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I N S E N A T E

June 18, 2012

Introduced by Sens. FLANAGAN, MARTINS, LITTLE, HANNON, SALAND, RANZEN-HOFER -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to establishing Earth day; to amend the education law, in relation to removing references to subcommittees on special education; to amend the education law, in relation to the committee on special education membership requirements; to amend the education law, in relation to eliminating the requirement for written parental consent prior to initial placement of a student with a disability in a July/August program; to amend the education law, in relation to transportation of students with disabilities parentally placed in a private school; to amend the education law relating to committee on preschool special education membership; to amend the education law, in relation to the additional parent member of committees on special education; to amend the education law, in relation to authorizing access to students' individualized education program electronically; to amend the education law, in relation to discontinuance of an internal audit function in school districts with enrollment of less than one thousand students; to amend the general municipal law, in relation to school districts or board of cooperative educational services option to purchase goods and services; to repeal paragraph d of subdivision 4 of section 3641 of the education law relating to submission of a triennial report on the status of asbestos containing building materials in schools; to repeal subdivision 17 of section 1950 of the education law relating to board of cooperative educational services special education space plans; to repeal clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of section 4402 of the education law relating to the requirement that boards of education develop plans and policies for appropriate declassification of students with disabilities; to amend the general municipal law and the education law, in relation to requiring the state to fund certain programs mandated for municipal corporations and school districts; and to amend the education law, in relation to the effect of mandates on school districts; to amend the criminal procedure law and the general municipal law, in relation to the period of validity of certificates attesting to the satisfactory completion of an approved police basic training program; and to amend the social

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

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services law, in relation to the training of persons assigned to be supervisors by a child protective service

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

1 Section 1. Section 810 of the education law, as amended by chapter 616
2 of the laws of 1969 and subdivision 1 as amended by chapter 96 of the
3 laws of 1978, is amended to read as follows:

4 S 810. [Conservation] EARTH day. [1. The last Friday in April each
5 year is hereby made and declared to be known as Conservation day, and
6 observed in accordance with the provisions of this chapter, except that
7 for the year nineteen hundred seventy-eight, Conservation day shall be
8 May third.

9 2. It shall be the duty of the authorities of every public school in
10 this state to assemble the pupils in their charge on that day in the
11 school building, or elsewhere, as they may deem proper, and to provide
12 for and conduct (1) such exercises as shall tend to encourage the plant-
13 ing, protection and preservation of trees and shrubs, and an acquaint-
14 ance with the best methods to be adopted to accomplish such results, and
15 (2) such lectures, pictures or tours, as shall tend to increase the
16 interest and knowledge of such pupils in the fish and wild life, soil
17 and water of the state.

18 3. The commissioner of education may prescribe from time to time a
19 course of exercises and instruction in the subjects hereinbefore
20 mentioned, which shall be adopted and observed by the public school
21 authorities on Conservation day. Upon receipt of copies of such course
22 sufficient in number to supply all the schools under their supervision,
23 the school authorities aforesaid shall promptly provide each of the
24 schools under their charge with a copy, and cause it to be observed]
25 ANNUALLY, IT SHALL BE THE DUTY OF THE AUTHORITIES OF EVERY PUBLIC SCHOOL
26 IN THIS STATE TO OBSERVE EARTH DAY AS THEY MAY DEEM PROPER AND TO
27 ENCOURAGE INSTRUCTION ON THE EARTH'S NATURAL ENVIRONMENT AS APPROPRIATE.

28 S 2. Section 3035 of the education law is amended by adding a new
29 subdivision 3-b to read as follows:

30 3-B. UPON REQUEST FROM A PROSPECTIVE EMPLOYEE WHO HAS BEEN CLEARED BY
31 THE COMMISSIONER OF MOTOR VEHICLES PURSUANT TO SECTION FIVE HUNDRED
32 NINE-CC OR SECTION TWELVE HUNDRED TWENTY-NINE-D OF THE VEHICLE AND TRAF-
33 FIC LAW, THE DEPARTMENT OF MOTOR VEHICLES SHALL BE AUTHORIZED TO FORWARD
34 A COPY OF SUCH INDIVIDUAL'S CRIMINAL HISTORY RECORD AND SUCH INDIVID-
35 UAL'S FINGERPRINTS TO THE COMMISSIONER FOR PURPOSES OF CONDUCTING A
36 CRIMINAL HISTORY RECORD CHECK PURSUANT TO THIS SECTION. FURTHERMORE,
37 UPON NOTIFICATION THAT SUCH PROSPECTIVE EMPLOYEE HAS BEEN CLEARED FOR
38 EMPLOYMENT BY THE COMMISSIONER PURSUANT TO THIS SECTION, THE DIVISION OF
39 CRIMINAL JUSTICE SERVICES SHALL HAVE THE AUTHORITY TO PROVIDE SUBSEQUENT
40 CRIMINAL HISTORY NOTIFICATIONS DIRECTLY TO THE COMMISSIONER.

