



**NEW YORK STATE ASSEMBLY**

**A N N U A L**

**2 0 1 2**

**R E P O R T**



**Committee on  
Education**

**Catherine Nolan, Chair**

**SHELDON SILVER, SPEAKER**



CATHERINE NOLAN  
37<sup>TH</sup> Assembly District  
Queens County

# THE ASSEMBLY STATE OF NEW YORK ALBANY

CHAIRWOMAN  
EDUCATION COMMITTEE

COMMITTEES  
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Corporations, Authorities & Commissions

December 15, 2012

The Honorable Sheldon Silver, Speaker  
New York State Assembly  
State Capitol, Room 349  
Albany, New York 12248

Dear Speaker Silver:

I am pleased to present to you my seventh annual report as Chair of the Assembly Standing Committee on Education. It is an honor to serve as the Chair of this Committee and help our Majority advance education as our number one priority. The fiscal environment for school districts across the state this year was challenging; however, the Committee was able to take measures to alleviate some financial difficulties and increase educational opportunities for all students. And, with your leadership, the Assembly passed these measures.

To restore funds to schools that suffered significant cuts in last year's budget, the 2012-13 state budget increased funding to school districts by \$805 million. To ensure additional financial assistance for school districts and to improve the future educational prospects of our students, the budget also provides for a two-year appropriation for education funding that will increase funding by approximately \$712 million in the 2013-14 school year.

The Assembly Majority successfully fought to avoid shifting costs to school districts that were proposed in the Executive budget. As a result, school districts will not be responsible for sharing certain costs related to teacher tenure disciplinary hearings. Additionally, we were able to avoid a cost-shift onto school districts for preschool special education programs.

The Committee reported numerous pieces of legislation that will improve the educational prospects of all students and provide a safe learning environment. A.9861(Nolan)/Chapter 157 of the laws of 2012 and A.10216A(Gantt)/Chapter 167 of the laws of 2012 authorize New York City and Rochester to mandate all five year old children attend kindergarten with certain exemptions. I am a strong believer in the benefits of early childhood education and increasing kindergarten enrollment in these school districts will help children have more successful educational and professional careers. The Committee also reported A.10712 (O'Donnell)/Chapter 102 of the laws of 2012, which expands the progress made by the enactment of the "Dignity for All Students Act" of 2010 by protecting students from the harmful effects of cyberbullying. Our congratulations go to Assemblyman O'Donnell on this bill.

In an effort to strike a balance between the rights of teachers and a parent's right to understand relevant teacher evaluation scores, the Committee reported A.10786 (Jaffee)/Chapter 68 of the laws of 2012. In 2010 the New York State legislature passed A.11171(Nolan)/Chapter 103 of the laws of 2010 which required annual professional performance reviews of classroom teachers and building principals. The 2012 law sponsored by Assemblywoman Jaffee requires school districts and BOCES to disclose certain

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information relating to annual professional performance reviews of teachers and principals upon request by the student's parents or legal guardian. It is my hope that this law will lead to better teacher/parent relationships and foster an open and productive conversation about teacher quality and improvement.

In April of this year the Committee held a public hearing in New York City regarding the proposed use of the federal school turnaround model in 33 New York City public schools. This hearing brought to light the numerous issues surrounding the proposed closure of these schools and the removal of at least half the teachers at each school. Fortunately, the turnaround model was not implemented at any of the original 33 schools for the 2012-13 school year.

As we move forward into 2013, there are challenges that lie ahead. In the upcoming year, the Committee will continue to fight for adequate funding of public schools, particularly schools with the highest-need students, and will strive to constantly improve the quality of our schools, communities and students' lives. On behalf of the Committee, I want to thank our dedicated and talented committee staff, particularly our departing counsel, Suzanne Bolling, and express my gratitude to our retiring ranking minority member, Assemblyman Joel Miller. I thank you for your continued support and leadership and look forward to 2013 which promises to be another landmark session.

Sincerely,

Catherine Nolan  
Chair  
Committee on Education

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**2012 ANNUAL REPORT  
NEW YORK STATE ASSEMBLY  
STANDING COMMITTEE ON EDUCATION**

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## **I. INTRODUCTION**

The New York State Constitution states that, “[t]he Legislature shall provide for the maintenance and support of a system of free common schools, wherein all the children of this state may be educated” (Article 11, Section 1). This constitutional provision establishes the foundation for the areas of responsibility of the Assembly’s Standing Committee on Education.

The Committee is responsible for overseeing educational policies and programs affecting prekindergarten, elementary and secondary education for more than 3 million children attending both public and non-public schools. Within New York State, there are nearly 700 school districts, including the nation’s largest, the New York City School District, which enrolls over one million students. In addition, 37 Boards of Cooperative Educational Services (BOCES) provide occupational education, shared services, special education, and academic programs on a regional basis. The Committee also participates in the process for selecting persons to serve on the New York State Board of Regents.

The Committee works diligently to ensure that the public schools of this large and diverse State provide the range of opportunities that all students need to fulfill their potential. The Committee supports equitable funding and strengthening the quality of public education in the State.

During the 2012 Session, 553 bills were referred to the Education Committee. The Education Committee has broad jurisdiction reaching to all aspects of public education. This report provides a detailed examination of the Committee’s budgetary and legislative achievements in 2012.

## II. COMMITTEE ACTIVITIES AND ACHIEVEMENTS

### A. STATE BUDGET HIGHLIGHTS

The Legislature modified the Executive's proposal to increase funding for General Support for Public Schools (GSPS) by \$804.97 million for a total GSPS of \$20.35 billion for the 2012-13 school year. This increase in GSPS funding will allow for an increase in Foundation Aid of \$111.54 million, a restoration of the Gap Elimination Adjustment (GEA) of nearly \$400 million, and a full reimbursement of expense based aids as well as other GSPS programs. The Legislature modified the Executive's proposed structure for a two year appropriation for funding for GSPS which may increase funding by \$712 million for the 2013-14 school year depending on certain factors.

