

3289

2013-2014 Regular Sessions

I N   A S S E M B L Y

January 24, 2013

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Introduced by M. of A. TENNEY, BLANKENBUSH -- Multi-Sponsored by -- M.  
of A. BARCLAY, CROUCH, McLAUGHLIN, PALMESANO -- read once and referred  
to the Committee on Education

AN ACT to amend the education law, in relation to removing any portion  
of incentive operating aid from the gap elimination adjustment

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

1     Section 1. Paragraph e of subdivision 1 of section 211-d of the educa-  
2     tion law, as amended by section 2 of part A of chapter 57 of the laws of  
3     2012, is amended to read as follows:  
4     e. Notwithstanding paragraphs a and b of this subdivision, a school  
5     district that submitted a contract for excellence for the two thousand  
6     eight--two thousand nine school year shall submit a contract for excel-  
7     lence for the two thousand nine--two thousand ten school year in  
8     conformity with the requirements of subparagraph (vi) of paragraph a of  
9     subdivision two of this section unless all schools in the district are  
10    identified as in good standing and provided further that, a school  
11    district that submitted a contract for excellence for the two thousand  
12    nine--two thousand ten school year, unless all schools in the district  
13    are identified as in good standing, shall submit a contract for excel-  
14    lence for the two thousand eleven--two thousand twelve school year which  
15    shall, notwithstanding the requirements of subparagraph (vi) of para-  
16    graph a of subdivision two of this section, provide for the expenditure  
17    of an amount which shall be not less than the product of the amount  
18    approved by the commissioner in the contract for excellence for the two  
19    thousand nine--two thousand ten school year, multiplied by the  
20    district's gap elimination adjustment percentage and provided further  
21    that, a school district that submitted a contract for excellence for the  
22    two thousand eleven--two thousand twelve school year, unless all schools  
23    in the district are identified as in good standing, shall submit a  
24    contract for excellence for the two thousand twelve--two thousand thir-

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

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1 teen school year which shall, notwithstanding the requirements of  
2 subparagraph (vi) of paragraph a of subdivision two of this section,  
3 provide for the expenditure of an amount which shall be not less than  
4 the amount approved by the commissioner in the contract for excellence  
5 for the two thousand eleven--two thousand twelve school year. For  
6 purposes of this paragraph, the "gap elimination adjustment percentage"  
7 shall be calculated as the sum of one minus the quotient of the sum of  
8 the school district's net gap elimination adjustment for two thousand  
9 ten--two thousand eleven computed pursuant to chapter fifty-three of the  
10 laws of two thousand ten, making appropriations for the support of  
11 government, plus the school district's gap elimination adjustment for  
12 two thousand eleven--two thousand twelve as computed pursuant to chapter  
13 fifty-three of the laws of two thousand eleven, making appropriations  
14 for the support of the local assistance budget, including support for  
15 general support for public schools, divided by the total aid for adjust-  
16 ment computed pursuant to chapter fifty-three of the laws of two thou-  
17 sand eleven, making appropriations for the local assistance budget,  
18 including support for general support for public schools. Provided,  
19 further, that such amount shall be expended to support and maintain  
20 allowable programs and activities approved in the two thousand nine--two  
21 thousand ten school year or to support new or expanded allowable  
22 programs and activities in the current year. PROVIDED, HOWEVER, THAT THE  
23 GAP ELIMINATION ADJUSTMENT SHALL NOT BE APPLIED TO ANY PORTION OF FUNDS  
24 RECEIVED THROUGH INCENTIVE OPERATING AID PURSUANT TO SECTION THIRTY-SIX  
25 HUNDRED TWO OF THIS CHAPTER.

26 S 2. Paragraph cc of subdivision 1 of section 3602 of the education  
27 law, as added by section 25 of part A of chapter 58 of the laws of 2011,  
28 is amended to read as follows:

29 cc. "Gap elimination adjustment percentage" shall mean the quotient of  
30 the gap elimination adjustment amount set forth for each school district  
31 as "GAP ELIMINATION ADJUSTMENT" under the heading "2011-12 ESTIMATED  
32 AIDS" in the school aid computer listing produced by the commissioner in  
33 support of the enacted budget for the two thousand eleven--two thousand  
34 twelve school year and entitled "SA111-2", divided by the statewide  
35 total of all such gap elimination adjustment amounts set forth for all  
36 districts in such school aid computer listing. PROVIDED, HOWEVER, THAT  
37 THE GAP ELIMINATION ADJUSTMENT SHALL NOT BE APPLIED TO ANY PORTION OF  
38 FUNDS RECEIVED THROUGH INCENTIVE OPERATING AID PURSUANT TO THIS SECTION.

