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

6107

2009-2010 Regular Sessions

I N A S S E M B L Y

February 25, 2009

Introduced by M. of A. HOOPER -- Multi-Sponsored by -- M. of A. EDDINGTON, JOHN, SWEENEY, ZEBROWSKI -- read once and referred to the Committee on Education

AN ACT to amend the education law, the state finance law and the real property tax law, in relation to charter schools; and to repeal paragraph (b-1) of subdivision 3 of section 2854 of the education law, relating to collective bargaining

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

Section 1. Paragraphs (c) and (d) of subdivision 2 of section 2852 of the education law, paragraph (c) as amended and paragraph (d) as added by section 2 of part D-2 of chapter 57 of the laws of 2007, are amended and three new paragraphs (e), (f), (g) and are added to read as follows:

(c) granting the application is likely to improve student learning and achievement and materially further the purposes set out in subdivision two of section twenty-eight hundred fifty of this article; [and]

(d) in a school district where the total enrollment of resident students attending charter schools in the base year is greater than five percent of the total public school enrollment of the school district in the base year (i) granting the application would have a significant educational benefit to the students expected to attend the proposed charter school or (ii) the school district in which the charter school will be located consents to such application[.];

(E) THE APPLICANT HAS PRESENTED AN ECONOMIC IMPACT STUDY FOR THE SCHOOL DISTRICT AFFECTED;

(F) THE APPLICANT HAS PRESENTED A FINANCIAL IMPACT STATEMENT ON HOW THE LOCAL SCHOOL DISTRICT WILL BE IMPACTED; AND

(G) THE APPLICANT HAS CONDUCTED NO LESS THAN THREE PUBLIC HEARINGS PRIOR TO APPROVAL.

S 2. The education law is amended by adding a new section 2852-a to read as follows:

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

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S 2852-A. PROCEDURES FOR LOCAL APPROVAL OF CHARTER SCHOOLS IN CERTAIN SCHOOL DISTRICTS. NOTWITHSTANDING ANY OTHER PROVISION OF THIS ARTICLE TO THE CONTRARY, PRIOR TO THE ESTABLISHMENT OF A CHARTER SCHOOL PROPOSED IN A SCHOOL DISTRICT THAT IS SUBJECT TO SECTION NINETEEN HUNDRED SIX, TWO THOUSAND TWENTY-TWO OR TWENTY-SIX HUNDRED ONE-A OF THIS TITLE, A CHARTER ENTITY SHALL SUBMIT TO THE BOARD OF EDUCATION OF SUCH DISTRICT AN APPROVED CHARTER APPLICATION. SUCH CHARTER APPLICATION SHALL BE PLACED BEFORE THE VOTERS OF THE SCHOOL DISTRICT, FOR THEIR APPROVAL OR DISAPPROVAL, PURSUANT TO THE PROVISIONS OF SECTION NINETEEN HUNDRED SIX, TWO THOUSAND TWENTY-TWO OR TWENTY-SIX HUNDRED ONE-A OF THIS TITLE. SUCH CHARTER APPLICATION, IF PROPOSED FOR THE FOLLOWING SCHOOL YEAR, SHALL INCLUDE A PROPOSED CHARTER SCHOOL BUDGET, AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO-B OF THIS ARTICLE. IF SUCH CHARTER SCHOOL APPLICATION IS NOT APPROVED BY A MAJORITY OF THE VOTERS IN A SCHOOL DISTRICT, THAT CHARTER APPLICATION SHALL BE DEEMED DISAPPROVED AND SHALL BE RETURNED TO THE CHARTER ENTITY THAT APPROVED SUCH APPLICATION; IF SUCH CHARTER ENTITY APPROVES THE APPLICATION FOR A SECOND TIME, SUCH APPLICATION SHALL NOT BE RESUBMITTED TO THE VOTERS UNTIL THE FOLLOWING SCHOOL YEAR. IF SUCH CHARTER APPLICATION IS APPROVED BY THE SCHOOL DISTRICT VOTERS AND IS ESTABLISHED BY THE APPLICANT, THE CHARTER SCHOOL SHALL BE SUBJECT TO ANNUAL SCHOOL BUDGET VOTES AS DEFINED IN SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO-B OF THIS ARTICLE.