41 S 3. Paragraph d of subdivision 4 of section 3641 of the education law
42 is REPEALED.

43 S 4. Subdivision 1-b of section 103 of the general municipal law, as
44 added by section 4 of subpart A of part C of chapter 97 of the laws of
45 2011, is amended read as follows:

46 1-b. A political subdivision or any district therein shall have the
47 option of purchasing information technology and telecommunications hard-
48 ware, software and professional services through cooperative purchasing
49 permissible pursuant to federal general services administration informa-

1 tion technology schedule seventy or any successor schedule. A political
2 subdivision or any district therein that purchases through general
3 services administration schedule seventy, information technology and
4 consolidated schedule contracts shall comply with federal schedule
5 ordering procedures as provided in federal acquisition regulation
6 8.405-1 or 8.405-2 or successor regulations, whichever is applicable.
7 Adherence to such procedures shall constitute compliance with the
8 competitive bidding requirements under this section. IN ADDITION, A
9 SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL HAVE
10 THE OPTION OF PURCHASING OTHER GOODS OR SERVICES THROUGH COOPERATIVE
11 PURCHASING PERMISSIBLE PURSUANT TO A GENERAL SERVICES ADMINISTRATION
12 CONTRACT. A SCHOOL DISTRICT OR BOARD OF COOPERATIVE EDUCATIONAL SERVICES
13 THAT PURCHASES OTHER SERVICES THROUGH GENERAL SERVICE ADMINISTRATION
14 CONTRACTS SHALL COMPLY WITH THE APPLICABLE FEDERAL SCHEDULE ORDERING
15 PROCEDURES AS PROVIDED IN THE FEDERAL ACQUISITION REGULATIONS AS APPLI-
16 CABLE.

17 S 5. Subdivision 17 of section 1950 of the education law is REPEALED.

18 S 6. Section 2215 of the education law is amended by adding a new
19 subdivision 17 to read as follows:

20 17. TO DETERMINE THE ADEQUACY AND APPROPRIATENESS OF THE FACILITIES
21 SPACE AVAILABLE TO HOUSE SPECIAL EDUCATION PROGRAMS IN THE GEOGRAPHIC
22 AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES, CONSISTENT
23 WITH THE LEAST RESTRICTIVE ENVIRONMENT REQUIREMENT AND TO ENSURE THE
24 STABILITY AND CONTINUITY OF PROGRAM PLACEMENTS FOR STUDENTS WITH DISA-
25 BILITIES, INCLUDING PROCEDURES THAT ENSURE THAT SPECIAL EDUCATION
26 PROGRAMS AND SERVICES LOCATED IN APPROPRIATE FACILITIES WILL NOT BE
27 RELOCATED WITHOUT ADEQUATE CONSIDERATION OF THE NEEDS OF PARTICIPATING
28 STUDENTS WITH DISABILITIES.

29 S 7. Subdivision 8 of section 3604 of the education law, as amended by
30 section 46 of part H of chapter 83 of the laws of 2002, is amended to
31 read as follows:

32 8. No school shall be in session on a Saturday or a legal holiday,
33 except general election day, Washington's birthday and Lincoln's birth-
34 day, and except that driver education classes may be conducted on a
35 Saturday. A deficiency not exceeding [three] FOUR days during any school
36 year caused by teachers' attendance upon conferences held by superinten-
37 dents of schools of city school districts or other school districts
38 employing superintendents of schools shall be excused by the commission-
39 er, NOTWITHSTANDING ANY PROVISION OF LAW, RULE OR REGULATION TO THE
40 CONTRARY, A SCHOOL DISTRICT MAY ELECT TO SCHEDULE SUCH CONFERENCE DAYS
41 IN THE LAST TWO WEEKS OF AUGUST AND SUCH DAYS SHALL BE COUNTED TOWARDS
42 THE REQUIRED ONE HUNDRED EIGHTY DAYS OF SESSION, provided however,
43 [notwithstanding any other provision of law, that during the nineteen
44 hundred ninety-two--ninety-three through the two thousand two--two thou-
45 sand three school years and thereafter, the] THAT SUCH SCHEDULING SHALL
46 NOT ALTER THE OBLIGATION OF THE SCHOOL DISTRICT TO PROVIDE TRANSPORTA-
47 TION TO STUDENTS IN NON-PUBLIC ELEMENTARY AND SECONDARY SCHOOLS OR CHAR-
48 TER SCHOOLS. THE commissioner shall excuse a deficiency not exceeding
49 four days during such school year caused by teachers' attendance upon
50 conferences held by such superintendents, provided that at least two
51 such conference days during such school year shall be dedicated to staff
52 attendance upon conferences providing staff development relating to
53 implementation of the new high learning standards and assessments, as
54 adopted by the board of regents. Notwithstanding any other provision of
55 law, rule or regulation to the contrary, school districts may elect to
56 use one or more of such allowable conference days in units of not less

1 than one hour each to provide staff development activities relating to
2 implementation of the new high learning standards and assessments. A
3 district making such election may provide such staff development during
4 the regularly scheduled daily session and apply such units to satisfy a
5 deficiency in the length of one or more daily sessions of instruction
6 for pupils as specified in regulations of the commissioner. The commis-
7 sioner shall assure that such conference days include appropriate school
8 violence prevention and intervention training, and may require that up
9 to one such conference day be dedicated for such purpose.

10 S 8. Clause (d-2) of subparagraph 3 of paragraph b of subdivision 1 of
11 section 4402 of the education law is REPEALED.