The Legislature reallocated \$200 million in proposed additional funding for performance grants originally proposed in the Executive budget and instead provided renewed support for the foundation aid formula as well as an increased restoration of the GEA.

The Legislature modified the Executive's proposal to provide that no school district is eligible to receive an increase in state aid education funding for the 2012-13 school year unless the district has an Annual Professional Performance Review (APPR) plan approved by the Commissioner by January 17, 2013. The APPR plan must be in compliance with Chapter 21 of the laws of 2012. The Legislature also provided for APPR transition grants to pay for the cost of implementing the locally-developed components of a school district's approved plan under certain circumstances.

**The following summary provides a brief description of the State Budget:**

#### *Foundation Aid*

The Foundation Aid formula was established in the 2007-08 school year and acts as a mechanism to ensure that educational resources are distributed to schools in a transparent and equitable manner pursuant to the New York State Court of Appeal's *Campaign for Fiscal Equity* decision. The formula is based on the average cost of educating students in successful schools, and is adjusted for regional cost differences, poverty levels, pupils with limited English proficiency and special education needs. In addition, the formula is based on enrollment rather than attendance.

The Legislature funded Foundation Aid at \$15 billion for the 2012-13 school year, a \$111.54 million increase over the Executive's proposal and over the 2011-12 school year.

#### *Early Childhood Education*

The Universal Prekindergarten (UPK) program continues to be a high priority for the Assembly Majority. Through providing high-quality early childhood learning opportunities to four-year old children for more than a decade, the UPK program has played a vital role in helping students meet higher educational standards and closing student achievement gaps.

The State budget for the 2012-13 school year funded the UPK program at its present law level of \$385.04 million, an increase of \$743,781 above the Executive proposal and an increase of \$4.27 million over the 2011-12 school year. The budget also provided for UPK funding to be maintained through the 2013-14 school year.

The Legislature provided clarification of the UPK maintenance of effort provision to eliminate a financial penalty imposed on certain school districts. The Legislature also provided for the correction of certain data errors relating to school district UPK enrollment figures.

The Legislature modified the Executive's proposal to continue the current teacher certification process for community-based organizations providing UPK services by providing that a written plan is established for prekindergarten teachers to obtain a certificate valid for service in early childhood grades within five years after commencing employment, or by June 30, 2017, whichever is later.

The Legislature increased funding for Full-Day Kindergarten to its present law level of \$6.64 million, a decrease of \$121,816 from the Executive's proposal and \$1.65 million over the 2011-12 school year.

### ***Teacher Programs***

The Legislature restored funding for Teacher Resource and Computer Training Centers at \$10.22 million. The Legislature accepted the Executive's proposal to fund the National Board for Professional Teaching Standards Certification program at \$368,000 for the 2012-13 school year, which is the same level of funding as the 2011-12 school year.

The Legislature accepted the Executive's proposal to fund the Teachers of Tomorrow program at \$25 million for the 2012-13 school year, which is the same level of funding provided for the 2011-12 school year. This program was established to assist school districts in the recruitment, retention and certification necessary to increase the supply of qualified teachers in school districts with teacher shortages, especially low-performing schools. The program offers a variety of incentives, such as stipends and tuition reimbursement, to encourage prospective teachers to work in high-need areas.

The Legislature accepted the Executive's proposal to fund the Teacher Mentor Intern program at \$2 million for the 2012-13 school year, which is the same level of funding as the 2011-12 school year.

### ***Special Education***

The Legislature increased High Cost Excess Cost Aid to its present law level of \$503.99 million for the 2012-13 school year, an increase of \$5.90 million over the Executive's proposal and \$5.13 million over the 2011-12 school year.



The Legislature increased funding for Private Excess Cost Aid to its present law level of \$365.73 million for the 2012-13 school year, an increase of \$2.98 million over the Executive's proposal and \$41.80 million over the 2011-12 school year.

The Legislature accepted the Executive's proposal to fund Supplement Public Excess Cost Aid at \$4.31 million for the 2012-13 school year, which is the same level of funding as the 2011-12 school year.

The Legislature accepted the Executive's proposal to increase Preschool Special Education Funding by \$66.8 million over the 2011-12 school year level for a total of \$936.7 million for the 2012-13 school year.

The 2012-13 Executive budget proposed a cost shift onto school districts for preschool special education programs and also proposed certain restrictions on programs available to certain children:

- The Legislature rejected the Executive's proposal to require school districts to share in the growth above the county's share of 2012-13 school year preschool special education program (4410) costs.
- The Legislature rejected the Executive's proposal which prohibits children from receiving services from a 4410 provider if there is a "less than arms length" relationship between the provider and the child's evaluator.
- The Legislature rejected the Executive's proposal to require justification when a more distant 4410 provider is chosen over a closer comparable provider.

The Legislature provided that the school district of residence, instead of the school district of origin, will pay student tuition to the schools for the Blind and Deaf (4201) beginning in the 2013-14 school year.

### ***BOCES Aid***

BOCES Aid provides aid to reimburse school districts that participate in BOCES shared educational programs and services. The 2012-13 State budget funded this aid category at its present law level of \$723.04 million, which is an increase of \$2.17 million over the 2011-12 school year.

The Legislature accepted the Executive's proposal to maintain BOCES Aid for Special Act Districts at the 2011-12 level of \$700,000.

### ***Special Services Aid***

The Legislature increased funding for Special Services Aid to its present law level of \$219.56 million, which is an increase of \$275,941 over the Executive's proposal and an increase of \$7.22 million over the 2011-12 school year.

### ***Building Aid***

The Legislature increased funding for Building Aid to its present law level of \$2.69 billion, which is a decrease of \$497,944 below the Executive's proposal and an increase of \$86.53 million over the 2011-12 school year.