S 3. The education law is amended by adding a new section 2852-b to read as follows:

S 2852-B. PROCEDURES FOR ADOPTION OF CHARTER SCHOOL BUDGETS IN CERTAIN SCHOOL DISTRICTS. 1. A CHARTER SCHOOL THAT IS LOCATED IN A SCHOOL DISTRICT SUBJECT TO SECTIONS NINETEEN HUNDRED SIX, TWO THOUSAND TWENTY-TWO OR TWENTY-SIX HUNDRED ONE-A OF THIS TITLE, SHALL PROVIDE FOR THE SUBMISSION OF A BUDGET FOR APPROVAL OF THE VOTERS PURSUANT TO THE PROVISIONS OF THIS SECTION.

2. THE BOARD OF EDUCATION SHALL CONDUCT ALL ANNUAL AND SPECIAL SCHOOL DISTRICT MEETINGS FOR THE PURPOSE OF ADOPTING A CHARTER SCHOOL BUDGET IN THE SAME MANNER AS A UNION FREE SCHOOL DISTRICT IN ACCORDANCE WITH THE PROVISIONS OF ARTICLE FORTY-ONE OF THIS TITLE, EXCEPT AS OTHERWISE PROVIDED BY THIS SECTION. THE ANNUAL MEETING AND ELECTION OF EACH SUCH SCHOOL DISTRICT FOR THE PURPOSE OF ADOPTING A CHARTER SCHOOL BUDGET SHALL BE HELD ON THE THIRD TUESDAY OF MAY IN EACH YEAR, PROVIDED, HOWEVER, THAT SUCH ANNUAL MEETING AND ELECTION SHALL BE HELD ON THE SECOND TUESDAY IN MAY IF THE COMMISSIONER AT THE REQUEST OF A LOCAL SCHOOL BOARD CERTIFIES NO LATER THAN MARCH FIRST THAT SUCH ELECTION WOULD CONFLICT WITH RELIGIOUS OBSERVANCES. THE PROVISIONS OF THIS ARTICLE, AND WHERE APPLICABLE SUBDIVISIONS NINE AND NINE-A OF SECTION TWENTY-FIVE HUNDRED TWO OF THIS TITLE, GOVERNING THE QUALIFICATION AND REGISTRATION OF VOTERS, AND PROCEDURES FOR THE NOMINATION AND ELECTION OF MEMBERS OF THE BOARD OF EDUCATION SHALL CONTINUE TO APPLY, AND SHALL GOVERN THE QUALIFICATION AND REGISTRATION OF VOTERS AND VOTING PROCEDURES WITH RESPECT TO THE ADOPTION OF A CHARTER SCHOOL BUDGET.

3. THE CHARTER SCHOOL SHALL PREPARE A PROPOSED CHARTER SCHOOL BUDGET FOR THE ENSUING YEAR IN ACCORDANCE WITH THE PROVISIONS OF SECTION SEVENTEEN HUNDRED SIXTEEN OF THIS TITLE, INCLUDING ALL PROVISIONS RELATING TO REQUIRED NOTICES AND APPENDICES TO THE STATEMENT OF EXPENDITURES. NO CHARTER SCHOOL SHALL INCUR A LIABILITY EXCEPT AS AUTHORIZED BY THE PROVISIONS OF SECTION SEVENTEEN HUNDRED EIGHTEEN OF THIS TITLE. SUCH PROPOSED BUDGET SHALL BE PRESENTED IN THREE COMPONENTS: A PROGRAM COMPONENT, A CAPITAL COMPONENT AND AN ADMINISTRATIVE COMPONENT WHICH SHALL BE SEPARATELY DELINEATED IN ACCORDANCE WITH REGULATIONS OF THE COMMISSIONER

