

1618

2015-2016 Regular Sessions

I N   A S S E M B L Y

January 12, 2015

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

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

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

1     Section 1. Legislative intent. New York's charter school law was  
2 enacted 14 years ago in an effort to create new learning opportunities  
3 for all students, to encourage different and innovative teaching methods  
4 and to provide parents and students with expanded choice within the  
5 public schools. Fourteen years provides the state with enough informa-  
6 tion to make judgments about changes that are needed in the law to  
7 ensure the public knows how their tax dollars are being spent and to  
8 ensure public schools serving the majority of students have the  
9 resources needed to provide a quality education to all students. This  
10 legislation is intended to clarify the transparency and accountability  
11 of charter schools and provide fiscal relief to the school districts  
12 where charter schools are located.

13     S 2. Subdivision 1 of section 2851 of the education law, as amended by  
14 chapter 101 of the laws of 2010, is amended to read as follows:

15     1. An application to establish a charter school may be submitted by  
16 teachers, parents, school administrators, community residents or any  
17 combination thereof. Such application may be filed in conjunction with  
18 a college, university, museum, educational institution, not-for-profit  
19 corporation exempt from taxation under paragraph 3 of subsection (c) of  
20 section 501 of the internal revenue code [or for-profit business or  
21 corporate entity authorized to do business in New York state. Provided  
22 however, for-profit business or corporate entities shall not be eligible  
23 to submit an application to establish a charter school pursuant to  
24 subdivision nine-a of section twenty-eight hundred fifty-two of this  
25 article, or operate or manage a charter school for a charter issued  
26 pursuant to subdivision nine-a of section twenty-eight hundred fifty-two

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

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1 of this article. For charter schools established in conjunction with a  
2 for-profit business or corporate entity, the charter shall specify the  
3 extent of the entity's participation in the management and operation of  
4 the school], AND PROVIDED THAT UNDER NO CIRCUMSTANCES SHALL AN APPLICA-  
5 TION TO ESTABLISH A CHARTER SCHOOL OR APPROVAL TO OPERATE A CHARTER  
6 SCHOOL BE GRANTED TO A FOR-PROFIT BUSINESS OR CORPORATE ENTITY AUTHOR-  
7 IZED TO DO BUSINESS IN THIS STATE NOR IN ANY MANNER WHATSOEVER SHALL  
8 THEY HAVE AN INVOLVEMENT IN THE MANAGEMENT AND OPERATION OF A CHARTER  
9 SCHOOL. THE APPLICATION SHALL INCLUDE THE AMOUNT OF ANY MANAGEMENT FEE  
10 TO BE PAID TO ANY NOT-FOR-PROFIT CORPORATION WORKING IN CONJUNCTION WITH  
11 THE APPLICANTS. SALARIES OF THE EMPLOYEES OF SUCH NOT-FOR-PROFIT CORPO-  
12 RATION MAY NOT EXCEED THE SALARIES FOR COMPARABLE POSITIONS IN THE  
13 SCHOOL DISTRICT OF LOCATION.

14 S 3. Paragraphs (d), (h), (p) and (v) of subdivision 2 of section 2851  
15 of the education law, paragraphs (d) and (h) as added by chapter 4 of  
16 the laws of 1998 and paragraphs (p) and (v) as amended by chapter 101 of  
17 the laws of 2010, are amended to read as follows:

18 (d) Admission policies and procedures for the school, which shall be  
19 consistent with the requirements of subdivision two of section twenty-  
20 eight hundred fifty-four of this article. FOR CHARTER RENEWALS, SUCH  
21 POLICIES AND PROCEDURES SHALL INCLUDE PLANS FOR ENSURING THE STUDENT  
22 ENROLLMENT OF THE CHARTER SCHOOL INCLUDES A COMPARABLE PERCENTAGE OF  
23 STUDENTS ON FREE LUNCH, STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE  
24 LEARNERS AS THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED.

25 (h) The rules and procedures by which students may be disciplined,  
26 including but not limited to expulsion or suspension from the school,  
27 which shall be consistent with the requirements of due process and with  
28 federal laws and regulations governing the placement of students with  
29 disabilities. SUCH RULES AND PROCEDURES SHALL INCLUDE THE PROVISION OF  
30 EDUCATIONAL SERVICES TO ANY STUDENT ON LONG TERM SUSPENSION OR EXPUL-  
31 SION.

