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

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2011-2012 Regular Sessions

I N A S S E M B L Y

June 13, 2011

Introduced by M. of A. NOLAN -- (at request of the State Education Department) -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to intervention in chronically underperforming school districts

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 211-f to read as follows:

S 211-F. INTERVENTION IN CHRONICALLY UNDERPERFORMING SCHOOL DISTRICTS. 1. STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS.

A. THE COMMISSIONER SHALL IDENTIFY AS BEING IN STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS A SCHOOL DISTRICT: (I) THAT HAS BEEN A DISTRICT REQUIRING ACADEMIC PROGRESS PURSUANT TO PARAGRAPH SEVEN OF SUBDIVISION (P) OF SECTION 100.2 OF TITLE EIGHT OF THE NEW YORK STATE CODES, RULES AND REGULATIONS FOR AT LEAST THREE SCHOOL YEARS AND/OR HAS ONE OR MORE SCHOOLS IDENTIFIED AS A PERSISTENTLY LOWEST-ACHIEVING SCHOOL OR A SCHOOL UNDER REGISTRATION REVIEW; AND/OR (II) IN WHICH THE BOARD OF EDUCATION HAS FAILED TO EXERCISE APPROPRIATE FISCAL MANAGEMENT OF THE SCHOOL DISTRICT BY FAILING TO TAKE ACTIONS NECESSARY TO KEEP THE SCHOOL DISTRICT BUDGET IN BALANCE AND/OR MAINTAIN AN APPROPRIATE FUND BALANCE FOR A PERIOD OF AT LEAST TWO SCHOOL YEARS; PROVIDED THAT, IN THE CASE OF A SCHOOL DISTRICT THAT MEETS THE CRITERIA FOR STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS AND HAS BEEN DESIGNATED AS A DISTRICT REQUIRING ACADEMIC PROGRESS FOR EIGHT OR MORE YEARS AND HAS NINE OR MORE SCHOOLS IDENTIFIED AS PERSISTENTLY LOWEST-ACHIEVING SCHOOLS OR SCHOOLS UNDER REGISTRATION REVIEW, THE COMMISSIONER MAY IMMEDIATELY IDENTIFY SUCH DISTRICT AS BEING IN STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

B. WITHIN NINETY DAYS OF IDENTIFICATION AS BEING IN STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS, A SCHOOL DISTRICT SHALL DEVELOP A PLAN OR INCLUDE IN ANY EXISTING STATE APPROVED PLAN SPECIFIC, MEASURABLE GOALS

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

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DESIGNED TO REMOVE THE DISTRICT FROM STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS. FOR DISTRICTS IDENTIFIED AS BEING IN STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS, SUCH GOALS MUST INCLUDE, WHERE APPLICABLE, BUT NEED NOT BE LIMITED TO: (I) A PLAN FOR MAKING ADEQUATE YEARLY PROGRESS ON ALL APPLICABLE CRITERIA AND/OR INDICATORS IN SUBDIVISION (P) OF SECTION 100.2 OF TITLE EIGHT OF THE NEW YORK STATE CODES, RULES AND REGULATIONS OR OTHERWISE MEETING THE REQUIREMENTS OF THE STATE ACCOUNTABILITY SYSTEM; (II) SPECIFIC EDUCATION IMPROVEMENT TARGETS TO BE ATTAINED IN EACH OF THE SCHOOL YEARS COVERED BY THE PLAN; (III) A DESCRIPTION OF THE TECHNICAL ASSISTANCE AND SPECIFIC STAFF DEVELOPMENT TO BE PROVIDED AND SUSTAINED IN SUPPORT OF THE PLAN; (IV) PLANS TO MAINTAIN BALANCED REVENUES AND EXPENDITURES AND AN APPROPRIATE FUND BALANCE; AND (V) SUCH OTHER GOALS AS MAY BE PRESCRIBED BY THE COMMISSIONER. THE DISTRICT SHALL SUBMIT SUCH PLAN TO THE COMMISSIONER FOR APPROVAL. THE DISTRICT'S PLAN SHALL BE DEVELOPED WITH THE ASSISTANCE OF A JOINT SCHOOL INTERVENTION TEAM APPOINTED BY THE COMMISSIONER PURSUANT TO PARAGRAPH B OF SUBDIVISION TWO OF SECTION TWO HUNDRED ELEVEN-B OF THIS ARTICLE AND ITS IMPLEMENTATION MUST BE SUPPORTED BY TARGETED TECHNICAL ASSISTANCE AND PROFESSIONAL DEVELOPMENT, CONSISTENT WITH ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, FROM AN EXTERNAL PROVIDER APPROVED BY THE COMMISSIONER AT AN EXPENSE TO BE BORNE BY THE DISTRICT. THE REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE JOINT SCHOOL INTERVENTION TEAM'S DUTIES SHALL BE A CHARGE UPON THE SCHOOL DISTRICT.

