANEL DECISIONS SHALL BE PUBLISHED PURSUANT TO RULES AND REGULATIONS PROMULGATED BY THE COMMISSIONER AND IN THE SAME MANNER AS ADMINISTRATIVE DECISIONS FROM OTHER STATE AGENCIES.

B. NOT LATER THAN TEN DAYS AFTER RECEIPT OF THE DECISION OF THE PANEL, the employee or the employing board may make an application to the New York state supreme court to vacate or modify the decision of the [hearing officer] REVIEW PANEL pursuant to section seventy-five hundred eleven of the civil practice law and rules. [The court's review shall be limited to the grounds set forth in such section.] The [hearing] REVIEW panel's determination shall be deemed to be final for the purpose of such proceeding.

[b.] C. In no case shall the filing or the pendency of an [appeal] APPLICATION FOR REVIEW BY THE PANEL OR AN APPEAL TO THE COURTS delay the implementation of the decision of the hearing officer.

S 3. Section 3020-a of the education law is amended by adding a new subdivision 6 to read as follows:

6. IMMEDIATE REMOVAL. (A) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, A PERSON ENJOYING THE BENEFITS OF TENURE AS PROVIDED IN SUBDIVISION THREE OF SECTION ELEVEN HUNDRED TWO, OR SECTION TWENTY-FIVE HUNDRED NINE, TWENTY-FIVE HUNDRED SEVENTY-THREE, TWENTY-FIVE HUNDRED NINETY-J, THREE THOUSAND TWELVE OR THREE THOUSAND FOURTEEN OF THIS CHAPTER SHALL LOSE SUCH BENEFITS AND SHALL BE IMMEDIATELY REMOVED FROM EMPLOYMENT BY THE EMPLOYING BOARD OF EDUCATION UPON CONVICTION OF ANY OFFENSE RELATED TO CHILD ABUSE; CHILD ABUSE IN AN EDUCATIONAL SETTING AS DEFINED IN SECTION ELEVEN HUNDRED TWENTY-FIVE OF THIS CHAPTER; OR ANY OTHER FELONY OFFENSE THAT AFFECTS THE OPERATION OF A SCHOOL DISTRICT; OR, UPON REVOCATION OF A PROFESSIONAL CERTIFICATE PURSUANT TO SUBDIVISION SEVEN OF SECTION THREE HUNDRED FIVE OF THIS CHAPTER.

(B) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO PERSON ENJOYING THE BENEFITS OF TENURE AS PROVIDED IN SUBDIVISION THREE OF SECTION ELEVEN HUNDRED TWO, OR SECTION TWENTY-FIVE HUNDRED NINE, TWENTY-FIVE HUNDRED SEVENTY-THREE, TWENTY-FIVE HUNDRED NINETY-J, THREE THOUSAND TWELVE OR THREE THOUSAND FOURTEEN OF THIS CHAPTER WHO FAILS TO RECEIVE A PROFESSIONAL CERTIFICATE WITHIN THE STATUTORY TIMEFRAME AS REQUIRED BY SECTION THREE THOUSAND FOUR OF THIS ARTICLE SHALL RETAIN SUCH BENEFITS AND MAY BE IMMEDIATELY REMOVED FROM EMPLOYMENT BY A BOARD OF EDUCATION.

(C) ANY EMPLOYEE OF A SCHOOL DISTRICT SUBJECT TO IMMEDIATE TERMINATION UNDER THE PROVISIONS OF THIS SECTION SHALL HAVE FIVE BUSINESS DAYS FROM THE NOTICE OF TERMINATION IN WHICH TO PROVIDE DOCUMENTARY EVIDENCE ESTABLISHING TO THE SATISFACTION OF THE EMPLOYING BOARD THAT HE OR SHE IS NOT THE SAME INDIVIDUAL REFERENCED IN THE ACTION TRIGGERING HIS OR HER REMOVAL.

S 4. Section 305 of the education law is amended by adding a new subdivision 43 to read as follows:

43. (A) THE COMMISSIONER SHALL ESTABLISH THE STATE TENURED TEACHERS AND ADMINISTRATORS DISCIPLINARY REVIEW PANEL, (HEREAFTER REFERRED TO IN THIS SUBDIVISION AS THE "PANEL"). THE PANEL SHALL CONSIST OF NO LESS THAN THREE MEMBERS APPOINTED BY THE COMMISSIONER. PANEL MEMBERS SHALL BE EMPLOYED BY THE DEPARTMENT AND THEIR SALARY SHALL BE DETERMINED AND PAID BY THE DEPARTMENT.

(B) PANEL MEMBERS SHALL:

(I) SUCCESSFULLY COMPLETE A TRAINING PROGRAM ESTABLISHED BY THE COMMISSIONER AND ATTEND SUCH ADDITIONAL TRAINING PROGRAMS AS MAY BE REQUIRED BY THE COMMISSIONER;

(II) POSSESS KNOWLEDGE OF AND THE ABILITY TO UNDERSTAND THE PROVISIONS OF APPLICABLE LAW AND REGULATIONS PERTAINING TO THE DISCIPLINE OF TENURED EMPLOYEES UNDER THIS SECTION, AND ADMINISTRATIVE AND JUDICIAL INTERPRETATIONS OF SUCH LAWS AND REGULATIONS;

(III) POSSESS KNOWLEDGE OF THE PROCEDURES INVOLVED IN CONDUCTING A HEARING UNDER THIS SECTION; AND

(IV) POSSESS THE ABILITY TO RENDER AND WRITE DECISIONS IN ACCORDANCE WITH APPROPRIATE STANDARD LEGAL PRACTICE.

S 5. This act shall take effect immediately.