The Legislature accepted the Executive's proposal for school districts to regain building aid eligibility in cases where those districts missed the final cost report filing deadline, but submit a final cost report by December 31, 2012. Those districts will receive payment of certain building aid through the prior year claims process and through traditional state aid reimbursement starting in 2013-14.

The Legislature expanded a waiver provision which authorizes Building Aid payments only after a final cost report is filed in order to allow school districts to receive building aid reimbursement in a more timely manner.

The Legislature provided for increased funding for Reorganization Building Aid to its present law level of \$26.29 million, which is an increase of \$14,116 over the Executive's proposal and \$1.5 million over the 2011-12 school year.

### ***Transportation Aid***

The Legislature modified the Executive's proposal and provided funding for Transportation Aid at its present law level of \$1.67 billion, which is an increase of \$3.03 million over the Executive's proposal and an increase of \$63.12 million over the 2011-12 school year.

The Legislature rejected the Executive's proposal to require school buses and equipment to be purchased from centralized state contracts in order to be eligible for state reimbursement and the Legislature rejected the Executive's proposal to require approval by the Commissioner for school bus equipment purchases.

The Legislature accepted the Executive's proposal to extend the authorization for school districts to award certain transportation contracts pursuant to a request for proposal process for five years.

The Legislature provided that the New York City school district must provide transportation after 5:00 P.M. for students in grades kindergarten through sixth grade that are enrolled for regularly scheduled academic classes from 9:30 A.M. or earlier until at least 5:00 P.M. on weekdays and reside a certain distance from school. The New York City school district will not be required to incur any costs in excess of the appropriation provided for this transportation and in the event the appropriation provided for this transportation is insufficient, the school district must provide transportation services within the amounts appropriated on an equitable basis until the appropriation is exhausted. Parents/guardians must request this transportation in writing in accordance with time limitations prescribed in law.

The Legislature provided that school districts that did not receive transportation aid because of an inadvertent and minor or clerical error an opportunity to receive such aid if the district submits certain information to the Commissioner by December 31, 2012. This provision only applies to transportation contracts for the 2004-05 school year through the 2011-12 school year and for contracts and contract extensions entered into prior to the 2004-05 school year for which expenses were incurred in the 2004-05 school year and thereafter. Eligible districts will receive payment of certain transportation aid through the prior year claims process.

### ***Instructional Materials Aid***

The Budget provided present law funding levels for instructional materials aids for the 2011-12 school year:

- Textbook Aid: The Legislature modified the Executive's proposal to fund Textbook Aid at its present law level of \$181.69 million, which is a decrease of \$939,908 below the Executive's proposal and an increase of \$2.74 million over the 2011-12 school year.
- Computer Hardware Aid: The Legislature modified the Executive's proposal to fund Computer Hardware at its present law level of \$39.06 million, which is a decrease of \$203,728 from the Executive's proposal and an increase of \$1.55 million over the 2011-12 school year.
- Software Aid: The Legislature modified the Executive's proposal to fund Computer Software at its present law level of \$46.76 million, which is a decrease of \$206,646 below the Executive's proposal and an increase of \$1.26 million over the 2011-12 school year.
- Library Materials Aid: The Legislature modified the Executive's proposal to fund Library Materials at its present law level \$19.51 million, which is a decrease of \$86,217 below the Executive's proposal and an increase of \$347,365 over the 2011-12 school year.

### ***High Tax Aid***

The Legislature accepted the Executive's proposal to fund High Tax Aid at \$204.77 million for the 2012-13 school year, which is the same level provided for the 2011-12 school year.

### ***Nonpublic School Aid***

The Legislature modified the Executive's proposal and increased Nonpublic School Aid by \$7.00 million, an increase of \$20.24 million over the 2011-12 school year for a total of \$123.62 million for the 2012-13 school year. The Legislature also requires that a plan be developed by the Commissioner of Education to meet multi-year costs.

### ***Charter School Transition Aid***

Charter School Transition Aid directs funding to the school districts most impacted by charter school growth and enrollment. The Legislature accepted the Executive's proposal to increase Charter School Transition Aid to \$30.98 million, an increase of \$3.62 million over the 2011-12

school year. Eighteen school districts will receive charter school transition aid for the 2012-13 school year.

### ***Miscellaneous Aids***

The Legislature accepted the Executive's proposal to fund Employment Preparation Education (EPE) at \$96 million, which is the same level of funding as the 2011-12 school year. School districts and BOCES may operate an EPE program to provide services for persons aged 21 and older who have not received a high school diploma or its equivalent.

The Legislature accepted the Executive's proposal to fund Incarcerated Youth assistance at \$20.5 million and Homeless Pupils aid at \$18.23 million, which is an increase of \$1 million for each of these programs over the 2011-12 school year.

The Legislature accepted the Executive's proposal to fund the School Lunch and Breakfast Program at \$33.7 million, which is an increase of \$600,000 over the 2011-12 school year.

The Legislature provided that all students eligible for free meals/milk will automatically receive that benefit without further application. When a school identifies a student as eligible for free meals/milk, the school must notify the student's parent or guardian and that person must be given an opportunity to decline the receipt of free meals/milk for their student.

The Legislature accepted the Executive's proposal to extend for five years a provision that mitigates the impact of federal military base closings on state aid.

### ***Tenured Teacher Disciplinary Hearings***

The Legislature rejected the Executive's proposal to shift the cost of tenured teacher disciplinary hearings (3020-a) to the school district and the employee's collective bargaining unit or the employee. The State remains responsible for all costs associated with the hearings.

