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

10808

I N A S S E M B L Y

August 24, 2012

Introduced by COMMITTEE ON RULES -- (at request of M. of A. Brennan) -- read once and referred to the Committee on Ways and Means

AN ACT to amend chapter 53 of the laws of 2012 enacting the aid to localities budget, in relation to school district eligibility for an increase in apportionment of school aid and implementation of new standards for conducting annual professional performance reviews to determine teacher and principal effectiveness; to amend the tax law, in relation to increasing the alternative minimum tax on corporations; to amend the state finance law, in relation to establishing the annual professional performance review fund; and to repeal section 1 of part A of chapter 57 of the laws of 2012 relating to school district eligibility for an increase in apportionment of school aid and implementation of new standards for conducting annual professional performance reviews to determine teacher and principal effectiveness

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

Section 1. That part of section 1 of chapter 53 of the laws of 2012 enacting the aid to localities budget, entitled "education department" is amended by repealing the items hereinbelow set forth in brackets and by adding thereto the items hereinbelow set forth in italics as follows:

OFFICE OF PREKINDERGARTEN THROUGH GRADE TWELVE EDUCATION

PROGRAM 46,592,431,000

General Fund

Local Assistance Account

Notwithstanding any inconsistent provision of law, for general support for public schools, for the 2012-13 and 2013-14 state fiscal years provided, however, that not more than 40.21294771 percent of this appropriation shall be available for remaining payments for the 2012-13 state

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

LBD16324-02-2

fiscal year payments for general support for public schools for the 2012-13 school year, nor more than 18.04144294 percent of this appropriation shall be available for remaining payments for the 2012-13 school year payable in the 2013-14 state fiscal year and provided further that notwithstanding any inconsistent provision of law, the remaining amounts available for the 2013-14 school year shall be apportioned to school districts pursuant to the education law and subject to the limitations of this appropriation including the gap elimination adjustment as provided for herein.

[Provided however that, notwithstanding any inconsistent provision of law, no school district shall be eligible for an apportionment from the funds appropriated herein for the 2012-13 school year in excess of the amount apportioned to such district for the same time period during the base year unless such school district has submitted documentation that has been approved by the commissioner by January 17, 2013 demonstrating that it has fully implemented new standards and procedures for conducting annual professional performance reviews of classroom teachers and building principals to determine teacher and principal effectiveness including but not limited to providing for (i) state assessments and other comparable measures which shall comprise twenty or twenty-five percent of the evaluation; (ii) locally selected measures of the student achievement subcomponent which shall comprise twenty or fifteen percent of the evaluation; (iii) subjective measures of effectiveness that have been approved by the commissioner with the majority of such points based on multiple observations by an administrator or principal with at least one unannounced observation which shall comprise 60 percent of the evaluation; and (iv) a scoring rubric which ensures that it is possible to receive any one of four ratings limited to highly effective, effective, developing and ineffective; provided however that, if any such payments in excess of the amount apportioned to such district for the same time period during the base year were made, and the school district has not submitted documentation that it has fully implemented new standards and procedures

as set forth above that has been approved by the commissioner by January 17, 2013, the total amount of such payments shall be deducted by the commissioner from future payments to the school district from funds appropriated herein; and provided further that, for the 2012-13 school year if such deduction is greater than the sum of the amounts available for such deductions, the remainder of the deduction shall be withheld from payments scheduled to be made to the school district pursuant to section 3609-a of the education law for the 2013-14 school year in the 2013-14 state fiscal year.

Provided further that notwithstanding any inconsistent provision of law to the contrary such documentation shall include a plan adopted by the governing board of the school district for conducting annual professional performance reviews of classroom teachers and building principals that has been approved by the commissioner, and in order to be approvable such plan shall conform with the requirements for conducting annual professional performance reviews of classroom teachers and building principals, including but not limited to (i) state assessments and other comparable measures which shall comprise twenty or twenty-five percent of the evaluation; (ii) locally selected measures of the student achievement subcomponent which shall comprise twenty or fifteen percent of the evaluation; (iii) subjective measures of effectiveness that have been approved by the commissioner with the majority of such points based on multiple observations by an administrator or principal with at least one unannounced observation which shall comprise 60 percent of the evaluation; and (iv) a scoring rubric which ensures that it is possible to receive any one of four ratings limited to highly effective, effective, developing and ineffective; consistent with and conforms to a chapter of the laws of 2012 amending the education law relating to the annual professional performance review of classroom teachers and building principals and the teacher evaluation appeal process in the city of New York; as proposed in legislative bill numbers S.6732 and A.9554.

