

STATE OF NEW YORK

8678

2017-2018 Regular Sessions

IN ASSEMBLY

September 25, 2017

Introduced by M. of A. GALEF -- 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 section 4 of part YY of chapter 59 of the laws of 2017, is amended to read as follows:

§ 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:

(i) for school years prior to the two thousand nine--two thousand ten school year, 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;

(ii) for the two thousand nine--two thousand ten school year, the charter school basic tuition shall be the amount payable by such

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

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1 district as charter school basic tuition for the two thousand eight--two
2 thousand nine school year;

3 (iii) for the two thousand ten--two thousand eleven through two thou-
4 sand thirteen--two thousand fourteen school years, the charter school
5 basic tuition shall be the basic tuition computed for the two thousand
6 ten--two thousand eleven school year pursuant to the provisions of
7 subparagraph (i) of this paragraph;

8 (iv) for the two thousand fourteen--two thousand fifteen, two thousand
9 fifteen--two thousand sixteen and two thousand sixteen--two thousand
10 seventeen school years, the charter school basic tuition shall be the
11 sum of the lesser of the charter school basic tuition computed for the
12 two thousand ten--two thousand eleven school year pursuant to the
13 provisions of subparagraph (i) of this paragraph or the charter school
14 basic tuition computed for the current year pursuant to the provisions
15 of subparagraph (i) of this paragraph plus the supplemental basic
16 tuition;

17 (v) for the two thousand seventeen--two thousand eighteen school year,
18 the charter school basic tuition shall be the sum of (A) the charter
19 school basic tuition for the two thousand sixteen--two thousand seven-
20 teen school year plus (B) five hundred dollars;

21 (vi) for the two thousand eighteen--two thousand nineteen school year,
22 the charter school basic tuition shall be the lesser of (A) the product
23 of (i) the charter school basic tuition calculated for the base year
24 multiplied by (ii) the average of the quotients for each school year in
25 the period commencing with the year five years prior to the base year
26 and finishing with the year prior to the base year of the total approved
27 operating expense for such school district calculated pursuant to para-
28 graph t of subdivision one of section thirty-six hundred two of this
29 chapter for each such year divided by the total approved operating
30 expense for such district for the immediately preceding year, provided
31 that the highest and lowest annual quotients shall be excluded from the
32 calculation of such average or (B) the quotient of the total general
33 fund expenditures for the school district calculated pursuant to an
34 electronic data file created for the purpose of compliance with para-
35 graph b of subdivision twenty-one of section three hundred five of this
36 chapter published annually on May fifteenth for the year prior to the
37 base year divided by the total estimated public enrollment for the
38 school district pursuant to paragraph n of subdivision one of section
39 thirty-six hundred two of this chapter for the year prior to the base
40 year.

41 (vii) for the two thousand nineteen--two thousand twenty school year
42 the charter school basic tuition shall be the lesser of (A) the product
43 of (i) the charter school basic tuition calculated for the base year
44 multiplied by (ii) the average of the quotients for each school year in
45 the period commencing with the year three years prior to the base year
46 and finishing with the year prior to the base year of the total approved
47 operating expense for such school district calculated pursuant to para-
48 graph t of subdivision one of section thirty-six hundred two of this
49 chapter for each such year divided by the total approved operating
50 expense for such district for the immediately preceding year provided
51 that the highest annual quotient calculated pursuant to this subpara-
52 graph shall be replaced by the average quotient calculated pursuant to
53 subparagraph (vi) of this paragraph or (B) the quotient of the total
54 general fund expenditures for the school district calculated pursuant to
55 an electronic data file created for the purpose of compliance with para-
56 graph b of subdivision twenty-one of section three hundred five of this

chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

(viii) for the two thousand twenty--two thousand twenty-one school year and thereafter, the charter school basic tuition shall be the lesser of (A) the product of (i) the charter school basic tuition calculated for the base year multiplied by (ii) the average of the quotients for each school year in the period commencing with the year three years prior to the base year and finishing with the year prior to the base year of the total approved operating expense for such school district calculated pursuant to paragraph t of subdivision one of section thirty-six hundred two of this chapter for each such year divided by the total approved operating expense for such district for the immediately preceding year or (B) the quotient of the total general fund expenditures for the school district calculated pursuant to an electronic data file created for the purpose of compliance with paragraph b of subdivision twenty-one of section three hundred five of this chapter published annually on May fifteenth for the year prior to the base year divided by the total estimated public enrollment for the school district pursuant to paragraph n of subdivision one of section thirty-six hundred two of this chapter for the year prior to the base year.

