

ASSEMBLY, No. 3226

STATE OF NEW JERSEY 216th LEGISLATURE

INTRODUCED MAY 22, 2014

Sponsored by:

Assemblyman TROY SINGLETON

District 7 (Burlington)

Assemblyman CARMELO G. GARCIA

District 33 (Hudson)

Assemblyman CHARLES MAINOR

District 31 (Hudson)

Co-Sponsored by:

Assemblyman Fuentes

SYNOPSIS

Modifies various aspects of the charter school program, including authorization, regulation, and monitoring of charter schools; appropriates \$250,000 from General Fund to DOE.

CURRENT VERSION OF TEXT

As introduced.



(Sponsorship Updated As Of: 1/16/2015)

1 AN ACT concerning the authorization, regulation, and monitoring of
2 charter schools, revising various parts of the statutory law,
3 supplementing P.L.1995, c.426 (C.18A:36A-1 et seq.) and
4 P.L.2000, c.72 (C.18A:7G-1 et al.), and making an appropriation.
5

6 **BE IT ENACTED** by the Senate and General Assembly of the State
7 of New Jersey:
8

9 1. (New section) a. There is established the charter school
10 authorizing board. The board shall consist of nine members, no
11 more than five of whom shall be members of the same political
12 party. Three members of the board shall be appointed by the
13 Governor, two members of the board shall be appointed by the
14 President of the Senate, two members of the board shall be
15 appointed by the Speaker of the General Assembly, one member of
16 the board shall be appointed by the Minority Leader of the Senate,
17 and one member of the board shall be appointed by the Minority
18 Leader of the General Assembly. Collectively, the members of the
19 board shall have experience in public and nonprofit governance,
20 management, finance, public school leadership, assessment,
21 curriculum, instruction, and public school law. Each member shall
22 have a demonstrated understanding of and commitment to the use of
23 charter schools as a strategy for strengthening public education.
24 The appointments to the board shall be made no later than 90 days
25 after the date of enactment of P.L. , c. (C.) (pending before the
26 Legislature as this bill).

27 b. The term of the first members appointed by the Governor
28 shall be four years, and the term for members subsequently
29 appointed or reappointed by the Governor shall be three years. The
30 term of a member of the board appointed by the President of the
31 Senate or the Speaker of the General Assembly shall be three years.
32 The term of a member of the board appointed by the Minority
33 Leader of the Senate or the Minority Leader of the General
34 Assembly shall be two years. No member of the board shall serve
35 for more than seven consecutive years. A vacancy on the board
36 shall be filled by the original appointment authority for the
37 remainder of the term.

38 c. The members of the board shall serve without compensation,
39 but may be reimbursed for any necessary expenses incurred in the
40 performance of their duties.
41

42 2. (New section) a. The Commissioner of Education shall be
43 responsible for the ongoing oversight of the performance and
44 effectiveness of the charter school authorizing board. The
45 commissioner may, at any time, take corrective action against the

EXPLANATION – Matter enclosed in bold-faced brackets [thus] in the above bill is not enacted and is intended to be omitted in the law.

Matter underlined thus is new matter.

1 charter school authorizing board, including suspending the charter
2 school authorizing board's authority, for a period not to exceed
3 three school years, for:

4 (1) failure to adequately discharge the responsibilities
5 established pursuant to the provisions of P.L. , c. (C.) (pending
6 before the Legislature as this bill);

7 (2) failure to provide adequate oversight of one or more charter
8 schools;

9 (3) persistent unsatisfactory performance of charter schools; or

10 (4) any other good cause as determined by the commissioner.

11 b. In the event that the commissioner suspends the charter
12 school authorizing board's authority, the oversight of charter
13 schools shall transfer to the commissioner.

14

15 3. (New section) An employee, agent, or representative of a
16 charter school authorizing board shall not serve as an employee,
17 agent, representative, vendor, contractor, or board of trustee
18 member of a charter school.

19

20 4. (New section) No later than August 1 of each year, the
21 commissioner shall issue a request for proposals for prospective
22 charter school applicants. The information included in the request
23 for proposal shall include, but need not be limited to, the following:

24 a. The specific school district or community to be served by
25 any charter school that is to be granted a charter by the charter
26 school authorizer;

27 b. The criteria that the commissioner will use to approve or
28 reject a charter school application submitted in response to the
29 request for proposal. The criteria shall include a scoring rubric that
30 details the factors on which a charter school application will be
31 assessed, and the weight that will be given to each factor. One
32 factor shall be the recommendation of the board of education of the
33 district of residence, or the State district superintendent, that the
34 charter application be approved pursuant to subsection c. of section
35 4 of P.L.1995, c.426 (C.18A:36A-4). This factor shall account for
36 30% in the scoring rubric;

37 c. The performance framework that the charter school
38 authorizing board has developed for the oversight and evaluation of
39 a charter school pursuant to section 6 of P.L. , c. (C.) (pending
40 before the Legislature as this bill); and

41 d. Any preference that the commissioner may have for an
42 applicant that demonstrates the capacity to serve a specific
43 disadvantaged population of students.

44

45 5. (New section) a. When reviewing a charter school
46 application, the commissioner shall employ procedures, practices,
47 and criteria that are consistent with nationally recognized principles
48 and standards for charter school authorization, and ensure that the

1 application review procedures are transparent. In evaluating charter
2 school applications, the commissioner shall avoid any real or
3 perceived conflicts of interest. The charter school application
4 review process shall include, but not be limited to, the following:

5 (1) an in-person interview with each charter school applicant;
6 and

7 (2) at least two public hearings at which each charter school
8 application is discussed, and the residents of the school district that
9 would be served by the charter school would have an opportunity to
10 provide input on the application. A charter school authorizer shall
11 make a copy of a charter school application available upon request
12 prior to the public hearing at which it will be discussed.

13 b. (1) The commissioner shall only approve a charter school
14 application if the applicant demonstrates competence in each
15 element of the commissioner's published approval criteria, and if
16 the commissioner determines that the applicant is likely to open and
17 operate a successful charter school.

18 (2) When evaluating a charter school application, the
19 commissioner shall assess the demonstrated need of the charter
20 school proposed by the applicant and community support for the
21 proposed charter school, as demonstrated in the public hearings
22 conducted pursuant to subsection a. of this section, and through
23 letters of support for, or opposition to, the charter school
24 application, and any petitions submitted to the commissioner.

25 (3) The commissioner shall consider a charter school applicant's
26 potential to enroll a student population that is demographically
27 similar to the proposed charter school's district of residence. If the
28 proposed charter school would give enrollment preference to
29 students who reside in a specific geographic area within the district
30 of residence, then the commissioner shall consider the potential to
31 enroll a student population that is demographically similar to that
32 geographic area. When determining whether to provide an initial
33 charter approval, the commissioner shall grant a preference to a
34 charter school applicant that has developed a written plan in the
35 application to enroll a student population that is demographically
36 similar to the proposed charter school's district of residence or the
37 student population in a specific geographic area within the district
38 of residence to which the proposed charter school would give an
39 enrollment preference.

40 (4) The commissioner may, when appropriate, establish
41 reasonable conditions that an approved charter school applicant
42 shall meet prior to the charter school executing a charter contract
43 with the charter school authorizing board pursuant to section 6 of
44 P.L. , c. (C.) (pending before the Legislature as this bill).

45 The commissioner's decision shall be based on information
46 collected during the application process.

47 c. No later than 30 days after providing the initial approval or
48 rejection of a charter school application, the commissioner shall

1 publish a report detailing the reasons for approving or rejecting the
2 charter school application. Each report shall be posted on the
3 Department of Education's website.

4
5 6. (New section) a. Within 60 days of the final granting of a
6 charter, the charter school authorizing board and the applicant shall
7 enter into a charter contract that details the performance framework
8 by which the charter school's performance will be assessed. The
9 charter contract shall also outline the administrative relationship
10 between the charter school authorizing board and the charter school,
11 including each party's rights and responsibilities. The performance
12 framework included in the charter contract shall include, but need
13 not be limited to, annual performance targets for the following:

- 14 (1) absolute measures of student academic proficiency;
- 15 (2) student academic growth over time;
- 16 (3) academic achievement gaps between student subgroups;
- 17 (4) student attendance rates;
- 18 (5) student attrition rates;
- 19 (6) in the case of a charter school that enrolls students in grades
20 9 through 12, measures of students' readiness for college and
21 career;
- 22 (7) financial viability and sustainability;
- 23 (8) performance of the school's board of trustees, including
24 compliance with applicable laws, rules, regulations, and provisions
25 of the charter contract; and
- 26 (9) any additional indicators proposed by the charter school and
27 approved by the charter school authorizing board to account for the
28 charter school's specific mission. The charter school authorizing
29 board shall only approve additional indicators that are rigorous and
30 valid.

