

5567

2013-2014 Regular Sessions

I N S E N A T E

May 21, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to recognizing boards of cooperative educational services as regional leaders and to expand the provision of services by boards of cooperative educational services, authorizing school library systems to serve charter school libraries, expanding the authority of boards of cooperative educational services to provide services to charter schools, authorizing boards of cooperative educational services to enter into contracts with library systems for high-speed telecommunications services, authorizing boards of cooperative educational services to enter into contracts with state agencies for the administration of certain instructional services, authorizing the office of mental health to meet its educational obligations for certain children by contracting for such services with the board of cooperative educational services, providing school districts with flexibility in carrying out their claims auditing function and expanding the authority of boards of cooperative educational services to process fingerprints

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

1 Section 1. Legislative findings. The legislature finds and declares
2 that boards of cooperative educational services serve a critical func-
3 tion as regional leaders essential in supporting the State's commitment
4 to implementing the reforms in the State's Race to the Top Application
5 and in assisting the State in carrying out the State's educational poli-
6 cies, including but not limited to the reform agenda of the board of
7 regents. The role of the board of cooperative educational services is
8 essential to the State's effective implementation of a common set of
9 K-12 standards that are built on college and career readiness; develop-
10 ing and implementing common, high-quality assessments; assisting

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

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1 districts in fully implementing a statewide longitudinal data system and
2 improving teacher and principal effectiveness using a rigorous State-
3 wide evaluation system and ensuring accountability.

4 S 2. Section 282 of the education law, as added by chapter 348 of the
5 laws of 1984, is amended to read as follows:

6 S 282. Establishment of school library systems. The commissioner is
7 authorized to approve the establishment of school library systems, each
8 system to be composed of school districts which are located within a
9 board of cooperative educational services area, or a school district
10 serving a city with a population of one hundred twenty-five thousand or
11 more, or combinations thereof. The systems may include non-public school
12 libraries as defined in regulations to be promulgated by the commission-
13 er AND CHARTER SCHOOL LIBRARIES. Upon establishment, such school
14 library systems shall be governed by either their respective boards of
15 cooperative educational services, by boards of education in school
16 districts serving cities with populations of one hundred twenty-five
17 thousand or more, or by a governing body established under the plan to
18 be submitted to the commissioner in cases of systems serving a combina-
19 tion of areas.

20 S 3. Paragraph h of subdivision 4 of section 1950 of the education law
21 is amended by adding a new subparagraph 11 to read as follows:

22 (11) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS LOCATED WITHIN THE
23 AREA SERVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES TO PROVIDE
24 SUCH CHARTER SCHOOLS, AT COST, WITH ANY SERVICES THE BOARD OF COOPER-
25 ATIVE EDUCATIONAL SERVICES PROVIDES TO SCHOOL DISTRICTS. CONTRACTS MUST
26 BE EXECUTED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND THE
27 BOARD OF TRUSTEES OF SUCH CHARTER SCHOOLS AND SHALL ONLY AUTHORIZE CHAR-
28 TER SCHOOL STUDENTS TO PARTICIPATE IN AN INSTRUCTIONAL PROGRAM IF SUCH
29 SERVICES ARE AVAILABLE TO ALL ELIGIBLE STUDENTS IN THE COMPONENT
30 DISTRICTS. TO BE APPROVED BY THE COMMISSIONER, THE CONTRACT, INCLUDING
31 ANY BUSINESS PLAN, SHALL DEMONSTRATE THAT ANY SERVICES PROVIDED TO CHAR-
32 TER SCHOOLS PURSUANT TO THIS SUBPARAGRAPH SHALL NOT RESULT IN ANY ADDI-
33 TIONAL COSTS BEING IMPOSED ON COMPONENT SCHOOL DISTRICTS AND THAT ANY
34 PAYMENTS RECEIVED BY THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES FOR
35 SERVICES PROVIDED IN THIS SUBPARAGRAPH THAT EXCEED ANY COST TO THE BOARD
36 OF COOPERATIVE EDUCATIONAL SERVICES FOR PROVIDING SUCH SERVICES SHALL BE
37 APPLIED TO REDUCE THE COSTS OF AIDABLE SHARED SERVICES ALLOCATED TO
38 COMPONENT SCHOOL DISTRICTS PURSUANT TO PARAGRAPH D OF THIS SUBDIVISION
39 AND SHALL ALSO BE APPLIED TO REDUCE THE APPROVED COST OF SERVICES PURSU-
40 ANT TO SUBDIVISION FIVE OF THIS SECTION. SERVICES PROVIDED BY A BOARD OF
41 COOPERATIVE EDUCATIONAL SERVICES TO COMPONENT DISTRICTS AT THE TIME OF
42 APPROVAL OF A CONTRACT UNDER THIS PARAGRAPH SHALL NOT BE REDUCED OR
43 ELIMINATED SOLELY DUE TO A BOARD OF COOPERATIVE EDUCATIONAL SERVICES'
44 PERFORMANCE OF SERVICES TO CHARTER SCHOOLS PURSUANT TO THIS PARAGRAPH.

