

S 2917-B SPANO Same as A 5451-C Sanders (MS)

ON FILE: 03/31/04 Education Law

TITLE....Provides for the funding of certain approved non-public special education programs and special act public school districts

03/11/03 REFERRED TO EDUCATION

06/17/03 AMEND (T) AND RECOMMIT TO EDUCATION

06/17/03 PRINT NUMBER 2917A

01/07/04 REFERRED TO EDUCATION

03/25/04 AMEND AND RECOMMIT TO EDUCATION

03/25/04 PRINT NUMBER 2917B

06/03/04 COMMITTEE DISCHARGED AND COMMITTED TO RULES

06/03/04 ORDERED TO THIRD READING CAL.1439

06/10/04 PASSED SENATE

06/10/04 DELIVERED TO ASSEMBLY

06/10/04 referred to ways and means

06/16/04 substituted for a5451c

06/16/04 ordered to third reading rules cal.1092

06/16/04 passed assembly

06/16/04 returned to senate

09/02/04 DELIVERED TO GOVERNOR

09/15/04 VETOED MEMO.220

A5451-C Sanders (MS) Same as S 2917-B SPANO

Education Law

TITLE....Provides for the funding of certain approved non-public special education programs and special act public school districts

02/27/03 referred to education

05/20/03 amend (t) and recommit to education

05/20/03 print number 5451a

06/03/03 reported referred to ways and means

06/17/03 amend (t) and recommit to ways and means

06/17/03 print number 5451b

01/07/04 referred to education

03/25/04 amend and recommit to education

03/25/04 print number 5451c

05/04/04 reported referred to ways and means

06/10/04 reported referred to rules

06/16/04 rules report cal.1092

06/16/04 substituted by s2917b

S02917 SPANO AMEND=B

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SPANO

Amd SS4001, 4003 & 4405, Ed L

Provides for the funding of certain approved non-public special education programs and special act public school districts including making changes in the reimbursement methodology for tuition and maintenance; allows such districts to retain up to 2.5% of annual budget for unexpected expenditures and makes numerous other related provisions; also authorizes a surplus factor of not more than two percent.

STATE OF NEW YORK

2917--B

2003-2004 Regular Sessions

IN SENATE

March 11, 2003

Introduced by Sen. SPANO -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee -- recommitted to the Committee on Education in accordance with Senate Rule 6, sec. 8 -- committee discharged, bill amended, ordered reprinted as amended and recommitted to said committee

AN ACT to amend the education law, in relation to the funding of certain approved non-public special education programs and special act public school districts

The People of the State of New York, represented in Senate and Assembly, do enact as follows:

- 1 Section 1. Subdivision 9 of section 4001 of the education law, as
 2 added by chapter 563 of the laws of 1980 and as renumbered by chapter
 3 947 of the laws of 1981, is amended to read as follows:
 4 9. "Tuition" shall mean the per pupil cost of all instructional
 5 services, supplies and equipment, and the operation of instructional
 6 facilities as determined by the commissioner. For the two thousand
 7 five--two thousand six school year and thereafter, tuition rates for a
 8 particular school year that are calculated based on that school year's
 9 actual costs and revenues may include a surplus factor of not more than
 10 two percent of that school year's allowable and reimbursable costs as
 11 determined by the commissioner and approved by the director of the budg-
 12 et, to the extent that tuition revenues exceed allowable and reimbursa-
 13 ble costs. Approved tuition shall be computed from expenditures for
 14 which no revenue has been received from the following sources:
 15 a. Receipts from the federal government;
 16 b. Any cash receipts which reduce the cost of an item applied against
 17 the item therefor, except gifts, donations and earned interest; and

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

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1 c. Any refunds made or any apportionment or payment received from the
2 state for experimental or special programs as approved by the commis-
3 sioner.

4 § 2. Subdivision 1 of section 4003 of the education law, as amended by
5 chapter 947 of the laws of 1981, is amended to read as follows:

6 1. The commissioner [~~of education~~], the commissioner of [~~social~~] the
7 office of children and family services, and, when appropriate, the
8 commissioner of mental health shall develop reimbursement methodologies
9 for the tuition and maintenance components of child care institutions
10 and special act school districts. The commissioner [~~of education~~], in
11 consultation with the appropriate state agencies and departments and in
12 accordance with the provisions of subdivision four of section forty-four
13 hundred five of this chapter, shall have responsibility for developing a
14 reimbursement methodology for tuition which shall be based upon appro-
15 priate educational standards promulgated pursuant to regulations of the
16 commissioner of education. The commissioner of [~~social~~] the office of
17 children and family services, except for institutions for which the
18 state health department or the office of mental health establishes main-
19 tenance rates, in consultation with appropriate state agencies and
20 departments, shall have responsibility for developing a reimbursement
21 methodology for maintenance, pursuant to section three hundred ninety-
22 eight-a of the social services law and the regulations promulgated ther-
23 eunder.

24 § 3. Subdivision 5 of section 4401 of the education law, as amended by
25 chapter 470 of the laws of 1977, is amended to read as follows:

26 5. "Tuition" shall mean the per pupil cost of all instructional
27 services, supplies and equipment, the operation of instructional facili-
28 ties and allocable debt service for the instructional facilities, as
29 determined by the commissioner. For the two thousand five--two thousand
30 six school year and thereafter, tuition rates for a particular school
31 that are calculated based on that school year's actual costs and reven-
32 ues may include a surplus factor of not more than two percent of that
33 school year's allowable and reimbursable costs, as determined by the
34 commissioner and approved by the director of the budget, to the extent
35 that tuition revenues exceed allowable and reimbursable costs. Approved
36 tuition shall be computed from expenditures from which no revenue has
37 been received from the following sources:

38 (a) receipts from the federal government;
39 (b) any cash receipts which reduce the cost of an item applied against
40 the item therefor, except gifts, donations and earned interest[?]; and
41 (c) any refunds made or any apportionment or payment received from the
42 state for experimental or special programs as approved by the commis-
43 sioner.

