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

S. 2026 A. 2289

2011-2012 Regular Sessions

S E N A T E - A S S E M B L Y

January 14, 2011

IN SENATE -- Introduced by Sen. FLANAGAN -- read twice and ordered printed, and when printed to be committed to the Committee on Finance

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

AN ACT to amend the education law, in relation to apportionment of state aid to libraries and library systems, teachers of tomorrow teacher recruitment and retention program and duties of school districts; to amend chapter 756 of the laws of 1992 relating to funding a program for work force education conducted by the consortium for worker education in New York city, in relation to effectiveness of such provisions; to amend chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, in relation to the effectiveness of such chapter; to amend chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, in relation to the effectiveness thereof; to amend chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, in relation to the effectiveness thereof; to amend chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, in relation to extending the provisions thereof; to amend chapter 386 of the laws of 1996, amending the education law relating to providing for a waiver allowing state aid in certain circumstances, in relation to extending its effectiveness; to amend chapter 57 of the laws of 2004, relating to support of education, in relation to extending the provisions thereof; to amend chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, in relation to the effectiveness thereof; and to amend chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of

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

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funds for the support of government, in relation to the effectiveness thereof

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

PART A

Section 1. Subdivision 12 of section 273 of the education law, as amended by section 4-a of part A of chapter 57 of the laws of 2009, is amended to read as follows:

12. The commissioner is hereby authorized to expend in state fiscal year two thousand six--two thousand seven three million dollars and in state fiscal year two thousand seven--two thousand eight eight million dollars and in state fiscal year two thousand eight--two thousand nine seven million nine hundred forty thousand dollars and in state fiscal year two thousand nine--two thousand ten eight million dollars AND IN STATE FISCAL YEAR TWO THOUSAND TEN--TWO THOUSAND ELEVEN EIGHT MILLION DOLLARS subject to an appropriation for formula grants to public library systems, reference and research library resources systems, and school library systems operating under an approved plan of service. Such formula grants shall be provided for the period commencing July first and ending on June thirtieth next following. Such formula grants will be distributed in the following manner:

a. Each public library system established pursuant to sections two hundred fifty-five and two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year by such system under paragraphs a, c, d, e and n of subdivision one of this section for the two thousand [nine] TEN--two thousand [ten] ELEVEN state fiscal year;

b. Each reference and research library resources system established pursuant to section two hundred seventy-two of this part and operating under a plan approved by the commissioner is entitled to receive thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year under paragraph a of subdivision four of this section for the two thousand [nine] TEN--two thousand [ten] ELEVEN state fiscal year; and

c. Each school library system established pursuant to section two hundred eighty-two of this part and operating under a plan approved by the commissioner is entitled to receive thirty-nine thousand dollars and an amount equal to ten and ninety-four hundredths percent of the amount of state aid received for the current year by such system under paragraphs a, b, c, d, e and f of subdivision one of section two hundred eighty-four of this part for the two thousand [nine] TEN--two thousand [ten] ELEVEN state fiscal year.

S 2. Paragraph b of subdivision 2 of section 3612 of the education law, as amended by section 28 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

b. Such grants shall be awarded to school districts, within the limits of funds appropriated therefor, through a competitive process that takes into consideration the magnitude of any shortage of teachers in the school district, the number of teachers employed in the school district

who hold temporary licenses to teach in the public schools of the state, the number of provisionally certified teachers, the fiscal capacity and geographic sparsity of the district, the number of new teachers the school district intends to hire in the coming school year and the number of summer in the city student internships proposed by an eligible school district, if applicable. Grants provided pursuant to this section shall be used only for the purposes enumerated in this section. Notwithstanding any other provision of law to the contrary, a city school district in a city having a population of one million or more inhabitants receiving a grant pursuant to this section may use no more than eighty percent of such grant funds for any recruitment, retention and certification costs associated with transitional certification of teacher candidates for the school years two thousand one--two thousand two through [two thousand nine--two thousand ten] TWO THOUSAND TEN--TWO THOUSAND ELEVEN.

