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I N   S E N A T E

April 30, 2010

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Introduced by COMMITTEE ON RULES -- read twice and ordered printed, and  
when printed to be committed to the Committee on Education

AN ACT to amend the education law, in relation to the powers and duties  
of boards of cooperative educational services, to the operation and  
management of and enrollment at charter schools, and to increasing the  
cap on the total number of charter schools in the state to four  
hundred sixty

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

1     Section 1. Paragraph h of subdivision 4 of section 1950 of the educa-  
2     tion law is amended by adding a new subparagraph 8 to read as follows:  
3     (8) TO ENTER INTO CONTRACTS WITH CHARTER SCHOOLS AUTHORIZED BY ARTICLE  
4     FIFTY-SIX OF THIS CHAPTER TO PROVIDE SERVICES AS AUTHORIZED BY THIS  
5     SECTION.  
6     S 2. Paragraph (c) of subdivision 2 of section 2851 of the education  
7     law, as added by chapter 4 of the laws of 1998, is amended to read as  
8     follows:  
9     (c) The proposed governance structure of the school, including a list  
10    of members of the initial board of trustees, a description of the quali-  
11    fications, terms and method of appointment or election of trustees, the  
12    organizational structure of the school, A PROCEDURE FOR CONDUCTING AND  
13    PUBLICIZING REGULAR BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL,  
14    and the processes to be followed by the school to promote parental and  
15    staff involvement in school governance.  
16    S 3. Paragraph (p) of subdivision 2 of section 2851 of the education  
17    law, as added by chapter 4 of the laws of 1998, is amended to read as  
18    follows:  
19    (p) The term of the proposed charter, which shall not exceed five  
20    SCHOOL years IN WHICH INSTRUCTION IS PROVIDED TO PUPILS, PLUS THE PERIOD  
21    COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH THE  
22    OPENING OF THE SCHOOL FOR INSTRUCTION.  
23    S 4. Paragraph (v) of subdivision 2 of section 2851 of the education  
24    law, as added by chapter 4 of the laws of 1998, is amended to read as  
25    follows:

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

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1 (v) A code of ethics for the charter school, setting forth for the  
2 guidance of its trustees, officers and employees the standards of  
3 conduct expected of them INCLUDING STANDARDS WITH RESPECT TO DISCLOSURE  
4 OF CONFLICTS OF INTEREST REGARDING ANY MATTER BROUGHT BEFORE THE BOARD  
5 OF TRUSTEES. SUCH CODE OF ETHICS SHALL INCLUDE BUT SHALL NOT BE LIMITED  
6 TO COMPLIANCE WITH THE PROVISIONS OF SECTIONS EIGHT HUNDRED, EIGHT  
7 HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED THREE, EIGHT HUNDRED FOUR,  
8 EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE, EIGHT HUNDRED FIVE-A, EIGHT  
9 HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE GENERAL MUNICIPAL LAW TO THE  
10 SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL DISTRICTS.

11 S 5. Subdivision 4 of section 2851 of the education law is amended by  
12 adding a new paragraph (e) to read as follows:

13 (E) A DEMONSTRATION OF THE EFFORTS TO BE TAKEN BY THE CHARTER SCHOOL  
14 TO ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF  
15 EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL  
16 ASSISTANCE AND SUPPORT WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY  
17 PRIOR TO APPROVING AN APPLICATION FOR RENEWAL OF A CHARTER.

18 S 6. Subdivision 9 of section 2852 of the education law, as amended by  
19 section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to  
20 read as follows:

21 9. The total number of charters issued pursuant to this article shall  
22 not exceed [two] FOUR hundred SIXTY. [One] TWO hundred THIRTY of such  
23 charters shall be issue on the recommendation of the charter entity  
24 described in paragraph (b) of subdivision three of section twenty-eight  
25 hundred fifty-one of this article, and [one] TWO hundred THIRTY of such  
26 charters shall be issued on the recommendation of the other charter  
27 entities set forth in subdivision three of section twenty-eight hundred  
28 fifty-one of this article, provided that up to [fifty] ONE HUNDRED  
29 FIFTEEN of the additional charters authorized to be issued by the chap-  
30 ter of the laws of two thousand [seven] TEN which amended this subdivi-  
31 sion [effective July first, two thousand seven] shall be reserved for a  
32 city school district of a city having a population of one million or  
33 more. The failure of any body to issue the regulations authorized pursu-  
34 ant to this article shall not [effect] AFFECT the authority of a charter  
35 entity to propose a charter to the board of regents or the board of  
36 regents' authority to grant such charter. A conversion of an existing  
37 public school to a charter school or the renewal or extension of a char-  
38 ter shall not be counted toward the numerical limits established by this  
39 subdivision. UPON REVOCATION OR TERMINATION OF A CHARTER, SUCH CHARTER  
40 SHALL NO LONGER COUNT TOWARD THE NUMERICAL LIMITS ESTABLISHED BY THIS  
41 SUBDIVISION.

42 S 7. Paragraph (a) of subdivision 1 of section 2853 of the education  
43 law, as added by chapter 4 of the laws of 1998, is amended to read as  
44 follows:

45 (a) Upon the approval of a charter by the board of regents, the board  
46 of regents shall incorporate the charter school as an education corpo-  
47 ration for a term not to exceed five SCHOOL years IN WHICH INSTRUCTION  
48 IS PROVIDED TO PUPILS, PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE  
49 DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR  
50 INSTRUCTION. Such certificate of incorporation shall not modify or  
51 limit any terms of the charter approved by the board of regents. Upon  
52 approval of an application to renew a charter, the board of regents  
53 shall extend the certificate of incorporation for a term not to exceed  
54 five SCHOOL years, PLUS THE PERIOD, IF ANY, COMMENCING WITH THE EFFEC-  
55 TIVE DATE OF THE RENEWAL CHARTER AND ENDING WITH THE FIRST DAY OF THE  
56 FIRST FULL SCHOOL YEAR IN WHICH INSTRUCTION IS PROVIDED UNDER THE

1 RENEWAL. Upon termination or nonrenewal of the charter of a charter  
2 school pursuant to section twenty-eight hundred fifty-five of this arti-  
3 cle, the certificate of incorporation of the charter school shall be  
4 revoked by the board of regents pursuant to section two hundred nineteen  
5 of this chapter, provided that compliance with the notice and hearing  
6 requirements of such section twenty-eight hundred fifty-five of this  
7 article shall be deemed to satisfy the notice and hearing requirements  
8 of such section two hundred nineteen. It shall be the duty of the trus-  
9 tees of the charter school to obtain federal tax-exempt status no later  
10 than one year following approval of a charter school by the board of  
11 regents. For purposes of this article, "certificate of incorporation"  
12 shall mean the provisional charter issued by the board of regents to  
13 form the charter school as an educational corporation pursuant to  
14 sections two hundred sixteen and two hundred seventeen of this chapter.

15 S 8. Paragraph (b-1) of subdivision 1 of section 2853 of the education  
16 law, as added by chapter 4 of the laws of 1998, is amended to read as  
17 follows:

18 (b-1) An education corporation operating a charter school shall not be  
19 authorized to operate more than one school [or] BUT MAY BE AUTHORIZED TO  
20 house any grade at more than one site[, provided that: (A) a]. A CHAR-  
21 TER SCHOOL HOUSING TWO OR MORE GRADES AT MORE THAN ONE SITE SHALL HAVE  
22 EACH SUCH ADDITIONAL SITE DEEMED A CHARTER ISSUED FOR THE PURPOSES OF  
23 SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTI-  
24 CLE. NOTWITHSTANDING ANY OTHER PROVISION OF THIS CHAPTER, APPROVAL OF  
25 REVISIONS TO A CHARTER OR CHARTERS TO AUTHORIZE AN EDUCATION CORPORATION  
26 TO HOUSE ANY GRADE OR GRADES AT MORE THAN ONE SITE, INCLUDING THE MERGER  
27 OR CONSOLIDATION OF EXISTING EDUCATION CORPORATIONS OPERATING CHARTER  
28 SCHOOLS TO A SINGLE EDUCATION CORPORATION, SHALL BE MADE IN ACCORDANCE  
29 WITH PARAGRAPH (A) OF SUBDIVISION SEVEN OF SECTION TWENTY-EIGHT HUNDRED  
30 FIFTY-TWO OF THIS ARTICLE. UPON SUCH MERGER OR CONSOLIDATION, THE  
31 SURVIVING OR CONSOLIDATED EDUCATION CORPORATION, PLUS ANY SUCH ADDI-  
32 TIONAL SITES, SHALL CONTINUE TO EACH BE COUNTED AS A CHARTER ISSUED FOR  
33 THE PURPOSES OF SUBDIVISION NINE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-  
34 TWO OF THIS ARTICLE. IF A CHARTER SCHOOL HAS EMPLOYEES WHO ARE MEMBERS  
35 OF A COLLECTIVE BARGAINING ORGANIZATION PURSUANT TO ARTICLE FOURTEEN OF  
36 THE CIVIL SERVICE LAW THAT MERGES OR CONSOLIDATES WITH A CHARTER SCHOOL  
37 WHOSE EMPLOYEES ARE NOT MEMBERS OF A COLLECTIVE BARGAINING ORGANIZATION,  
38 EMPLOYEES OF THE MERGED OR CONSOLIDATED CHARTER SCHOOL SHALL BE MEMBERS  
39 OF THE COLLECTIVE BARGAINING ORGANIZATION THAT REPRESENTED LIKE POSI-  
40 TIONS, IF ANY, PRIOR TO THE MERGER OR CONSOLIDATION. A charter school  
41 may operate in more than one building at a single site; and [(B)] a  
42 charter school which provides instruction to its students at different  
43 locations for a portion of their school day shall be deemed to be oper-  
44 ating at a single site; AND A CHARTER SCHOOL OPERATING AT MORE THAN ONE  
45 SITE BUT WHICH HOUSES EACH GRADE AT A SINGLE SITE OR WHICH IS PROVIDING  
46 SPECIAL EDUCATION PROGRAMS AND SERVICES TO ITS STUDENTS AT DIFFERENT  
47 LOCATIONS PURSUANT TO PARAGRAPH (A) OF SUBDIVISION FOUR OF SECTION TWEN-  
48 TY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE SHALL BE DEEMED TO BE OPER-  
49 ATING AT A SINGLE SITE.

50 S 9. Paragraph (a) of subdivision 4 of section 2853 of the education  
51 law, as amended by chapter 378 of the laws of 2007, is amended to read  
52 as follows:

53 (a) For purposes of sections seven hundred one, seven hundred eleven,  
54 seven hundred fifty-one and nine hundred twelve of this chapter, a char-  
55 ter school shall be deemed a nonpublic school in the school district  
56 within which the charter school is located. Special education programs

1 and services shall be provided to students with a disability attending a  
2 charter school in accordance with the individualized education program  
3 recommended by the committee or subcommittee on special education of the  
4 student's school district of residence. The charter school may arrange  
5 to have such services provided by such school district of residence or  
6 by the charter school directly or by contract with another provider,  
7 INCLUDING ANOTHER CHARTER SCHOOL. Where the charter school arranges to  
8 have the school district of residence provide such special education  
9 programs or services, such school district shall provide services in the  
10 same manner as it serves students with disabilities in other public  
11 schools in the school district, including the provision of supplementary  
12 and related services on site to the same extent to which it has a policy  
13 or practice of providing such services on the site of such other public  
14 schools. CHARTER SCHOOLS MAY PROVIDE SUCH SERVICES ON SITE AT THE CHAR-  
15 TER SCHOOL OR ARRANGE TO HAVE SUCH SERVICES PROVIDED BY CONTRACT AT  
16 ANOTHER SITE INCLUDING BY ANOTHER CHARTER SCHOOL. WHERE A CHARTER SCHOOL  
17 PROVIDES OR ARRANGES TO BE PROVIDED SUCH SERVICES AT ANOTHER SITE, IT  
18 SHALL BE DEEMED TO BE OPERATING AT A SINGLE SITE PURSUANT TO PARAGRAPH  
19 (B-1) OF SUBDIVISION ONE OF SECTION TWENTY-EIGHT HUNDRED FIFTY-THREE OF  
20 THIS ARTICLE.