44 § 4. Subdivision 4 of section 4405 of the education law is amended by
45 adding two new paragraphs j and k to read as follows:

46 j. Notwithstanding any provision of law or regulation to the contrary,
47 for the purpose of establishing tuition rates for the two thousand five-
48 -two thousand six school year and thereafter, the commissioner shall
49 develop a multi-year tuition rate setting methodology, pursuant to this
50 paragraph, in which rates established in year one are based on allowable
51 historical costs as determined by the commissioner and approved by the
52 director of the budget. The tuition rate for year two shall be calcu-
53 lated by applying a cost of living factor, as determined by the commis-
54 sioner and approved by the director of the budget, to the approved year
55 one rate. The tuition rate for year three shall be calculated by apply-
56 ing a cost of living factor, as determined by the commissioner and

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1 approved by the director of the budget, to the approved year two tuition
2 rate. This multi-year rate setting methodology shall be implemented on a
3 staggered basis so that approximately one-third of the schools to which
4 the methodology is applied will have initial year one rates calculated
5 during each year of the first three year cycle as determined by the
6 commissioner, provided, however, that during the transition period while
7 schools are being shifted to a three-year cycle, such methodology shall
8 provide for cost-of-living increases for those schools not yet in year
9 two of a three-year cycle as of the two thousand six--two thousand seven
10 school year based upon application of a cost-of-living factor to the
11 tuition rate otherwise calculated for such schools pursuant to this
12 subdivision. The commissioner shall promulgate regulations necessary
13 for implementation of the multi-year rate setting methodology as
14 provided by this paragraph.

15 k. Notwithstanding any other provision of law, rule or regulation to
16 the contrary, tuition rates for special education itinerant teacher
17 programs approved under section forty-four hundred ten of this chapter
18 for the two thousand five--two thousand six school year and thereafter
19 shall be established on a regional basis.

20 § 5. This act shall take effect on the one hundred eightieth day after
21 it shall have become a law provided, however, that the commissioner of
22 education shall promulgate rules and regulations immediately to effectuate
23 the timely implementation of this act.

**NEW YORK STATE SENATE
INTRODUCER'S MEMORANDUM IN SUPPORT
submitted in accordance with Senate Rule VI. Sec 1**

BILL NUMBER: S2917B

SPONSOR: SPANO

TITLE OF BILL: An act to amend the education law, in relation to the funding of certain approved non-public special education programs and special act public school districts

PURPOSE OR GENERAL IDEA OF BILL: The bill is designed to give certainty and stability to the funding situations for the non-public special education programs and the special act school districts by modifying current methodologies for setting tuition reimbursement rates and by enhancing the districts' flexibility in the use of their funds.

SUMMARY OF SPECIFIC PROVISIONS: Sections one and three allows these programs and school districts to maintain a surplus fund balance of not more than two percent, for unexpected expenses or emergency expenditures.

Section two makes conforming changes.

Section four creates a new tuition rate setting methodology and timetable for rate setting for these programs and school districts. The current unwieldy and burdensome annual rate setting process is replaced by a multi-year rate setting methodology whereby the programs' and districts' costs and other financial information is submitted and rates are established in the first year. In years two and three, the tuition rate is calculated by applying a cost of living factor to the prior year's approved rate.

Furthermore, this section requires that the multi-year rate setting methodology be implemented on a staggered basis, so that one-third of the schools rates will have their rates calculated during each year of the first three year cycle. It also requires tuition rates for special education itinerant teacher programs to be established on a regional basis.

JUSTIFICATION: The Special Act Schools annually provide rehabilitative and educational services to more than 3,500 of New York's most difficult children, children who have been admitted into the juvenile justice system, foster care and mental health systems, and for many of whom the schools are a last hope. The approved non-public special education programs, the 853 schools and the 4,410 pre-school special education programs, annually provide special education services to children with disabilities ages 3 to 21.

These schools and programs are required to give educational services and support to children and do so without the same financial and infrastructure supports as are afforded other public schools. For several years now, these schools and programs have lived with no increases in their

tuition reimbursements and have experienced an inconsistent application of the tuition rate setting methodology. In order to enable them to manage the affairs of the schools efficiently and to address the new learning standards with their students, there must be a more systematic approach to providing the funding and financial support the schools require.

This bill provides the funding certainty and flexibility necessary to help these schools and programs maintain their mission and educate some of our least fortunate students. By providing a new, multi-year rate setting methodology, the bill gives these programs and schools the certainty of funding year-to-year. Furthermore, it affords the Department a more efficient way of setting tuition rates and monitoring the schools' and programs' costs and expenses. By allowing them to maintain a 2% surplus fund balance, they have the flexibility to meet emergencies and handle any unexpected expenditures.

PRIOR LEGISLATIVE HISTORY: A.10773 (1997-98) A.744 (1999-00) A.3050 (2001-02)

FISCAL IMPLICATIONS: Undetermined.

EFFECTIVE DATE: This act shall take effect on the one hundred eightieth day after it shall have become a law provided, however, that the commissioner of education shall promulgate rules and regulations immediately to effectuate the timely implementation of this act.