S 3. Subdivision 6 of section 4402 of the education law, as amended by section 34 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

6. Notwithstanding any other law, rule or regulation to the contrary, the board of education of a city school district with a population of one hundred twenty-five thousand or more inhabitants shall be permitted to establish maximum class sizes for special classes for certain students with disabilities in accordance with the provisions of this subdivision. For the purpose of obtaining relief from any adverse fiscal impact from under-utilization of special education resources due to low student attendance in special education classes at the middle and secondary level as determined by the commissioner, such boards of education shall, during the school years nineteen hundred ninety-five--ninety-six through June thirtieth, two thousand [ten] ELEVEN of the [two thousand nine--two thousand ten] TWO THOUSAND TEN--TWO THOUSAND ELEVEN school year, be authorized to increase class sizes in special classes containing students with disabilities whose age ranges are equivalent to those of students in middle and secondary schools as defined by the commissioner for purposes of this section by up to but not to exceed one and two tenths times the applicable maximum class size specified in regulations of the commissioner rounded up to the nearest whole number, provided that in a city school district having a population of one million or more, classes that have a maximum class size of fifteen may be increased by no more than one student and provided that the projected average class size shall not exceed the maximum specified in the applicable regulation, provided that such authorization shall terminate on June thirtieth, two thousand. Such authorization shall be granted upon filing of a notice by such a board of education with the commissioner stating the board's intention to increase such class sizes and a certification that the board will conduct a study of attendance problems at the secondary level and will implement a corrective action plan to increase the rate of attendance of students in such classes to at least the rate for students attending regular education classes in secondary schools of the district. Such corrective action plan shall be submitted for approval by the commissioner by a date during the school year in which such board increases class sizes as provided pursuant to this subdivision to be prescribed by the commissioner. Upon at least thirty days notice to the board of education, after conclusion of the school year in which such board increases class sizes as provided pursuant to this subdivision, the commissioner shall be authorized to terminate such authorization upon a finding that the board has failed to develop or implement an approved corrective action plan.

S 4. Section 6 of chapter 756 of the laws of 1992, relating to funding a program for work force education conducted by the consortium for worker education in New York city, as amended by section 43 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

S 6. This act shall take effect July 1, 1992, and shall be deemed repealed on June 30, [2010] 2011.

S 5. Section 4 of chapter 425 of the laws of 2002, amending the education law relating to the provision of supplemental educational services, attendance at a safe public school and the suspension of pupils who bring a firearm to or possess a firearm at a school, as amended by chapter 158 of the laws of 2009, is amended to read as follows:

S 4. This act shall take effect July 1, 2002 and shall expire and be deemed repealed June 30, [2010] 2011.

S 6. Section 5 of chapter 101 of the laws of 2003, amending the education law relating to implementation of the No Child Left Behind Act of 2001, as amended by chapter 158 of the laws of 2009, is amended to read as follows:

S 5. This act shall take effect immediately; provided that sections one, two and three of this act shall expire and be deemed repealed on June 30, [2010] 2011.

S 7. Section 12 of chapter 147 of the laws of 2001, amending the education law relating to conditional appointment of school district, charter school or BOCES employees, as amended by chapter 179 of the laws of 2009, is amended to read as follows:

S 12. This act shall take effect on the same date as chapter 180 of the laws of 2000 takes effect, and shall expire July 1, [2010] 2011 when upon such date the provisions of this act shall be deemed repealed.

S 8. Subdivision 4 of section 51 of part B of chapter 57 of the laws of 2008 amending the education law relating to the universal pre-kindergarten program, is amended to read as follows:

4. section 23 of this act shall take effect July 1, 2008 and shall expire and be deemed repealed June 30, [2010] 2012;

S 9. Section 2 of chapter 386 of the laws of 1996, amending the education law relating to providing for a waiver allowing state aid in certain circumstances, as amended by chapter 661 of the laws of 2005, is amended to read as follows:

S 2. This act shall take effect immediately, provided that the provisions of this act shall be deemed to have been in full force and effect on and after January 1, 1996, and provided, further that this act shall be deemed repealed on and after January 1, [2011] 2015.