32 (p) The term of the proposed charter, which shall not exceed five  
33 years DURING WHICH INSTRUCTION IS PROVIDED TO PUPILS; provided however,  
34 in the case of charters issued pursuant to subdivision nine-a of section  
35 twenty-eight hundred fifty-two of this article the term of such proposed  
36 charter shall not exceed five years in which instruction is provided to  
37 pupils plus the period commencing with the effective date of the charter  
38 and ending with the opening of the school for instruction.

39 (v) A code of ethics for the charter school, setting forth for the  
40 guidance of its trustees, officers and employees the standards of  
41 conduct expected of them including standards with respect to disclosure  
42 of conflicts of interest regarding any matter brought before the board  
43 of trustees. SUCH CODE OF ETHICS SHALL BE IN COMPLIANCE WITH SECTION  
44 EIGHT HUNDRED SIX OF THE GENERAL MUNICIPAL LAW.

45 S 4. Paragraph (a) of subdivision 4 of section 2851 of the education  
46 law, as added by chapter 4 of the laws of 1998, is amended to read as  
47 follows:

48 (a) A report of the progress of the charter school in achieving the  
49 educational objectives set forth in the charter. SUCH REPORT SHALL  
50 INCLUDE DISAGGREGATED STUDENT PERFORMANCE DATA FOR ALL STUDENT  
51 SUBGROUPS.

52 S 5. Paragraphs (c) and (d) of subdivision 2 of section 2852 of the  
53 education law, paragraph (c) as amended and paragraph (d) as added by  
54 section 2 of part D-2 of chapter 57 of the laws of 2007, are amended and  
55 two new paragraphs (e) and (f) are added to read as follows:

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

4 (d) in a school district where the total enrollment of resident  
5 students attending charter schools in the base year is greater than five  
6 percent of the total public school enrollment of the school district in  
7 the base year [(i)] granting the application would have a significant  
8 educational benefit to the students expected to attend the proposed  
9 charter school [or (ii) the school district in which the charter school  
10 will be located consents to such application]. FOR PURPOSES OF THIS  
11 PARAGRAPH, IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, THE  
12 SCHOOL DISTRICT SHALL BE THE COMMUNITY SCHOOL DISTRICT;

13 (E) THE APPLICATION FOR THE CHARTER SCHOOL IS APPROVED BY THE BOARD OF  
14 EDUCATION OF THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS TO BE  
15 LOCATED; AND

16 (F) THE CHARTER ENTITY SHALL NOT APPROVE AN APPLICATION THAT WOULD  
17 HAVE THE EFFECT OF INCREASING THE RACIAL ISOLATION OF A SCHOOL DISTRICT.

18 S 6. Subdivision 5-b of section 2852 of the education law, as added by  
19 chapter 4 of the laws of 1998, is amended to read as follows:

20 5-b. If the board of regents returns a proposed charter to the charter  
21 entity pursuant to the provisions of subdivision five-a of this section,  
22 such charter entity shall reconsider the proposed charter, taking into  
23 consideration the comments and recommendation of the board of regents.  
24 Thereafter, the charter entity shall resubmit the proposed charter to  
25 the board of regents with modifications, provided that the applicant  
26 consents in writing to such modifications, resubmit the proposed charter  
27 to the board of regents without modifications WITH AN EXPLANATION WHY  
28 THE MODIFICATIONS ARE NOT BEING MADE, or abandon the proposed charter.  
29 The board of regents shall review each such resubmitted proposed charter  
30 in accordance with the provisions of subdivision five-a of this  
31 section[; provided, however, that it shall be the duty of the board of  
32 regents to approve and issue a proposed charter resubmitted by the char-  
33 ter entity described in paragraph (b) of subdivision three of section  
34 twenty-eight hundred fifty-one of this article within thirty days of the  
35 resubmission of such proposed charter or such proposed charter shall be  
36 deemed approved and issued at the expiration of such period].

