STATE OF NEW YORK

S. 6468 A. 9558

SENATE-ASSEMBLY

January 16, 2010

IN SENATE -- Introduced by Sens. SAMPSON, OPPENHEIMER -- read twice and ordered printed, and when printed to be committed to the Committee on Education

IN ASSEMBLY -- Introduced by M. of A. SILVER, NOLAN -- read once and referred to the Committee on Education

AN ACT to amend the education law, in relation to charter schools

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

Section 1. Subdivision 1 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

1. An application to establish a charter school may be submitted by teachers, parents, school administrators, community residents or any combination thereof. Such application may be filed in conjunction with a college, university, museum, educational institution, not-for-profit corporation exempt from taxation under paragraph 3 of subsection (c) of section 501 of the internal revenue code or for-profit business or corporate entity authorized to do business in New York state. PROVIDED HOWEVER, FOR-PROFIT BUSINESS OR CORPORATE ENTITIES SHALL NOT BE ELIGIBLE TO SUBMIT AN APPLICATION TO ESTABLISH A CHARTER SCHOOL PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE, OR OPERATE OR MANAGE A CHARTER SCHOOL FOR A CHARTER ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE. For charter schools established in conjunction with a for-profit business or corporate entity, the charter shall specify the extent of the entity's participation in the management and operation of the school.

S 2. Paragraph (c) of subdivision 2 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(c) The proposed governance structure of the school, including a list of members of the initial board of trustees, a description of the qualifications, terms and method of appointment or election of trustees, the organizational structure of the school, A PROCEDURE FOR CONDUCTING AND

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

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PUBLICIZING MONTHLY BOARD OF TRUSTEE MEETINGS AT EACH CHARTER SCHOOL, and the processes to be followed by the school to promote parental and staff involvement in school governance.

S 3. Paragraph (v) of subdivision 2 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(v) A code of ethics for the charter school, setting forth for the guidance of its trustees, officers and employees the standards of conduct expected of them INCLUDING STANDARDS WITH RESPECT TO DISCLOSURE OF CONFLICTS OF INTEREST REGARDING ANY MATTER BROUGHT BEFORE THE BOARD OF TRUSTEES.

S 4. Subdivision 2 of section 2851 of the education law is amended by adding a new paragraph (j-1) to read as follows:

(J-1) NOTWITHSTANDING PARAGRAPH (J) OF THIS SUBDIVISION, ANY APPLICATION SUBMITTED FOR A CHARTER ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE SHALL INCLUDE INFORMATION REGARDING THE FACILITIES TO BE USED BY THE SCHOOL INCLUDING THE LOCATION OF THE SCHOOL AND THE MEANS BY WHICH PUPILS WILL BE TRANSPORTED TO AND FROM THE SCHOOL. IF THE FACILITIES TO BE USED BY THE PROPOSED SCHOOL CHANGE AT ANY TIME AFTER THE APPLICATION IS SUBMITTED TO THE CHARTER ENTITY, THE APPLICANT SHALL NOTIFY THE BOARD OF REGENTS, CONDUCT OR, IF APPLICABLE, REPEAT ANY PUBLIC OUTREACH AND HEARING REQUIREMENTS PURSUANT TO THIS ARTICLE, AND RESUBMIT AN AMENDED APPLICATION WITH INFORMATION REGARDING THE NEW FACILITIES AND PUBLIC COMMENTS RAISED. A CHARTER SCHOOL MUST OBTAIN A CERTIFICATE OF OCCUPANCY FOR FACILITIES PRIOR TO THE DATE ON WHICH INSTRUCTION IS TO COMMENCE AT THE SCHOOL.

S 5. Paragraph (p) of subdivision 2 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(p) The term of the proposed charter, which shall not exceed five years; PROVIDED HOWEVER, IN THE CASE OF CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE THE TERM OF SUCH PROPOSED CHARTER SHALL NOT EXCEED FIVE YEARS IN WHICH INSTRUCTION IS PROVIDED TO PUPILS PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR INSTRUCTION.

S 5-a. Subdivision 3 of section 2851 of the education law, as added by chapter 4 of the laws of 1998, paragraph (a) as amended by section 6 of part B of chapter 57 of the laws of 2008, is amended to read as follows:

3. An applicant shall submit the application to a charter entity for approval. For purposes of this article, a charter entity shall be:

(a) The board of education of a school district eligible for an apportionment of aid under subdivision four of section thirty-six hundred two of this chapter, provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of one million or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The board of trustees of the state university of New York; or

(c) The board of regents.

The board of regents shall be the only entity authorized to issue a charter pursuant to this article AND SHALL BE THE ONLY ENTITY AUTHORIZED TO ACT AS THE CHARTER ENTITY FOR ANY CHARTER PROPOSED OR ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE. Notwithstanding any provision of this subdivision to the

contrary, an application for the conversion of an existing public school to a charter school shall be submitted to, and may only be approved by, the charter entity set forth in paragraph (a) of this subdivision. [Any] NOTWITHSTANDING ANY LAW, RULE OR REGULATION TO THE CONTRARY, ANY such application for conversion shall be consistent with this section BUT SHALL NOT BE SUBJECT TO THE PROCESS PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

S 6. Subdivision 3 of section 2851 of the education law, as amended by section five-a of this act, is amended to read as follows:

3. An applicant shall submit the application to a charter entity for approval. For purposes of this article, a charter entity shall be[:

(a) The board of education of a school district eligible for an apportionment of aid under subdivision four of section thirty-six hundred two of this chapter, provided that a board of education shall not approve an application for a school to be operated outside the school district's geographic boundaries and further provided that in a city having a population of one million or more, the chancellor of any such city school district shall be the charter entity established by this paragraph;

(b) The board of trustees of the state university of New York; or

(c) The] THE board of regents.