PART C

Section 1. The education law is amended by adding a new section 1527-a to read as follows:

S 1527-A. HEALTH CARE PREMIUM CONTRIBUTION. 1. THE FOLLOWING TERMS USED IN THIS SECTION SHALL HAVE THE FOLLOWING MEANINGS:

A. "EMPLOYER" SHALL MEAN THE SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICE (BOCES) BY WHICH THE EMPLOYEE IS PAID.

B. "EMPLOYEE" SHALL MEAN ANY INDIVIDUAL INSTRUCTIONAL OR NON-INSTRUCTIONAL STAFF EMPLOYED BY A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

C. "RETIREE" SHALL MEAN ANY FORMER EMPLOYEE WHO HAS RETIRED FROM A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES.

D. "HEALTH CARE PREMIUM" SHALL MEAN THE TOTAL COST OF ANY EMPLOYEE OR RETIREE HEALTH CARE BENEFIT PLAN WHICH PROVIDES FOR PAYMENT OR REIMBURSEMENT OF HEALTH CARE EXPENSES, HEALTH CARE SERVICES, DISABILITY PAYMENTS, OR ANY OTHER BENEFITS UNDER A POLICY OF INSURANCE OR CONTRACT WITH AN INDIVIDUAL OR GROUP.

2. NOTWITHSTANDING ANY PROVISIONS OR LAW TO THE CONTRARY, IN COLLECTIVE BARGAINING AGREEMENTS ENTERED INTO ON OR AFTER THE EFFECTIVE DATE OF THIS SECTION, THE CONTRIBUTION AMOUNT TO BE DUE AND PAYABLE BY EACH EMPLOYER SHALL NOT EXCEED EIGHTY-FIVE PERCENT OF THE TOTAL HEALTH CARE BENEFIT PREMIUM FOR AN INDIVIDUAL EMPLOYEE AND SHALL NOT EXCEED SEVENTY-FIVE PERCENT OF THE TOTAL HEALTH CARE BENEFIT PREMIUM FOR AN EMPLOYEE ELECTING FAMILY COVERAGE. THE REMAINDER OF THE TOTAL HEALTH CARE PREMIUM SHALL BE PAID BY THE EMPLOYEE OR RETIREE.

S 2. This act shall take effect immediately; provided, that this act shall apply to contracts and collective bargaining agreements entered into, issued, renewed, modified, altered, or amended on or after such effective date.

PART D

Section 1. Notwithstanding any other provisions of law, rule or regulation to the contrary, all school districts shall be required to conform with all federal laws and regulations relating to special education programs and services to be provided to students with disabilities. No state law or regulation shall impose any additional mandate or procedural requirement for special education students on school districts except as provided in section two of this act.

S 2. There shall be an advisory committee established to review the current laws and regulations of the state of New York relating to special education. The advisory committee shall consist of representatives of parents, teachers, principals, superintendents of school, school boards, school district and board of cooperative educational services officials and other interested parties, as determined by the commissioner of education. The advisory committee shall review New York state laws and regulations relating to special education which are in effect on the date upon which this act is signed into law. The advisory committee shall consider the programmatic impact, educational impact, financial impact and other impacts as the committee deems necessary, of each law and regulation relating to special education. The advisory committee shall take into account the impacts of such laws and regulations to make an evaluation of each state law and regulation above the federal level and recommend which laws and/or regulations should remain in effect. Upon such recommendation, the department of education shall submit to the legislature on or before January first following the effective date of this act, a report outlining the laws recommended by the advisory committee to remain in effect above the level required by the federal government. The legislature shall take action to exempt such laws from section one of this act. The legislature shall repeal any provision of any law relating to special education programs which exceed

federal requirements except as otherwise provided in this section. The addition, amendment and/or repeal of any rule or regulation necessary for the implementation of the advisory committee's recommendations are authorized and directed to be made and completed by the commissioner of education within one year of the report of the advisory committee.

S 3. This act shall take effect immediately.

PART E

Section 1. Section 103 of the general municipal law is amended by adding a new subdivision 16 to read as follows:

16. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, ANY OFFICER, BOARD OR AGENCY OF A POLITICAL SUBDIVISION OR OF ANY DISTRICT THEREIN AUTHORIZED TO MAKE PURCHASES OF MATERIALS, EQUIPMENT OR SUPPLIES, OR TO CONTRACT FOR SERVICES, MAY MAKE SUCH PURCHASES OR MAY CONTRACT FOR SERVICES, AS MAY BE REQUIRED BY SUCH POLITICAL SUBDIVISION OR ANY DISTRICT THEREIN THROUGH THE USE OF A CONTRACT LET BY ANY OTHER STATE OR POLITICAL SUBDIVISION IF SUCH CONTRACT WAS LET IN ACCORDANCE WITH COMPETITIVE BIDDING REQUIREMENTS THAT ARE CONSISTENT WITH THIS SECTION AND WITH THE INTENT OF EXTENDING THE USE TO OTHER GOVERNMENTAL ENTITIES. FURTHERMORE, THE AUTHORITY PROVIDED TO POLITICAL SUBDIVISIONS AND DISTRICTS THEREIN UNDER THIS SUBDIVISION SHALL NOT RELIEVE ANY OBLIGATION OF SUCH POLITICAL SUBDIVISION OR DISTRICT THEREIN TO COMPLY WITH ANY APPLICABLE MINORITY AND WOMEN-OWNED BUSINESS ENTERPRISE PROGRAM MANDATES.

S 2. This act shall take effect immediately.

S 3. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

S 4. This act shall take effect immediately provided, however, that the applicable effective date of Parts A through E of this act shall be as specifically set forth in the last section of such Parts.