

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 8
Education/Higher Education Committee Substitute Adopted 2/16/11

Short Title: No Cap on Number of Charter Schools.

(Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

1 AN ACT TO INCREASE EDUCATIONAL OPPORTUNITIES FOR THE CHILDREN OF
2 NORTH CAROLINA BY REMOVING THE CAP ON CHARTER SCHOOLS; AND BY
3 CREATING A NEW PUBLIC CHARTER SCHOOLS COMMISSION TO APPROVE
4 AND MONITOR CHARTER SCHOOLS; AND BY STRENGTHENING THE
5 STANDARDS FOR GRANTING AND RETAINING A CHARTER FOR A CHARTER
6 SCHOOL; AND BY AUTHORIZING LOCAL BOARDS OF EDUCATION TO
7 CONVERT SCHOOLS TO CHARTER SCHOOLS WITHOUT FORMING A
8 NONPROFIT CORPORATION; AND BY CLARIFYING THE FUNDING FORMULA
9 FOR CHARTER SCHOOLS; AND BY PROVIDING THAT COUNTIES MAY
10 PROVIDE FUNDING FOR CHARTER SCHOOLS IN THEIR JURISDICTIONS; AND
11 TO MAKE OTHER CHANGES TO THE STATUTES GOVERNING CHARTER
12 SCHOOLS.
13

14 The General Assembly of North Carolina enacts:

15 **SECTION 1.** This act shall be known and may be cited as the "Charter Schools Act
16 of 2011."

17 **SECTION 2.** Part 6A of Article 16 of Chapter 115C of the General Statutes reads
18 as rewritten:

19 "Part 6A. Charter Schools.

20 "**§ 115C-238.29A. Purpose.**

21 The purpose of this Part is to authorize a system of charter schools to provide opportunities
22 for teachers, parents, pupils, and community members to establish and maintain schools that
23 operate independently of existing schools, as a method to ~~accomplish all of~~ accomplish, in the
24 aggregate, the following:

- 25 (1) Improve student ~~learning;~~ learning.
- 26 (2) Increase learning opportunities for all students, with special emphasis on
27 expanded learning experiences for students who are identified as at risk of
28 academic failure or academically ~~gifted;~~ gifted.
- 29 (3) Encourage the use of different and innovative teaching ~~methods;~~ methods.
- 30 (4) Create new professional opportunities for teachers and administrators,
31 including the opportunities to be responsible for the learning program at the
32 school ~~site;~~ site.
- 33 (5) Provide parents and students with expanded choices in the types of
34 educational opportunities that are available within the public school
35 ~~system;~~ system.
- 36 (6) Hold the schools established under this Part accountable for meeting
37 measurable student achievement results, and provide the schools with a



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- 1 method to change from rule-based to performance-based accountability
2 systems.
- 3 (7) Encourage the replication of successful charter schools.
- 4 **§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**
- 5 (a) Creation. – There is created the North Carolina Public Charter Schools Commission,
6 hereinafter referred to as the Commission. The Commission shall exercise its powers and
7 functions independently of the State Board of Education and the Department of Public
8 Instruction except as provided in this section.
- 9 (b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality
10 public charter schools throughout the State, consistent with the purposes of this Part, and to
11 exercise authority for approval of any charter applicant.
- 12 (c) Membership. – The Commission shall consist of the following eleven members:
- 13 (1) Two members appointed by the Governor.
- 14 (2) Four members, one of whom shall be a teacher, administrator, or board
15 member of a charter school or a parent of a child attending a charter school,
16 appointed by the General Assembly upon the recommendation of the
17 President Pro Tempore of the Senate in accordance with G.S. 120-121.
- 18 (3) Four members, one of whom shall be a teacher, administrator, or board
19 member of a charter school or a parent of a child attending a charter school,
20 appointed by the General Assembly upon the recommendation of the
21 Speaker of the House of Representatives in accordance with G.S. 120-121.
- 22 (4) The Superintendent of Public Instruction or the Superintendent's designee.
- 23 (d) Qualifications of Members. – Members appointed to the Commission shall
24 collectively possess strong experience and expertise in public and nonprofit governance,
25 management and finance, public school leadership, assessment, curriculum and instruction,
26 public charter schools, and public education law. All appointed members of the Commission
27 shall have demonstrated an understanding of and a commitment to charter schools as a strategy
28 for strengthening public education.
- 29 (e) Terms of Office. – No appointed member shall serve more than seven consecutive
30 years. The terms of office are as follows:
- 31 (1) The initial term of office for members appointed by the Governor shall be
32 two years until June 30, 2013, and thereafter shall be three years.
- 33 (2) The initial term of office for the four members appointed by the General
34 Assembly upon the recommendation of the Speaker of the House of
35 Representatives shall be three years until June 30, 2014, and thereafter shall
36 be three years.
- 37 (3) The initial term of office for the four Commission members appointed by the
38 General Assembly upon the recommendation of the President Pro Tempore
39 of the Senate shall be four years until June 30, 2015, and thereafter shall be
40 three years.
- 41 (f) Officers. – The Commission shall elect a chair and a vice-chair from among its
42 membership. In the absence of the chair, the vice-chair shall preside over the Commission's
43 meetings. All members are voting members, and a majority of the Commission constitutes a
44 quorum. The Commission shall adopt rules to govern its proceedings.
- 45 (g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or
46 the vice-chair with the approval of the chair.
- 47 (h) Expenses. – Members of the Commission shall be reimbursed for travel and
48 subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).
- 49 (i) Removal. – Any member of the Commission, other than the Superintendent of
50 Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held
51 meeting, for any cause that renders the member incapable or unfit to discharge the duties of the

1 office. Whenever a vacancy on the Commission exists, the original appointing authority shall
2 appoint or elect a member for the remaining portion of the term.

3 (j) Staff. – The State Board of Education shall assign the Office of Charter Schools as
4 staff to the Commission.

5 (k) Powers and Duties. – The Commission shall have the following duties:

6 (1) To provide technical assistance, through the Office of Charter Schools and
7 the Department of Public Instruction, to charter school applicants and to
8 charter schools that are approved under this Part.

9 (2) To adopt policies regarding all aspects of charter school operation, including
10 time lines, standards, and criteria for acceptance and approval of
11 applications, monitoring of charter schools, and grounds for revocation of
12 charters.

13 (3) To oversee the process for accepting and approving applications for charters
14 and to make final approval of charter applications.