The 2012-13 State budget also provided for reforms to the 3020-a process relating to shortening the time frame and creating other efficiencies to the hearings in order to lessen the financial burden on school districts and the State:

- The Legislature accepted the Executive's proposal to authorize the Commissioner to monitor and investigate a hearing officer's compliance with statutory timelines and to remove hearing officers from the list of potential arbitrators for a record of continued failure to commence and complete hearings within statutory timelines.
- The Legislature accepted the Executive's proposal to provide a statute of limitations for hearing officers to submit claims for payment by the State Education Department.
- The Legislature accepted the Executive's proposal to authorize the Commissioner to limit the number of study hours that may be claimed by a hearing officer for a hearing.

- The Legislature accepted the Executive’s proposal to authorize the Commissioner to set maximum rates of compensation for hearing officers to provide that the rates are based on customary and reasonable fees for services as an arbitrator.
- The Legislature provided that the school district and employee must notify the Commissioner with their selection of a hearing officer within 15 days from receiving the list of arbitrators from the Commissioner and that if the Commissioner is not notified, the Commissioner will choose a hearing officer from the list of arbitrators. This provision does not apply to the New York City school district.
- The Legislature provided that all evidence for a hearing must be submitted by all parties within 125 days of the filing of charges and no additional evidence shall be accepted after such time, absent extraordinary circumstances beyond the control of the parties.
- The Legislature modified the Executive’s proposal relating to stenographers at hearings by requiring an accurate record of the proceedings be kept and authorizing the Department to utilize new technology to transcribe or record the hearings in an accurate, reliable, efficient and cost-effective manner without any charge to the employee or the board of education involved.

### ***Employee Benefit Accrued Liability Reserve***

The 2012-13 State budget continued school district authorization to partially offset the remaining GEA by authorizing school districts to transfer excess Employee Benefit Accrued Liability Reserve (EBALR) funds during 2012-13 school year for the purpose of maintaining educational programming.

### ***Competitive Grants***

The 2011-2012 State budget provided for the establishment of two new competitive grant programs, the School District Management Efficiency Awards Program and the School District Performance Improvement Awards Grant, totaling \$500 million dollars to be distributed over a multi-year period:

- **School District Management Efficiency Awards Program:** This program encourages school districts to implement long term management efficiencies that will result in significant cost savings. School districts that demonstrated management efficiencies within the previous two years are eligible to apply for this grant.
- **School District Performance Improvement Awards Grant:** This grant will award money to school districts that have demonstrated the most improved academic achievement gains and student outcomes, as well as having implemented strategies that have the most potential for continued improvements in student performance, narrowing student achievement gaps and increasing academic performance in traditionally underserved student groups. Priority for the awards will be given to school districts whose programs benefit students having the greatest educational needs.

The Legislature accepted the Executive's provision of \$50 million in Performance Grants and there is an additional \$75 million for School District Management Efficiency and Performance Grants for the 2012-13 school year. The Legislature accepted the Executive's proposal to extend the time period for awarding Management Efficiency Grants by 120 days and award bonus points for full compliance with APPR by September 1, 2012.

### *Contracts for Excellence*

Contracts for Excellence (Contract) was implemented beginning in the 2007-08 school year. School districts were required to prepare a Contract if they had at least one school that failed to meet federal or State academic benchmarks and if their increase in Foundation Aid equaled or exceeded \$15 million or 10 percent over the prior year. The 2012-13 State budget provided that any school district that filed a Contract in the 2011-12 school year must file a Contract in the 2012-13 school year, unless all schools in the district are in good standing. As a result, in the 2012-13 school year, 23 school districts are required to prepare a Contract for Excellence. These school districts must maintain the Contract amount approved by the Commissioner in the Contract for the 2011-12 school year.

## **B. ANNUAL PROFESSIONAL PERFORMANCE REVIEWS**

**A.9554, Rules (Silver); Chapter 21 of the laws of 2012** As part of the Executive budget proposal, the Executive proposed amendments to the Annual Professional Performance Reviews (APPR) law enacted by chapter 103 of the laws of 2010. These amendments were withdrawn from the budget proposal and passed through separate legislation. The original legislation was part of the Race to the Top legislative package and established a new and more rigorous APPR of classroom teachers and building principals. The evaluations will generate a single composite effectiveness score based on multiple measures of effectiveness, including state assessments and student achievement, which will be a significant factor in employment decisions. The law also requires the development of improvement plans for any teacher or principal who receives a rating of "developing" or "ineffective," and a locally established appeals procedure.

Chapter 21 of the laws of 2012 clarified certain aspects of the methodology that will be used to determine the composite effectiveness score and established certain ranges for the calculation of subcomponents of the score. The law also established a timeline for providing classroom teachers and building principals with their APPR scores. This law further requires the State Education Department to annually monitor and analyze trends and patterns in teacher and principal evaluation results and data to identify schools where a more rigorous evaluation system is needed to improve educator effectiveness and student learning.

Chapter 21 of the laws of 2012 also prescribed a process for appeals and tenured teacher disciplinary hearings related to APPR's for the New York City school district. The appeals process will only take effect if the New York City school district and the United Federation of Teachers fail to enter into a collectively bargained teacher evaluation and appeals plan with the approval of the Commissioner by January 16, 2013.

**A.10786, Jaffee; Chapter 68 of the laws of 2012** This Chapter provides that school districts and BOCES must fully disclose final quality ratings and composite effectiveness scores from APPR's of teachers and principals to the State Education Department (SED). SED will provide this information on its website and the data will have to be suitable for research, analysis and comparison of APPR data. The data will also be provided in certain itemized categories and cannot include personally identifying information.

The law requires school districts and BOCES to disclose final quality ratings and composite effectiveness scores of the teachers and principal of the school building that the student is assigned to for the current school year upon request by the student's parents or legal guardian. The information may be provided to parents through numerous methods. Parents receiving the information are required to receive an oral or written explanation of the scoring ranges and rating categories, and be offered an opportunity to understand the scores in the context of teacher evaluation and student performance. School districts and BOCES are required to make reasonable efforts to ensure that the person requesting the information is entitled to the information.

