

1 § 40. This act shall take effect immediately; provided, however, that  
2 sections six, six-a, eight, nine, eleven, thirteen, fourteen, fifteen,  
3 seventeen, nineteen, twenty-one, twenty-two, twenty-three, twenty-four,  
4 twenty-seven, twenty-eight, twenty-nine, thirty, thirty-one, thirty-two,  
5 thirty-three, thirty-five and thirty-eight of this act shall take effect  
6 January 1, 2011.



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**From:** Klein Joel I.  
**Sent:** Sunday, January 17, 2010 12:55 PM  
**To:** Merriman  
**Subject:** Re: RFP

Thanks

----- Original Message -----

**From:** James Merriman  
**To:** Klein Joel I.  
**Sent:** Sun Jan 17 12:53:24 2010  
**Subject:** RE: RFP

go to section 18 of the bill which is at line 30 or so on page 7--it lays out all the ugliness. but quick overview is:

rfp should be designed to get schools where there are no opportunities (and therefore by definition not put schools where there are existing charters)

schools favored if district says yes and disfavored if district says no.

suny trustees part of rfp creation process and can recommend 65 of the 200 that regents must accept but only 50% of charters authorized in a year can be the suny charter allotment.

All schools basically should be designed to serve special populations or at least have equivalent #s of every subgroup.

etc/

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**From:** Klein Joel I. [JKlein@schools.nyc.gov]  
**Sent:** Sunday, January 17, 2010 12:42 PM  
**To:** James Merriman  
**Subject:** RFP

How does it work? What findings, process etc?

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**From:** Duffy Michael  
**Sent:** Sunday, January 17, 2010 5:18 PM  
**To:** Lasher Micah; Best Michael (Legal Services); merriman  
**Cc:** Klein Joel I.; ksheekey@cityhall.nyc.gov; Dennis Walcott;  
**Subject:** RE: RTTT bill draft 1 17 10

There is nothing in this bill that I have a problem with....essentially this is the bill that they were circulating last night, minus all of the problematic provisions....

I think the Mayor and the Chancellor can wholeheartedly embrace this proposal without hurting charters...in some ways, this bill improves charters.

-----Original Message-----

**From:** Lasher Micah  
**Sent:** Sun 1/17/2010 4:47 PM  
**To:** Duffy Michael; Best Michael (Legal Services); merriman  
**Cc:** Klein Joel I.; 'ksheekey@cityhall.nyc.gov'; Dennis Walcott;  
**Subject:** Fw: RTTT bill draft 1 17 10

Pls review ASAP.

Micah Lasher  
Executive Director of External Affairs  
New York City Department of Education  
(212) 374-4946 (o)  
(917) 604-7406 (m)  
[mlasher@schools.nyc.gov](mailto:mlasher@schools.nyc.gov)

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**From:** Goldstein, Michelle  
**To:** Lasher Micah; Williams, Steve  
**Sent:** Sun Jan 17 16:46:01 2010  
**Subject:** Fw: RTTT bill draft 1 17 10

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Sent from my BlackBerry Wireless Handheld

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**From:** Peter Kiernan <[Peter.Kiernan@chamber.state.ny.us](mailto:Peter.Kiernan@chamber.state.ny.us)>  
**To:** Goldstein, Michelle  
**Sent:** Sun Jan 17 16:45:03 2010  
**Subject:** FW: RTTT bill draft 1 17 10

Our bill

From: Jeff Pearlman  
Sent: Sunday, January 17, 2010 4:28 PM  
To: Peter Kiernan; David Weinstein  
Cc: Mark Leinung; Duffy Palmer; Daniel Doktori  
Subject: RTTT bill draft 1 17 10

From: [ir214@chamber.state.ny.us](mailto:ir214@chamber.state.ny.us) [<mailto:ir214@chamber.state.ny.us>]  
Sent: Sunday, January 17, 2010 3:23 PM  
To: Jeff Pearlman  
Subject: Attached Image

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**From:** James Merriman  
**Sent:** Sunday, January 17, 2010 5:53 PM  
**To:** Klein Joel I.  
**Subject:** Fw: NAPCS memo on NY and RTTT  
**Attachments:** NY R2T Analysis- NAPCS final version v2.pdf

This is helpful and has been distributed around to your team James Merriman NYC Charter School Center  
111 Broadway, Suite 604  
NY, NY 10006

----- Original Message -----

**From:** Nelson Smith  
**To:** James Merriman; Chartock, Jonas <Jonas.Chartock@suny.edu>  
**Sent:** Sun Jan 17 17:40:46 2010  
**Subject:** FW: NAPCS memo on NY and RTTT

I don't see Joel or anyone from his office on the cc list below -- ?  
Nelson

Nelson Smith  
President & CEO  
National Alliance for Public Charter Schools  
1101 14th Street, NW  
Suite 801  
Washington, DC 20005  
202-289-2700  
www.publiccharters.org

----- Original Message -----

**From:** Michael Regnier  
**To:** Michael Regnier <swilliams@cityhall.nyc.gov>; Peter Murphy < >; Williams, Steve < >; Bill Phillips < >; Ken Peterson < >; James Merriman < >; Vince Marrone < >

williams

**Cc:** jonas.chartock@suny.edu <jonas.chartock@suny.edu>; Brooks Garber  
**Sent:** Sun Jan 17 17:18:21 2010

Subject: RE: NAPCS memo on NY and RTTT

Attached is the approved final NAPCS statement, in pdf form. Do not use any previous version.