15 (4) To oversee the process for monitoring the operation of charter schools, with
16 the assistance and counsel of staff from the Department of Public
17 Instruction.

18 (5) To take any actions regarding a charter school, including renewals of
19 charters, nonrenewals of charters, and revocation of charters.

20 (6) To undertake any duties and responsibilities consistent with the above
21 powers and duties and incident thereto.

22 (l) The State Board shall have the authority to veto any decision of the Commission by
23 a three-fourths vote.

24 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
25 **for approval.**

26 (a) Any person, group of persons, or nonprofit corporation seeking to establish a charter
27 school may apply to establish a charter school. If ~~the~~ any applicant other than a local board of
28 education seeks to convert a public school to a charter school, the application shall include a
29 statement signed by a majority of the teachers and instructional support personnel currently
30 employed at the school indicating that they favor the conversion and evidence that a significant
31 number of parents of children enrolled in the school favor conversion.

32 (b) The application shall include an executive summary and shall contain at least the
33 following information:

34 (1) A description of a program that aligns with State standards and implements
35 one or more of the purposes in G.S. 115C-238.29A.

36 (1a) The targeted student population and the community the school hopes to
37 serve, as well as evidence of need and community support for the proposed
38 charter school.

39 (2) A description of student achievement goals for the school's educational
40 program and the method of demonstrating that students have attained the
41 skills and knowledge specified for those student achievement goals.

42 (2a) A description of the school's instructional design, including the type of
43 learning environment, such as classroom-based or independent study, class
44 size and structure, curriculum overview, and teaching methods.

45 (2b) The school's plans for identifying and successfully serving students with
46 disabilities, students who are English language learners, academically at-risk
47 students, and academically gifted students, including, but not limited to,
48 compliance with applicable laws and regulations.

49 (3) The governance structure of the ~~school~~ school, including proposed governing
50 bylaws and the names and biographical information of the proposed initial
51 members of the board of directors of the nonprofit, tax-exempt ~~corporation~~

corporation, and the process to be followed by the school to ensure parental involvement. A local board of education seeking to convert a school to a charter school shall not be required to form a nonprofit, tax-exempt corporation if the local board of education serves as the board of directors of the charter school.

- (3a) The local school administrative unit in which the school will be located.
- (4) Admission policies and procedures.
- (5) A proposed budget for the school for at least the first five years of operation and evidence that the financial plan for the school is economically sound.
- (6) Requirements and procedures for program and financial audits.
- (7) A description of how the school will comply with G.S. 115C-238.29F.
- (8) Types and amounts of insurance coverage, including bonding insurance for the principal officers of the school, to be obtained by the charter school.
- (9) The term of the charter.
- (10) The qualifications required for individuals employed by the school.
- (11) The procedures by which students can be excluded from the charter school and returned to a public school. Notwithstanding any law to the contrary, any local board may refuse to admit any student who is suspended or expelled from a charter school due to actions that would lead to suspension or expulsion from a public school under G.S. 115C-391 until the period of suspension or expulsion has expired.
- ~~(12) The number of students to be served, which number shall be at least 65, The number of students to be served, including the grades to be served each year for the full term of the charter, and the minimum, planned, and maximum enrollment per grade per year for the term of the charter, and the minimum number of teachers to be employed at the school, which number shall be at least three. However, the charter school may serve fewer than 65 students or employ fewer than three teachers if the application contains a compelling reason, such as the school would serve a geographically remote and small student population.~~
- (12a) The minimum number of teachers to be employed at the school.
- (12b) An organization chart that clearly presents the school's organizational structure, including lines of authority and reporting between the governing board, staff, any related bodies, such as advisory bodies or parent and teacher councils, and any external organizations that will play a role in managing the school.
- (13) Information regarding the facilities to be used by the school and the manner in which administrative services of the school are to be provided.
- (14) Repealed by Session Laws 1997-430, s. 1.
- (15) The process to be followed by the school to ensure parental involvement.
- (16) The school's plans, if any, for providing transportation or food services.
- (17) Explanations of any partnerships or contractual relationships central to the school's operations or mission.
- (18) A detailed school start-up plan, identifying tasks, time lines, and responsible individuals.

(c) An applicant shall submit the application to the Commission, which shall have the authority to approve the charter school in accordance with the standards and criteria set forth in this Part. a chartering entity for preliminary approval. A chartering entity may be:

- ~~(1) The local board of education of the local school administrative unit in which the charter school will be located;~~

1 ~~(2)~~ The board of trustees of a constituent institution of The University of North
2 Carolina, so long as the constituent institution is involved in the planning,
3 operation, or evaluation of the charter school; or

4 ~~(3)~~ The State Board of Education.

5 Regardless of which chartering entity receives the application for preliminary approval, the
6 State Board of Education shall have final approval of the charter school.

7 Notwithstanding the provisions of this subsection, if the State Board of Education finds that
8 an applicant (i) submitted an application to a local board of education and received final
9 approval from the State Board of Education, but (ii) is unable to find a suitable location within
10 that local school administrative unit to operate, the State Board of Education may authorize the
11 charter school to operate within an adjacent local school administrative unit for one year only.
12 The charter school cannot operate for more than one year unless it reapplies, in accordance with
13 subdivision (1), (2), or (3) of this subsection, and receives final approval from the State Board
14 of Education.

15 (d) Unless an applicant submits its application under subsection (c) of this section to the
16 local board of education of the local school administrative unit in which the charter school will
17 be located, ~~the~~The applicant shall submit a copy of its application to ~~that local board~~the local
18 board of education of the local school administrative unit in which the charter school will be
19 located within seven days of its submission under subsection (c) of this section. The local board
20 may offer any information or comment concerning the application it considers appropriate to
21 the ~~chartering entity~~Commission within a time period to be determined by the Commission and
22 imposed uniformly for all applications. The local board shall deliver this information to the
23 chartering entity no later than January 1 of the next calendar year. The applicant shall not be
24 required to obtain or deliver this information to the ~~chartering entity~~Commission on behalf of
25 the local board. The ~~State Board~~Commission shall consider any information or comment it
26 receives from a local board and shall consider the impact on the local school administrative
27 unit's ability to provide a sound basic education to its students when determining whether to
28 grant preliminary and final final approval of the charter school.

29 "**§ 115C-238.29C. Preliminary approval of Completeness determination for applications**
30 **for charter schools.**

31 (a) The chartering entity that receives a request for preliminary approval of a charter
32 school shall act on each request received prior to November 1 of a calendar year by February 1
33 of the next calendar year. Commission shall determine the schedule and deadlines for the
34 submission of charter school applications.