The board of regents shall be the only entity authorized to issue a charter pursuant to this article [and shall be the only entity authorized to act as the charter entity for any charter proposed or issued pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article.] AND SHALL ACT AS THE CHARTER ENTITY WHERE THE ORIGINAL CHARTER ENTITY WAS A BOARD OF EDUCATION, THE CHANCELLOR OF A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE, OR THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK. Notwithstanding any provision of this subdivision to the contrary, an application for the conversion of an existing public school to a charter school shall be [submitted to, and may only be] approved by[, the charter entity set forth in paragraph (a) of this subdivision] THE BOARD OF EDUCATION OF THE SCHOOL DISTRICT WHERE THE PROPOSED CONVERSION CHARTER SCHOOL IS TO BE LOCATED PRIOR TO THE BOARD OF REGENTS ISSUING A CHARTER FOR SUCH SCHOOL. Notwithstanding any law, rule or regulation to the contrary, any such application for conversion shall be consistent with this section but shall not be subject to the process pursuant to subdivision nine-a of section twenty-eight hundred fifty-two of this article, and the charter entity shall require that the parents or guardians of a majority of the students then enrolled in the existing public school vote in favor of converting the school to a charter school.

S 6-a. Subdivision 4 of section 2851 of the education law is amended by adding a new paragraph (e) to read as follows:

(E) A DEMONSTRATION OF THE EFFORTS TAKEN BY THE CHARTER SCHOOL 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 WHICH SHALL BE CONSIDERED BY THE CHARTER ENTITY PRIOR TO APPROVING SUCH CHARTER SCHOOL'S APPLICATION FOR RENEWAL.

S 7. Subdivision 1 of section 2852 of the education law, as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

1. A charter entity that receives an application for approval of a charter school shall act on each request received prior to July first of

a calendar year on or before January first of the succeeding calendar year, and a proposed charter between the applicant and the charter entity resulting from such application shall be executed on or before February first of such succeeding year. Nothing in this subdivision shall be construed to prevent a charter entity from receiving or acting upon an application at any time. THIS SUBDIVISION SHALL NOT APPLY TO APPLICATIONS THAT ARE SUBMITTED PURSUANT TO SUBDIVISION NINE-A OF THIS SECTION.

S 8. Subdivision 3 of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

3. A charter entity is not required to approve a charter and may require an applicant to modify or supplement an application as a condition of approval. An existing private school shall not be eligible to convert to a charter school. In determining whether an application involves the conversion of an existing private school, the [charter entity and the] board of regents shall consider such factors as: (a) whether the charter school would have the same or substantially the same board of trustees and/or officers as an existing private school; (b) whether a substantial proportion of employees of the charter school would be drawn from such existing private school; (c) whether a substantial portion of the assets and property of such existing private school would be transferred to the charter school; (d) whether the charter school would be located at the same site as such existing private school; (e) upon renewal only, whether such private school closed within one year of establishment of the charter school; and (f) upon renewal only, whether a substantial portion of the charter school's students were drawn from such existing private school.

S 9. Subdivision 4 of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

4. Each individual applicant seeking to establish a charter school shall submit a full set of fingerprints to the charter entity for the purpose of obtaining a state and federal criminal records check. The division of criminal justice services is authorized to provide this information to the federal bureau of investigation and to perform a state and federal criminal records check on each applicant and report the results to the [charter entity and the] board of regents. The criminal records check shall be completed to the satisfaction of the charter entity prior to approval of the application. The department and the division of criminal justice services shall enter into any memoranda of agreement necessary to implement the requirements of this subdivision.

S 10. Subdivision 5 of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

5. Upon approval of an application by a charter entity, the applicant and charter entity shall enter into a proposed agreement allowing the applicants to organize and operate a charter school. Such written agreement, known as the charter, shall include (a) the information required by subdivision two of section twenty-eight hundred fifty-one of this article, as modified or supplemented during the approval process, (b) IN THE CASE OF CHARTERS TO BE ISSUED PURSUANT TO SUBDIVISION NINE-A OF THIS SECTION, INFORMATION REQUIRED BY SUCH SUBDIVISION, (C) any other terms or conditions required by applicable laws, rules and regulations, and [(c)] (D) any other terms or conditions, not inconsistent with law, agreed upon by the applicant and the charter entity. In addition, the charter shall include the specific commitments of the charter entity relating to its obligations to oversee and supervise the charter school. Within five days after entering into a proposed charter, the charter entity other than the board of regents shall submit to the board of

regents a copy of the charter, the application and supporting documentation for final approval and issuance by the board of regents in accordance with subdivisions five-a and five-b of this section.

S 11. Subdivision 5 of section 2852 of the education law, as amended by section ten of this act, is amended to read as follows:

5. Upon approval of an application by a charter entity, the applicant and charter entity shall enter into a proposed agreement allowing the applicants to organize and operate a charter school. Such written agreement, known as the charter, shall include (a) the information required by subdivision two of section twenty-eight hundred fifty-one of this article, as modified or supplemented during the approval process, (b) in the case of charters to be issued pursuant to subdivision nine-a of this section, information required by such subdivision, (c) any other terms or conditions required by applicable laws, rules and regulations, and (d) any other terms or conditions, not inconsistent with law, agreed upon by the applicant and the charter entity. In addition, the charter shall include the specific commitments of the charter entity relating to its obligations to oversee and supervise the charter school. [Within five days after entering into a proposed charter, the charter entity other than the board of regents shall submit to the board of regents a copy of the] SUCH PROPOSED charter, the application and supporting documentation [for] SHALL BE SUBJECT TO final approval and issuance by the board of regents in accordance with subdivisions five-a and five-b of this section.

