

S. 318--A

A. 104--A

2015-2016 Regular Sessions

S E N A T E - A S S E M B L Y

(PREFILED)

January 7, 2015

IN SENATE -- Introduced by Sen. LAVALLE -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

IN ASSEMBLY -- Introduced by M. of A. THIELE -- read once and referred to the Committee on Education -- recommitted to the Committee on Education in accordance with Assembly Rule 3, sec. 2 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, the executive law, the general municipal law, the labor law, the penal law and the retirement and social security law, in relation to enacting the "New York state school taxpayers' protection act"

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

1 Section 1. Short title. This act shall be known and may be cited as
2 the "New York state school taxpayers' protection act".
3 S 2. Legislative findings and intent. Public school districts in New
4 York state have recently experienced numerous instances of financial
5 scandals. These scandals have been unprecedented in both the number and
6 diversity of financial malfeasance. Furthermore, such scandals result in
7 the diversion of hard-earned property taxpayers' money from their proper
8 use in school instruction to improper and illegal purposes that do not
9 further the school districts' essential mission of educating New York
10 children. Therefore, the legislature finds that it is necessary to
11 establish a new, independent state agency charged with the function of
12 investigating allegations of corruption, financial improprieties, unethical
13 conduct, misconduct or other criminal conduct within public school

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

LBD00717-02-6

1 districts outside of New York city. In addition, the legislature further
2 finds that the current laws must be amended to incorporate school
3 district financial safeguards and establish sanctions for violations of
4 school district finance laws.

5 S 3. The education law is amended by adding a new section 2116-d to
6 read as follows:

7 S 2116-D. PERSONS AND OFFICIALS REQUIRED TO REPORT CASES OF SUSPECTED
8 CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST OCCURRING
9 WITHIN THE OPERATIONS OF A SCHOOL DISTRICT. 1. THE FOLLOWING PERSONS AND
10 OFFICIALS ARE REQUIRED TO REPORT OR CAUSE A REPORT TO BE MADE IN ACCORD-
11 ANCE WITH THIS SECTION WHEN THEY DISCOVER INFORMATION CONCERNING CONDUCT
12 WHICH IS KNOWN OR SHOULD REASONABLY BE KNOWN TO INVOLVE CORRUPTION OR
13 OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST BY EITHER A PUBLIC
14 SCHOOL DISTRICT EMPLOYEE THAT RELATES TO THEIR EMPLOYMENT OR BY A
15 PERSON, PERSONS OR ENTITIES DOING BUSINESS WITH A PUBLIC SCHOOL DISTRICT
16 WITH RESPECT TO THEIR TRANSACTIONS WITH THE SCHOOL DISTRICT, ANY SCHOOL
17 DISTRICT OFFICER, AND ANY SCHOOL DISTRICT EMPLOYEE.

18 2. ANY PERSON OR OFFICIAL MANDATED TO REPORT CASES OF SUSPECTED
19 CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT OF INTEREST PURSUANT TO
20 SUBDIVISION ONE OF THIS SECTION SHALL IMMEDIATELY REPORT THE INFORMATION
21 THEY HAVE TO THE NEW YORK STATE INSPECTOR GENERAL FOR EDUCATION, AS
22 ESTABLISHED IN ARTICLE FOUR-B OF THE EXECUTIVE LAW.

23 3. ANY SCHOOL DISTRICT WHICH EMPLOYS PERSONS MANDATED TO REPORT
24 SUSPECTED INCIDENTS OF CORRUPTION, OTHER CRIMINAL ACTIVITY OR CONFLICT
25 OF INTEREST PURSUANT TO SUBDIVISION ONE OF THIS SECTION SHALL PROVIDE
26 SUCH CURRENT AND NEW EMPLOYEES WITH WRITTEN INFORMATION EXPLAINING THE
27 REPORTING REQUIREMENTS SET OUT IN SUBDIVISION ONE OF THIS SECTION.

28 4. ANY PERSON OR OFFICIAL REQUIRED BY THIS SECTION TO REPORT CERTAIN
29 INFORMATION AS SPECIFIED IN THIS SECTION WHO WILLFULLY FAILS TO DO SO
30 SHALL BE GUILTY OF A CLASS A MISDEMEANOR.

31 5. ANY PERSON OR OFFICIAL REQUIRED BY THIS SECTION TO REPORT CERTAIN
32 INFORMATION AS SPECIFIED IN THIS SECTION WHO KNOWINGLY AND WILLFULLY
33 FAILS TO DO SO SHALL BE CIVILLY LIABLE FOR THE DAMAGES PROXIMATELY
34 CAUSED BY SUCH FAILURE.

35 6. ANY PERSON OR OFFICIAL PARTICIPATING IN GOOD FAITH IN THE MAKING OF
36 A REPORT UNDER THIS SECTION SHALL HAVE IMMUNITY FROM ANY LIABILITY,
37 CIVIL OR CRIMINAL, THAT MIGHT OTHERWISE RESULT BY REASON OF SUCH
38 ACTIONS. FOR THE PURPOSE OF ANY PROCEEDING, CIVIL OR CRIMINAL, THE GOOD
39 FAITH OF ANY SUCH PERSON OR OFFICIAL REQUIRED TO REPORT UNDER THIS
40 SECTION SHALL BE PRESUMED, PROVIDED SUCH PERSON OR OFFICIAL WAS ACTING
41 IN DISCHARGE OF THEIR DUTIES AND WITHIN THE SCOPE OF THEIR EMPLOYMENT,
42 AND THAT SUCH LIABILITY DID NOT RESULT FROM THE WILLFUL MISCONDUCT OR
43 GROSS NEGLIGENCE OF SUCH PERSON OR OFFICIAL.

44 S 4. Subdivision 6 of section 2122 of the education law is amended to
45 read as follows:

46 6. Such treasurer shall[, whenever required by such trustees,] report
47 to [them] SUCH TRUSTEES a detailed [statement] ANNUAL REPORT of the
48 moneys received by him OR HER and of his OR HER disbursements, and at
49 the annual meeting of such district he OR SHE shall render a full
50 account of all moneys received by him OR HER and from what source, and
51 when received, and all disbursements made by him OR HER and to whom and
52 the dates of such disbursements respectively, and the balance of moneys
53 remaining in his OR HER hands. THE TREASURER SHALL CERTIFY IN SUCH
54 ANNUAL REPORT THAT HE OR SHE HAS: REVIEWED THE ANNUAL REPORT; THAT
55 BASED ON THE TREASURER'S KNOWLEDGE, THE REPORT DOES NOT CONTAIN ANY
56 UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATERIAL FACT

NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEADING; AND BASED ON SUCH TREASURER'S KNOWLEDGE, THE FINANCIAL STATEMENTS, AND OTHER FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY PRESENT IN ALL MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED IN THE REPORT.

