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

7950

I N S E N A T E

October 20, 2014

Introduced by Sen. GRISANTI -- read twice and ordered printed, and when printed to be committed to the Committee on Rules

AN ACT to amend the education law, in relation to creating the parental choice private school program

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 article 57 to read as follows:

ARTICLE 57

PARENTAL CHOICE PRIVATE SCHOOL PROGRAM

SECTION 2870. DEFINITIONS.
2871. PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM.
2872. PARTICIPATING SCHOOLS.
2873. PARTICIPATING SCHOOL ACCOUNTABILITY STANDARDS.
2874. RESPONSIBILITIES OF THE DEPARTMENT.
2875. RESPONSIBILITIES OF THE SCHOOL DISTRICT.

S 2870. DEFINITIONS. FOR PURPOSES OF THIS ARTICLE, THE FOLLOWING TERMS SHALL HAVE THE FOLLOWING MEANINGS:

1. "PROGRAM" MEANS THE PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM CREATED BY THIS ARTICLE.

2. "ELIGIBLE STUDENT" MEANS A STUDENT WHO:

(A) IS A MEMBER OF A HOUSEHOLD WHOSE TOTAL ANNUAL INCOME DOES NOT EXCEED AN AMOUNT EQUAL TO 1.75 TIMES THE POVERTY LEVEL DETERMINED IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE DIRECTOR OF THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET;

(B) IS ENTERING KINDERGARTEN OR NINTH GRADE;

(C) LIVES IN THE BUFFALO SCHOOL DISTRICT; AND

(D) RESIDES IN THE STATE WHILE RECEIVING A VOUCHER UNDER THIS ARTICLE.

3. "PARENT" MEANS A GUARDIAN, CUSTODIAN OR OTHER PERSON WITH THE AUTHORITY TO ACT ON BEHALF OF THE CHILD.

4. "RESIDENT SCHOOL DISTRICT" MEANS THE BUFFALO SCHOOL DISTRICT.

5. "PARTICIPATING SCHOOL" MEANS EITHER A PUBLIC SCHOOL OUTSIDE OF THE RESIDENT SCHOOL DISTRICT OR ANY NON-PUBLIC SCHOOL THAT PROVIDES EDUCATION TO ELEMENTARY AND/OR SECONDARY STUDENTS AND HAS NOTIFIED THE

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

DEPARTMENT OF ITS INTENTION TO PARTICIPATE IN THE PROGRAM AND COMPLY WITH THE PROGRAM'S REQUIREMENTS.

S 2871. PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM. 1. THERE SHALL BE ESTABLISHED A PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM FOR THE CITY OF BUFFALO. THREE HUNDRED ELIGIBLE STUDENTS SHALL BE SELECTED TO RECEIVE VOUCHERS TO ATTEND A PARTICIPATING SCHOOL OF THEIR CHOICE. ELIGIBLE STUDENTS MAY ATTEND A PARTICIPATING SCHOOL UNTIL THEY HAVE CONCLUDED THE FINAL GRADE OFFERED AT SUCH PARTICIPATING SCHOOL OR THEIR TWENTY-FIRST BIRTHDAY, WHICHEVER OCCURS FIRST.

2. (A) THE BUFFALO SCHOOL DISTRICT SHALL PAY AN AMOUNT EQUAL TO THE PARTICIPATING SCHOOL'S OPERATING AND DEBT SERVICE COST PER PUPIL THAT IS RELATED TO EDUCATIONAL PROGRAMMING, AS DETERMINED BY THE DEPARTMENT, OR TEN THOUSAND DOLLARS, WHICHEVER IS LESS.

(B) (I) THE BUFFALO SCHOOL DISTRICT SHALL PAY TWENTY-FIVE PERCENT OF THE TOTAL AMOUNT AS DETERMINED BY THE DEPARTMENT UNDER PARAGRAPH (A) OF THIS SUBDIVISION IN SEPTEMBER, TWENTY-FIVE PERCENT IN NOVEMBER, TWENTY-FIVE PERCENT IN FEBRUARY AND TWENTY-FIVE PERCENT IN MAY.

(II) THE SUPERINTENDENT MAY INCLUDE THE ENTIRE AMOUNT DETERMINED UNDER PARAGRAPH (A) OF THIS SUBDIVISION IN ONE OF THE INSTALLMENTS OR APPORTION THE ENTIRE AMOUNT AMONG ONE OR MORE OF THE INSTALLMENTS.