45 S 4. Subparagraph 2 of paragraph h of subdivision 4 of section 1950 of
46 the education law, as amended by chapter 422 of the laws of 2012, is
47 amended to read as follows:

48 (2) To enter into contracts with the United States of America, the
49 State of New York, any school district, community college, public insti-
50 tution of higher education, independent institution of higher education
51 eligible for aid under section sixty-four hundred one of this chapter,
52 public libraries, or public agency in relation to the program of the
53 board of cooperative educational services, AND PUBLIC LIBRARIES OR
54 PUBLIC LIBRARY SYSTEMS TO PROVIDE TELECOMMUNICATIONS SERVICES TO SUCH
55 PUBLIC LIBRARIES OR SYSTEMS, INCLUDING, BUT NOT LIMITED TO, HIGH-SPEED
56 INTERNET SERVICES, and any such school district, community college,

1 institution of higher education, PUBLIC LIBRARY, PUBLIC LIBRARY SYSTEM
2 or public agency is hereby authorized and empowered to do and perform
3 any and all acts necessary or convenient in relation to the performance
4 of any such contracts.

5 S 5. Subparagraph 9 of paragraph h of subdivision 4 of section 1950 of
6 the education law, as added by section 1 of part M of chapter 56 of the
7 laws of 2012, is amended to read as follows:

8 (9) To enter into contracts with the commissioner of the office of
9 mental health, to provide [special education and related services]
10 EDUCATIONAL SERVICES, in accordance with subdivision six-b of section
11 thirty-two hundred two of this chapter to patients hospitalized in
12 hospitals operated by the office of mental health who are between the
13 ages of five and twenty-one who have not received a high school diploma;
14 PROVIDED HOWEVER THAT EDUCATIONAL SERVICES FOR SUCH STUDENTS SHALL BE
15 LIMITED TO THE PROVISION OF SPECIAL EDUCATION AND RELATED SERVICES FOR
16 STUDENTS WITH DISABILITIES UNLESS THE COMMISSIONER OF THE OFFICE OF
17 MENTAL HEALTH DETERMINES THAT REASONABLE EFFORTS WERE MADE TO CONTRACT
18 WITH A SCHOOL DISTRICT FOR THE PROVISION OF REGULAR EDUCATIONAL SERVICES
19 PURSUANT TO SUBDIVISION SIX-B OF SECTION THIRTY-SIX HUNDRED TWO OF THIS
20 CHAPTER BUT AN AGREEMENT COULD NOT BE REACHED. [Any such proposed
21 contract shall be subject to the review by the commissioner and his and
22 her determination that it is an approved cooperative educational
23 service. Services]

24 (I) PRIOR TO ENTERING ANY SUCH CONTRACT, AND ANNUALLY THEREAFTER, THE
25 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL SUBMIT TO THE COMMIS-
26 SIONER, THE COMMISSIONER OF THE OFFICE OF MENTAL HEALTH, AND THE DIVI-
27 SION OF THE BUDGET A PROPOSED OPERATING PLAN AND PROPOSED BUDGET BASED
28 UPON THE REQUEST FOR SERVICES RECEIVED FROM THE COMMISSIONER OF THE
29 OFFICE OF MENTAL HEALTH.

30 (II) THE EDUCATIONAL SERVICES THAT ARE CONTAINED IN SUCH OPERATING
31 PLAN SHALL BE SUBJECT TO THE APPROVAL OF THE COMMISSIONER UPON A DETER-
32 MINATION THAT SUCH SERVICES ARE NECESSARY TO SATISFY THE OBLIGATIONS
33 PURSUANT TO SECTION 33.11 OF THE MENTAL HYGIENE LAW OR SECTION ONE
34 HUNDRED TWELVE OF THIS TITLE.