S 5. Section 1720 of the education law is amended by adding a new subdivision 3 to read as follows:

3. THE TREASURER OF THE DISTRICT SHALL ISSUE AN ANNUAL REPORT WITH A FULL AND DETAILED ACCOUNT OF ALL MONEYS RECEIVED BY THE BOARD OR SUCH TREASURER, FOR ITS ACCOUNT AND USE, AND OF ALL THE MONEYS EXPENDED THEREFOR, GIVING THE ITEMS OF EXPENDITURE IN FULL. THE TREASURER SHALL CERTIFY IN SUCH ANNUAL REPORT THAT HE OR SHE HAS: REVIEWED THE ANNUAL REPORT; THAT BASED ON THE TREASURER'S KNOWLEDGE, THE REPORT DOES NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEADING; AND BASED ON SUCH TREASURER'S KNOWLEDGE, THE FINANCIAL STATEMENTS, AND OTHER FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY PRESENT IN ALL MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED IN THE REPORT.

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

18. TO CERTIFY IN THE ANNUAL REPORT ISSUED PURSUANT TO EITHER SECTION SEVENTEEN HUNDRED TWENTY OR SECTION TWENTY-ONE HUNDRED TWENTY-TWO OF THIS TITLE THAT HE OR SHE HAS: REVIEWED THE ANNUAL REPORT; THAT BASED ON THE SUPERINTENDENT'S KNOWLEDGE, THE REPORT DOES NOT CONTAIN ANY UNTRUE STATEMENT OF A MATERIAL FACT OR OMIT TO STATE A MATERIAL FACT NECESSARY IN ORDER TO MAKE THE STATEMENTS MADE, IN LIGHT OF THE CIRCUMSTANCES UNDER WHICH SUCH STATEMENTS WERE MADE, NOT MISLEADING; AND BASED ON SUCH SUPERINTENDENT'S KNOWLEDGE, THE FINANCIAL STATEMENTS, AND OTHER FINANCIAL INFORMATION INCLUDED IN THE REPORT, FAIRLY PRESENT IN ALL MATERIAL RESPECTS THE FINANCIAL CONDITION AND RESULTS OF OPERATIONS OF THE SCHOOL DISTRICT AS OF, AND FOR, THE PERIODS PRESENTED IN THE REPORT.

S 7. The education law is amended by adding a new section 2116-e to read as follows:

S 2116-E. COMPENSATION COMMITTEES. 1. EVERY SCHOOL DISTRICT, EXCEPT THOSE EMPLOYING FEWER THAN EIGHT TEACHERS, SHALL ESTABLISH BY A RESOLUTION OF THE TRUSTEES OR BOARD OF EDUCATION A LOCAL SCHOOL DISTRICT COMPENSATION COMMITTEE TO OVERSEE AND REPORT TO THE TRUSTEES OR BOARD ON THE PROPOSED CONTRACTS OF ALL SCHOOL DISTRICT BARGAINING UNITS, ADMINISTRATORS AND SUPERINTENDENTS.

2. THE COMPENSATION COMMITTEE SHALL BE ESTABLISHED NO LATER THAN JANUARY FIRST, TWO THOUSAND SEVENTEEN AS A COMMITTEE OF THE TRUSTEES OR BOARD, AS AN ADVISORY COMMITTEE, OR AS A COMMITTEE OF THE WHOLE.

3. THE COMPENSATION COMMITTEE SHALL CONSIST OF AT LEAST THREE MEMBERS, AT LEAST TWO OF WHOM SHALL NOT BE A TRUSTEE OR BOARD MEMBER. THE COMPENSATION COMMITTEE MEMBERS SHALL SERVE WITHOUT COMPENSATION. EMPLOYEES OF THE SCHOOL DISTRICT ARE PROHIBITED FROM SERVING ON THE COMPENSATION COMMITTEE. A MEMBER OF A COMPENSATION COMMITTEE SHALL BE DEEMED A SCHOOL DISTRICT OFFICER FOR THE PURPOSES OF SECTIONS THIRTY-EIGHT HUNDRED ELEVEN THROUGH THIRTY-EIGHT HUNDRED THIRTEEN OF THIS CHAPTER, BUT SHALL NOT BE REQUIRED TO BE A RESIDENT OF THE SCHOOL DISTRICT.

4. THE ROLE OF A COMPENSATION COMMITTEE SHALL BE ADVISORY AND ANY RECOMMENDATIONS IT PROVIDES TO THE TRUSTEES OR BOARD UNDER SUBDIVISION

FIVE OF THIS SECTION SHALL NOT SUBSTITUTE FOR ANY REQUIRED REVIEW AND ACTION BY THE TRUSTEES OR BOARD OF EDUCATION.

5. IT SHALL BE THE RESPONSIBILITY OF THE COMPENSATION COMMITTEE TO:

(A) REVIEW EVERY CONTRACT BETWEEN THE DISTRICT AND ANY BARGAINING UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS NEGOTIATED AFTER JANUARY FIRST, TWO THOUSAND SEVENTEEN;

(B) RECEIVE AND REVIEW PROPOSED CONTRACTS BETWEEN THE DISTRICT AND ANY BARGAINING UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS PRIOR TO SUCH CONTRACTS' APPROVAL; AND

(C) PROVIDE RECOMMENDATIONS TO THE TRUSTEES OR BOARD REGARDING THE SALARY, FRINGE BENEFITS AND OTHER FORMS OF COMPENSATION GIVEN AND PROPOSED TO BE GIVEN TO ALL SCHOOL DISTRICT EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS.

6. NOTWITHSTANDING ANY PROVISION OF ARTICLE SEVEN OF THE PUBLIC OFFICERS LAW OR ANY OTHER LAW TO THE CONTRARY, A SCHOOL DISTRICT COMPENSATION COMMITTEE MAY CONDUCT AN EXECUTIVE SESSION PURSUANT TO SECTION ONE HUNDRED FIVE OF THE PUBLIC OFFICERS LAW PERTAINING TO ANY MATTER SET FORTH IN PARAGRAPHS (A) AND (B) OF SUBDIVISION FIVE OF THIS SECTION.

7. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE REGULATIONS WITH RESPECT TO COMPENSATION COMMITTEES AS ARE NECESSARY FOR THE PROPER PERFORMANCE OF THEIR DUTIES.

8. AS LONG AS THE CHANCELLOR OF A SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS SHALL ANNUALLY CERTIFY TO THE COMMISSIONER THAT SUCH DISTRICT HAS A PROCESS FOR REVIEW BY A COMPENSATION COMMITTEE OF THE DISTRICT'S CONTRACTS WITH ANY BARGAINING UNITS, EMPLOYEES, ADMINISTRATORS AND SUPERINTENDENTS, THE PROVISIONS OF THIS SECTION SHALL NOT APPLY TO SUCH SCHOOL DISTRICT.

S 8. The education law is amended by adding a new section 2009-a to read as follows:

S 2009-A. ADDITIONAL REQUIREMENTS OF NOTICE PRIOR TO AUTHORIZATION OF SCHOOL DISTRICT EMPLOYMENT CONTRACTS. WHERE ANY COLLECTIVE BARGAINING AGREEMENT, EMPLOYMENT CONTRACT OR AMENDMENTS TO SUCH AGREEMENT OR CONTRACT IS TO BE SUBMITTED TO A DISTRICT MEETING FOR A VOTE, THE SCHOOL DISTRICT BOARD OR TRUSTEES SHALL GIVE NOTICE, AT LEAST FIVE WEEKS PRIOR TO SUCH MEETING, THROUGH A DISTRICT-WIDE MAILING OF THE AVAILABILITY OF THE AGREEMENT, CONTRACT OR AMENDMENT AT PUBLIC LIBRARIES WITHIN THE DISTRICT, AT THE SCHOOL DISTRICT OFFICES AND ON THE SCHOOL DISTRICT'S INTERNET WEBSITE, IF ONE EXISTS.

S 9. Subdivision 4 of section 1608 of the education law, as amended by chapter 640 of the laws of 2008, is amended to read as follows:

4. Commencing with the proposed budget for the nineteen hundred ninety-eight--ninety-nine school year, such proposed budget shall be presented in three components: a program component, a capital component and an administrative component which shall be separately delineated in accordance with regulations of the commissioner after consultation with local school district officials. The administrative component shall include, but need not be limited to, office and central administrative expenses, traveling expenses and all compensation, salaries and benefits of all school administrators and supervisors, including business administrators, superintendents of schools and deputy, assistant, associate or other superintendents under all existing employment contracts or collective bargaining agreements, AND TEACHERS UNDER EXISTING EMPLOYMENT CONTRACTS, any and all expenditures associated with the operation of the office of trustee or board of trustees, the office of the superintendent of schools, general administration, the school business office, consulting costs not directly related to direct student services and programs,

1 planning and all other administrative activities. The program component
2 shall include, but need not be limited to, all program expenditures of
3 the school district, including the salaries and benefits of teachers and
4 any school administrators or supervisors who spend a majority of their
5 time performing teaching duties, and all transportation operating
6 expenses. The capital component shall include, but need not be limited
7 to, all transportation capital, debt service, and lease expenditures;
8 costs resulting from judgments in tax certiorari proceedings or the
9 payment of awards from court judgments, administrative orders or settled
10 or compromised claims; and all facilities costs of the school district,
11 including facilities lease expenditures, the annual debt service and
12 total debt for all facilities financed by bonds and notes of the school
13 district, and the costs of construction, acquisition, reconstruction,
14 rehabilitation or improvement of school buildings, provided that such
15 budget shall include a rental, operations and maintenance section that
16 includes base rent costs, total rent costs, operation and maintenance
17 charges, cost per square foot for each facility leased by the school
18 district, and any and all expenditures associated with custodial sala-
19 ries and benefits, service contracts, supplies, utilities, and mainte-
20 nance and repairs of school facilities. For the purposes of the develop-
21 ment of a budget for the nineteen hundred ninety-eight--ninety-nine
22 school year, the trustee or board of trustees shall separate the
23 district's program, capital and administrative costs for the nineteen
24 hundred ninety-seven--ninety-eight school year in the manner as if the
25 budget for such year had been presented in three components.

26 S 10. Subdivision 4 of section 1716 of the education law, as amended
27 by chapter 640 of the laws of 2008, is amended to read as follows:

28 4. Commencing with the proposed budget for the nineteen hundred nine-
29 ty-eight--ninety-nine school year, such proposed budget shall be
30 presented in three components: a program component, a capital component
31 and an administrative component which shall be separately delineated in
32 accordance with regulations of the commissioner after consultation with
33 local school district officials. The administrative component shall
34 include, but need not be limited to, office and central administrative
35 expenses, traveling expenses and all compensation, salaries and benefits
36 of all school administrators and supervisors, including business admin-
37 istrators, superintendents of schools and deputy, assistant, associate
38 or other superintendents under all existing employment contracts or
39 collective bargaining agreements, AND TEACHERS UNDER EXISTING EMPLOYMENT
40 CONTRACTS, any and all expenditures associated with the operation of the
41 board of education, the office of the superintendent of schools, general
42 administration, the school business office, consulting costs not direct-
43 ly related to direct student services and programs, planning and all
44 other administrative activities. The program component shall include,
45 but need not be limited to, all program expenditures of the school
46 district, including the salaries and benefits of teachers and any school
47 administrators or supervisors who spend a majority of their time
48 performing teaching duties, and all transportation operating expenses.
49 The capital component shall include, but need not be limited to, all
50 transportation capital, debt service, and lease expenditures; costs
51 resulting from judgments in tax certiorari proceedings or the payment of
52 awards from court judgments, administrative orders or settled or compro-
53 mised claims; and all facilities costs of the school district, including
54 facilities lease expenditures, the annual debt service and total debt
55 for all facilities financed by bonds and notes of the school district,
56 and the costs of construction, acquisition, reconstruction, rehabili-

1 tation or improvement of school buildings, provided that such budget
2 shall include a rental, operations and maintenance section that includes
3 base rent costs, total rent costs, operation and maintenance charges,
4 cost per square foot for each facility leased by the school district,
5 and any and all expenditures associated with custodial salaries and
6 benefits, service contracts, supplies, utilities, and maintenance and
7 repairs of school facilities. For the purposes of the development of a
8 budget for the nineteen hundred ninety-eight--ninety-nine school year,
9 the board of education shall separate the district's program, capital
10 and administrative costs for the nineteen hundred ninety-seven--ninety-
11 eight school year in the manner as if the budget for such year had been
12 presented in three components.