S 12. Subdivision 5-a of section 2852 of the education law, as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

5-a. Upon receipt of a proposed charter submitted by a charter entity, the board of regents shall review such proposed charter in accordance with the standards set forth in subdivision two of this section, AND ANY OTHER APPLICABLE SPECIFICATIONS REQUIRED BY THIS ARTICLE. The board of regents shall either (a) approve and issue the charter as proposed by the charter entity or (b) return the proposed charter to the charter entity for reconsideration with the written comments and recommendations of the board of regents; PROVIDED HOWEVER, THE BOARD OF REGENTS SHALL APPROVE AND ISSUE A CHARTER WHERE THE PROPOSED CHARTER AGREEMENT PURSUANT TO SUBDIVISION FIVE OF THIS SECTION IS FOR AN INITIAL CHARTER PURSUANT TO SUBDIVISION NINE-A OF THIS SECTION. If the board of regents fails to act on such proposed charter within ninety days of its submission to the board of regents in accordance with the previous sentence, the proposed charter shall be deemed to have been approved and issued by the board of regents at the expiration of such period.

S 13. Subdivision 5-a of section 2852 of the education law, as amended by section twelve of this act, is amended to read as follows:

5-a. Upon receipt of a proposed charter [submitted by a charter entity], the board of regents shall review such proposed charter in accordance with the standards set forth in subdivision two of this section, and any other applicable specifications required by this article. The board of regents shall either (a) approve and issue the charter as proposed [by the charter entity] or (b) return the proposed charter to the [charter entity] APPLICANT for reconsideration with the written comments and recommendations of the board of regents; provided however, the board of regents shall approve and issue a charter where the proposed charter agreement pursuant to subdivision five of this section is for an initial charter pursuant to subdivision nine-a of this section. [If the board of regents fails to act on such proposed charter

within ninety days of its submission to the board of regents in accordance with the previous sentence, the proposed charter shall be deemed to have been approved and issued by the board of regents at the expiration of such period.]

S 14. Subdivision 5-b of section 2852 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

5-b. If the board of regents returns a proposed charter to the [charter entity] APPLICANT pursuant to the provisions of subdivision five-a of this section, such [charter entity] APPLICANT shall reconsider the proposed charter, taking into consideration the comments and recommendation of the board of regents. Thereafter, the [charter entity] APPLICANT shall resubmit the proposed charter to the board of regents with modifications, provided that the applicant consents in writing to such modifications[, resubmit the proposed charter to the board of regents without modifications,] or abandon the proposed charter. The board of regents shall review each such resubmitted proposed charter in accordance with the provisions of subdivision five-a of this section[; provided, however, that it shall be the duty of the board of regents to approve and issue a proposed charter resubmitted by the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article within thirty days of the resubmission of such proposed charter or such proposed charter shall be deemed approved and issued at the expiration of such period].

S 15. Subdivision 7 of section 2852 of the education law, as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

7. (a) A revision of a charter shall be made only upon the approval of the [charter entity and the] board of regents in accordance with the provisions of subdivisions five-a and five-b of this section.

(b) When a revision of a charter involves the relocation of a charter school to a different school district, the proposed new school district shall be given at least forty-five days notice of the proposed relocation. In addition, the applicant shall provide an analysis of the community support for such relocation and of the projected programmatic and fiscal impact of the charter school on the proposed new school district of location and other public and nonpublic schools in the area.

(C) A REVISION OF A CHARTER SHALL BE REQUIRED BEFORE A CHARTER SCHOOL MAY RELOCATE TO AN EXISTING PUBLIC SCHOOL BUILDING. THE RIGOROUS DEMONSTRATION REQUIRED PURSUANT TO SUBPARAGRAPH (III) OF PARAGRAPH (B) OF SUBDIVISION NINE-A OF THIS SECTION SHALL BE MADE PRIOR TO THE APPROVAL OF ANY REVISION REQUIRED BY THIS PARAGRAPH.

S 16. Subdivision 9 of section 2852 of the education law, as amended by section 2 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

9. The total number of charters issued pursuant to this article shall not exceed [two] FOUR hundred. One hundred of such charters shall be issued on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article, [and] one hundred of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article, provided that up to fifty of the additional charters authorized to be issued by the chapter of the laws of two thousand seven which amended this subdivision effective July first, two thousand seven shall be reserved for a city school district of a city having a population of one million or more, AND TWO HUNDRED OF SUCH CHARTERS SHALL BE ISSUED BY THE

BOARD OF REGENTS PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION. The failure of any body to issue the regulations authorized pursuant to this article shall not [effect] AFFECT the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school or the renewal or extension of a charter shall not be counted toward the numerical limits established by this subdivision.

S 17. Subdivision 9 of section 2852 of the education law, as amended by section sixteen of this act, is amended to read as follows:

9. The total number of charters issued pursuant to this article shall not exceed four hundred. [One] TWO hundred of such charters shall be issued [on the recommendation of the charter entity described in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article, one hundred of such charters shall be issued on the recommendation of the other charter entities set forth in subdivision three of section twenty-eight hundred fifty-one of this article, provided that] BY THE BOARD OF REGENTS PURSUANT TO A COMPETITIVE PROCESS IN ACCORDANCE WITH SUBDIVISION NINE-A OF THIS SECTION AND up to fifty of the additional charters authorized to be issued by the chapter of the laws of two thousand seven which amended this subdivision effective July first, two thousand seven shall be reserved for a city school district of a city having a population of one million or more[, and two hundred of such charters shall be issued by the board of regents pursuant to a competitive process in accordance with subdivision nine-a of this section]. The failure of any body to issue the regulations authorized pursuant to this article shall not affect the authority of a charter entity to propose a charter to the board of regents or the board of regents' authority to grant such charter. A conversion of an existing public school to a charter school or the renewal or extension of a charter shall not be counted toward the numerical limits established by this subdivision.