31 b. The charter contract shall require that any information
32 included in the performance framework that relates to students be
33 disaggregated by student subgroups, including racial and ethnic
34 classifications, gender, income groups, students with disabilities,
35 students who are English language learners, and students who are
36 gifted and talented.

37 c. The annual performance targets included in the performance
38 framework shall be agreed to by the charter school authorizing
39 board and the charter school, and shall be designed to ensure that
40 the charter school meets applicable federal and State expectations
41 for student academic performance.

42 d. The charter contract shall be signed by the authorized
43 representative of the charter school authorizing board and the
44 president of the board of trustees of the charter school. Within 30
45 days of entering into a charter contract, each charter contract,
46 including any attachments, shall be posted on the charter school
47 authorizing board's website.

1 e. An approved charter school shall not begin operations prior
2 to entering into a charter contract with the charter school
3 authorizing board. Neither party may delegate or reassign any of
4 the rights or responsibilities included in the charter contract.

5 f. Notwithstanding the provisions of subsection a. of this
6 section to the contrary, the applicant may elect to use one year as a
7 planning year prior to entering into a charter contract. The
8 applicant shall be required to obtain the consent of the charter
9 school authorizing board to use any additional years as planning
10 years.

11
12 7. (New section) A charter school shall annually remit an
13 administrative fee to the charter school authorizing board. The
14 administrative fee shall equal 1.5% of the total revenue that a
15 charter school receives pursuant to the provisions of section 12 of
16 P.L.1995, c.426 (C.18A:36A-12). A charter school that has been
17 granted a charter prior to the date of enactment of P.L. , c. (C.)
18 (pending before the Legislature as this bill) shall begin to remit the
19 administrative fee to the charter school authorizing board in the first
20 school year after its charter is renewed pursuant to section 17 of
21 P.L.1995, c.426 (C.18A:36A-17). The charter school authorizing
22 board shall not use any revenue received from a charter school
23 pursuant to this section for any purpose other than monitoring
24 charter schools.

25
26 8. (New section) In the event that a student withdraws from a
27 charter school and enrolls in another public school located in the
28 State, the new school shall accept all credits earned by the student
29 and determine the student's grade level placement in a uniform and
30 consistent manner, and using the same criteria applied to accept
31 credits from other public schools.

32
33 9. (New section) a. Except as otherwise provided pursuant to
34 section 14 of P.L.2007, c.137 (C.18A:7G-45), a charter school shall
35 have the right of first refusal to purchase or lease any surplus real
36 property, at or below market value, of a school district that is the
37 charter school's district of residence. In the event that the school
38 district is the district of residence for more than one charter school,
39 then the order in which the charter schools shall be granted the right
40 of first refusal shall be determined by a lottery. The right of first
41 refusal shall not be negotiable. A charter school that is currently on
42 probationary status pursuant to section 17 of P.L.1995, c.426
43 (C.18A:36A-17) shall not be granted the right of first refusal.

44 b. Each school district that is the district of residence of at least
45 one charter school shall, no later than January 1 and July 1 of each
46 school year, provide the department with a list of all surplus real
47 property in the school district in a format determined by the
48 commissioner. The list of surplus real property shall include the

1 name and address of the property, whether the property will be
2 available for sale, lease, or co-location, the sale price, if the district
3 plans to sell the surplus property, and any other information that the
4 commissioner may require. The department shall publish the list of
5 surplus real property on its website no later than February 1 and
6 August 1 of each school year.

7 c. The commissioner shall notify a charter school if it has been
8 granted the right of first refusal for any property included on the list
9 of surplus real property.

10 (1) If a charter school that has been granted the right of first
11 refusal elects to purchase a property that is being sold by a school
12 district, then the charter school shall send a letter of intent to the
13 commissioner and the board of education of the school district.

14 (2) If a charter school that has been granted the right of first
15 refusal elects to lease a property that is being leased by a school
16 district, then the charter school shall send a letter of intent to the
17 commissioner and the board of education of the school district. The
18 school district shall lease the property to the charter school at or
19 below market value, with the term of the lease not exceeding the
20 lesser of 10 years or the number of years remaining on the charter
21 school's charter at the time the parties enter into the lease
22 agreement. The charter school shall be responsible for expenses
23 relating to the daily operation of the property including, but not
24 limited to, maintenance, utilities, repairs, and alterations. The
25 school district shall be responsible for principal and interest
26 payments and payment of any outstanding liens.

27 A lease agreement entered into by a charter school and board of
28 education shall automatically be renewed upon the renewal of the
29 school's charter, unless there has been a material breach of the lease
30 agreement or if the board of education requires the facility to
31 accommodate an increase in the district's enrollment. A board of
32 education shall notify a charter school that a lease agreement will
33 not be renewed no less than six months prior to the expiration of the
34 current lease agreement.

35 (3) If a charter school that has been granted the right of first
36 refusal elects to co-locate at a property of the school district, then
37 the charter school shall send a letter of intent to the commissioner
38 and the board of education of the school district. The school district
39 shall lease the available space to the charter school at or below
40 market value, with the term of the lease being no less than one year
41 and not exceeding the lesser of three years or the number of years
42 remaining on the charter school's charter at the time the parties
43 enter into the lease agreement.

44 d. As used in this section, "surplus real property" means any
45 school building, previously used for instructional purposes, that has
46 not been used for instructional purposes for at least three
47 consecutive school years, any facility that has been unoccupied for
48 at least three consecutive school years, any school building in

1 which the instructional areas are used at a rate no greater than 50%
2 of its capacity for at least three consecutive school years, or any real
3 property that a school district elects to lease or sell pursuant to the
4 provisions of N.J.S.18A:20-2.

5
6 10. (New section) Each member of a charter school board of
7 trustees shall complete a training program regarding the skills and
8 knowledge necessary to serve as a member of a charter school
9 board of trustees. A member may satisfy this requirement by
10 completing the training program offered by the New Jersey School
11 Boards Association or an alternative program approved by the
12 Commissioner of Education.

13
14 11. (New section) Notwithstanding the provisions of the “Public
15 School Contracts Law,” N.J.S.18A:18A-1 et seq., or any other law
16 or regulation to the contrary, a charter school shall not be subject to
17 public bidding for goods and services, and any contracts entered
18 into by a charter school shall not be deemed public contracts or
19 public works; except that any contract entered into by a charter
20 school shall be deemed a public work for the purposes of the “New
21 Jersey Prevailing Wage Act,” P.L.1963, c.150 (C.34:11-56.25 et
22 seq.), and subject to the applicable provisions of that act.

23
24 12. (New section) a. There is established in the Department of
25 Education a non-lapsing revolving fund to be known as the “Charter
26 School Facility Loan Fund.” The fund shall be credited, consistent
27 with federal law, with any federal funds provided to the State for
28 the purpose of constructing charter school facilities, any
29 appropriations made to the fund, any interest earned on the monies
30 deposited in the fund, and any principal and interest payments made
31 by a charter school that received a loan under the “Charter School
32 Facility Loan Program” established pursuant to subsection b. of this
33 section.

34 b. The State Board of Education shall establish the “Charter
35 School Facility Loan Program.” Under the program, the State board
36 shall use monies on deposit in the Charter School Facility Loan
37 Fund to provide loans to charter schools for the construction,
38 purchase, or renovation of a charter school facility. A charter
39 school may have more than one outstanding loan under the
40 program. The State board shall determine:

41 1) the interest rate to be applied to each loan, not to exceed an
42 annual rate of 1%;

43 2) the maximum amount of any individual loan that will be
44 awarded to any charter school; and

45 3) the maximum outstanding principal that may be allowed for
46 any charter school that has received more than one loan under the
47 program.

1 c. The State board shall establish a procedure for receiving and
2 evaluating loan applications under the program. Upon reviewing an
3 application, the State board shall consider, at a minimum, the
4 following factors when determining if a loan should be made to a
5 charter school:

6 (1) the charter school's financial viability, including the charter
7 school's ability to provide instructional and student support services
8 while making timely payments on the loan;

9 (2) alternative funding sources that may be available to the
10 charter school to construct, purchase, or renovate a facility;

11 (3) the geographic distribution of loans made under the
12 program;

13 (4) the effect that the loan may have on the charter school's
14 ability to obtain other public and private financing;

15 (5) any plan to leverage the funds through a loan guarantee or
16 similar program; and

17 (6) the charter school's financial needs.

18

19 13. (New section) A charter school shall be considered a local
20 education agency for the purpose of applying for federal entitlement
21 and discretionary funds.