21 S 10. Paragraph (a) of subdivision 4 of section 2853 of the education  
22 law, as added by chapter 4 of the laws of 1998, is amended to read as  
23 follows:

24 (a) For purposes of sections seven hundred one, seven hundred eleven,  
25 seven hundred fifty-one and nine hundred twelve of this chapter, a char-  
26 ter school shall be deemed a nonpublic school in the school district  
27 within which the charter school is located. Special education programs  
28 and services shall be provided to students with a disability attending a  
29 charter school in accordance with the individualized education program  
30 recommended by the committee or subcommittee on special education of the  
31 student's school district of residence. The charter school may arrange  
32 to have such services provided by such school district of residence or  
33 by the charter school directly or by contract with another provider,  
34 INCLUDING ANOTHER CHARTER SCHOOL. CHARTER SCHOOLS MAY PROVIDE SUCH  
35 SERVICES ON SITE AT THE CHARTER SCHOOL OR ARRANGE TO HAVE SUCH SERVICES  
36 PROVIDED BY CONTRACT AT ANOTHER SITE INCLUDING BY ANOTHER CHARTER  
37 SCHOOL. WHERE A CHARTER SCHOOL PROVIDES OR ARRANGES TO BE PROVIDED SUCH  
38 SERVICES AT ANOTHER SITE, IT SHALL BE DEEMED TO BE OPERATING AT A SINGLE  
39 SITE PURSUANT TO PARAGRAPH (B-1) OF SUBDIVISION ONE OF SECTION  
40 TWENTY-EIGHT HUNDRED FIFTY-THREE OF THIS ARTICLE.

41 S 11. Subdivision 1 of section 2854 of the education law is amended by  
42 adding a new paragraph (f) to read as follows:

43 (F) A CHARTER SCHOOL SHALL BE SUBJECT TO THE PROVISIONS OF SECTIONS  
44 EIGHT HUNDRED, EIGHT HUNDRED ONE, EIGHT HUNDRED TWO, EIGHT HUNDRED  
45 THREE, EIGHT HUNDRED FOUR, EIGHT HUNDRED FOUR-A, EIGHT HUNDRED FIVE,  
46 EIGHT HUNDRED FIVE-A, EIGHT HUNDRED FIVE-B AND EIGHT HUNDRED SIX OF THE  
47 GENERAL MUNICIPAL LAW TO THE SAME EXTENT SUCH SECTIONS APPLY TO SCHOOL  
48 DISTRICTS.

49 S 12. Paragraphs (a) and (b) of subdivision 2 of section 2854 of the  
50 education law, as amended by section 5 of part D-2 of chapter 57 of the  
51 laws of 2007, are amended, and a new paragraph (b-1) is added to read as  
52 follows:

53 (a) A charter school shall be nonsectarian in its programs, admission  
54 policies, employment practices, and all other operations and shall not  
55 charge tuition or fees; provided that a charter school may require the  
56 payment of fees on the same basis and to the same extent as other public

1 schools. A charter school shall not discriminate against any student,  
2 employee or any other person on the basis of ethnicity, national origin,  
3 gender, or disability or any other ground that would be unlawful if done  
4 by a school. Admission of students shall not be limited on the basis of  
5 intellectual ability, measures of achievement or aptitude, athletic  
6 ability, disability, race, creed, gender, national origin, religion, or  
7 ancestry; provided, however, that nothing in this article shall be  
8 construed to prevent the establishment of a single-sex charter school or  
9 a charter school designed to provide expanded learning opportunities for  
10 students at-risk of academic failure OR PUPILS WHO ARE OTHERWISE IN NEED  
11 OF SPECIAL ASSISTANCE AND SUPPORT, INCLUDING BUT NOT LIMITED TO, PUPILS  
12 WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS; and  
13 provided, further, that the charter school shall demonstrate good faith  
14 efforts to attract and retain a comparable or greater enrollment of  
15 students with disabilities and [limited] English [proficient students]  
16 LANGUAGE LEARNERS when compared to the enrollment figures for such  
17 students in the school district in which the charter school is located.  
18 A charter shall not be issued to any school that would be wholly or in  
19 part under the control or direction of any religious denomination, or in  
20 which any denominational tenet or doctrine would be taught.