S 18. Section 2852 of the education law is amended by adding a new subdivision 9-a to read as follows:

9-A. (A) THE BOARD OF REGENTS IS HEREBY AUTHORIZED AND DIRECTED TO ISSUE TWO HUNDRED CHARTERS PURSUANT TO A COMPETITIVE REQUEST FOR PROPOSALS PROCESS.

(I) BY JULY FIRST, TWO THOUSAND TEN, THE BOARD OF REGENTS, IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, MUST JOINTLY DEVELOP AND ISSUE A REQUEST FOR PROPOSALS FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL OPERATION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

(II) COMMENCING ON JANUARY FIRST, TWO THOUSAND ELEVEN, AND OF EACH SUCCEEDING YEAR, SUCH REQUEST FOR PROPOSALS SHALL BE DEVELOPED AND ISSUED FOR CHARTER SCHOOLS WHICH WOULD COMMENCE INSTRUCTIONAL OPERATION BY THE SEPTEMBER OF THE NEXT CALENDAR YEAR.

(III) IF THE BOARD OF REGENTS DETERMINES, IN ANY GIVEN YEAR, THAT THERE ARE AN INSUFFICIENT NUMBER OF QUALIFIED APPLICATIONS TO MEET THE NUMBER OF PROPOSED CHARTERS, THEY SHALL ONLY ISSUE CHARTERS TO THOSE APPLICATIONS THAT ARE DETERMINED TO BE QUALIFIED. SUCH DETERMINATIONS MUST BE MADE BY DECEMBER THIRTY-FIRST OF EACH YEAR AND THE PROPOSED CHARTERS INCLUDED IN THE REQUEST FOR PROPOSALS WHICH WERE NOT ISSUED CHARTERS IN SUCH YEAR SHALL BE INCLUDED IN THE REQUEST FOR PROPOSALS FOR THE SUCCEEDING YEAR.

(B) THE BOARD OF REGENTS SHALL WORK IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK TO DEVELOP SUCH REQUEST FOR

PROPOSALS IN A MANNER THAT FACILITATES A THOUGHTFUL REVIEW OF CHARTER SCHOOL APPLICATIONS AND SEEKS TO LOCATE CHARTER SCHOOLS IN A REGION OR REGIONS WHERE THERE MAY BE A LACK OF ALTERNATIVES AND ACCESS TO CHARTER SCHOOLS WOULD PROVIDE NEW ALTERNATIVES WITHIN THE LOCAL PUBLIC EDUCATION SYSTEM THAT WOULD OFFER THE GREATEST EDUCATIONAL BENEFIT TO STUDENTS. APPLICATIONS MAY BE SUBMITTED TO THE BOARD OF REGENTS OR TO THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK AND SHALL BE EVALUATED IN ACCORDANCE WITH THE CRITERIA AND OBJECTIVES CONTAINED WITHIN A REQUEST FOR PROPOSALS. FURTHERMORE, WHEN EVALUATING APPLICATIONS SUBMITTED IN RESPONSE TO A REQUEST FOR PROPOSALS PURSUANT TO THIS SUBDIVISION, THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL CONSIDER THE SUPPORT OF THE SCHOOL DISTRICT IN WHICH THE PROPOSED CHARTER SCHOOL WILL BE LOCATED AND THE APPLICANT'S INTENT TO ESTABLISH AN ONGOING RELATIONSHIP WITH SUCH SCHOOL DISTRICT. THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT CONSIDER ANY APPLICATIONS WHICH DO NOT RIGOROUSLY DEMONSTRATE THAT THEY HAVE MET THE FOLLOWING CRITERIA:

(I) THAT THE PROPOSED CHARTER SCHOOL WOULD MEET ENROLLMENT AND RETENTION TARGETS, AS PRESCRIBED BY THE BOARD OF REGENTS, IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, OF HIGH-NEED STUDENTS, INCLUDING STUDENTS AT RISK OF EDUCATIONAL FAILURE OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL ASSISTANCE AND SUPPORT SUCH AS STUDENTS WHO ARE LIVING IN POVERTY, STUDENTS WITH DISABILITIES, ENGLISH LANGUAGE LEARNERS, STUDENTS WHO ARE HOMELESS, OR STUDENTS WHO HAVE BEEN INCARCERATED;

(II) THAT THE APPLICANT HAS CONDUCTED PUBLIC OUTREACH, IN CONFORMITY WITH A THOROUGH AND MEANINGFUL PUBLIC REVIEW PROCESS PRESCRIBED BY THE BOARD OF REGENTS, IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, TO SOLICIT COMMUNITY INPUT REGARDING THE PROPOSED CHARTER SCHOOL AND TO ADDRESS COMMENTS RECEIVED FROM THE IMPACTED COMMUNITY CONCERNING THE EDUCATIONAL AND PROGRAMMATIC NEEDS OF STUDENTS; AND

(III) IN THE CASE OF A PROPOSED CHARTER SCHOOL BEING LOCATED OR CO-LOCATED IN AN EXISTING PUBLIC SCHOOL BUILDING, THAT THE APPLICANT HAS DEMONSTRATED THAT THE LOCATION OR CO-LOCATION IS ACCEPTABLE TO THE PARENTS OR GUARDIANS OF STUDENTS THEN ENROLLED IN SUCH EXISTING SCHOOL BUILDING.