AFTER CONSULTATION WITH LOCAL SCHOOL DISTRICT OFFICIALS. THE ADMINISTRATIVE COMPONENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, OFFICE AND ADMINISTRATIVE EXPENSES, TRAVELING EXPENSES AND SALARIES AND BENEFITS OF ALL CHARTER SCHOOL ADMINISTRATORS AND SUPERVISORS WHO SPEND A MAJORITY OF THEIR TIME PERFORMING ADMINISTRATIVE OR SUPERVISORY DUTIES, ANY AND ALL EXPENDITURES ASSOCIATED WITH THE OPERATION OF THE CHARTER SCHOOL INCLUDING THE COSTS RELATED TO GENERAL ADMINISTRATION, THE SCHOOL BUSINESS OFFICE, CONSULTING COSTS NOT DIRECTLY RELATED TO DIRECT STUDENT SERVICES AND PROGRAMS, PLANNING AND ALL OTHER ADMINISTRATIVE ACTIVITIES; AND SHALL INCLUDE AN ACCOUNTING OF THE NET REVENUES OR PROFITS THAT HAVE BEEN REALIZED BY THE CHARTER SCHOOL, OR ITS PARENT CORPORATION, DURING ITS OPERATION IN THE DISTRICT. THE PROGRAM COMPONENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALL PROGRAM EXPENDITURES OF THE CHARTER SCHOOL, INCLUDING THE SALARIES AND BENEFITS OF TEACHERS AND ANY SCHOOL ADMINISTRATORS OR SUPERVISORS WHO SPEND A MAJORITY OF THEIR TIME PERFORMING TEACHING DUTIES, AND ALL TRANSPORTATION AND OPERATING EXPENSES. THE CAPITAL COMPONENT SHALL INCLUDE, BUT NEED NOT BE LIMITED TO, ALL TRANSPORTATION CAPITAL, DEBT SERVICE, AND LEASE EXPENDITURES; COSTS RESULTING FROM JUDGMENTS IN TAX CERTIORARI PROCEEDINGS OR THE PAYMENT OF AWARDS FROM COURT JUDGMENTS, ADMINISTRATIVE ORDERS OR SETTLED OR COMPROMISED CLAIMS.

4. IN THE EVENT THE QUALIFIED VOTERS OF THE DISTRICT REJECT THE BUDGET PROPOSED PURSUANT TO SUBDIVISION THREE OF THIS SECTION, THE CHARTER SCHOOL MAY PROPOSE TO THE VOTERS A REVISED BUDGET OR MAY ADOPT A CONTINGENCY BUDGET PURSUANT TO SUBDIVISION FIVE OF THIS SECTION AND SUBDIVISION FIVE OF SECTION TWO THOUSAND TWENTY-TWO OF THIS TITLE. THE CHARTER SCHOOL BUDGET FOR ANY SCHOOL YEAR, OR ANY PART OF SUCH BUDGET OR ANY PROPOSITIONS INVOLVING THE EXPENDITURE OF MONEY FOR SUCH SCHOOL YEAR SHALL NOT BE SUBMITTED FOR A VOTE OF THE QUALIFIED VOTERS MORE THAN TWICE. IN THE EVENT THE QUALIFIED VOTERS REJECT THE RESUBMITTED BUDGET, THE BOARD SHALL ADOPT A CONTINGENCY BUDGET IN ACCORDANCE WITH SUBDIVISION FIVE OF THIS SECTION AND SUBDIVISION FIVE OF SECTION TWO THOUSAND TWENTY-TWO OF THIS TITLE.

5. IF THE QUALIFIED VOTERS FAIL OR REFUSE TO VOTE THE SUM ESTIMATED TO BE NECESSARY FOR TEACHERS' SALARIES AND OTHER ORDINARY CONTINGENT EXPENSES, THE CHARTER SCHOOL SHALL ADOPT A CONTINGENCY BUDGET IN ACCORDANCE WITH THIS SUBDIVISION. SUCH CONTINGENCY BUDGET SHALL INCLUDE THE SUM DETERMINED BY THE BOARD TO BE NECESSARY FOR:

(A) TEACHERS' SALARIES;

(B) ITEMS OF EXPENSE NECESSARY TO MAINTAIN THE CHARTER SCHOOL'S EDUCATIONAL PROGRAMS, PRESERVE THE PROPERTY OF THE DISTRICT OR PROTECT THE HEALTH AND SAFETY OF STUDENTS AND STAFF, INCLUDING, BUT NOT LIMITED TO, SUPPORT SERVICES, PUPIL PERSONNEL SERVICES, THE NECESSARY SALARIES FOR THE NECESSARY NUMBER OF NON-TEACHING EMPLOYEES, NECESSARY LEGAL EXPENSES, WATER AND UTILITY CHARGES, INSTRUCTIONAL SUPPLIES FOR TEACHERS' USE, EMERGENCY REPAIRS, TEMPORARY RENTAL OF ESSENTIAL CLASSROOM FACILITIES, AND EXPENDITURES NECESSARY TO ADVISE SCHOOL DISTRICT VOTERS CONCERNING SCHOOL MATTERS;

(C) EXPENSES INCURRED FOR INTERSCHOOL ATHLETICS, FIELD TRIPS AND OTHER EXTRACURRICULAR ACTIVITIES; AND

(D) ANY OTHER ITEM OF EXPENSE DETERMINED BY THE COMMISSIONER TO BE AN ORDINARY CONTINGENT EXPENSE IN ANY SCHOOL DISTRICT.

