

6480

2013-2014 Regular Sessions

I N   A S S E M B L Y

April 1, 2013

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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:

1     Section 1. The education law is amended by adding a new section 211-f  
2     to read as follows:

3     S 211-F. INTERVENTION IN CHRONICALLY UNDERPERFORMING SCHOOL DISTRICTS.  
4     1. STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS. A. THE COMMISSIONER  
5     SHALL IDENTIFY AS BEING IN STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK  
6     STATUS A SCHOOL DISTRICT: (I) THAT HAS BEEN A DISTRICT REQUIRING ACADEMIC  
7     PROGRESS PURSUANT TO PARAGRAPH SEVEN OF SUBDIVISION (P) OF SECTION  
8     100.2 OF TITLE EIGHT OF THE NEW YORK STATE CODES, RULES AND REGULATIONS  
9     FOR AT LEAST THREE SCHOOL YEARS OR A FOCUS DISTRICT AND/OR A DISTRICT  
10    WHICH HAS ONE OR MORE SCHOOLS IDENTIFIED AS A PERSISTENTLY LOWEST-ACHIEVING  
11    SCHOOL, A SCHOOL UNDER REGISTRATION REVIEW OR A FOCUS OR PRIORITY  
12    SCHOOL; AND/OR (II) IN WHICH THE BOARD OF EDUCATION HAS FAILED TO  
13    EXERCISE APPROPRIATE FISCAL MANAGEMENT OF THE SCHOOL DISTRICT BY FAILING  
14    TO TAKE ACTIONS NECESSARY TO KEEP THE SCHOOL DISTRICT BUDGET IN BALANCE  
15    AND/OR MAINTAIN AN APPROPRIATE FUND BALANCE FOR A PERIOD OF AT LEAST TWO  
16    SCHOOL YEARS; PROVIDED THAT, IN THE CASE OF A SCHOOL DISTRICT THAT MEETS  
17    THE CRITERIA FOR STAGE ONE ACADEMIC AND/OR FISCAL AT-RISK STATUS AND HAS  
18    BEEN DESIGNATED AS A DISTRICT REQUIRING ACADEMIC PROGRESS AND/OR A FOCUS  
19    DISTRICT FOR EIGHT OR MORE YEARS AND HAS NINE OR MORE SCHOOLS IDENTIFIED  
20    AS PERSISTENTLY LOWEST-ACHIEVING SCHOOLS, SCHOOLS UNDER REGISTRATION  
21    REVIEW OR FOCUS OR PRIORITY SCHOOLS, THE COMMISSIONER MAY IMMEDIATELY  
22    IDENTIFY SUCH DISTRICT AS BEING IN STAGE TWO ACADEMIC AND/OR FISCAL  
23    INTERVENTION STATUS PURSUANT TO SUBDIVISION TWO OF THIS SECTION.

24    B. WITHIN NINETY DAYS OF IDENTIFICATION AS BEING IN STAGE ONE ACADEMIC  
25    AND/OR FISCAL AT-RISK STATUS, A SCHOOL DISTRICT SHALL DEVELOP A PLAN OR