(C) THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL GRANT PRIORITY BASED ON A JOINTLY DEVELOPED SCORING RUBRIC TO THOSE APPLICATIONS THAT BEST DEMONSTRATE HOW THEY WILL ACHIEVE THE FOLLOWING OBJECTIVES, AND ANY ADDITIONAL OBJECTIVES THE BOARD OF REGENTS, IN CONJUNCTION WITH THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, MAY PRESCRIBE:

(I) INCREASING STUDENT ACHIEVEMENT AND DECREASING STUDENT ACHIEVEMENT GAPS IN READING/LANGUAGE ARTS AND MATHEMATICS;

(II) INCREASING HIGH SCHOOL GRADUATION RATES AND FOCUSING ON SERVING SPECIFIC HIGH SCHOOL STUDENT POPULATIONS INCLUDING, BUT NOT LIMITED TO, STUDENTS AT RISK OF NOT OBTAINING A HIGH SCHOOL DIPLOMA, RE-ENROLLED HIGH SCHOOL DROP-OUTS, AND STUDENTS WITH ACADEMIC SKILLS BELOW GRADE LEVEL;

(III) FOCUSING ON THE ACADEMIC ACHIEVEMENT OF MIDDLE SCHOOL STUDENTS AND PREPARING THEM FOR A SUCCESSFUL TRANSITION TO HIGH SCHOOL;

(IV) UTILIZING HIGH-QUALITY ASSESSMENTS DESIGNED TO MEASURE A STUDENT'S KNOWLEDGE, UNDERSTANDING OF, AND ABILITY TO APPLY, CRITICAL CONCEPTS THROUGH THE USE OF A VARIETY OF ITEM TYPES AND FORMATS;

(V) INCREASING THE ACQUISITION, ADOPTION, AND USE OF LOCAL INSTRUCTIONAL IMPROVEMENT SYSTEMS THAT PROVIDE TEACHERS, PRINCIPALS, AND ADMINISTRATORS WITH THE INFORMATION AND RESOURCES THEY NEED TO INFORM AND IMPROVE THEIR INSTRUCTIONAL PRACTICES, DECISION-MAKING, AND OVERALL EFFECTIVENESS;

(VI) PARTNERING WITH LOW PERFORMING PUBLIC SCHOOLS IN THE AREA TO SHARE BEST EDUCATIONAL PRACTICES AND INNOVATIONS;

(VII) DEMONSTRATING THE MANAGEMENT AND LEADERSHIP TECHNIQUES NECESSARY TO OVERCOME INITIAL START-UP PROBLEMS TO ESTABLISH A THRIVING, FINANCIALLY VIABLE CHARTER SCHOOL.

(D) BY OCTOBER FIRST, TWO THOUSAND TEN, AND OF EACH SUCCEEDING YEAR, AFTER A THOROUGH REVIEW OF APPLICATIONS RECEIVED, THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL RECOMMEND FOR APPROVAL TO THE BOARD OF REGENTS THE QUALIFIED APPLICATIONS THAT IT HAS DETERMINED RIGOROUSLY DEMONSTRATE THE CRITERIA AND BEST SATISFY THE OBJECTIVES CONTAINED WITHIN A REQUEST FOR PROPOSALS, ALONG WITH SUPPORTING DOCUMENTATION OUTLINING SUCH DETERMINATION.

(E) THE BOARD OF REGENTS SHALL HAVE SOLE AUTHORITY AND DISCRETION TO ISSUE CHARTERS. THE BOARD OF REGENTS SHALL CONSIDER APPLICATIONS SUBMITTED DIRECTLY TO THE BOARD OF REGENTS AND APPLICATIONS RECOMMENDED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK, AND SHALL ONLY ISSUE CHARTERS TO THOSE APPLICATIONS THAT IT DETERMINES TO BE QUALIFIED.

(F) NOTWITHSTANDING PARAGRAPH (E) OF THIS SUBDIVISION, THE BOARD OF REGENTS SHALL ISSUE CHARTERS TO A TOTAL OF SIXTY-FIVE APPLICATIONS DEEMED TO BE HIGHLY RECOMMENDED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK. PROVIDED HOWEVER, THAT THE NUMBER OF HIGHLY RECOMMENDED APPLICATIONS SUBMITTED BY THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL NOT EXCEED FIFTY PERCENT OF THE TOTAL NUMBER OF CHARTERS PROPOSED TO BE ESTABLISHED IN THE REQUEST FOR PROPOSALS IN ANY GIVEN YEAR.

(G) EACH APPLICATION SUBMITTED IN RESPONSE TO A REQUEST FOR PROPOSALS PURSUANT TO THIS SUBDIVISION SHALL ALSO MEET THE APPLICATION REQUIREMENTS SET OUT IN THIS ARTICLE AND ANY OTHER APPLICABLE LAWS, RULES AND REGULATIONS.

(H) THE COMMISSIONER SHALL PROMULGATE RULES AND REGULATIONS NECESSARY FOR THE IMPLEMENTATION OF THIS SUBDIVISION.

(I) DURING THE DEVELOPMENT OF THE REQUEST FOR PROPOSALS PURSUANT TO THIS SUBDIVISION THE BOARD OF REGENTS AND THE BOARD OF TRUSTEES OF THE STATE UNIVERSITY OF NEW YORK SHALL AFFORD THE PUBLIC AN OPPORTUNITY TO SUBMIT COMMENTS AND SHALL REVIEW AND CONSIDER THE COMMENTS RAISED BY ALL INTERESTED PARTIES.

S 19. Subdivision 10 of section 2852 of the education law, as added by section 3 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

10. [Except in the case of a charter school formed by a school district as a charter entity pursuant to paragraph (a) of subdivision three of section twenty-eight hundred fifty-one of this article, a] A charter school formed by approval of the regents [or by operation of law] on or after March fifteenth in any school year shall not commence instruction until July of the second school year next following.

