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

10489

I N A S S E M B L Y

May 29, 2012

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

AN ACT to amend the education law, in relation to the funding of certain approved non-public special education programs and special act public school districts

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

Section 1. Subdivision 9 of section 4001 of the education law, as added by chapter 563 of the laws of 1980 and as renumbered by chapter 947 of the laws of 1981, is amended to read as follows:

9. "Tuition" shall mean the per pupil cost of all instructional services, supplies and equipment, and the operation of instructional facilities as determined by the commissioner. FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, TUITION RATES FOR A PARTICULAR SCHOOL YEAR THAT ARE CALCULATED BASED ON THAT SCHOOL YEAR'S ACTUAL COSTS AND REVENUES MAY INCLUDE A SURPLUS FACTOR OF NOT MORE THAN TWO PERCENT OF THAT SCHOOL YEAR'S ALLOWABLE AND REIMBURSABLE COSTS AS DETERMINED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET, TO THE EXTENT THAT TUITION REVENUES EXCEED ALLOWABLE AND REIMBURSABLE COSTS. Approved tuition shall be computed from expenditures for which no revenue has been received from the following sources:

a. Receipts from the federal government;

b. Any cash receipts which reduce the cost of an item applied against the item therefor, except gifts, donations and earned interest; and

c. Any refunds made or any apportionment or payment received from the state for experimental or special programs as approved by the commissioner.

S 2. Subdivision 1 of section 4003 of the education law, as amended by chapter 947 of the laws of 1981, is amended to read as follows:

1. The commissioner [of education], the commissioner of [social] THE OFFICE OF CHILDREN AND FAMILY services, and, when appropriate, the commissioner of mental health shall develop reimbursement methodologies for the tuition and maintenance components of child care institutions and special act school districts. The commissioner [of education], in

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

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consultation with the appropriate state agencies and departments AND IN ACCORDANCE WITH THE PROVISIONS OF SUBDIVISION FOUR OF SECTION FORTY-FOUR HUNDRED FIVE OF THIS CHAPTER, shall have responsibility for developing a reimbursement methodology for tuition which shall be based upon appropriate educational standards promulgated pursuant to regulations of the commissioner [of education]. The commissioner of [social] THE OFFICE OF CHILDREN AND FAMILY services, except for institutions for which the state health department or the office of mental health establishes maintenance rates, in consultation with appropriate state agencies and departments, shall have responsibility for developing a reimbursement methodology for maintenance, pursuant to section three hundred ninety-eight-a of the social services law and the regulations promulgated thereunder.

S 3. Subdivision 5 of section 4401 of the education law, as amended by chapter 470 of the laws of 1977, is amended to read as follows:

5. "Tuition" shall mean the per pupil cost of all instructional services, supplies and equipment, the operation of instructional facilities and allocable debt service for the instructional facilities, as determined by the commissioner. FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, TUITION RATES FOR A PARTICULAR SCHOOL THAT ARE CALCULATED BASED ON THAT SCHOOL YEAR'S ACTUAL COSTS AND REVENUES MAY INCLUDE A SURPLUS FACTOR OF NOT MORE THAN TWO PERCENT OF THAT SCHOOL YEAR'S ALLOWABLE AND REIMBURSABLE COSTS, AS DETERMINED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET, TO THE EXTENT THAT TUITION REVENUES EXCEED ALLOWABLE AND REIMBURSABLE COSTS. Approved tuition shall be computed from expenditures from which no revenue has been received from the following sources:

(a) receipts from the federal government;

(b) any cash receipts which reduce the cost of an item applied against the item therefor, except gifts, donations and earned interest[,]; and

(c) any refunds made or any apportionment or payment received from the state for experimental or special programs as approved by the commissioner.

S 4. Subdivision 4 of section 4405 of the education law is amended by adding two new paragraphs j and k to read as follows:

J. NOTWITHSTANDING ANY PROVISION OF LAW OR REGULATION TO THE CONTRARY, FOR THE PURPOSE OF ESTABLISHING TUITION RATES FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER, THE COMMISSIONER SHALL DEVELOP A MULTI-YEAR TUITION RATE SETTING METHODOLOGY, PURSUANT TO THIS PARAGRAPH, IN WHICH RATES ESTABLISHED IN YEAR ONE ARE BASED ON ALLOWABLE HISTORICAL COSTS AS DETERMINED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET. THE TUITION RATE FOR YEAR TWO SHALL BE CALCULATED BY APPLYING A COST-OF-LIVING FACTOR, AS DETERMINED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET, TO THE APPROVED YEAR ONE RATE. THE TUITION RATE FOR YEAR THREE SHALL BE CALCULATED BY APPLYING A COST-OF-LIVING FACTOR, AS DETERMINED BY THE COMMISSIONER AND APPROVED BY THE DIRECTOR OF THE BUDGET, TO THE APPROVED YEAR TWO TUITION RATE. THIS MULTI-YEAR RATE SETTING METHODOLOGY SHALL BE IMPLEMENTED ON A STAGGERED BASIS SO THAT APPROXIMATELY ONE-THIRD OF THE SCHOOLS TO WHICH THE METHODOLOGY IS APPLIED WILL HAVE INITIAL YEAR ONE RATES CALCULATED DURING EACH YEAR OF THE FIRST THREE YEAR CYCLE AS DETERMINED BY THE COMMISSIONER, PROVIDED, HOWEVER, THAT DURING THE TRANSITION PERIOD WHILE SCHOOLS ARE BEING SHIFTED TO A THREE-YEAR CYCLE, SUCH METHODOLOGY SHALL PROVIDE FOR COST-OF-LIVING INCREASES FOR THOSE SCHOOLS NOT YET IN YEAR TWO OF A THREE-YEAR CYCLE AS OF THE TWO THOUSAND THIRTEEN--TWO THOUSAND FOURTEEN SCHOOL YEAR BASED UPON APPLICATION OF A

COST-OF-LIVING FACTOR TO THE TUITION RATE OTHERWISE CALCULATED FOR SUCH SCHOOLS PURSUANT TO THIS SUBDIVISION. THE COMMISSIONER SHALL PROMULGATE REGULATIONS NECESSARY FOR IMPLEMENTATION OF THE MULTI-YEAR RATE SETTING METHODOLOGY AS PROVIDED BY THIS PARAGRAPH.

K. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, TUITION RATES FOR SPECIAL EDUCATION ITINERANT TEACHER PROGRAMS APPROVED UNDER SECTION FORTY-FOUR HUNDRED TEN OF THIS CHAPTER FOR THE TWO THOUSAND TWELVE--TWO THOUSAND THIRTEEN SCHOOL YEAR AND THEREAFTER SHALL BE ESTABLISHED ON A REGIONAL BASIS.

S 5. This act shall take effect on the one hundred eightieth day after it shall have become a law provided, however, that the commissioner of education shall promulgate rules and regulations immediately to effectuate the timely implementation of this act.