13 S 11. Subdivision 2 of section 1608 of the education law, as amended
14 by chapter 640 of the laws of 2008, is amended to read as follows:

15 2. Such statement shall be completed at least seven days before the
16 budget hearing at which it is to be presented and copies thereof shall
17 be prepared and made available[, upon request and] at the school
18 district offices, at any public library or free association library
19 within the district and on the school district's internet website, if
20 one exists, to residents within the district during the period of [four-
21 teen] THIRTY days immediately preceding the annual meeting and election
22 or special district meeting at which the budget vote will occur and at
23 such meeting or hearing. The board shall also as a part of the notice
24 required by section two thousand three of this [chapter] TITLE give
25 notice of the date, time and place of the budget hearing and that a copy
26 of such statement may be obtained by any resident in the district at
27 each schoolhouse in the district in which school is maintained during
28 certain designated hours on each day other than a Saturday, Sunday or
29 holiday during the [fourteen] THIRTY days immediately preceding such
30 meeting. The board shall include notice of the availability of such
31 statement at least once during the school year in any district-wide
32 mailing distributed.

33 S 12. Subdivision 2 of section 1716 of the education law, as amended
34 by chapter 640 of the laws of 2008, is amended to read as follows:

35 2. Such statement shall be completed at least seven days before the
36 budget hearing at which it is to be presented and copies thereof shall
37 be prepared and made available[, upon request and] at the school
38 district offices, at any public library or free association library
39 within the district and on the school district's internet website, if
40 one exists, to residents within the district during the period of [four-
41 teen] THIRTY days immediately preceding the annual meeting and election
42 or special district meeting at which the budget vote will occur and at
43 such meeting or hearing. The board shall also as a part of the notice
44 required by section two thousand four of this [chapter] TITLE give
45 notice of the date, time and place of the budget hearing and that a copy
46 of such statement may be obtained by any resident in the district at
47 each schoolhouse in the district in which school is maintained during
48 certain designated hours on each day other than a Saturday, Sunday or
49 holiday during the [fourteen] THIRTY days immediately preceding such
50 meeting. The board shall include notice of the availability of such
51 statement at least once during the school year in any district-wide
52 mailing distributed.

53 S 13. Paragraph (c) of subdivision 3 of section 2116-a of the educa-
54 tion law, as added by chapter 263 of the laws of 2005, is amended to
55 read as follows:

1 (c) Notwithstanding the provisions of subparagraph one of paragraph
2 (b) of subdivision four of section thirty-five of the general municipal
3 law, each school district shall (i) prepare a corrective action plan in
4 response to any findings contained in the annual external audit report
5 or management letter, or any final audit report issued by the state
6 comptroller, within ninety days of receipt of such report or letter, and
7 (ii) to the extent practicable, begin implementation of such corrective
8 action plan no later than the end of the next fiscal year. EACH SCHOOL
9 DISTRICT SHALL NOTIFY THE DISTRICT RESIDENTS OF THE AVAILABILITY OF THE
10 CORRECTIVE ACTION PLAN AT PUBLIC LIBRARIES WITHIN THE DISTRICT, AT THE
11 SCHOOL DISTRICT OFFICES AND ON THE SCHOOL DISTRICT'S INTERNET WEBSITE,
12 IF ONE EXISTS. ANY SCHOOL DISTRICT WHICH FAILS TO COMPLY WITH THE
13 REQUIRED NOTIFICATION OF AVAILABILITY OF THE CORRECTIVE ACTION PLAN
14 SHALL BE SUBJECT TO A CIVIL PENALTY NOT TO EXCEED FIVE THOUSAND DOLLARS
15 UPON AN ADMINISTRATIVE DETERMINATION BY THE COMMISSIONER.

16 S 14. The education law is amended by adding a new section 1527-a to
17 read as follows:

18 S 1527-A. FUNDING OF MANDATES IMPOSED ON SCHOOL DISTRICTS. 1. DEFINI-
19 TIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
20 FOLLOWING MEANINGS UNLESS THE CONTEXT SHALL OTHERWISE REQUIRE:

21 (A) "MANDATE" SHALL MEAN:

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

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

29 (B) "UNFUNDED MANDATE" SHALL MEAN:

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

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

38 (III) ANY GENERAL LAW WHICH GRANTS A NEW PROPERTY TAX EXEMPTION OR
39 INCREASES AN EXISTING PROPERTY TAX EXEMPTION WHICH ANY SUCH SCHOOL
40 DISTRICT IS REQUIRED TO PROVIDE, THEREBY RESULTING IN A NET ADDITIONAL
41 COST TO SUCH SCHOOL DISTRICT.

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

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

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

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

53 2. FUNDING OF SCHOOL DISTRICT MANDATES. NOTWITHSTANDING ANY OTHER
54 PROVISION OF LAW, NO UNFUNDED MANDATE SHALL BE ENACTED WHICH CREATES AN
55 ANNUAL NET ADDITIONAL COST TO ANY SCHOOL DISTRICT IN EXCESS OF FIVE

1 THOUSAND DOLLARS OR AN AGGREGATE ANNUAL NET ADDITIONAL COST TO ALL
2 SCHOOL DISTRICTS IN EXCESS OF FIVE HUNDRED THOUSAND DOLLARS.

