S T A T E O F N E W Y O R K

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I N A S S E M B L Y

February 2, 2016

Introduced by M. of A. GALEF -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to exempting BOCES capital expenditures from limitations upon local school district tax levies

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

Section 1. Paragraph c of subdivision 2 of section 2023-a of the education law, as amended by section 1 of subpart C of part C of chapter 20 of the laws of 2015, is amended to read as follows:

c. "Capital [local] expenditures" means the taxes associated with budgeted expenditures resulting from the financing, refinancing, acquisition, design, construction, reconstruction, rehabilitation, improvement, furnishing and equipping of, or otherwise providing for school district capital facilities or school district capital equipment, including debt service and lease expenditures, and transportation capital debt service, subject to the approval of the qualified voters where required by law[. The commissioner of taxation and finance shall, as appropriate, promulgate rules and regulations which may provide for adjustment of capital local expenditures to reflect a school district's share of additional budgeted capital expenditures made by a board of cooperative educational services] AND THE SCHOOL DISTRICT'S SHARE OF CAPITAL EXPENDITURES FOR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AS AUTHORIZED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION FOUR, PARAGRAPHS P, T AND U OF SUBDIVISION FOUR, PARAGRAPHS A AND B OF SUBDIVISION THIRTEEN, AND PARAGRAPH A OF SUBDIVISION FOURTEEN OF SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE.

S 2. Paragraph b of subdivision 4 of section 2023 of the education law, as amended by section 3 of part A of chapter 97 of the laws of 2011, is amended to read as follows:

b. The resolution of the trustee, board of trustees, or board of education adopting a contingency budget shall incorporate by reference a statement specifying the projected percentage increase or decrease in total spending for the school year, and explaining the reasons for

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

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disregarding any portion of an increase in spending in formulating the contingency budget; PROVIDED, HOWEVER, THE SCHOOL DISTRICT'S SHARE OF CAPITAL EXPENDITURES FOR BOARDS OF COOPERATIVE EDUCATIONAL SERVICES AS AUTHORIZED PURSUANT TO SUBPARAGRAPH ONE OF PARAGRAPH B OF SUBDIVISION FOUR, PARAGRAPHS P, T AND U OF SUBDIVISION FOUR, PARAGRAPHS A AND B OF SUBDIVISION THIRTEEN AND PARAGRAPH A OF SUBDIVISION FOURTEEN OF SECTION NINETEEN HUNDRED FIFTY OF THIS TITLE SHALL NOT BE INCLUDED IN TOTAL SPENDING.

S 3. Subparagraph 1 of paragraph b of subdivision 4 of section 1950 of the education law, as amended by chapter 474 of the laws of 1996, is amended to read as follows:

(1) Prepare, prior to the annual meeting of members of the boards of education and school trustees, held as provided in paragraph o of this subdivision, a tentative budget of expenditures for the program costs, a tentative budget for capital costs, and a tentative budget for the administration costs of the board of cooperative educational services. Such budgets shall include the proposed budget for the upcoming school year, the previous school year's actual costs and the current school year's projected costs for each object of expenditure. Such program, capital and administrative budgets shall be separately delineated in accordance with the definition of program, capital and administrative costs which shall be promulgated by the commissioner after consultation with school district officials and the director of the budget. Personal service costs for each budget shall include the number of full-time equivalent positions funded and total salary and, except as noted herein, fringe benefit costs for such positions by program. Each program budget shall also include the local and statewide unit costs of such programs and services proposed for the upcoming school year, such actual unit costs for the previous school year, and the current school year's projected unit costs, all established in accordance with paragraph d of this subdivision. The capital budget shall include facility construction and lease expenditures authorized pursuant to paragraphs p, t and u of this subdivision, payments for the repayment of indebtedness related to capital projects, payments for the acquisition or construction of facilities, sites or additions, provided that such budget shall contain a rental, operations and maintenance section that will include base rent costs, total rent costs, operations and maintenance charges, cost per square foot for each facility rented or leased by such board of cooperative educational services, and any and all expenditures associated with custodial salaries and benefits, service contracts, supplies, utilities, maintenance and repairs for such facilities, and that such budget shall include the annual debt service and total debt for all facilities financed by bonds or notes of the component districts, annual rental and lease payments and total rental and lease costs for all facilities rented by such board; such capital budget shall also include expenditures resulting from court judgments and orders from administrative bodies or officers, and, to the extent a board's administrative budget has been adopted, one-time costs incurred in the first year in which an employee retires. The administrative budget shall include, but need not be limited to, office and central administrative expenses, traveling expenses and salaries and benefits of supervisors and administrative personnel necessary to carry out the central administrative duties of the supervisory district, any and all expenditures associated with the board, the office of district superintendent, general administration, central support services, planning, and all other administrative activities. Such administrative budget shall also specify the amount of supplementa-