(III) PAYMENT SHALL BE MADE DIRECTLY TO THE PARTICIPATING SCHOOL.

(IV) VOUCHERS RECEIVED PURSUANT TO THIS SECTION SHALL BE USED FOR EDUCATIONAL PURPOSES ONLY AND SHALL NOT BE REFUNDED OR SHARED WITH A PARENT OR STUDENT IN ANY MANNER.

3. THE VOUCHER RECEIVED PURSUANT TO THIS ARTICLE IS THE ENTITLEMENT OF THE ELIGIBLE STUDENT UNDER THE SUPERVISION OF THE STUDENT'S PARENT AND NOT THAT OF ANY SCHOOL.

4. (A) AN ELIGIBLE STUDENT ATTENDING A PARTICIPATING SCHOOL THROUGH A VOUCHER PURSUANT TO THIS SECTION WHOSE FAMILY INCOME INCREASES MAY CONTINUE TO ATTEND THE PARTICIPATING SCHOOL UNDER THIS SECTION IF THE PUPIL IS A MEMBER OF A FAMILY THAT HAS A TOTAL FAMILY INCOME THAT DOES NOT EXCEED AN AMOUNT EQUAL TO 2.2 TIMES THE POVERTY LEVEL DETERMINED IN ACCORDANCE WITH CRITERIA ESTABLISHED BY THE DIRECTOR OF THE FEDERAL OFFICE OF MANAGEMENT AND BUDGET.

(B) FOR PURPOSES OF RECEIVING A VOUCHER PURSUANT TO THIS SECTION, SIBLINGS OF STUDENTS RECEIVING A VOUCHER AND ATTENDING A PARTICIPATING SCHOOL UNDER THIS SECTION, WHO ARE ALSO APPLYING TO RECEIVE A VOUCHER, ARE SUBJECT TO THE HIGHER INCOME LIMIT AS SET FORTH IN PARAGRAPH (A) OF THIS SUBDIVISION. IF THE SIBLING'S SISTER OR BROTHER ATTENDING A PARTICIPATING SCHOOL UNDER THIS SECTION CEASES TO ATTEND A PARTICIPATING SCHOOL UNDER THIS SECTION, THE LOWER INCOME LIMIT APPLIES TO THE SIBLING.

5. ELIGIBLE STUDENTS SHALL BE COUNTED IN THE ENROLLMENT FIGURES FOR THE BUFFALO SCHOOL DISTRICT FOR THE PURPOSES OF CALCULATING STATE AID TO SUCH SCHOOL DISTRICT. THE FUNDS NEEDED FOR A VOUCHER SHALL BE SUBTRACTED FROM THE STATE SCHOOL AID PAYABLE TO THE STUDENT'S RESIDENT SCHOOL DISTRICT. ANY AID THE SCHOOL DISTRICT WOULD HAVE RECEIVED FOR THE STUDENT, IN EXCESS OF THE FUNDS NEEDED FOR A VOUCHER, SHALL BE RETAINED BY THE STATE.

S 2872. PARTICIPATING SCHOOLS. 1. (A) PUBLIC SCHOOLS OUTSIDE OF THE RESIDENT SCHOOL DISTRICT OR ANY NON-PUBLIC SCHOOL THAT PROVIDES EDUCATION TO ELEMENTARY AND/OR SECONDARY STUDENTS SHALL NOTIFY THE DEPARTMENT, IN A MANNER AND FORM PRESCRIBED BY THE DEPARTMENT, OF ITS INTENT TO PARTICIPATE IN THE PROGRAM UNDER THIS ARTICLE.

(B) SUCH SCHOOL SHALL PAY A NONREFUNDABLE FEE, AS SET BY THE DEPARTMENT, BY FEBRUARY FIRST OF THE PREVIOUS SCHOOL YEAR WHICH SHALL COVER

THE COSTS OF EMPLOYING ONE FULL TIME AUDITOR TO EVALUATE THE FINANCIAL INFORMATION SUBMITTED BY THE PARTICIPATING SCHOOLS UNDER SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-ONE OF THIS ARTICLE.

(C) THE NOTICE SHALL SPECIFY THE NUMBER OF PUPILS PARTICIPATING IN THE PROGRAM UNDER THIS SECTION FOR WHICH THE SCHOOL HAS SPACE.

