



From: Jeanne Allen <[REDACTED]>  
Subject: **Fiscal Equity Memo on Target States**  
Date: April 17, 2007 2:46:07 PM EDT  
To: "John J. Calkins" <[REDACTED]>, Chavous Kevin  
[REDACTED].com>  
Cc: Terry Rauh <[REDACTED]>, Jose Sousa <[REDACTED]>  
 1 Attachment, 85.0 KB 

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Please see enclosed and also pass to Dan. I apologize that I do not have his info in front of me right now. Thank you. Jeanne



CERMEMO4:...doc (85.0 KB)

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commentary and debate on education reform.*

**MEMO TO SONNENSHEIN ATTORNEYS**  
**RE: CER TARGET STATES FISCAL EQUITY EFFORT**

PER CONVERSATION WITH DAN, KEVIN AND JAY LAST WEEK, FOLLOWING IS DATA ON THE LAWS IN THE THREE STATES OF INTEREST, ALONG WITH A SUMMARY OF THEIR CURRENT PRACTICE AND LIMITED ANALYSIS OF THE ISSUES AT PLAY IN EACH STATE.

IT IS OUR BELIEF THAT EACH OF THESE STATES ARE RIPE FOR LEGAL CHALLENGES. WHAT IS BELOW ONLY CONSTITUTES A PARTIAL EXAMINATION. IN ADDITION TO THE ACTUAL LAW, THERE ARE REGULATIONS THAT GUIDE EACH STATE WHICH FAVOR DISTRICTS IN CT AND GA, FOR EXAMPLE, OVER CHARTERS, WHERE CHARTERS HAVE NO RECOURSE FOR DUE PROCESS, UNLESS THEY PAY THEIR OWN ATTORNEYS FEES.

IF A CHARTER IS NOT BEING TREATED AS INTENDED AND WRITTEN IN LAW, IT DOES NOT HAVE ACCESS TO SCHOOL DISTRICT ATTORNEYS WHO ARE ON STAFF AND OTHERWISE OBLIGATED TO SUPPORT ALL PUBLIC SCHOOLS.

THUS WHAT OCCURS IS A DIVERSITY OF TREATMENT IN EACH STATE FROM DISTRICT TO DISTRICT. THE ARBITRARY DECISIONS OF SCHOOL BOARDS WHEN WRITING CHECKS ARE NOT CHALLENGED, EVEN WHEN THEY ARE AT ODDS WITH THE LAW.

THESE VIOLATIONS ARE THE FOCUS OF OUR INTEREST. WE SEEK TO PUT TOGETHER A CASE IN EACH STATE THAT BRINGS THESE ISSUES TO LIGHT. WE DO NOT BELIEVE YOU CAN NOR SHOULD TAKE THE TIME TO UNCOVER EVERY ISSUE AHEAD OF TIME. ONCE THE PROCESS BEGINS, THERE WILL BE A PLENTIFUL SUPPLY OF CASES WHERE LAWS HAVE BEEN VIOLATED FOR FUNDING, AND WORSE.

PLEASE REVIEW THIS AND ARRANGE A CALL TO DISCUSS AT YOUR EARLIEST CONVENIENCE.

THANK YOU.

JEANNE ALLEN, PRESIDENT  
THE CENTER FOR EDUCATION REFORM

**CONNECTICUT:**

The Law: See Below

Funding provisions are found at:

**Sec. 10-66ee. Charter school funding. Special education students. Transportation. Contracts.** (a) For the purposes of education equalization aid under section 10-262h a student enrolled (1) in a local charter school shall be considered a student enrolled in the school district in which such student resides, and (2) in a state charter school shall not be considered a student enrolled in the school district in which such student resides.

[NOTE: Districts are not chartering schools; Only the state has approved them, which means no otherwise designated local funds follow. The following section does not apply to our issues]

[ (b) The local board of education of the school district in which a student enrolled in a local charter school resides shall pay, annually, in accordance with its charter, to the fiscal authority for the charter school for each such student the amount specified in its charter, including the reasonable special education costs of students requiring special education. The board of education shall be eligible for reimbursement for such special education costs pursuant to section 10-76g.]