12 S 9. Paragraph a of subdivision 2 of section 4402 of the education
13 law, as amended by chapter 243 of the laws of 1989, is amended to read
14 as follows:

15 a. The board of education or trustees of each school district shall be
16 required to furnish suitable educational opportunities for [children
17 with handicapping conditions] STUDENTS WITH DISABILITIES by one of the
18 special services or programs listed in subdivision two of section
19 forty-four hundred one. The need of the individual child shall determine
20 which of such services shall be rendered. Each district shall provide to
21 the maximum extent appropriate such services in a manner which enables
22 [children with handicapping conditions] STUDENTS WITH DISABILITIES to
23 participate in regular education services when appropriate. Such
24 services or programs shall be furnished between the months of September
25 and June of each year, except that for the nineteen hundred eighty-sev-
26 en--eighty-eight school year and thereafter, with respect to the
27 students whose [handicapping conditions] DISABILITIES are severe enough
28 to exhibit the need for a structured learning environment of twelve
29 months duration to maintain developmental levels, the board of education
30 or trustees of each school district upon the recommendation of the
31 committee on special education [and, in the first instance, the consent
32 of the parent] shall also provide, either directly or by contract, for
33 the provision of special services and programs as defined in section
34 forty-four hundred one of this article during the months of July and
35 August as contained in the individualized education program for each
36 eligible [child] STUDENT, and with prior approval by the commissioner if
37 required; provided that [(i) a student with a handicapping condition who
38 is first eligible to attend public school in the nineteen hundred eight-
39 y-seven--eighty-eight school year shall not be eligible to receive
40 services pursuant to this paragraph during the months of July and August
41 nineteen hundred eighty-seven and (ii) a student with a handicapping
42 condition who is first eligible to attend public school in the nineteen
43 hundred eighty-eight--eighty-nine school year shall not be eligible to
44 receive services pursuant to this paragraph during the months of July
45 and August nineteen hundred eighty-eight and (iii) a student with a
46 handicapping condition who is eligible for services during the months of
47 July and August nineteen hundred eighty-nine pursuant to the provisions
48 of subdivision six of section forty-four hundred ten of this article
49 shall not be eligible to receive services pursuant to this paragraph
50 during such months and (iv)] a student with a [handicapping condition]
51 DISABILITY who is eligible for services, including services during the
52 months of July and August, pursuant to section forty-four hundred ten of
53 this article shall not be eligible to receive services pursuant to this
54 paragraph during the months of July and August.

55 S 10. Paragraphs (a) and (c) of subdivision 9-a of section 4410 of the
56 education law, paragraph (a) as amended by chapter 581 of the laws of

1 2011 and paragraph (c) as added by chapter 82 of the laws of 1995, are
2 amended to read as follows:

3 (a) A [school district or a] group of appropriately licensed and/or
4 certified professionals associated with a public or private agency may
5 apply to the commissioner for approval as an evaluator on a form
6 prescribed by the commissioner. The commissioner shall approve evalu-
7 ators pursuant to this subdivision consistent with the approval process
8 for the multi-disciplinary evaluation component of programs approved
9 pursuant to subdivision nine of this section consistent with regulations
10 adopted pursuant to such subdivision. ALL SCHOOL DISTRICTS ARE DEEMED
11 APPROVED EVALUATORS OF PRESCHOOL STUDENTS SUSPECTED OF HAVING A DISABIL-
12 ITY WITHOUT THE NEED TO SUBMIT AN APPLICATION TO THE COMMISSIONER.

13 Such application shall include, but not be limited to, a description
14 of the multi-disciplinary evaluation services proposed to be provided
15 and a demonstration that all agency employees and staff who provide such
16 evaluation services shall have appropriate licensure and/or certifi-
17 cation and that the individual who shall have direct supervision
18 responsibilities over such staff shall have an appropriate level of
19 experience in providing evaluation or services to preschool or kinder-
20 garten-aged children with disabilities. To be eligible for approval as
21 an evaluator under this subdivision on and after July first, two thou-
22 sand eleven, a group of appropriately licensed or certified profes-
23 sionals shall be formed as a limited liability company or professional
24 services corporation established pursuant to article fifteen of the
25 business corporation law, article twelve or thirteen of the limited
26 liability company law or article eight-B of the partnership law. The
27 approval of any groups of licensed or certified professionals that are
28 in existence on July first, two thousand eleven and would not be eligi-
29 ble for approval thereafter shall terminate on July first, two thousand
30 thirteen.

31 (c) The commissioner shall establish a billing and reimbursement
32 system for services provided by SCHOOL DISTRICTS AND evaluators approved
33 pursuant to the provisions of this subdivision consistent with billing
34 and reimbursement for evaluation services provided by evaluators
35 approved pursuant to the provisions of subdivision nine of this section.

36 S 11. Subclause (viii) of clause (a) of subparagraph 1 of paragraph b
37 of subdivision 1 of section 4402 of the education law, as amended by
38 chapter 194 of the laws of 2004, is amended to read as follows:

39 (viii) IF REQUESTED BY THE PARENT OR PERSON IN PARENTAL RELATIONSHIP
40 TO THE STUDENT, an additional parent, residing in the school district or
41 a neighboring school district, of a student with a disability, of a
42 student who has been declassified and is no longer eligible for an indi-
43 vidualized education program (IEP), or a parent of a disabled child who
44 has graduated, for a period of five years beyond the student's declassi-
45 fication or graduation, provided such parent shall not be employed by or
46 under contract with the school district[, and provided further that such
47 additional parent shall not be a required member if the parents request
48 that such additional parent member not participate]. DISTRICTS SHALL
49 PROVIDE PARENTS AND PERSONS IN PARENTAL RELATIONSHIP TO THE STUDENT
50 NOTICE OF THE RIGHT TO REQUEST THE PARTICIPATION OF AN ADDITIONAL
51 PARENT;