22

23 14. (New section) Notwithstanding the provisions of P.L.2000,
24 c.72 (C.18A:7G-1 et al.) to the contrary, the development authority
25 may undertake, and the financing authority may finance, a school
26 facilities project of a charter school located in an SDA district. The
27 State share of such a school facilities project shall equal 100% of
28 the final eligible costs. The State share of such a school facilities
29 project shall be financed from the aggregate principal amounts of
30 the bonds, notes, and other obligations authorized for school
31 facilities projects in SDA districts pursuant to section 14 of
32 P.L.2000, c.72 (C.18A:7G-14).

33

34 15. (New section) a. A student enrolled in a charter school shall
35 be eligible to participate in any extracurricular activity at another
36 public school if the extracurricular activity is not offered at the
37 charter school. The student enrolled in the charter school may
38 participate in the extracurricular activity at the school of the
39 student's district of residence that operates the grade level in which
40 the student is enrolled and serves the attendance area in which the
41 student resides, or the school from which the student withdrew in
42 order to attend the charter school.

43 b. In the event that a student enrolled in a charter school wishes
44 to participate in an extracurricular activity at another public school
45 pursuant to subsection a. of this section, the school may apply only
46 those eligibility requirements that are applicable to a student who is
47 enrolled in that school. If participation in an extracurricular activity
48 is determined on a competitive basis, then a student who is enrolled

1 in a charter school and is eligible to participate pursuant to
2 subsection a. of this section shall be allowed to compete on the
3 same basis as a student who is enrolled in the school.

4 c. In the event that a student enrolled in a charter school
5 participates in an extracurricular activity at another public school
6 pursuant to subsection a. of this section, the school may assess any
7 fee that the school charges a student who is enrolled in the school,
8 and shall waive any fee for a student enrolled in a charter school on
9 the same basis as a student who is enrolled in that school.

10 d. A charter school shall reimburse a school district for each
11 student who is enrolled in that charter school and participates in an
12 extracurricular activity in a public school of that district. The
13 amount to be reimbursed shall not exceed the actual cost per pupil,
14 exclusive of any capital expenditures, less any fee collected from
15 the student pursuant to subsection c. of this section.

16 e. A student enrolled in a public school that is not a charter
17 school shall be eligible to participate in any extracurricular activity
18 at a charter school located in the student's district of residence if the
19 extracurricular activity is not offered at the school in which the
20 student is enrolled. The student enrolled in the public school that is
21 not a charter school may participate in the extracurricular activity at
22 a charter school that operates the grade level in which the student is
23 enrolled.

24 f. In the event that a student enrolled in a public school that is
25 not a charter school wishes to participate in an extracurricular
26 activity at a charter school pursuant to subsection e. of this section,
27 the charter school may apply only those eligibility requirements that
28 are applicable to a student who is enrolled in that charter school. If
29 participation in an extracurricular activity is determined on a
30 competitive basis, then a student who is enrolled in a public school
31 that is not a charter school and is eligible to participate pursuant to
32 subsection e. of this section shall be allowed to compete on the
33 same basis as a student who is enrolled in the charter school.

34 g. In the event that a student enrolled in a public school that is
35 not a charter school participates in an extracurricular activity at a
36 charter school pursuant to subsection e. of this section, the charter
37 school may assess any fee that the school charges a student who is
38 enrolled in the charter school, and shall waive any fee for a student
39 enrolled in a public school that is not a charter school on the same
40 basis as a student who is enrolled in that charter school.

41 h. A school district shall reimburse a charter school for each
42 student who is enrolled in that school district and participates in an
43 extracurricular activity in a charter school. The amount to be
44 reimbursed shall not exceed the actual cost per pupil, exclusive of
45 any capital expenditures, less any fee collected from the student
46 pursuant to subsection g. of this section.

1 16. (New section) The charter school authorizing board shall
2 submit an annual report documenting its operations to the
3 commissioner no later than October 31 each school year. The
4 commissioner shall forward a copy of the annual report to the
5 Governor, and to the Legislature pursuant to section 2 of P.L.1991,
6 c.164 (C.52:14-19.1), no later than November 30 of each school
7 year. The charter school authorizing board's annual report shall
8 include, but need not be limited to, the following:

9 a. the performance of each charter school, as measured by the
10 performance framework developed by the charter school
11 authorizing board;

12 b. a listing of charter schools that:

13 (1) have been approved by the commissioner, but have not yet
14 opened;

15 (2) are currently operating under an initial charter;

16 (3) are currently operating under a renewed charter;

17 (4) did not have its charter renewed;

18 (5) had its charter revoked; and

19 (6) voluntarily relinquished its charter; and

20 c. a summary of the expenses incurred by the charter school
21 authorizing board in performing its responsibilities.
22

23 17. (New section) a. The executive county superintendent of
24 schools of a county in which at least one charter school is located
25 shall annually organize a conference, to be attended by
26 representatives of public schools located in the county, to provide
27 attendees the opportunity to exchange information regarding
28 practices that have contributed to improving student outcomes.

29 b. Within 90 days of the conclusion of the conference, the
30 executive county superintendent of schools shall submit a report to
31 the Governor, the President of the Senate, and the Speaker of the
32 General Assembly, detailing the conference's proceedings. Each
33 report shall be made available on the Department of Education's
34 website.
35

36 18. Section 13 of P.L.2007, c.260 (C.18A:7F-55) is amended to
37 read as follows:

38 13. a. Special education categorical aid for each school district
39 and county vocational school district shall be calculated as follows:

$$40 \quad SE = (RE \times SEACR \times AEC \times 1/3) \times GCA$$

41 where

42 RE is the resident enrollment of the school district or county
43 vocational school district;

44 SEACR is the State average classification rate for general special
45 education services pupils;

46 AEC is the excess cost for general special education services
47 pupils; and

1 GCA is the geographic cost adjustment as developed by the
2 commissioner.

3 For the 2008-2009 school year the excess cost shall be \$10,898 for
4 general special education services pupils. The excess cost amount
5 shall be adjusted by the CPI in the 2009-2010 and 2010-2011
6 school years as required pursuant to subsection b. of section 4 of
7 this act. For subsequent school years, the excess cost amount shall
8 be established in the Educational Adequacy Report, with the
9 amount adjusted by the CPI for each of the two school years
10 following the first school year to which the report is applicable.

11 b. Extraordinary special education aid for an individual
12 classified pupil shall be available when the student is educated in a
13 general education classroom, special education program, including
14 but not limited to a resource program or special class program, or
15 any combination of general education and special education
16 programs and services, subject to the requirements and thresholds
17 set forth in this section.

18 (1) In those instances in which a pupil is educated in an in-
19 district public school program with non-disabled peers, whether run
20 by a public school or by a private school for the disabled, and the
21 cost of providing direct instructional and support services for an
22 individual classified pupil exceeds \$40,000, for those direct
23 instructional and support services costs in excess of \$40,000 a
24 district shall receive extraordinary special education State aid equal
25 to 90% of the amount of that excess in accordance with the
26 provisions of paragraph (4) of this subsection.

27 (2) In those instances in which a pupil is educated in a separate
28 public school program for students with disabilities and the cost of
29 providing direct instructional and support services for an individual
30 classified pupil exceeds \$40,000, for those direct instructional and
31 support services costs in excess of \$40,000 a district shall receive
32 extraordinary special education State aid equal to 75% of the
33 amount of that excess in accordance with the provisions of
34 paragraph (4) of this subsection.

35 (3) In those instances in which a pupil is educated in a separate
36 private school for students with disabilities and the tuition for an
37 individual classified pupil exceeds \$55,000, for tuition costs in
38 excess of \$55,000 a district shall receive extraordinary special
39 education State aid equal to 75% of the amount of that excess in
40 accordance with the provisions of paragraph (4) of this subsection.