(c) (1) The state shall pay in accordance with this subsection, to the fiscal authority for a state charter school, for the fiscal year ending June 30, 2006, **seven thousand six hundred twenty-five dollars** for each student enrolled in such school, and for the fiscal year ending June 30, 2007, and for each fiscal year thereafter, **eight thousand dollars** for each student enrolled in such school. Such payments shall be made as follows: **Twenty-five per cent of the amount not later than July fifteenth and September fifteenth** based on estimated student enrollment on **May first**, and **twenty-five per cent of the amount** not later than **January fifteenth** and the remaining amount not later than **April fifteenth**, each based on student enrollment on **October first**. If, for any fiscal year, the total amount appropriated for grants pursuant to this subdivision exceeds **eight thousand dollars** per student, the amount of such grants payable per student shall be increased proportionately, except that such per student increase **shall not exceed seventy dollars**. Any amount of such appropriation remaining after such per student increase shall be used by the Department of Education for supplemental grants to interdistrict magnet schools pursuant to subdivision (2) of subsection (c) of section 10-264l. For the fiscal year ending June 30, 2005, such increase shall be limited to one hundred ten dollars per student. (2) In the case of a student identified as requiring special education, the school district in which the student resides shall: (A) Hold the planning and placement team meeting for

such student and shall invite representatives from the charter school to participate in such meeting; and (B) pay the state charter school, on a quarterly basis, an amount equal to the difference between the reasonable cost of educating such student and the sum of the amount received by the state charter school for such student pursuant to subdivision (1) of this subsection and amounts received from other state, federal, local or private sources calculated on a per pupil basis. Such school district shall be eligible for reimbursement pursuant to section 10-76g. The charter school a student requiring special education attends shall be responsible for ensuring that such student receives the services mandated by the student's individualized education program whether such services are provided by the charter school or by the school district in which the student resides.

(d) On or before October fifteenth of the fiscal years beginning July 1, 2001, and July 1, 2002, the Commissioner of Education shall determine if the enrollment in the program for the fiscal year is below the number of students for which funds were appropriated. If the commissioner determines that the enrollment is below such number, the additional funds shall not lapse but shall be used by the commissioner for (1) grants for interdistrict cooperative programs pursuant to section 10-74d, (2) grants for open choice programs pursuant to section 10-266aa, or (3) grants for interdistrict magnet schools pursuant to section 10-264l.

(e) Notwithstanding any provision of the general statutes to the contrary, if at the end of a fiscal year amounts received by a state charter school, pursuant to subdivision (1) of subsection (c) of this section, are unexpended, the charter school (1) may use, for the expenses of the charter school for the following fiscal year, up to ten per cent of such amounts, and (2) may (A) create a reserve fund to finance a specific capital or equipment purchase or another specified project as may be approved by the commissioner, and (B) deposit into such fund up to five per cent of such amounts.

(f) The local or regional board of education of the school district in which the charter school is located shall provide transportation services for students of the charter school who reside in such school district pursuant to section 10-273a unless the charter school makes other arrangements for such transportation. Any local or regional board of education may provide transportation services to a student attending a charter school outside of the district in which the student resides and, if it elects to provide such transportation, shall be reimbursed pursuant to section 10-266m for the reasonable costs of such transportation. Any local or regional board of education providing transportation services under this subsection may suspend such services in accordance with the provisions of section 10-233c. The parent or guardian of any student denied the transportation services required to be provided pursuant to this subsection may appeal such denial in the manner provided in sections 10-186 and 10-187. [NO TRANSPORTATION PROVIDED TO STATE CHARTER STUDENTS]

(g) Charter schools shall be eligible to the same extent as boards of education for any grant for special education, competitive state grants and grants pursuant to sections 10-17g and 10-266w.

(h) If the commissioner finds that any charter school uses a grant under this section for a purpose that is inconsistent with the provisions of this part, the commissioner may require repayment of such grant to the state.