37 S 7. Subdivision 7 of section 2852 of the education law is amended by  
38 adding a new paragraph (c) to read as follows:

39 (C) WHEN A REVISION OF A CHARTER INVOLVES AN INCREASE IN ENROLLMENT  
40 WHICH BRINGS TOTAL ENROLLMENT IN CHARTER SCHOOLS IN THE SCHOOL DISTRICT  
41 OF LOCATION ABOVE FIVE PERCENT THE REVISION SHALL BE DENIED UNLESS THE  
42 SCHOOL DISTRICT OF LOCATION APPROVES THE REVISION OR THE RESIDENTS OF  
43 THE SCHOOL DISTRICT APPROVE THE REVISION THROUGH A REFERENDUM OF THE  
44 ELIGIBLE VOTERS TO BE HELD IN CONJUNCTION WITH THE ANNUAL BUDGET VOTE.  
45 FOR PURPOSES OF THIS PARAGRAPH IN A CITY HAVING A POPULATION OF ONE  
46 MILLION OR MORE THE SCHOOL DISTRICT OF LOCATION SHALL BE THE COMMUNITY  
47 SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS LOCATED.

48 S 8. Subdivision 10 of section 2852 of the education law, as added by  
49 section 3 of part D-2 of chapter 57 of the laws of 2007, is amended to  
50 read as follows:

51 10. Except in the case of a charter school formed by a school district  
52 as a charter entity pursuant to paragraph (a) of subdivision three of  
53 section twenty-eight hundred fifty-one of this article, a charter school  
54 formed by approval of the regents or by operation of law on or after  
55 [March] JANUARY fifteenth in any school year shall not commence instruc-  
56 tion until July of the second school year next following.

1 S 9. Subdivision 2 of section 2853 of the education law, as added by  
2 chapter 4 of the laws of 1998, is amended to read as follows:

3 2. The board of regents and charter entity shall oversee each school  
4 approved by such entity, and may visit, examine into and inspect any  
5 charter school, including the records of such school, under its over-  
6 sight. Oversight by a charter entity and the board of regents shall be  
7 sufficient to ensure that the charter school is in compliance with all  
8 applicable laws, regulations and charter provisions. THE DEPARTMENT  
9 SHALL INCLUDE CHARTER SCHOOLS IN ANY REVIEW OR AUDIT OF STATE ASSESSMENT  
10 ADMINISTRATION OR SCORING.

11 S 10. Paragraph (a) of subdivision 3 of section 2853 of the education  
12 law, as amended by chapter 101 of the laws of 2010, is amended to read  
13 as follows:

14 (a) A charter school may be located in part of an existing public  
15 school building, in space provided on a private work site, in a public  
16 building or in any other suitable location, PROVIDED, HOWEVER, A CHARTER  
17 SCHOOL SHALL NOT BE LOCATED IN ANY PART OF AN EXISTING SCHOOL BUILDING  
18 WHEN SUCH SHARING WOULD IMPACT THE PUBLIC SCHOOL'S ABILITY TO MEET THE  
19 CLASS SIZE TARGETS ESTABLISHED PURSUANT TO SECTION TWO HUNDRED ELEVEN-D  
20 OF THIS CHAPTER. Provided, however, before a charter school may be  
21 located in part of an existing public school building, the charter enti-  
22 ty shall provide notice to the parents or guardians of the students then  
23 enrolled in the existing school building and shall hold a public hearing  
24 for purposes of discussing the location of the charter school. A charter  
25 school may own, lease or rent its space.

26 S 11. Subdivision 3 of section 2853 of the education law is amended by  
27 adding two new paragraphs (f) and (g) to read as follows:

28 (F) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ANY CAPITAL FACILITY, OR  
29 OTHER IMPROVEMENTS MADE IN PUBLIC SCHOOL BUILDINGS OR EQUIPMENT WITH A  
30 PERIOD OF PROBABLE USEFULNESS OF FIVE OR MORE YEARS, WITH PUBLIC OR  
31 PRIVATE FUNDS, TO ACCOMMODATE CHARTER SCHOOLS, SHALL REQUIRE MATCHING OR  
32 COMPARABLE IMPROVEMENTS BE MADE FOR OTHER DISTRICT SCHOOLS LOCATED IN  
33 THE SAME BUILDING.

34 (G) NOTWITHSTANDING ANY LAW TO THE CONTRARY, ANY CONSTRUCTION OR CAPI-  
35 TAL IMPROVEMENT MADE IN ACCORDANCE WITH THIS ARTICLE SHALL BE MADE IN  
36 ACCORDANCE WITH AND SUBJECT TO THE PROVISIONS OF ARTICLES EIGHT AND NINE  
37 OF THE LABOR LAW.

