STATE OF NEW YORK

4397

2019-2020 Regular Sessions

IN ASSEMBLY

February 4, 2019

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

AN ACT to amend the education law, the real property tax law, the general municipal law and the state finace law, in relation to school property and real property taxes

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

Section 1. The education law is amended by adding a new section 1527-a to read as follows:

§ 1527-a. Funding of mandates imposed on school districts. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall otherwise require:

(a) "Mandate" means:

(i) any state law, rule, or regulation which creates a new program or requires a higher level of service for an existing program which a school district organized either by special laws or pursuant to the provisions of a general law, is required to provide; or

(ii) any general law which grants a new property tax exemption or increases an existing property tax exemption which any such school district is required to provide.

(b) "Unfunded mandate" shall mean:

(i) any state law, rule, or regulation which creates a new program or requires a higher level of service for an existing program which any such school district is required to provide and which results in a net additional cost to such school district;

(ii) any alteration in funding provided to any such school district for the purpose of defraying the costs of a program which it is required to provide, thereby resulting in a net additional cost to such school district; or

(iii) any general law which grants a new property tax exemption or increases an existing property tax exemption which any such school

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

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district is required to provide, there by resulting in a net additional cost to such school district.

(c) "Net additional cost" means the cost or costs incurred or anticipated to be incurred within a one year period by a school district in performing or administering a mandate after subtracting therefrom any revenues received or receivable by the school district on account of the mandated program or service, including but not limited to:

(i) fees charged to the recipients of the mandated program or service;

(ii) state or federal aid paid specifically or categorically in connection with the program or service; and

(iii) an offsetting savings resulting from the diminution or elimination of any other program or service directly attributable to the performance or administration of the mandated program.

2. Funding of school district mandates. Notwithstanding any other provision of law, no unfunded mandate shall be enacted which creates an annual net additional cost to any school district in excess of ten thousand dollars or an aggregate annual net additional cost to all school districts in excess of one million dollars.

3. Exemptions to the funding of school district mandates requirement. (a) The state shall not be required to fund any new or expanded programs for school districts if:

(i) The mandate is required by a court order or judgement;

(ii) The mandate is provided at the option of the school district under a law or regulation;

(iii) The mandate results from the passage of a home rule message whereby a school district requests authority to implement the program or service specified in the statute, and the statute imposes costs only upon that school district which requests the authority to impose the program or service;

(iv) The mandate is required by, or arises from, an executive order of the governor exercising his or her emergency powers;

(v) The mandate is required by statute or executive order that implements a federal law or regulation and results from costs mandated by the federal government to be borne at the local level, unless the statute or executive order results in costs which exceed the costs mandated by the federal government; or

(vi) The mandate applies to a small business with fifty employees or less.

(b) Each act establishing a mandate shall provide that the effective date of any such mandate imposed on school districts shall be consistent with the needs of the state and school districts to plan implementation thereof, and also consistent with the availability of required funds.

§ 2. Section 2022 of the education law is amended by adding a new subdivision 8 to read as follows:

8. a. Notwithstanding any other provision of law, rule or regulation to the contrary, in a common, union free, central, central high school district or school district, upon the filing of a petition pursuant to paragraph b of this subdivision, with the trustees, the board of education or the chancellor of a city school district located in a city with greater than one million inhabitants shall submit a proposition for the purpose of voting on the question "shall the school district enter into the optional system of state funding for school district expenses" to the qualified voters of a school district. Such vote shall be held on the third Tuesday in May, provided, however, that such vote shall be held on the second Tuesday in May if the commissioner at the request of a local school board or the chancellor in the city of New York certifies

no later than March first that such election would conflict with religious observances. If a district votes to join the optional system that vote is binding and may not be altered by the district or its residents.

b. Such petition relating to the optional system for state funding of school district expenses shall be submitted no later than April first of the school year in which such question described in paragraph a of this subdivision shall be considered by the voters and must be signed by twenty-five percent of the number of qualified voters. Any valid petition containing a sufficient number of valid signatures to place the question described in paragraph a of this subdivision on the ballot submitted after April first and before July first shall be voted on the third Tuesday in May, provided, however, that such vote shall be held on the second Tuesday in May if the commissioner at the request of a local school board certifies no later than March first that such election would conflict with religious observances of the following school year.