Provided further that for a school district in a city with a population of one million

or more, notwithstanding any inconsistent provision of law, no such school district shall be eligible for an apportionment from the funds appropriated herein for the 2012-13 school year in excess of the amount apportioned to such district for the same time period during the base year unless such school district has submitted documentation that has been approved by the commissioner by January 17, 2013 demonstrating that it has adopted an expeditious appeals process pertaining to the annual professional performance review of classroom teachers and building principals that is consistent with and conforms to a chapter of the laws of 2012 amending the education law relating to the annual professional performance review of classroom teachers and building principals and the teacher evaluation appeal process in the city of New York, as proposed in legislative bill numbers S.6732 and A.9554 and if any such payments in excess of the amount apportioned to such district for the same time period during the base year were made, and the school district has not submitted documentation that has been approved by the commissioner by January 17, 2013 that it has adopted an expeditious appeals process pertaining to the annual professional performance review of classroom teachers and building principals that is consistent with and conforms to a chapter of the laws of 2012 amending the education law relating to the annual professional performance review of classroom teachers and building principals and the teacher evaluation appeal process in the city of New York, as proposed in legislative bill numbers S.6732 and A.9554, the total amount of such payments shall be deducted by the commissioner from future payments to the school district from funds appropriated herein; and provided further that, for the 2012-13 school year if such deduction is greater than the sum of the amounts available for such deductions, the remainder of the deduction shall be withheld from payments scheduled to be made to the school district pursuant to section 3609-a of the education law for the 2013-14 school year in the 2013-14 state fiscal year.]

S 2. Section 1 of part A of chapter 57 of the laws of 2012 relating to school district eligibility for an increase in apportionment of school aid and implantation of new standards for conducting annual professional

performance reviews to determine teacher and principal effectiveness, is REPEALED.

S 3. Subparagraph (ii) of paragraph (c) of subdivision 1 of section 210 of the tax law, as amended by section 2 of part C of chapter 56 of the laws of 2011, is amended to read as follows:

(ii) (A) For taxable years beginning on or after January first, two thousand seven, the amount prescribed by this paragraph shall be computed at the rate of one and one-half percent of the taxpayer's minimum taxable income base. FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, THE AMOUNT PRESCRIBED BY THIS PARAGRAPH SHALL BE COMPUTED AT THE RATE OF THREE AND ONE-HALF PERCENT OF THE TAXPAYER'S MINIMUM TAXABLE INCOME BASE. The "taxpayer's minimum taxable income base" shall mean the portion of the taxpayer's minimum taxable income allocated within the state as hereinafter provided, subject to any modifications required by paragraphs (d) and (e) of subdivision three of this section.

(B) For taxable years beginning on or after January first, two thousand twelve and before January first, two thousand fifteen, the amount prescribed by this paragraph for an eligible qualified New York manufacturer shall be computed at the rate of seventy-five hundredths (.75) percent of the taxpayer's minimum taxable income base. For purposes of this clause, the term "eligible qualified New York manufacturer" shall have the same meaning as in subparagraph (vi) of paragraph (a) of this subdivision.

S 4. The state finance law is amended by adding a new section 81 to read as follows:

S 81. ANNUAL PROFESSIONAL PERFORMANCE REVIEW FUND. 1. THERE IS HEREBY ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE KNOWN AS THE "ANNUAL PROFESSIONAL PERFORMANCE REVIEW FUND".

2. MONEYS IN THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW FUND SHALL BE KEPT SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE JOINT OR SOLE CUSTODY OF THE STATE COMPTROLLER.

3. THE ANNUAL PROFESSIONAL PERFORMANCE REVIEW FUND SHALL CONSIST OF THE REVENUES GENERATED BY THE TWO PERCENT INCREASE IN THE TAX RATE COMPUTED PURSUANT TO CLAUSE (A) OF SUBPARAGRAPH (II) OF PARAGRAPH (C) OF SUBDIVISION ONE OF SECTION TWO HUNDRED TEN OF THE TAX LAW AS A RESULT OF AMENDMENTS MADE TO SUCH SUBPARAGRAPH BY A CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE WHICH ADDED THIS SECTION FOR TAXABLE YEARS BEGINNING ON OR AFTER JANUARY FIRST, TWO THOUSAND TWELVE, AND ALL OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR SOURCE PURSUANT TO LAW.

4. MONIES OF THE FUND SHALL BE EXPENDED ONLY AS FOLLOWS:

A. IF THE UNITED STATES DEPARTMENT OF EDUCATION DETERMINES THAT THE CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE THAT ADDED THIS SECTION VIOLATES THE APPROVED APPLICATION SUBMITTED BY THE DEPARTMENT OF EDUCATION PURSUANT TO THE FEDERAL RACE TO THE TOP PROGRAM, AND SUCCESSFULLY OBTAINS THE REPAYMENT OR RETURN OF THE TOTAL AMOUNT OR ANY PORTION OF THE RACE TO THE TOP GRANT AWARDED TO THIS STATE, THE MONIES OF THE FUND SHALL BE PAID TO THE STATE TREASURY TO REPLACE THE AMOUNT REPAID OR RETURNED TO THE UNITED STATES DEPARTMENT OF EDUCATION. ANY EXCESS AMOUNT SHALL BE PAID TO THE STATE TREASURY FOR GENERAL STATE PURPOSES; OR

B. IF THE UNITED STATES DEPARTMENT OF EDUCATION DETERMINES THAT THE CHAPTER OF THE LAWS OF TWO THOUSAND TWELVE THAT ADDED THIS SECTION DOES NOT VIOLATE THE APPROVED RACE TO THE TOP APPLICATION, OR DETERMINES OR

AGREES NOT TO SEEK REPAYMENT OR RETURN OF THE RACE TO THE TOP GRANT, THE MONIES SHALL BE PAID TO THE STATE TREASURY FOR GENERAL STATE PURPOSES.

5. MONEYS SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED BY THE COMPTROLLER.

S 5. This act shall take effect immediately.