38 S 12. Paragraphs (c) and (e) of subdivision 1 of section 2854 of the  
39 education law, paragraph (c) as amended by section 10-b of part A of  
40 chapter 56 of the laws of 2014 and paragraph (e) as added by chapter 4  
41 of the laws of 1998, are amended to read as follows:

42 (c) A charter school shall be subject to the financial audits, the  
43 audit procedures, and the audit requirements set forth in the charter,  
44 and [shall] MAY be subject to audits of the comptroller of the city  
45 school district of the city of New York for charter schools located in  
46 New York city, [and] to the audits of the comptroller of the state of  
47 New York for charter schools located in the rest of the state, [at his  
48 or her discretion] OR THE CHARTER ENTITY, with respect to the school's  
49 financial operations. Such procedures and standards shall be consistent  
50 with generally accepted accounting and audit standards. Independent  
51 fiscal audits shall be required at least once annually.

52 (e) A charter school shall be subject to the provisions of articles  
53 six and seven of the public officers law IN THE SAME MANNER AS PUBLIC  
54 SCHOOL DISTRICTS.

55 S 13. Subdivision 1 of section 2854 of the education law is amended by  
56 adding a new paragraph (g) to read as follows:

(G) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTION EIGHT HUNDRED SIX OF THE GENERAL MUNICIPAL LAW.

S 14. Subdivision 2 of section 2854 of the education law, as added by chapter 4 of the laws of 1998, paragraphs (a) and (b) as amended by chapter 101 of the laws of 2010, is amended to read as follows:

2. Admissions; enrollment; students. (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 or students with disabilities and English language learners; 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, English language learners, and students who are eligible applicants for the free and reduced price lunch program when compared to the enrollment figures for such students in the school district in which the charter school is located. IF A CHARTER SCHOOL IS NOT SUCCESSFUL IN ATTRACTING A COMPARABLE OR GREATER ENROLLMENT OF STUDENTS WITH DISABILITIES AND LIMITED ENGLISH PROFICIENT STUDENTS AS COMPARED TO THE ENROLLMENT FIGURES FOR SUCH STUDENTS IN THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED SUCH CHARTER SCHOOL SHALL PROVIDE THE CHARTERING ENTITY WITH A PLAN FOR IMPROVING THE ENROLLMENT OF SUCH STUDENTS IN THE FOLLOWING YEAR. FAILURE TO COMPLY WITH THIS REQUIREMENT FOR TWO CONSECUTIVE YEARS SHALL BE SUBJECT TO REVOCATION IN ACCORDANCE WITH SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-FIVE OF THIS ARTICLE. 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.

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. Applications for admission to a charter school shall be submitted on a uniform application form created by the department and shall be made available by a charter school in languages predominately spoken in the community in which such charter school is located. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a random selection process, provided, however, that an enrollment preference shall be provided to pupils WHEN THE CHARTER SCHOOL IS LOCATED WITHIN ONE MILE OF THE PUPILS' RESIDENCE, PUPILS returning to the charter school in the second or any subsequent year of operation and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school AND STUDENTS ON FREE LUNCH, AND STUDENTS WITH DISABILITIES, AND STUDENTS WITH LIMITED ENGLISH PROFICIENCY. The commissioner shall establish regulations to require that the random

1 selection process conducted pursuant to this paragraph be performed in a  
2 transparent and equitable manner and to require that the time and place  
3 of the random selection process be publicized in a manner consistent  
4 with the requirements of section one hundred four of the public officers  
5 law and be open to the public. For the purposes of this paragraph and  
6 paragraph (a) of this subdivision, the school district in which the  
7 charter school is located shall mean, for the city school district of  
8 the city of New York, the community district in which the charter school  
9 is located. THE CHARTER ENTITY IS RESPONSIBLE FOR ENSURING THE  
10 SELECTION PROCESS IS CONDUCTED IN ACCORDANCE WITH THIS PARAGRAPH. IF THE  
11 CHARTER ENTITY DETERMINES THE PROCESS IS NOT IN COMPLIANCE WITH THIS  
12 PARAGRAPH, THE CHARTER ENTITY SHALL CONDUCT THE PROCESS.

13 (c) A charter school shall serve one or more of the grades one through  
14 twelve, and shall limit admission to pupils within the grade levels  
15 served. Nothing herein shall prohibit a charter school from establishing  
16 a kindergarten program.