35 (III) THE PROPOSED BUDGET ACCOMPANYING AN OPERATING PLAN APPROVED BY
36 THE COMMISSIONER SHALL CONFORM TO THE REQUIREMENT THAT ANY SERVICES
37 provided pursuant to [such contracts] A CONTRACT AUTHORIZED BY THIS
38 SUBPARAGRAPH shall be provided at cost and [approved by the commissioner
39 of the office of mental health and the director of the division of the
40 budget, and] the board of cooperative educational services shall not be
41 authorized to charge any costs incurred in providing such services to
42 its component school districts.

43 (IV) SERVICES PROVIDED BY A BOARD OF COOPERATIVE EDUCATIONAL SERVICES
44 TO COMPONENT DISTRICTS AT THE TIME OF APPROVAL OF A CONTRACT UNDER THIS
45 SUBPARAGRAPH SHALL NOT BE REDUCED OR ELIMINATED SOLELY DUE TO A BOARD OF
46 COOPERATIVE EDUCATIONAL SERVICES' PERFORMANCE OF SERVICES PURSUANT TO
47 THIS SUBPARAGRAPH.

48 S 6. Paragraph h of subdivision 4 of section 1950 of the education law
49 is amended by adding a new subparagraph 12 to read as follows:

50 (12) TO ENTER INTO CONTRACTS WITH STATE AGENCIES THAT HAVE SCHOOLS
51 MAINTAINED FOR CHILDREN IN FACILITIES OPERATED OR SUPERVISED BY SUCH
52 AGENCIES AND ARE RESPONSIBLE FOR THE EDUCATION OF SUCH CHILDREN, OTHER
53 THAN THE STATE AGENCIES TO WHICH SUBPARAGRAPH EIGHT OR NINE OF THIS
54 PARAGRAPH APPLY, TO PROVIDE SUCH CHILDREN WITH ANY INSTRUCTIONAL
55 SERVICES PROVIDED BY THE BOARDS OF COOPERATIVE EDUCATIONAL SERVICES TO
56 SCHOOL DISTRICTS, INCLUDING, BUT NOT LIMITED TO, SPECIAL EDUCATION AND

1 RELATED SERVICES. ANY SUCH PROPOSED CONTRACT SHALL BE SUBJECT TO THE
2 REVIEW AND APPROVAL OF THE COMMISSIONER. SERVICES PROVIDED PURSUANT TO
3 SUCH CONTRACTS SHALL BE PROVIDED AT COST TO SUCH STATE AGENCIES AND THE
4 BOARD OF COOPERATIVE EDUCATIONAL SERVICES SHALL NOT BE AUTHORIZED TO
5 CHARGE ANY COSTS INCURRED IN PROVIDING SUCH SERVICES TO ITS COMPONENT
6 SCHOOL DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND SUCH
7 STATE AGENCIES ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS
8 NECESSARY OR CONVENIENT IN RELATION TO THE PERFORMANCE OF SUCH
9 CONTRACTS.

10 S 7. Paragraph h of subdivision 4 of section 1950 of the education law
11 is amended by adding a new subparagraph 13 to read as follows:

12 (13) TO ENTER INTO CONTRACTS WITH SCHOOL DISTRICTS FOR THE PURPOSE OF
13 PROVIDING TREASURER AND PURCHASING AGENT SERVICES TO SUCH SCHOOL
14 DISTRICTS. THE BOARD OF COOPERATIVE EDUCATIONAL SERVICES AND SUCH STATE
15 SCHOOLS ARE HEREBY AUTHORIZED TO DO AND PERFORM ANY AND ALL ACTS NECES-
16 SARY OR CONVENIENT IN RELATION TO THE PROVISION OF SUCH SERVICES.