The legislation exempts APPR data from the State freedom of information law and provides that nothing in the law may inhibit SED from collecting data and material necessary to carry out its functions and duties, including responsibilities related to the federal Race to the Top program.

## **C. STUDENT SAFETY & HEALTH SERVICES**

**A.10712, O'Donnell; Chapter 102 of the laws of 2012** This Chapter expands on the progress made by the enactment of the "Dignity for All Students" act of 2010. The act, which took effect on July 1, 2012, prohibits harassment of students on school grounds or at any school function, and prohibits discrimination based on a student's actual or perceived race, color, weight, national origin, ethnic group, religion, mental or physical disability, sexual orientation, or gender.

Chapter 102 of the laws of 2012 expanded on the "Dignity for All Students" act by providing a definition for bullying and expanding the current definition of harassment to include actions that reasonably cause or would reasonably be expected to cause physical injury or emotional harm or actions that occur off school property and create or would foreseeably create a risk of substantial disruption within the school environment, where it is foreseeable that the conduct, threats, intimidation or abuse might reach school property. The terms "threats, intimidation or abuse" include both verbal and non-verbal actions. This law defines "cyberbullying" to mean harassment or bullying, as those terms are defined in the bill, through any form of electronic communication. Further, the law will prohibit any student from being subject to bullying by employees or students on school property.

The law will require school districts to implement policies and procedures intended to create a school environment that is free from harassment, bullying and discrimination. School districts will be required to establish a reporting system for incidents of harassment, bullying or discrimination by employees or students against other students. The statute requires that the appropriate law enforcement agency be notified if school officials believe that the reported harassment, bullying or discrimination may have constituted criminal conduct.

The law will also require school districts to adopt guidelines relating to the development of measured, balanced and age-appropriate responses to instances of harassment, bullying or discrimination by students with remedies and procedures following a progressive model that make appropriate use of certain intervention, discipline and education methods. Training will be required to address areas such as the social patterns of harassment, bullying and discrimination; the identification of acts of harassment and bullying based on a person's perceived or actual characteristics; and strategies effectively addressing problems of exclusion, bias, and aggression in educational settings.

The Commissioner will be required to provide guidance and educational materials to school districts related to best practices in addressing cyberbullying and helping families and communities work cooperatively with schools in addressing cyberbullying on and off school property or at or away from a school function. The Commissioner will also have to prescribe regulations requiring school professionals applying for a certificate or license after July 1, 2013, to complete training on social patterns of harassment, bullying or discrimination.

Finally, the law will require the instructional component in civility, citizenship and character education for public school students in grades kindergarten through twelve to also include instruction of safe, responsible use of the internet and electronic communication. The law will take effect on July 1, 2013.

**A.935; Ortiz** This legislation would require that schools allow students that have been diagnosed with potentially life-threatening respiratory illnesses, other than asthma, to carry inhalers. Additionally, the bill would require that each student authorized to use any asthma medication have an asthma action plan prepared by a physician which identifies, at a minimum, asthma triggers, the treatment plan, and any other elements determined by the Commissioner of Education in consultation with the Commissioner of Health. This bill passed the Assembly and died in the Senate Committee on Education.

**A.1088; Nolan** This legislation would provide state building aid for school buildings that contain a school based health and mental health clinic in cities with more than 125,000 people. The aidable portion of the health and mental health clinic would be limited to 2,000 square feet. This bill was reported and referred to the Assembly Committee on Ways and Means.

**A.2417; Heastie** This legislation would direct the New York City School District to comply with statewide reporting requirements when there may have been child abuse or maltreatment in an educational setting. Currently, the New York City School District utilizes its own local reporting requirements. This bill was reported and referred to the Assembly Committee on Codes.

**A.8343; Nolan** This legislation would prohibit the use of handcuffs on students ten years of age and under in public schools and at all events and activities sponsored by public schools. This bill would not prohibit a school employee from using reasonable force to protect themselves, students or others from assault or imminent serious physical harm. This bill was reported and died in the Assembly Committee on Codes.



**A.9805A; Rosenthal** This legislation would require the New York City school district to maintain a list on the Department of Education's (DOE) website grouping each school by the year DOE will take steps to address reportable PCB levels. This information would have to be updated annually. This bill passed the Assembly and died in the Senate Committee on Rules.

#### **D. SPECIAL EDUCATION**

**A.7823B, Nolan; Chapter 279 of the laws of 2012** This Chapter authorizes school districts to provide access to a student's individualized education program (IEP) electronically to each regular education teacher, special education teacher, related service provider and other service providers who are responsible for implementing the student's IEP. School districts that provide this access must ensure that these individuals are notified and trained on how to access the IEP.

**A.7216A, Benedetto; Chapter 276 of the laws of 2012** This Chapter authorizes parents/guardians, the student or a member of the committee on special education (CSE) to request an additional parent at all CSE meetings regarding the student. Written notice of the request must be provided at least 72 hours prior to the meeting. Parents/guardians must receive proper written notice of their right to request an additional parent and that notice must be accompanied by a statement prepared by the State Education Department explaining the role of having an additional parent attend the meeting. Previous law provided that the additional parent was a mandated member of the CSE unless the parent of the student with a disability requested that the additional parent not participate.

**A.9906A, Nolan; Chapter 74 of the laws of 2012** This Chapter extends for three years certain provisions of the Federal Individuals with Disabilities Education Act of 2004.

**A.10722, Weinstein; Veto No. 130** This legislation would have required the committee on special education (CSE) to consider any possible educational impact on a child's ability to learn because of differences between the school environment and the child's home environment and family background when determining an appropriate educational placement for the child. It would have also provided that a school district must grant or deny the request within 90 days. If the request was granted, the school district would have to provide tuition reimbursement within 30 days. The bill would also have provided that upon a written settlement agreement between a child's parent and the board of education or the decision of an impartial hearing officer, state review officer or a court finding that a unilateral parental placement was appropriate, tuition reimbursement would be granted until the CSE amended or modified the child's individualized education program.

