

1107

2011-2012 Regular Sessions

I N   A S S E M B L Y

(PREFILED)

January 5, 2011

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Introduced by M. of A. CLARK, AUBRY, ORTIZ, PHEFFER -- Multi-Sponsored  
by -- M. of A. BRENNAN, COOK, MAYERSOHN, WRIGHT -- read once and  
referred to the Committee on Education

AN ACT to amend the education law and the state finance law, in relation  
to establishing a temporary emergency educational fund to provide  
assistance to underfunded school districts; and providing for the  
repeal of such provisions upon the expiration thereof

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

1     Section 1. Legislative intent. The legislature hereby finds that  
2     decades of experience have shown that the state's current school funding  
3     system has consistently underfunded hundreds of public schools across  
4     the state. Currently the state is involved in a school finance lawsuit  
5     (CAMPAIGN FOR FISCAL EQUITY, ET AL. V. THE STATE OF NEW YORK, ET AL.) in  
6     which the constitutionality, sufficiency and social impact of the  
7     state's school funding system are at issue. Unfortunately, it could take  
8     years before the case is ultimately resolved. Meanwhile, time marches  
9     on and millions of schoolchildren continue to attend public schools  
10    which lack the resources needed to prepare them for productive citizen-  
11    ship in the twenty-first century. These children, caught between legal  
12    and political crossfire, are being denied the monetary, educational,  
13    psychological and social resources they desperately need, and as a  
14    result are being irreparably harmed.

15    The legislature declares that this act addresses the need to protect  
16    students from the potentially irreparable harm they are exposed to due  
17    to a severe lack of educational resources in public schools. Accord-  
18    ingly, this act seeks to provide emergency funding for critical educational  
19    resources to benefit the millions of children who cannot wait until  
20    protracted legal disputes are resolved before receiving the tools they  
21    need in order to meet resource-driven academic standards.

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

LBD02527-01-1

1 S 2. The education law is amended by adding a new article 73-A to read  
2 as follows:

3 ARTICLE 73-A  
4 TEMPORARY EMERGENCY EDUCATIONAL  
5 ASSISTANCE

6 SECTION 3650-F. DEFINITIONS.

7 3650-G. TEMPORARY EMERGENCY EDUCATIONAL ASSISTANCE.

8 S 3650-F. DEFINITIONS. FOR THE PURPOSE OF THIS ARTICLE, THE FOLLOWING  
9 TERMS SHALL MEAN:

10 1. "FUND" SHALL MEAN THE TEMPORARY EMERGENCY EDUCATIONAL FUND ESTAB-  
11 LISHED PURSUANT TO SECTION NINETY-ONE-H OF THE STATE FINANCE LAW.

12 2. "SOUND BASIC EDUCATION" SHALL MEAN THOSE FOUNDATIONAL SKILLS THAT  
13 PUBLIC SCHOOL STUDENTS NEED TO BECOME PRODUCTIVE CITIZENS CAPABLE OF  
14 CIVIC ENGAGEMENT AND SUSTAINING COMPETITIVE EMPLOYMENT, AS DETERMINED  
15 PURSUANT TO THE RULES AND REGULATIONS OF THE COMMISSIONER.

16 S 3650-G. TEMPORARY EMERGENCY EDUCATIONAL ASSISTANCE. 1. IN ADDITION  
17 TO ANY MONEYS A SCHOOL DISTRICT SHALL RECEIVE PURSUANT TO ARTICLE SEVEN-  
18 TY-THREE OF THIS TITLE, THE COMMISSIONER SHALL APPORTION SUCH ADDITIONAL  
19 FUNDING TO SCHOOL DISTRICTS AS SHALL BE NECESSARY TO ENABLE ANY SUCH  
20 DISTRICT TO PROVIDE A SOUND BASIC EDUCATION TO STUDENTS.

