

STATE OF NEW YORK

5114--A

2005-2006 Regular Sessions

IN SENATE

April 18, 2005

Introduced by Sens. SPANO, MAZIARZ -- read twice and ordered printed, and when printed to be committed to the Committee on Education -- and 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 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 seven--two thousand eight school year and thereafter, tuition rates for
8 a particular school year that are calculated based on that school year's
9 actual costs and revenues may include a surplus factor, at the
10 discretion of the commissioner and approved by the director of the divi-
11 sion of the budget, of not more than two percent of that school year's
12 allowable and reimbursable costs, to the extent that tuition revenues
13 exceed allowable and reimbursable costs. Approved tuition shall be
14 computed from expenditures for which no revenue has been received from
15 the following sources:
16 a. Receipts from the federal government;
17 b. Any cash receipts which reduce the cost of an item applied against
18 the item therefor, except gifts, donations and earned interest; and
19 c. Any refunds made or any apportionment or payment received from the
20 state for experimental or special programs as approved by the commis-
21 sioner.

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

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

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

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

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

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

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

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

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

13 k. Notwithstanding any other provision of law, rule or regulation to
14 the contrary, tuition rates for special education itinerant teacher
15 programs approved under section forty-four hundred ten of this article
16 for the two thousand seven--two thousand eight school year and thereaft-
17 er shall be established on a regional basis.

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