17 (d) A student may withdraw from a charter school at any time and  
18 enroll in a public school. A CHARTER SCHOOL MUST PROVIDE A REPORT TO THE  
19 CHARTERING ENTITY EACH YEAR INDICATING THE NUMBER OF STUDENTS LEAVING  
20 THE CHARTER SCHOOL, THE MONTHS IN WHICH THE STUDENTS LEAVE THE SCHOOL,  
21 THE REASON THE STUDENTS LEAVE THE SCHOOL AND THE SCHOOL THE STUDENT IS  
22 CURRENTLY ATTENDING. A charter school may refuse admission to any  
23 student who has been expelled or suspended from a public school until  
24 the period of suspension or expulsion from the public school has  
25 expired, consistent with the requirements of due process.

26 S 15. Paragraphs (b-1), (c) and (c-1) of subdivision 3 of section 2854  
27 of the education law, paragraph (b-1) as amended by section 6 of part  
28 D-2 of chapter 57 of the laws of 2007, and paragraphs (c) and (c-1) as  
29 added by chapter 4 of the laws of 1998, are amended to read as follows:

30 (b-1) The employees of a charter school [that is not a conversion from  
31 an existing public school] shall [not] be deemed members of [any] THE  
32 existing collective bargaining unit representing employees of the school  
33 district in which the charter school is located, and the charter school  
34 and its employees shall [not] be subject to any existing collective  
35 bargaining agreement between the school district and its employees.  
36 [Provided, however, that (i) if the student enrollment of the charter  
37 school on the first day on which the charter school commences student  
38 instruction exceeds two hundred fifty or if the average daily student  
39 enrollment of such school exceeds two hundred fifty students at any  
40 point during the first two years after the charter school commences  
41 student instruction, all employees of the school who are eligible for  
42 representation under article fourteen of the civil service law shall be  
43 deemed to be represented in a separate negotiating unit at the charter  
44 school by the same employee organization, if any, that represents like  
45 employees in the school district in which such charter school is  
46 located; (ii) the provisions of subparagraph (i) of this paragraph may  
47 be waived in up to ten charters issued on the recommendation of the  
48 charter entity set forth in paragraph (b) of subdivision three of  
49 section twenty-eight hundred fifty-one of this article; (iii) the  
50 provisions of subparagraph (i) of this paragraph shall not be applicable  
51 to the renewal or extension of a charter; and (iv) nothing in this  
52 sentence shall be construed to subject a charter school subject to the  
53 provisions of this paragraph or its employees to any collective bargain-  
54 ing agreement between any public school district and its employees or to  
55 make the employees of such charter school part of any negotiating unit  
56 at such school district. The charter school may, in its sole discretion,

1 choose whether or not to offer the terms of any existing collective  
2 bargaining to school employees.] PROVIDED, HOWEVER, THAT A MAJORITY OF  
3 THE MEMBERS OF A NEGOTIATING UNIT WITHIN A CHARTER SCHOOL MAY MODIFY, IN  
4 WRITING, A COLLECTIVE BARGAINING AGREEMENT FOR THE PURPOSES OF EMPLOY-  
5 MENT IN THE CHARTER SCHOOL WITH THE APPROVAL OF THE BOARD OF TRUSTEES OF  
6 THE CHARTER SCHOOL.

7 (c) The employees of the charter school [may] SHALL be deemed employ-  
8 ees of the local school district for the purpose of providing retirement  
9 benefits, including membership in the teachers' retirement system and  
10 other retirement systems open to employees of public schools. The finan-  
11 cial contributions for such benefits shall be the responsibility of the  
12 charter school and the school's employees. The commissioner, in consul-  
13 tation with the comptroller, shall develop regulations to implement the  
14 provisions of this paragraph in a manner that allows charter schools to  
15 provide retirement benefits to its employees in the same manner as other  
16 public school employees.

17 (c-1) Reasonable access. (i) If employees of the charter school are  
18 not represented, any charter school chartered pursuant to this article  
19 must afford reasonable access to any employee organization during the  
20 reasonable proximate period before any representation question is raised  
21 IN THE SAME MANNER AS ANY PUBLIC EMPLOYER; or

22 (ii) If the employee organization is a challenging organization,  
23 reasonable access must be provided to any organization seeking to repre-  
24 sent employees beginning with a date reasonably proximate to a challenge  
25 period. Reasonableness is defined, at a minimum, as access equal to that  
26 provided to the incumbent organization.