41 (4) Extraordinary special education State aid for an individual
42 classified pupil shall be calculated as follows:

$$43 \quad EA = ((ADC - \$40,000) \times .90) + (((AIC - \$40,000) + (ASC - \\ 44 \quad \$55,000)) \times .75)$$

45 where

46 ADC equals the district's actual cost for the direct instructional
47 and support services in an in-district public school program as set
48 forth in paragraph (1) of this subsection;

- 1 AIC equals the district's actual cost for direct instructional and
2 support services in a separate public school program as set forth in
3 paragraph (2) of this subsection; and
- 4 ASC equals the district's actual cost for tuition paid to a separate
5 private school as set forth in paragraph (3) of this subsection.
- 6 (5) The receipt of extraordinary special education State aid for
7 an individual classified pupil shall be conditioned upon a
8 demonstration by the district or charter school that the pupil's
9 Individualized Education Plan requires the provision of intensive
10 services, pursuant to factors determined by the commissioner.
- 11 c. In order to receive funding pursuant to this section, a district
12 or charter school shall file an application with the department that
13 details the expenses incurred on behalf of the particular classified
14 pupil for which the district or charter school is seeking
15 reimbursement. Additional State aid awarded for extraordinary
16 special education costs shall be recorded by the district or charter
17 school as revenue in the current school year and paid to the district
18 in the subsequent school year.
- 19 d. A school district or charter school may apply to the
20 commissioner to receive emergency special education aid for any
21 classified pupil who enrolls in the district prior to March of the
22 budget year and who is in a placement with a cost in excess of
23 \$40,000 or \$55,000, as applicable. The commissioner may debit
24 from the student's former district of residence any special education
25 aid which was paid to that district on behalf of the student.
- 26 e. The department shall review expenditures of federal and
27 State special education aid by a district or charter school in every
28 instance in which special education monitoring identifies a failure
29 on the part of the district to provide services consistent with a
30 pupil's Individualized Education Plan.
- 31 f. The commissioner shall commission an independent study of
32 the special education census funding methodology to determine if
33 adjustments in the special education funding formulas are needed in
34 future years to address the variations in incidence of students with
35 severe disabilities requiring high cost programs and to make
36 recommendations for any such adjustments. The study and
37 recommendations shall be completed by June 30, 2010.
- 38 g. A school district may apply to the commissioner to receive
39 additional special education categorical aid if the district has an
40 unusually high rate of low-incidence disabilities, such as autism,
41 deaf/blindness, severe cognitive impairment, and medically fragile.
42 In applying for the aid the district shall: demonstrate the impact of
43 the unusually high rate of low-incidence disabilities on the school
44 district budget and the extent to which the costs to the district are
45 not sufficiently addressed through special education aid and
46 extraordinary special education aid; and provide details of all
47 special education expenditures, including details on the use of

1 federal funds to support those expenditures.
2 (cf: P.L.207, c.260, s.13)

3

4 19. N.J.S.18A:23-1 is amended to read as follow:

5 18A:23-1. The board of education of every school district and
6 the board of trustees of every charter school shall cause an annual
7 audit of the district's or charter school's accounts and financial
8 transactions to be made by a public school accountant employed by
9 it, which audit shall be completed not later than 5 months after the
10 end of the school fiscal year.

11 (cf: P.L.2010, c.49, s.1)

12

13 20. Section 2 of P.L.1995, c.426 (C.18A:36A-2) is amended to
14 read as follows:

15 2. The Legislature finds and declares that the establishment of
16 charter schools as part of this State's program of public education
17 can assist in promoting comprehensive educational reform by
18 providing a mechanism for the implementation of a variety of
19 educational approaches which may not be available in the
20 traditional public school classroom. Charter schools serve a distinct
21 purpose in supporting innovations and best practices that can be
22 adopted by other public schools to strengthen the performance of all
23 students. Specifically, charter schools offer the potential to
24 improve pupil learning; increase for students and parents the
25 educational choices available when selecting the learning
26 environment which they feel may be the most appropriate;
27 encourage the use of different and innovative learning methods;
28 establish a new form of accountability for schools; require the
29 measurement of learning outcomes; make the school the unit for
30 educational improvement; and establish new professional
31 opportunities for teachers.

32 The Legislature further finds that the establishment of a charter
33 school program is in the best interests of the students of this State
34 and it is therefore the public policy of the State to encourage and
35 facilitate the development of charter schools.

36 (cf: P.L.1995, c.426, s.2)

37

38 21. Section 3 of P.L.1995, c.426 (C.18A:36A-3) is amended to
39 read as follows:

40 3. a. The Commissioner of Education shall establish a charter
41 school program which shall provide for the approval and granting of
42 charters to charter schools pursuant to the provisions of **[this act]**
43 P.L.1995, c.426 (C.18A:36A-1 et seq.). A charter school shall be a
44 public school operated under a charter granted by the commissioner,
45 which is operated independently of a local board of education and is
46 managed by a board of trustees. The board of trustees, upon
47 receiving a charter from the commissioner and entering into a
48 charter contract with the charter school authorizing board, shall be

1 deemed to be public agents authorized by the State Board of
2 Education to supervise and control the charter school.

3 b. The program shall authorize the establishment of not more
4 than 135 charter schools during the 48 months following the
5 effective date of this act. A minimum of three charter schools shall
6 be allocated to each county. The commissioner shall actively
7 encourage the establishment of charter schools in urban school
8 districts with the participation of institutions of higher education.

9 (cf: P.L.1995, c.426, s.3)

10

11 22. Section 4 of P.L.1995, c.426 (C.18A:36A-4) is amended to
12 read as follows:

13 4. a. A charter school may be established by :

14 (1) teaching staff members, parents with children attending the
15 schools of the district, or a combination of teaching staff members
16 and parents **].** A charter school may also be established by **]** :

17 (2) an institution of higher education or a private entity located
18 within the State in conjunction with teaching staff members and
19 parents of children attending the schools of the district ;

20 (3) a teachers' union;

21 (4) a parent-teacher organization;

22 (5) a nonprofit community-based organization;

23 (6) a nonprofit business or corporate entity;

24 (7) a nonprofit charter school operator;

25 (8) a nonprofit educational management organization;

26 (9) a nonprofit educational collaborative;

27 (10) a consortia of entities listed in paragraphs (1) through (9) of
28 this subsection; and

29 (11) any other nonprofit entity authorized by the commissioner.

30 If the charter school is established by a private entity,
31 representatives of the private entity shall not constitute a majority
32 of the trustees of the school, and the charter shall specify the extent
33 to which the private entity shall be involved in the operation of the
34 school. The **]**name of the charter school shall not include the name
35 or identification of the private entity, and the **]** private entity shall
36 not realize a net profit from its operation of a charter school.

37 b. A currently existing public school is eligible to become a
38 charter school if the following criteria are met:

39 (1) At least 51% of the teaching staff in the school shall have
40 signed a petition in support of the school becoming a charter
41 school; and

42 (2) At least 51% of the parents or guardians of pupils attending
43 that public school shall have signed a petition in support of the
44 school becoming a charter school.

45 c. An application to establish a charter school shall be
46 submitted to the commissioner , the charter school authorizing
47 board, and the local board of education or State district
48 superintendent, in the case of a school district under full State

1 intervention, no later than January 1 in the **【school】** year preceding
2 the school year in which the charter school will be established.
3 Notice of the filing of the application shall be sent immediately by
4 the commissioner to the members of the State Legislature, school
5 superintendents, and mayors and governing bodies of all legislative
6 districts, school districts, or municipalities in which there are
7 students who will be eligible for enrollment in the charter school.
8 The charter school authorizing board and board of education or
9 State district superintendent shall review the application and
10 forward a recommendation to the commissioner within 60 days of
11 receipt of the application. The commissioner shall have final
12 authority to grant or reject a charter application. The commissioner
13 shall notify a charter school applicant of the initial approval or
14 rejection of the charter school application no later than September 1
15 after the submission of the charter school application. The
16 commissioner shall provide for the final granting of a charter, no
17 later than February 1, after:

18 (1) receiving and approving documentation, as required by the
19 commissioner, that is not available at the time of the application's
20 submission;

21 (2) assessing the student composition of the charter school and
22 the potential effects that the loss of the students may have on the
23 school district in which the potential charter school students reside;
24 and

25 (3) conducting a preparedness visit to the prospective charter
26 school.

27 d. The local board of education or a charter school applicant
28 may appeal the decision of the commissioner to the Appellate
29 Division of the Superior Court.

30 e. A charter school established during the 48 months following
31 the effective date of this act, other than a currently existing public
32 school which becomes a charter school pursuant to the provisions of
33 subsection b. of section 4 of this act, shall not have an enrollment in
34 excess of 500 students or greater than 25% of the student body of
35 the school district in which the charter school is established,
36 whichever is less.

37 Any two charter schools within the same public school district
38 **【that are not operating the same grade levels】** may petition the
39 **【commissioner】** charter school authorizing board to amend their
40 charters and consolidate into one school. The **【commissioner】**
41 charter school authorizing board may approve an amendment to
42 consolidate, provided that the basis for consolidation is to
43 accommodate the transfer of students who would otherwise be
44 subject to the **【random selection process】** lottery pursuant to
45 section 8 of P.L.1995, c.426 (C.18A:36A-8).

