

6912

2009-2010 Regular Sessions

I N A S S E M B L Y

March 13, 2009

Introduced by M. of A. THIELE -- read once and referred to the Committee
on Education

AN ACT to amend the education law, in relation to payments by school
districts to charter schools relating to the expense per pupil of the
school district

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

1 Section 1. This act shall be known and may be cited as the "New York
2 Charter Schools Financial Renewal Act".
3 S 2. Subdivision 1 of section 2856 of the education law, as amended by
4 chapter 378 of the laws of 2007, is amended to read as follows:
5 1. (a) The enrollment of students attending charter schools shall be
6 included in the enrollment, attendance, membership and, if applicable,
7 count of students with disabilities of the school district in which the
8 pupil resides. The charter school shall report all such data to the
9 school districts of residence in a timely manner. Each school district
10 shall report such enrollment, attendance and count of students with
11 disabilities to the department. The school district of residence shall
12 pay directly to the charter school for each student enrolled in the
13 charter school who resides in the school district the charter school
14 basic tuition, which shall be an amount equal to one hundred percent of
15 the amount calculated pursuant to paragraph f of subdivision one of
16 section thirty-six hundred two of this chapter for the school district
17 for the year prior to the base year increased by the percentage change
18 in the state total approved operating expense calculated pursuant to
19 paragraph t of subdivision one of section thirty-six hundred two of this
20 chapter from two years prior to the base year to the base year; PROVIDED
21 THAT THE AMOUNT OF THE APPROVED OPERATING EXPENSE USED IN THE CREATION
22 OF ALL SUCH CALCULATIONS SHALL BE EQUAL TO THE ACTUAL APPROVED OPERATING
23 EXPENSE OF THE SCHOOL DISTRICT OF RESIDENCE FOR EACH PUPIL DETERMINED IN
24 ACCORDANCE WITH THE GRADE LEVEL (OR OTHER EDUCATIONAL LEVEL CLASSIFICA-

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

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1 TION USED BY THE DEPARTMENT AND APPROVED BY THE COMMISSIONER) OF THE
2 PUPIL INsofar AS THE DEPARTMENT CONSIDERS THE GRADE LEVEL (OR OTHER
3 EDUCATIONAL LEVEL CLASSIFICATION USED BY THE DEPARTMENT AND APPROVED BY
4 THE COMMISSIONER) OF THE PUPIL IN THE DETERMINATION OF APPROVED OPERAT-
5 ING EXPENSE.

6 (b) The school district shall also pay directly to the charter school
7 any federal or state aid attributable to a student with a disability
8 attending charter school in proportion to the level of services for such
9 student with a disability that the charter school provides directly or
10 indirectly. Notwithstanding anything in this section to the contrary,
11 amounts payable pursuant to this subdivision from state or local funds
12 may be reduced pursuant to an agreement between the school and the char-
13 ter entity set forth in the charter. Payments made pursuant to this
14 subdivision shall be made by the school district in six substantially
15 equal installments each year beginning on the first business day of July
16 and every two months thereafter. Amounts payable under this subdivision
17 shall be determined by the commissioner. Amounts payable to a charter
18 school in its first year of operation shall be based on the projections
19 of initial-year enrollment set forth in the charter until actual enroll-
20 ment data is reported to the school district by the charter school. Such
21 projections shall be reconciled with the actual enrollment as actual
22 enrollment data is so reported and at the end of the school's first year
23 of operation and each subsequent year based on a final report of actual
24 enrollment by the charter school, and any necessary adjustments result-
25 ing from such final report shall be made to payments during the school's
26 following year of operation.

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

33 S 3. Paragraph (b) of subdivision 2 of section 2854 of the education
34 law, as amended by section 5 of part D-2 of chapter 57 of the laws of
35 2007, is amended to read as follows:

36 (b) Any child who is qualified under the laws of this state for admis-
37 sion to a public school is qualified for admission to a charter school.
38 The school shall enroll each eligible student who submits a timely
39 application by the first day of April each year, unless the number of
40 applications exceeds the capacity of the grade level or building. In
41 such cases, students shall be accepted from among applicants by a random
42 selection process, provided, however, that an enrollment preference
43 shall be provided to pupils returning to the charter school in the
44 second or any subsequent year of operation and pupils residing in the
45 school district in which the charter school is located, and siblings of
46 pupils already enrolled in the charter school. A CHARTER SCHOOL MAY
47 ESTABLISH AN ENROLLMENT PREFERENCE FOR PUPILS RESIDING IN SCHOOL
48 DISTRICTS CONTIGUOUS TO THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL
49 IS LOCATED, BUT SUCH PREFERENCE SHALL NOT EXCEED THAT ESTABLISHED FOR
50 STUDENTS RESIDING IN THE DISTRICT IN WHICH THE CHARTER SCHOOL IS
51 LOCATED. A CHARTER SCHOOL LOCATED IN A SCHOOL DISTRICT WITH A POPULATION
52 OF ONE MILLION OR MORE ALSO MAY ESTABLISH AN ENROLLMENT PREFERENCE FOR
53 PUPILS RESIDING IN THE COMMUNITY SCHOOL DISTRICT, AS REFERENCED IN
54 SUBDIVISION TWO OF SECTION TWENTY-FIVE HUNDRED NINETY-A OF THIS TITLE,
55 OR FOR THE BOROUGH IN WHICH THE CHARTER SCHOOL IS LOCATED, OR BOTH. For
56 the purposes of this paragraph and paragraph (a) of this subdivision,

1 the school district in which the charter school is located shall mean,
2 for the city school district of the city of New York, the community
3 district in which the charter school is located.
4 S 4. This act shall take effect on the first of July next succeeding
5 the date on which it shall have become a law; provided that the amend-
6 ments to subdivision 1 of section 2856 of the education law made by
7 section one of this act shall not affect the expiration of such subdivi-
8 sion and shall be deemed to expire therewith.