3 3. EXEMPTIONS TO THE FUNDING OF SCHOOL DISTRICT MANDATES REQUIREMENT.
4 (A) THE STATE SHALL NOT BE REQUIRED TO FUND ANY NEW OR EXPANDED PROGRAMS
5 FOR SCHOOL DISTRICTS IF: (I) THE MANDATE IS REQUIRED BY A COURT ORDER
6 OR JUDGMENT; (II) THE MANDATE IS PROVIDED AT THE OPTION OF THE SCHOOL
7 DISTRICT UNDER A LAW, REGULATION, RULE, OR ORDER THAT IS PERMISSIVE
8 RATHER THAN MANDATORY; (III) THE MANDATE RESULTS FROM THE PASSAGE OF A
9 HOME RULE MESSAGE WHEREBY A SCHOOL DISTRICT REQUESTS AUTHORITY TO
10 IMPLEMENT THE PROGRAM OR SERVICE SPECIFIED IN THE STATUTE, AND THE
11 STATUTE IMPOSES COSTS ONLY UPON THAT SCHOOL DISTRICT WHICH REQUESTS THE
12 AUTHORITY TO IMPOSE THE PROGRAM OR SERVICE; (IV) THE MANDATE IS REQUIRED
13 BY, OR ARISES FROM, AN EXECUTIVE ORDER OF THE GOVERNOR EXERCISING HIS OR
14 HER EMERGENCY POWERS; OR (V) THE MANDATE IS REQUIRED BY STATUTE OR EXEC-
15 UTIVE ORDER THAT IMPLEMENTS A FEDERAL LAW OR REGULATION AND RESULTS FROM
16 COSTS MANDATED BY THE FEDERAL GOVERNMENT TO BE BORNE AT THE LOCAL LEVEL,
17 UNLESS THE STATUTE OR EXECUTIVE ORDER RESULTS IN COSTS WHICH EXCEED THE
18 COSTS MANDATED BY THE FEDERAL GOVERNMENT.

19 (B) EACH ACT ESTABLISHING A MANDATE SHALL PROVIDE THAT THE EFFECTIVE
20 DATE OF ANY SUCH MANDATE IMPOSED ON SCHOOL DISTRICTS SHALL BE CONSIST-
21 ENT WITH THE NEEDS OF THE STATE AND SCHOOL DISTRICTS TO PLAN IMPLEMENTA-
22 TION THEREOF, AND ALSO CONSISTENT WITH THE AVAILABILITY OF REQUIRED
23 FUNDS.

24 S 15. The executive law is amended by adding a new article 4-B to read
25 as follows:

26 ARTICLE 4-B

27 OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION

28 SECTION 57. ESTABLISHMENT AND ORGANIZATION.

29 58. FUNCTIONS AND DUTIES.

30 59. POWERS.

31 S 57. ESTABLISHMENT AND ORGANIZATION. 1. THERE IS HEREBY ESTABLISHED
32 THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCATION. THE HEAD OF THE
33 OFFICE SHALL BE THE EDUCATION INSPECTOR GENERAL, WHO SHALL BE APPOINTED
34 BY THE BOARD OF THE OFFICE OF THE STATE INSPECTOR GENERAL FOR EDUCA-
35 TION. SUCH OFFICE SHALL BE INDEPENDENT OF THE DEPARTMENT OF EDUCATION
36 AND OF ANY OTHER OFFICE, AGENCY, BOARD OR COMMISSION OF THE STATE OR ANY
37 OF ITS POLITICAL SUBDIVISIONS.

38 2. THE EDUCATION INSPECTOR GENERAL MAY EMPLOY AND AT THEIR PLEASURE
39 REMOVE SUCH PERSONNEL AS THEY DEEM NECESSARY FOR THE PERFORMANCE OF THE
40 OFFICE, AND MAY FIX THEIR COMPENSATION WITH AMOUNTS AVAILABLE THEREFOR.

41 3. THERE IS HEREBY ESTABLISHED THE BOARD OF THE OFFICE OF THE STATE
42 INSPECTOR GENERAL FOR EDUCATION WHICH SHALL CONSIST OF ELEVEN MEMBERS,
43 AND SHALL HAVE AND EXERCISE THE POWERS AND DUTIES OF THE OFFICE OF THE
44 STATE INSPECTOR GENERAL FOR EDUCATION.

45 4. THE BOARD MEMBERS SHALL BE APPOINTED AS FOLLOWS:

46 (A) THREE MEMBERS SHALL BE APPOINTED BY THE GOVERNOR, ONE OF WHOM
47 SHALL BE DESIGNATED BY THE GOVERNOR AS THE CHAIR OF THE BOARD;

48 (B) THREE MEMBERS SHALL BE APPOINTED BY THE TEMPORARY PRESIDENT OF THE
49 SENATE;

50 (C) THREE MEMBERS SHALL BE APPOINTED BY THE SPEAKER OF THE ASSEMBLY;

51 (D) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE ASSEM-
52 BLY; AND

53 (E) ONE MEMBER SHALL BE APPOINTED BY THE MINORITY LEADER OF THE
54 SENATE.

55 5. THE BOARD MEMBERS SHALL SERVE FOR TERMS OF FIVE YEARS.

1 6. THE CHAIR OF THE BOARD OR ANY FIVE MEMBERS THEREOF MAY CALL A MEET-
2 ING OF THE BOARD.

3 7. ANY VACANCY OCCURRING ON THE BOARD SHALL BE FILLED WITHIN SIXTY
4 DAYS OF ITS OCCURRENCE, IN THE SAME MANNER AS THE MEMBER WHOSE VACANCY
5 IS BEING FILLED WAS APPOINTED. A PERSON APPOINTED TO FILL A VACANCY
6 OCCURRING OTHER THAN BY EXPIRATION OF A TERM OF OFFICE SHALL BE
7 APPOINTED FOR THE UNEXPIRED TERM OF THE MEMBER HE OR SHE SUCCEEDS.

8 8. SIX MEMBERS OF THE BOARD SHALL CONSTITUTE A QUORUM AND THE BOARD
9 SHALL HAVE THE POWER TO ACT BY MAJORITY VOTE OF THE TOTAL NUMBER OF
10 MEMBERS OF THE BOARD WITHOUT VACANCY.

11 9. THE BOARD MEMBERS SHALL NOT RECEIVE COMPENSATION BUT SHALL BE REIM-
12 BURED FOR REASONABLE EXPENSES INCURRED IN THE PERFORMANCE OF THEIR
13 OFFICIAL DUTIES.

14 10. THE BOARD SHALL APPOINT AN EDUCATION INSPECTOR GENERAL WHO SHALL
15 PERFORM THE POWERS AND DUTIES SET FORTH IN SECTIONS FIFTY-EIGHT AND
16 FIFTY-NINE OF THIS ARTICLE, AND WHO SHALL SERVE FOR A TERM OF FIVE
17 YEARS AND MAY ONLY BE DISMISSED FOR CAUSE OR BY A THREE-QUARTERS VOTE OF
18 THE BOARD. THE BOARD MAY FIX THE COMPENSATION OF THE EDUCATION INSPEC-
19 TOR GENERAL.

