

4183

2013-2014 Regular Sessions

I N S E N A T E

March 13, 2013

Introduced by Sen. FLANAGAN -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Higher 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-AC-
11 HIEVING SCHOOL, A SCHOOL UNDER REGISTRATION REVIEW OR A FOCUS OR PRIORI-
12 TY 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.

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

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

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

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

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

1 ACROSS THE DISTRICT; (VI) RECOMMEND ADMINISTRATIVE AND OPERATIONAL
2 IMPROVEMENTS TO STRENGTHEN SYSTEMS; AND (VII) RECOMMEND MODIFICATIONS TO
3 THE DISTRICT'S PLAN WHICH MAY INCLUDE SUCH OTHER MEASURES AS HE OR SHE
4 DEEMS APPROPRIATE TO ASSIST THE DISTRICT'S PROGRESS TOWARD MEETING ITS
5 PLAN GOALS.

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

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

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

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

53 B. IN THE EVENT THAT THE INDEPENDENT REVIEW TEAM CONCLUDES THAT THE
54 BOARD OF EDUCATION'S ACTIONS AND/OR OMISSIONS HAVE INTERFERED WITH
55 IMPLEMENTATION OF THE DISTRICT'S PLAN, THE BOARD OF REGENTS MAY DECLARE
56 THAT PROBLEMS IN GOVERNANCE ARE A SUBSTANTIAL FACTOR IN THE DISTRICT'S

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

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

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

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

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

55 G. FOR PURPOSES OF THIS SECTION, "SCHOOL DISTRICT" SHALL MEAN A
56 COMMON, UNION FREE, CENTRAL, CENTRAL HIGH SCHOOL OR CITY SCHOOL

1 DISTRICT, OTHER THAN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPU-
2 LATION OF ONE MILLION OR MORE.

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

6 S 2. This act shall take effect immediately.