§ 3. Section 3602 of the education law is amended by adding a new subdivision 40 to read as follows:

40. Optional system for state funding of school district expenses. In addition to other apportionments of aid made to districts pursuant to this section, additional apportionments shall be made to districts which elect to receive aid pursuant to this subdivision. a. Definitions. As used in this subdivision: (1) "primary residential real property tax levy" shall be defined as the aggregate property taxes levied by a school district on a school district's STAR eligible properties as defined by section four hundred twenty-five of the real property tax law.

(2) "base year primary residential real property tax levy" shall be defined as the primary residential real property tax levy in the school year immediately following the year in which the school district votes to enter into the optional system for state funding of school district expenses pursuant to subdivision eight of section two thousand twenty-two of this chapter.

b. Transition period.(1) A school district shall certify to the commissioner within thirty days of the date at which the vote was taken pursuant to subdivision eight of section two thousand twenty-two of this chapter whether or not qualified voters of the district have elected to enter into the optional system for state funding of school district expenses. Once the commissioner determines that a district has opted into the optional system for state funding of school district expenses the district shall begin receiving aid pursuant to this subdivision in the school year which begins on July first in the subsequent calendar year.

(2) School districts which receive aid pursuant to this subdivision shall receive aid pursuant to the schedule contained in this paragraph. School districts shall continue to receive aid pursuant to this paragraph after the phase in period equal to one hundred percent of the base year primary residential real property tax levy.

(3) During the first year of the transition period, school districts shall receive an additional apportionment equal to twenty per centum of the base year primary residential real property tax levy. In all subsequent years of the transition period, school districts shall receive an additional apportionment equal to the following schedule:

Year	Percent of Base Year Primary Residential Real Property Tax Levy
2	40%
3	60%

4 80%
5 100%

In every year after year five such additional apportionment shall be increased annually by a cost of living increase. The cost of living increase shall be added to the additional apportionment provided in the prior year. The cost of living increase shall be calculated as the percentage increase in the consumer price index for the previous twelve months as determined by the commissioner. Such percentage increase shall be multiplied by the previous year's additional apportionment and the product shall be added to the previous year's additional apportionment to calculate the current year's additional apportionment.

(4) (i) A participating district shall reduce the primary residential real property tax levy pursuant to the schedule contained in this paragraph. School districts opting into the optional system for state funding of school district expenses may not levy taxes in excess of the remainder of the base year primary residential real property tax levy less the aid provided in paragraph three of this subdivision except to fund the difference between a district's current year capital expenses less the state aid apportioned for such purpose.

(ii) Notwithstanding any other provisions of law, rule or regulation to the contrary, a school district which receives aid pursuant to this subdivision shall be authorized to set separate tax warrants and tax rates for the primary residential real property tax levy and other taxable properties.

(5) The apportionment hereunder shall not be made until the electing school district has certified to the commissioner that the district's primary residential real property tax levy for the school year in which aid has been accepted pursuant to this paragraph, does not exceed the base year primary residential real property tax levy as defined in this subdivision less the aid apportioned pursuant to this paragraph.

c. Local funding share. In each city having a population of one hundred twenty-five thousand or more inhabitants for purposes of calculating the local share of expenditures, the amount of the reduction in the primary residential real property tax levy made pursuant to subparagraph four of paragraph b of this subdivision shall be deemed to be incorporated in the city share of expenditures for the city school district.

d. State finding of program. The legislature shall annually appropriate an amount sufficient to support all aid payments incurred pursuant to this subdivision.

e. Payment schedule. The commissioner shall develop a payment schedule for aid payments due and payable pursuant to this subdivision and such schedule shall be approved by the director of the budget before such payment schedule takes effect.

§ 4. The real property tax law is amended by adding a new section 431 to read as follows:

§ 431. Persons sixty-five years of age or over; capped real property school tax rate. 1. (a) Residential real property owned and occupied by one or more persons, each of whom is sixty-five years of age or over and meets each of the requirements for the enhanced exemption for senior citizens set forth in section four hundred twenty-five of this title, or residential real property owned and occupied by a married couple, one of whom is sixty-five years of age or over and meets each of the requirements for the enhanced exemption for senior citizens set forth in section four hundred twenty-five of this title, shall be eligible for the capped real property school tax rate set forth in this section,

provided the school district, after public hearing, adopts a resolution providing therefor.