17 S 8. Subdivision 4 of section 1950 of the education law is amended by
18 adding a new paragraph oo to read as follows:

19 OO. TO PROCESS FINGERPRINTS TO BE UTILIZED IN CRIMINAL HISTORY RECORD
20 CHECKS FOR PROSPECTIVE EMPLOYEES OF NONPUBLIC ELEMENTARY AND SECONDARY
21 SCHOOLS AND CHARTER SCHOOLS PURSUANT TO SUBDIVISION THIRTY OF SECTION
22 THREE HUNDRED FIVE OF THIS CHAPTER AND TO ENTER CONTRACTS WITH SUCH
23 SCHOOLS FOR SUCH PURPOSE, AND TO PROCESS FINGERPRINTS FOR CRIMINAL
24 HISTORY RECORDS SEARCHES PURSUANT TO SECTION THREE THOUSAND THIRTY-FIVE
25 OF THIS CHAPTER FOR APPLICANTS FOR TEACHER CERTIFICATION AND FOR APPLI-
26 CANTS FOR A CHARTER AS A CHARTER SCHOOL PURSUANT TO SUBDIVISION FOUR OF
27 SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS CHAPTER. SUCH PROCESSING
28 SERVICES SHALL BE PROVIDED AT COST AND THE BOARD OF COOPERATIVE EDUCA-
29 TIONAL SERVICES SHALL NOT BE AUTHORIZED TO CHARGE ANY COSTS INCURRED IN
30 PROVIDING SUCH SERVICES TO ITS COMPONENT SCHOOL DISTRICTS. THE BOARD OF
31 COOPERATIVE EDUCATIONAL SERVICES IS HEREBY AUTHORIZED TO DO AND PERFORM
32 ANY AND ALL ACTS NECESSARY OR CONVENIENT IN RELATION TO THE PROVISION OF
33 SUCH SERVICES.

34 S 9. Subdivision 6-b of section 3202 of the education law, as added by
35 section 2 of part M of chapter 56 of the laws of 2012, is amended to
36 read as follows:

37 6-b. The commissioner of mental health may meet his or her obligations
38 under section 33.11 of the mental hygiene law AND SECTION ONE HUNDRED
39 TWELVE OF THIS CHAPTER by contracting pursuant to this subdivision for
40 educational services for children between the ages of five and twenty-
41 one who do not hold a high school diploma and who are hospitalized in
42 hospitals operated by the office of mental health with the trustees or
43 board of education of any school district for educational services or
44 with a board of cooperative educational services for the provision of
45 EDUCATIONAL SERVICES TO SUCH CHILDREN, INCLUDING BUT NOT LIMITED TO,
46 special education and related services to [such] children WITH DISABILI-
47 TIES in accordance with their individualized education programs.

48 (1) The costs of such education shall not be a charge upon a school
49 district pursuant to section 33.11 of the mental hygiene law.

50 [(1) The education department shall reimburse the school district or
51 board of cooperative educational services providing educational services
52 pursuant to this subdivision for the full cost of all services pursuant
53 to the terms of such contract.]

54 (2) The commissioner of mental health, with the approval of the direc-
55 tor of the division of the budget, shall be authorized to [transfer
56 funding to the commissioner of education to the extent necessary to

1 reimburse school districts and boards of cooperative educational
2 services for services and educational programming provided under such
3 contracts] ESTABLISH THE TERMS OF THE CONTRACT, INCLUDING THE AGREED
4 UPON CHARGE FOR THE SERVICES TO BE PROVIDED, WHICH SHALL CONFORM TO THE
5 REQUIREMENTS CONTAINED WITHIN SUBPARAGRAPH NINE OF PARAGRAPH H OF SUBDI-
6 VISION FOUR OF SECTION NINETEEN HUNDRED FIFTY OF THIS CHAPTER.

7 (3) Notwithstanding any provision of law to the contrary, nothing in
8 this subdivision or subparagraph nine of paragraph h of subdivision four
9 of section nineteen hundred fifty of this chapter shall be construed as
10 requiring participation by any local school district or board of cooper-
11 ative educational services.

12 S 10. This act shall take effect July 1, 2013, provided however, if
13 this act shall become a law after such date it shall take effect imme-
14 diately and shall be deemed to have been in full force and effect on and
15 after July 1, 2013, provided further that the amendments to subparagraph
16 9 of paragraph h of subdivision 4 of section 1950 of the education law
17 made by section five of this act shall not affect the repeal of such
18 subparagraph and shall be deemed repealed therewith, and the amendments
19 to subdivision 6-b of section 3202 of the education law made by section
20 nine of this act shall not affect the repeal of such subdivision and
21 shall be deemed repealed therewith.