(D) IN ADDITION TO ANY INFORMATION THE DEPARTMENT DEEMS NECESSARY TO AUTHORIZE PARTICIPATION IN THE PROGRAM BY A SCHOOL, SUCH SCHOOL SHALL, BY AUGUST FIRST BEFORE THE FIRST SCHOOL TERM OF PARTICIPATION IN THE PROGRAM, SUBMIT A COPY OF THE SCHOOL'S CURRENT CERTIFICATE OF OCCUPANCY ISSUED BY THE CITY. IF THE SCHOOL MOVES TO A NEW LOCATION, THE SCHOOL SHALL SUBMIT A COPY OF THE NEW CERTIFICATE OF OCCUPANCY ISSUED BY THE CITY TO THE DEPARTMENT BEFORE THE ATTENDANCE OF PUPILS AT THE NEW LOCATION. A TEMPORARY CERTIFICATE OF OCCUPANCY DOES NOT MEET THE REQUIREMENT OF THIS PARAGRAPH.

2. SCHOOLS SHALL PROVIDE EVIDENCE OF FINANCIAL VIABILITY, AS PRESCRIBED BY THE DEPARTMENT BY RULE OR REGULATION.

3. SCHOOLS SHALL ALSO PROVIDE PROOF THAT THE SCHOOL'S ADMINISTRATOR HAS PARTICIPATED IN A FISCAL MANAGEMENT TRAINING PROGRAM APPROVED BY THE DEPARTMENT.

4. SCHOOLS SHALL SUBMIT A SCHEDULE ANNUALLY TO THE DEPARTMENT SHOWING HOW MUCH THE SCHOOL SPENDS TO EDUCATE ONE STUDENT. SUCH INFORMATION SHALL BE USED BY THE DEPARTMENT TO DETERMINE HOW MUCH THE SCHOOL SHALL BE PAID UNDER PARAGRAPH (A) OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-ONE OF THIS ARTICLE. IT SHALL BE IN THE DEPARTMENT'S DISCRETION TO DETERMINE SAID AMOUNT.

5. (A) THE ELIGIBLE STUDENT OR THE ELIGIBLE STUDENT'S PARENT OR GUARDIAN SHALL SUBMIT AN APPLICATION, ON A FORM PROVIDED BY THE DEPARTMENT, TO THE PARTICIPATING SCHOOL THAT THE ELIGIBLE STUDENT WISHES TO ATTEND. SUCH STUDENT SHALL TAKE ANY ADMISSIONS TESTING REQUIRED BY THE SCHOOL. WITHIN SIXTY DAYS AFTER RECEIVING THE APPLICATION AND THE STUDENT TAKING THE SCHOOL'S ADMISSIONS TESTING, THE PARTICIPATING SCHOOL SHALL NOTIFY THE APPLICANT, IN WRITING, WHETHER THE APPLICATION HAS BEEN ACCEPTED. IF THE PARTICIPATING SCHOOL REJECTS AN APPLICATION, THE NOTICE SHALL INCLUDE THE REASON. A PARTICIPATING SCHOOL MAY REJECT AN APPLICANT ONLY IF IT HAS REACHED ITS MAXIMUM GENERAL CAPACITY OR SEATING CAPACITY OR IF THE ELIGIBLE STUDENT FAILS TO PASS THE ADMISSIONS TESTING ADMINISTERED BY THE SCHOOL. THE COMMISSIONER SHALL ENSURE THAT THE PARTICIPATING SCHOOL DETERMINES WHICH PUPILS TO ACCEPT ON A RANDOM BASIS, EXCEPT THAT THE PARTICIPATING SCHOOL MAY GIVE PREFERENCE IN ACCEPTING APPLICATIONS TO SIBLINGS OF PUPILS ACCEPTED ON A RANDOM BASIS.

(B) IF AN ELIGIBLE STUDENT IS DENIED ADMISSION TO A PARTICIPATING SCHOOL BECAUSE IT HAS TOO FEW AVAILABLE SPACES, THE ELIGIBLE STUDENT MAY TRANSFER HIS OR HER VOUCHER TO A PARTICIPATING SCHOOL THAT HAS AVAILABLE SPACE.