(i) Charter schools shall receive, in accordance with federal law and regulations, any federal funds available for the education of any pupils attending public schools. [ONLY LEAS MAY APPLY FOR FEDERAL FUNDS; STATE CHARTERS ARE NOT LEAS, AND AS SCHOOL DISTRICTS DO NOT CONSIDER THEIR STUDENTS LOCAL DISTRICT STUDENTS, THEY DO NOT INCLUDE CHARTERS IN THEIR FUNDING STREAMS IN MOST CASES]

(j) The governing council of a charter school may (1) contract or enter into other agreements for purposes of administrative or other support services, transportation, plant services or leasing facilities or equipment, and (2) receive and expend private funds or public funds, including funds from local or regional boards of education and funds received by local charter schools for out-of-district students, for school purposes.

**Sec. 10-66hh. Program to assist charter schools with capital expenses.** For the fiscal years ending June 30, 2006, and June 30, 2007, the Commissioner of Education shall establish, within available bond authorizations, a grant program to assist state charter schools in financing (1) school building projects, as defined in section 10-282, (2) general improvements to school buildings, as defined in subsection (a) of section 10-265h, and (3) repayment of debt incurred prior to July 1, 2005, for school building projects. The governing authorities of such state charter schools may apply for such grants to the Department of Education at such time and in such manner as the commissioner prescribes. The commissioner shall give preference to applications that provide for matching funds from nonstate sources.

**Sec. 10-66jj. Bond authorization for program to assist charter schools with capital expenses.** (a) For the purposes described in subsection (b) of this section, the State Bond Commission shall have the power, from time to time, to authorize the issuance of bonds of the state in one or more series and in principal amounts not exceeding in the aggregate ten million dollars, provided five million dollars of said authorization shall be effective July 1, 2006.

(b) The proceeds of the sale of said bonds, to the extent of the amount stated in subsection (a) of this section, shall be used by the Department of Education for

the purpose of grants pursuant to section 10-66h.

(c) All provisions of section 3-20, or the exercise of any right or power granted thereby, which are not inconsistent with the provisions of this section are hereby adopted and shall apply to all bonds authorized by the State Bond Commission pursuant to this section, and temporary notes in anticipation of the money to be derived from the sale of any such bonds so authorized may be issued in accordance with said section 3-20 and from time to time renewed. Such bonds shall mature at such time or times not exceeding twenty years from their respective dates as may be provided in or pursuant to the resolution or resolutions of the State Bond Commission authorizing such bonds. None of said bonds shall be authorized except upon a finding by the State Bond Commission that there has been filed with it a request for such authorization which is signed by or on behalf of the Secretary of the Office of Policy and Management and states such terms and conditions as said commission, in its discretion, may require. Said bonds issued pursuant to this section shall be general obligations of the state and the full faith and credit of the state of Connecticut are pledged for the payment of the principal of and interest on said bonds as the same become due, and accordingly and as part of the contract of the state with the holders of said bonds, appropriation of all amounts necessary for punctual payment of such principal and interest is hereby made, and the State Treasurer shall pay such principal and interest as the same become due.

**The Practice:**

Currently CT Charters get \$8000 per student, up from \$7625 last year. Conventional public schools receive \$11,240 on average, depending on the district. Hartford receives \$14,365, New Haven receives \$14,258 which includes both state and local funding.

*(These findings are based on CT Dept. of Ed. Numbers for 2005-2006. 2006-2007 numbers are not et available.*

**THE DISCREPANCY IF YOU EXCLUDE FEDERAL DOLLARS IS BETWEEN \$2000 AND \$5000 DEPENDING ON THE DISTRICT. CT'S FUNDING FORMULA WAS UPDATED LAST YEAR; IT WILL HAVE TO BE UPDATED AGAIN NEXT YEAR AS THERE IS NO PROVISION FOR FUNDING AFTER 2007. THERE ARE ALSO ENROLLMENT RESTRICTIONS IN PRACTICE. WHEN STATE CHARTERS ARE APPROVED, THE STATE DECIDES HOW MUCH MONEY IT HAS IN THE CHARTER SCHOOL PORTION OF THE STATE EDUCATION BUDGET. A SCHOOL THAT MAY WANT TO OPEN WITH 200 MAY ONLY BE APPROVED TO OPEN WITH 100, EVEN THOUGH IT NEEDS 200 FTES TO BE ABLE TO FUNCTION/HIRE STAFF/LEASE A BUILDING.**