21 (b) Any child who is qualified under the laws of this state for admis-  
22 sion to a public school is qualified for admission to a charter school.  
23 APPLICATIONS FOR ADMISSION TO A CHARTER SCHOOL SHALL BE SUBMITTED ON A  
24 UNIFORM APPLICATION FORM CREATED BY THE DEPARTMENT AND SHALL BE MADE  
25 AVAILABLE BY A CHARTER SCHOOL IN LANGUAGES PREDOMINANTLY SPOKEN IN THE  
26 COMMUNITY IN WHICH SUCH CHARTER SCHOOL IS LOCATED. The school shall  
27 enroll each eligible student who submits a timely application by the  
28 first day of April each year, unless the number of applications exceeds  
29 the capacity of the grade level or building. In such cases, students  
30 shall be accepted from among applicants by a random selection process,  
31 provided, however, that an enrollment preference shall be provided to  
32 pupils returning to the charter school in the second or any subsequent  
33 year of operation and pupils residing in the school district in which  
34 the charter school is located, and siblings of pupils already enrolled  
35 in the charter school; PROVIDED FURTHER, HOWEVER, THAT PUPILS WITH DISA-  
36 BILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS SHALL BE PROVIDED  
37 ENROLLMENT PREFERENCE PURSUANT TO PARAGRAPH (B-1) OF THIS SUBDIVISION  
38 AFTER PUPILS RETURNING TO THE CHARTER SCHOOL AND SIBLINGS OF PUPILS  
39 ALREADY ENROLLED IN THE CHARTER SCHOOL. THE COMMISSIONER SHALL ESTABLISH  
40 REGULATIONS TO REQUIRE THAT THE RANDOM SELECTION PROCESS CONDUCTED  
41 PURSUANT TO THIS PARAGRAPH BE PERFORMED IN A TRANSPARENT AND EQUITABLE  
42 MANNER AND TO REQUIRE THAT THE TIME AND PLACE OF THE RANDOM SELECTION  
43 PROCESS BE PUBLICIZED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF  
44 SECTION ONE HUNDRED FOUR OF THE PUBLIC OFFICERS LAW AND BE OPEN TO THE  
45 PUBLIC. For the purposes of this paragraph and [paragraph] PARAGRAPHS  
46 (a) AND (B-1) of this subdivision, the school district in which the  
47 charter school is located shall mean, for the city school district of  
48 the city of New York, the community district in which the charter school  
49 is located EXCEPT THAT FOR CHARTER HIGH SCHOOLS THE SCHOOL DISTRICT IN  
50 WHICH THE CHARTER SCHOOL IS LOCATED SHALL MEAN THE CITY SCHOOL DISTRICT  
51 OF THE CITY OF NEW YORK. NOTWITHSTANDING THE PROVISIONS OF THIS SUBDIVI-  
52 SION, CHARTER SCHOOLS SERVING STUDENTS IN KINDERGARTEN THROUGH EIGHTH  
53 GRADE THAT ARE LOCATED IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW  
54 YORK SHALL HAVE THE OPTION TO ADOPT THE ENROLLMENT PROCESS USED BY  
55 ZONED, NON-CHARTER SCHOOLS LOCATED IN THE COMMUNITY SCHOOL DISTRICT AND  
56 ZONE IN WHICH THE CHARTER SCHOOL IS LOCATED, PROVIDED THAT THE ENROLL-

MENT PROCESS MANDATES THAT THE SCHOOL SERVE ALL STUDENTS RESIDING IN THE RELEVANT COMMUNITY SCHOOL DISTRICT AND ZONE UNTIL IT REACHES FULL CAPACITY AT WHICH POINT IT MAY EMPLOY THE SAME LOTTERY SYSTEM AS ZONED SCHOOLS.