35 (b) The chartering entity Commission shall give preliminary approval to the application
36 issue a determination that the application is complete if the chartering entity Commission
37 determines that ~~(i)~~the information contained in the application meets the requirements set out in
38 this Part or adopted by the State Board of Education, Commission. ~~(ii)~~ the applicant has the
39 ability to operate the school and would be likely to operate the school in an educationally and
40 economically sound manner, and ~~(iii)~~ granting the application would improve student learning
41 and would achieve one of the other purposes set out in G.S. 115C-238.29A. In reviewing
42 applications for the establishment of charter schools within a local school administrative unit,
43 the chartering entity is encouraged to give preference to applications that demonstrate the
44 eapability to provide comprehensive learning experiences to students identified by the
45 applicants as at risk of academic failure. If the chartering entity approves more than one
46 application for charter schools located in a local school administrative unit, the chartering entity
47 may state its order of preference among the applications that it approves.

48 (c) If a chartering entity other than the State Board disapproves an application, the
49 applicant may appeal to the State Board of Education prior to February 15. The State Board
50 shall consider the appeal at the same time it is considering final approval in accordance with
51 G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it

1 finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the
2 application, failed to consider appropriately the application, or failed to act within the time set
3 out in G.S. 115C-238.29C.

4 If the chartering entity, the State Board of Education, or both, disapprove an application, the
5 applicant may modify the application and reapply subject to the application deadline contained
6 in subsection (a) of this section.

7 **"§ 115C-238.29D. Final approval of applications for charter schools.**

8 (a) ~~The State Board shall~~Commission may grant final approval of an application if it
9 ~~finds that~~ determines that the application meets the requirements set out in this Part or adopted
10 by the ~~State Board of Education~~Commission and that granting the application would achieve
11 one or more of the purposes set out in G.S. 115C-238.29A.

12 ~~The State Board~~Commission shall act by ~~March 15~~ of a calendar year on all applications
13 and appeals it receives prior to ~~February 15~~ of that calendar year establish a time line to take
14 final action on applications declared complete under G.S. 115C-238.29C and shall make this
15 information available to applicants. The Commission's decision shall be based on the evidence
16 contained in the application or collected by the Commission following a procedure for
17 application review that is uniform across all applicants and provides opportunities for
18 applicants to respond to questions and requests for further information.

19 (b) ~~The State Board shall authorize no more than five charter schools per year in one~~
20 ~~local school administrative unit. The State Board shall authorize no more than 100 charter~~
21 ~~schools statewide. If more than five charter schools in one local school administrative unit or~~
22 ~~more than 100 schools statewide meet the standards for final approval, the State Board shall~~
23 ~~give priority to applications that are most likely to further State education policies and to~~
24 ~~strengthen the educational program offered in the local school administrative units in which~~
25 ~~they are located.~~

26 (b1) If the Commission disapproves an application, it shall provide the applicant with the
27 opportunity to request reconsideration of the Commission's decision. However, the
28 Commission shall not be required to consider any request for reconsideration from an applicant
29 that fails to include additional information not previously presented by the applicant to the
30 Commission.

31 (b2) A decision to disapprove an application is exempt from review pursuant to Chapter
32 150B of the General Statutes.

33 (c) ~~The State Board of Education~~Commission may authorize a school before the
34 applicant has secured its space, equipment, facilities, and personnel if the applicant indicates
35 the authority is necessary for it to raise working capital. The State Board shall not allocate any
36 funds to the school until the school has obtained space.

37 (d) ~~The State Board of Education~~Commission may grant the initial charter for a period
38 not to exceed 10 years and may renew the charter upon the request of the chartering entity for
39 subsequent periods not to exceed 10 years each. The Commission may include in the charter
40 any standards or requirements it determines are necessary to fulfill the purposes of this Part as
41 well as any other objectives set forth by the charter school applicant. The State Board of
42 EducationCommission shall review the operations of each charter school at least once every
43 five years to ensure that the school is meeting the expected academic, financial, and governance
44 standards.

45 A material revision of the provisions of a charter application shall be made only upon the
46 approval of the ~~State Board of Education~~Commission.

47 It shall not be considered a material revision of a charter application and shall not require
48 the prior approval of the State Board for a charter school to increase its enrollment during the
49 charter school's second year of operation and annually thereafter (i) by up to ten percent (10%)
50 of the school's previous year's enrollment or (ii) in accordance with planned growth as
51 authorized in the charter. Other enrollment growth shall be considered a material revision of the

1 ~~charter application, and the State Board may approve such additional enrollment growth of~~
2 ~~greater than ten percent (10%) only if the State Board finds that:~~

- 3 (1) ~~The actual enrollment of the charter school is within ten percent (10%) of its~~
4 ~~maximum authorized enrollment;~~
- 5 (2) ~~The charter school has commitments for ninety percent (90%) of the~~
6 ~~requested maximum growth;~~
- 7 (3) ~~The board of education of the local school administrative unit in which the~~
8 ~~charter school is located has had an opportunity to be heard by the State~~
9 ~~Board of Education on any adverse impact the proposed growth would have~~
10 ~~on the unit's ability to provide a sound basic education to its students;~~
- 11 (4) ~~The charter school is not currently identified as low performing;~~
- 12 (5) ~~The charter school meets generally accepted standards of fiscal~~
13 ~~management; and~~
- 14 (6) ~~It is otherwise appropriate to approve the enrollment growth.~~

15 (e) The Commission shall not restrict the number of students a charter school may
16 enroll. The capacity of the charter school shall be determined annually by the board of directors
17 of the charter school in conjunction with the Commission and in consideration of the charter
18 school's ability to facilitate the academic success of its students, to achieve the other objectives
19 specified in the charter, and to ensure that its student enrollment does not exceed the capacity
20 of its facility or site.

