

7405

2011-2012 Regular Sessions

I N   A S S E M B L Y

May 4, 2011

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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 chapter 101 of the laws of 2010, is amended to read  
35 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 Applications for admission to a charter school shall be submitted on a  
39 uniform application form created by the department and shall be made  
40 available by a charter school in languages predominately spoken in the  
41 community in which such charter school is located. The school shall  
42 enroll each eligible student who submits a timely application by the  
43 first day of April each year, unless the number of applications exceeds  
44 the capacity of the grade level or building. In such cases, students  
45 shall be accepted from among applicants by a random selection process,  
46 provided, however, that an enrollment preference shall be provided to  
47 pupils returning to the charter school in the second or any subsequent  
48 year of operation and pupils residing in the school district in which  
49 the charter school is located, and siblings of pupils already enrolled  
50 in the charter school. A CHARTER SCHOOL MAY ESTABLISH AN ENROLLMENT  
51 PREFERENCE FOR PUPILS RESIDING IN SCHOOL DISTRICTS CONTIGUOUS TO THE  
52 SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED, BUT SUCH PREFER-  
53 ENCE SHALL NOT EXCEED THAT ESTABLISHED FOR STUDENTS RESIDING IN THE  
54 DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED. A CHARTER SCHOOL  
55 LOCATED IN A SCHOOL DISTRICT WITH A POPULATION OF ONE MILLION OR MORE  
56 ALSO MAY ESTABLISH AN ENROLLMENT PREFERENCE FOR PUPILS RESIDING IN THE

1 COMMUNITY SCHOOL DISTRICT, AS REFERENCED IN SUBDIVISION TWO OF SECTION  
2 TWENTY-FIVE HUNDRED NINETY-A OF THIS TITLE, OR FOR THE BOROUGH IN WHICH  
3 THE CHARTER SCHOOL IS LOCATED, OR BOTH. The commissioner shall establish  
4 regulations to require that the random selection process conducted  
5 pursuant to this paragraph be performed in a transparent and equitable  
6 manner and to require that the time and place of the random selection  
7 process be publicized in a manner consistent with the requirements of  
8 section one hundred four of the public officers law and be open to the  
9 public. For the purposes of this paragraph and paragraph (a) of this  
10 subdivision, the school district in which the charter school is located  
11 shall mean, for the city school district of the city of New York, the  
12 community district in which the charter school is located.

13 S 4. This act shall take effect on the first of July next succeeding  
14 the date on which it shall have become a law; provided that the amend-  
15 ments to subdivision 1 of section 2856 of the education law made by  
16 section two of this act shall not affect the expiration of such subdivi-  
17 sion and shall be deemed to expire therewith.