

4662--A

2009-2010 Regular Sessions

I N S E N A T E

April 27, 2009

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

AN ACT to amend the education law, in relation to permitting municipalities to recover costs associated with audits of preschool providers

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

1 Section 1. Paragraph c of subdivision 11 of section 4410 of the educa-
2 tion law, as added by chapter 243 of the laws of 1989, subparagraph (i)
3 as amended by chapter 82 of the laws of 1995, subparagraph (ii) as
4 amended by chapter 205 of the laws of 2009, is amended to read as
5 follows:
6 c. (i) Each municipality, or, in addition, in the case of a city of
7 one million or more persons, the board, may perform a fiscal audit of
8 such services or programs for which it bears fiscal responsibility in
9 accordance with audit standards established by the commissioner, which
10 may include site visitation. Prior to commencing a fiscal audit pursuant
11 to this subparagraph, a municipality shall ascertain that neither the
12 state nor any other municipality has performed a fiscal audit of the
13 same services or programs within the current fiscal year for such
14 program. If it is determined that no such audit has been performed, the
15 municipality shall inquire with the department to determine which other
16 municipalities, if any, bear financial responsibility for the services
17 or programs to be audited and shall afford such other municipalities an
18 opportunity to recommend issues to be examined through the audit. Muni-
19 cipalities completing audits pursuant to this subparagraph shall provide
20 copies to the department, the provider of the services and programs and
21 all other municipalities previously determined to bear financial respon-

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

LBD11435-02-0

1 sibility for the audited services and programs. No other municipality
2 may conduct an additional fiscal audit of the same services or programs
3 during such current fiscal year for such program.

4 (ii) Payments made pursuant to this section by a municipality shall,
5 upon conclusion of the July first to June thirtieth school year for
6 which such payment was made, be subject to audit against the actual
7 difference between such audited expenditures and revenues. The munici-
8 pality shall submit the results of any such audit to the commissioner
9 and the commissioner of social services, if appropriate, for review and,
10 if warranted, adjustment of the tuition and/or maintenance rates. The
11 municipality is authorized to recover overpayments made to a provider of
12 special services or programs pursuant to this section as determined by
13 the commissioner or the commissioner of health based upon their adjust-
14 ment of a tuition and/or maintenance rate. Such recovery may be accom-
15 plished by withholding such amount from any moneys due the provider in
16 the current year, or by direct reimbursement. WHERE ANY OVERPAYMENTS
17 ARE RECOVERED AS A RESULT OF AN AUDIT PERFORMED BY A MUNICIPALITY, THE
18 TOTAL COSTS ASSOCIATED WITH CONDUCTING SUCH AUDIT SHALL BE ASSESSED
19 AGAINST THE STATE SHARE OF THE RECOVERED MONEYS.

20 S 2. This act shall take effect immediately.