6. THE COMMISSIONER SHALL DETERMINE APPEALS RAISING QUESTIONS AS TO WHAT ITEMS OF EXPENDITURE OR ORDINARY CONTINGENT EXPENSES PURSUANT TO SUBDIVISION FIVE OF THIS SECTION IN ACCORDANCE WITH SECTIONS TWO THOUSAND TWENTY-FOUR AND THREE HUNDRED TEN OF THIS CHAPTER.

S 4. Paragraph (a) of subdivision 2 and paragraph (b) of subdivision 3 of section 2854 of the education law, paragraph (a) of subdivision 2 as amended by section 5 of part D-2 of chapter 57 of the laws of 2007 and paragraph (b) of subdivision 3 as added by chapter 4 of the laws of 1998, are amended to read as follows:

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficient students when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught; PROVIDED FURTHER, HOWEVER, THAT IN NO CASE SHALL THE ENROLLMENT IN CHARTER SCHOOLS EXCEED MORE THAN FIVE PERCENT OF THE TOTAL PUBLIC SCHOOL ENROLLMENT OF SUCH SCHOOL DISTRICT UNLESS THE CHARTERS FOR SUCH CHARTER SCHOOLS ARE APPROVED BY THE BOARD OF EDUCATION OF SUCH SCHOOL DISTRICT.

(b) The school employees of a charter school [that has been converted from an existing public school] who are eligible for representation under article fourteen of the civil service law shall be deemed to be included within the negotiating unit containing like titles or positions, if any, for the school district in which such charter school is located and shall be subject to the collective bargaining agreement covering that school district negotiating unit; provided, however, that a majority of the members of a negotiating unit within a charter school may modify, in writing, a collective bargaining agreement for the purposes of employment in the charter school with the approval of the board of trustees of the charter school.

S 5. Paragraph (b-1) of subdivision 3 of section 2854 of the education law is REPEALED.

S 6. Section 2856 of the education law, as added by chapter 4 of the laws of 1998, and 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] FOR GRADES KINDERGARTEN THROUGH FOUR, AN AMOUNT EQUAL TO EIGHTY-FIVE PERCENT, FOR GRADES FIVE THROUGH EIGHT, AN AMOUNT EQUAL TO NINETY-FIVE PERCENT AND FOR GRADES NINE THROUGH TWELVE AN AMOUNT EQUAL TO ONE HUNDRED FIVE 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 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.

(B) PROVIDED, HOWEVER, THAT DURING THE FIRST THREE YEARS OF OPERATION OF A CHARTER SCHOOL, THE AMOUNT PAID BY THE SCHOOL DISTRICT OF RESIDENCE DIRECTLY TO THE CHARTER SCHOOL FOR PUPILS WHO ATTENDED PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF RESIDENCE IN THE YEAR PRIOR TO ENROLLING IN THE CHARTER SCHOOL SHALL BE REDUCED BY THE AMOUNT PROVIDED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE-A OF THIS SECTION.

[(b)] (C) 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)] (D) 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.

1-A. (A) NOTWITHSTANDING THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION, FOR THE FIRST THREE YEARS OF OPERATION OF A CHARTER SCHOOL, EACH PUPIL SO RECEIVED INTO ANY OF SUCH CHARTER SCHOOLS WHO ATTENDED PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF RESIDENCE IN THE PRIOR SCHOOL YEAR SHALL BE PROVIDED WITH AN AMOUNT EQUAL TO THAT CALCULATED PURSUANT TO THE PROVISIONS OF PARAGRAPH (B) OF THIS SUBDIVISION; AND THE DIRECTORS OF THE CHARTER SCHOOL SHALL RECEIVE AN ALLOCATION FOR EACH PUPIL SO PROVIDED FOR, TO BE PAID BY THE COMMISSIONER OF TAXATION AND FINANCE, OUT OF THE CHARTER SCHOOLS STIMULUS FUND, AS ESTABLISHED IN SECTION NINETY-SEVEN-SSS OF THE STATE FINANCE LAW, ON THE WARRANT OF THE COMP-

TROLLER, TO THE TREASURER OF SUCH CHARTER SCHOOL; PROVIDED, HOWEVER, THAT ONE-SIXTH OF SUCH PAYMENT SHALL BE MADE BEGINNING ON THE FIRST BUSINESS DAY OF JULY AND EVERY TWO MONTHS THEREAFTER.