(B-1) IN THE EVENT THAT THE CHARTER ENTITY OR THE BOARD OF REGENTS, BASED ON INFORMATION PROVIDED TO THE CHARTER ENTITY OR THE BOARD OF REGENTS BY THE CHARTER SCHOOL REGARDING THE ENROLLMENT OF PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS, HAS MADE A DETERMINATION AT ANYTIME AFTER THE SCHOOL'S FIRST YEAR OF OPERATION THAT THE CHARTER SCHOOL HAS NOT ATTRACTED A PERCENTAGE OF PUPILS FROM EACH OF THOSE GROUPS IN EACH GRADE OF THE CHARTER SCHOOL IS AT LEAST FIFTY PERCENT OF THE AVERAGE PERCENTAGE, AS CALCULATED BY THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS LOCATED, OF PUPILS IN EACH GRADE FROM EACH OF THOSE GROUPS IN ALL NON-CHARTER PUBLIC SCHOOLS IN THE SCHOOL DISTRICT, OR, FOR ELEMENTARY AND MIDDLE SCHOOLS LOCATED WITHIN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, IN THE COMMUNITY SCHOOL DISTRICT WHERE THE CHARTER IS LOCATED, STUDENTS SHALL BE ACCEPTED IN SUBSEQUENT YEARS FROM AMONG APPLICANTS BY THE FOLLOWING PROCESS, PROVIDED, HOWEVER, IN MAKING THAT DETERMINATION THE BOARD OF REGENTS AND THE CHARTER ENTITY SHALL TAKE INTO ACCOUNT THE FACILITY CONSTRAINTS IF ANY THAT AFFECT ENROLLMENT AND SERVICE OF PUPILS WITH DISABILITIES:

(I) FIRST, THE SCHOOL SHALL ACCEPT APPLICATIONS FOR EACH GRADE SUBMITTED BY PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS UNTIL THE PERCENTAGE OF STUDENTS FROM EACH OF THOSE GROUPS IN EACH GRADE OF THE CHARTER SCHOOL IS AT LEAST SEVENTY-FIVE PERCENT OF THE AVERAGE PERCENTAGE, AS CALCULATED BY THE SCHOOL DISTRICT WHERE THE CHARTER SCHOOL IS LOCATED, OF STUDENTS IN EACH GRADE FROM EACH OF THOSE GROUPS IN ALL NON-CHARTER PUBLIC SCHOOLS IN THE SCHOOL DISTRICT, OR, FOR ELEMENTARY AND MIDDLE SCHOOLS LOCATED WITHIN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW YORK, IN THE COMMUNITY SCHOOL DISTRICT WHERE THE CHARTER IS LOCATED, OR UNTIL ALL APPLICATIONS SUBMITTED BY STUDENTS WITH AN INDIVIDUALIZED EDUCATION PROGRAM AND ENGLISH LANGUAGE LEARNERS HAVE BEEN ACCEPTED. IF ACCEPTING ALL APPLICATIONS SUBMITTED BY PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS WOULD CAUSE THE PERCENTAGE OF SUCH STUDENTS IN ANY GRADE AT THE CHARTER SCHOOL TO EXCEED SEVENTY-FIVE PERCENT OF THE AVERAGE PERCENTAGE OF PUPILS FROM EACH OF THOSE GROUPS IN THE SAME GRADE AT THE RELEVANT NON-CHARTER PUBLIC SCHOOLS, FOR EACH GRADE THE CHARTER SCHOOL SHALL ACCEPT APPLICANTS FROM EACH OF THOSE GROUPS BY A RANDOM SELECTION PROCESS UNTIL THE PERCENTAGE OF STUDENTS IN EACH GRADE FROM EACH OF THOSE GROUPS IS EQUAL TO THE SEVENTY-FIVE PERCENT OF THE PERCENTAGE OF STUDENTS IN EACH GRADE FROM EACH OF THOSE GROUPS IN THE RELEVANT NON-CHARTER PUBLIC SCHOOLS.

(II) ONCE ALL APPLICATIONS SUBMITTED BY PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS HAVE BEEN ACCEPTED, OR ONCE THE REQUIRED PERCENTAGE OF STUDENTS FROM THOSE GROUPS IN EACH GRADE HAS BEEN REACHED AS SET FORTH IN SUBPARAGRAPH (I) OF THIS PARAGRAPH, THE SCHOOL SHALL ACCEPT STUDENTS FROM AMONG ALL UNACCEPTED APPLICATIONS INCLUDING APPLICATIONS FROM PUPILS WITH DISABILITIES AND PUPILS WHO ARE ENGLISH LANGUAGE LEARNERS BY RANDOM SELECTION PROCESS, PROVIDED, HOWEVER, THAT AN ENROLLMENT PREFERENCE SHALL BE PROVIDED TO PUPILS RETURNING TO THE CHARTER SCHOOL IN THE SECOND OR ANY SUBSEQUENT YEAR OF OPERATION, SIBLINGS OF PUPILS ALREADY ENROLLED IN THE CHARTER SCHOOL AND PUPILS RESIDING IN THE SCHOOL DISTRICT IN WHICH THE CHARTER SCHOOL IS LOCATED.