21 **"§ 115C-238.29E. Charter school operation.**

22 (a) ~~A charter school that is approved by the State shall be a public school within the~~
23 ~~local school administrative unit in which it is located. It shall be accountable to the local board~~
24 ~~of education if it applied for and received preliminary approval from that local board for~~
25 ~~purposes of ensuring compliance with applicable laws and the provisions of its charter. All~~
26 ~~other charter schools located, and shall be accountable to the State Board Commission for~~
27 ~~ensuring compliance with applicable laws and the provisions of their charters, except that any~~
28 ~~of these charter schools may agree to be accountable to the local board of the school~~
29 ~~administrative unit in which the charter school is located rather than to the State Board charters.~~

30 (b) ~~A charter school shall be operated by a private nonprofit corporation that shall have~~
31 ~~received federal tax-exempt status no later than 24 months following final approval of the~~
32 ~~application. A local board of education approved to convert a school to a charter school shall~~
33 ~~not be required to form a nonprofit, tax-exempt corporation if the local board of education~~
34 ~~serves as the board of directors of the charter school.~~

35 (c) ~~A charter school shall operate under the written charter signed by the Commission~~
36 ~~entity to which it is accountable under subsection (a) of this section and the applicant. A charter~~
37 ~~school is not required to enter into any other contract. The charter shall incorporate the~~
38 ~~information provided in the application, as modified during the charter approval process, and~~
39 ~~any terms and conditions imposed on the charter school by the State Board of~~
40 ~~Education Commission. No other terms may be imposed on the charter school as a condition for~~
41 ~~receipt of local funds.~~

42 (d) ~~The board of directors of the charter school shall decide matters related to the~~
43 ~~operation of the school, including budgeting, curriculum, and operating procedures.~~

44 (e) ~~A charter school's specific location shall not be prescribed or limited by a local~~
45 ~~board or other authority except a zoning authority. The school may lease space from a local~~
46 ~~board of education or as is otherwise lawful in the local school administrative unit in which the~~
47 ~~charter school is located. If a charter school leases space from a sectarian organization, the~~
48 ~~charter school classes and students shall be physically separated from any parochial students,~~
49 ~~and there shall be no religious artifacts, symbols, iconography, or materials on display in the~~
50 ~~charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space~~

1 from a sectarian organization, the charter school shall not use the name of that organization in
2 the name of the charter school.

3 At the request of the charter school, the local board of education of the local school
4 administrative unit in which the charter school will be located shall lease any available building
5 or land to the charter school unless the board demonstrates that the lease is not economically or
6 practically feasible or that the local board does not have adequate classroom space to meet its
7 enrollment needs. Notwithstanding any other law, a local board of education may provide a
8 school facility to a charter school free of charge; however, the charter school is responsible for
9 the maintenance of and insurance for the school facility.

10 (f) Except as provided in this Part and pursuant to the provisions of its charter, a charter
11 school is exempt from statutes and rules applicable to a local board of education or local school
12 administrative unit.

13 **"§ 115C-238.29F. General requirements.**

14 (a) Health and Safety Standards. – A charter school shall meet the same health and
15 safety requirements required of a local school administrative unit. The Department of Public
16 Instruction shall ensure that charter schools provide parents and guardians with information
17 about meningococcal meningitis and influenza and their vaccines at the beginning of every
18 school year. This information shall include the causes, symptoms, and how meningococcal
19 meningitis and influenza are spread and the places where parents and guardians may obtain
20 additional information and vaccinations for their children.

21 The Department of Public Instruction shall also ensure that charter schools provide parents
22 and guardians with information about cervical cancer, cervical dysplasia, human
23 papillomavirus, and the vaccines available to prevent these diseases. This information shall be
24 provided at the beginning of the school year to parents of children entering grades five ~~through~~
25 through 12. This information shall include the causes and symptoms of these diseases, how
26 they are transmitted, how they may be prevented by vaccination, including the benefits and
27 possible side effects of vaccination, and the places where parents and guardians may obtain
28 additional information and vaccinations for their children.

29 The Department of Public Instruction shall also ensure that charter schools provide students
30 in grades nine through 12 with information annually on the manner in which a parent may
31 lawfully abandon a newborn baby with a responsible person, in accordance with G.S. 7B-500.

32 The Department of Public Instruction shall also ensure that the guidelines for individual
33 diabetes care plans adopted by the State Board of Education under G.S. 115C-12(31) are
34 implemented in charter schools in which students with diabetes are enrolled and that charter
35 schools otherwise comply with the provisions of G.S. 115C-375.3.

36 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
37 admission policies, employment practices, and all other operations and shall not charge tuition
38 or fees. A charter school shall not be affiliated with a nonpublic sectarian school or a religious
39 institution.

40 (c) Civil Liability and Insurance. –

41 (1) The board of directors of a charter school may sue and be sued. The ~~State~~
42 ~~Board of Education-Commission~~ shall adopt rules to establish reasonable
43 amounts and types of liability insurance that the board of directors shall be
44 required by the charter to obtain. The board of directors shall obtain at least
45 the amount of and types of insurance required by these rules to be included
46 in the charter. Any sovereign immunity of the charter school, of the
47 organization that operates the charter school, or its members, officers, or
48 directors, or of the employees of the charter school or the organization that
49 operates the charter school, is waived to the extent of indemnification by
50 insurance.

- 1 (2) No civil liability shall attach to any chartering entity, to the State Board of
2 Education, the Commission, or to any of their members or employees,
3 individually or collectively, for any acts or omissions of the charter school.
- 4 (d) Instructional Program. –
- 5 (1) The school shall provide instruction each year for at least 180 days.
- 6 (2) The school shall design its programs to at least meet the student performance
7 standards adopted by the State Board of Education and the student
8 performance standards contained in the charter.
- 9 (3) A charter school shall conduct the student assessments required for charter
10 schools by the ~~State Board of Education~~ Commission.
- 11 (4) The school shall comply with policies adopted by the State Board of
12 Education for charter schools relating to the education of children with
13 disabilities.
- 14 (5) The school is subject to and shall comply with Article 27 of Chapter 115C of
15 the General Statutes, except that a charter school may also exclude a student
16 from the charter school and return that student to another school in the local
17 school administrative unit in accordance with the terms of its charter.
- 18 (e) Employees. –
- 19 (1) An employee of a charter school is not an employee of the local school
20 administrative unit in which the charter school is ~~located~~ located, except for
21 employees of charter schools converted by a local board of education where
22 a nonprofit, tax-exempt corporation was not required to be formed because
23 the local board of education serves as the board of directors of the charter
24 school. The charter school's board of directors shall employ and contract
25 with necessary teachers to perform the particular service for which they are
26 employed in the school; at least seventy-five percent (75%) of these teachers
27 in grades kindergarten through five, at least fifty percent (50%) of these
28 teachers in grades six through eight, and at least fifty percent (50%) of these
29 teachers in grades nine through 12 shall hold teacher certificates. All
30 teachers in grades six through 12 who are teaching in the core subject areas
31 of mathematics, science, social studies, and language arts shall be college
32 graduates.
- 33 The board also may employ necessary employees who are not required to
34 hold teacher certificates to perform duties other than teaching and may
35 contract for other services. The board may discharge teachers and
36 noncertificated employees.
- 37 (2) No local board of education shall require any employee of the local school
38 administrative unit to be employed in a charter school.
- 39 (3) If a teacher employed by a local school administrative unit makes a written
40 request for a leave of absence to teach at a charter school, the local school
41 administrative unit shall grant the leave for one year. For the initial year of a
42 charter school's operation, the local school administrative unit may require
43 that the request for a leave of absence be made up to 45 days before the
44 teacher would otherwise have to report for duty. After the initial year of a
45 charter school's operation, the local school administrative unit may require
46 that the request for a leave of absence be made up to 90 days before the
47 teacher would otherwise have to report for duty. A local board of education
48 is not required to grant a request for a leave of absence or a request to extend
49 or renew a leave of absence for a teacher who previously has received a
50 leave of absence from that school board under this subdivision. A teacher
51 who has career status under G.S. 115C-325 prior to receiving a leave of