(B) (I) DURING THE FIRST YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO EACH CHARTER SCHOOL FROM THE CHARTER SCHOOLS STIMULUS FUND AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH PUPIL ENROLLED WHO ATTENDED PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF RESIDENCE IN THE PRIOR SCHOOL YEAR;

(II) DURING THE SECOND YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO EACH CHARTER SCHOOL FROM THE CHARTER SCHOOLS STIMULUS FUND AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH PUPIL ENROLLED WHO ATTENDED PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF RESIDENCE IN THE PRIOR SCHOOL YEAR;

(III) DURING THE THIRD YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO EACH CHARTER SCHOOL FROM THE CHARTER SCHOOLS STIMULUS FUND AN AMOUNT EQUAL TO TEN PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH PUPIL ENROLLED WHO ATTENDED PUBLIC SCHOOL IN THE SCHOOL DISTRICT OF RESIDENCE IN THE PRIOR SCHOOL YEAR.

1-B. (A) PURSUANT TO PARAGRAPH (B) OF THIS SUBDIVISION, THE SCHOOL DISTRICT SHALL RECEIVE AN ALLOCATION FOR EACH RESIDENT PUPIL ATTENDING A CHARTER SCHOOL TO BE PAID BY THE COMMISSIONER OF TAXATION AND FINANCE, OUT OF THE CHARTER SCHOOLS TRANSITION FUND, AS ESTABLISHED IN SECTION NINETY-SEVEN-GGGG OF THE STATE FINANCE LAW, ON THE AUDIT AND WARRANT OF THE COMPTROLLER; PROVIDED, HOWEVER, THAT ONE-SIXTH OF SUCH ALLOCATION SHALL BE MADE BEGINNING ON THE FIRST BUSINESS DAY OF JULY AND EVERY TWO MONTHS THEREAFTER.

(B) (I) DURING THE FIRST YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO THE SCHOOL DISTRICT OF RESIDENCE FROM THE CHARTER SCHOOLS TRANSITION FUND, PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, AN AMOUNT EQUAL TO FIFTY PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH RESIDENT PUPIL ENROLLED IN A CHARTER SCHOOL WHO WAS ENROLLED IN THE PUBLIC SCHOOL DISTRICT OF RESIDENCE IN THE YEAR PRIOR TO ENROLLING IN A CHARTER SCHOOL;

(II) DURING THE SECOND YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO THE SCHOOL DISTRICT OF RESIDENCE FROM THE CHARTER SCHOOLS TRANSITION FUND, PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, AN AMOUNT EQUAL TO THIRTY PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH RESIDENT PUPIL ENROLLED IN A CHARTER SCHOOL WHO WAS ENROLLED IN THE PUBLIC SCHOOL DISTRICT OF RESIDENCE IN THE YEAR PRIOR TO ENROLLING IN A CHARTER SCHOOL;

(III) DURING THE THIRD YEAR OF OPERATION OF A CHARTER SCHOOL ESTABLISHED PURSUANT TO THE PROVISIONS OF THIS ARTICLE, THE STATE SHALL PAY TO THE SCHOOL DISTRICT OF RESIDENCE FROM THE CHARTER SCHOOLS TRANSITION FUND, PURSUANT TO SECTION NINETY-SEVEN-JJJJ OF THE STATE FINANCE LAW, AN AMOUNT EQUAL TO TEN PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH RESIDENT PUPIL

ENROLLED IN A CHARTER SCHOOL WHO WAS ENROLLED IN THE PUBLIC SCHOOL DISTRICT OF RESIDENCE IN THE YEAR PRIOR TO ENROLLING IN A CHARTER SCHOOL;

(IV) THE COMMISSIONER OF TAXATION AND FINANCE SHALL ALSO APPORTION FUNDS FROM THE CHARTER SCHOOLS TRANSITION FUND TO THE SCHOOL DISTRICT OF RESIDENCE IN AN AMOUNT EQUAL TO ONE HUNDRED PERCENT OF THE AMOUNT CALCULATED PURSUANT TO THE PROVISIONS OF SUBDIVISION ONE OF THIS SECTION FOR EACH RESIDENT PUPIL ENROLLED IN A CHARTER SCHOOL WHO WAS ENROLLED IN A NONPUBLIC SCHOOL IN THE YEAR PRIOR TO ENROLLING IN A CHARTER SCHOOL, FOR THE FIRST THREE YEARS OF SUCH PUPIL'S ENROLLMENT IN A CHARTER SCHOOL;

(C) FOR THE PURPOSE OF PROVIDING PAYMENTS OF AMOUNTS CALCULATED PURSUANT TO THIS SUBDIVISION TO A CHARTER SCHOOL IN EXISTENCE PRIOR TO THE EFFECTIVE DATE OF THIS SUBDIVISION, THE FIRST YEAR OF OPERATION FOR SUCH CHARTER SCHOOL SHALL BE DEEMED TO BE THE SCHOOL YEAR COMMENCING ON OR AFTER THE EFFECTIVE DATE OF THIS SUBDIVISION.