S 13. Subdivision 2 of section 2857 of the education law, as amended by section 7 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

2. Each charter school shall submit to the charter entity and to the board of regents an annual report. Such report shall be issued no later than the first day of August of each year for the preceding school year AND SHALL BE MADE PUBLICLY AVAILABLE BY SUCH DATE AND SHALL BE POSTED ON THE CHARTER SCHOOL'S AND CHARTER ENTITY'S WEBSITES. The annual report shall be in such form as shall be prescribed by the commissioner and shall include at least the following components:

(a) a charter school report card, which shall include measures of the comparative academic and fiscal performance of the school, as prescribed by the commissioner in regulations adopted for such purpose. Such measures shall include, but not be limited to, graduation rates, dropout rates, performance of students on standardized tests, college entry rates, total spending per pupil and administrative spending per pupil. Such measures shall be presented in a format that is easily comparable to similar public schools. In addition, the charter school shall ensure that such information is easily accessible to the community INCLUDING MAKING IT PUBLICLY AVAILABLE BY TRANSMITTING IT TO LOCAL NEWSPAPERS OF GENERAL CIRCULATION AND MAKING IT AVAILABLE FOR DISTRIBUTION AT BOARD OF TRUSTEE MEETINGS.

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

(c) a certified financial statement setting forth, by appropriate categories, the revenues and expenditures for the preceding school year, including a copy of the most recent independent fiscal audit of the school.

(D) EFFORTS TAKEN BY THE CHARTER SCHOOL IN THE EXISTING SCHOOL YEAR, AND A PLAN FOR EFFORTS TO BE TAKEN IN THE SUCCEEDING SCHOOL YEAR, TO ATTRACT AND RETAIN HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL ASSISTANCE AND SUPPORT.

S 14. Subdivision 3 of section 2857 of the education law is amended by adding a new paragraph (a-1) to read as follows:

(A-1) A LIST INCLUDING THE NUMBER OF CHARTER SCHOOLS CLOSED DURING THE PRECEDING YEAR, AND A BRIEF DESCRIPTION OF THE REASONS THEREFORE INCLUDING, BUT NOT LIMITED TO, NON-RENEWAL OF THE CHARTER OR REVOCATION OF THE CHARTER;

S 15. Section 2857 of the education law is amended by adding a new subdivision 5 to read as follows:

5. THE BOARD OF REGENTS SHALL, ON AN ANNUAL BASIS, REVIEW AND MAKE AVAILABLE TO SCHOOL DISTRICTS BEST EDUCATIONAL PRACTICES EMPLOYED BY CHARTER SCHOOLS.

S 16. The education law is amended by adding a new section 211-e to read as follows:

S 211-E. EDUCATIONAL MANAGEMENT ORGANIZATIONS. 1. EACH COMMON, CENTRAL, CENTRAL HIGH SCHOOL, UNION FREE, EXCEPT SPECIAL ACT SCHOOL DISTRICTS AS DEFINED IN SECTION FOUR THOUSAND ONE OF THIS CHAPTER, AND CITY SCHOOL DISTRICT SHALL BE AUTHORIZED TO ENTER INTO CONTRACTS WITH APPROVED EDUCATIONAL MANAGEMENT ORGANIZATIONS FOR THE PURPOSE OF MANAGING INDIVIDUAL SCHOOLS WITHIN THE DISTRICT IN ORDER TO TURN AROUND THE PERSISTENTLY LOWEST-ACHIEVING SCHOOLS. AUTHORITY OVER EMPLOYMENT DECISIONS SHALL REMAIN THE SOLE RESPONSIBILITY OF THE EMPLOYING BOARD. CONTRACTS SHALL BE SOLICITED AND AWARDED PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS THAT SHALL BE DEVELOPED BY THE BOARD OF EDUCATION IN CONSULTATION WITH THE SUPERINTENDENT OF SCHOOLS IN ACCORDANCE WITH COMMISSIONER'S REGULATIONS PURSUANT TO SUBDIVISION TWO OF THIS SECTION. THE REQUEST FOR PROPOSAL PROCESS SHALL INCLUDE MEASURES TO