S 2873. PARTICIPATING SCHOOL ACCOUNTABILITY STANDARDS. 1. TO ENSURE THAT STUDENTS ARE TREATED FAIRLY AND KEPT SAFE, ALL PARTICIPATING SCHOOLS SHALL:

(A) COMPLY WITH ALL HEALTH AND SAFETY LAWS OR CODES THAT APPLY TO NON-PUBLIC SCHOOLS;

(B) HOLD A VALID OCCUPANCY PERMIT IF REQUIRED BY THEIR MUNICIPALITY;

(C) CERTIFY THAT THEY WILL NOT DISCRIMINATE IN ADMISSIONS ON THE BASIS OF RACE, COLOR, NATIONAL ORIGIN, RELIGION OR DISABILITY; AND

(D) COMPLY WITH ALL STATE LAWS THAT APPLY TO NON-PUBLIC SCHOOLS REGARDING CRIMINAL BACKGROUND CHECKS FOR EMPLOYEES AND EXCLUDE FROM EMPLOYMENT ANY PEOPLE NOT PERMITTED BY STATE LAW TO WORK IN A NONPUBLIC SCHOOL.

2. TO ENSURE THAT PUBLIC FUNDS ARE SPENT APPROPRIATELY, ALL PARTICIPATING SCHOOLS SHALL ANNUALLY BY SEPTEMBER FIRST FOLLOWING A SCHOOL YEAR IN WHICH A PARTICIPATING SCHOOL PARTICIPATED IN THE PROGRAM:

(A) DEMONSTRATE THEIR FINANCIAL ACCOUNTABILITY BY:

(I) SUBMITTING A FINANCIAL INFORMATION REPORT FOR THE SCHOOL THAT COMPLIES WITH UNIFORM FINANCIAL ACCOUNTING STANDARDS ESTABLISHED BY THE DEPARTMENT AND CONDUCTED BY A CERTIFIED PUBLIC ACCOUNTANT; AND

(II) HAVING THE AUDITOR CERTIFY THAT THE REPORT IS FREE OF MATERIAL MISSTATEMENTS AND FAIRLY REPRESENTS THE COSTS PER PUPIL UNDER SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-ONE OF THIS ARTICLE. THE AUDITOR'S REPORT SHALL BE LIMITED IN SCOPE TO THOSE RECORDS THAT ARE NECESSARY FOR THE DEPARTMENT TO MAKE PAYMENTS TO PARTICIPATING SCHOOLS ON BEHALF OF ELIGIBLE STUDENTS RECEIVING VOUCHERS PURSUANT TO THIS ARTICLE.

(B) DEMONSTRATE SOUND FISCAL PRACTICES, AS PRESCRIBED BY THE DEPARTMENT.

3. (A) EACH PARTICIPATING SCHOOL SHALL MEET AT LEAST ONE OF THE FOLLOWING STANDARDS:

(I) AT LEAST SEVENTY PERCENT OF THE ELIGIBLE STUDENTS IN THE PROGRAM ADVANCE ONE GRADE LEVEL EACH YEAR.

(II) THE PARTICIPATING SCHOOL'S AVERAGE ATTENDANCE RATE FOR THE ELIGIBLE STUDENTS IN THE PROGRAM IS AT LEAST NINETY PERCENT.

(III) AT LEAST EIGHTY PERCENT OF THE ELIGIBLE STUDENTS IN THE PROGRAM DEMONSTRATE SIGNIFICANT ACADEMIC PROGRESS.

(B) EACH PARTICIPATING SCHOOL SHALL REPORT THE RESULTS OF THE STANDARDS REQUIRED PURSUANT TO PARAGRAPH (A) OF THIS SUBDIVISION TO THE DEPARTMENT, NO LATER THAN JULY FOR THE PRECEDING SCHOOL YEAR.

S 2874. RESPONSIBILITIES OF THE DEPARTMENT. 1. THE DEPARTMENT SHALL ENSURE THAT ELIGIBLE STUDENTS AND THEIR PARENTS ARE INFORMED ANNUALLY OF WHICH SCHOOLS WILL BE PARTICIPATING IN THE BUFFALO PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM. SPECIAL ATTENTION SHALL BE PAID TO ENSURING THAT LOWER INCOME FAMILIES ARE MADE AWARE OF THE PROGRAM AND THEIR OPTIONS.

2. THE DEPARTMENT SHALL CREATE A STANDARD APPLICATION THAT STUDENTS INTERESTED IN THE PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM CAN USE TO SUBMIT TO THE DEPARTMENT TO ESTABLISH THEIR ELIGIBILITY IN THE PROGRAM.