1 absence to teach at a charter school may return to a public school in the local
2 school administrative unit with career status at the end of the leave of
3 absence or upon the end of employment at the charter school if an
4 appropriate position is available. If an appropriate position is unavailable,
5 the teacher's name shall be placed on a list of available teachers and that
6 teacher shall have priority on all positions for which that teacher is qualified
7 in accordance with G.S. 115C-325(e)(2).

8 (3a) A teacher employed by a charter school who returns to employment with a
9 local school administrative unit without a break in service shall have unused
10 sick leave and annual leave from previous employment with a local school
11 administrative unit reinstated. A teacher employed by a charter school who
12 returns to employment with a local school administrative unit without a
13 break in service shall be credited for the years of service at the charter school
14 for the purposes of the salary schedule, longevity pay, and rate of earned
15 leave.

16 (4) The employees of the charter school shall be deemed employees of the local
17 school administrative unit for purposes of providing certain State-funded
18 employee benefits, including membership in the Teachers' and State
19 Employees' Retirement System and the State Health Plan for Teachers and
20 State Employees. The State Board of Education provides funds to charter
21 schools, and the Commission approves the original members of the boards of
22 directors of the charter schools, has the authority to grant, supervise, and
23 revoke charters, and demands full accountability from charter schools for
24 school finances and student performance. Accordingly, it is the
25 determination of the General Assembly that charter schools are public
26 schools and that the employees of charter schools are public school
27 employees. Employees of a charter school whose board of directors elects to
28 become a participating employer under G.S. 135-5.3 are "teachers" for the
29 purpose of membership in the North Carolina Teachers' and State
30 Employees' Retirement System. In no event shall anything contained in this
31 Part require the North Carolina Teachers' and State Employees' Retirement
32 System to accept employees of a private employer as members or
33 participants of the System.

34 (f) Accountability. –

35 (1) The school is subject to the financial audits, the audit procedures, and the
36 audit requirements adopted by the ~~State Board of Education~~ Commission
37 for charter schools. These audit requirements may include the requirements of
38 the School Budget and Fiscal Control Act.

39 (2) The school shall comply with the reporting requirements established by the
40 State Board of Education in the Uniform Education Reporting ~~System~~.
41 System, except that reports shall be made to the Commission as well as the
42 State Board of Education.

43 (3) The school shall report at least annually to the ~~chartering entity~~ Commission
44 and the State Board of Education the information required by the ~~chartering~~
45 entity Commission or the State Board.

46 (g) Admission Requirements. –

47 (1) Any child who is qualified under the laws of this State for admission to a
48 public school is qualified for admission to a charter school. Any charter
49 school that is unable to fill its current enrollment with students qualified
50 under the laws of this State for admission to a public school may enroll
51 persons of school age who are not domiciliaries of the State and charge those

- 1 students a tuition amount equal to the per pupil allocation of the local
2 appropriation for the county in which the charter school is located and the
3 per pupil State appropriation for that school year. The number of persons of
4 school age who are not domiciliaries of the State who are enrolled in a
5 charter school may not exceed ten percent (10%) of the total number of
6 students enrolled in the charter school.
- 7 (2) No local board of education shall require any student enrolled in the local
8 school administrative unit to attend a charter school.
- 9 (3) Admission to a charter school shall not be determined according to the
10 school attendance area in which a student resides, except that any ~~local~~
11 ~~school administrative unit in which a public school converts to a charter~~
12 ~~school shall give admission preference to students who reside within the~~
13 ~~former attendance area of that school.~~ public school converting to a charter
14 school shall adopt a policy giving enrollment preference to students who
15 reside within the former attendance area of that public school for at least the
16 first two years of operation of the charter school.
- 17 (4) Admission to a charter school shall not be determined according to the local
18 school administrative unit in which a student resides.
- 19 (5) A charter school shall not discriminate against any student on the basis of
20 ethnicity, national origin, gender, or disability. Except as otherwise provided
21 by law or the mission of the school as set out in the charter, the school shall
22 not limit admission to students on the basis of intellectual ability, measures
23 of achievement or aptitude, athletic ability, disability, race, creed, gender,
24 national origin, religion, or ancestry. The charter school may give enrollment
25 priority to siblings of currently enrolled students who were admitted to the
26 charter school in a previous year and to children of the school's principal,
27 teachers, and teacher assistants. In addition, and only for its first year of
28 operation, the charter school may give enrollment priority to children of the
29 initial members of the charter school's board of directors, so long as (i) these
30 children are limited to no more than ten percent (10%) of the school's total
31 enrollment or to 20 students, whichever is less, and (ii) the charter school is
32 not a former public or private school. If multiple birth siblings apply for
33 admission to a charter school and a lottery is needed under
34 G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the
35 lottery to represent all of the multiple birth siblings. If that surname of the
36 multiple birth siblings is selected, then all of the multiple birth siblings shall
37 be admitted. Within one year after the charter school begins operation, the
38 population of the school shall reasonably reflect the racial and ethnic
39 composition of the general population residing within the local school
40 administrative unit in which the school is located or the racial and ethnic
41 composition of the special population that the school seeks to serve residing
42 within the local school administrative unit in which the school is located.
43 The school shall be subject to any court-ordered desegregation plan in effect
44 for the local school administrative unit.
- 45 (6) During each period of enrollment, the charter school shall enroll an eligible
46 student who submits a timely application, unless the number of applications
47 exceeds the capacity of a program, class, grade level, or building. In this
48 case, students shall be accepted by lot. Once enrolled, students are not
49 required to reapply in subsequent enrollment periods.
- 50 (7) Notwithstanding any law to the contrary, a charter school may refuse
51 admission to any student who has been expelled or suspended from a public

1 school under G.S. 115C-391 until the period of suspension or expulsion has
2 expired.