1 ENHANCE THE ABILITY OF MINORITY AND WOMEN OWNED BUSINESS ENTERPRISES TO  
2 COMPETE FOR CONTRACTS AND TO ENSURE THEIR MEANINGFUL PARTICIPATION IN  
3 THE PROCESS. FOR THE PURPOSES OF THIS SECTION, THE TERM "BOARD OF EDUCA-  
4 TION" SHALL MEAN THE TRUSTEE, TRUSTEES OR BOARD OF EDUCATION OF ANY  
5 SCHOOL DISTRICT, EXCEPT IN THE CITY SCHOOL DISTRICT OF THE CITY OF NEW  
6 YORK THE TERM "BOARD OF EDUCATION" SHALL MEAN THE PANEL FOR EDUCATION  
7 POLICY AND THE "SUPERINTENDENT OF SCHOOLS" SHALL MEAN THE CHANCELLOR.

8 2. THE DEPARTMENT SHALL ESTABLISH A LIST OF APPROVED EDUCATIONAL  
9 MANAGEMENT ORGANIZATIONS. IN ESTABLISHING SUCH LIST, THE COMMISSIONER  
10 SHALL MAKE REASONABLE EFFORTS TO ENSURE MINORITY AND WOMEN OWNED BUSI-  
11 NESS ENTERPRISES ARE INCLUDED FOR CONSIDERATION WHERE APPLICABLE. THE  
12 COMMISSIONER SHALL BE AUTHORIZED TO PROMULGATE ANY REGULATIONS NECESSARY  
13 TO IMPLEMENT THE PROVISIONS TO THIS SECTION INCLUDING REGULATIONS FOR  
14 CONSISTENCY AND COMPLIANCE WITH ANY APPLICABLE FEDERAL OR STATE GUIDE-  
15 LINES, INCLUDING THOSE CONTAINED WITHIN THE FEDERAL AMERICAN RECOVERY  
16 AND REINVESTMENT ACT OF 2009.

17 3. NO CONTRACT ENTERED INTO WITH AN EDUCATIONAL MANAGEMENT ORGANIZA-  
18 TION PURSUANT TO THIS SECTION SHALL BE CONSTRUED TO OVERRIDE OR AMEND  
19 ANY COLLECTIVE BARGAINING AGREEMENT BETWEEN THE SCHOOL DISTRICT AND  
20 COLLECTIVE BARGAINING ORGANIZATION. ANY CHANGES TO THE COLLECTIVE  
21 BARGAINING AGREEMENT OF ANY BARGAINING UNIT DURING THE TERM OF THE  
22 CONTRACT WITH THE EDUCATIONAL MANAGEMENT ORGANIZATION SHALL BE NEGOTI-  
23 ATED PURSUANT TO ARTICLE FOURTEEN OF THE CIVIL SERVICE LAW.

24 S 17. Severability clause. If any clause, sentence, paragraph, subdi-  
25 vision, section or part of this act shall be adjudged by any court of  
26 competent jurisdiction to be invalid, such judgment shall not affect,  
27 impair, or invalidate the remainder thereof, but shall be confined in  
28 its operation to the clause, sentence, paragraph, subdivision, section  
29 or part thereof directly involved in the controversy in which such judg-  
30 ment shall have been rendered. It is hereby declared to be the intent of  
31 the legislature that this act would have been enacted even if such  
32 invalid provisions had not been included herein.

33 S 18. This act shall take effect immediately; provided, however, that:

34 a. sections three, seven and eight of this act shall take effect July  
35 1, 2010;

36 b. sections five, twelve, thirteen, fourteen and fifteen of this act  
37 shall take effect January 1, 2011; and

38 c. the amendments to paragraph (a) of subdivision 4 of section 2853 of  
39 the education law made by section nine of this act shall be subject to  
40 the expiration and reversion of such section pursuant to subdivision d  
41 of section 27 of chapter 378 of the laws of 2007, as amended, when upon  
42 such date the provisions of section ten of this act shall take effect.