27 S 16. Subdivision 1 of section 2855 of the education law, as amended  
28 by chapter 101 of the laws of 2010, is amended to read as follows:

29 1. The charter entity, or the board of regents, [may] SHALL terminate  
30 a charter upon any of the following grounds:

31 (a) When a charter school's outcome on student assessment measures  
32 adopted by the board of regents falls below the level that would allow  
33 the commissioner to revoke the registration of another public school,  
34 and student achievement on such measures [has not shown improvement] HAS  
35 NOT MET ANNUAL YEARLY PROGRESS over the preceding three school years;

36 (b) Serious violations of law;

37 (c) Material and substantial violation of the charter, including  
38 fiscal mismanagement AND FAILURE TO MEET STUDENT PERFORMANCE TARGETS;

39 (d) When the public employment relations board makes a determination  
40 that the charter school demonstrates a practice and pattern of egregious  
41 and intentional violations of subdivision one of section two hundred  
42 nine-a of the civil service law involving interference with or discrimi-  
43 nation against employee rights under article fourteen of the civil  
44 service law; [or]

45 (e) Repeated failure to comply with the requirement to meet or exceed  
46 enrollment and retention targets of students with disabilities, English  
47 language learners, and students who are eligible applicants for the free  
48 and reduced price lunch program pursuant to targets established by the  
49 board of regents or the board of trustees of the state university of New  
50 York, as applicable. Provided, however, if no grounds for terminating a  
51 charter are established pursuant to this section other than pursuant to  
52 this paragraph, and the charter school demonstrates that it has made  
53 extensive efforts to recruit and retain such students, including  
54 outreach to parents and families in the surrounding communities, widely  
55 publicizing the lottery for such school, and efforts to academically

1 support such students in such charter school, then the charter entity or  
2 board of regents may retain such charter[.]; OR

3 (F) FAILURE TO ENROLL A COMPARABLE PERCENTAGE OF STUDENTS QUALIFYING  
4 FOR FREE LUNCH, STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS  
5 FOR TWO CONSECUTIVE YEARS.

6 S 17. Paragraph (b) of subdivision 1 of section 2856 of the education  
7 law, as amended by chapter 378 of the laws of 2007, is amended and a new  
8 paragraph (a-1) is added to read as follows:

9 (A-1) FOR THE TWO THOUSAND FIFTEEN--TWO THOUSAND SIXTEEN SCHOOL YEAR  
10 AND EACH SCHOOL YEAR THEREAFTER THE STATE SHALL REIMBURSE SCHOOL  
11 DISTRICTS FOR THE LOCAL SHARE OF THE CHARTER SCHOOL TUITION PAYMENT OF  
12 ANY STUDENTS ATTENDING A CHARTER SCHOOL IN THE JUNE PAYMENT REQUIRED BY  
13 SECTION THREE THOUSAND SIX HUNDRED NINE-A OF THIS CHAPTER. SUCH LOCAL  
14 SHARE SHALL BE CALCULATED BY DEDUCTING FROM THE CHARTER SCHOOL TUITION  
15 PAYMENT THE PER PUPIL FOUNDATION AID AMOUNT ATTRIBUTABLE TO SUCH PUPIL.

16 (b) The school district shall also pay directly to the charter school  
17 any federal or state aid attributable to a student with a disability  
18 attending charter school in proportion to the level of services for such  
19 student with a disability that the charter school provides directly or  
20 indirectly. Notwithstanding anything in this section to the contrary,  
21 amounts payable pursuant to this subdivision from state or local funds  
22 may be reduced pursuant to an agreement between the school and the char-  
23 ter entity set forth in the charter. Payments made pursuant to this  
24 subdivision shall be made by the school district in six substantially  
25 equal installments each year beginning on the first business day of July  
26 and every two months thereafter. Amounts payable under this subdivision  
27 shall be determined by the commissioner. Amounts payable to a charter  
28 school in its first year of operation shall be based on the projections  
29 of initial-year enrollment set forth in the charter until actual enroll-  
30 ment data is reported to the school district by the charter school. SUCH  
31 ACTUAL ENROLLMENT SHALL BE REPORTED TO THE SCHOOL DISTRICT PRIOR TO EACH  
32 PAYMENT FOLLOWING THE INITIAL JULY PAYMENT WHICH SHALL BE BASED ON  
33 PROJECTED ENROLLMENT. Such projections shall be reconciled with the  
34 actual enrollment as actual enrollment data is so reported and at the  
35 end of the school's first year of operation and each subsequent year  
36 based on a final report of actual enrollment by the charter school, and  
37 any necessary adjustments resulting from such final report shall be made  
38 to payments during the school's following year of operation.