46 (cf: P.L.2011, c.140, s.2)

1 23. Section 5 of P.L.1995, c.426 (C.18A:36A-5) is amended to
2 read as follows:

3 5. The application for a charter school shall include the
4 following information:

5 a. The identification of the charter applicant;

6 b. The name of the proposed charter school;

7 c. The proposed governance structure of the charter school
8 including a list of the proposed members of the board of trustees of
9 the charter school, including background information, or a
10 description of the qualifications and method for the appointment or
11 election of members of the board of trustees;

12 d. The educational goals of the charter school, the curriculum
13 to be offered, and the methods of assessing whether students are
14 meeting educational goals. Charter school students shall be required
15 to meet the same testing and academic performance standards as
16 established by law and regulation for public school students.
17 Charter school students shall also meet any additional assessment
18 indicators which are included within the charter approved by the
19 commissioner;

20 e. The admission policy and criteria for evaluating the
21 admission of students which shall comply with the requirements of
22 section 8 of **【this act】** P.L.1995, c.426 (C.18A:36A-8), including a
23 detailed plan and timeline for student recruitment and the procedure
24 for conducting a public lottery if the number of students seeking
25 admission exceeds the capacity;

26 f. The age or grade range of students to be enrolled;

27 g. The **【school】** school's proposed calendar and **【school day】** a
28 sample daily schedule;

29 h. A description of the charter school staff responsibilities and
30 the proposed qualifications of teaching staff;

31 i. A description of the **【procedures to be implemented to**
32 **ensure】** opportunities for and expectations of significant parental
33 involvement in the operation of the school;

34 j. A description of, and address for, the physical facility in
35 which the charter school will be located, and plan for identifying an
36 alternative facility if the need arises;

37 k. Information on the manner in which community groups will
38 be involved in the charter school planning process;

39 l. The financial plan for the charter school and the provisions
40 which will be made for auditing the school pursuant to the
41 provisions of N.J.S.18A:23-1;

42 m. A description of and justification for any waivers of
43 regulations which the charter school will request; **【and】**

44 n. The mission and vision of the proposed charter school,
45 including any specific student population that the charter school
46 would serve;

47 o. For each grade level and for each year for the term of the
48 charter, the projected student enrollment, the minimum number of

- 1 students that the charter school may serve while remaining
2 financially viable, and the maximum number of students that the
3 charter school could feasibly serve;
- 4 p. An explanation of how the proposed charter school's
5 academic programs will align with standards adopted by the State
6 Board of Education;
- 7 q. A description of the proposed charter school's instructional
8 design, including information on the type of learning environment
9 that would be used, class size and structure, and teaching methods
10 that will be employed;
- 11 r. The proposed charter school's plan for using assessments to
12 measure and report student progress on the performance framework
13 developed by the charter school authorizing board pursuant to
14 section 6 of P.L. , c. (C.) (pending before the Legislature as this
15 bill);
- 16 s. The proposed charter school's plan for identifying and
17 successfully serving students with disabilities, English language
18 learners, students who are currently not performing on grade level
19 in one or more academic areas, and students who are gifted and
20 talented;
- 21 t. A description of extracurricular and co-curricular activities
22 that will be offered at the school, including the method by which
23 the costs of such programs will be supported;
- 24 u. The proposed charter school's policy on student discipline;
- 25 v. An organization chart that clearly presents the proposed
26 charter school's organizational structure, including lines of
27 authority among the board of trustees, staff, and any other related
28 entities;
- 29 w. A clear description of the roles and responsibilities of the
30 board of trustees, the school's leadership and management team,
31 and any other entities included in the organization chart;
- 32 x. A detailed plan for recruiting and developing the proposed
33 charter school's leadership and management team and staff;
- 34 y. The school's proposed employment policy, including the
35 plan for conducting performance evaluations, provided, however,
36 that the proposed employment policy shall not conflict with any
37 existing collective bargaining agreement;
- 38 z. The board of trustee's proposed bylaws;
- 39 aa. A description or explanation of any partnerships or
40 contractual arrangements that will be a significant component of the
41 school's operations or mission;
- 42 bb. The plan for providing food services and other operational
43 services;
- 44 cc. A detailed start-up plan that includes tasks to be completed,
45 a timeline during which the identified tasks will be completed, and
46 a list of individuals who will be responsible for completing the
47 tasks;

- 1 dd. A description of the insurance coverage the school will
2 obtain;
3 ee. Projected budgets for any start-up period and the first five
4 years of the school's operations, including a description of relevant
5 assumptions used in developing the budget;
6 ff. A cash flow analysis for any start-up period and the first
7 year of the school's operation, including a description of relevant
8 assumptions used in developing the cash flow analysis;
9 gg. An explanation of any anticipated revenues from fundraising
10 that are included in the projected budgets;
11 hh. If applicable, the geographic area within the proposed
12 charter school's district of residence from which applicants to the
13 charter school would be granted enrollment preference; and
14 ii. Such other information as the commissioner may require.
15 (cf: P.L.1995, c.426, s.5)

16
17 24. Section 6 of P.L.1995, c.426 (C.18A:36A-6) is amended to
18 read as follows:

19 6. A charter school established pursuant to the provisions of
20 **【this act】** P.L.1995, c.426 (C.18A:36A-1 et seq.) shall be a body
21 corporate and politic with all powers necessary or desirable for
22 carrying out its charter program, including, but not limited to, the
23 power to:

- 24 a. Adopt a name and corporate seal; however, any name
25 selected shall include the words "charter school;"
26 b. Sue and be sued, but only to the same extent and upon the
27 same conditions that a public entity can be sued;
28 c. Acquire real property from public or private sources, by
29 purchase, lease, lease with an option to purchase, or by gift, for use
30 as a school facility;
31 d. Receive and disburse funds for school purposes;
32 e. Make contracts and leases for the procurement of services,
33 equipment and supplies;
34 f. Incur temporary debts in anticipation of the receipt of funds;
35 g. Solicit and accept any gifts or grants for school purposes;
36 **【and】**
37 h. Purchase appropriate insurance;
38 i. Pledge, assign, or encumber its assets to be used as collateral
39 for the purpose of securing a loan or an extension of credit; and
40 j. Have such other powers as are necessary to fulfill its charter
41 contract and which are not inconsistent with **【this act】** P.L.1995,
42 c.426 (C.18A:36A-1 et seq.), or the requirements of the
43 **【commissioner】** charter school authorizing board .

44 The board of trustees of a charter school shall comply with the
45 provisions of the "Open Public Meetings Act," P.L.1975, c.231
46 (C.10:4-6 et seq.).
47 (cf: P.L.1995, c.426, s.6)

1 25. Section 8 of P.L.1995, c.426 (C.18A:36A-8) is amended to
2 read as follows:

3 8. a. Preference for enrollment in a charter school shall be
4 given to students who reside in the **【school】** charter school's
5 district **【in which the charter school is located】** of residence. A
6 charter school may give enrollment preference to students who
7 reside in the geographic area within the charter school's district of
8 residence as specified in the approved charter school application
9 pursuant to subsection hh. of section 5 of P.L.1995, c.426
10 (C.18A:36A-5) . If there are more applications to enroll in the
11 charter school than there are spaces available, the charter school
12 shall select students to attend using a **【random selection process】**
13 lottery.

14 (1) In the event that the demographics of the charter school
15 applicants are not similar to those of the students enrolled in the
16 district of residence, or to those of the students who reside in the
17 geographic area within the charter school's district of residence as
18 specified in the approved charter school application pursuant to
19 subsection hh. of section 5 of P.L.1995, c.426 (C.18A:36A-5), the
20 charter school shall modify the lottery such that the probability of
21 selection of each student is consistent with the demographics of the
22 students enrolled in the district of residence or the geographic area
23 within the charter school's district of residence as specified in the
24 approved charter school application pursuant to subsection hh. of
25 section 5 of P.L.1995, c.426 (C.18A:36A-5).

26 (2) At least 30 days prior to conducting a lottery, a charter
27 school shall provide public notice of the date, time, and location of
28 the lottery, and note that the lottery is open to the public. The
29 Department of Education shall post a schedule of each charter
30 school lottery on its website, and each executive county
31 superintendent of schools shall post a schedule of each charter
32 school lottery occurring in the county on the website of the county
33 office.

34 (3) A charter school shall conduct the lottery in a place that is
35 open and accessible to the public, and is capable of accommodating
36 the expected number of attendees. To ensure that the space can
37 accommodate the expected number of attendees, a charter school
38 may conduct separate lotteries for each grade level, or for groups of
39 grade levels. Each such lottery shall be subject to the public notice
40 provisions of paragraph (2) of this subsection. Nothing in this
41 paragraph shall be construed to require that a parent or student
42 attend the lottery as a prerequisite to being admitted to the charter
43 school.

44 (4) An individual conducting a lottery or serving as an
45 independent observer shall not be an employee or member of the
46 board of trustees of the charter school, or a relative of an applicant
47 included in the lottery.