Thanks to Brooks and the Alliance team for their support today.

Michael

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From: Michael Regnier  
Sent: Sunday, January 17, 2010 4:56 PM  
To: Williams, Steve; Peter Murphy; Bill Phillips; Ken Peterson; James Merriman; Vince Marrone; williams  
Cc: jonas.chartock@suny.edu;  
Subject: NAPCS memo on NY and RTTT

Hello all (and now copying Jonas and Brooks),

Attached is the final memo from NAPCS. PETER and JONAS, please review and email Brooks immediately to sign off on this version.

All changes are for clarity, e.g. explicitly saying this would be a step backwards and referring to "effective elimination" of SUNY as an authorizer. This version also tallies up point risks, section by section.

Michael

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From: Williams, Steve [swilliams@cityhall.nyc.gov]  
Sent: Sunday, January 17, 2010 3:57 PM  
To: Peter Murphy; Bill Phillips; Ken Peterson; James Merriman; Vince Marrone; williams Michael Regnier  
Subject: RE: RttT Bill Description

Hi All,

I couldn't get on the 3 pm call and am just catching up with the emails since the earlier call. This piece is really really good. Are we done editing? I'd like to share internally as well as with Senator Golden who I spoke with at length around noon.

Please let me know if this is something I can share.

Steve

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From: Peter Murphy  
Sent: Sun 1/17/2010 1:32 PM  
To: Bill Phillips; Ken Peterson; Merriman ; Vince Marrone; williams Williams, Steve; Michael Regnier  
Subject: RttT Bill Description

ANALYSIS OF PROPOSED NYS RACE TO THE TOP LEGISLATION  
(S.6468/A.9558)

New legislation introduced late Saturday (Jan. 16) by the majority leadership of both the Senate and Assembly (S.6468-A.9558) would, if approved, severely weaken New York's Charter Schools Act to the point where few, if any, charters will be approved and the quality authorizing structure which New York has been singled out for by the federal government would be gutted.

In turn, this bill, if enacted, would make New York State uncompetitive in the Race to the Top competition for up to \$700 million in new federal education funding. The various provisions taken together could cost New York State up to 8 percent of the needed points (40 out of 500) - a critical gap given that the U.S. Department of Education has repeatedly made clear that only a few points will separate out winners and losers among the states.

Thus, enactment of this bill will ensure that New York State scores worse in the competition than if the legislature took no action at all.

The legislation purports to raise the charter cap to 400 from 200 and maintain SUNY's role as an authorizer. Either such claim would be highly misleading. This is because of the numerous onerous provisions contained in the bill primarily related to subjecting all new chartering to a new request for proposals (RFP) process that would render meaningless both the cap-lift and gut SUNY's charter authority.

In addition, the bill would remove a school district's role in charter approval and oversight, including the NYC Department of Education. No longer could the Chancellor approve or renew charters. This bill also includes new restrictions on co-locating charter schools in NYC district-owned space; a ban on contracting with for-profit management providers; and other negative provisions.

In sum, enactment of this bill would:

- \* Concentrate chartering power with the State Board of Regents, e.g., all oversight and renewal decisions with the Regents, including for existing SUNY-approved schools (NOTE: SUNY's Board of Trustees are appointed by the Governor and subject to Senate confirmation);
- \* Subject all new charter schools to a restrictive and onerous RFP process by the state, including pre-determining the size and location of charter schools, rather than existing practice of community-based charter proposals from anywhere, statewide;
- \* Neuter SUNY's ability to override Regents' denial of new charters (up to 65 of the 200) based on the RFP requirements and a statutory override limit not to exceed half of the proposed charters under consideration (which could be few, if any);
- \* Remove New York City DOE as a charter authorizer;
- \* Place new requirements for charters to occupy or share district-owned space;
- \* Ban for-profit management companies from contracting with charter schools.

This bill is scheduled to be voted on by both the Assembly and Senate this Tuesday, January 19th. It must be defeated. Instead, Governor Paterson's bill, which is designed to win the Race to the Top by maximizing point scoring opportunities, should be brought to the floor of each house of the legislature for a vote -- and approval.

The major provisions of the Senate/Assembly bill are described in more detail, below.

#### An RFP Process to Strangle Growth in Places Where Parents Want Charter Schools

The bill requires that Regents and SUNY design an RFP for charter school applicants and then tightly and minutely circumscribes the shape of that RFP. These provisions are designed to halt growth, particularly where parent demand for charters are highest and promote growth where demand is lowest. It would remove the ability of public school teachers and leaders to

design schools that they knew how to run and instead make the run schools that state officials have mandated and designed.