For the purposes of this subdivision, the "supplemental basic tuition" shall be (A) for a school district for which the charter school basic tuition computed for the current year is greater than or equal to the charter school basic tuition for the two thousand ten--two thousand eleven school year pursuant to the provisions of subparagraph (i) of this paragraph, (1) for the two thousand fourteen--two thousand fifteen school year two hundred and fifty dollars, and (2) for the two thousand fifteen--two thousand sixteen school year three hundred and fifty dollars, and (3) for the two thousand sixteen--two thousand seventeen school year five hundred dollars, and (4) for the two thousand seventeen--two thousand eighteen school year and thereafter, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars, and (B) for school years prior to the two thousand seventeen--two thousand eighteen school year, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the positive difference of the charter school basic tuition for the two thousand ten--two thousand eleven school year minus the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph and (C) for school years following the two thousand sixteen--two thousand seventeen school years, for a school district for which the charter school basic tuition for the two thousand ten--two thousand eleven school year is greater than the charter school basic tuition for the current year pursuant to the provisions of subparagraph (i) of this paragraph, the sum of (i) the supplemental basic tuition calculated for the two thousand sixteen--two thousand seventeen school year plus (ii) five hundred dollars.

(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

1 provides directly or indirectly. Notwithstanding anything in this
2 section to the contrary, amounts payable pursuant to this subdivision
3 from state or local funds may be reduced pursuant to an agreement
4 between the department, the charter school and the charter entity set
5 forth in the charter. Payments made pursuant to this subdivision shall
6 be made by the [~~school-district~~] department in six substantially equal
7 installments each year beginning on the first business day of July and
8 every two months thereafter. Amounts payable under this subdivision
9 shall be determined by the commissioner. Amounts payable to a charter
10 school in its first year of operation shall be based on the projections
11 of initial-year enrollment set forth in the charter until actual enroll-
12 ment data is reported to the school district by the charter school. Such
13 projections shall be reconciled with the actual enrollment as actual
14 enrollment data is so reported and at the end of the school's first year
15 of operation and each subsequent year based on a final report of actual
16 enrollment by the charter school, and any necessary adjustments result-
17 ing from such final report shall be made to payments during the school's
18 following year of operation.

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

25 (d) School districts shall be eligible for an annual apportionment
26 equal to the amount of the supplemental basic tuition for the charter
27 school in the base year for the expenses incurred in the two thousand
28 fourteen--two thousand fifteen, two thousand fifteen--two thousand
29 sixteen, two thousand sixteen--two thousand seventeen school years and
30 thereafter.

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

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

47 § 2. Subdivision 1 of section 2856 of the education law, as amended by
48 section 4-a of part YY of chapter 59 of the laws of 2017, is amended to
49 read as follows:

50 1. (a) The enrollment of students attending charter schools shall not
51 be included in the enrollment, attendance and, if applicable, count of
52 students with disabilities of the school district in which the pupil
53 resides. The charter school shall report all such data to the [~~school~~
54 ~~districts of residence~~] department in a timely manner. [~~Each school~~
55 ~~district shall report such enrollment, attendance and count of students~~
56 ~~with disabilities to the department.~~] The [~~school district of residence~~]

1 ~~department~~ shall pay directly to the charter school for each student
2 enrolled in the charter school [~~who resides in the school district~~] the
3 charter school basic tuition which shall be:

4 (i) for school years prior to the two thousand nine--two thousand ten
5 school year, an amount equal to one hundred percent of the amount calcu-
6 lated pursuant to paragraph f of subdivision one of section thirty-six
7 hundred two of this chapter for the school district for the year prior
8 to the base year increased by the percentage change in the state total
9 approved operating expense calculated pursuant to paragraph t of subdi-
10 vision one of section thirty-six hundred two of this chapter from two
11 years prior to the base year to the base year;