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**MISSOURI:**

The Law: see below

Funding provisions are found at:

<http://www.moga.mo.gov/statutes/C100-199/1600000415.HTM>

**Distribution of state school aid for charter schools--powers and duties of governing body of charter schools.**

160.415. 1. For the purposes of calculation and distribution of state school aid under section 163.031, RSMo, pupils enrolled in a charter school shall be included in the pupil enrollment of the school district within which each pupil resides. Each charter school shall report the names, addresses, and eligibility for free and reduced lunch, special education, or limited English proficiency status, as well as eligibility for categorical aid, of pupils resident in a school district who are enrolled in the charter school to the school district in which those pupils reside. The charter school shall report the average daily attendance data, free and reduced lunch count, special education pupil count, and limited English proficiency pupil count to the state department of elementary and secondary education. Each charter school shall promptly notify the state department of elementary and secondary education and the pupil's school district when a student discontinues enrollment at a charter school.

2. Except as provided in subsections 3 and 4 of this section, the aid payments for charter schools shall be as described in this subsection.

(1) A school district having one or more resident pupils attending a charter school shall pay to the charter school an annual amount equal to the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers' funds in excess of the performance levy as defined in section 163.011, RSMo, plus all other state aid attributable to such pupils.

(2) The district of residence of a pupil attending a charter school shall also pay to the charter school any other federal or state aid that the district receives on account of such child.

(3) If the department overpays or underpays the amount due to the charter school, such overpayment or underpayment shall be repaid by the public charter school or credited to the public charter school in twelve equal payments in the next fiscal year.

(4) The amounts provided pursuant to this subsection shall be prorated for

partial year enrollment for a pupil.

(5) A school district shall pay the amounts due pursuant to this subsection as the disbursal agent and no later than twenty days following the receipt of any such funds. The department of elementary and secondary education shall pay the amounts due when it acts as the disbursal agent within five days of the required due date.

3. A workplace charter school shall receive payment for each eligible pupil as provided under subsection 2 of this section, except that if the student is not a resident of the district and is participating in a voluntary interdistrict transfer program, the payment for such pupils shall be the same as provided under section 162.1060, RSMo.

4. A charter school that has declared itself as a local educational agency shall receive from the department of elementary and secondary education an annual amount equal to the product of the charter school's weighted average daily attendance and the state adequacy target, multiplied by the dollar value modifier for the district, plus local tax revenues per weighted average daily attendance from the incidental and teachers funds in excess of the performance levy as defined in section 163.011, RSMo, plus all other state aid attributable to such pupils. If a charter school declares itself as a local education agency, the department of elementary and secondary education shall, upon notice of the declaration, reduce the payment made to the school district by the amount specified in this subsection and pay directly to the charter school the annual amount reduced from the school district's payment.

5. If a school district fails to make timely payments of any amount for which it is the disbursal agent, the state department of elementary and secondary education shall authorize payment to the charter school of the amount due pursuant to subsection 2 of this section and shall deduct the same amount from the next state school aid apportionment to the owing school district. If a charter school is paid more or less than the amounts due pursuant to this section, the amount of overpayment or underpayment shall be adjusted equally in the next twelve payments by the school district or the department of elementary and secondary education, as appropriate. Any dispute between the school district and a charter school as to the amount owing to the charter school shall be resolved by the department of elementary and secondary education, and the department's decision shall be the final administrative action for the purposes of review pursuant to chapter 536, RSMo. During the period of dispute, the department of elementary and secondary education shall make every administrative and statutory effort to allow the continued education of children in their current public charter school setting.

6. The charter school and a local school board may agree by contract for services to be provided by the school district to the charter school. The charter school



may contract with any other entity for services. Such services may include but are not limited to food service, custodial service, maintenance, management assistance, curriculum assistance, media services and libraries and shall be subject to negotiation between the charter school and the local school board or other entity. Documented actual costs of such services shall be paid for by the charter school.

7. A charter school may enter into contracts with community partnerships and state agencies acting in collaboration with such partnerships that provide services to children and their families linked to the school.

