

# STATE OF NEW YORK

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4462

2019-2020 Regular Sessions

## IN SENATE

March 12, 2019

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Introduced by Sen. MAYER -- 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 building condition surveys; and to repeal sections 409-d and 409-e of such law relating thereto

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

1 Section 1. Paragraph c of subdivision 4 of section 3641 of the educa-  
2 tion law, as amended by section 48 of part C of chapter 58 of the laws  
3 of 1998, is amended to read as follows:

4 c. Powers and duties of the commissioner. (1) The commissioner shall  
5 develop a building condition survey matrix which would be used to assist  
6 public school districts to develop long range facilities plans in a  
7 consistent format.

8 (2) The commissioner is hereby authorized to enter into the necessary  
9 contractual agreements with architects and/or engineers to state-wide  
10 contracts to provide building construction surveys on a regional basis  
11 for a fixed fee per square foot. Such building condition surveys shall  
12 be used to assist school districts with the development of their five-  
13 year capital facilities plan.

14 (3) Commencing with the two thousand nineteen--two thousand twenty  
15 school year, the commissioner shall require school districts to conduct  
16 building condition surveys pursuant to this paragraph in accordance with  
17 a staggered schedule as assigned by the commissioner and every five  
18 years thereafter. In assigning school districts to a scheduled year, the  
19 commissioner shall ensure that no region of the state is over repres-  
20 ented in a given scheduled year. The commissioner shall assign school  
21 districts to conduct building condition surveys in the following manner:

22 (i) Schedule A: One-fifth of all school districts, as assigned by the  
23 commissioner, shall conduct a building condition survey in the two thou-  
24 sand nineteen--two thousand twenty school year. The remaining school

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

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1 districts shall conduct a visual inspection as required by sections four  
2 hundred nine-d and four hundred nine-e of this chapter in the two thou-  
3 sand nineteen--two thousand twenty school year;

4 (ii) Schedule B: One-fifth of all school districts, as assigned by the  
5 commissioner and excluding those school districts that shall conduct  
6 their building condition survey pursuant to schedule A pursuant to item  
7 (i) of this subparagraph, shall conduct a building condition survey in  
8 the two thousand twenty--two thousand twenty-one school year. The  
9 remaining school districts, other than those assigned to schedule A  
10 pursuant to item (i) of this subparagraph, shall conduct a visual  
11 inspection as required pursuant to sections four hundred nine-d and four  
12 hundred nine-e of this chapter in the two thousand twenty--two thousand  
13 twenty-one school year;

14 (iii) Schedule C: One-fifth of all school districts, as assigned by  
15 the commissioner and excluding those school districts that shall conduct  
16 their building condition survey pursuant to schedule A or schedule B  
17 pursuant to items (i) and (ii) of this subparagraph, shall conduct a  
18 building condition survey in the two thousand twenty-one--two thousand  
19 twenty-two school year. The remaining school districts, other than those  
20 assigned to schedule A and schedule B pursuant to items (i) and (ii) of  
21 this subparagraph, shall conduct a visual inspection as required pursu-  
22 ant to sections four hundred nine-d and four hundred nine-e of this  
23 chapter in the two thousand twenty-one--two thousand twenty-two school  
24 year;

25 (iv) Schedule D: One-fifth of all school districts, as assigned by the  
26 commissioner and excluding those school districts that shall conduct  
27 their building condition survey pursuant to schedule A, schedule B, or  
28 schedule C pursuant to items (i), (ii), and (iii) of this subparagraph,  
29 shall conduct a building condition survey in the two thousand twenty-  
30 two--two thousand twenty-three school year. The remaining school  
31 districts, other than those assigned to schedule A, schedule B, or sche-  
32 dule C pursuant to items (i), (ii), and (iii) of this subparagraph,  
33 shall conduct a visual inspection as required pursuant to sections four  
34 hundred nine-d and four hundred nine-e of this chapter in the two thou-  
35 sand twenty-two--two thousand twenty-three school year;

36 (v) Schedule E: One-fifth of all school districts, as assigned by the  
37 commissioner and excluding those school districts that shall conduct  
38 their building condition survey pursuant to schedule A, schedule B,  
39 schedule C, or schedule D pursuant to items (i), (ii), (iii), and (iv)  
40 of this subparagraph, shall conduct a building condition survey in the  
41 two thousand twenty-three--two thousand twenty-four school year.

42 § 2. Subdivision 6-e of section 3602 of the education law, as amended  
43 by chapter 296 of the laws of 2016, is amended to read as follows:

44 6-e. Additional apportionment of building aid for building condition  
45 surveys of school buildings. In addition to the apportionments payable  
46 to a school district pursuant to subdivision six of this section, the  
47 commissioner is hereby authorized to apportion to any school district  
48 additional building aid in accordance with this subdivision for its  
49 approved expenses in the base year for building condition surveys of  
50 school buildings that are conducted pursuant to this subdivision and  
51 subdivision four of section thirty-six hundred forty-one of this arti-  
52 cle. The amount of such apportionment shall equal the product of the  
53 building aid ratio defined pursuant to paragraph c of subdivision six of  
54 this section and the actual approved expenses incurred by the district  
55 in the base year for each school building so inspected, provided that  
56 the amount of such apportionment shall not exceed the building condition

1 survey aid ceiling[~~, and provided further that such approved expenses~~  
2 ~~shall include approved expenses for testing of potable water systems for~~  
3 ~~lead contamination pursuant to section eleven hundred ten of the public~~  
4 ~~health law~~]. For surveys conducted in the nineteen hundred ninety-eight-  
5 -ninety-nine school year, the building condition aid ceiling shall be  
6 twenty cents gross per square foot of floor area. For surveys conducted  
7 in the nineteen hundred ninety-nine--two thousand school year and there-  
8 after, the inspection aid ceiling shall be twenty cents gross per square  
9 foot of floor area, plus an amount computed by the commissioner in  
10 accordance with regulations adopted for such purpose, on the basis of an  
11 index number reflecting changes in the costs of labor and materials from  
12 July first, nineteen hundred ninety-eight.