3 (8) Nothing in this subsection shall be interpreted to preclude the formation of a
4 charter school whose mission is focused on serving students with
5 disabilities, students of the same gender, students who pose such severe
6 disciplinary problems that they warrant a specific educational program,
7 academically at-risk students, or academically gifted students.

8 (h) Transportation. – The charter school may provide transportation for students
9 enrolled at the school. The charter school shall develop a transportation plan so that
10 transportation is not a barrier to any student who resides in the local school administrative unit
11 in which the school is located. ~~The charter school is not required to provide transportation to~~
12 ~~any student who lives within one and one half miles of the school.~~ At the request of the charter
13 school and if the local board of the local school administrative unit in which the charter school
14 is located operates a school bus system, then that local board may contract with the charter
15 school to provide transportation in accordance with the charter school's transportation plan to
16 students who reside in the local school administrative unit and who reside at least one and
17 one-half miles ~~of~~ from the charter school. A local board may charge the charter school a
18 reasonable charge that is sufficient to cover the cost of providing this transportation.
19 Furthermore, a local board may refuse to provide transportation under this subsection if it
20 demonstrates there is no available space on buses it intends to operate during the term of the
21 contract or it would not be practically feasible to provide this transportation. No requirement of
22 this subsection shall be interpreted to require a charter school to provide busing or any other
23 mode of transportation to any particular student.

24 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
25 charter, ~~all net the~~ assets of the charter school purchased with public funds shall be distributed
26 to satisfy the creditors of the charter school. Any surplus that remains after the charter school's
27 creditors are satisfied shall then be deemed the property of the local school administrative unit
28 in which the charter school is located.

29 (j) Driving Eligibility Certificates. – In accordance with rules adopted by the State
30 Board of Education, the designee of the school's board of directors shall do all of the following:

- 31 (1) Sign driving eligibility certificates that meet the conditions established in
32 G.S. 20-11.
- 33 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
34 emancipated juveniles, as appropriate, in order to disclose information to the
35 Division of Motor Vehicles.
- 36 (3) Notify the Division of Motor Vehicles when a student who holds a driving
37 eligibility certificate no longer meets its conditions.

38 (k) The Display of the United States and North Carolina Flags and the Recitation of the
39 Pledge of Allegiance. – A charter school shall (i) display the United States and North Carolina
40 flags in each classroom when available, (ii) require the recitation of the Pledge of Allegiance on
41 a daily basis, and (iii) provide age-appropriate instruction on the meaning and historical origins
42 of the flag and the Pledge of Allegiance. A charter school shall not compel any person to stand,
43 salute the flag, or recite the Pledge of Allegiance. If flags are donated or are otherwise
44 available, flags shall be displayed in each classroom.

45 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

46 (a) ~~The State Board of Education, or a chartering entity subject to the approval of the~~
47 ~~State Board of Education,~~ Commission may terminate or not renew a charter upon any of the
48 following grounds:

- 49 (1) Failure to meet the requirements for student performance contained in the
50 charter;
- 51 (2) Failure to meet generally accepted standards of fiscal management;

- 1 (3) Violations of law;
- 2 (4) Material violation of any of the conditions, standards, or procedures set forth
- 3 in the charter;
- 4 (5) Two-thirds of the faculty and instructional support personnel at the school
- 5 request that the charter be terminated or not renewed; or
- 6 (6) Other good cause identified.

7 (b) The ~~State Board of Education~~Commission shall develop and implement a process to
8 address contractual and other grievances between a charter school and ~~its chartering entity~~the
9 Commission or the local board of education during the time of its charter.

10 (c) The ~~State Board~~Commission and the charter school are encouraged to make a
11 good-faith attempt to resolve the differences that may arise between them. They may agree to
12 jointly select a mediator. The mediator shall act as a neutral facilitator of disclosures of factual
13 information, statements of positions and contentions, and efforts to negotiate an agreement
14 settling the differences. The mediator shall, at the request of either the ~~State Board~~Commission
15 or a charter school, commence a mediation immediately or within a reasonable period of time.
16 The mediation shall be held in accordance with rules and standards of conduct adopted under
17 Chapter 7A of the General Statutes governing mediated settlement conferences but modified as
18 appropriate and suitable to the resolution of the particular issues in disagreement.

19 Notwithstanding Article 33C of Chapter 143 of the General Statutes, the mediation
20 proceedings shall be conducted in private. Evidence of statements made and conduct occurring
21 in a mediation are not subject to discovery and are inadmissible in any court action. However,
22 no evidence otherwise discoverable is inadmissible merely because it is presented or discussed
23 in a mediation. The mediator shall not be compelled to testify or produce evidence concerning
24 statements made and conduct occurring in a mediation in any civil proceeding for any purpose,
25 except disciplinary hearings before the State Bar or any agency established to enforce standards
26 of conduct for mediators. The mediator may determine that an impasse exists and discontinue
27 the mediation at any time. The mediator shall not make any recommendations or public
28 statement of findings or conclusions. The ~~State Board~~Commission and the charter school shall
29 share equally the mediator's compensation and expenses. The mediator's compensation shall be
30 determined according to rules adopted under Chapter 7A of the General Statutes.

31 (d) A decision to terminate or not renew a charter is exempt from review pursuant to
32 Chapter 150B of the General Statutes."

33 **"§ 115C-238.29H. State and local funds for a charter school.**

34 (a) The State Board of Education shall allocate to each charter school:

- 35 (1) An amount equal to the average per pupil allocation for average daily
- 36 membership from the local school administrative unit allotments in which
- 37 the charter school is located for each child attending the charter school
- 38 except for the allocation for children with disabilities and for the allocation
- 39 for children with limited English proficiency;
- 40 (2) An additional amount for each child attending the charter school who is a
- 41 child with disabilities; and
- 42 (3) An additional amount for children with limited English proficiency attending
- 43 the charter school, based on a formula adopted by the State Board.

44 In accordance with ~~G.S. 115C-238.29D(d)~~,115C-238.29D(e), the State Board shall allow
45 for annual adjustments to the amount allocated to a charter school based on its enrollment
46 growth in school years subsequent to the initial year of operation.