8. A charter school shall be eligible for transportation state aid pursuant to section 163.161, RSMo, and shall be free to contract with the local district, or any other entity, for the provision of transportation to the students of the charter school.

9. (1) The proportionate share of state and federal resources generated by students with disabilities or staff serving them shall be paid in full to charter schools enrolling those students by their school district where such enrollment is through a contract for services described in this section. The proportionate share of money generated under other federal or state categorical aid programs shall be directed to charter schools serving such students eligible for that aid.

(2) A charter school district shall provide the special services provided pursuant to section 162.705, RSMo, and may provide the special services pursuant to a contract with a school district or any provider of such services.

10. A charter school may not charge tuition, nor may it impose fees that a school district is prohibited from imposing.

11. A charter school is authorized to incur debt in anticipation of receipt of funds. A charter school may also borrow to finance facilities and other capital items. A school district may incur bonded indebtedness or take other measures to provide for physical facilities and other capital items for charter schools that it sponsors or contracts with. Upon the dissolution of a charter school, any liabilities of the corporation will be satisfied through the procedures of chapter 355, RSMo.

12. Charter schools shall not have the power to acquire property by eminent domain.

13. The governing body of a charter school is authorized to accept grants, gifts or donations of any kind and to expend or use such grants, gifts or donations. A grant, gift or donation may not be accepted by the governing body if it is subject to any condition contrary to law applicable to the charter school or other public schools, or contrary to the terms of the charter.

**The Practice:**

Currently Kansas City charters receive \$8,072 under the new WADA formula, where funds go to LEAs (new status for charters) directly from state but include state and local share which the state debits from other local payments. Discrepancy between charter and public funding in Kansas City is almost \$2000. St. Louis Charters receive \$8,019. Discrepancy between charter and public funding in St. Louis is almost \$3000.

Kansas City public schools receive \$9,943 per pupil and St. Louis public schools receive \$10,872 per pupil. On average, the state says they pay out \$8,221 per pupil.

(numbers were gathered from the sources below)

Missouri per pupil spending:

<http://dese.mo.gov/schooldata/four/000000/finanone.html>

St. Louis per pupil spending:

<http://dese.mo.gov/schooldata/four/115115/finanone.html>

Kansas City per pupil spending:

<http://dese.mo.gov/schooldata/four/048078/finanone.html>

**THERE IS A CLEAR DISCREPANCY BETWEEN INTENTION - FULL FUNDING OF LOCAL, STATE AND FEDERAL FUNDING - AND WHAT OCCURS IN PRACTICE. SUCH AN ISSUE LANDED THE KANSAS CITY SCHOOLS IN COURT WITH THE DISTRICT AND THAT BATTLE CONTINUED TODAY, ALTHOUGH THE ISSUE REGARDS PREVIOUS WITHHOLDING OF FUNDS TO CHARTERS, NOT CURRENT. BUT EVEN WITH UPDATES AND CLARIFICATIONS, THE SCHOOLS STILL ARE NOT TREATED AS THE LAW INDICATES.**

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**GEORGIA:**

The Law: see below

"Charter Schools Act of 1998."

20-2-2062. Definitions.

(8) "Local revenue" means local taxes budgeted for school purposes in excess of the local five mill share, combined with any applicable equalization grant and

budgeted revenues from any of the following: investment earnings, unrestricted donations, and the sale of surplus property; but exclusive of revenue from bonds issued for capital projects, revenue to pay debt service on such bonds, local option sales tax for capital projects, and budgeted school food service program costs. Nothing in this paragraph shall be construed to prevent a local board from including a local charter school in projects specified in the ballot language of a local option sales tax or bond referendum.

(11) "QBE formula earnings" means funds earned for the Quality Basic Education Formula pursuant to Code Section 20-2-161, including the portion of such funds that are calculated as the local five mill share in accordance with Code Section 20-2-164.

20-2-2068.1. Quality basic education formula applies; grants, local tax revenue, and funds from local bonds.