20 11. NO BOARD MEMBER, NOR THE EDUCATION INSPECTOR GENERAL, SHALL HOLD
21 ANY ELECTED PUBLIC OFFICE OR OFFICE IN ANY POLITICAL PARTY, NOR SHALL
22 ANY MEMBER BE AN EMPLOYEE OF OR UNDER THE SUPERVISION OF ANY PERSON WHO
23 HOLDS SUCH ELECTED PUBLIC OFFICE OR OFFICE OF A POLITICAL PARTY. NO
24 MEMBER OF THE BOARD SHALL SERVE IN ANY PUBLIC OR POLITICAL OFFICE WITH-
25 IN FIVE YEARS OF THE MEMBER'S PERIOD OF SERVICE.

26 12. THE EDUCATION INSPECTOR GENERAL SHALL, PRIOR TO THEIR APPOINTMENT,
27 HAVE HAD AT LEAST TEN YEARS EXPERIENCE IN AUDITING OR LAW ENFORCEMENT OR
28 INVESTIGATION, OR IN PROSECUTING OR AIDING IN THE PROSECUTION OF FRAUD.

29 13. MEMBERS OF THE BOARD SHALL, PRIOR TO THEIR APPOINTMENT, HAVE HAD
30 AT LEAST THREE YEARS EXPERIENCE IN AUDITING OR INVESTIGATION OF GOVERN-
31 MENTAL OR SCHOOL DISTRICT OPERATIONS, OR IN THE PRACTICE OF LAW, LAW
32 ENFORCEMENT OR IN SERVICES RELATED TO DEVELOPMENT AND MANAGEMENT OF
33 INFORMATION TECHNOLOGY OR DATABASE CREATION AND MAINTENANCE.

34 S 58. FUNCTIONS AND DUTIES. THE EDUCATION INSPECTOR GENERAL SHALL
35 HAVE THE FOLLOWING DUTIES AND RESPONSIBILITIES:

36 1. TO RECEIVE AND INVESTIGATE COMPLAINTS FROM ANY SOURCE, OR UPON HIS
37 OR HER OWN INITIATIVE, CONCERNING ALLEGATIONS OF CORRUPTION, FINANCIAL
38 IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT OR OTHER CRIMINAL CONDUCT
39 WITHIN PUBLIC SCHOOL DISTRICTS OUTSIDE OF A CITY WITH A POPULATION OF
40 ONE MILLION OR MORE;

41 2. TO INVESTIGATE AND REPORT ON CORRUPTION AND OTHER CRIMINAL ACTIV-
42 ITY, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND CONFLICTS
43 OF INTEREST BY PUBLIC SCHOOL DISTRICT EMPLOYEES WHOSE ACTIONS RELATE TO
44 THEIR EMPLOYMENT, PERSONS OR ENTITIES DOING BUSINESS WITH A PUBLIC
45 SCHOOL DISTRICT CONCERNING THEIR TRANSACTIONS WITH THE SCHOOL DISTRICT,
46 AND SCHOOL BOARD MEMBERS WHOSE ACTIONS RELATE TO THEIR OFFICE;

47 3. TO DETERMINE WITH RESPECT TO SUCH ALLEGATIONS WHETHER DISCIPLINARY
48 ACTION, CIVIL OR CRIMINAL PROSECUTION, OR FURTHER INVESTIGATION BY AN
49 APPROPRIATE FEDERAL, STATE OR LOCAL AGENCY IS WARRANTED, AND TO ASSIST
50 IN SUCH INVESTIGATIONS;

51 4. TO REVIEW AND EXAMINE PERIODICALLY THE POLICIES AND PROCEDURES OF
52 PUBLIC SCHOOL DISTRICTS WITH REGARD TO THE PREVENTION AND DETECTION OF
53 CORRUPTION, FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT,
54 OTHER CRIMINAL CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARI-
55 TIES AND CONFLICTS OF INTEREST OR ABUSE;

1 5. TO RECOMMEND REMEDIAL ACTION TO PREVENT OR ELIMINATE CORRUPTION,
2 FINANCIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL
3 CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES, CONFLICTS
4 OF INTEREST OR ABUSE BY PUBLIC SCHOOL DISTRICT OFFICIALS AND EMPLOYEES;

5 6. TO ESTABLISH PROGRAMS FOR TRAINING PUBLIC SCHOOL OFFICIALS AND
6 EMPLOYEES REGARDING THE PREVENTION AND ELIMINATION OF CORRUPTION, FINAN-
7 CIAL IMPROPRIETIES, UNETHICAL CONDUCT, MISCONDUCT, OTHER CRIMINAL
8 CONDUCT, SCHOOL BOARD ELECTION FRAUD, BIDDING IRREGULARITIES AND
9 CONFLICTS OF INTEREST OR ABUSE;

10 7. TO PREPARE AN ANNUAL REPORT THAT PROVIDES THE RESULTS OF THE EDUCA-
11 TION INSPECTOR GENERAL'S FINDINGS WITH RESPECT TO ALL INVESTIGATIONS
12 AND DETAILED ANALYSIS OF THE CURRENT FINANCIAL STATUS OF THOSE SCHOOL
13 DISTRICTS THAT HAVE BEEN REVIEWED;

14 8. TO INCLUDE IN SUCH REPORT ANY FINDINGS REGARDING THE FINANCIAL
15 PRACTICES OF THE SCHOOL DISTRICT THAT THE EDUCATION INSPECTOR GENERAL
16 BELIEVES VIOLATED, OR COULD POTENTIALLY VIOLATE, EXISTING STATE RULES
17 OR REGULATIONS OR MAY BE OF CONCERN IN THAT INCOMPETENCE OR LACK OF
18 TRAINING MAY RESULT IN FINANCIAL PRACTICES THAT VIOLATE STATE RULES AND
19 REGULATIONS;

20 9. TO ISSUE THE REPORT TO THE LEGISLATURE, THE COMPTROLLER AND THE
21 DEPARTMENT OF EDUCATION WITH EACH ANNUAL REPORT POSTED ON A PUBLIC
22 INTERNET WEBSITE FOR AT LEAST FIVE YEARS FROM THE DATE OF ISSUANCE.