39 S 18. Subdivisions 2 and 3 of section 2857 of the education law,  
40 subdivision 2 as amended and paragraph (a-1) of subdivision 3 as added  
41 by chapter 101 of the laws of 2010 and subdivision 3 as amended by  
42 section 7 of part D-2 of chapter 57 of the laws of 2007, are amended to  
43 read as follows:

44 2. Each charter school shall submit to the charter entity and to the  
45 board of regents an annual report. Such report shall be issued no later  
46 than the first day of August of each year for the preceding school year  
47 AND PROVIDED TO THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS LOCATED  
48 FOR DISPLAY ON THE SCHOOL DISTRICT WEBSITE, and shall be made publicly  
49 available by such date and shall be posted on the charter school's  
50 website. The annual report shall be in such form as shall be prescribed  
51 by the commissioner and shall include at least the following components:

52 (a) a charter school report card, which shall include measures of the  
53 comparative academic and fiscal performance of the school, as prescribed  
54 by the commissioner in regulations adopted for such purpose. Such meas-  
55 ures shall include, but not be limited to, graduation rates, dropout  
56 rates, performance of students on standardized tests DISAGGREGATED FOR



1 SUB-GROUPS, college entry rates, total spending per pupil and adminis-  
2 trative spending per pupil. Such measures shall be presented in a  
3 format that is easily comparable to similar public schools. In addition,  
4 the charter school shall ensure that such information is easily accessi-  
5 ble to the community including making it publicly available by transmit-  
6 ting it to local newspapers of general circulation and making it avail-  
7 able for distribution at board of trustee meetings.

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

10 (c) a certified financial statement setting forth, by appropriate  
11 categories, the revenues FROM ALL SOURCES and expenditures INCLUDING THE  
12 SALARY OF THE SCHOOL LEADER AND ANY OTHER SALARIES IN EXCESS OF THE  
13 REPORTING REQUIREMENTS FOR PUBLIC SCHOOL DISTRICTS CONTAINED IN SECTION  
14 SIXTEEN HUNDRED EIGHT OF THIS TITLE AND CONTRACTS WITH CONSULTANTS AND  
15 VENDORS for the preceding school year, including a copy of the most  
16 recent independent fiscal audit of the school and any audit conducted by  
17 the comptroller of the state of New York.

18 (d) efforts taken by the charter school in the existing school year,  
19 and a plan for efforts to be taken in the succeeding school year, to  
20 meet or exceed enrollment and retention targets set by the board of  
21 regents or the board of trustees of the state university of New York, as  
22 applicable, of students with disabilities, English language learners,  
23 and students who are eligible applicants for the free and reduced price  
24 lunch program established pursuant to paragraph (e) of subdivision four  
25 of section twenty-eight hundred fifty-one of this article.

26 3. The board of regents shall report annually BY DECEMBER FIRST to the  
27 governor, the temporary president of the senate, and the speaker of the  
28 assembly AND THE PUBLIC the following information:

29 (a) The number, distribution, and a brief description of new charter  
30 schools established during the preceding year;

31 (a-1) A list including the number of charter schools closed during the  
32 preceding year, and a brief description of the reasons therefor includ-  
33 ing, but not limited to, non-renewal of the charter or revocation of the  
34 charter;

35 (b) The department's assessment of the current and projected program-  
36 matic and fiscal impact of charter schools on the delivery of services  
37 by school districts;

38 (c) The academic progress of students attending charter schools, as  
39 measured against comparable public and nonpublic schools with similar  
40 student population characteristics [wherever practicable];

41 (d) A list of all actions taken by a charter entity on charter appli-  
42 cation and the rationale for the renewal or revocation of any charters;  
43 and

44 (e) Any other information regarding charter schools that the board of  
45 regents deems necessary INCLUDING INFORMATION ON BEST PRACTICES OF CHAR-  
46 TER SCHOOLS THAT IMPROVE STUDENT PERFORMANCE.

47 The format for this annual report shall be developed in consultation  
48 with representatives of school districts and charter school officials.