(b) For purposes of this section, the term "capped real property school tax rate" shall mean the lower of: (i) the real property school tax rate established on the taxable status date next succeeding the date on which an eligible person attains the age of sixty-five years; or (ii) the real property school tax rate established on any taxable status date subsequent to the date on which an eligible person attains the age of sixty-five years, which is lower than the real property school tax rate established pursuant to subparagraph (i) of this paragraph.

(c) The capped real property school tax rate shall be determined annually for each eligible person sixty-five years of age or older in accordance with the provisions of paragraphs (a) and (b) of this subdivision.

2. Any person eligible for the capped real property school tax rate shall apply annually for such capped rate. Such application shall be made in a manner and form determined by the commissioner and shall require proof of the applicant's age. Such application shall be filed with the local assessor on or before the taxable status date for such district.

3. Every school district shall notify, or cause to be notified, each person owning residential real property in the school district of the provisions of this section. The provisions of this subdivision may be met by a notice sent to such persons in substantially the following form: "Residential real property owned by persons sixty-five years of age or older may be eligible for a capped real property school tax rate. To receive such capped rate, eligible owners of qualifying property must file an application with their local assessor on or before the applicable taxable status date. For further information, please contact your local assessor."

4. A school district which provides a capped real property school tax rate for persons sixty-five years of age or over pursuant to this section shall be eligible for reimbursement by the department of education, as approved by the commissioner of education, in consultation with the executive director of the office of real property services, for one hundred percent of the direct cost to such school district resulting from the implementation of this section. Such direct cost shall be calculated pursuant to regulations of the commissioner of education, in consultation with the commissioner. A claim for such reimbursement shall be made by such school district in a manner and form prescribed by the commissioner of education.

§ 5. The real property tax law is amended by adding a new section 431-a to read as follows:

§ 431-a. Persons sixty-five years of age or older; fixed real property assessed value. 1. Residential real property owned and occupied as the primary residence, of one or more persons, each of whom is sixty-five years of age or older and all of whom have a combined annual income of one hundred thousand dollars or less for the income tax year immediately preceding the date of application or residential real property owned and occupied as the primary residence, of a married couple, one of whom is sixty-five years of age or older and both of whom have a combined annual income of one hundred thousand dollars or less for the income tax year immediately preceding the date of application, shall be eligible for the fixed real property assessed value established by this section.

2. For the purposes of this section, the following terms shall have the following meanings:

(a) "Fixed real property assessed value" shall mean the lower of:

(i) the assessed value of real property established on the taxable status date next succeeding the date on which an eligible real property owner attains the age of sixty-five years; or

(ii) the assessed value of real property established on any taxable status date subsequent to the date upon which an eligible real property owner attains the age of sixty-five years, which is lower than the assessed value established pursuant to subparagraph (i) of this paragraph.

(b) "Residential real property" shall mean any one or two family dwelling, including condominium units and cooperative units.

(c) "Income" shall mean the "adjusted gross income" for federal income tax purposes as reported on the applicant's federal or state income tax return for the applicable income tax year, subject to any subsequent amendments or revisions, reduced by distributions, to the extent included in federal adjusted gross income, received from an individual retirement account and an individual retirement annuity; provided that if no such return was filed for the applicable income tax year, "income" shall mean the adjusted gross income that would have been so reported if such a return had been filed.

3. Each taxing authority shall annually determine the fixed real property assessed value for each eligible real property owner.

4. Any person eligible for the fixed real property assessed value shall annually apply to the appropriate assessing unit for such fixed assessed value. Such application shall be made in such manner and form as shall be determined by the commissioner, and shall require proof of the applicants' ages and incomes. Such applications shall be filed on or before the taxable status date of the real property.

5. Every assessing unit shall notify or cause to be notified, each person owning residential real property within its jurisdiction, of the provisions of this section. Such notice shall be and include words which are substantially the following: "Residential real property owned by persons sixty-five years of age or older and having a combined annual income of one hundred thousand dollars or less, may be eligible for a fixed real property assessed value. To receive such fixed assessed value, eligible owners of qualifying real property must file an application with their local assessor on or before the taxable status date. For further information, please contact your local assessor."