52 S 12. Paragraph a of subdivision 7 of section 4402 of the education
53 law, as added by chapter 408 of the laws of 2002, is amended to read as
54 follows:

55 a. The board of education or trustees of each school district and the
56 board of trustees of each charter school shall adopt a policy to ensure

1 that each regular education teacher, special education teacher, related
2 service provider, and other service provider who is responsible for the
3 implementation of a student's individualized education program shall be
4 given a copy of such student's individualized education program prior to
5 the implementation of such program OR SHALL BE ABLE TO ACCESS SUCH
6 STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM ELECTRONICALLY; PROVIDED,
7 HOWEVER, IF THE POLICY PROVIDES THAT THE STUDENT'S INDIVIDUALIZED EDUCA-
8 TION PROGRAM IS TO BE ACCESSED ELECTRONICALLY, THEN SUCH POLICY SHALL
9 ALSO ENSURE THAT THE INDIVIDUALS RESPONSIBLE FOR THE IMPLEMENTATION OF A
10 STUDENT'S INDIVIDUALIZED EDUCATION PROGRAM SHALL BE NOTIFIED AND TRAINED
11 ON HOW TO ACCESS SUCH INDIVIDUALIZED EDUCATION PROGRAMS ELECTRONICALLY.

12 S 13. Subdivision 2 of section 2116-b of the education law, as added
13 by chapter 263 of the laws of 2005, is amended to read as follows:

14 2. School districts of less than eight teachers, school districts with
15 actual general fund expenditures totaling less than five million dollars
16 in the previous school year, or school districts with actual enrollment
17 of less than [three hundred] ONE THOUSAND students in the previous
18 school year shall be exempt from this requirement. Any school district
19 claiming such exemption shall annually certify to the commissioner that
20 such school district meets the requirements set forth in this subdivi-
21 sion. ANY SCHOOL DISTRICT WITH ACTUAL ENROLLMENT OF LESS THAN ONE THOU-
22 SAND STUDENTS IN THE PREVIOUS SCHOOL YEAR THAT HAS ESTABLISHED AN INTER-
23 NAL AUDIT FUNCTION MAY DISCONTINUE SUCH FUNCTION, UPON NOTICE TO THE
24 STATE COMPTROLLER AND THE COMMISSIONER.

25 S 14. The general municipal law is amended by adding a new section 25
26 to read as follows:

27 S 25. FUNDING OF MANDATES. 1. DEFINITIONS. AS USED IN THIS SECTION,
28 THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS UNLESS THE CONTEXT
29 SHALL OTHERWISE REQUIRE:

30 (A) "MANDATE" MEANS:

31 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
32 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A
33 MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE; OR

34 (II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
35 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH THE MUNICIPAL CORPO-
36 RATION IS REQUIRED TO PROVIDE.

37 (B) "UNFUNDED MANDATE" SHALL MEAN:

38 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
39 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A
40 MUNICIPAL CORPORATION IS REQUIRED TO PROVIDE AND WHICH RESULTS IN A NET
41 ADDITIONAL COST TO THE MUNICIPAL CORPORATION;

42 (II) ANY ALTERATION IN FUNDING PROVIDED TO A MUNICIPAL CORPORATION FOR
43 THE PURPOSE OF DEFRAYING THE COSTS OF A PROGRAM WHICH IT IS REQUIRED TO
44 PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO THE MUNICIPAL
45 CORPORATION; OR

46 (III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
47 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH THE MUNICIPAL CORPO-
48 RATION IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL
49 COST TO THE MUNICIPAL CORPORATION.

50 (C) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTIC-
51 IPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A LOCAL GOVERNMENT IN
52 PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY
53 REVENUES RECEIVED OR RECEIVABLE BY THE LOCAL GOVERNMENT ON ACCOUNT OF
54 THE MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

55 (I) FEES CHARGED TO THE RECIPIENTS OF THE MANDATED PROGRAM OR SERVICE;

1 (II) STATE OR FEDERAL AID PAID SPECIFICALLY OR CATEGORICALLY IN
2 CONNECTION WITH THE PROGRAM OR SERVICE; AND

3 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-
4 NATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE
5 PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

6 2. FUNDING OF MUNICIPAL CORPORATION MANDATES. NOTWITHSTANDING ANY
7 OTHER PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH
8 CREATES AN ANNUAL NET ADDITIONAL COST TO ANY MUNICIPAL CORPORATION.

9 3. EXEMPTIONS TO THE FUNDING OF MUNICIPAL CORPORATION MANDATES
10 REQUIREMENT. (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR
11 EXPANDED PROGRAMS IF:

12 (I) THE MANDATE IS REQUIRED BY A COURT ORDER OR JUDGMENT;

13 (II) THE MANDATE IS PROVIDED AT THE OPTION OF THE LOCAL GOVERNMENT
14 UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE RATHER THAN
15 MANDATORY;

16 (III) THE MANDATE RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE
17 WHEREBY A LOCAL GOVERNMENT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM
18 OR SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY
19 UPON THAT LOCAL GOVERNMENT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE
20 PROGRAM OR SERVICE;

21 (IV) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF
22 THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

23 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
24 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
25 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
26 EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE
27 FEDERAL GOVERNMENT.

28 (B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
29 DATE OF ANY SUCH MANDATE IMPOSED ON MUNICIPAL CORPORATIONS SHALL BE
30 CONSISTENT WITH THE NEEDS OF THE STATE AND MUNICIPAL CORPORATIONS TO
31 PLAN IMPLEMENTATION THEREOF AND CONSISTENT WITH THE AVAILABILITY OF
32 REQUIRED FUNDS.