S 20. Paragraph (a) of subdivision 1 of section 2853 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(a) Upon the approval of a charter by the board of regents, the board of regents shall incorporate the charter school as an education corpo-

ration for a term not to exceed five years, PROVIDED HOWEVER IN THE CASE OF CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE THE BOARD OF REGENTS SHALL INCORPORATE THE CHARTER SCHOOL AS AN EDUCATION CORPORATION FOR A TERM NOT TO EXCEED FIVE YEARS IN WHICH INSTRUCTION IS PROVIDED TO PUPILS PLUS THE PERIOD COMMENCING WITH THE EFFECTIVE DATE OF THE CHARTER AND ENDING WITH THE OPENING OF THE SCHOOL FOR INSTRUCTION. Such certificate of incorporation shall not modify or limit any terms of the charter approved by the board of regents. Upon approval of an application to renew a charter, the board of regents shall extend the certificate of incorporation for a term not to exceed five years. Upon termination or nonrenewal of the charter of a charter school pursuant to section twenty-eight hundred fifty-five of this article, the certificate of incorporation of the charter school shall be revoked by the board of regents pursuant to section two hundred nineteen of this chapter, provided that compliance with the notice and hearing requirements of such section twenty-eight hundred fifty-five of this article shall be deemed to satisfy the notice and hearing requirements of such section two hundred nineteen. It shall be the duty of the trustees of the charter school to obtain federal tax-exempt status no later than one year following approval of a charter school by the board of regents. For purposes of this article, "certificate of incorporation" shall mean the provisional charter issued by the board of regents to form the charter school as an educational corporation pursuant to sections two hundred sixteen and two hundred seventeen of this chapter.

S 21. Paragraph (c) of subdivision 1 of section 2853 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(c) A charter school shall be deemed an independent and autonomous public school, except as otherwise provided in this article. The [charter entity and the] board of regents shall be deemed to be the public agents authorized to supervise and oversee the charter school.

S 22. Paragraph (g) of subdivision 1 of section 2853 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

(g) Notwithstanding any provision of law to the contrary, no civil liability shall attach to [any charter entity,] the board of regents, or to any of [their] ITS members or employees, individually or collectively, for any acts or omissions of the charter school. Neither the local school district, the charter entity nor the state shall be liable for the debts or financial obligations of a charter school or any person or corporate entity who operates a charter school.

S 23. Subdivision 2 of section 2853 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

2. The board of regents [and charter entity] shall oversee each CHARTER school [approved by such entity], and may visit, examine into and inspect any charter school, including the records of such school, under its oversight. Oversight by [a charter entity and] the board of regents shall be sufficient to ensure that the charter school is in compliance with all applicable laws, regulations and charter provisions.

S 24. Subdivision 2-a of section 2853 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

2-a. [For schools approved by an entity described in paragraph (b) or (c) of subdivision three of section twenty-eight hundred fifty-one of this article, the] THE school district in which the charter school is located shall have the right to visit, examine into, and inspect the

charter school for the purpose of ensuring that the school is in compliance with all applicable laws, regulations and charter provisions. Any evidence of non-compliance may be forwarded by such school district to the board of regents [and the charter entity] for action pursuant to section twenty-eight hundred fifty-five of this article.

S 25. Paragraph (a) of subdivision 3 of section 2853 of the education law, as amended by section 4 of part D-2 of chapter 57 of the laws of 2007, is amended and two new paragraphs (a-1) and (a-2) are added to read as follows:

(a) A charter school may be located in part of an existing public school building, in space provided on a private work site, in a public building or in any other suitable location. Provided, however, before a charter school may be located in part of an existing public school building, the charter entity shall provide notice to the parents or guardians of the students then enrolled in the existing school building and shall hold a public hearing for purposes of discussing the location of the charter school. A charter school may own, lease or rent its space. [For purposes of local zoning, land use regulation and building code compliance, a charter school shall be deemed a nonpublic school.]

(A-1) FOR CHARTERS ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE, THE DEPARTMENT SHALL APPROVE PLANS AND SPECIFICATIONS AND ISSUE CERTIFICATES OF OCCUPANCY FOR SUCH CHARTER SCHOOLS. SUCH CHARTER SCHOOLS SHALL COMPLY WITH ALL DEPARTMENT HEALTH, SANITARY, AND SAFETY REQUIREMENTS APPLICABLE TO FACILITIES AND SHALL BE TREATED THE SAME AS OTHER PUBLIC SCHOOLS FOR PURPOSES OF LOCAL ZONING, LAND USE REGULATION AND BUILDING CODE COMPLIANCE. PROVIDED HOWEVER, THAT THE DEPARTMENT SHALL BE AUTHORIZED TO GRANT SPECIFIC EXEMPTIONS FROM THE REQUIREMENTS OF THIS PARAGRAPH TO CHARTER SCHOOLS UPON A SHOWING THAT COMPLIANCE WITH SUCH REQUIREMENTS CREATES AN UNDUE ECONOMIC HARDSHIP OR THAT SOME OTHER GOOD CAUSE EXISTS THAT MAKES COMPLIANCE WITH THIS PARAGRAPH EXTREMELY IMPRACTICAL. A DEMONSTRATED EFFORT TO OVERCOME THE STATED OBSTACLES MUST BE PROVIDED.

(A-2) A CHARTER SCHOOL SHALL BE DEEMED A NONPUBLIC SCHOOL FOR PURPOSES OF LOCAL ZONING, LAND USE REGULATION AND BUILDING CODE COMPLIANCE IF IT HAS BEEN GRANTED AN EXEMPTION BY THE DEPARTMENT PURSUANT TO PARAGRAPH (A-1) OF THIS SUBDIVISION OR IF ITS CHARTER WAS NOT ISSUED PURSUANT TO SUBDIVISION NINE-A OF SECTION TWENTY-EIGHT HUNDRED FIFTY-TWO OF THIS ARTICLE.

