

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:

1

PART A

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

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

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

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

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

41 S 2. Paragraph b of subdivision 2 of section 3612 of the education
42 law, as amended by section 28 of part A of chapter 57 of the laws of
43 2009, is amended to read as follows:

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

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

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

18 6. Notwithstanding any other law, rule or regulation to the contrary,
19 the board of education of a city school district with a population of
20 one hundred twenty-five thousand or more inhabitants shall be permitted
21 to establish maximum class sizes for special classes for certain
22 students with disabilities in accordance with the provisions of this
23 subdivision. For the purpose of obtaining relief from any adverse fiscal
24 impact from under-utilization of special education resources due to low
25 student attendance in special education classes at the middle and
26 secondary level as determined by the commissioner, such boards of educa-
27 tion shall, during the school years nineteen hundred ninety-five--nine-
28 ty-six through June thirtieth, two thousand [ten] ELEVEN of the [two
29 thousand nine--two thousand ten] TWO THOUSAND TEN--TWO THOUSAND ELEVEN
30 school year, be authorized to increase class sizes in special classes
31 containing students with disabilities whose age ranges are equivalent to
32 those of students in middle and secondary schools as defined by the
33 commissioner for purposes of this section by up to but not to exceed one
34 and two tenths times the applicable maximum class size specified in
35 regulations of the commissioner rounded up to the nearest whole number,
36 provided that in a city school district having a population of one
37 million or more, classes that have a maximum class size of fifteen may
38 be increased by no more than one student and provided that the projected
39 average class size shall not exceed the maximum specified in the appli-
40 cable regulation, provided that such authorization shall terminate on
41 June thirtieth, two thousand. Such authorization shall be granted upon
42 filing of a notice by such a board of education with the commissioner
43 stating the board's intention to increase such class sizes and a certif-
44 ication that the board will conduct a study of attendance problems at
45 the secondary level and will implement a corrective action plan to
46 increase the rate of attendance of students in such classes to at least
47 the rate for students attending regular education classes in secondary
48 schools of the district. Such corrective action plan shall be submitted
49 for approval by the commissioner by a date during the school year in
50 which such board increases class sizes as provided pursuant to this
51 subdivision to be prescribed by the commissioner. Upon at least thirty
52 days notice to the board of education, after conclusion of the school
53 year in which such board increases class sizes as provided pursuant to
54 this subdivision, the commissioner shall be authorized to terminate such
55 authorization upon a finding that the board has failed to develop or
56 implement an approved corrective action plan.

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

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

7 S 5. Section 4 of chapter 425 of the laws of 2002, amending the educa-
8 tion law relating to the provision of supplemental educational services,
9 attendance at a safe public school and the suspension of pupils who
10 bring a firearm to or possess a firearm at a school, as amended by chap-
11 ter 158 of the laws of 2009, is amended to read as follows:

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

14 S 6. Section 5 of chapter 101 of the laws of 2003, amending the educa-
15 tion law relating to implementation of the No Child Left Behind Act of
16 2001, as amended by chapter 158 of the laws of 2009, is amended to read
17 as follows:

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

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

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

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

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

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

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

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

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

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

52 1. Sections one through seventy of this act shall be deemed to have
53 been in full force and effect as of April 1, 1994 provided, however,
54 that sections one, two, twenty-four, twenty-five and twenty-seven
55 through seventy of this act shall expire and be deemed repealed on March
56 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

1 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.

23 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.

39 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.

54 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-

1 ble for an apportionment pursuant to section 3602 of the education law
2 shall be eligible to receive an apportionment pursuant to this section,
3 for the school year ending June 30, 2011, and such apportionment shall
4 not exceed the additional accruals required to be made by school
5 districts in the 2004-05 and 2005-06 school years associated with chang-
6 es for such public pension liabilities. The amount of such additional
7 accrual shall be certified to the commissioner of education by the pres-
8 ident of the board of education or the trustees or, in the case of a
9 city school district in a city with a population in excess of 125,000
10 inhabitants, the mayor of such city. Such application shall be made by a
11 school district, after the board of education or trustees have adopted a
12 resolution to do so and in the case of a city school district in a city
13 with a population in excess of 125,000 inhabitants, with the approval of
14 the mayor of such city.

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

31 c. Notwithstanding the provisions of section 3609-a of the education
32 law, an amount equal to the amount paid to a school district pursuant to
33 subdivisions a and b of this section shall first be deducted from the
34 following payments due the school district during the school year
35 following the year in which application was made pursuant to subpara-
36 graphs 1, 2, 3, 4 and 5 of paragraph a of subdivision 1 of section
37 3609-a of the education law in the following order: the lottery appor-
38 tionment payable pursuant to subparagraph 2 of such paragraph followed
39 by the fixed fall payments payable pursuant to subparagraph 4 of such
40 paragraph and then followed by the district's payments to the teachers'
41 retirement system pursuant to subparagraph 1 of such paragraph, and any
42 remainder to be deducted from the individualized payments due the
43 district pursuant to paragraph b of such subdivision shall be deducted
44 on a chronological basis starting with the earliest payment due the
45 district.

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

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

55 c. Notwithstanding any other law, rule or regulation to the contrary,
56 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.