33 S 15. The education law is amended by adding a new section 1527-a to
34 read as follows:

35 S 1527-A. FUNDING OF MANDATES IMPOSED ON SCHOOL DISTRICTS. 1. DEFI-
36 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
37 FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL OTHERWISE REQUIRE:

38 (A) "MANDATE" MEANS:

39 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
40 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH A
41 SCHOOL DISTRICT ORGANIZED EITHER BY SPECIAL LAWS OR PURSUANT TO THE
42 PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE; OR

43 (II) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
44 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
45 DISTRICT IS REQUIRED TO PROVIDE.

46 (B) "UNFUNDED MANDATE" SHALL MEAN:

47 (I) ANY STATE LAW, RULE, OR REGULATION WHICH CREATES A NEW PROGRAM OR
48 REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING PROGRAM WHICH ANY
49 SUCH SCHOOL DISTRICT IS REQUIRED TO PROVIDE AND WHICH RESULTS IN A NET
50 ADDITIONAL COST TO SUCH SCHOOL DISTRICT;

51 (II) ANY ALTERATION IN FUNDING PROVIDED TO ANY SUCH SCHOOL DISTRICT
52 FOR THE PURPOSE OF DEFRAYING THE COSTS OF A PROGRAM WHICH IT IS REQUIRED
53 TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL COST TO SUCH SCHOOL
54 DISTRICT; OR

55 (III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
56 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL

1 DISTRICT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL
2 COST TO SUCH SCHOOL DISTRICT.

3 (C) "NET ADDITIONAL COST" MEANS THE COST OR COSTS INCURRED OR ANTIC-
4 IPATED TO BE INCURRED WITHIN A ONE YEAR PERIOD BY A SCHOOL DISTRICT IN
5 PERFORMING OR ADMINISTERING A MANDATE AFTER SUBTRACTING THEREFROM ANY
6 REVENUES RECEIVED OR RECEIVABLE BY THE SCHOOL DISTRICT ON ACCOUNT OF THE
7 MANDATED PROGRAM OR SERVICE, INCLUDING BUT NOT LIMITED TO:

8 (I) FEES CHARGED TO THE RECIPIENTS OF THE MANDATED PROGRAM OR SERVICE;

9 (II) STATE OR FEDERAL AID PAID SPECIFICALLY OR CATEGORICALLY IN
10 CONNECTION WITH THE PROGRAM OR SERVICE; AND

11 (III) AN OFFSETTING SAVINGS RESULTING FROM THE DIMINUTION OR ELIMI-
12 NATION OF ANY OTHER PROGRAM OR SERVICE DIRECTLY ATTRIBUTABLE TO THE
13 PERFORMANCE OR ADMINISTRATION OF THE MANDATED PROGRAM.

14 2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER
15 PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN
16 ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT.

17 3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT.

18 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS
19 FOR SCHOOL DISTRICTS IF:

20 (I) THE MANDATE IS REQUIRED BY A COURT ORDER OR JUDGMENT;

21 (II) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT
22 UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE RATHER THAN
23 MANDATORY;

24 (III) THE MANDATE RESULTS FROM THE PASSAGE OF A HOME RULE MESSAGE
25 WHEREBY A SCHOOL DISTRICT REQUESTS AUTHORITY TO IMPLEMENT THE PROGRAM OR
26 SERVICE SPECIFIED IN THE STATUTE, AND THE STATUTE IMPOSES COSTS ONLY
27 UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE AUTHORITY TO IMPOSE THE
28 PROGRAM OR SERVICE;

29 (IV) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF
30 THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

31 (V) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
32 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
33 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
34 EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE COSTS MANDATED BY THE
35 FEDERAL GOVERNMENT.

36 (B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
37 DATE OF ANY SUCH MANDATE IMPOSED ON SCHOOL DISTRICTS SHALL BE CONSISTENT
38 WITH THE NEEDS OF THE STATE AND SCHOOL DISTRICTS TO PLAN IMPLEMENTATION
39 THEREOF, AND ALSO CONSISTENT WITH THE AVAILABILITY OF REQUIRED FUNDS.

40 S 16. The education law is amended by adding a new section 308-a to
41 read as follows:

42 S 308-A. SPECIAL PROVISIONS; MANDATES. 1. AS USED IN THIS SECTION,
43 "MANDATE" MEANS (A) ANY STATE LAW, RULE OR REGULATION WHICH CREATES A
44 NEW PROGRAM OR REQUIRES A HIGHER LEVEL OF SERVICE FOR AN EXISTING
45 PROGRAM WHICH A SCHOOL DISTRICT, ORGANIZED EITHER BY SPECIAL LAWS OR
46 PURSUANT TO THE PROVISIONS OF A GENERAL LAW, IS REQUIRED TO PROVIDE, OR

47 (B) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
48 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
49 DISTRICT IS REQUIRED TO PROVIDE.

50 2. IN THE EVENT THAT A MANDATE WHICH IMPOSES A COST UPON A SCHOOL
51 DISTRICT IS CREATED AFTER THE ADOPTION OF A SCHOOL BUDGET, SUCH MANDATE
52 SHALL NOT BE IMPLEMENTED UNTIL THE FOLLOWING YEAR FOR WHICH SUCH SCHOOL
53 BUDGET WAS ADOPTED.