S 26. Paragraph (c) of subdivision 1 of section 2854 of the education law, as amended by chapter 267 of the laws of 2005, is amended to read as follows:

(c) A charter school shall be subject to the financial audits, the audit procedures, and the audit requirements set forth in the charter and shall be subject to audits of the comptroller [as set forth in section thirty-three of the general municipal law] OF THE STATE OF NEW YORK AT HIS OR HER DISCRETION. Such procedures and standards shall be consistent with generally accepted accounting and audit standards. Independent fiscal audits shall be required at least once annually.

S 26-a. Subdivision 1 of section 2854 of the education law is amended by adding a new paragraph (f) to read as follows:

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

S 27. Paragraph (b) of subdivision 2 of section 2854 of the education law, as amended by section 5 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

(b) Any child who is qualified under the laws of this state for admission to a public school is qualified for admission to a charter school. APPLICATIONS FOR ADMISSION TO A CHARTER SCHOOL SHALL BE SUBMITTED ON A UNIFORM APPLICATION FORM CREATED BY THE DEPARTMENT AND SHALL BE MADE AVAILABLE BY A CHARTER SCHOOL IN LANGUAGES PREDOMINATELY SPOKEN IN THE COMMUNITY IN WHICH SUCH CHARTER SCHOOL IS LOCATED. The school shall enroll each eligible student who submits a timely application by the first day of April each year, unless the number of applications exceeds the capacity of the grade level or building. In such cases, students shall be accepted from among applicants by a 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 and pupils residing in the school district in which the charter school is located, and siblings of pupils already enrolled in the charter school. THE COMMISSIONER SHALL ESTABLISH REGULATIONS TO REQUIRE THAT THE RANDOM SELECTION PROCESS CONDUCTED PURSUANT TO THIS PARAGRAPH BE PERFORMED IN A TRANSPARENT AND EQUITABLE MANNER AND TO REQUIRE THAT THE TIME AND PLACE OF THE RANDOM SELECTION PROCESS BE PUBLICIZED IN A MANNER CONSISTENT WITH THE REQUIREMENTS OF SECTION ONE HUNDRED FOUR OF THE PUBLIC OFFICERS LAW AND BE OPEN TO THE PUBLIC. For the purposes of this paragraph and paragraph (a) of this subdivision, the school district in which the charter school is located shall mean, for the city school district of the city of New York, the community district in which the charter school is located.

S 27-a. Paragraph (a) of subdivision 2 of section 2854 of the education law, as amended by section 5 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

(a) A charter school shall be nonsectarian in its programs, admission policies, employment practices, and all other operations and shall not charge tuition or fees; provided that a charter school may require the payment of fees on the same basis and to the same extent as other public schools. A charter school shall not discriminate against any student, employee or any other person on the basis of ethnicity, national origin, gender, or disability or any other ground that would be unlawful if done by a school. Admission of students shall not be limited on the basis of intellectual ability, measures of achievement or aptitude, athletic ability, disability, race, creed, gender, national origin, religion, or ancestry; provided, however, that nothing in this article shall be construed to prevent the establishment of a single-sex charter school or a charter school designed to provide expanded learning opportunities for students at-risk of academic failure OR STUDENTS WHO ARE OTHERWISE IN NEED OF SPECIAL ASSISTANCE AND SUPPORT SUCH AS STUDENTS WITH DISABILITIES AND ENGLISH LANGUAGE LEARNERS; and provided, further, that the charter school shall demonstrate good faith efforts to attract and retain a comparable or greater enrollment of students with disabilities and limited English proficient students when compared to the enrollment figures for such students in the school district in which the charter school is located. A charter shall not be issued to any school that would be wholly or in part under the control or direction of any religious denomination, or in which any denominational tenet or doctrine would be taught.

S 28. Paragraph (b-1) of subdivision 3 of section 2854 of the education law, as amended by section 6 of part D-2 of chapter 57 of the laws of 2007, is amended to read as follows:

(b-1) The employees of a charter school that is not a conversion from an existing public school shall not be deemed members of any existing collective bargaining unit representing employees of the school district in which the charter school is located, and the charter school and its employees shall not be subject to any existing collective bargaining agreement between the school district and its employees. Provided, however, that (i) if the student enrollment of the charter school on the first day on which the charter school commences student instruction exceeds two hundred fifty or if the average daily student enrollment of such school exceeds two hundred fifty students at any point during the first two years after the charter school commences student instruction, all employees of the school who are eligible for representation under article fourteen of the civil service law shall be deemed to be represented in a separate negotiating unit at the charter school by the same employee organization, if any, that represents like employees in the school district in which such charter school is located; (ii) [the provisions of subparagraph (i) of this paragraph may be waived in up to ten charters issued on the recommendation of the charter entity set forth in paragraph (b) of subdivision three of section twenty-eight hundred fifty-one of this article; (iii)] the provisions of subparagraph (i) of this paragraph shall not be applicable to the renewal or extension of a charter; and [(iv)] (III) nothing in this sentence shall be construed to subject a charter school subject to the provisions of this paragraph or its employees to any collective bargaining agreement between any public school district and its employees or to make the employees of such charter school part of any negotiating unit at such school district. The charter school may, in its sole discretion, choose whether or not to offer the terms of any existing collective bargaining to school employees.

S 29. The opening paragraph of subdivision 1 of section 2855 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

The [charter entity, or the] board of regents, may terminate a charter upon any of the following grounds:

S 30. Subdivision 2 of section 2855 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

2. Notice of intent to revoke a charter shall be provided to the board of trustees of a charter school at least thirty days prior to the effective date of the proposed revocation. Such notice shall include a statement of reasons for the proposed revocation. The charter school shall be allowed at least thirty days to correct the problems associated with the proposed revocation. Prior to revocation of the charter, a charter school shall be provided an opportunity to be heard, consistent with the requirements of due process. Upon the termination of a charter, the charter school shall proceed with dissolution pursuant to the procedures of the charter and direction of the [charter entity and the] board of regents.