1 (5) A representative from the charter school authorizing board
2 shall be present to observe charter school lottery proceedings, and
3 shall determine if the lottery was conducted in a fair and transparent
4 manner consistent with the provisions of the charter contract.

5 (6) A charter school shall maintain records of any lottery that it
6 conducts, and shall provide the records to its charter school
7 authorizing board upon request. The records shall be sufficient to
8 allow the charter school authorizing board to determine the process
9 used to select students, compare the process that was used to the
10 procedures outlined in the school's charter contract, and determine
11 if the procedures were consistent with the provisions of the school's
12 charter contract.

13 A charter school shall not charge tuition **【**to students who reside
14 in the district**】**, and may only charge fees that may also be charged
15 by other public schools in the State.

16 b. A charter school shall allow any student who was enrolled in
17 the school in the immediately preceding school year to enroll in the
18 charter school in the appropriate grade unless the appropriate grade
19 is not offered at the charter school.

20 c. A charter school may give enrollment priority to a sibling of
21 a student enrolled in the charter school.

22 d. If available space permits, a charter school may enroll non-
23 resident students. The terms and condition of the enrollment shall
24 be outlined in the school's charter contract and approved by the
25 **【**commissioner**】** charter school authorizing board .

26 e. The admission policy of the charter school shall, to the
27 maximum extent practicable, seek the enrollment of a cross section
28 of the community's school age population including racial and
29 academic factors.

30 (cf: P.L.1995, c.426, s.8)

31
32 26. Section 9 of P.L.1995, c.426 (C.18A:36A-9) is amended to
33 read as follows:

34 9. A student may withdraw from a charter school at any time.
35 A student may be expelled from a charter school based on criteria
36 determined by the board of trustees, which are consistent with the
37 provisions of N.J.S.18A:37-2, and approved by the **【**commissioner**】**
38 charter school authorizing board as part of the school's charter
39 contract. Any expulsion shall be made upon the recommendation of
40 the charter school principal, in consultation with the student's
41 teachers.

42 (cf: P.L.1995, c.426, s.9)

43
44 27. Section 10 of P.L.1995, c.426 (C.18A:36A-10) is amended
45 to read as follows:

46 10. A charter school may be located in part of an existing public
47 school building, in space provided on a public work site, in a public
48 building, or any other suitable location. In the case of a nonpublic

1 school that converts to a charter school pursuant to the provisions of
2 section 1 of P.L.2011, c.140 (C.18A:36A-4.1), the charter school
3 may be located in the same school building in which the nonpublic
4 school was located. The facility shall be exempt from public school
5 facility regulations except those pertaining to the health or safety of
6 the pupils. **【A charter school shall not construct a facility with
7 public funds other than federal funds.】**

8 (cf: P.L.2011, c.140, s.3)

9

10 28. Section 11 of P.L.1995, c.426 (C.18A:36A-11) is amended
11 to read as follows:

12 11. a. A charter school shall operate in accordance with its
13 charter contract and the provisions of law and regulation which
14 govern other public schools; except that, upon the request of the
15 board of trustees of a charter school, the commissioner may exempt
16 the school from State regulations concerning public schools, except
17 those pertaining to assessment and accountability, teacher
18 evaluation, testing, civil rights and student health and safety, if the
19 board of trustees satisfactorily demonstrates to the commissioner
20 that the exemption will advance the educational goals and
21 objectives of the school.

22 b. A charter school shall comply with the provisions of chapter
23 46 of Title 18A of the New Jersey Statutes concerning the provision
24 of services to handicapped students; except that the fiscal
25 responsibility for any student currently enrolled in or determined to
26 require a private day or residential school shall remain with the
27 district of residence.

28 Within 15 days of the signing of the individualized education
29 plan, a charter school shall provide notice to the resident district of
30 any individualized education plan which results in a private day or
31 residential placement. The resident district may challenge the
32 placement within 30 days in accordance with the procedures
33 established by law.

34 c. A charter school shall comply with applicable State and
35 federal anti-discrimination statutes.

36 (cf: P.L.2007, c.260, s.57)

37

38 29. Section 12 of P.L.1995, c.426 (C.18A:36A-12) is amended
39 to read as follows:

40 12. a. (Deleted by amendment, P.L.2007, c.260).

41 b. The school district of residence shall pay directly to the
42 charter school for each student enrolled in the charter school who
43 resides in the district an amount equal to 90% of the sum of the
44 budget year equalization aid per pupil and the prebudget year
45 general fund tax levy per pupil inflated by the CPI rate most recent
46 to the calculation. In addition, the school district of residence shall
47 pay directly to the charter school the security categorical aid
48 attributable to the student and a percentage of the district's special

1 education categorical aid equal to the percentage of the district's
2 special education students enrolled in the charter school and, if
3 applicable, 100% of preschool education aid. The district of
4 residence shall also pay directly to the charter school any federal
5 funds attributable to the student.

6 c. (Deleted by amendment, P.L.2007, c.260).

7 d. Notwithstanding the provisions of subsection b. of this
8 section, in the case of a student who was not included in the
9 district's projected resident enrollment for the school year, the State
10 shall pay 100% of the amount required pursuant to subsection b. of
11 this section for the first year of the student's enrollment in the
12 charter school.

13 e. The State shall make payments required pursuant to
14 subsection d. of this section directly to the charter school.

15 f. In the case of a school district that, in the prior school year,
16 was required to make a payment to a charter school pursuant to
17 subsection a. of this section, no later than September 30 of each
18 school year, the school district shall submit a notice to the charter
19 school authorizing board certifying that all payments required
20 pursuant to subsection a. of this section have been made to the
21 charter school in the prior school year.

22 (cf: P.L. 2007, c.260, s.58)

23

24 30. Section 14 of P.L.1995, c.426 (C.18A:36A-14) is amended
25 to read as follows:

26 14. a. The board of trustees of a charter school shall have the
27 authority to decide matters related to the operations of the school
28 including budgeting, curriculum, and operating procedures, subject
29 to the school's charter. The board shall provide for appropriate
30 insurance against any loss or damage to its property or any liability
31 resulting from the use of its property or from the acts or omissions
32 of its officers and employees.

33 b. In the case of a currently existing public school which
34 becomes a charter school pursuant to the provisions of subsection b.
35 of section 4 of **[this act]** P.L.1995, c.426 (C.18A:36A-1 et seq.), all
36 school employees of the charter school shall be deemed to be
37 members of the bargaining unit defined in the applicable agreement
38 and shall be represented by the same majority representative
39 organization as the employees covered by that agreement. In the
40 case of other charter schools, the board of trustees of a charter
41 school shall have the authority to employ, discharge and contract
42 with necessary teachers and nonlicensed employees subject to the
43 school's charter. The board of trustees may choose whether or not
44 to offer the terms of any collective bargaining agreement already
45 established by the school district for its employees, but the board
46 shall adopt any health and safety provisions of the agreement. The
47 charter school and its employees shall be subject to the provisions
48 of the "New Jersey Employer-Employee Relations Act," P.L.1941,

1 c.100 (C.34:13A-1 et seq.). A charter school shall not set a teacher
2 salary lower than the minimum teacher salary specified pursuant to
3 section 7 of P.L.1985, c.321 (C.18A:29-5.6) nor higher than the
4 highest step in the salary guide in the collective bargaining
5 agreement which is in effect in the district in which the charter
6 school is located.

7 c. **【All】** (1) Except as provided pursuant to paragraph (2) of
8 this subsection, all classroom teachers and professional support
9 staff shall hold appropriate New Jersey certification. The
10 commissioner shall make appropriate adjustments in the alternate
11 route program in order to expedite the certification of persons who
12 are qualified by education and experience.

13 (2) In lieu of holding the appropriate New Jersey certification,
14 an individual may be employed by a charter school as a school
15 business administrator if the individual is a licensed certified public
16 accountant or holds a Master of Business Administration from a
17 regionally-accredited institution of higher education. Such an
18 individual shall be required to annually complete a minimum of 10
19 hours of training and professional development offered by the New
20 Jersey Association of School Business Officials.

21 d. A public school employee, tenured or non-tenured, may
22 request a leave of absence of up to three years from the local board
23 of education or State district superintendent in order to work in a
24 charter school. Approval for a leave of absence shall not be
25 unreasonably withheld. Employees on a leave of absence as
26 provided herein shall remain in, and continue to make contributions
27 to, their retirement plan during the time of the leave and shall be
28 enrolled in the health benefits plan of the district in which the
29 charter school is located. The charter school shall make any
30 required employer's contribution to the district's health benefits
31 plan.