23 S 59. POWERS. THE EDUCATION INSPECTOR GENERAL SHALL HAVE THE POWER
24 TO:

25 1. SUBPOENA AND ENFORCE THE ATTENDANCE OF WITNESSES, INCLUDING THE
26 POWER TO SUBPOENA DOCUMENTS AND RECORDS NECESSARY TO ANY INVESTIGATION
27 FROM ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A CITY WITH A POPULATION OF
28 ONE MILLION OR MORE AND FROM VENDORS WHO DO BUSINESS WITH SUCH PUBLIC
29 SCHOOL DISTRICTS;

30 2. ADMINISTER OATHS OR AFFIRMATIONS AND EXAMINE WITNESSES UNDER OATH;

31 3. REQUIRE THE PRODUCTION OF ANY BOOKS AND PAPERS DEEMED RELEVANT OR
32 MATERIAL TO ANY INVESTIGATION, EXAMINATION OR REVIEW;

33 4. NOTWITHSTANDING ANY LAW TO THE CONTRARY, EXAMINE AND COPY OR REMOVE
34 DOCUMENTS OR RECORDS OF ANY KIND PREPARED, MAINTAINED OR HELD BY ANY
35 PUBLIC SCHOOL DISTRICT COVERED BY THIS ARTICLE;

36 5. REQUIRE ANY PUBLIC SCHOOL DISTRICT EMPLOYEE TO ANSWER QUESTIONS
37 CONCERNING ANY MATTER RELATED TO THE PERFORMANCE OF HIS OR HER OFFICIAL
38 DUTIES. NO STATEMENT OR OTHER EVIDENCE DERIVED THEREFROM MAY BE USED
39 AGAINST SUCH OFFICER OR EMPLOYEE IN ANY SUBSEQUENT CRIMINAL PROSECUTION
40 OTHER THAN FOR PERJURY OR CONTEMPT ARISING FROM SUCH TESTIMONY. THE
41 REFUSAL OF ANY OFFICER OR EMPLOYEE TO ANSWER QUESTIONS SHALL BE CAUSE
42 FOR REMOVAL FROM OFFICE OR EMPLOYMENT OR OTHER APPROPRIATE PENALTY;

43 6. MONITOR THE IMPLEMENTATION BY PUBLIC SCHOOL DISTRICTS OF ANY RECOM-
44 MENDATIONS MADE BY THE EDUCATION INSPECTOR GENERAL;

45 7. PERFORM ANY OTHER FUNCTIONS THAT ARE NECESSARY OR APPROPRIATE TO
46 FULFILL THE DUTIES AND RESPONSIBILITIES OF THE OFFICE.

47 S 16. Subparagraphs 2 and 3 of paragraph b of subdivision 2 of section
48 33 of the general municipal law, as amended by section 24 of subpart F
49 of part C of chapter 97 of the laws of 2011, are amended and a new
50 subparagraph 4 is added to read as follows:

51 (2) assessing the current financial practices of school districts,
52 BOCES and charter schools to ensure that they are consistent with estab-
53 lished standards, including whether any school district that uses a
54 risk-based or sampling methodology to determine which claims are to be
55 audited in lieu of auditing all claims has adopted a methodology that

1 provides reasonable assurance that all the claims represented in the
2 sample are proper charges against the school district; [and]

3 (3) determining that school districts, BOCES, and charter schools
4 provide for adequate protections against any fraud, theft, or profes-
5 sional misconduct[.]; AND

6 (4) AUDITING FEDERAL AND STATE GRANT PROGRAM EXPENDITURES IN ALL
7 SCHOOL DISTRICTS, BOCES AND CHARTER SCHOOLS.

8 S 17. Paragraph d of subdivision 2 of section 33 of the general munic-
9 ipal law, as added by chapter 267 of the laws of 2005, is amended to
10 read as follows:

11 d. The office of the state comptroller shall upon making a finding of
12 misconduct refer any findings of fraud, abuse or other conduct consti-
13 tuting a crime that are uncovered during the course of an audit, as
14 appropriate, to the commissioner of education, THE NEW YORK STATE
15 INSPECTOR GENERAL FOR EDUCATION, the charter entity, the attorney gener-
16 al, United States attorney or district attorney having jurisdiction for
17 appropriate action, together with any documents supporting the auditors'
18 findings.

19 S 18. The labor law is amended by adding a new section 742 to read as
20 follows:

21 S 742. PROHIBITION; PUBLIC SCHOOL DISTRICT EMPLOYER WHO PENALIZES
22 EMPLOYEES BECAUSE OF COMPLAINTS OF EMPLOYER MALFEASANCE. 1. DEFI-
23 NITIONS. AS USED IN THIS SECTION, THE FOLLOWING TERMS SHALL HAVE THE
24 FOLLOWING MEANINGS:

25 (A) "EMPLOYEE" MEANS ANY PERSON WHO PERFORMS SERVICES FOR AND UNDER
26 THE CONTROL AND DIRECTION OF ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A
27 CITY WITH A POPULATION OF ONE MILLION OR MORE FOR WAGES OR OTHER REMUN-
28 ERATION.

29 (B) "EMPLOYER" MEANS ANY PUBLIC SCHOOL DISTRICT OUTSIDE OF A CITY WITH
30 A POPULATION OF ONE MILLION OR MORE.

31 (C) "AGENT" MEANS ANY INDIVIDUAL, PARTNERSHIP, ASSOCIATION, CORPO-
32 RATION, OR GROUP OF PERSONS ACTING ON BEHALF OF AN EMPLOYER.

33 (D) "PUBLIC BODY" MEANS:

34 (1) THE UNITED STATES CONGRESS, ANY STATE LEGISLATURE, OR ANY ELECTED
35 LOCAL GOVERNMENTAL BODY, OR ANY MEMBER OR EMPLOYEE THEREOF;

36 (2) THE NEW YORK STATE INSPECTOR GENERAL FOR EDUCATION;

37 (3) THE STATE COMPTROLLER;

38 (4) THE ATTORNEY GENERAL;

39 (5) ANY FEDERAL, STATE OR LOCAL REGULATORY, ADMINISTRATIVE OR PUBLIC
40 AGENCY OR AUTHORITY, OR INSTRUMENTALITY THEREOF;

41 (6) ANY FEDERAL, STATE OR LOCAL LAW ENFORCEMENT AGENCY, PROSECUTORIAL
42 OFFICE, OR POLICE OR PEACE OFFICER;

43 (7) ANY FEDERAL, STATE OR LOCAL DEPARTMENT OF AN EXECUTIVE BRANCH OF
44 GOVERNMENT; OR

45 (8) ANY DIVISION, BOARD, BUREAU, OFFICE, COMMITTEE OR COMMISSION OF
46 ANY OF THE PUBLIC BODIES DESCRIBED IN SUBPARAGRAPH ONE, TWO, THREE,
47 FOUR, FIVE, SIX OR SEVEN OF THIS PARAGRAPH.