54 3. NOTWITHSTANDING SUBDIVISION TWO OF THIS SECTION, SUCH A MANDATE CAN
55 BE IMPOSED IF:

1 (A) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL DISTRICT UNDER
2 A LAW, REGULATION, RULE OR ORDER THAT IS PERMISSIVE RATHER THAN MANDATO-
3 RY;

4 (B) THE MANDATE IS REQUIRED BY, OR ARISES FROM, AN EXECUTIVE ORDER OF
5 THE GOVERNOR EXERCISING HIS OR HER EMERGENCY POWERS; OR

6 (C) THE MANDATE IS REQUIRED BY STATUTE OR EXECUTIVE ORDER THAT IMPLE-
7 MENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM COSTS MANDATED BY THE
8 FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL, UNLESS THE STATUTE OR
9 EXECUTIVE ORDER IMPOSES COSTS WHICH EXCEED THE COSTS MANDATED BY THE
10 FEDERAL GOVERNMENT.

11 S 17. Subdivision 6 of section 2.30 of the criminal procedure law, as
12 amended by chapter 491 of the laws of 2010, is amended to read as
13 follows:

14 6. A certificate attesting to satisfactory completion of the training
15 requirements imposed under this section awarded to any peace officer by
16 the [executive director] CHAIRMAN of the municipal police training coun-
17 cil pursuant to this section shall remain valid:

18 (a) during the holder's continuous service as a peace officer; and

19 (b) for [two] FIVE years after the date of the commencement of an
20 interruption in such service where the holder had, immediately prior to
21 such interruption, served as a peace officer [for less than two consec-
22 utive years; or

23 (c) for four years after the date of the commencement of an inter-
24 ruption in such service where the holder had, immediately prior to such
25 interruption, served as a peace officer for two consecutive years or
26 longer].

27 As used in this subdivision, the term "interruption" shall mean a
28 period of separation from employment as a peace officer by reason of
29 such officer's leave of absence, resignation or removal, other than
30 removal for cause.

31 S 18. Subdivisions 1 and 1-a of section 209-q of the general municipal
32 law, subdivision 1 as amended by chapter 735 of the laws of 1988, para-
33 graphs (b) and (c) of subdivision 1 as amended by chapter 551 of the
34 laws of 2001 and subdivision 1-a as added by chapter 671 of the laws of
35 1967, are amended to read as follows:

36 1. (a) Notwithstanding the provisions of any general, special or local
37 law or charter to the contrary, no person shall[, after July first,
38 nineteen hundred sixty,] receive an original appointment on a permanent
39 basis as a police officer of any county, city, town, village or police
40 district unless such person has previously been awarded a certificate by
41 the [executive director] CHAIRMAN of the municipal police training coun-
42 cil created under article thirty-five of the executive law, attesting to
43 his OR HER satisfactory completion of an approved municipal police basic
44 training program; and every person who is appointed [on a temporary
45 basis or for a probationary term or on other than a permanent basis] as
46 a police officer [of any county, city, town, village or police district]
47 shall forfeit his OR HER position as such unless he OR SHE previously
48 has satisfactorily completed, or within the time prescribed by regu-
49 lations promulgated by the governor pursuant to section eight hundred
50 forty-two of the executive law, satisfactorily completes[, a] AN
51 APPROVED municipal police basic training program [for temporary or
52 probationary police officers] and is awarded a certificate by such
53 [director] CHAIRMAN attesting thereto.

54 (b) A certificate attesting to satisfactory completion of an approved
55 municipal police basic training program awarded by the [executive direc-

1 tor] CHAIRMAN of the municipal police training council pursuant to this
2 subdivision shall remain valid:

3 (i) during the holder's continuous service as a police officer [or
4 peace officer who has an equivalency certificate for police officer
5 training or an approved course for state university of New York public
6 safety officers issued in accordance with subdivision three of section
7 eight hundred forty-one of the executive law]; and

8 (ii) for [two] FIVE years after the date of the commencement of an
9 interruption in such service where the holder had, immediately prior to
10 such interruption, served as a police officer [or peace officer who has
11 an equivalency certificate for police officer training or an approved
12 course for state university of New York public safety officers issued in
13 accordance with subdivision three of section eight hundred forty-one of
14 the executive law, for less than two consecutive years]; or

15 (iii) [for four years after the date of the commencement of an inter-
16 ruption in such service where the holder had, immediately prior to such
17 interruption, served as a police officer or peace officer who has an
18 equivalency certificate for police officer training or an approved
19 course for state university of New York public safety officers issued in
20 accordance with subdivision three of section eight hundred forty-one of
21 the executive law, for two consecutive years or longer; or

22 (iv)] where the holder, whose interruption in continuous service as a
23 police officer does not exceed ten years, has satisfactorily completed
24 an approved police officer refresher course [or where a peace officer,
25 who seeks an equivalency certificate for police officer training or an
26 approved course for state university of New York public safety officers
27 issued in accordance with subdivision three of section eight hundred
28 forty-one of the executive law, has satisfactorily completed relevant
29 police officer training courses,] as prescribed by the municipal police
30 training council.

31 (c) As used in this subdivision, the term "interruption" shall mean a
32 period of separation from employment as a police officer [or peace offi-
33 cer who has an equivalency certificate for police officer training or an
34 approved course for state university of New York public safety officers
35 issued in accordance with subdivision three of section eight hundred
36 forty-one of the executive law,] by reason of such officer's leave of
37 absence, resignation or removal, other than removal for cause.