12 (ii) for the two thousand nine--two thousand ten school year, the
13 charter school basic tuition shall be the amount payable by such
14 district as charter school basic tuition for the two thousand eight--two
15 thousand nine school year;

16 (iii) for the two thousand ten--two thousand eleven through two thou-
17 sand thirteen--two thousand fourteen school years, the charter school
18 basic tuition shall be the basic tuition computed for the two thousand
19 ten--two thousand eleven school year pursuant to the provisions of
20 subparagraph (i) of this paragraph;

21 (iv) for the two thousand fourteen--two thousand fifteen, two thousand
22 fifteen--two thousand sixteen and two thousand sixteen--two thousand
23 seventeen school years, the charter school basic tuition shall be the
24 sum of the lesser of the charter school basic tuition computed for the
25 two thousand ten--two thousand eleven school year pursuant to the
26 provisions of subparagraph (i) of this paragraph or the charter school
27 basic tuition computed for the current year pursuant to the provisions
28 of subparagraph (i) of this paragraph plus the supplemental basic
29 tuition;

30 (v) for the two thousand seventeen--two thousand eighteen school year,
31 the charter school basic tuition shall be the sum of (A) the charter
32 school basic tuition for the two thousand sixteen--two thousand seven-
33 teen school year plus (B) five hundred dollars;

34 (vi) for the two thousand eighteen--two thousand nineteen school year,
35 the charter school basic tuition shall be the lesser of (A) the product
36 of (i) the charter school basic tuition calculated for the base year
37 multiplied by (ii) the average of the quotients for each school year in
38 the period commencing with the year five years prior to the base year
39 and finishing with the year prior to the base year of the total approved
40 operating expense for such school district calculated pursuant to para-
41 graph t of subdivision one of section thirty-six hundred two of this
42 chapter for each such year divided by the total approved operating
43 expense for such district for the immediately preceding year, provided
44 that the highest and lowest annual quotients shall be excluded from the
45 calculation of such average or (B) the quotient of the total general
46 fund expenditures for the school district calculated pursuant to an
47 electronic data file created for the purpose of compliance with para-
48 graph b of subdivision twenty-one of section three hundred five of this
49 chapter published annually on May fifteenth for the year prior to the
50 base year divided by the total estimated public enrollment for the
51 school district pursuant to paragraph n of subdivision one of section
52 thirty-six hundred two of this chapter for the year prior to the base
53 year.

54 (vii) for the two thousand nineteen--two thousand twenty school year
55 the charter school basic tuition shall be the lesser of (A) the product
56 of (i) the charter school basic tuition calculated for the base year

1 multiplied by (ii) the average of the quotients for each school year in
2 the period commencing with the year three years prior to the base year
3 and finishing with the year prior to the base year of the total approved
4 operating expense for such school district calculated pursuant to para-
5 graph t of subdivision one of section thirty-six hundred two of this
6 chapter for each such year divided by the total approved operating
7 expense for such district for the immediately preceding year provided
8 that the highest annual quotient calculated pursuant to this subpara-
9 graph shall be replaced by the average quotient calculated pursuant to
10 subparagraph (vi) of this paragraph or (B) the quotient of the total
11 general fund expenditures for the school district calculated pursuant to
12 an electronic data file created for the purpose of compliance with para-
13 graph b of subdivision twenty-one of section three hundred five of this
14 chapter published annually on May fifteenth for the year prior to the
15 base year divided by the total estimated public enrollment for the
16 school district pursuant to paragraph n of subdivision one of section
17 thirty-six hundred two of this chapter for the year prior to the base
18 year.