C. THE COMMISSIONER SHALL REMOVE A DISTRICT FROM STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS IF THE DISTRICT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS. IF THE DISTRICT FAILS TO MEET AND MAINTAIN ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS, THE COMMISSIONER SHALL IDENTIFY SUCH DISTRICT AS BEING IN STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS, PROVIDED THAT THE COMMISSIONER MAY, AT ANY TIME DURING STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS, IDENTIFY A DISTRICT AS BEING IN STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS WHERE SUCH DISTRICT IS FOUND TO BE IN NONCOMPLIANCE WITH ITS PLAN OR IS UNWILLING OR UNABLE TO MAKE SUBSTANTIAL PROGRESS TOWARDS ACCOMPLISHING ITS PLAN GOALS.

2. STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS. A. UPON IDENTIFICATION OF A SCHOOL DISTRICT AS BEING IN STAGE TWO ACADEMIC INTERVENTION STATUS, THE COMMISSIONER MAY APPOINT A DISTINGUISHED EDUCATOR PURSUANT TO SECTION TWO HUNDRED ELEVEN-C OF THIS ARTICLE AND/OR, WHERE THE DISTRICT IS IDENTIFIED AS BEING IN STAGE TWO FISCAL INTERVENTION STATUS, A FISCAL ADMINISTRATOR TO MONITOR AND ASSIST THE DISTRICT IN MEETING ITS PLAN GOALS. THE REASONABLE AND NECESSARY EXPENSES INCURRED IN THE PERFORMANCE OF THE DUTIES OF THE DISTINGUISHED EDUCATOR AND/OR FISCAL ADMINISTRATOR SHALL BE A CHARGE UPON THE SCHOOL DISTRICT.

B. UPON APPOINTMENT, THE DISTINGUISHED EDUCATOR SHALL HAVE THE POWER AND DUTY TO: (I) REVIEW AND MONITOR THE DISTRICT'S IMPLEMENTATION OF AND COMPLIANCE WITH ITS PLAN; (II) CONDUCT AN INTENSIVE REVIEW OF DISTRICT AND SCHOOL SYSTEMS, STRUCTURES, OPERATIONS AND FACILITIES; (III) ASSESS THE DISTRICT'S CAPACITY TO PROMOTE AND SUPPORT TEACHING AND LEARNING WITHIN ALL SCHOOLS IN THE DISTRICT; (IV) WORK WITH DISTRICT STAFF, ADMINISTRATION AND THE BOARD OF EDUCATION TO REVIEW DATA, ANALYZE DISTRICT AND SCHOOL STRUCTURES, PLAN FOR IMPROVEMENT, ASSIST IN TARGETING DISTRICT PRIORITIES; (V) FACILITATE INCREASED STUDENT PERFORMANCE ACROSS THE DISTRICT; (VI) RECOMMEND ADMINISTRATIVE AND OPERATIONAL IMPROVEMENTS TO STRENGTHEN SYSTEMS; AND (VII) RECOMMEND MODIFICATIONS TO THE DISTRICT'S PLAN WHICH MAY INCLUDE SUCH OTHER MEASURES AS HE OR SHE

DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S PROGRESS TOWARD MEETING ITS PLAN GOALS.

C. UPON APPOINTMENT, THE FISCAL ADMINISTRATOR SHALL HAVE THE POWER AND DUTY TO: (I) REVIEW AND MONITOR THE DISTRICT'S IMPLEMENTATION OF AND COMPLIANCE WITH ITS PLAN; (II) NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, APPROVE ANY PROPOSED CONTRACT OR OTHER OBLIGATION HAVING A PROJECTED COST OF FIFTY THOUSAND DOLLARS OR MORE; AND (III) RECOMMEND TO THE BOARD OF EDUCATION SUCH MEASURES AS HE OR SHE DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S PROGRESS TOWARD MEETING ITS PLAN GOALS, INCLUDING MAKING RECOMMENDATIONS CONCERNING STRATEGIES TO ACHIEVE COST REDUCTIONS AND OTHER FISCAL EFFICIENCIES AND ALL ESTIMATES OF DISTRICT REVENUES TO ENSURE THE ACCURACY OF SUCH REVENUE ESTIMATES, AND MAKING FINDINGS REGARDING WHETHER THE AUTHORIZATION BY THE BOARD OF EDUCATION OF ITEMS OF EXPENDITURE, CONTINUATION OF BUDGET APPROPRIATIONS BY THE BOARD OF EDUCATION AND/OR BUDGETING OF FUTURE APPROPRIATIONS BY THE BOARD OF EDUCATION ARE CONSISTENT WITH THE REQUIREMENTS OF A BALANCED BUDGET, AN APPROPRIATE UNRESERVED FUND BALANCE IN ACCORDANCE WITH SECTION THIRTEEN HUNDRED EIGHTEEN OF THE REAL PROPERTY TAX LAW AND THE DISTRICT'S PLAN GOALS.