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.

3. A SCHOOL DISTRICT SHALL NOT BE REQUIRED TO MAKE ANY PAYMENTS PURSUANT TO THIS SECTION UNLESS THE CHARTER SCHOOL HAS RECEIVED A CERTIFICATE OF OCCUPANCY FOR THE FACILITIES WHICH ARE TO BE USED BY THE CHARTER SCHOOL AND THE FACILITIES MEET ALL LOCAL ZONING, LAND USE REGULATIONS, AND BUILDING CODES WHICH APPLY TO NONPUBLIC SCHOOLS. ALL PAYMENTS SCHEDULED TO BE MADE BY A SCHOOL DISTRICT PURSUANT TO THIS SECTION WHICH ARE WITHHELD AS A RESULT OF A FAILURE OF THE CHARTER SCHOOL TO COMPLY WITH THE PROVISIONS OF THIS SUBDIVISION SHALL BE DUE AND PAYABLE FIFTEEN DAYS AFTER THE CHARTER SCHOOL MEETS THE REQUIREMENTS OF THIS SUBDIVISION.

4. WHEN A CHARTER SCHOOL IS ESTABLISHED PURSUANT TO SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE, THE STATE SHALL NOT REFUSE AID TO ANY SCHOOL DISTRICT LOCATED IN AN OFFICIALLY DESIGNATED POVERTY AREA.

S 7. Subdivisions 1-a and 2 of section 2857 of the education law, subdivision 1-a as added and subdivision 2 as amended by section 7 of part D-2 of chapter 57 of the laws of 2007, are amended to read as follows:

1-a. In the event the school district fails to conduct a public hearing, the board of regents OR THE CHARTER ENTITY shall conduct a public hearing to solicit comments from the community in connection with the issuance, revision, or renewal of a charter.

2. Each charter school shall submit to the charter entity, THE LOCAL BOARD OF EDUCATION and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year. The annual report shall be in such

form as shall be prescribed by the commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community. THE CHARTER SCHOOL SHALL MAKE THE CHARTER SCHOOL REPORT CARD PUBLICLY AVAILABLE BY TRANSMITTING TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION, APPENDING IT TO COPIES OF THE PROPOSED BUDGET, WHERE APPLICABLE, MADE PUBLICLY AVAILABLE AS REQUIRED BY LAW, MAKING IT AVAILABLE FOR DISTRIBUTION AT THE ANNUAL MEETING, AND OTHERWISE DISSEMINATING IT AS REQUIRED BY THE COMMISSIONER. SUCH REPORT CARD SHALL INCLUDE MEASURES OF THE ACADEMIC AND FISCAL PERFORMANCE OF THE CHARTER SCHOOL, AS PRESCRIBED BY THE COMMISSIONER. PURSUANT TO REGULATIONS OF THE COMMISSIONER, THE REPORT CARD SHALL ALSO COMPARE THESE MEASURES TO STATEWIDE AVERAGES FOR ALL PUBLIC AND CHARTER SCHOOLS, AND STATEWIDE AVERAGES FOR PUBLIC SCHOOLS AND CHARTER SCHOOLS OF COMPARABLE WEALTH AND NEED, DEVELOPED BY THE COMMISSIONER. SUCH REPORT CARD SHALL INCLUDE, AT A MINIMUM, ANY INFORMATION ON THE CHARTER SCHOOL DISTRICT REGARDING PUPIL PERFORMANCE AND EXPENDITURE PER PUPIL REQUIRED TO BE INCLUDED IN THE ANNUAL REPORT BY THE REGENTS TO THE GOVERNOR AND THE LEGISLATURE PURSUANT TO SECTION TWO HUNDRED FIFTEEN-A OF THIS CHAPTER; AND ANY OTHER INFORMATION REQUIRED BY THE COMMISSIONER.

(b) discussion of the progress made towards achievement of the goals set forth in the charter.

(c) a certified financial statement setting forth, by appropriate categories, the revenues, INCLUDING ANY PROFITS REALIZED BY THE CHARTER SCHOOL OR ITS PARENT CORPORATION and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school.