21 IN ALLOCATING FUNDS PURSUANT TO THIS SECTION, A SCHOOL DISTRICT SHALL  
22 GIVE PRIORITY IN THE FOLLOWING ORDER: (I) FIRST, TO A SCHOOL UNDER  
23 REGISTRATION REVIEW; (II) SECOND, TO ANY SCHOOL PERFORMING SIGNIFICANTLY  
24 BELOW STATE STANDARDS AS DEFINED BY THE COMMISSIONER; AND (III) THIRD,  
25 TO ANY SCHOOL THAT IS DETERMINED BY THE COMMISSIONER TO NEED EMERGENCY  
26 FUNDING TO ADDRESS A SEVERE LACK OF EDUCATIONAL RESOURCES.

27 2. MONEYS IN THE FUND SHALL BE APPORTIONED TO SCHOOL DISTRICTS WHICH  
28 MEET THE CRITERIA SET FORTH IN SUBDIVISION ONE OF THIS SECTION TO BE  
29 USED BY SUCH DISTRICTS FOR THE FOLLOWING PURPOSES:

30 (A) THE EMPLOYMENT OF A SUFFICIENT NUMBER OF QUALIFIED TEACHERS, PRIN-  
31 CIPALS AND OTHER EDUCATIONAL PERSONNEL;

32 (B) THE REDUCTION OF CLASS SIZES;

33 (C) THE CONSTRUCTION, RENOVATION, REPAIR AND MAINTENANCE OF ADEQUATE  
34 AND ACCESSIBLE SCHOOL BUILDINGS WITH SUFFICIENT SPACE TO ENSURE APPRO-  
35 PRIATE CLASS SIZES AND IMPLEMENTATION OF A SOUND CURRICULUM;

36 (D) THE ACQUISITION OF EDUCATIONAL RESOURCES, INCLUDING BUT NOT LIMIT-  
37 ED TO, TEXTBOOKS, SCHOOL LIBRARY BOOKS, CLASSROOM SUPPLIES AND EQUIP-  
38 MENT, LABORATORY EQUIPMENT, REMEDIAL PROGRAMS, AND EDUCATIONAL TECHNOLO-  
39 GY SUCH AS COMPUTERS, THE RELATED HARDWARE AND APPROPRIATE SOFTWARE;

40 (E) THE PROVISION OF SUITABLE CURRICULA; AND

41 (F) THE PROVISION OF RESOURCES FOR STUDENTS WITH EXTRAORDINARY NEEDS.

42 3. (A) MONEYS FROM THE FUND SHALL BE APPORTIONED THROUGH A COMPETITIVE  
43 PROCESS THAT TAKES INTO CONSIDERATION THE SEVERITY OF SHORTAGE OF EDUCA-  
44 TIONAL RESOURCES NECESSARY TO PROVIDE A SOUND BASIC EDUCATION. MONEYS  
45 APPORTIONED PURSUANT TO THIS SECTION SHALL BE USED ONLY FOR THE PURPOSES  
46 ENUMERATED IN THIS SECTION.

47 (B) NOT MORE THAN SIXTY PERCENT OF THE FUNDS ALLOCATED PURSUANT TO  
48 THIS SECTION SHALL BE MADE AVAILABLE TO ANY ONE SCHOOL DISTRICT.

49 (C) ANY SCHOOL DISTRICT RECEIVING FUNDS UNDER THIS SECTION SHALL MAIN-  
50 TAIN ANY LOCAL EFFORT IN THE CURRENT YEAR EQUIVALENT TO SUCH EFFORT IN  
51 THE BASE YEAR FOR ANY LOCAL PROGRAM THAT HAS PURPOSES THAT ARE SIMILAR  
52 TO ANY PURPOSE OF THIS SECTION OR THE DISTRICT SHALL PROVIDE A LOCAL  
53 MATCH TO STATE FUNDS RECEIVED PURSUANT TO THIS SECTION. STATE FUNDS  
54 PROVIDED PURSUANT TO THIS SECTION SHALL NOT SUPPLANT LOCAL FUNDS FOR ANY  
55 PURPOSE SIMILAR TO THE PURPOSES OF THIS SECTION.