§ 6. The real property tax law is amended by adding a new section 906-a to read as follows:

§ 906-a. Effect of fixed real property assessed value upon taxing authorities; state aid. 1. Levy of taxes; determination of taxes due. The amount of taxes to be levied for any taxable year shall be determined without regard to the fact that state aid will be payable pursuant to this section. In addition, the tax rate for any taxable year shall be determined as if no parcels are subject to a fixed real property assessed value pursuant to section four hundred thirty-one-a of this chapter. However, the tax rate so determined shall be applied to the taxable assessed value of each parcel after accounting for all applicable exemptions.

2. Tax savings. The tax savings for each parcel subject to a fixed real property assessed value pursuant to section four hundred thirty-one-a of this chapter shall be computed by subtracting the amount actually levied against the parcel from the amount that would have been levied if not for the fixed real property assessed value. A statement shall then be placed on the tax bill for the parcel in substantially the

following form: "Your tax savings this year resulting from the fixed real property assessed value is $."

3. State aid. (a) The total tax savings duly provided by each taxing authority pursuant to this section shall be a state charge, which shall be payable as provided in this subdivision.

(b) A taxing authority seeking state aid pursuant to this section shall submit an application therefor to the commissioner. The application shall include such information as the commissioner shall require. In addition, each taxing authority shall file a copy of such application with the county clerk of the county in which an eligible parcel is situate.

(c) Upon approving an application for state aid pursuant to this section, the commissioner shall compute and certify the amounts payable to the taxing authority. Such state aid shall be payable upon the audit and warrant of the state comptroller from vouchers certified and approved by the commissioner.

(d) The commissioner may audit an application for state aid pursuant to this section within one year after authorizing payment thereon. If the commissioner should discover that a taxing authority has received a greater or lesser amount of such aid than it should have received, the commissioner shall so notify the taxing authority, and shall cause the next payment of such aid to the taxing authority to be adjusted accordingly.

4. Installment payments. When real property taxes are payable in installments pursuant to law, the tax savings provided by this section shall be apply proportionally against the respective installments.

5. Untimely payment of taxes. When taxes on a property subject to a fixed real property assessed value pursuant to section four hundred thirty-one-a of this chapter are not paid in a timely manner, interest, penalties and any other applicable charges shall be imposed only against the balance due after the tax savings provided by this section have been deducted from the taxes owed.

§ 7. Paragraph (a) of subdivision 2 of section 1573 of the real property tax law, as amended by section 1 of part Y of chapter 56 of the laws of 2010, and as further amended by subdivision (b) of section 1 of part W of chapter 56 of the laws of 2010, is amended and a new subdivision 3-b is added to read as follows:

(a) State assistance pursuant to subdivision one of this section shall be payable in an amount not to exceed [~~five~~] fifteen dollars per parcel for an assessment roll upon which a revaluation is implemented in accordance with an approved plan, and not to exceed two dollars per parcel for any assessment roll upon which a revaluation is not implemented in accordance with an approved plan. The amount payable on a per parcel basis shall exclude parcels which are wholly exempt or assessed by the commissioner.

3-b. (a) State assistance shall be payable in a one-time payment of up to two dollars per parcel, excluding parcels which are wholly exempt or assessed by the commissioner, to every assessing unit when all such assessing units which comprise a school district composed of more than one assessing unit revalue their assessments at one hundred percent value during the same year, and the assessment rolls derived therefrom are filed in two thousand twenty or thereafter. The provisions of this paragraph shall apply only to those parcels within such school district composed of multiple assessing units, when all such assessing units revalue assessments at one hundred percent value during the same year.

(b) No provision of this subdivision shall be deemed to limit the eligibility of any assessing unit to receive state assistance pursuant to subdivisions one and two of this section in addition to the state assistance granted pursuant to this subdivision.

(c) If an assessing unit, after having received state assistance pursuant to paragraph (a) of this subdivision, reverts to assessment at less than one hundred percent of the value within four years after the receipt of such aid, such assessing unit shall remit to the state a prorated portion of the aid received, except that in the case of a county assessing unit, if a city or town therein reverts to assessment at less than one hundred percent of value within five years after the county's receipt of such aid, the county shall remit to the state a prorated portion of the aid received.