39 S 3. Paragraphs a, c and the opening paragraph of paragraph b of  
40 subdivision 17 of section 3602 of the education law, paragraph a and the  
41 opening paragraph of paragraph b as added by section 37 of part A of  
42 chapter 58 of the laws of 2011 and paragraph c as amended by section 6  
43 of part A of chapter 57 of the laws of 2012, are amended to read as  
44 follows:

45 a. Notwithstanding any other provision of law to the contrary, the  
46 commissioner shall reduce payments due to each district for the two  
47 thousand eleven--two thousand twelve school year and thereafter pursuant  
48 to section thirty-six hundred nine-a of this article by an amount equal  
49 to the gap elimination adjustment computed for such district, and such  
50 amount shall be deducted from moneys apportioned for the purposes of  
51 payments made pursuant to such section thirty-six hundred nine-a and if  
52 the reduction is greater than the sum of the amounts available for such  
53 deductions, the remainder of the reduction shall be withheld from  
54 payments scheduled to be made to the district pursuant to section thir-  
55 ty-six hundred nine-a for the following school year, and provided  
56 further that an amount equal to the amount of such deduction shall be

1 deemed to have been paid to the district pursuant to this section for  
2 the school year in which such deduction is made. The commissioner shall  
3 compute such gap elimination adjustment and shall provide a schedule of  
4 such reduction in payments to the state comptroller, the director of the  
5 budget, the chair of the senate finance committee and the chair of the  
6 assembly ways and means committee. PROVIDED HOWEVER, THAT THE GAP ELIMI-  
7 NATION ADJUSTMENT SHALL NOT BE APPLIED TO ANY PORTION OF FUNDS RECEIVED  
8 THROUGH INCENTIVE OPERATING AID PURSUANT TO THIS SECTION.

9 The gap elimination adjustment for the two thousand eleven--two thou-  
10 sand twelve school year shall be computed as follows, PROVIDED HOWEVER,  
11 THAT THE GAP ELIMINATION ADJUSTMENT SHALL NOT BE APPLIED TO ANY PORTION  
12 OF FUNDS RECEIVED THROUGH INCENTIVE OPERATING AID PURSUANT TO THIS  
13 SECTION, based on an updated electronic [date] DATA file containing  
14 actual and estimated data relating to apportionments due and owing  
15 during the current school year and projections of such apportionments  
16 for the following school year to school districts and boards of cooper-  
17 ative educational services from the general support for public schools,  
18 growth and boards of cooperative educational services appropriations  
19 produced pursuant to paragraph b of subdivision twenty-one of section  
20 three hundred five of this chapter on February fifteenth of the base  
21 year. The gap elimination adjustment for a district shall equal the  
22 lesser of the district's percentage reduction and its TGFE check,  
23 provided, however, that in the case of a district with a tax effort  
24 ratio greater than four percent (0.04) and a combined wealth ratio for  
25 total foundation aid computed pursuant to subparagraph two of paragraph  
26 c of subdivision three of this section that is less than one and five-  
27 tenths (1.5), the gap elimination adjustment for a district shall equal  
28 the lesser of the percentage reduction, the TGFE check and the tax  
29 effort reduction, and further provided that in the case of a school  
30 district, other than a city school district of a city having a popu-  
31 lation in excess of one hundred twenty-five thousand, with (A) an admin-  
32 istrative efficiency ratio of less than one and eight-tenths percent  
33 (0.018) and (B) an administrative expense per pupil of less than three  
34 hundred forty-eight dollars (\$348), the gap elimination adjustment shall  
35 be reduced by an amount equal to the administrative efficiency restora-  
36 tion, and further provided that, where applicable, the gap elimination  
37 adjustment shall be reduced by an amount equal to the sum of the needs-  
38 based restoration plus the low wealth-high tax effort restoration plus  
39 the enrollment adjustment award.

40 c. The gap elimination adjustment for the two thousand twelve--two  
41 thousand thirteen school year and thereafter shall be equal to the gap  
42 elimination adjustment for the base year, plus, in any year in which the  
43 preliminary growth amount exceeds the allowable growth amount, the prod-  
44 uct of the gap elimination adjustment percentage for such district and  
45 the positive difference, if any, between the preliminary growth amount  
46 less the allowable growth amount, as computed pursuant to subdivision  
47 one of this section, and less the gap elimination adjustment restoration  
48 amount, if any, allocated pursuant to this section. PROVIDED, HOWEVER,  
49 THAT THE GAP ELIMINATION ADJUSTMENT SHALL NOT BE APPLIED TO ANY PORTION  
50 OF FUNDS RECEIVED THROUGH INCENTIVE OPERATING AID PURSUANT TO THIS  
51 SECTION.

52 S 4. This act shall take effect immediately; provided, however, that  
53 the amendments to section 3602 of the education law made by section two  
54 of this act shall be deemed to have been in full force and effect on the  
55 same date and in the same manner as section 25 of part A of chapter 58  
56 of the laws of 2011, took effect; provided, further, that the amendments

1 to section 3602 of the education law made by section three of this act  
2 shall be deemed to have been in full force and effect on the same date  
3 and in the same manner as section 37 of part A of chapter 58 of the laws  
4 of 2011, took effect.