1 4. APPLICATIONS BY A SCHOOL DISTRICT FOR FUNDING PURSUANT TO THIS  
2 SECTION SHALL BE FILED WITH THE COMMISSIONER, IN A FORM DETERMINED BY  
3 THE COMMISSIONER, BY JUNE FIRST OF THE BASE YEAR AND SCHOOL DISTRICTS  
4 SHALL BE NOTIFIED OF THEIR AWARD OF TEMPORARY EMERGENCY ASSISTANCE BY  
5 JUNE THIRTIETH OF THE BASE YEAR, PROVIDED THAT IN ANY YEAR SUCH APPLICA-  
6 TION AND AWARD DATES MAY BE MODIFIED BY THE COMMISSIONER FOR THE REASON-  
7 ABLE ADMINISTRATION OF THE PROGRAM. SUCH APPLICATION SHALL INCLUDE A  
8 PLAN BY THE SCHOOL DISTRICT FOR THE EXPENDITURE OF THE FUNDS IN EACH  
9 CATEGORY OF ALLOWABLE EXPENSES AUTHORIZED BY THIS SECTION, AND SUCH  
10 EXPENDITURES SHALL BE CONSISTENT WITH SUCH PLAN AND THE PROVISIONS OF  
11 THIS SECTION. SUCH APPLICATION SHALL ALSO INCLUDE A METHODOLOGY BY  
12 WHICH THE SCHOOL DISTRICT WILL MONITOR THE EXPENDITURE OF ANY SUCH FUND-  
13 ING AND ENSURE THAT SUCH FUNDING WILL IMPROVE THE EDUCATION PROVIDED BY  
14 THE SCHOOL DISTRICT.

15 5. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ANY RULES AND REGU-  
16 LATIONS NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

17 S 3. The state finance law is amended by adding a new section 91-h to  
18 read as follows:

19 S 91-H. TEMPORARY EMERGENCY EDUCATIONAL FUND. 1. THERE IS HEREBY  
20 ESTABLISHED IN THE CUSTODY OF THE STATE COMPTROLLER A SPECIAL FUND TO BE  
21 KNOWN AS THE "TEMPORARY EMERGENCY EDUCATIONAL FUND".

22 2. SUCH FUND SHALL CONSIST OF ALL MONEYS APPROPRIATED THERETO, AND ALL  
23 OTHER MONEYS CREDITED OR TRANSFERRED THERETO FROM ANY OTHER FUND OR  
24 SOURCE PURSUANT TO LAW, AND ALL MONEYS RECEIVED FROM CONTRIBUTIONS,  
25 DONATIONS, GRANTS OR PAYMENTS FROM ANY SOURCE.

26 3. MONEYS IN THE TEMPORARY EMERGENCY EDUCATIONAL FUND SHALL BE KEPT  
27 SEPARATELY FROM AND SHALL NOT BE COMMINGLED WITH ANY OTHER MONEYS IN THE  
28 JOINT OR SOLE CUSTODY OF THE STATE COMPTROLLER.

29 4. THE MONEYS OF THE TEMPORARY EMERGENCY EDUCATIONAL FUND, AFTER  
30 APPROPRIATION BY THE LEGISLATURE AND APPORTIONMENT BY THE COMMISSIONER,  
31 SHALL BE PAID OUT BY THE STATE COMPTROLLER PURSUANT TO ARTICLE SEVENTY-  
32 THREE-A OF THE EDUCATION LAW.

33 S 4. This act shall take effect immediately and shall expire and be  
34 deemed repealed upon the final disposition of the cause of action enti-  
35 tled "CAMPAIGN FOR FISCAL EQUITY, ET AL. V. THE STATE OF NEW YORK, ET  
36 AL." and the establishment and full implementation of a school funding  
37 system that funds every public school district in the state at a level  
38 that enables such district to provide a sound basic education; provided  
39 that the attorney general shall notify the legislative bill drafting  
40 commission upon the occurrence of the final disposition of such cause of  
41 action in order that such commission may maintain an accurate and timely  
42 data base of the official text of the laws of the state of New York in  
43 furtherance of effecting the provisions of section 44 of the legislative  
44 law and section 70-b of the public officers law.