47 In the event a child with disabilities leaves the charter school and enrolls in a public school
48 during the first 60 school days in the school year, the charter school shall return a pro rata
49 amount of funds allocated for that child to the State Board, and the State Board shall reallocate
50 those funds to the local school administrative unit in which the public school is located. In the
51 event a child with disabilities enrolls in a charter school during the first 60 school days in the

1 school year, the State Board shall allocate to the charter school the pro rata amount of
2 additional funds for children with disabilities.

3 (a1) Funds allocated by the State Board of Education may be used to enter into
4 operational and financing leases for real property or mobile classroom units for use as school
5 facilities for charter schools and may be used for payments on loans made to charter schools for
6 facilities or equipment. Funds allocated by the State Board of Education may also be used to
7 acquire equipment, real property, buildings, and mobile classroom units for use as school
8 facilities for charter schools, and to enter into operational and financing leases for equipment.
9 ~~However, State funds shall not be used to obtain any other interest in real property or mobile~~
10 ~~classroom units.~~ No indebtedness of any kind incurred or created by the charter school shall
11 constitute an indebtedness of the State or its political subdivisions, and no indebtedness of the
12 charter school shall involve or be secured by the faith, credit, or taxing power of the State or its
13 political subdivisions. Every contract or lease into which a charter school enters shall include
14 the previous sentence. The school also may own land and buildings it obtains through non-State
15 sources.

16 (b) If a student attends a charter school, the local school administrative unit in which
17 the child resides shall transfer to the charter school an amount equal to the per pupil local
18 current expense appropriation to the local school administrative unit for the fiscal year. The
19 amount transferred under this subsection that consists of revenue derived from supplemental
20 taxes shall be transferred only to a charter school for students residing within ~~located in~~ the tax
21 district for which these taxes are ~~levied and in which the student resides.~~ levied. The local
22 school administrative unit shall provide a detailed accounting of the funds to be transferred and
23 transfer these funds based on a preliminary projection of charter school enrollment provided to
24 the local school administrative unit by the charter school no later than 15 days after the local
25 school administrative unit receives its local current expense appropriation. Adjustments to this
26 amount shall be made within 30 days of the State Board of Education determining and
27 certifying to the charter school its average daily membership for the school year. If the local
28 school administrative unit fails to comply with the deadlines set forth in this subsection, it shall
29 pay a penalty of one percent (1%) of the amount transferred to the charter school.

30 (c) Counties may provide funds to the nonprofit tax-exempt corporation that holds the
31 charter of a charter school by direct appropriation as set forth in G.S. 153A-457. These funds
32 shall be used only for the following purposes:

- 33 (1) The acquisition of real property for school purposes, including, but not
34 limited to, school sites, playgrounds, and athletic fields.
- 35 (2) The acquisition, construction, reconstruction, enlargement, renovation, or
36 replacement of buildings and other structures, including, but not limited to,
37 buildings for classrooms and laboratories, physical and vocational
38 educational purposes, libraries, auditoriums, and gymnasiums.
- 39 (3) The acquisition or replacement of furniture and furnishings, instructional
40 apparatus, and similar items of furnishings and equipment.

41 ~~"§ 115C-238.291. Notice of the charter school process; review of charter schools; Charter~~
42 ~~School Advisory Committee.~~

43 (a) ~~The State Board of Education shall distribute information announcing the~~
44 ~~availability of the charter school process described in this Part to each local school~~
45 ~~administrative unit and public postsecondary educational institution and, through press releases,~~
46 ~~to each major newspaper in the State.~~

47 (b) ~~Repealed by Session Laws 1997-18, s. 15(i).~~

48 (c) ~~The State Board of Education shall review and evaluate the educational~~
49 ~~effectiveness of the charter school approach authorized under this Part and the effect of charter~~
50 ~~schools on the public schools in the local school administrative unit in which the charter~~
51 ~~schools are located. The Board shall report no later than January 1, 2002, to the Joint~~

1 ~~Legislative Education Oversight Committee with recommendations to modify, expand, or~~
2 ~~terminate that approach. The Board shall base its recommendations predominantly on the~~
3 ~~following information:~~

4 (1) ~~The current and projected impact of charter schools on the delivery of~~
5 ~~services by the public schools.~~

6 (2) ~~Student academic progress in the charter schools as measured, where~~
7 ~~available, against the academic year immediately preceding the first~~
8 ~~academic year of the charter schools' operation.~~

9 (3) ~~Best practices resulting from charter school operations.~~

10 (4) ~~Other information the State Board considers appropriate.~~

11 (d) ~~The State Board of Education may establish a Charter School Advisory Committee~~
12 ~~to assist with the implementation of this Part. The Charter School Advisory Committee may (i)~~
13 ~~provide technical assistance to chartering entities or to potential applicants, (ii) review~~
14 ~~applications for preliminary approval, (iii) make recommendations as to whether the State~~
15 ~~Board should approve applications for charter schools, (iv) make recommendations as to~~
16 ~~whether the State Board should terminate or not renew a charter, (v) make recommendations~~
17 ~~concerning grievances between a charter school and its chartering entity, the State Board, or a~~
18 ~~local board, (vi) assist with the review under subsection (c) of this section, and (vii) provide~~
19 ~~any other assistance as may be required by the State Board.~~

20 (e) ~~Notwithstanding the dates set forth in this Part, the State Board of Education may~~
21 ~~establish an alternative time line for the submission of applications, preliminary approvals,~~
22 ~~criminal record checks, appeals, and final approvals so long as the Board grants final approval~~
23 ~~by March 15 of each calendar year.~~

24 **"§ 115C-238.29J. Public and private assistance to charter schools.**

25 (a) Local boards of education are authorized and encouraged to provide administrative
26 and evaluative support to charter schools located within their local school administrative units.

27 (b) Private persons and organizations are encouraged to provide funding and other
28 assistance to the establishment or operation of charter schools.

29 (c) The State Board of Education shall direct the Department of Public Instruction to
30 provide guidance and technical assistance, upon request, to existing charter schools as well as
31 applicants and or potential applicants for charters.

32 (d) The State Board of Education shall direct the Department of Public Instruction to
33 notify the Department of Revenue when the State Board of Education Commission terminates,
34 fails to renew, or grants a charter for a charter school.