S 10. Subdivision 11 of section 94 of part C of chapter 57 of the laws of 2004, relating to support of education, as amended by section 55 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

11. section seventy-one of this act shall expire and be deemed repealed June 30, [2010] 2011;

S 11. Subdivision 1 of section 167 of chapter 169 of the laws of 1994 relating to certain provisions related to the 1994-95 state operations, aid to localities, capital projects and debt service budgets, as amended by section 44 of part A of chapter 57 of the laws of 2009, is amended to read as follows:

1. Sections one through seventy of this act shall be deemed to have been in full force and effect as of April 1, 1994 provided, however, that sections one, two, twenty-four, twenty-five and twenty-seven through seventy of this act shall expire and be deemed repealed on March 31, 2000; provided, however, that section twenty of this act shall apply

only to hearings commenced prior to September 1, 1994, and provided further that section twenty-six of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections four through fourteen, sixteen, and eighteen, nineteen and twenty-one through twenty-one-a of this act shall expire and be deemed repealed on March 31, 1997; and provided further that sections three, fifteen, seventeen, twenty, twenty-two and twenty-three of this act shall expire and be deemed repealed on March 31, [2011] 2012.

S 12. Subdivisions 22 and 24 of section 140 of chapter 82 of the laws of 1995, amending the education law and certain other laws relating to state aid to school districts and the appropriation of funds for the support of government, as amended by section 45 of part A of chapter 57 of the laws of 2009, are amended to read as follows:

(22) sections one hundred twelve, one hundred thirteen, one hundred fourteen, one hundred fifteen and one hundred sixteen of this act shall take effect on July 1, 1995; provided, however, that section one hundred thirteen of this act shall remain in full force and effect until July 1, [2010] 2011 at which time it shall be deemed repealed;

(24) sections one hundred eighteen through one hundred thirty of this act shall be deemed to have been in full force and effect on and after July 1, 1995; provided further, however, that the amendments made pursuant to section one hundred nineteen of this act shall be deemed to be repealed on and after July 1, [2010] 2011;

S 13. School bus driver training. In addition to apportionments otherwise provided by section 3602 of the education law, for aid payable in the 2010-2011 school year, the commissioner of education shall allocate school bus driver training grants to school districts and boards of cooperative education services pursuant to sections 3650-a, 3650-b and 3650-c of the education law, or for contracts directly with not-for-profit educational organizations for the purposes of this section. Such payments shall not exceed four hundred thousand dollars ($400,000).

S 14. Support of public libraries. The moneys appropriated for the support of public libraries by chapter 53 of the laws of 2010 which enacts the education, labor and family assistance budget shall be apportioned for 2010--2011 in accordance with the provisions of sections 271, 272, 273, 282, 284, and 285 of the education law and the provisions of this section, provided that library construction aid pursuant to section 273-a of the education law shall not be payable from the appropriations for the support of public libraries and provided further that no library, library system or program, as defined by the commissioner of education, shall receive less total system or program aid than it received for the year 2001--2002 except as a result of a reduction adjustment necessary to conform to the appropriations for support of public libraries.

Notwithstanding any other provision of law to the contrary the moneys appropriated for the support of public libraries for the year 2010--2011 by chapter 53 of the laws of 2010 which enacts the education, labor and family assistance budget shall fulfill the state's obligation to provide such aid and, pursuant to a plan developed by the commissioner of education and approved by the director of the budget, the aid payable to libraries and library systems pursuant to such appropriations shall be reduced proportionately to assure that the total amount of aid payable does not exceed the total appropriations for such purpose.

S 15. Special apportionment for salary expenses. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not sooner than the first day of the second full business

week of June, 2011 and not later than the last day of the third full business week of June, 2011, a school district eligible for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2011, for salary expenses incurred between April 1 and June 30, 2011, and such apportionment shall not exceed the sum of (i) the deficit reduction assessment of 1990-91 as determined by the commissioner of education, pursuant to paragraph f of subdivision 1 of section 3602 of the education law, as in effect through June 30, 1993, plus (ii) 186 percent of such amount for a city school district in a city with a population in excess of 1,000,000 inhabitants, plus (iii) 209 percent of such amount for a city school district in a city with a population of more than 195,000 inhabitants and less than 219,000 inhabitants according to the latest federal census, plus (iv) the net gap elimination adjustment for 2010--2011, as determined by the commissioner of education pursuant to paragraph e of subdivision 1 of section 3609-a of the education law as in effect through June 30, 2011, and provided further that such apportionment shall not exceed such salary expenses. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph 4 of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph 2 of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph 2 of such paragraph followed by the fixed fall payments payable pursuant to subparagraph 4 of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph 1 of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 16. Special apportionment for public pension accruals. a. Notwithstanding any other provision of law, upon application to the commissioner of education, not later than June 30, 2011, a school district eligi-