S 8. Section 97-sss of the state finance law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

S 97-sss. Charter schools stimulus fund. 1. There is hereby established in the joint custody of the comptroller and the commissioner of taxation and finance a fund to be known as the charter schools stimulus fund. Such fund shall consist of all monies made available pursuant to appropriation for this purpose, all monies transferred to such fund pursuant to law, and grants, gifts and devises and donations from any public or private source. The purpose of such fund is to provide discretionary financial support, including grants and loans to charter school applicants and to charter schools for start-up costs and for costs associated with the acquisition, renovation, or construction of school facilities OR GENERAL OPERATING EXPENSES.

2. (A) IN ADDITION TO THE APPORTIONMENTS AUTHORIZED IN SUBDIVISION ONE OF THIS SECTION, WHEN THE COMMISSIONER OF EDUCATION, UPON APPLICATION OF AN AFFECTED DISTRICT, CERTIFIES THAT SUCH SCHOOL DISTRICT'S FINANCIAL SITUATION HAS BECOME DISTRESSED AS A RESULT OF THE OPERATION OF A CHARTER SCHOOL LOCATED WITHIN SUCH DISTRICT, THE COMPTROLLER SHALL AWARD GRANTS FROM THE CHARTER SCHOOLS STIMULUS FUND TO A CHARTER SCHOOL OR A DISTRESSED DISTRICT IN AN AMOUNT TO MITIGATE SUCH FINANCIAL DISTRESS OF THE AFFECTED SCHOOL DISTRICT.

(B) EACH SCHOOL DISTRICT WHICH SEEKS A DISTRESSED SCHOOL DISTRICT GRANT SHALL SUBMIT A GRANT APPLICATION TO THE COMMISSIONER OF EDUCATION, PURSUANT TO GUIDELINES TO BE ESTABLISHED BY THE COMMISSIONER OF EDUCATION.

(C) THE COMMISSIONER OF EDUCATION SHALL EVALUATE EACH GRANT APPLICATION ON THE BASIS OF CRITERIA, INCLUDING, BUT NOT LIMITED TO: THE PERCENTAGE OF A SCHOOL DISTRICT'S PUPILS ENROLLED IN A CHARTER SCHOOL; THE IMPACT OF CHARTER SCHOOL FUNDING ON DISTRICT GENERAL FUND EXPENSE; AND THE RESULTANT LOCAL TAX IMPACT.

3. THE COMMISSIONER OF TAXATION AND FINANCE SHALL APPORTION FUNDS FROM THE CHARTER SCHOOLS STIMULUS FUND TO A CHARTER SCHOOL IN AN AMOUNT PER PUPIL EQUAL TO THE AMOUNT CALCULATED PURSUANT TO PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-SIX OF THE EDUCATION LAW FOR EACH RESIDENT PUPIL ENROLLED IN A CHARTER SCHOOL WHO WAS ENROLLED IN A NON-PUBLIC SCHOOL IN THE YEAR PRIOR TO ENROLLING IN THE CHARTER SCHOOL FOR THE FIRST THREE YEARS OF SUCH PUPIL'S ENROLLMENT IN SUCH CHARTER SCHOOL.

S 9. The state finance law is amended by adding two new sections 97-jjjj and 97-kkkk to read as follows:

S 97-JJJJ. CHARTER SCHOOLS TRANSITION FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A FUND TO BE KNOWN AS THE "CHARTER SCHOOLS TRANSITION FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONIES MADE AVAILABLE PURSUANT TO APPROPRIATION FOR THIS PURPOSE, ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND GRANTS, GIFTS AND DEVISES AND DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCE. THE PURPOSE OF THE FUND IS TO PROVIDE TRANSITION AID OVER A THREE-YEAR PERIOD, AS CALCULATED PURSUANT TO THE PROVISIONS OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-SIX OF THE EDUCATION LAW, TO LOCAL SCHOOL DISTRICTS WHICH HAVE RESIDENT PUPILS ATTENDING CHARTER SCHOOLS TO LESSEN THE FINANCIAL IMPACT ON THE LOCAL SCHOOL DISTRICT.

3. MONIES OF THE FUND SHALL BE EXPENDED ONLY FOR SUCH TRANSITION AID TO LOCAL SCHOOL DISTRICTS WHICH HAVE RESIDENT PUPILS ENROLLED IN A CHARTER SCHOOL.

4. MONIES SHALL BE PAYABLE FROM THE FUND ON THE AUDIT AND WARRANT OF THE COMPTROLLER ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF TAXATION AND FINANCE.