32 e. Public school employees on a leave shall not accrue tenure
33 in the public school system but shall retain tenure, if so applicable,
34 and shall continue to accrue seniority, if so applicable, in the public
35 school system if they return to their non-charter school when the
36 leave ends. An employee of a charter school shall not accrue tenure
37 pursuant to N.J.S.18A:17-2, N.J.S.18A:17-3, or N.J.S.18A:28-5, but
38 shall acquire streamline tenure pursuant to guidelines promulgated
39 by the commissioner, and the charter shall specify the security and
40 protection to be afforded to the employee in accordance with the
41 guidelines.

42 f. Any public school employee who leaves or is dismissed
43 from employment at a charter school within three years shall have
44 the right to return to the employee's former position in the public
45 school district which granted the leave of absence, provided the
46 employee is otherwise eligible for employment in the public school.
47 (cf: P.L.1995, c.426, s.14)

1 31. Section 15 of P.L.1995, c.426 (C.18A:36A-15) is amended
2 to read as follows:

3 15. Any individual or group may bring a complaint to the board
4 of trustees of a charter school alleging a violation of the provisions
5 of **【this act】** P.L.1995, c.426 (C.18A:36A-1 et seq.). If, after
6 presenting the complaint to the board of trustees, the individual or
7 group determines that the board of trustees has not adequately
8 addressed the complaint, they may present that complaint to the
9 commissioner who shall investigate and respond to the complaint.
10 The board shall establish an advisory grievance committee
11 consisting of both parents and teachers who are selected by the
12 parents and teachers of the school to make nonbinding
13 recommendations to the board concerning the disposition of a
14 complaint.

15 (cf: P.L.1995, c.426, s.15)

16

17 32. Section 16 of P.L.1995, c.426 (C.18A:36A-16) is amended
18 to read as follows:

19 16. a. The charter school authorizing board shall continually
20 monitor the performance and legal compliance of each charter
21 school. The charter school authorizing board shall have the
22 authority to conduct any reasonable oversight activities necessary to
23 fulfill its responsibilities that are consistent with the provisions of
24 P.L.1995, c.426 (C.18A:36A-1 et seq.) and do not diminish the
25 autonomy provided to the charter school. In the event that the
26 charter school authorizing board determines that a charter school's
27 performance is unsatisfactory or that the charter school is not in
28 compliance with a legal requirement, the charter school authorizing
29 board shall promptly notify the charter school of the deficiency and
30 shall provide a reasonable opportunity for the charter school to
31 address the deficiency. The charter school authorizing board may
32 require that the charter school develop and implement a corrective
33 action plan to address any deficiency.

34 The **【commissioner】** charter school authorizing board shall
35 annually assess whether each charter school is meeting the goals of
36 its charter contract, and shall conduct a comprehensive review prior
37 to granting a renewal of the charter. The **【county superintendent of**
38 **schools of the county in which the charter school is located】** charter
39 school authorizing board shall have on-going access to the records
40 and facilities of the charter school to ensure that the charter school
41 is in compliance with its charter contract and that State board
42 regulations concerning assessment and accountability, teacher
43 evaluation, testing, civil rights, and student health and safety are
44 being met.

45 b. In order to facilitate the **【commissioner's】** charter school
46 authorizing board's review, each charter school shall submit an
47 annual report to the **【local board of education, the county**

1 superintendent of schools, and the commissioner in the form
2 prescribed by the commissioner. The report shall be received
3 annually by the local board, the county superintendent, and the
4 commissioner] charter school authorizing board no later than
5 August 1. The report shall include a detailed discussion of efforts
6 taken by the charter school to ensure that the student population
7 enrolled in the charter school is demographically similar to the
8 student population of the charter school's district of residence or the
9 student population in a specific geographic area within the district
10 of residence to which the charter school gives an enrollment
11 preference.

12 The report shall also be made available to the [parent or
13 guardian of a student enrolled in the charter school] public .

14 c. By April 1, 2001, the commissioner shall hold public
15 hearings in the north, central, and southern regions of the State to
16 receive input from members of the educational community and the
17 public on the charter school program.

18 d. The commissioner shall commission an independent study of
19 the charter school program. The study shall be conducted by an
20 individual or entity identified with expertise in the field of
21 education and the selection shall be approved by the Joint
22 Committee on the Public Schools. The individual or entity shall
23 design a comprehensive study of the charter school program.

24 e. The commissioner shall submit to the Governor, the
25 Legislature, and the State Board of Education by October 1, 2001
26 an evaluation of the charter school program based upon the public
27 input required pursuant to subsection c. of this section and the
28 independent study required pursuant to subsection d. of this section.
29 The evaluation shall include, but not be limited to, consideration of
30 the following elements:

31 (1) the impact of the charter school program on resident
32 districts' students, staff, parents, educational programs, and
33 finances;

34 (2) the impact of the charter school program and the increased
35 number of schools on the economics of educational services on a
36 Statewide basis;

37 (3) the fairness and the impact of the reduction of available
38 resources on the ability of resident districts to promote competitive
39 educational offerings;

40 (4) the impact of the shift of pupils from nonpublic schools to
41 charter schools;

42 (5) the comparative demographics of student enrollments in
43 school districts of residence and the charter schools located within
44 those districts. The comparison shall include, but not be limited to,
45 race, gender, socioeconomic status, enrollment of special education
46 students, enrollment of students of limited English proficiency, and
47 student progress toward meeting the core curriculum content

1 standards as measured by student results on Statewide assessment
2 tests;

3 (6) the degree of involvement of private entities in the operation
4 and financial support of charter schools, and their participation as
5 members of charter school boards of trustees;

6 (7) verification of the compliance of charter schools with
7 applicable laws and regulations;

8 (8) student progress toward meeting the goals of the charter
9 schools;

10 (9) parent, community and student satisfaction with charter
11 schools;

12 (10) the extent to which waiting lists exist for admission to
13 charter schools and the length of those lists;

14 (11) the extent of any attrition among student and faculty
15 members in charter schools; and

16 (12) the results of the independent study required pursuant to
17 subsection d. of this section.

18 The evaluation shall include a recommendation on the
19 advisability of the continuation, modification, expansion, or
20 termination of the program. If the evaluation does not recommend
21 termination, then it shall include recommendations for changes in
22 the structure of the program which the commissioner deems
23 advisable. The commissioner may not implement any
24 recommended expansion, modification, or termination of the
25 program until the Legislature acts on that recommendation.

26 (cf: P.L.2000, c.142, s.3)

27

28 33. Section 17 of P.L.1995, c.426 (C.18A:36A-17) is amended
29 to read as follows:

30 17. A charter granted by the commissioner pursuant to the
31 provisions of **【this act】** P.L.1995, c.426 (C.18A:36A-1 et seq.) shall
32 be granted for a **【four-year】** five-year period and may be renewed
33 for up to a 【five-year】 ten-year period , as determined by the
34 charter school authorizing board. The **【commissioner】** charter
35 school authorizing board may revoke a school's charter if the school
36 has not fulfilled **【any condition imposed by the commissioner in**
37 **connection with the granting of the charter or if the school has**
38 **violated】** any provision of its charter contract. The
39 **【commissioner】** charter school authorizing board may place the
40 charter school on probationary status to allow the implementation of
41 a remedial plan after which, if the plan is unsuccessful, the charter
42 may be summarily revoked. The **【commissioner】** charter school
43 authorizing board shall develop procedures and guidelines,
44 consistent with the provisions of this section, for the revocation and
45 renewal of a school's charter.

46 a. No later than September 1 of each school year, the charter
47 school authorizing board shall provide a charter renewal application

1 and guidance to each charter school whose charter will expire at the
2 end of that school year. The guidance shall include the criteria that
3 the charter school authorizing board will use in determining
4 whether to renew a charter, which shall be based on the charter
5 contract entered into between the charter school authorizing board
6 and the charter school.

7 b. In order to determine whether a charter should be renewed,
8 no later than September 1 of each school year, the charter school
9 authorizing board shall issue a charter school performance report
10 for each charter school whose charter will expire at the end of the
11 current school year. The charter school performance report shall
12 provide a summary of the charter school's performance record,
13 based on data required in the charter contract, and shall identify any
14 matters that the charter school authorizing board believes may
15 jeopardize the renewal of the charter. The charter school shall have
16 30 days to issue a response to the performance report. The response
17 shall include, but need not be limited to:

18 (1) comments that relate to the annual reports that were issued
19 by the charter school authorizing board;

20 (2) information not included in the performance report that may
21 support the case for the charter's renewal;

22 (3) a description of improvements that are currently being
23 undertaken or are planned to be implemented during the next term
24 upon the charter's renewal; and

25 (4) if necessary, a discussion of any discrepancies that have been
26 included in the performance report.