3. THE DEPARTMENT SHALL CREATE A STANDARD APPLICATION THAT STUDENTS INTERESTED IN THE PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM CAN USE TO SUBMIT TO PARTICIPATING SCHOOLS TO ESTABLISH THEIR ELIGIBILITY AND APPLY FOR ADMISSIONS.

4. THE DEPARTMENT SHALL ENSURE THAT THE APPLICATIONS ARE READILY AVAILABLE TO INTERESTED FAMILIES THROUGH VARIOUS SOURCES, INCLUDING THE INTERNET.

5. THE DEPARTMENT MAY BAR A SCHOOL FROM PARTICIPATION IN THE PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM IF THE DEPARTMENT ESTABLISHES THAT THE PARTICIPATING SCHOOL HAS:

(A) INTENTIONALLY AND SUBSTANTIALLY MISREPRESENTED INFORMATION REQUIRED UNDER SUBDIVISIONS TWO, THREE OR FOUR OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-TWO OR SECTION TWENTY-EIGHT HUNDRED SEVENTY-THREE OF THIS ARTICLE; OR

(B) ROUTINELY FAILED TO COMPLY WITH AT LEAST THREE OF THE ACCOUNTABILITY STANDARDS ESTABLISHED IN SECTION TWENTY-EIGHT HUNDRED SEVENTY-THREE OF THIS ARTICLE; OR

(C) FAILED TO COMPLY WITH SUBPARAGRAPH (IV) OF PARAGRAPH (B) OF SUBDIVISION TWO OF SECTION TWENTY-EIGHT HUNDRED SEVENTY-ONE OF THIS ARTICLE; OR

(D) FAILED TO REFUND TO THE STATE ANY VOUCHER OVERPAYMENTS IN A TIMELY MANNER.

6. IF THE DEPARTMENT DECIDES TO BAR A PARTICIPATING SCHOOL FROM THE PROGRAM, IT SHALL NOTIFY ELIGIBLE STUDENTS AND THEIR PARENTS OF THIS DECISION AS QUICKLY AS POSSIBLE.

7. THE DEPARTMENT SHALL ADOPT RULES AND PROCEDURES AS NECESSARY FOR THE ADMINISTRATION OF THE PARENTAL CHOICE PRIVATE SCHOOL VOUCHER PROGRAM, INCLUDING BUT NOT LIMITED TO:

(A) THE ELIGIBILITY AND PARTICIPATION OF SCHOOLS, INCLUDING TIMELINES THAT WILL MAXIMIZE STUDENT AND PUBLIC AND NON-PUBLIC SCHOOL PARTICIPATION;

(B) THE CALCULATION AND DISTRIBUTION OF VOUCHERS TO ELIGIBLE STUDENTS; AND

(C) THE APPLICATION AND APPROVAL PROCEDURES FOR VOUCHERS FOR ELIGIBLE STUDENTS AND PARTICIPATING SCHOOLS.

S 2875. RESPONSIBILITIES OF THE SCHOOL DISTRICT. 1. THE BUFFALO SCHOOL DISTRICT SHALL PROVIDE THE PARTICIPATING SCHOOL THAT HAS ADMITTED AN ELIGIBLE STUDENT UNDER THIS PROGRAM WITH A COMPLETE COPY OF THE STUDENT'S SCHOOL RECORDS WHILE COMPLYING WITH THE FAMILY EDUCATIONAL RIGHTS AND PRIVACY ACT OF 1974 (20 USC SECTION 1232 G).

2. THE BUFFALO SCHOOL DISTRICT SHALL PROVIDE TRANSPORTATION FOR THE ELIGIBLE STUDENT TO AND FROM THE PARTICIPATING SCHOOL UNDER THE SAME CONDITIONS AS THE BUFFALO SCHOOL DISTRICT IS REQUIRED TO PROVIDE TRANSPORTATION FOR OTHER RESIDENT STUDENTS TO NON-PUBLIC SCHOOLS AS PER CURRENT LAW. THE BUFFALO SCHOOL DISTRICT MAY QUALIFY FOR STATE TRANSPORTATION AID FOR EACH STUDENT SO TRANSPORTED, AS ALLOWED UNDER STATE LAW.

S 2. This act shall take effect immediately and shall first apply to the 2015-2016 school year and thereafter. The commissioner of education is authorized to promulgate any and all rules and regulations and take any other measures necessary to implement the provisions of this act.