S 97-KKKK. DISTRESSED SCHOOL DISTRICT GRANT FUND. 1. THERE IS HEREBY ESTABLISHED IN THE JOINT CUSTODY OF THE COMMISSIONER OF TAXATION AND FINANCE AND THE COMPTROLLER, A FUND TO BE KNOWN AS THE "DISTRESSED SCHOOL DISTRICT GRANT FUND".

2. SUCH FUND SHALL CONSIST OF ALL MONIES MADE AVAILABLE PURSUANT TO APPROPRIATION FOR THIS PURPOSE, ALL MONEYS TRANSFERRED TO SUCH FUND PURSUANT TO LAW, AND GRANTS, GIFTS AND DEVISES AND DONATIONS FROM ANY PUBLIC OR PRIVATE SOURCE. THE PURPOSE OF THE FUND IS TO PROVIDE GRANTS TO LOCAL SCHOOL DISTRICTS WHICH HAVE RESIDENT PUPILS ENROLLED IN CHARTER SCHOOLS TO LESSEN THE FINANCIAL IMPACT ON THE LOCAL SCHOOL DISTRICT.

3. EACH SCHOOL DISTRICT WHICH SEEKS A DISTRESSED SCHOOL DISTRICT GRANT MAY SUBMIT AN APPLICATION FOR FUNDS PURSUANT TO GUIDELINES TO BE ESTABLISHED BY THE COMMISSIONER OF EDUCATION.

4. THE COMMISSIONER OF EDUCATION SHALL EVALUATE EACH GRANT APPLICATION ON THE BASIS OF CRITERIA, INCLUDING, BUT NOT LIMITED TO: THE PERCENTAGE OF A SCHOOL DISTRICT'S PUPILS ENROLLED IN A CHARTER SCHOOL; THE IMPACT OF THE CHARTER SCHOOL FUNDING ON DISTRICT GENERAL FUND EXPENSE; AND THE RESULTANT LOCAL TAX IMPACT.

5. THE COMMISSIONER OF EDUCATION, PURSUANT TO THE CRITERIA ESTABLISHED IN SUBDIVISION FOUR OF THIS SECTION, MAY CERTIFY THAT SUCH SCHOOL DISTRICT'S FINANCIAL SITUATION HAS BECOME DISTRESSED AS THE RESULT OF THE OPERATION OF A CHARTER SCHOOL. UPON CERTIFICATION, THE COMPTROLLER SHALL AWARD GRANTS TO THE DISTRESSED DISTRICT IN AN AMOUNT TO MITIGATE SUCH FINANCIAL DISTRESS OF THE AFFECTED SCHOOL DISTRICT ON VOUCHERS APPROVED AND CERTIFIED BY THE COMMISSIONER OF TAXATION AND FINANCE.

S 10. Subparagraphs (xiii) and (xiv) of paragraph (a) of subdivision 1 of section 922 of the real property tax law, as amended by section 5 of part B of chapter 389 of the laws of 1997, are amended and a new subparagraph (xv) is added to read as follows:

(xiii) such other information as may be prescribed by law; [and]

(xiv) if, not later than ten days after the filing of the preceding tentative assessment roll, the assessing unit mailed to each owner of taxable real property a notice in a form prescribed by the state board containing the information described by subparagraphs (iii) and (xii) of this paragraph (excluding the taxes due on the parcel and the tax rate for each taxing purpose), the statement of taxes need not include the information prescribed by subparagraph (xii) of this paragraph[.]; AND

(XV) A STATEMENT SETTING FORTH THE AMOUNT OF TAXES LEVIED THAT SHALL BE APPLIED OR THAT ARE PROJECTED TO BE APPLIED TO THE PAYMENT OF CHARTER SCHOOLS.

S 11. Subdivision 1 of section 1338 of the real property tax law, as added by chapter 953 of the laws of 1962, is amended to read as follows:

1. Upon receipt of the tax roll and warrant, the collecting officer shall mail to each owner of property listed thereon, a statement of taxes as provided by law. SUCH STATEMENT SHALL INCLUDE, BUT SHALL NOT BE LIMITED TO, INFORMATION REQUIRED PURSUANT TO SUBPARAGRAPH (XV) OF PARAGRAPH (A) OF SUBDIVISION ONE OF SECTION NINE HUNDRED TWENTY-TWO OF THIS CHAPTER.

S 12. This act shall take effect on the first of July next succeeding the date on which it shall have become a law, provided that the amendments to subdivision 1 of section 2856 of the education law made by section six of this act shall not affect the expiration of such subdivision and shall expire therewith.