ble for an apportionment pursuant to section 3602 of the education law shall be eligible to receive an apportionment pursuant to this section, for the school year ending June 30, 2011, and such apportionment shall not exceed the additional accruals required to be made by school districts in the 2004-05 and 2005-06 school years associated with changes for such public pension liabilities. The amount of such additional accrual shall be certified to the commissioner of education by the president of the board of education or the trustees or, in the case of a city school district in a city with a population in excess of 125,000 inhabitants, the mayor of such city. Such application shall be made by a school district, after the board of education or trustees have adopted a resolution to do so and in the case of a city school district in a city with a population in excess of 125,000 inhabitants, with the approval of the mayor of such city.

b. The claim for an apportionment to be paid to a school district pursuant to subdivision a of this section shall be submitted to the commissioner of education on a form prescribed for such purpose, and shall be payable upon determination by such commissioner that the form has been submitted as prescribed. Such approved amounts shall be payable on the same day in September of the school year following the year in which application was made as funds provided pursuant to subparagraph 4 of paragraph b of subdivision 4 of section 92-c of the state finance law, on the audit and warrant of the state comptroller on vouchers certified or approved by the commissioner of education in the manner prescribed by law from moneys in the state lottery fund and from the general fund to the extent that the amount paid to a school district pursuant to this section exceeds the amount, if any, due such school district pursuant to subparagraph 2 of paragraph a of subdivision 1 of section 3609-a of the education law in the school year following the year in which application was made.

c. Notwithstanding the provisions of section 3609-a of the education law, an amount equal to the amount paid to a school district pursuant to subdivisions a and b of this section shall first be deducted from the following payments due the school district during the school year following the year in which application was made pursuant to subparagraphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section 3609-a of the education law in the following order: the lottery apportionment payable pursuant to subparagraph 2 of such paragraph followed by the fixed fall payments payable pursuant to subparagraph 4 of such paragraph and then followed by the district's payments to the teachers' retirement system pursuant to subparagraph 1 of such paragraph, and any remainder to be deducted from the individualized payments due the district pursuant to paragraph b of such subdivision shall be deducted on a chronological basis starting with the earliest payment due the district.

S 17. a. Notwithstanding any other law, rule or regulation to the contrary, any moneys appropriated to the state education department may be suballocated to other state departments or agencies, as needed, to accomplish the intent of the specific appropriations contained therein.

b. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department from the general fund/aid to localities, local assistance account-001, shall be for payment of financial assistance, as scheduled, net of disallowances, refunds, reimbursement and credits.

c. Notwithstanding any other law, rule or regulation to the contrary, all moneys appropriated to the state education department for aid to

localities shall be available for payment of aid heretofore or hereafter to accrue and may be suballocated to other departments and agencies to accomplish the intent of the specific appropriations contained therein.

d. Notwithstanding any other law, rule or regulation to the contrary, moneys appropriated to the state education department for general support for public schools may be interchanged with any other item of appropriation for general support for public schools within the general fund local assistance account elementary, middle, secondary and continuing education program.

S 18. Notwithstanding the provision of any law, rule, or regulation to the contrary, the city school district of the city of Rochester, upon the consent of the board of cooperative educational services of the supervisory district serving its geographic region may purchase from such board for the 2010-11 school year, as a non-component school district, services required by article 19 of the education law.

S 19. Notwithstanding any provision of law to the contrary, the purposes and funding levels specified in section 54 of Part A of chapter 57 of the laws of 2009 shall be continued for such purposes and at such levels for the two thousand ten - two thousand eleven school year.

S 20. Severability. The provisions of this act shall be severable, and if the application of any clause, sentence, paragraph, subdivision, section or part of this act to any person or circumstance shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not necessarily affect, impair or invalidate the application of any such clause, sentence, paragraph, subdivision, section, part of this act or remainder thereof, as the case may be, to any other person or circumstance, 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.

S 21. This act shall take effect immediately and shall be deemed to have been in full force and effect on and after April 1, 2010, provided, however, that:

1. sections two and three, thirteen, fifteen and sixteen of this act shall be deemed to have been in full force and effect on and after July 1, 2010; and

2. the amendments to subdivision 6 of section 4402 of the education law made by section three of this act shall not affect the repeal of such subdivision and shall be deemed repealed therewith.