D. THE DISTINGUISHED EDUCATOR AND/OR FISCAL ADMINISTRATOR SHALL SUBMIT PERIODIC REPORTS AS MAY BE REQUIRED BY THE COMMISSIONER ON THE DISTRICT'S PROGRESS TOWARD MEETING ITS PLAN GOALS AND MAY MAKE RECOMMENDATIONS TO THE COMMISSIONER, INCLUDING BUT NOT LIMITED TO: (I) THAT THE COMMISSIONER ORDER THE BOARD OF EDUCATION TO REQUIRE TRAINING AND/OR PROFESSIONAL DEVELOPMENT FOR THE BOARD, DISTRICT OFFICERS AND/OR STAFF, AS APPROPRIATE, CONSISTENT WITH ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW; AND/OR (II) THAT THE COMMISSIONER ORDER THE IMPLEMENTATION OF OTHER MEASURES AS APPROPRIATE TO ASSIST THE DISTRICT IN IMPLEMENTING ITS PLAN AND MEETING ITS PLAN GOALS; AND/OR (III) THAT THE COMMISSIONER IDENTIFY THE DISTRICT AS POTENTIALLY BEING IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS.

E. THE COMMISSIONER SHALL REMOVE A DISTRICT FROM STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS IF IT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS. IF THE DISTRICT FAILS TO MEET AND MAINTAIN ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS, THE COMMISSIONER SHALL IDENTIFY SUCH DISTRICT AS POTENTIALLY BEING IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS, PROVIDED THAT THE COMMISSIONER MAY AT ANY TIME DURING STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS IDENTIFY A DISTRICT AS POTENTIALLY BEING IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS WHERE SUCH DISTRICT IS FOUND TO BE IN NONCOMPLIANCE WITH ITS PLAN OR IS UNWILLING OR UNABLE TO MAKE SUBSTANTIAL PROGRESS TOWARDS ACCOMPLISHING ITS PLAN GOALS.

3. STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS: APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD. A. UPON IDENTIFICATION OF A SCHOOL DISTRICT AS POTENTIALLY BEING IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS, THE COMMISSIONER SHALL APPOINT AN INDEPENDENT REVIEW TEAM TO ASSESS THE REASONS FOR THE DISTRICT'S POTENTIAL ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS AND THE PROSPECTS FOR IMPROVEMENT AND REPORT TO THE BOARD OF REGENTS.

B. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM CONCLUDES THAT THE BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH IMPLEMENTATION OF THE DISTRICT'S PLAN, THE BOARD OF REGENTS MAY DECLARE THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S CHRONIC UNDERPERFORMANCE AND THAT THE DISTRICT IS IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS. UPON ISSUANCE OF SUCH DECLARATION, THE BOARD OF REGENTS SHALL APPOINT A THREE MEMBER TEAM TO SERVE ON

AN EDUCATION OVERSIGHT BOARD FOR THE SCHOOL DISTRICT, WHICH SHALL HAVE ALL THE POWERS AND DUTIES OF THE BOARD OF EDUCATION. UPON APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD, ALL MEMBERS OF THE BOARD OF EDUCATION SHALL BE REMOVED FROM OFFICE AND NO NEW BOARD MEMBERS MAY BE ELECTED OR APPOINTED WHILE THE EDUCATION OVERSIGHT BOARD IS IN PLACE. WHERE THE INDEPENDENT REVIEW TEAM SO RECOMMENDS AND THE BOARD OF REGENTS ACCEPTS SUCH RECOMMENDATION, THE SUPERINTENDENT OF SCHOOLS SHALL VACATE HIS OR HER OFFICE AND BE DEEMED REMOVED FOR CAUSE AND THE EDUCATION OVERSIGHT BOARD SHALL APPOINT A NEW SUPERINTENDENT OF SCHOOLS.

C. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM DOES NOT CONCLUDE THAT THE BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH IMPLEMENTATION OF THE DISTRICT'S PLAN OR THE BOARD OF REGENTS DOES NOT DECLARE THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S CHRONIC UNDERPERFORMANCE, THE DISTRICT SHALL RETURN TO STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS UNTIL IT MEETS AND MAINTAINS ITS PLAN GOALS FOR THREE CONSECUTIVE SCHOOL YEARS. WHEN THE DISTRICT RETURNS TO STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS, THE DISTINGUISHED EDUCATOR AND/OR FISCAL ADMINISTRATOR MAY MAKE RECOMMENDATIONS FOR ADDITIONAL MEASURES THE DISTRICT MUST IMPLEMENT TO ASSIST ITS PROGRESS TOWARD MEETING AND MAINTAINING ITS PLAN GOALS.

D. NOTWITHSTANDING ANY OTHER PROVISION OF LAW, RULE OR REGULATION TO THE CONTRARY, WHERE THE COMMISSIONER REMOVES AT LEAST A MAJORITY OF THE MEMBERS OF A BOARD OF EDUCATION PURSUANT TO SECTION THREE HUNDRED SIX OF THIS TITLE, THE BOARD OF REGENTS MAY DECLARE THAT THE DISTRICT IS IN STAGE THREE ACADEMIC AND/OR FISCAL RESTRUCTURING STATUS AND APPOINT A THREE MEMBER TEAM TO SERVE ON AN EDUCATION OVERSIGHT BOARD FOR THE SCHOOL DISTRICT PURSUANT TO THIS SUBDIVISION.

E. AT LEAST ONCE EVERY FOUR YEARS, THE COMMISSIONER SHALL APPOINT AN INDEPENDENT REVIEW TEAM TO EVALUATE AND MAKE RECOMMENDATIONS TO THE BOARD OF REGENTS ON THE EFFECTIVENESS OF THE EDUCATION OVERSIGHT BOARD AND THE NEED, IF ANY, TO CONTINUE TO HAVE AN EDUCATION OVERSIGHT BOARD IN PLACE. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN EDUCATION OVERSIGHT BOARD IS NECESSARY, THEY MAY REAPPOINT MEMBERS OF THE OVERSIGHT BOARD OR APPOINT A NEW OVERSIGHT BOARD PURSUANT TO THIS SUBDIVISION. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN EDUCATION OVERSIGHT BOARD IS NOT NECESSARY AND THAT THE EDUCATION OVERSIGHT BOARD SHOULD BE ELIMINATED, THE COMMISSIONER SHALL ORDER THAT A SPECIAL ELECTION BE HELD AND WHEN ALL SUCH NEWLY ELECTED BOARD MEMBERS TAKE OFFICE, THE APPOINTMENT OF THE EDUCATION OVERSIGHT BOARD SHALL TERMINATE.

F. AT ANY TIME AFTER THE APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD, TWENTY-FIVE QUALIFIED VOTERS, OR FIVE PERCENT OF THE NUMBER OF VOTERS WHO VOTED AT THE LAST ELECTION OF MEMBERS OF THE BOARD OF EDUCATION, WHICHEVER IS GREATER, MAY PETITION THE COMMISSIONER FOR A DETERMINATION WHETHER THE APPOINTMENT OF AN EDUCATION OVERSIGHT BOARD SHOULD BE MODIFIED OR ELIMINATED AND WHETHER THE SCHOOL DISTRICT IS NO LONGER IN ACADEMIC AND/OR FISCAL STATUS. THE DETERMINATION OF THE COMMISSIONER SHALL BE SUBJECT TO REVIEW BY THE BOARD OF REGENTS. IF THE BOARD OF REGENTS DETERMINES THAT THE EDUCATION OVERSIGHT BOARD SHOULD BE ELIMINATED, THE COMMISSIONER SHALL ORDER THAT A SPECIAL ELECTION BE HELD AND WHEN ALL SUCH NEWLY ELECTED BOARD MEMBERS TAKE OFFICE, THE APPOINTMENT OF THE EDUCATION OVERSIGHT BOARD SHALL TERMINATE.

G. FOR PURPOSES OF THIS SECTION, "SCHOOL DISTRICT" SHALL MEAN A COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL OR CITY SCHOOL DISTRICT, OTHER THAN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE.

H. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ANY REGULATIONS AND TO TAKE ANY OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS SECTION.

S 2. This act shall take effect immediately.