ry salary and benefits, if any, which the board determines should be paid to the district superintendent of schools and the board shall append to such budget a detailed statement of the total compensation to be paid the district superintendent of schools by the board, including a delineation of the salary, annualized cost of benefits and any in-kind or other form of remuneration to be paid, plus, commencing with the presentation of the budget for the nineteen hundred ninety-seven--nine-ty-eight school year, a list of items of expense eligible for reimburse-ment on expense accounts in the ensuing school year and a statement of the amount of expenses paid to the district superintendent of schools in the prior year for purposes of carrying out his or her official duties; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 4. Subparagraph (a) of paragraph p of subdivision 4 of section 1950 of the education law, as amended by chapter 374 of the laws of 2014, is amended to read as follows:

(a) To rent suitable land, classrooms, offices or buildings upon or in which to maintain and conduct such cooperative educational services and administrative offices for a period not to exceed ten years for leases entered into with public entities and twenty years for leases entered into with non-public entities and to improve, alter, equip and furnish such land, classrooms, offices or buildings in a suitable manner for such purposes, provided that: (1) before executing any lease, the board shall adopt a resolution determining that such agreement is in the best financial interests of the supervisory district and stating the basis of that determination; (2) the rental payment shall not be more than the fair market value as determined by the board and provided to the commis-sioner; (3) The board discloses any conflict of interest pursuant to subparagraph (c) of this paragraph, or any other potential or perceived conflict of interest, to the commissioner, and in the event of a conflict of interest or a potential or perceived conflict of interest, provides detailed documentation to the commissioner demonstrating that the cost of the lease is not more than fair market value; and (4) upon the consent of the commissioner, renewal of such lease may be made for a period of up to ten years. Nothing contained herein shall prevent the board from entering into a lease agreement which provides for the cancellation of the same by such board upon: (i) a substantial increase or decrease in pupil enrollment; or (ii) a substantial change in the needs and requirements of a board of cooperative educational services with respect to facilities; or (iii) any other change which substantial-ly affects the needs or requirements of a board of cooperative educa-tional services or the community in which it is located. No lease or other contract for the occupancy of such land, classrooms, offices or buildings shall be enforceable against the board of cooperative educa-tional services unless and until the same shall have been approved in writing by the commissioner. In the case of a lease longer than ten years, the commissioner's written approval must include a finding that the proposed lease complies with all requirements of this paragraph and would be more cost-effective than a lease of ten years or fewer; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 5. Paragraph t of subdivision 4 of section 1950 of the education law, as added by chapter 795 of the laws of 1967, is amended to read as follows:

t. When authorized by the qualified voters of the board, to purchase or otherwise acquire buildings, sites or additions thereto, to purchase or otherwise acquire real property for any lawful purpose and to construct buildings thereon; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 6. Paragraph u of subdivision 4 of section 1950 of the education law, as added by chapter 795 of the laws of 1967, is amended to read as follows:

u. To purchase necessary furniture, equipment, implements, apparatus and supplies; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 7. Paragraph g of subdivision 5 of section 1950 of the education law, as amended by section 5 of part C of chapter 57 of the laws of 2004, is amended to read as follows:

g. Any payment required by a board of cooperative educational services to the dormitory authority or any payment required by a board of cooperative educational services to acquire or construct a school facility of the board of cooperative educational services, and any payments for rental of facilities by a board of cooperative educational services shall, for the purposes of apportionment of public moneys to the board of cooperative educational services by the state of New York, be deemed to be an administrative or capital expense, as designated by the commissioner, but the entire amount of such payment shall be utilized in making such apportionment and the limitation of ten percent of the total expenses contained in this subdivision shall not be applicable. Any expense designated by the commissioner as a capital expense shall be included in the capital budget of the board of cooperative educational services and, except as otherwise provided in this paragraph, shall be aided in the same manner as an administrative expense. Any such payment shall not be considered part of the total expenses of the board for purposes of determining the administrative and clerical expenses not to exceed ten percent otherwise eligible for aid under this subdivision, and such payments shall be considered for the purpose of apportionment during the current school year such payment is made. The apportionment for such payments shall be determined by multiplying the amount of such payment allocated to each component school district in the board of cooperative educational services by the aid ratio, and shall be not more than ninety percent converted to decimals, of each such component computed pursuant to subdivision three of section thirty-six hundred two OF THIS CHAPTER and used to apportion aid to that district in that current school year; provided, however, the apportionment for the construction, acquisition, reconstruction, rehabilitation, or improvement of board of cooperative educational services facilities, including payments to the dormitory authority and payments under any lease agreement, shall be based upon the cost of the board of cooperative educational services school facilities but not to exceed the cost allowance set forth in subdivision six of section thirty-six hundred two of [the education law] THIS CHAPTER and payments for rental facilities shall be subject to the approval of the commissioner; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 8. Paragraphs a and b of subdivision 13 of section 1950 of the education law, as added by chapter 33 of the laws of 1976, are amended to read as follows:

a. A board of cooperative educational services and the component school districts of such board of cooperative educational services may enter into an agreement providing for the acquisition from the dormitory authority of facilities designed to house services to be provided by such board of cooperative educational services and for the sharing of the cost of such acquisition. Such agreement in addition to providing for all other matters deemed necessary and proper shall (i) set forth the cost of such acquisition which shall be the amount certified by the dormitory authority as sufficient to pay the principal of, the redemption premium, if any, and interest to the earliest of either the maturity date or the next redemption date on all obligations of the dormitory authority issued in relation to providing such facilities, including all incidental expenses in relation thereto, and (ii) provide for an allocation and apportionment of the cost of such acquisition among the component school districts on such equitable basis as the parties thereto shall determine and agree, and the proportion of the total cost to be provided by each such district in accordance with such allocation and apportionment. In those cases where construction of such facilities shall not have been completed, the amount so certified by the dormitory authority shall include the amount estimated to be necessary by the dormitory authority to complete such construction by it acting for and on behalf of such board of cooperative educational services; provided, however, that such agreement shall provide that such board shall pay to the dormitory authority any additional amounts thereafter determined and certified by the dormitory authority to be necessary in order to complete the construction of such facilities. Existing contracts awarded by the dormitory authority for the construction of such facilities shall not be modified, nor shall any work not covered thereby be authorized, without the prior consent of an officer of such board authorized to so act by a resolution of such board. Such agreement shall be executed by all the component school districts of such board of cooperative educational services whose allocation of administrative expenses would include a portion of the amounts required to be paid the dormitory authority for the rental of such facilities; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND-THREE-A OF THIS TITLE.

b. The acquisition of such facilities is hereby declared and determined to be a school district purpose and an object or purpose for which each such component school district is hereby authorized to expend money and contract indebtedness. The period of probable usefulness of such object or purpose is hereby determined to be thirty years. Each such component school district is hereby authorized to finance its share of the cost of the acquisition of such facilities together with costs incidental to such financing, including, but not limited to legal fees, printing, engraving and publication of notices, either from any current funds legally available therefor, or by the issuance of obligations pursuant to the local finance law; provided, however, that (i) no approval of the voters of such component school district shall be required, (ii) the voting of a special tax or a tax to be collected in installments shall not be a condition precedent to the adoption of a bond resolution for such object or purpose, (iii) a majority vote of the entire voting strength of the board of education shall be sufficient for adoption of such a bond resolution, which bond resolution may be adopted at a regular meeting, or a special meeting of the board of education called on not less than twelve hours oral or written notice, which may be held either within or outside of such district, (iv) any such bond

