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

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I N A S S E M B L Y

January 28, 2009

Introduced by M. of A. GALEF, PAULIN, PRETLOW, PEOPLES, ENGLEBRIGHT, SPANO, CALHOUN, GIGLIO, BRADLEY, CHRISTENSEN -- Multi-Sponsored by -- M. of A. BACALLES, COLTON, COOK, CROUCH, DelMONTE, ERRIGO, HOOPER, MAGEE, McENENY, SALADINO, SCHIMEL, SWEENEY -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to the financing of charter schools

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

Section 1. Section 2856 of the education law, as added by chapter 4 of the laws of 1998, subdivision 1 as amended by chapter 378 of the laws of 2007, is amended to read as follows:

S 2856. Financing of charter schools. 1. (a) The enrollment of students attending charter schools shall NOT be included in the enrollment, attendance, membership and, if applicable, count of students with disabilities of the school district in which the pupil resides. The charter school shall report all such data to the [school districts of residence] DEPARTMENT in a timely manner. [Each school district shall report such enrollment, attendance and count of students with disabilities to the department.] The [school district of residence] DEPARTMENT shall pay directly to the charter school for each student enrolled in the charter school [who resides in the school district] the charter school basic tuition, which shall be an amount equal to one hundred percent of the amount calculated pursuant to paragraph f of subdivision one of section thirty-six hundred two of this chapter for the STUDENT'S school district OF RESIDENCE for the year prior to the base year increased by the percentage change in the state total approved operating expense calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter from two years prior to the base year to the base year.

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

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(b) The [school district] DEPARTMENT shall also pay directly to the charter school any federal or state aid attributable to a student with a disability attending THE charter school in proportion to the level of services for such student with a disability that the charter school provides directly or indirectly. Notwithstanding anything in this section to the contrary, amounts payable pursuant to this subdivision from state or local funds may be reduced pursuant to an agreement between the DEPARTMENT, THE CHARTER school and the charter entity set forth in the charter. Payments made pursuant to this subdivision shall be made by the [school district] DEPARTMENT in six substantially equal installments each year beginning on the first business day of July and every two months thereafter. Amounts payable under this subdivision shall be determined by the commissioner. Amounts payable to a charter school in its first year of operation shall be based on the projections of initial-year enrollment set forth in the charter until actual enrollment data is reported to the school district by the charter school. Such projections shall be reconciled with the actual enrollment as actual enrollment data is so reported and at the end of the school's first year of operation and each subsequent year based on a final report of actual enrollment by the charter school, and any necessary adjustments resulting from such final report shall be made to payments during the school's following year of operation.

(c) Notwithstanding any other provision of this subdivision to the contrary, payment of the federal aid attributable to a student with a disability attending a charter school shall be made in accordance with the requirements of section 8065-a of title twenty of the United States code and sections 76.785-76.799 and 300.209 of title thirty-four of the code of federal regulations.

2. [In the event of the failure of the school district to make payments required by this section, the state comptroller shall deduct from any state funds which become due to such school district an amount equal to the unpaid obligation. The comptroller shall pay over such sum to the charter school upon certification of the commissioner. The commissioner shall promulgate regulations to implement the provisions of this subdivision.

3.] Nothing in this article shall be construed to prohibit any person or organization from providing funding or other assistance to the establishment or operation of a charter school. The board of trustees of a charter school is authorized to accept gifts, donations or grants of any kind made to the charter school and to expend or use such gifts, donations or grants in accordance with the conditions prescribed by the donor; provided, however, that no gift, donation or grant may be accepted if subject to a condition that is contrary to any provision of law or term of the charter.

S 2. This act shall take effect immediately, provided, however, that the amendments to subdivision 1 of section 2856 of the education law made by section one of this act shall not affect the expiration of such subdivision and shall be deemed to expire therewith.