27 c. No later than October 15 of the school year in which its
28 charter will expire, a charter school board of trustees shall submit a
29 complete charter school renewal application to the charter school
30 authorizing board. The charter school authorizing board shall not
31 renew a charter if the renewal application is not received by this
32 date.

33 d. No later than 90 days after the receipt of a complete charter
34 school renewal application, the charter school authorizing board
35 shall make a determination to renew or not to renew a charter. In
36 making this determination, the charter school authorizing board
37 shall ensure that the decision is based on evidence of the charter
38 school's performance during the term of its charter in accordance
39 with the charter contract, and that any data used in making the
40 determination is available to the public.

41 e. No later than 30 days after a determination to renew or not
42 to renew a charter, a charter school authorizing board shall publish
43 a report detailing its reasons for the determination. Each report
44 shall be posted on the charter school authorizing board's website.

45 f. The charter school authorizing board may, at any time,
46 revoke a charter or place a charter school in probationary status if it
47 determines that a charter school has:

1 (1) committed a material and substantial violation of any of the
2 terms, conditions, or procedures required pursuant to P.L.1995,
3 c.426 (C.18A:36A-1 et seq.) or included in the charter contract;

4 (2) failed to meet or make sufficient progress towards the
5 performance expectations established in its charter contract;

6 (3) failed to meet generally accepted standards of fiscal
7 management; or

8 (4) violated any material provision of a law, rule, or regulation
9 from which a charter school is not exempt.

10 g. The charter school authorizing board shall develop a
11 procedure for revoking a charter. At a minimum, the procedure
12 shall include the following:

13 (1) the provision of timely notification to the charter school
14 board of trustees, including the reasons why revocation is being
15 considered;

16 (2) a reasonable amount of time for the charter school board of
17 trustees to develop a response to the concerns raised by the charter
18 school authorizing board; and

19 (3) an orderly proceeding, which may be recorded, at which the
20 board of trustees may present information, through documents and
21 testimony, challenging the stated rationale for the possible
22 revocation of the charter. The board of trustees shall be allowed to
23 have legal representation and call witnesses at the proceedings.

24 h. No later than 30 days after a determination to revoke or not
25 to revoke a charter, the charter school authorizing board shall
26 publish a report detailing the charter school authorizing board's
27 reasons for the determination. Each report shall be posted on the
28 charter school authorizing board's website.

29 (cf: P.L.1995, c.426, s.17)

30

31 34. Section 4 of P.L.2000, c.142 (C.18A:36A-17.1) is amended
32 to read as follows:

33 4. a. If at any time [the commissioner] the charter school
34 authorizing board determines that a board of trustees is in jeopardy
35 of losing its charter , or the commissioner determines that an
36 applicant is in jeopardy of not being granted a charter, the charter
37 school authorizing board or the commissioner , as applicable, shall
38 so notify the board of trustees or the applicant. The board of
39 trustees or the applicant shall, within 48 hours of receipt of such
40 notification, provide to the charter school authorizing board or
41 commissioner, in writing, a complete list of the names and
42 addresses of all students and staff currently enrolled and working in
43 the school, or in the case of an applicant, a complete list of the
44 names and addresses of all students and staff intending to enroll or
45 work at the school, so the charter school authorizing board or
46 commissioner may send the appropriate notice to the parents or
47 guardians and staff.

1 b. In the event of the closing a charter school by the charter
2 school authorizing board, either through non-renewal or revocation
3 of the charter, the commissioner shall develop a protocol to ensure
4 the orderly transition of students and their records to the new school
5 of attendance, and the proper disposition of school funds, property,
6 and assets. The protocol shall establish specific tasks to be
7 performed, the timeframe in which the tasks shall be performed, and
8 the individuals responsible for performing the tasks. In the event
9 that a charter school closes for any reason, the commissioner shall
10 manage the closure to ensure an orderly transition for students and
11 parents.

12 (cf: P.L.2000, c.142, s.4)

13

14 35. There is appropriated from the General Fund to the
15 Department of Education the sum of \$250,000 for the purpose of
16 supporting the operations of the charter school authorizing board.

17

18 36. This act shall take effect immediately, except that section 7
19 shall take effect one year following the date of enactment of this
20 act.

21

22

23

STATEMENT

24

25 This bill makes various changes to the State's charter school
26 program. First, the bill establishes the charter school authorizing
27 board that will provide general oversight of all charter schools,
28 including decisions regarding the renewal or revocation of a charter,
29 as well as placing a charter school on probation. Additionally, the
30 board would provide a recommendation to the Commissioner of
31 Education with respect to a charter school application. The board
32 would include nine members, including three members who will be
33 appointed by the Governor, and six members, with two each being
34 appointed by the President of the Senate and the Speaker of the
35 General Assembly, and one each appointed by the Minority Leader
36 of the Senate and the Minority Leader of the General Assembly.
37 The first gubernatorial appointees will serve a term of four years,
38 while subsequent gubernatorial appointees, and members appointed
39 by the President of the Senate and the Speaker of the General
40 Assembly will serve three-year terms. Members appointed by the
41 Minority Leaders of the Senate and General Assembly will serve
42 two-year terms. No member may serve on the board for more than
43 seven consecutive years. A charter school would be required to pay
44 the charter school authorizing board an administrative fee equal to
45 1.5 percent of the total funding that it receives under the charter
46 school law; however, this provision does not become effective until
47 one year after enactment. In the case of a charter school that was
48 authorized prior to the bill's enactment, the school would not be

1 required to pay the administrative fee until its charter is renewed.
2 The bill appropriates \$250,000 for the board's initial expenses.

3 Second, the bill modifies the process by which charter school
4 applications are approved. The commissioner would annually issue
5 a request for proposal that would detail, among other things, the
6 school districts or communities in which a new charter school
7 would be approved, the criteria that the commissioner will use when
8 evaluating applications, and any preference the commissioner may
9 have for an applicant that demonstrates the capacity to serve a
10 specific disadvantaged population of students. The criteria will
11 detail the factors to be included in the scoring rubric, and one
12 factor, accounting for 30 percent of the overall score, will be
13 whether the board of education, or State district superintendent, has
14 recommended that the charter school application be approved.

15 Third, the bill requires that the charter school authorizing board
16 and each charter school enter into a charter contract. The charter
17 contract will specify the performance framework on which the
18 authorizer will evaluate a charter school's performance.

19 Fourth, the bill revises current law to allow a charter school to
20 use public funds to construct a facility, and provides multiple
21 methods by which a charter school may acquire a facility. These
22 methods include:

- 23 • establishing a charter school facility loan program to be
24 administered by the State Board of Education;
- 25 • granting a charter school right of first refusal to purchase or
26 lease any school facility that is to be sold or leased by a
27 school district that is included in the charter school's district
28 of residence; and
- 29 • allowing a charter school located in an SDA district (former
30 Abbott district) to have a school facilities project financed
31 and constructed in the same manner as a school facilities
32 project in an SDA district.

33 The bill makes a number of other statutory changes, including:

- 34 • lengthening the term of an initial charter, from four years to
35 five years, and a renewed charter from five years to, at the
36 discretion of the charter school authorizer, up to 10 years;
- 37 • requiring that a charter school makes admission decisions
38 through a public lottery if the number of students seeking
39 admission exceeds the number of available spaces;
- 40 • stipulating that a charter school in which the applicants'
41 demographics differ from those of the district of residence,
42 must modify the public lottery such that the applicants'
43 probability of selection is consistent with the demographics
44 of students enrolled in the district of residence;
- 45 • requiring that when a student withdraws from a charter
46 school and enrolls in another public school, the new school
47 accepts any credits earned by the student when the student
48 was enrolled in the charter school;

- 1 • exempting charter schools from the “Public School
2 Contracts Law”;
- 3 • authorizing an individual who, in lieu of holding the
4 appropriate New Jersey certification, is a licensed certified
5 public accountant or holds a Master of Business
6 Administration from a regionally-accredited institution of
7 higher education to be employed as a school business
8 administrator in a charter school, provided that the
9 individual annually completes a training and professional
10 development requirement;
- 11 • allowing a member of a charter school board of trustees to
12 complete the required training through the training offered
13 by the New Jersey School Boards Association or one
14 approved by the commissioner;
- 15 • allowing charter schools to apply directly to the Department
16 of Education for extraordinary special education aid; and
- 17 • allowing a student enrolled in a charter school to participate
18 in an extracurricular activity at another public school if that
19 activity is not offered at the charter school, and allowing a
20 student enrolled in a public school other than a charter
21 school to participate in an extracurricular activity offered at
22 a charter school.