resolution shall take effect immediately and shall not be subject either to a mandatory or permissive referendum, and (v) no such bond resolution shall be adopted prior to the execution by the board of cooperative educational services and the component school districts of such board of cooperative educational services of the agreement required by paragraph a of this subdivision; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 9. Paragraphs a and b of subdivision 14 of section 1950 of the education law, as added by chapter 728 of the laws of 1976, are amended to read as follows:

a. All provisions of this subdivision shall be applicable only if any agreement or agreements referred to herein shall be entered into by a board of cooperative educational services and all of the component school districts of the board of cooperative educational services. A board of cooperative educational services and the component school districts of such board of cooperative educational services may enter into an agreement providing for the acquisition or construction, including new construction, additions or reconstruction of facilities designed to house services to be provided by such board of cooperative educational services and for the sharing of the cost of such acquisition or construction. Such agreement in addition to providing for all other matters deemed necessary and proper shall (i) set forth the cost of such acquisition or construction and costs incidental thereto and (ii) provide for an allocation and apportionment of the costs of such acquisition or construction among the component school districts on such equitable basis as the parties thereto shall determine and agree, and the proportion of the total cost to be provided by each such district in accordance with such allocation and apportionment. Such agreement shall be executed by all the component school districts of such board of cooperative educational services and such board of cooperative educational services. Such agreement may provide that each component school district of such a board of cooperative educational services shall issue an agreed upon amount of its obligations in a total amount sufficient to acquire or construct such facilities, or that all component districts of such board shall together issue joint obligations pledging the full faith and credit for all component districts jointly and that each such district shall pay a specified share of annual debt service on such joint obligations in accordance with the provisions of article [five-g] FIVE-G of the general municipal law and applicable provisions of the local finance law; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

b. The acquisition or construction of such facilities is hereby declared and determined to be a public purpose and a school district purpose and a specific object or purpose for which each such component school district is hereby authorized to expend money and contract indebtedness. The period of probable usefulness of such specific object or purpose is hereby determined to be thirty years. Each such component school district is hereby authorized to finance its share of the cost of the acquisition or construction of such facilities, together with costs incidental thereto, either from any current funds legally available therefor or by the issuance of obligations pursuant to the local finance law; provided, however, that (i) no approval of the voters of such component school district shall be required, (ii) the voting of a special tax or a tax to be collected in installments shall not be a

condition precedent to the adoption of a bond resolution for such specific object or purpose, (iii) a majority vote of the entire voting strength of the board of education shall be sufficient for adoption of such a bond resolution, which bond resolution may be adopted at a regular meeting, or a special meeting of the board of education called on not less than twenty-four hours oral or written notice to the members of such board as provided in section sixteen hundred six of [the education law] THIS TITLE, which meeting may be held either within or outside of such district, (iv) any such bond resolution shall take effect immediately and shall not be subject to either a mandatory or permissive referendum, and (v) no such bond resolution shall be adopted prior to the execution by the board of cooperative educational services and all of the component school districts of such board of cooperative educational services of the agreement required by paragraph a of this subdivision; PROVIDED, HOWEVER, SUCH CAPITAL COSTS SHALL NOT BE INCLUDED IN A SCHOOL DISTRICT'S TAX LEVY PURSUANT TO SECTION TWO THOUSAND TWENTY-THREE-A OF THIS TITLE.

S 10. This act shall take effect immediately; provided that the amendments to paragraph c of subdivision 2 of section 2023-a of the education law made by section one of this act shall be subject to the repeal of such section and shall be deemed repealed therewith; provided further, that the amendments to paragraph b of subdivision 4 of section 2023 of the education law made by section two of this act shall be subject to the expiration of such section and shall be deemed to expire therewith; and provided further, that the amendments to subparagraph (a) of paragraph p of subdivision 4 of section 1950 of the education law made by section four of this act shall be subject to the expiration of such subparagraph and shall be deemed to expire therewith.