The process runs directly afoul of Race to the Top requirements and will be viewed as severely inhibiting charter school growth, a sure point loser in a competition that was meant to spur states to lift restrictions on charter schools, not impose them.

In particular, the RFP would

- allow only a small, arbitrary number of charters to be potentially given out in a given year—and then, if desired, award none. Growth could fall to 1 or 2 charters a year throughout the state or none.
- limit charters to regions that lack educational alternatives and “access” to charter schools and inversely keep charters out of regions deemed to have enough—without taking into account parent demand, parent need, parent voice. This is educational redlining. [1]<[https://cityhallmail.nyc.gov/exchange/swilliams/Drafts/RE:%20RttT%20Bill%20Description.EML/1\\_text.htm#\\_ftn1](https://cityhallmail.nyc.gov/exchange/swilliams/Drafts/RE:%20RttT%20Bill%20Description.EML/1_text.htm#_ftn1)>
- deny applications for schools that intend to share space with a public school unless the parents of the public school vote to do so yet at the same not providing facility funding for charters.
- require mandatory enrollment and retention targets for various classes of students, and in so doing hold charters to a standard that not required of any traditional public school.
- Give failing districts effectively a veto on new charters with no appeal from that veto.

As a result of turning from a chartering process focused on parent demand and student achievement to one focused on politics, parent demand will be ignored and districts will be held harmless once again from chronic failure to educate our most needy and vulnerable students. In addition, the following outcomes will inevitably result:

- Charter school growth will be slowed to a trickle in NYC or, more likely, halted altogether, due to limiting shared space and geographic redlining restrictions.
- Charter school growth will slow to a trickle in other areas of the state due to the geographic steering and redlining provisions in the RFP process.
- The cost to operate a charter school will greatly increase due to the resulting rent obligations schools will face—thus taking money away from the classroom and inevitably making class sizes larger.
- Decreased interest among quality charter operators in applying for a charter in NYS who cannot rationally plan for growth—and thus impacting the quality of education that parents have access to.
- Stifled education innovation through the imposition of restrictive rules.

The RFP process was clearly and cleverly designed, to look like a cap lift but yet restrict growth in every possible way. In addition it treats different charters differently, which also is detrimental to Race to the Top scoring.

SUNY Effectively Removed as Charter Authorizer

SUNY’s role as a charter authorizer would be completely gutted by this bill though bill drafting legerdemain, as shown by the provisions described below. As SUNY has been singled out as a model authorizer, and as the Board of Regents has a documented and unfortunate record of authorizing schools that negatively affect student achievement, this too will cost needed Race to the Top points—points that would have accrued if the legislature had done nothing at all.



- As of January 1, 2011, the Board of Regents will assume sole oversight of all charter schools, each of which will be subject to renewal by the Regents alone. SUNY's role in charter oversight and renewal decisions of existing schools ends.
- SUNY jointly with the Regents would design the new RFP, which is tightly and minutely circumscribed by the statutory provisions of the bill, as described above.
- SUNY can supposedly override up to 65 of the 200 more charter schools authorized solely under the new RFP process; yet is restricted to not more than half of any such new charters approved; thus, if the Regents approve only one or none, SUNY will be shut out.

#### Inhibiting Public Charter Schools from Using Public School Space

This bill would place new restrictions on the use by charter schools of district-owned buildings, especially involving sharing of district space. Shared space was decided under the governance reform statutes enacted early last fall. More importantly, this is another restriction on charter school growth that will cost NYS more points. Again, NYS would actually fair better if the legislature did nothing.

#### Limiting Who Can Help Run a Charter School

This bill would ban outright any contracting by charter schools with for-profit companies for operational or management services, no matter how good their track record in raising student achievement. This too would inhibit charter school growth and lose points.

\* \* \*

This bill is a giant step backward in education reform and completely at variance with the Obama administration's Race to the Top program and the state Regents reform agenda.

It is no exaggeration to say that this proposed bill would effectively end any meaningful new charter school opportunities for families in New York State, regardless of any stated charter cap increase. As such, this bill would severely weaken New York's ability to secure up to \$700 million in federal Race to the Top education funding by forgoing points.

This bill makes sense only in the context of its proponents either intentionally throwing the Race to the Top competition (but wanting to avoid blame for doing so) or its supporters believe that the Secretary of Education and President Obama are unusually inobservant and gullible.

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[1]<[https://cityhallmail.nyc.gov/exchange/swilliams/Drafts/RE:%20Rttt%20Bill%20Description.EML/1\\_text.htm#\\_ftnref1](https://cityhallmail.nyc.gov/exchange/swilliams/Drafts/RE:%20Rttt%20Bill%20Description.EML/1_text.htm#_ftnref1)> The redlining provisions are at direct odds with a new federal \$25 million grant program that is the centerpiece of the Obama administration's charter reform agenda to promote growth for successful education networks that want to replicate. However, the RFP process is designed to stifle growth particularly among networks of successful schools that need to plan growth in advance and that cannot be subject to the caprice of an RFP process.