§ 8. The general municipal law is amended by adding a new section 25 to read as follows:

§ 25. Funding of mandates. 1. Definitions. As used in this section, the following terms shall have the following meanings unless the context shall otherwise require:

(a) "Mandate" means:

(i) any state law, rule, or regulation which creates a new program or requires a higher level of service for an existing program which a municipal corporation is required to provide; or

(ii) any general law which grants a new property tax exemption or increases an existing property tax exemption which the municipal corporation is required to provide.

(b) "Unfunded mandate" shall mean:

(i) any state law, rule, or regulation which creates a new program or requires a higher level of service for an existing program which a municipal corporation is required to provide and which results in a net additional cost to the municipal corporation;

(ii) any alteration in funding provided to a municipal corporation for the purpose of defraying the costs of a program which it is required to provide, thereby resulting in a net additional cost to the municipal corporation; or

(iii) any general law which grants a new property tax exemption or increases an existing property tax exemption which the municipal corporation is required to provide, thereby resulting in a net additional cost to the municipal corporation.

(c) "Net additional cost" means the cost or costs incurred or anticipated to be incurred within a one year period by a local government in performing or administering a mandate after subtracting therefrom any revenues received or receivable by the local government on account of the mandated program or service, including but not limited to:

(i) fees charged to the recipients of the mandated program or service;

(ii) state or federal aid paid specifically or categorically in connection with the program or service; and

(iii) an offsetting savings resulting from the diminution or elimination of any other program or service directly attributable to the performance or administration of the mandated program.

2. Funding of municipal corporation mandates. Notwithstanding any other provision of law, no unfunded mandate shall be enacted which creates an annual net additional cost to any municipal corporation in excess of ten thousand dollars or an aggregate annual net additional cost to all municipal corporations in excess of one million dollars.

3. Exceptions to the funding of the municipal corporation mandates requirement. (a) The state shall not be required to fund any new or expanded programs if:

(i) The mandate is required by a court order or judgment;

(ii) The mandate is provided at the option of the local government under a law, regulation, rule, or order that is permissive rather than mandatory;

(iii) The mandate results from the passage of a home rule message whereby a local government requests authority to implement the program or service specified in the statute, and the statute imposes costs only upon that local government which requests the authority to impose the program or service;

(iv) The mandate is required by, or arises from, an executive order of the governor exercising his or her emergency powers; or

(v) The mandate is required by statute or executive order that implements a federal law or regulation and results from costs mandated by the federal government to be borne at the local level, unless the statute or executive order results in costs with exceed the costs mandated by the federal government.

(b) Each act establishing a mandate shall provide that the effective date of any such mandate imposed on municipal corporations shall be consistent with the needs of the state and municipal corporations to plan implementation thereof and consistent with the availability of required funds.

§ 9. The state finance law is amended by adding a new section 99-ff to read as follows:

§ 99-ff. The state education fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of education, a special fund to be known as the "state education fund".

2. Such fund shall consist of all revenues received from the sale of any lottery ticket within the state less any expenditures required for the operation of the lottery.

3. The moneys in such fund shall be appropriated or transferred only for (i) elementary and secondary education for schools which chose to use the optional system for state funding of school district expenses under subdivision forty of section thirty-six hundred two of the education law and (ii) municipalities and school districts which have imposed on them unfunded mandates, as such term is defined in section twenty-five of the general municipal law.

4. Moneys shall be payable from the fund on the audit and warrant of the comptroller on vouchers approved and certified by the commissioner of education.

§ 10. 1. The New York state comptroller in coordination with the commissioners of state departments shall see that an extensive and independent audit is conducted on all state departments and agencies to identify potential cost saving measures and wasteful spending.

2. After the conclusion of the audit, the comptroller in coordination with the commissioners of state departments shall ensure all identified cost saving measures are implemented and wasteful spending is ended. All monies saved from the implementation of such cost saving measures and monies retained from the reduction of wasteful spending shall be deposited into the education fund established by section 99-ff of the state finance law.