48 (E) "RETALIATORY ACTION" MEANS THE DISCHARGE, SUSPENSION, DEMOTION,
49 PENALIZATION OR DISCRIMINATION AGAINST AN EMPLOYEE, OR OTHER ADVERSE
50 EMPLOYMENT ACTION TAKEN AGAINST AN EMPLOYEE IN THE TERMS AND CONDITIONS
51 OF EMPLOYMENT.

52 (F) "SUPERVISOR" MEANS ANY PERSON WITHIN AN EMPLOYER'S ORGANIZATION
53 WHO HAS THE AUTHORITY TO DIRECT AND CONTROL THE WORK PERFORMANCE OF AN
54 EMPLOYEE, OR WHO HAS THE AUTHORITY TO TAKE CORRECTIVE ACTION REGARDING
55 FRAUD, CRIMINAL ACTIVITY OR OTHER MALFEASANCE TO WHICH AN EMPLOYEE
56 SUBMITS A COMPLAINT.

2. RETALIATORY ACTION PROHIBITED. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, NO EMPLOYER SHALL TAKE RETALIATORY ACTION AGAINST ANY EMPLOYEE BECAUSE THE EMPLOYEE DOES ANY OF THE FOLLOWING:

(A) DISCLOSES OR THREATENS TO DISCLOSE TO A SUPERVISOR, OR TO A PUBLIC BODY AN ACTIVITY, POLICY OR PRACTICE OF THE EMPLOYER OR AGENT THAT THE EMPLOYEE, IN GOOD FAITH, REASONABLY BELIEVES CONSTITUTES FRAUD, CRIMINAL ACTIVITY OR OTHER MALFEASANCE; OR

(B) OBJECTS TO, OR REFUSES TO PARTICIPATE IN ANY ACTIVITY, POLICY OR PRACTICE OF THE EMPLOYER OR AGENT THAT THE EMPLOYEE, IN GOOD FAITH, REASONABLY BELIEVES CONSTITUTES FRAUD, CRIMINAL ACTIVITY OR OTHER MALFEASANCE.

3. ENFORCEMENT. AN EMPLOYEE MAY SEEK ENFORCEMENT OF THIS SECTION PURSUANT TO PARAGRAPH (E) OF SUBDIVISION FOUR OF SECTION SEVEN HUNDRED FORTY OF THIS ARTICLE.

4. RELIEF. IN ANY COURT ACTION BROUGHT PURSUANT TO THIS SECTION IT SHALL BE A DEFENSE THAT THE PERSONNEL ACTION WAS PREDICATED UPON GROUNDS OTHER THAN THE EMPLOYEE'S EXERCISE OF ANY RIGHTS PROTECTED BY THIS SECTION.

S 19. Subdivision 4 of section 740 of the labor law is amended by adding a new paragraph (e) to read as follows:

(E) NOTWITHSTANDING THE PROVISIONS OF PARAGRAPHS (A) AND (C) OF THIS SUBDIVISION, AN EMPLOYEE WHO HAS BEEN THE SUBJECT OF A RETALIATORY ACTION BY AN EMPLOYER IN VIOLATION OF SECTION SEVEN HUNDRED FORTY-TWO OF THIS ARTICLE MAY INSTITUTE A CIVIL ACTION IN A COURT OF COMPETENT JURISDICTION FOR RELIEF AS SET FORTH IN SUBDIVISION FIVE OF THIS SECTION WITHIN TWO YEARS AFTER THE ALLEGED RETALIATORY PERSONNEL ACTION WAS TAKEN. IN ADDITION TO THE RELIEF SET FORTH IN SUCH SUBDIVISION FIVE, THE COURT, IN ITS DISCRETION, BASED UPON A FINDING THAT THE EMPLOYER ACTED IN BAD FAITH IN THE RETALIATORY ACTION, MAY ORDER THE EMPLOYER TO TERMINATE THE SUPERVISOR WHO RETALIATED AGAINST THE EMPLOYEE.

S 20. The penal law is amended by adding a new section 190.73 to read as follows:

S 190.73 DEFRAUDING A PUBLIC PENSION PLAN.

A PERSON IS GUILTY OF DEFRAUDING A PUBLIC PENSION PLAN WHEN HE OR SHE ENGAGES IN A SCHEME CONSTITUTING A SYSTEMATIC ONGOING COURSE OF CONDUCT WITH INTENT TO OBTAIN A BENEFIT OR ASSET, OR ASSIST A THIRD PARTY TO OBTAIN A BENEFIT OR ASSET, FROM A PUBLIC PENSION PLAN TO WHICH HE OR SHE OR THE THIRD PARTY IS NOT OTHERWISE ENTITLED TO PURSUANT TO THE RESTRICTION OF SECTION TWO HUNDRED ELEVEN OF THE RETIREMENT AND SOCIAL SECURITY LAW.

DEFRAUDING A PUBLIC PENSION PLAN IS A CLASS E FELONY.

S 21. Section 211 of the retirement and social security law is amended by adding a new subdivision 9 to read as follows:

9. A RETIRED PERSON RECEIVING A RETIREMENT ALLOWANCE WHO IS EMPLOYED AND EARNING COMPENSATION IN A PUBLIC SERVICE POSITION OR POSITIONS WITH THE TOTAL COMPENSATION EXCEEDING THE LIMITATIONS SET FORTH IN SECTION TWO HUNDRED TWELVE OF THIS ARTICLE AND SUCH PERSON HAS NOT OBTAINED THE REQUISITE WAIVER SET FORTH IN THIS SECTION, AS WELL AS ANY PERSON WHO KNOWINGLY ASSISTS ANOTHER PERSON IN RECEIVING A RETIREMENT ALLOWANCE WHILE RECEIVING TOTAL COMPENSATION IN A PUBLIC SERVICE POSITION OR POSITIONS EXCEEDING THE LIMITS OF SECTION TWO HUNDRED TWELVE OF THIS ARTICLE AND NOT HAVING OBTAINED THE REQUISITE WAIVER, IS GUILTY OF LARCENY AND PUNISHABLE AS PROVIDED IN THE PENAL LAW.

S 22. This act shall take effect January 1, 2017.