(a) A local charter school shall be included in the allotment of QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants to the local school system in which the local charter school is located under Article 6 of this chapter. The local board and the state board shall treat a conversion charter school no less favorably than other local schools located within the applicable local school system unless otherwise provided by law. The local board and the state board shall treat a start-up charter school no less favorably than other local schools within the applicable local system with respect to the provision of funds for instruction and school administration and, where feasible, transportation, food services, and building programs.

(b) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants earned by a local charter school shall be distributed to the local charter school by the local board; provided, however, that state equalization grant earnings shall be distributed as provided in subsection (c) of this Code section. QBE formula earnings shall include the salary portion of direct instructional costs, the adjustment for training and experience, the nonsalary portion of direct instructional costs, and earnings for psychologists and school social workers, school administration, facility maintenance and operation, media centers, additional days of instruction in accordance with Code Section 20-2-184.1, and staff development. The local charter school shall report enrolled students in a manner consistent with Code Section 20-2-160.

*[this last underlined part was an amendment from 2006]*

(c) In addition to the earnings set out in subsection (b) of this Code section, local revenue shall be allocated to a local charter school on the same basis as for any local school in the local school system. In the case of a start-up charter school, local revenue earnings shall be calculated as follows:

(1) Determine the total amount of state and local five mill share funds earned by students enrolled in the local start-up charter school as calculated by the Quality Basic Education Formula pursuant to Part 4 of Article 6 of this chapter including any funds for psychologists and school social workers but excluding any system-wide funds for central administration and pupil transportation and excluding any categorical grants not applicable to the charter school;

(2) Determine the total amount of state and local five mill share funds earned by all students in the public schools of the local school system, including any charter schools that receive local revenue, as calculated by the Quality Basic Education Formula but excluding categorical grants and other nonQBE formula grants;

(3) Divide the amount obtained in paragraph (1) of this subsection by the amount obtained in paragraph (2) of this subsection; and

(4) Multiply the quotient obtained in paragraph (3) of this subsection by the school system's local revenue.

The product obtained in paragraph (4) of this subsection shall be the amount of local funds to be distributed to the local start-up charter school by the local board; provided, however, that nothing in this subsection shall preclude a charter petitioner and a local board of education from specifying in the charter a greater amount of local funds to be provided by the local board to the local start-up charter school if agreed upon by all parties to the charter. Local funds so earned shall be distributed to the local start-up charter school by the local board. Where feasible and where services are provided, funds for transportation, food service programs, and construction projects shall also be distributed to the local start-up charter school as earned. In all other fiscal matters, including applicable federal allotments, the local board shall treat the local start-up charter school no less favorably than other local schools located within the applicable school system and shall calculate and distribute the funding for the start-up charter school on the basis of its actual or projected enrollment in the current school year according to an enrollment counting procedure or projection method stipulated in the terms of the charter.

(c.1) The adjustments in each program for training and experience used in calculating the start-up charter school's QBE formula earnings shall be calculated in the same manner as for any local school within the local school system; provided, however, that the adjustments in each program for training and experience used in calculating the start-up charter school's QBE formula earnings shall not be less than one-half of the comparable percentages for the local school system in which the charter school is located.

(d) QBE formula earnings, applicable QBE grants, applicable nonQBE state grants, and applicable federal grants that are earned by a state chartered special school shall be distributed to the local board of the local school system in which

the state chartered special school is located which shall distribute the same amount to the state chartered special school; provided, however, that a state chartered special school shall not be included in the calculation and distribution of the local school system's equalization grant unless the voters of the local school system have approved the use of revenue from local tax levies and funds from local bonded indebtedness to support the state chartered special school in accordance with subsection (e) of this Code section. If such approval has been given, state equalization grant earnings shall be earned for the state chartered special school and shall be distributed as provided in subsection (f) of this Code section. The local board shall not be responsible for the fiscal management, accounting, or oversight of the state chartered special school. The state chartered special school shall report enrolled students in a manner consistent with Code Section 20-2-160. Any data required to be reported by the state chartered special school shall be submitted directly by the school to the appropriate state agency. Where feasible, the state board shall treat a state chartered special school no less favorably than other public schools within the state with respect to the provision of funds for transportation and building programs.