**A.9961C, Weisenberg** This legislation would require that all school districts must notify parents of a student attending a public school of their rights regarding referral and evaluation of their child for special educational services or programs. The notification would contain the name and contact information for the chairperson of the school district's committee on special education and such notification may be provided by directing persons in parental relations to obtain information located on the State Education Department's website.

## **E. SCHOOL BUSES/PUPIL TRANSPORTATION**

**A.8683B, Cusick; Chapter 42 of the laws of 2012** This Chapter exempts the New York City school district from the “like circumstances” provision in the Education Law when the city school district provides existing contract bus service provided for children in elementary grades to students in grades seven and eight. The law authorizes the New York City school district to restore bus services, subject to certain conditions, that were provided during the 2009-10 school year.

**A.10184, O’Donnell; Chapter 424 of the laws of 2012** This Chapter authorizes the New York City school district to award contracts for the transportation of preschool special education children through a request for proposal procurement process.

**A.10397A, Gunther; Chapter 244 of the laws of 2012** This Chapter authorizes school districts to provide transportation for students attending a universal pre-kindergarten program (in addition to transportation funded by the program) or for students attending another district sponsored or district run pre-kindergarten program. Mileage limitation determinations will be made by the school district and any transportation provided will not be eligible for state transportation aid.

**A.9267A, Hooper; Veto Memo No. 147** This legislation would have authorized school districts, upon the adoption of a resolution by the board of education, to provide transportation for a lesser distance than what is required by law to children who have a parent/guardian with a physically limiting impairment which prohibits the parent/guardian from accompanying their child to or from school. A physician, physician assistant or nurse practitioner would have had to certify that the parent has a physically limiting impairment. The transportation would have to have been provided on an equitable basis.

## **F. EDUCATIONAL FACILITIES**

**A.4832B, Nolan** This legislation would provide that no existing playground could be used for purposes that would eliminate the use of playground space other than for outdoor recreational activities unless an alternative plan for outdoor recreational activities is established which provides suitable and adequate space to accommodate the physical recreational needs of the students of the building. This bill would not apply to school construction or renovation activities that occur on or require the use of playgrounds that have duration of no more than one year. This bill passed the Assembly and died in the Senate Committee on Finance.

**A.6158B, Jeffries;** This legislation would prohibit the Chancellor of the New York City school district from proposing any school closings, school phase-outs, or grade reconfigurations that would take effect during the 2013-14 and 2014-15 school years. This bill passed the Assembly and died in the Senate Committee on Education.

**A.8002B, Nolan** This legislation would authorize two or more school districts in the Cattaraugus-Allegany-Erie-Wyoming BOCES, the Erie 2 Chautauqua-Cattaraugus BOCES or

Greater Southern Tier BOCES to form a regional high school or regional high schools. This bill was reported and died in the Assembly Committee on Ways & Means.

**A.9895, Nolan** This legislation would require the Chancellor of the New York City school district to compile an inventory of and issue a written report about transportable classroom units (TCU's) by December, 2013. The report would have to identify all TCU's in the city school district by community school district location, address of any school building the TCU is part of or associated with, its approximate size, age and a description of its physical condition. This bill passed the Assembly and died in the Senate Committee on Rules.

## **G. CHARTER SCHOOLS**

**A.6300B, Nolan; Chapter 275 of the laws of 2012** This Chapter authorizes a principal in the New York City school district to make a written request to the board of education for a leave of absence of not more than three years to serve as a principal in a charter school. After the leave of absence, the principal may return to the school district without any loss of rights and if no position is available, the principal will be placed on a preferred eligible list of candidates for appointment to a vacancy. Education Law also authorizes teachers to exercise this option.

**A.9551, Wright** This legislation would authorize community district education councils (CEC) to vote on co-location proposals within their district. The City Board would not be authorized to vote on the co-location proposal until the CEC has approved the proposal. This bill passed the Assembly and died in the Senate Committee on Rules.

## **H. SCHOOL DISTRICT BUDGET & OPERATIONS**

**A.9442, Lupardo; Chapter 139 of the laws of 2012** This Chapter requires the commissioner to disregard a reduction of up to ten days in apportionment of state aid if a school district was not in session for 180 days because of extraordinarily adverse weather conditions, federal declarations of natural disasters, a state disaster emergency, the closing of transportation routes, impairment of hearing facilities, insufficiency of water supply, shortage of fuel, lack of electricity or the destruction of a school building.

**A.10233A, Nolan; Chapter 260 of the laws of 2012** This Chapter authorizes school districts to hold superintendent conference days during the last two weeks of August subject to collective bargaining agreements. These days will count towards the 180 day requirement. The law will also provide that August conference days will not alter the obligation of the school district to provide transportation to students in non-public schools and charter schools.

**A.8865, Magnarelli; Chapter 27 of the laws of 2012** This Chapter authorizes the superintendent of the Syracuse City School District (SCSD) to appoint associate, assistant, and district superintendents and other supervising staff within the budgeted amounts set by the board of education. These positions will be excluded from collective bargaining representation under the Civil Service Law. Currently, the superintendents of the Buffalo and Rochester city school districts have this same authority. Under the previous law, the SCSD board of education is responsible for central staff hires.

**A.9634, Gantt; Chapter 66 of the laws of 2012** This Chapter amends the chapter authorizing the creation of the Rochester Joint School Construction Board (JSCB) to state that debt service issued pursuant to that chapter for projects under \$325 million selected by the Rochester JSCB would not be included in the state law maintenance of effort calculation because it would not be considered city debt service payments when determining the “city amount.”