§ 11. 1. The legislature hereby declares that the real property tax system in the state of New York needs to be examined and restructured in order to provide significant property tax relief for the citizens of the

state. As such, it is determined that a blue ribbon commission on property tax reform shall be established to examine the current ad valorem property tax system and local education financing system of the state. Such commission shall submit a report and recommendations to the governor and the legislature upon completion of such examination.

2. A blue ribbon commission on property tax reform is hereby created to examine, evaluate and make recommendations on alternatives or modifications to the existing ad valorem real property tax system in this state and alternative sources of funding for local education. The commission shall be charged with examining and making recommendations on specific areas of reform for local governments and school districts with the goal of mitigating and reducing the property tax burden in the state of New York. The subject areas to be examined shall include, but not be limited to, the following:

(a) Accountability:

(i) inspector general for schools and local governments;

(ii) enhanced public disclosure of budget data; and

(iii) program to eliminate waste and fraud.

(b) Governance and structure of local governments and school districts:

(i) shared services and/or consolidation of personnel and services;

(ii) shared services and/or consolidation of governmental units including special districts;

(iii) size of municipal and school district governing boards; and

(iv) the school district election process and oversight.

(c) Property assessments:

(i) property valuation process by local assessors;

(ii) equalization rate process used by the office of real property services;

(iii) countywide versus local assessment system;

(iv) review of state payments to local governments for state owned land; and

(v) the definition, limits, qualifications of tax exempt properties.

(d) Spending and tax controls:

(i) limits on local levy growth;

(ii) limits on local tax rate growth;

(iii) limits on local spending growth;

(iv) prohibition on unfunded state mandates on local governments and school districts;

(v) other state's limits on local spending and/or taxing authority; and

(vi) a circuit breaker to limit percentage of income spent on property taxes.

(e) Potential alternative sources of funding to property taxes:

(i) local/regional/state income tax;

(ii) sales tax;

(iii) blended revenue system; and

(iv) other potential revenue sources.

3. The blue ribbon commission on property tax reform shall be composed of eleven members. The members, each to serve a term of one year shall be appointed as follows: three members shall be appointed by the governor; three members shall be appointed by the temporary president of the senate; three members shall be appointed by the speaker of the assembly; one member shall be appointed by the minority leader of the assembly; and one member shall be appointed by the minority leader of the senate. Of the members appointed by the governor, one shall be an expert in the

field of municipal finance, one shall be an expert in the field of education finance, and one shall be an expert on assessment administration. The commission shall elect a chair, a vice-chair and a secretary from amongst its members. Notwithstanding the provisions of section 74 of the public officers law, section 806 of the general municipal law or any other provision of law, membership on the commission of any state or municipal officer or employee shall not constitute the violation of any code of ethics or a conflict of interest. The commission shall meet at least monthly. Commissioner members shall chair subcommittees to fully examine the five areas of reform. These subcommittees may be appointed by the commission members. The subcommittees shall meet regularly and report back to the full commission. Vacancies in the membership of the commission and among its officers shall be filled in the manner provided for original appointments.

4. The commission may employ and at pleasure remove such personnel as it may deem necessary for the performance of its functions and fix their compensation within the amount made available therefor.

5. The commission may meet within and without the state, shall hold public hearings, and shall have all the powers of a legislative committee pursuant to the legislative law.

6. The members of the commission shall receive no compensation for their services, but shall be allowed their actual and necessary expenses incurred in the performance of their duties pursuant to this act.

7. To the maximum extent feasible, the commission shall be entitled to request and receive, and shall utilize and be provided with such facilities, resources and data of any department, division, board, bureau, commission of agency of the state or any political subdivision thereof as it may reasonably request to properly carry out its powers and duties pursuant to this act.

8. The blue ribbon commission on property tax reform shall make a final report to the governor and the legislature of its findings, conclusions and recommendations on or before December 1, 2021, and shall submit with such report such legislative proposals as it deems necessary to implement its recommendations.

§ 12. This act shall take effect April 1, 2020 and shall apply to any general or special law imposing mandates on municipal corporations or school districts enacted on or after such effective date; provided, however, that the amendments to section 2022 of the education law made by section two of this act shall not affect the expiration of such section and shall be deemed to expire therewith.