(e) The state board may require a local referendum of the qualified voters in the local school system in which the state chartered special school will be located. Such referendum shall be held at the next regularly scheduled general election or as may otherwise be authorized at an earlier date by the local board or boards of education affected. Such referendum shall be held for the purpose of deciding whether the local board of education shall provide funds from school tax levies to support such state chartered special school or incur bonded indebtedness to support such state chartered special school or both. The ballot question shall be approved by the state board.

(f) The local board shall treat a state chartered special school for which the use of funds from local bonded indebtedness and local school tax levies has been approved by qualified voters in the system in accordance with subsection (e) of this Code section no less favorably than other public schools located within the applicable school system.

(g) The local board shall not distribute funds from local bond indebtedness and local school tax levies to a state chartered special school unless such use has been approved by qualified voters in accordance with subsection (e) of this Code section.

#### OPINIONS OF THE ATTORNEY GENERAL

*Editor's notes. - Some of the decisions cited below were decided under former Code Section 20-2-2068.*

*State charter schools can qualify for state grants and a local system is required to treat a state charter school no less favorably than other local schools located within the applicable school system. 2001 Op. Att'y Gen. No. 2001-9.*

20-2-2068.2. Facilities fund for charter schools; purposes for which funds may be used; upkeep of charter school property; receipt of surplus from board of education.

(a) From moneys specifically appropriated for such purpose, the state board shall create a facilities fund for local charter schools and state chartered special schools for the purpose of establishing a per pupil, need based facilities aid program.

(b) A charter school may receive moneys from the facilities fund if the charter school has received final approval from the local board or from the state board for operation during that fiscal year.

(c) A charter school's governing body may use moneys from the facilities fund for the following purposes:

(1) Purchase of real property;

(2) Construction of school facilities including initial and additional equipment and furnishings;

(3) Purchase, lease-purchase, or lease of permanent or relocatable school facilities;

(4) Purchase of vehicles to transport students to and from the charter school; and

(5) Renovation, repair, and maintenance of school facilities that the charter school owns or is purchasing through a lease-purchase or long-term lease of five years or longer.

(d) The Department of Education shall specify procedures for submitting and approving requests for funding under this Code section and for documenting expenditures.

(e) Local boards are required to renovate, repair, and maintain the school facilities of charter schools in the district to the same extent as other public schools in the district if the local board owns the charter school facility unless otherwise agreed upon by the petitioner and the local board in the charter.

(f)(1) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the local charter school and the local board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the local board in the event the local charter school terminates operations.

(2) Prior to releasing moneys from the facilities fund, the Department of Education shall ensure that the governing board of the state chartered special school and the state board shall enter into a written agreement that includes a provision for the reversion of any unencumbered funds and all equipment and property purchased with public education funds to the ownership of the state board in the event the state chartered special school terminates operations.

(g) The reversion of property in accordance with subsection (f) of this Code section is subject to the complete satisfaction of all lawful liens or encumbrances.

(h) Each local board of education that has designated any facility or property as surplus, intended for disposal, or otherwise unused shall make such facility or property available for lease or purchase by a local charter school on the same basis as it makes such facility or property available to other public schools under the control and management of the local board of education. A conversion charter school may not be charged a rental or leasing fee for the existing facility or for property normally used by the public school which became the conversion charter school. A local charter school that receives property from a local board may not sell or dispose of such property without the written permission of the local board.

**The Practice:**

Currently, Georgia Public Schools receive an average of \$7,896 per student. Fulton County schools receive an average of \$8,745 per student. According to the financial analysis conducted for us in September of 2006, "Georgia charters receive \$2,281 less per pupil than students attending district schools: \$7,406 for a school district versus \$5,125 for a charter school.

[http://app.doe.k12.ga.us:80/ows-bin/owa/fin\\_pack\\_revenue.display\\_proc](http://app.doe.k12.ga.us:80/ows-bin/owa/fin_pack_revenue.display_proc)

**THUS DESPITE LANGUAGE WHICH THE LEGISLATURE BELIEVES WAS INTENDED TO FUND CHARTERS EQUALLY, CHARTERS RECEIVE ALMOST \$2,000 FEWER DOLLARS IN GEORGIA. IN A FEW CASES, THE GAP IS EVEN GREATER.**