**A.9451C, Roberts; Veto Memo No. 138** This legislation would have provided that for certain school districts that had approved capital projects prior to July 1, 2011, assumed amortization would commence 18 months after Commissioner approval or on the date of receipt by the Commissioner of a certification by the district that a general construction contract has been awarded for the project by the district, whichever is later. This bill would have changed the building aid process for certain school construction projects by reverting to the aid payment process in place prior to July 2011.

**A.10392, Meng** This legislation would authorize school districts to not hold a school day in an individual school or district wide on a day where absenteeism may result in the waste of educational resources because a considerable proportion of the student population is unlikely to attend due to a religious or cultural day of observance. This bill passed the Assembly and died in the Senate Committee on Education.

**A.8474B; Rosenthal** This legislation would limit the ability of public and private schools to disclose certain information about students without parental consent. Disclosure of certain information to commercial, for-profit entities would be prohibited even with the consent of the parent/guardian. The Federal Family Rights and Privacy Act currently regulate the disclosure of directory information and personally identifiable student information in all states. This bill was reported and died in the Assembly Committee on Rules.

**A.9750; Perry** This legislation would limit the compensation school districts could provide to attorneys in relation to tenured teacher disciplinary hearings. School districts would be authorized to compensate an attorney for a greater amount than otherwise authorized if the Commissioner granted the school district a waiver from these requirements upon a showing of good cause. This bill was reported and died in the Assembly Committee on Rules.

## **I. SCHOOL DISTRICT ELECTIONS**

**A.10407, Peoples-Stokes; Chapter 431 of the laws of 2012** This Chapter provides qualified voters that sign a petition to nominate a person for the Buffalo city school district board of education will not have to provide their past place of residence at the time of the last preceding general election; their election district and their city school subdistrict. The previous law was held unconstitutional by a New York State Supreme Court because the petition requirements were “... a severe burden on petitioners’ First Amendment right to political speech which does not advance any legitimate or compelling State interest.”

**A.10349, Hooper** Chapter 359 of the laws of 2010 addressed issues that arose due to the Federal Help America Vote Act of 2002 and the state’s subsequent Election Reform and Modernization

Act of 2005 which resulted in the impending replacement of lever voting machines with new voting machines that have the capacity to produce a permanent paper record with a manual audit capacity. The lever voting machines currently in use in New York do not produce such a record, and as such school districts would no longer be able to use these machines for school district elections or budget votes without explicit authority to do so. This measure provided school districts with the authority to continue using lever voting machines through December 2012.

A.10349 would have extended school district authorization to continue using lever voting machines for two years through December 2014. This legislation was reported and died in the Assembly committee on Rules. A.9178, Chapter 482 of the laws of 2012 went through the Committee on Election Law. That chapter authorizes school districts and municipalities to continue using lever voting machines through December 2014.

## **J. CURRICULUM RESOURCES**

**A.2996B, Maisel** This legislation would authorize school districts to expend textbook aid on manipulatives which would be defined as supplies and materials used to support teaching and learning as part of an inquiry centered curriculum as defined by the commissioner. The bill would make these resources eligible for state aid and subject to the same loan requirements as textbooks. This bill passed the Assembly and was referred to the Senate Committee on Rules.

## **K. EARLY CHILDHOOD/KINDERGARTEN EDUCATION**

**A.7591C, Nolan; Chapter 379 of the laws of 2012** This Chapter requires the State Education Department, the Office of Children and Families and the Department of Health to identify and review existing standards, guidelines and criteria for education, development or learning in programs under each agency's jurisdiction for children from birth to five years old, including education in day care centers. The three agencies must submit one report relating to their standards for education of children from birth to five years old, the standards that are aligned among the three agencies, the standards that are not aligned and recommendations regarding the alignment of standards for education or learning among the programs under the jurisdiction of the agencies. The report must be submitted to the Governor, the Speaker of the Assembly, the Temporary President of the Senate and the chairs of the Assembly and Senate Education Committees by June 30, 2013.

**A.9861, Nolan; Chapter 157 of the laws of 2012** This Chapter authorizes the New York City school district to require minors who are five years old on or before December first to attend kindergarten. Parents are not required to enroll their children in kindergarten when the children are five years old and students who attend non-public school or are in home instruction are not required to attend kindergarten at five years old.

**A.10216A, Gantt; Chapter 167 of the laws of 2012** This Chapter authorizes the Rochester City school district to require minors who are five years old on or before December first to attend kindergarten. Parents are not required to enroll their children in kindergarten when the children are five years old and students who attend non-public school or are in home instruction are not required to attend kindergarten at five years old.

## **L. BOARDS OF COOPERATIVE EDUCATIONAL SERVICES**

**A.10147, Nolan; Chapter 422 of the laws of 2012** This Chapter authorizes BOCES to enter into contracts with public libraries for the provision of educational services.

**A.10205, Nolan; Chapter 396 of the laws of 2012** This Chapter authorizes BOCES to enter into contracts with out-of-state school districts for the provision of special education, career and technical education services and limited other services. The law provides certain limitations intended to protect component school districts and students and provides that any payments received by the BOCES for services to out-of-state school districts that exceed any cost to the BOCES for providing the services must be applied to reduce the costs of aidable shared services allocated to component school districts. The contracts may not exceed two years and the law will expire July 1, 2014.

**A.464B, Gunther** This legislation would authorize BOCES to enter into contracts with public libraries for the purpose of providing high speed telecommunications services. The Commissioner would have to review all proposed contracts and could only approve a contract if that contract would provide more positive economic benefits than if the contract were not approved, would not disrupt the level of services to component school districts and would result in a more economical utilization of existing library resources. These services would have to be provided at cost and would not be eligible for aid. This bill passed the Assembly.

## **M. FOREIGN LANGUAGE**

**A.10292A, Arroyo; Chapter 271 of the laws of 2012** This Chapter authorizes the establishment of the State Seal of Biliteracy. The seal would certify attainment of a high level of proficiency by a graduating high school student in one or more languages in addition to English. The Board of Regents will promulgate regulations to establish the criteria necessary to earn the seal. School district participation in the program is voluntary and fees may not be charged to students for participation in the program.