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

LBD08314-01-3

1 INCLUDE IN ANY EXISTING STATE APPROVED PLAN SPECIFIC, MEASURABLE GOALS  
2 DESIGNED TO REMOVE THE DISTRICT FROM STAGE ONE ACADEMIC AND/OR FISCAL  
3 AT-RISK STATUS. FOR DISTRICTS IDENTIFIED AS BEING IN STAGE ONE ACADEMIC  
4 AND/OR FISCAL AT-RISK STATUS, SUCH GOALS MUST INCLUDE, WHERE APPLICABLE,  
5 BUT NEED NOT BE LIMITED TO: (I) A PLAN FOR MAKING ADEQUATE YEARLY  
6 PROGRESS ON ALL APPLICABLE CRITERIA AND/OR INDICATORS IN SUBDIVISION (P)  
7 OF SECTION 100.2 OF TITLE EIGHT OF THE NEW YORK STATE CODES, RULES AND  
8 REGULATIONS OR OTHERWISE MEETING THE REQUIREMENTS OF THE STATE ACCOUNT-  
9 ABILITY SYSTEM; (II) SPECIFIC EDUCATION IMPROVEMENT TARGETS TO BE  
10 ATTAINED IN EACH OF THE SCHOOL YEARS COVERED BY THE PLAN; (III) A  
11 DESCRIPTION OF THE TECHNICAL ASSISTANCE AND SPECIFIC STAFF DEVELOPMENT  
12 TO BE PROVIDED AND SUSTAINED IN SUPPORT OF THE PLAN; (IV) PLANS TO MAIN-  
13 TAIN BALANCED REVENUES AND EXPENDITURES AND AN APPROPRIATE FUND BALANCE;  
14 AND (V) SUCH OTHER GOALS AS MAY BE PRESCRIBED BY THE COMMISSIONER. THE  
15 DISTRICT SHALL SUBMIT SUCH PLAN TO THE COMMISSIONER FOR APPROVAL. THE  
16 DISTRICT'S PLAN SHALL BE DEVELOPED WITH THE ASSISTANCE OF A JOINT SCHOOL  
17 INTERVENTION TEAM OR AN INTEGRATED INTERVENTION TEAM APPOINTED BY THE  
18 COMMISSIONER PURSUANT TO PARAGRAPH B OF SUBDIVISION TWO OF SECTION TWO  
19 HUNDRED ELEVEN-B OF THIS ARTICLE AND ITS IMPLEMENTATION MUST BE  
20 SUPPORTED BY TARGETED TECHNICAL ASSISTANCE AND PROFESSIONAL DEVELOPMENT,  
21 CONSISTENT WITH ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW, FROM AN  
22 EXTERNAL PROVIDER APPROVED BY THE COMMISSIONER AT AN EXPENSE TO BE BORNE  
23 BY THE DISTRICT. THE REASONABLE AND NECESSARY EXPENSES INCURRED IN THE  
24 PERFORMANCE OF THE JOINT SCHOOL INTERVENTION TEAM OR INTEGRATED INTER-  
25 VENTION TEAM'S DUTIES SHALL BE A CHARGE UPON THE SCHOOL DISTRICT.

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

37 2. STAGE TWO ACADEMIC AND/OR FISCAL INTERVENTION STATUS. A. UPON IDEN-  
38 TIFICATION OF A SCHOOL DISTRICT AS BEING IN STAGE TWO ACADEMIC INTER-  
39 VENTION STATUS, THE COMMISSIONER MAY APPOINT A DISTINGUISHED EDUCATOR  
40 PURSUANT TO SECTION TWO HUNDRED ELEVEN-C OF THIS ARTICLE AND/OR, WHERE  
41 THE DISTRICT IS IDENTIFIED AS BEING IN STAGE TWO FISCAL INTERVENTION  
42 STATUS, A FISCAL ADMINISTRATOR TO MONITOR AND ASSIST THE DISTRICT IN  
43 MEETING ITS PLAN GOALS. THE REASONABLE AND NECESSARY EXPENSES INCURRED  
44 IN THE PERFORMANCE OF THE DUTIES OF THE DISTINGUISHED EDUCATOR AND/OR  
45 FISCAL ADMINISTRATOR SHALL BE A CHARGE UPON THE SCHOOL DISTRICT.

46 B. UPON APPOINTMENT, THE DISTINGUISHED EDUCATOR SHALL HAVE THE POWER  
47 AND DUTY TO: (I) REVIEW AND MONITOR THE DISTRICT'S IMPLEMENTATION OF AND  
48 COMPLIANCE WITH ITS PLAN; (II) CONDUCT AN INTENSIVE REVIEW OF DISTRICT  
49 AND SCHOOL SYSTEMS, STRUCTURES, OPERATIONS AND FACILITIES; (III) ASSESS  
50 THE DISTRICT'S CAPACITY TO PROMOTE AND SUPPORT TEACHING AND LEARNING  
51 WITHIN ALL SCHOOLS IN THE DISTRICT; (IV) WORK WITH DISTRICT STAFF,  
52 ADMINISTRATION AND THE BOARD OF EDUCATION TO REVIEW DATA, ANALYZE  
53 DISTRICT AND SCHOOL STRUCTURES, PLAN FOR IMPROVEMENT, ASSIST IN TARGET-  
54 ING DISTRICT PRIORITIES; (V) FACILITATE INCREASED STUDENT PERFORMANCE  
55 ACROSS THE DISTRICT; (VI) RECOMMEND ADMINISTRATIVE AND OPERATIONAL  
56 IMPROVEMENTS TO STRENGTHEN SYSTEMS; AND (VII) RECOMMEND MODIFICATIONS TO

1 THE DISTRICT'S PLAN WHICH MAY INCLUDE SUCH OTHER MEASURES AS HE OR SHE  
2 DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S PROGRESS TOWARD MEETING ITS  
3 PLAN GOALS.