S 31. Subdivision 3 of section 2855 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

3. In addition to the provisions of subdivision two of this section, the [charter entity or the] board of regents may place a charter school falling within the provisions of subdivision one of this section on probationary status to allow the implementation of a remedial action

plan. The failure of a charter school to comply with the terms and conditions of a remedial action plan may result in summary revocation of the school's charter.

S 32. Subdivision 4 of section 2855 of the education law, as added by chapter 4 of the laws of 1998, is amended to read as follows:

4. Any individual or group may bring a complaint to the board of trustees of a charter school alleging a violation of the provisions of this article, the charter, or any other provision of law relating to the management or operation of the charter school. If, after presentation of the complaint to the board of trustees of a charter school, the individual or group determines that such board has not adequately addressed the complaint, they may present that complaint to the [charter entity, which shall investigate and respond. If, after presentation of the complaint to the charter entity, the individual or group determines that the charter entity has not adequately addressed the complaint, they may present that complaint to the] board of regents, which shall investigate and respond. The [charter entity and the] board of regents shall have the power and the duty to issue appropriate remedial orders to charter schools under their jurisdiction to effectuate the provisions of this section.

S 33. Subdivision 1 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:

1. The board of regents shall distribute information announcing the availability of the charter school process described in this article to each local school district and public postsecondary educational institution. At each significant stage of the chartering process, the [charter entity and the] board of regents shall provide appropriate notification to the school district in which the charter school is located and to public and nonpublic schools in the same geographic area as the proposed charter school. Such notification shall be provided [by each charter entity] within thirty days of [its] receipt of an application for formation of a new charter school or for renewal of an existing charter school, and at least forty-five days prior to initial approval of the charter application by the charter entity. Prior to the issuance, revision, or renewal of a charter, the school district in which the charter school is located shall hold a public hearing to solicit comments from the community in connection with the foregoing. Such hearing shall be held within the community potentially impacted by the proposed charter school. When a revision involves the relocation of a charter school to a different school district, the proposed new school district shall also hold such hearing. In addition, such school districts shall be given an opportunity to comment on the proposed charter to the charter entity and such charter entity shall consider any comments raised [and submit any such comments to the board of regents with the application for] PRIOR TO THE issuance, revision, or renewal of a charter.

S 34. 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 WEBSITE. 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 AND ANY AUDIT CONDUCTED BY THE COMPTROLLER OF THE STATE OF NEW YORK.

S 35. Subdivision 2 of section 2857 of the education law, as amended by section thirty-four of this act, 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 website. 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 and any audit conducted by the comptroller of the state of New York.

(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 36. 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 THEREFOR INCLUDING, BUT NOT LIMITED TO, NON-RENEWAL OF THE CHARTER OR REVOCATION OF THE CHARTER;

S 37. 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 38. Paragraph (d) of subdivision 41 of section 3602 of the education law, as added by section 18 of part B of chapter 57 of the laws of 2007, is amended to read as follows:

(d) For purposes of this subdivision the number of pupils enrolled in a charter school shall not include pupils enrolled in a charter school for which the charter was approved by a charter entity contained in FORMER paragraph a of subdivision three of section twenty-eight hundred fifty-one of this chapter.

S 39. 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. 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. FOR THE PURPOSES OF THIS SECTION, THE TERM "BOARD OF EDUCATION" SHALL MEAN THE TRUSTEE, TRUSTEES OR BOARD OF EDUCATION OF ANY SCHOOL DISTRICT, AND IN A CITY SCHOOL DISTRICT IN A CITY HAVING A POPULATION OF ONE MILLION OR MORE INHABITANTS THE TERM "SUPERINTENDENT OF SCHOOLS" SHALL MEAN THE COMMUNITY SUPERINTENDENT OF A COMMUNITY DISTRICT.

2. THE DEPARTMENT SHALL ESTABLISH A LIST OF APPROVED EDUCATIONAL MANAGEMENT ORGANIZATIONS SELECTED THROUGH A RIGOROUS REVIEW PROCESS. ELIGIBLE EDUCATIONAL MANAGEMENT ORGANIZATIONS SHALL INCLUDE NON-PROFIT ENTITIES WITH PROVEN SUCCESS IN RAISING THE ACHIEVEMENT OF HIGH-NEED STUDENTS AND DEMONSTRATION OF CAPACITY. FOR-PROFIT BUSINESS OR CORPORATE ENTITIES OR ANY ENTITY ENGAGED IN MANAGING OR OPERATING A CHARTER SCHOOL SHALL NOT BE ELIGIBLE TO BE APPROVED AS AN EDUCATIONAL MANAGEMENT ORGANIZATION. THE COMMISSIONER SHALL BE AUTHORIZED TO PROMULGATE ANY REGULATIONS NECESSARY TO IMPLEMENT THE PROVISIONS TO THIS SECTION INCLUDING REGULATIONS FOR CONSISTENCY AND COMPLIANCE WITH ANY APPLICABLE FEDERAL OR STATE GUIDELINES, INCLUDING THOSE CONTAINED WITHIN THE FEDERAL AMERICAN RECOVERY AND REINVESTMENT ACT OF 2009.

S 39-a. Severability clause. If any clause, sentence, paragraph, subdivision, section or part of this act shall be adjudged by any court of competent jurisdiction to be invalid, such judgment shall not affect, impair, or invalidate the remainder thereof, but shall be confined in its operation to the clause, sentence, paragraph, subdivision, section or part thereof directly involved in the controversy in which such judgment shall have been rendered. It is hereby declared to be the intent of the legislature that this act would have been enacted even if such invalid provisions had not been included herein.

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