38 1-a. Notwithstanding the provisions of any general, special or local
39 law or charter, the promotion of any police officer to a first-line
40 supervisory position [on or after July first, nineteen hundred sixty-
41 seven,] shall not become permanent unless such police officer has previ-
42 ously been awarded a certificate by the [executive director] CHAIRMAN of
43 the municipal police training council created under article [nineteen-f]
44 THIRTY-FIVE of the executive law, attesting to his OR HER satisfactory
45 completion of an approved course in police supervision as prescribed by
46 the municipal police training council. Any police officer who is
47 promoted on any basis to a first-line supervisory position [on or after
48 July first, nineteen hundred sixty-seven] shall forfeit such promotion
49 unless he OR SHE previously has satisfactorily completed, or within the
50 time prescribed by regulations promulgated by the governor pursuant to
51 section [four hundred eighty-four] EIGHT HUNDRED FORTY-TWO of the execu-
52 tive law satisfactorily completes, the prescribed course in police
53 supervision and is awarded a certificate by such [director] CHAIRMAN
54 attesting thereto.

1 S 19. Subdivision 1 of section 103 of the general municipal law, as
2 amended by section 1 of chapter 2 of the laws of 2012, is amended to
3 read as follows:

4 1. Except as otherwise expressly provided by an act of the legislature
5 or by a local law adopted prior to September first, nineteen hundred
6 fifty-three, all contracts for public work involving an expenditure of
7 more than [thirty-five] ONE HUNDRED thousand dollars and all purchase
8 contracts involving an expenditure of more than [twenty] FIFTY thousand
9 dollars, shall be awarded by the appropriate officer, board or agency of
10 a political subdivision or of any district therein including but not
11 limited to a soil conservation district to the lowest responsible bidder
12 furnishing the required security after advertisement for sealed bids in
13 the manner provided by this section, provided, however, that purchase
14 contracts (including contracts for service work, but excluding any
15 purchase contracts necessary for the completion of a public works
16 contract pursuant to article eight of the labor law) may be awarded on
17 the basis of best value, as defined in section one hundred sixty-three
18 of the state finance law, to a responsive and responsible bidder or
19 offerer in the manner provided by this section except that in a poli-
20 tical subdivision other than a city with a population of one million
21 inhabitants or more or any district, board or agency with jurisdiction
22 exclusively therein the use of best value for awarding a purchase
23 contract or purchase contracts must be authorized by local law or, in
24 the case of a district corporation, school district or board of cooper-
25 ative educational services, by rule, regulation or resolution adopted at
26 a public meeting. In any case where a responsible bidder's or responsi-
27 ble offerer's gross price is reducible by an allowance for the value of
28 used machinery, equipment, apparatus or tools to be traded in by a poli-
29 tical subdivision, the gross price shall be reduced by the amount of
30 such allowance, for the purpose of determining the best value. In cases
31 where two or more responsible bidders furnishing the required security
32 submit identical bids as to price, such officer, board or agency may
33 award the contract to any of such bidders. Such officer, board or agency
34 may, in his or her or its discretion, reject all bids or offers and
35 readvertise for new bids or offers in the manner provided by this
36 section. In determining whether a purchase is an expenditure within the
37 discretionary threshold amounts established by this subdivision, the
38 officer, board or agency of a political subdivision or of any district
39 therein shall consider the reasonably expected aggregate amount of all
40 purchases of the same commodities, services or technology to be made
41 within the twelve-month period commencing on the date of purchase.
42 Purchases of commodities, services or technology shall not be arti-
43 ficially divided for the purpose of satisfying the discretionary buying
44 thresholds established by this subdivision. A change to or a renewal of
45 a discretionary purchase shall not be permitted if the change or renewal
46 would bring the reasonably expected aggregate amount of all purchases of
47 the same commodities, services or technology from the same provider
48 within the twelve-month period commencing on the date of the first
49 purchase to an amount greater than the discretionary buying threshold
50 amount. For purposes of this section, "sealed bids" and "sealed offers",
51 as that term applies to purchase contracts, (including contracts for
52 service work, but excluding any purchase contracts necessary for the
53 completion of a public works contract pursuant to article eight of the
54 labor law) shall include bids and offers submitted in an electronic
55 format including submission of the statement of non-collusion required
56 by section one hundred three-d of this article, provided that the

1 governing board of the political subdivision or district, by resolution,
2 has authorized the receipt of bids and offers in such format. Submission
3 in electronic format may, for technology contracts only, be required as
4 the sole method for the submission of bids and offers. Bids and offers
5 submitted in an electronic format shall be transmitted by bidders and
6 offerers to the receiving device designated by the political subdivision
7 or district. Any method used to receive electronic bids and offers shall
8 comply with article three of the state technology law, and any rules and
9 regulations promulgated and guidelines developed thereunder and, at a
10 minimum, must (a) document the time and date of receipt of each bid and
11 offer received electronically; (b) authenticate the identity of the
12 sender; (c) ensure the security of the information transmitted; and (d)
13 ensure the confidentiality of the bid or offer until the time and date
14 established for the opening of bids or offers. The timely submission of
15 an electronic bid or offer in compliance with instructions provided for
16 such submission in the advertisement for bids or offers and/or the spec-
17 ifications shall be the responsibility solely of each bidder or offerer
18 or prospective bidder or offerer. No political subdivision or district
19 therein shall incur any liability from delays of or interruptions in the
20 receiving device designated for the submission and receipt of electronic
21 bids and offers.