19 (viii) for the two thousand twenty--two thousand twenty-one school
20 year and thereafter, the charter school basic tuition shall be the less-
21 er of (A) the product of (i) the charter school basic tuition calculated
22 for the base year multiplied by (ii) the average of the quotients for
23 each school year in the period commencing with the year three years
24 prior to the base year and finishing with the year prior to the base
25 year of the total approved operating expense for such school district
26 calculated pursuant to paragraph t of subdivision one of section thir-
27 ty-six hundred two of this chapter for each such year divided by the
28 total approved operating expense for such district for the immediately
29 preceding year or (B) the quotient of the total general fund expendi-
30 tures for the school district calculated pursuant to an electronic data
31 file created for the purpose of compliance with paragraph b of subdivi-
32 sion twenty-one of section three hundred five of this chapter published
33 annually on May fifteenth for the year prior to the base year divided by
34 the total estimated public enrollment for the school district pursuant
35 to paragraph n of subdivision one of section thirty-six hundred two of
36 this chapter for the year prior to the base year.

37 For the purposes of this subdivision, the "supplemental basic tuition"
38 shall be (A) for a school district for which the charter school basic
39 tuition computed for the current year is greater than or equal to the
40 charter school basic tuition for the two thousand ten--two thousand
41 eleven school year pursuant to the provisions of subparagraph (i) of
42 this paragraph, (1) for the two thousand fourteen--two thousand fifteen
43 school year two hundred and fifty dollars, and (2) for the two thousand
44 fifteen--two thousand sixteen school year three hundred and fifty
45 dollars, and (3) for the two thousand sixteen--two thousand seventeen
46 school year five hundred dollars, and (4) for the two thousand seven-
47 teen--two thousand eighteen school year and thereafter, the sum of (i)
48 the supplemental basic tuition calculated for the two thousand sixteen-
49 -two thousand seventeen school year plus (ii) five hundred dollars, and
50 (B) for school years prior to the two thousand seventeen--two thousand
51 eighteen school year, for a school district for which the charter school
52 basic tuition for the two thousand ten--two thousand eleven school year
53 is greater than the charter school basic tuition for the current year
54 pursuant to the provisions of subparagraph (i) of this paragraph, the
55 positive difference of the charter school basic tuition for the two
56 thousand ten--two thousand eleven school year minus the charter school

1 basic tuition for the current year pursuant to the provisions of subpar-
2 agraph (i) of this paragraph and (C) for school years following the two
3 thousand sixteen--two thousand seventeen school years, for a school
4 district for which the charter school basic tuition for the two thousand
5 ten--two thousand eleven school year is greater than the charter school
6 basic tuition for the current year pursuant to the provisions of subpar-
7 agraph (i) of this paragraph, the sum of (i) the supplemental basic
8 tuition calculated for the two thousand sixteen--two thousand seventeen
9 school year plus (ii) five hundred dollars.

10 (b) The [~~school-district~~] department shall also pay directly to the
11 charter school any federal or state aid attributable to a student with a
12 disability attending charter school in proportion to the level of
13 services for such student with a disability that the charter school
14 provides directly or indirectly. Notwithstanding anything in this
15 section to the contrary, amounts payable pursuant to this subdivision
16 may be reduced pursuant to an agreement between the department, the
17 charter school and the charter entity set forth in the charter. Payments
18 made pursuant to this subdivision shall be made by the [~~school-district~~]
19 department in six substantially equal installments each year beginning
20 on the first business day of July and every two months thereafter.
21 Amounts payable under this subdivision shall be determined by the
22 commissioner. Amounts payable to a charter school in its first year of
23 operation shall be based on the projections of initial-year enrollment
24 set forth in the charter. Such projections shall be reconciled with the
25 actual enrollment at the end of the school's first year of operation,
26 and any necessary adjustments shall be made to payments during the
27 school's second year of operation.

28 (c) School districts shall be eligible for an annual apportionment
29 equal to the amount of the supplemental basic tuition for the charter
30 school in the base year for the expenses incurred in the two thousand
31 fourteen--two thousand fifteen, two thousand fifteen--two thousand
32 sixteen, two thousand sixteen--two thousand seventeen school years and
33 thereafter.

34 § 3. This act shall take effect immediately, provided, however, that
35 the amendments to subdivision 1 of section 2856 of the education law
36 made by section one of this act shall not affect the expiration and
37 reversion of such subdivision pursuant to subdivision d of section 27 of
38 chapter 378 of the laws of 2007, as amended when upon such date the
39 provisions of section two of this act shall take effect.