49 S 19. Subparagraph (v) of paragraph a of subdivision 7 of section 1608  
50 of the education law, as amended by section 4 of part A of chapter 97 of  
51 the laws of 2011, is amended and a new subparagraph (vi) is added to  
52 read as follows:

53 (v) the projected amount of the unappropriated unreserved fund balance  
54 that will be retained if the proposed budget is adopted, the projected  
55 amount of the reserved fund balance, the projected amount of the appro-  
56 priated fund balance, the percentage of the proposed budget that the

1 unappropriated unreserved fund balance represents, the actual unappro-  
2 priated unreserved fund balance retained in the school district budget  
3 for the preceding school year, and the percentage of the school district  
4 budget for the preceding school year that the actual unappropriated  
5 unreserved fund balance represents[.]; AND

6 (VI) THE PROJECTED AMOUNT OF PAYMENTS TO BE MADE TO CHARTER SCHOOLS IN  
7 THE NEXT SCHOOL YEAR.

8 S 20. Subparagraph (v) of paragraph a of subdivision 7 of section 1716  
9 of the education law, as amended by section 5 of part A of chapter 97 of  
10 the laws of 2011, is amended and a new subparagraph (vi) is added to  
11 read as follows:

12 (v) the projected amount of the unappropriated unreserved fund balance  
13 that will be retained if the proposed budget is adopted, the projected  
14 amount of the reserved fund balance, the projected amount of the appro-  
15 priated fund balance, the percentage of the proposed budget that the  
16 unappropriated unreserved fund balance represents, the actual unappro-  
17 priated unreserved fund balance retained in the school district budget  
18 for the preceding school year, and the percentage of the school district  
19 budget for the preceding school year that the actual unappropriated  
20 unreserved fund balance represents[.]; AND

21 (VI) THE PROJECTED AMOUNT OF PAYMENTS TO BE MADE TO CHARTER SCHOOLS IN  
22 THE NEXT SCHOOL YEAR.

23 S 21. Paragraph t of subdivision 1 of section 3602 of the education  
24 law is amended by adding a new closing paragraph to read as follows:

25 NOTWITHSTANDING ANY OTHER PROVISIONS OF LAW TO THE CONTRARY, IN  
26 COMPUTING APPROVED OPERATING EXPENSE PURSUANT TO THIS PARAGRAPH FOR CITY  
27 SCHOOL DISTRICTS OF THOSE CITIES HAVING A POPULATION IN EXCESS OF ONE  
28 HUNDRED TWENTY-FIVE THOUSAND BUT LESS THAN ONE MILLION; AN AMOUNT EQUAL  
29 TO (I) THE AMOUNT COMPUTED FOR THE SCHOOL DISTRICT FOR THE TWO THOUSAND  
30 SIX--TWO THOUSAND SEVEN SCHOOL YEAR PURSUANT TO FORMER SUBDIVISION THIR-  
31 TY-SEVEN OF THIS SECTION AS THIS SECTION EXISTED ON JUNE THIRTIETH, TWO  
32 THOUSAND SEVEN, (II) THE STATE FUNDS WHICH SUCH DISTRICT RECEIVED IN THE  
33 TWO THOUSAND SIX--TWO THOUSAND SEVEN SCHOOL YEAR FOR MAGNET SCHOOL  
34 GRANTS TO PUBLIC SCHOOLS, AND (III) THE STATE FUNDS WHICH SUCH DISTRICT  
35 RECEIVED IN THE TWO THOUSAND SIX--TWO THOUSAND SEVEN SCHOOL YEAR FOR  
36 TEACHER SUPPORT, SHALL BE ACCOUNTED FOR IN THE SAME WAY AS STATE FUNDS  
37 RECEIVED FOR SUCH PURPOSE IN THE TWO THOUSAND SIX--TWO THOUSAND SEVEN  
38 SCHOOL YEAR.

39 S 22. This act shall take effect immediately; provided, however, that  
40 the amendments to subdivision 1 of section 2856 of the education law  
41 made by section seventeen of this act shall not affect the expiration of  
42 such subdivision and shall expire therewith; provided further that the  
43 amendments to paragraph a of subdivision 7 of section 1608 of the educa-  
44 tion law made by section nineteen of this act shall not affect the expi-  
45 ration of such paragraph and shall expire therewith; and provided  
46 further that the amendments to paragraph a of subdivision 7 of section  
47 1716 of the education law made by section twenty of this act shall not  
48 affect the expiration of such paragraph and shall expire therewith.