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

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

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

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

51 B. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM CONCLUDES THAT THE  
52 BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH  
53 IMPLEMENTATION OF THE DISTRICT'S PLAN, THE BOARD OF REGENTS MAY DECLARE  
54 THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S  
55 CHRONIC UNDERPERFORMANCE AND THAT THE DISTRICT IS IN STAGE THREE ACADEM-  
56 IC AND/OR FISCAL RESTRUCTURING STATUS. UPON ISSUANCE OF SUCH DECLARA-

1 TION, THE BOARD OF REGENTS SHALL APPOINT A THREE MEMBER TEAM TO SERVE ON  
2 AN EDUCATION OVERSIGHT BOARD FOR THE SCHOOL DISTRICT, WHICH SHALL HAVE  
3 ALL THE POWERS AND DUTIES OF THE BOARD OF EDUCATION. UPON APPOINTMENT OF  
4 AN EDUCATION OVERSIGHT BOARD, ALL MEMBERS OF THE BOARD OF EDUCATION  
5 SHALL BE REMOVED FROM OFFICE AND NO NEW BOARD MEMBERS MAY BE ELECTED OR  
6 APPOINTED WHILE THE EDUCATION OVERSIGHT BOARD IS IN PLACE. WHERE THE  
7 INDEPENDENT REVIEW TEAM SO RECOMMENDS AND THE BOARD OF REGENTS ACCEPTS  
8 SUCH RECOMMENDATION, THE SUPERINTENDENT OF SCHOOLS SHALL VACATE HIS OR  
9 HER OFFICE AND BE DEEMED REMOVED FOR CAUSE AND THE EDUCATION OVERSIGHT  
10 BOARD SHALL APPOINT A NEW SUPERINTENDENT OF SCHOOLS.

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

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

29 E. AT LEAST ONCE EVERY FOUR YEARS, THE COMMISSIONER SHALL APPOINT AN  
30 INDEPENDENT REVIEW TEAM TO EVALUATE AND MAKE RECOMMENDATIONS TO THE  
31 BOARD OF REGENTS ON THE EFFECTIVENESS OF THE EDUCATION OVERSIGHT BOARD  
32 AND THE NEED, IF ANY, TO CONTINUE TO HAVE AN EDUCATION OVERSIGHT BOARD  
33 IN PLACE. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN  
34 EDUCATION OVERSIGHT BOARD IS NECESSARY, THEY MAY REAPPOINT MEMBERS OF  
35 THE OVERSIGHT BOARD OR APPOINT A NEW OVERSIGHT BOARD PURSUANT TO THIS  
36 SUBDIVISION. IF THE BOARD OF REGENTS DETERMINES THAT CONTINUATION OF AN  
37 EDUCATION OVERSIGHT BOARD IS NOT NECESSARY AND THAT THE EDUCATION OVER-  
38 SIGHT BOARD SHOULD BE ELIMINATED, THE COMMISSIONER SHALL ORDER THAT A  
39 SPECIAL ELECTION BE HELD AND WHEN ALL SUCH NEWLY ELECTED BOARD MEMBERS  
40 TAKE OFFICE, THE EDUCATION OVERSIGHT BOARD SHALL BE TERMINATED.

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

53 G. FOR PURPOSES OF THIS SECTION, "SCHOOL DISTRICT" SHALL MEAN A  
54 COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL OR CITY SCHOOL  
55 DISTRICT, OTHER THAN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPU-  
56 LATION OF ONE MILLION OR MORE.

1 H. THE COMMISSIONER IS AUTHORIZED TO PROMULGATE ANY REGULATIONS AND TO  
2 TAKE ANY OTHER MEASURES NECESSARY TO IMPLEMENT THE PROVISIONS OF THIS  
3 SECTION.  
4 S 2. This act shall take effect immediately.