## **N. SPECIAL ACT SCHOOL DISTRICTS**

**A.8924A, Heastie; Chapter 283 of the laws of 2012** This Chapter authorizes the Greenburgh-Graham Special Act school district to open a facility in the Bronx with the approval of the State Education Department.

**A.8272A, Cahill; Veto Memo No. 166 & A.9334A, Abinanti; Veto Memo No. 167** These bills would have provided for the dissolution of the West Park union free school district and the Abbott School. The bills would have provided a mechanism for retiree health care costs, maintenance of records and land management. The bills would have also provided statutory provisions that would have to have been followed by all special act school districts to help ensure financial stability and procedures that would have to be followed in the future if another special act school district closes.

**A.10337, Schimminger; Veto Memo No. 149** This legislation would have authorized the Randolph Academy Union Free School District to purchase certain land and buildings by financing the purchases through the Dormitory Authority of the State of New York.

#### **O. TEACHER CERTIFICATION**

**A.9472, Nolan; Chapter 289 of the laws of 2012** Extends for five years the provisions of Chapter 658 of the laws of 2012 which provided that alien teachers who are lawful permanent residents of the United States are eligible to receive a permanent teacher certification.

### **III. PUBLIC HEARING**

#### **A. PUBLIC HEARING ON IMPLEMENTATION OF FEDERAL SCHOOL INTERVENTION MODELS IN NEW YORK CITY**

**April 11, 2012**

**10:30 AM**

**New York, NY**

The Education Committee convened a hearing to review the ongoing implementation of the Federal School Intervention Models, specifically the use of the turnaround model. New York State's Race to the Top application addressed the assurance area for turning around the state's struggling schools by requiring the State Education Department to identify the lowest performing schools and focus resources, including federal School Improvement Grant (SIG) funds, where they are needed most, as well as assist school districts in developing and implementing one of the four federal school intervention models. In order to receive the SIG funds, the New York City Department of Education had proposed using the turnaround model in 33 city schools with plans to close the schools and reopen them under a different name.

The Committee received testimony from numerous State and New York City officials as well as other stakeholders regarding the proposed use of the turnaround model in the 33 schools and the effects the decision may have on principals, teachers, students and the communities. The testimony also focused on how the state and the city identify and improve the lower performing schools in NYC and how the State Education Department targets resources to support new school intervention models and the technical support and oversight provided to these schools.

By late April 2012, the city had reduced the proposed number of turnaround schools to 24. At the beginning of the 2012-13 school year, the proposed turnaround models had not been implemented in any NYC schools after an arbitrator held that city violated its contracts with the United Federation of Teachers and the Council of School Supervisors and Administrators when the city attempted to replace staff members at the schools.

The Committee heard public testimony from John King, Commissioner, State Education Department; Ira Schwartz, Assistant Commissioner, State Education Department; Valerie Grey, Executive Deputy Commissioner and CFO, State Education Department; Dennis Walcott, Chancellor, NYC Department of Education; Shael Polwakow-Suransky, Deputy Chancellor, NYC Department of Education; Marc Sternberg, Deputy Chancellor, NYC Department of Education; David Gregorian, Student, Grover Cleveland High School; Ernest Logan, President, Council of School Supervisors and Administrators; Leo Casey, Vice President, United Federation of Teachers; Samuel Crespo, President, Local 372 – NYC Board of Education Employees; Leonie Haimson, Executive Director, Class Size Matters; Paola De Kock, President, NYC Citywide Council on High Schools; Natasha Capers, Parent; and Diana Rodriguez, Student President, Grover Cleveland High School.



#### **IV. OUTLOOK 2013**

During the next legislative session, the Committee on Education will continue to report legislation to advance the interests of students and ensure that they have the educational opportunities they deserve. The Committee will evaluate solutions relating to the imminent changes to the General Educational Development exam and continue to ensure that all students with disabilities receive the education they deserve.

As always, the Committee will strive to advocate for the necessary resources to provide the students of this State with a sound basic education.

**V. SUMMARY SHEET**

	<u>ASSEMBLY BILLS</u>	<u>SENATE BILLS</u>	<u>TOTAL BILLS</u>
<b>BILLS REPORTED WITH OR WITHOUT AMENDMENT</b>			
TO FLOOR; NOT RETURNING TO COMMITTEE (FAVORABLE)	9	0	9
TO WAYS AND MEANS	37	0	37
TO CODES	4	0	4
TO RULES	11	0	11
TO JUDICIARY	0	0	0
TOTAL	61	0	61
<b>BILLS HAVING COMMITTEE REFERENCE CHANGED</b>			
TO <u>Election Law</u> COMMITTEE	1	0	1
TO <u>Energy</u> COMMITTEE	1	0	1
TO <u>Higher Education</u> COMMITTEE	3	0	3
TO <u>Transportation</u> COMMITTEE	1	0	1
TOTAL	6	0	6
<b>SENATE BILLS SUBSTITUTED OR RECALLED</b>			
SUBSTITUTED		14	14
RECALLED		1	1
TOTAL		15	15
<b>BILLS DEFEATED IN COMMITTEE</b>	0	0	0
<b>BILLS HELD FOR CONSIDERATION WITH A ROLL-CALL VOTE</b>	119	0	119
<b>BILLS NEVER REPORTED, DIED IN COMMITTEE</b>	303	30	333
<b>BILLS HAVING ENACTING CLAUSES STRICKEN</b>	25	0	25
<b>MOTIONS TO DISCHARGE LOST</b>	0	0	0
<b>TOTAL BILLS IN COMMITTEE</b>	508	45	553
<b>TOTAL NUMBER OF COMMITTEE MEETINGS HELD</b>		12	