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I N   S E N A T E

May 25, 2016

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Introduced by Sen. MARCELLINO -- (at request of the State Education Department) -- read twice and ordered printed, and when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to establishing a fiscal stabilization reserve fund as part of the tuition reimbursement methodology for school age programs and providing an annual growth amount for the tuition reimbursement for school age programs operated by in-state approved private schools for the education of students with disabilities and special act school districts

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

1     Section 1. Paragraph c of subdivision 4 of section 4405 of the educa-  
2     tion law, as amended by chapter 82 of the laws of 1995, is amended to  
3     read as follows:  
4     c. The director of the budget, in consultation with the commissioner  
5     [of education], the commissioner of social services, and any other state  
6     agency or other source the director may deem appropriate, shall approve  
7     reimbursement methodologies for tuition and for maintenance. Any modifi-  
8     cation in the approved reimbursement methodologies shall be subject to  
9     the approval of the director of the budget. [Notwithstanding any other  
10    provision of law, rule or regulation to the contrary, tuition rates  
11    established for the nineteen hundred ninety-five--ninety-six school year  
12    shall exclude the two percent cost of living adjustment authorized in  
13    rates established for the nineteen hundred ninety-four--ninety-five  
14    school year.] TUITION RATES APPROVED FOR THE TWO THOUSAND SIXTEEN--TWO  
15    THOUSAND SEVENTEEN SCHOOL YEAR AND THEREAFTER FOR SPECIAL SERVICES OR  
16    PROGRAMS PROVIDED TO SCHOOL-AGE STUDENTS BY APPROVED PRIVATE RESIDENTIAL  
17    OR NON-RESIDENTIAL SCHOOLS FOR THE EDUCATION OF STUDENTS WITH DISABILI-  
18    TIES THAT ARE LOCATED WITHIN THE STATE, AND BY SPECIAL ACT SCHOOL  
19    DISTRICTS SHALL GROW BY A PERCENTAGE EQUAL TO THE GREATER OF: (I) THE  
20    AVERAGE, ROUNDED TO THREE DECIMAL PLACES, OF THE QUOTIENTS OF THE TOTAL  
21    PERSONAL INCOME OF TAXPAYERS IN THE STATE FOR EACH STATE FISCAL YEAR IN  
22    THE THREE-YEAR PERIOD FINISHING WITH THE STATE FISCAL YEAR ONE YEAR  
23    PRIOR TO THE STATE FISCAL YEAR IN WHICH THE BASE YEAR COMMENCED DIVIDED

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

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1 BY THE TOTAL PERSONAL INCOME OF TAXPAYERS OF THE STATE FOR EACH IMME-  
2 DIATELY PRECEDING STATE FISCAL YEAR, ROUNDED TO THREE DECIMAL PLACES  
3 MINUS ONE, OR (II) ZERO.

4 S 2. Section 4004 of the education law is amended by adding a new  
5 subdivision 5 to read as follows:

6 5. THE BOARD OF EDUCATION OF A SPECIAL ACT SCHOOL DISTRICT SHALL BE  
7 AUTHORIZED TO ESTABLISH A FISCAL STABILIZATION RESERVE FUND. THERE MAY  
8 BE PAID INTO SUCH FUND AN AMOUNT AS MAY BE PROVIDED PURSUANT TO THE  
9 REQUIREMENTS OF PARAGRAPH K OF SUBDIVISION FOUR OF SECTION FORTY-FOUR  
10 HUNDRED FIVE OF THIS TITLE.

11 S 3. Subdivision 4 of section 4405 of the education law is amended by  
12 adding a new paragraph k to read as follows:

13 K. THE TUITION METHODOLOGY ESTABLISHED PURSUANT TO THIS SUBDIVISION  
14 FOR THE TWO THOUSAND SIXTEEN--TWO THOUSAND SEVENTEEN SCHOOL YEAR AND  
15 THEREAFTER SHALL AUTHORIZE APPROVED PRIVATE RESIDENTIAL OR NON-RESIDEN-  
16 TIAL SCHOOLS FOR THE EDUCATION OF STUDENTS WITH DISABILITIES THAT ARE  
17 LOCATED WITHIN THE STATE, AND SPECIAL ACT SCHOOL DISTRICTS, TO RETAIN  
18 FUNDS IN EXCESS OF THEIR ALLOWABLE AND REIMBURSABLE COSTS INCURRED FOR  
19 SERVICES AND PROGRAMS PROVIDED TO SCHOOL-AGE STUDENTS. THE AMOUNT OF  
20 FUNDS THAT MAY BE ANNUALLY RETAINED SHALL NOT EXCEED ONE PERCENT OF THE  
21 SCHOOL'S OR SCHOOL DISTRICT'S TOTAL ALLOWABLE AND REIMBURSABLE COSTS FOR  
22 SERVICES AND PROGRAMS PROVIDED TO SCHOOL-AGE STUDENTS FOR THE SCHOOL  
23 YEAR FROM WHICH THE FUNDS ARE TO BE RETAINED; PROVIDED THAT THE TOTAL  
24 ACCUMULATED BALANCE THAT MAY BE RETAINED SHALL NOT EXCEED FOUR PERCENT  
25 OF SUCH TOTAL COSTS FOR SUCH SCHOOL YEAR. FUNDS MAY BE EXPENDED ONLY  
26 PURSUANT TO AN AUTHORIZATION OF THE GOVERNING BOARD OF THE SCHOOL OR  
27 SCHOOL DISTRICT, FOR A PURPOSE EXPRESSLY AUTHORIZED AS PART OF THE  
28 APPROVED TUITION METHODOLOGY FOR THE YEAR IN WHICH THE FUNDS ARE TO BE  
29 EXPENDED. THE DIRECTOR OF THE BUDGET, IN CONSULTATION WITH THE COMMIS-  
30 SIONER, SHALL ESTABLISH THE AUTHORIZED USES FOR THE EXPENDITURES OF SUCH  
31 FUNDS AS PART OF THE APPROVED TUITION METHODOLOGY. ANY SCHOOL OR SCHOOL  
32 DISTRICT THAT RETAINS FUNDS PURSUANT TO THIS PARAGRAPH SHALL BE REQUIRED  
33 TO ANNUALLY REPORT A STATEMENT OF THE TOTAL BALANCE OF ANY SUCH RETAINED  
34 FUNDS, THE AMOUNT, IF ANY, RETAINED IN THE PRIOR SCHOOL YEAR, AN AMOUNT,  
35 IF ANY, DISPERSED IN THE PRIOR SCHOOL YEAR, AND ANY ADDITIONAL INFORMA-  
36 TION REQUESTED BY THE DEPARTMENT AS PART OF THE FINANCIAL REPORTS THAT  
37 ARE REQUIRED TO BE ANNUALLY SUBMITTED TO THE DEPARTMENT.

38 S 4. This act shall take effect immediately.