13 § 3. Subdivision 6-h of section 3602 of the education law, as added by  
14 chapter 296 of the laws of 2016, is amended to read as follows:

15 6-h. Building aid for testing and filtering of potable water systems  
16 for lead contamination. In addition to the apportionments payable to a  
17 school district pursuant to subdivision six of this section, the commis-  
18 sioner is hereby authorized to apportion to any school district addi-  
19 tional building aid pursuant to this subdivision for its approved  
20 expenditures, otherwise ineligible for building aid, in the base year  
21 for the testing of potable water systems required pursuant to section  
22 eleven hundred ten of the public health law and for the installation of  
23 filters and/or other effective remedial measures for immediate remedi-  
24 ation in cases where a finding of lead contamination is made pursuant to  
25 such section and verified by confirmatory sampling, provided that the  
26 cost of installation of such filters and/or other effective remedial  
27 measures shall be deemed an approved expenditure only if (i) such  
28 installation and/or other effective remedial measures have been approved  
29 or reviewed by a professional with expertise in the field of water qual-  
30 ity and remediation and (ii) such cost is incurred prior to July first,  
31 two thousand nineteen. Such aid shall equal the product of the building  
32 aid ratio defined pursuant to paragraph c of subdivision six of this  
33 section and the actual approved expenditures incurred in the base year  
34 pursuant to this subdivision. Commencing with the two thousand nine-  
35 teen--two thousand twenty school year and every year thereafter, addi-  
36 tional building aid pursuant to this subdivision shall include approved  
37 expenses for testing of potable water systems for lead contamination  
38 pursuant to section eleven hundred ten of the public health law.

39 § 4. Section 3602 of the education law is amended by adding a new  
40 subdivision 6-i to read as follows:

41 6-i. Building aid for periodic inspections of public school buildings.  
42 In addition to the apportionments payable to a school district pursuant  
43 to subdivision six of this section, the commissioner is hereby author-  
44 ized to apportion to any school district additional building aid in  
45 accordance with this subdivision for periodic inspections of public  
46 school buildings that are conducted pursuant to sections four hundred  
47 nine-d and section four hundred nine-e of this chapter which are other-  
48 wise ineligible for building aid, provided that any such inspections  
49 shall be completed prior to June thirtieth, two thousand twenty-three.

50 § 5. Paragraph (a) of subdivision 2 of section 409-e of the education  
51 law, as added by section 1 of part B of chapter 56 of the laws of 1998,  
52 is amended to read as follows:

53 (a) [~~Every public school building shall be inspected annually in~~  
54 ~~accordance with the code, provided however, the~~] The commissioner may  
55 require [~~more frequent~~] periodic inspections of public school buildings

1 as deemed necessary to maintain the safety of school buildings and the  
2 welfare of their occupants.

3 § 6. Subdivision 1 of section 409-d of the education law, as amended  
4 by chapter 437 of the laws of 2014, is amended to read as follows:

5 1. Program establishment. The commissioner is authorized and directed  
6 to establish, develop and monitor a comprehensive public school building  
7 safety program which shall include a uniform inspection, safety rating  
8 and monitoring system. [~~Such~~] Under such program, the commissioner may  
9 require periodic inspections of public school buildings as deemed neces-

10 sary to maintain the safety of school buildings and the welfare of the  
11 occupants, and such program shall establish a safety rating system for  
12 such school buildings to assess the need for maintenance, repairs, reha-  
13 bilitation, reconstruction, construction and other improvements related  
14 to the structural integrity and overall safety of public school build-  
15 ings including but not limited to building systems related to elec-  
16 trical, plumbing, heating, ventilation, and air conditioning, sanitation  
17 and health, fire and accident protection; and require that such ratings  
18 be used for the purpose of developing a buildings condition survey as  
19 required pursuant to subdivision four of section thirty-six hundred  
20 forty-one of this chapter and a five year facilities plan as required  
21 pursuant to clause (i) of subparagraph two of paragraph b of subdivision  
22 six of section thirty-six hundred two of this chapter.

23 § 7. Section 409-d of the education law is REPEALED.

24 § 8. Section 409-e of the education law is REPEALED.

25 § 9. This act shall take effect immediately; provided, however, that  
26 sections five and six of this act shall take effect July 1, 2019;  
27 provided, further, that sections seven and eight of this act shall take  
28 effect July 1, 2023; provided, further, that the amendments to subdivi-  
29 sion 1 of section 409-d of the education law made by section six of this  
30 act shall not affect the expiration of such subdivision and shall be  
31 deemed expired therewith. Effective immediately, the addition, amendment  
32 and/or repeal of any rule or regulation necessary for the implementation  
33 of this act on its effective date are authorized to be made and  
34 completed on or before such effective date.