22 S 20. Subdivision 1 of section 103 of the general municipal law, as
23 amended by section 2 of chapter 2 of the laws of 2012, is amended to
24 read as follows:

25 1. Except as otherwise expressly provided by an act of the legislature
26 or by a local law adopted prior to September first, nineteen hundred
27 fifty-three, all contracts for public work involving an expenditure of
28 more than [thirty-five] ONE HUNDRED thousand dollars and all purchase
29 contracts involving an expenditure of more than [twenty] FIFTY thousand
30 dollars, shall be awarded by the appropriate officer, board or agency of
31 a political subdivision or of any district therein including but not
32 limited to a soil conservation district to the lowest responsible bidder
33 furnishing the required security after advertisement for sealed bids in
34 the manner provided by this section, provided, however, that purchase
35 contracts (including contracts for service work, but excluding any
36 purchase contracts necessary for the completion of a public works
37 contract pursuant to article eight of the labor law) may be awarded on
38 the basis of best value, as defined in section one hundred sixty-three
39 of the state finance law, to a responsive and responsible bidder or
40 offerer in the manner provided by this section except that in a poli-
41 tical subdivision other than a city with a population of one million
42 inhabitants or more or any district, board or agency with jurisdiction
43 exclusively therein the use of best value of awarding a purchase
44 contract or purchase contracts must be authorized by local law or, in
45 the case of a district corporation, school district or board of cooper-
46 ative educational services, by rule, regulation or resolution adopted at
47 a public meeting. In determining whether a purchase is an expenditure
48 within the discretionary threshold amounts established by this subdivi-
49 sion, the officer, board or agency of a political subdivision or of any
50 district therein shall consider the reasonably expected aggregate amount
51 of all purchases of the same commodities, services or technology to be
52 made within the twelve-month period commencing on the date of purchase.
53 Purchases of commodities, services or technology shall not be arti-
54 ficially divided for the purpose of satisfying the discretionary buying
55 thresholds established by this subdivision. A change to or a renewal of
56 a discretionary purchase shall not be permitted if the change or renewal

1 would bring the reasonably expected aggregate amount of all purchases of
2 the same commodities, services or technology from the same provider
3 within the twelve-month period commencing on the date of the first
4 purchase to an amount greater than the discretionary buying threshold
5 amount. In any case where a responsible bidder's or responsible
6 offerer's gross price is reducible by an allowance for the value of used
7 machinery, equipment, apparatus or tools to be traded in by a political
8 subdivision, the gross price shall be reduced by the amount of such
9 allowance, for the purpose of determining the low bid or best value. In
10 cases where two or more responsible bidders furnishing the required
11 security submit identical bids as to price, such officer, board or agen-
12 cy may award the contract to any of such bidders. Such officer, board or
13 agency may, in his, her or its discretion, reject all bids or offers and
14 readvertise for new bids or offers in the manner provided by this
15 section.

16 S 21. Paragraph (c) of subdivision 5 of section 421 of the social
17 services law, as added by chapter 525 of the laws of 2006, is amended to
18 read as follows:

19 (c) require all persons assigned to be a supervisor by a child protec-
20 tive service on or after April first, nineteen hundred eighty-six, shall
21 have satisfactorily completed, within the first three months of employ-
22 ment as a supervisor or within three months of the effective date of
23 this paragraph, whichever shall occur first, a course in the fundamen-
24 tals of child protection developed by the office of children and family
25 services. Such training course shall, among other things, strengthen and
26 expand current training procedures for child protective service supervi-
27 sors; provide the skills, knowledge and standards to practice effective
28 case planning and case management; provide comprehensive assessment
29 tools needed in critical decision making; require participation in the
30 existing common core training required by child protective service case-
31 workers ONLY WHEN SUCH SUPERVISOR HAS NEVER HAD SUCH TRAINING OR MORE
32 THAN FIVE YEARS HAVE ELAPSED SINCE SUCH TRAINING; strengthen recognition
33 and response to safety and risk indicators; improve skills to promote
34 consistent implementation of training and practice; provide the neces-
35 sary tools and assistance to build the ability to coach and monitor
36 child protective service caseworkers and model effective investigation
37 practice; increase cultural competency and sensitivity; and establish an
38 annual in service training program specifically focused on child protec-
39 tive service supervisors.

40 S 22. This act shall take effect July 1, 2012; provided that in the
41 event this act shall become a law after such date, it shall take effect
42 immediately and shall be deemed to have been in full force and effect on
43 and after July 1, 2012; and provided further that:

44 (a) the amendments to subdivision 1-b of the general municipal law
45 made by section four of this act shall not affect the repeal of such
46 subdivision and shall be deemed repealed therewith;

47 (b) sections fourteen through sixteen of this act shall be deemed to
48 have been in full force and effect on and after April 1, 2012 and shall
49 apply to any general or special law imposing mandates on municipal
50 corporations or school districts enacted on or after such effective
51 date;

52 (c) the commissioner of education shall adopt any regulations needed
53 to implement the provisions of sections sixteen through twenty-one of
54 this act on or before July 1, 2013; and

55 (d) provided further that the amendments to subdivision 1 of section
56 103 of the general municipal law, made by section nineteen of this act,

1 shall be subject to the expiration and reversion of such subdivision
2 pursuant to subdivision (a) of section 41 of part X of chapter 62 of the
3 laws of 2003, as amended, when upon such date the provisions of section
4 twenty of this act shall take effect.