35 **"§ 115C-238.29K. Criminal history checks.**

36 (a) As used in this section:

37 (1) "Criminal history" means a county, state, or federal criminal history of
38 conviction of a crime, whether a misdemeanor or a felony, that indicates an
39 individual (i) poses a threat to the physical safety of students or personnel, or
40 (ii) has demonstrated that he or she does not have the integrity or honesty to
41 fulfill his or her duties as school personnel. These crimes include the
42 following North Carolina crimes contained in any of the following Articles
43 of Chapter 14 of the General Statutes: Article 5A, Endangering Executive
44 and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred
45 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
46 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
47 or Material; Article 14, Burglary and Other Housebreakings; Article 15,
48 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article
49 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A,
50 Obtaining Property or Services by False or Fraudulent Use of Credit Device
51 or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses

1 Against Public Morality and Decency; Article 26A, Adult Establishments;
2 Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,
3 Misconduct in Public Office; Article 35, Offenses Against the Public Peace;
4 Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and
5 Article 60, Computer-Related Crime. These crimes also include possession
6 or sale of drugs in violation of the North Carolina Controlled Substances
7 Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related
8 offenses such as sale to underage persons in violation of G.S. 18B-302 or
9 driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
10 In addition to the North Carolina crimes listed in this subdivision, such
11 crimes also include similar crimes under federal law or under the laws of
12 other states.

13 (2) "School personnel" means any:

- 14 a. Member of the board of directors of a charter school,
- 15 b. Employee of a charter school, or
- 16 c. Independent contractor or employee of an independent contractor of
17 a charter school if the independent contractor carries out duties
18 customarily performed by school personnel,
19 whether paid with federal, State, local, or other funds, who has significant
20 access to students or who has responsibility for the fiscal management of a
21 charter school.

22 (b) The ~~State Board of Education~~Commission shall adopt a policy on whether and
23 under what circumstances school personnel shall be required to be checked for a criminal
24 history. ~~The policy shall not require school personnel to be checked for a criminal history check~~
25 ~~before preliminary approval is granted under G.S. 115C-238.29B.~~ The ~~Board~~Commission shall
26 apply its policy uniformly in requiring school personnel to be checked for a criminal history.
27 The ~~Board~~Commission may grant conditional approval of an application while the ~~Board~~
28 Commission is checking a person's criminal history and making a decision based on the results
29 of the check.

30 The ~~State Board~~Commission shall not require members of boards of directors of charter
31 schools or employees of charter schools to pay for the criminal history check authorized under
32 this section.

33 (c) The ~~Board of Education~~Commission shall require the person to be checked by the
34 Department of Justice to (i) be fingerprinted and to provide any additional information required
35 by the Department of Justice to a person designated by the ~~State Board~~Commission, or to the
36 local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign
37 a form consenting to the check of the criminal record and to the use of fingerprints and other
38 identifying information required by the repositories. The ~~State Board~~Commission shall
39 consider refusal to consent when deciding whether to grant final approval of an application
40 under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints
41 of the individual shall be forwarded to the State Bureau of Investigation for a search of the
42 State criminal history record file, and the State Bureau of Investigation shall forward a set of
43 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
44 The Department of Justice shall provide to the ~~State Board of Education~~Commission the
45 criminal history from the State and National Repositories of Criminal Histories of any school
46 personnel for which the ~~Board~~Commission requires a criminal history check.

47 The ~~State Board~~Commission shall not require members of boards of directors of charter
48 schools or employees of charter schools to pay for the fingerprints authorized under this
49 section.

50 (d) The ~~State Board~~Commission shall review the criminal history it receives on an
51 individual. The ~~State Board~~Commission shall determine whether the results of the review

1 indicate that the individual (i) poses a threat to the physical safety of students or personnel, or
2 (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her
3 duties as school personnel and shall use the information when deciding whether to grant final
4 approval of an application for a charter school under G.S. 115C-238.29D and for making an
5 employment recommendation to the board of directors of a charter school. The ~~State~~
6 ~~Board~~Commission shall make written findings with regard to how it used the information when
7 deciding whether to grant final approval under G.S. 115C-238.29D and when making an
8 employment recommendation.

9 (e) The ~~State Board~~Commission shall notify in writing the board of directors of the
10 charter school of the determination by the ~~State Board~~Commission as to whether the school
11 personnel is qualified to operate or be employed by a charter school based on the school
12 personnel's criminal history. At the same time, the ~~State Board~~Commission shall provide to the
13 charter school's board of directors the written findings the ~~Board~~Commission makes in
14 subsection (d) of this section and its employment recommendation. If the ~~State~~
15 ~~Board~~Commission recommends dismissal or nonemployment of any person, the board of
16 directors of the charter school shall dismiss or refuse to employ that person. In accordance with
17 the law regulating the dissemination of the contents of the criminal history file furnished by the
18 Federal Bureau of Investigation, the ~~State Board~~Commission shall not release nor disclose any
19 portion of the school personnel's criminal history to the charter school's board of directors or
20 employees. The ~~State Board~~Commission also shall notify the school personnel of the procedure
21 for completing or challenging the accuracy of the criminal history and the personnel's right to
22 contest the ~~State Board's~~Commission's determination in court.

23 (f) All the information received by the ~~State Board of Education~~Commission or the
24 charter school in accordance with subsection (e) of this section through the checking of the
25 criminal history is privileged information and is not a public record but is for the exclusive use
26 of the ~~State Board of Education~~Commission or the board of directors of the charter school. The
27 ~~State Board of Education~~Commission or the board of directors of the charter school may
28 destroy the information after it is used for the purposes authorized by this section after one
29 calendar year.

30 (g) There shall be no liability for negligence on the part of the ~~State Board of~~
31 ~~Education~~Commission or the board of directors of the charter school, or their employees,
32 arising from any act taken or omission by any of them in carrying out the provisions of this
33 section. The immunity established by this subsection shall not extend to gross negligence,
34 wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity
35 established by this subsection shall be deemed to have been waived to the extent of
36 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of
37 the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims
38 Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

39 **SECTION 3.** G.S. 105-278.4 reads as rewritten:

40 **"§ 105-278.4. Real and personal property used for educational purposes.**

41 (a) Buildings. – Buildings, the land they actually occupy, and additional land
42 reasonably necessary for the convenient use of any such building shall be exempted from
43 taxation if all of the following requirements are met:

44 (1) Owned by either of the following:

- 45 a. An educational institution; or
46 b. A nonprofit entity for the sole benefit of a constituent or affiliated
47 institution of The University of North Carolina, an institution as
48 defined in G.S. 116-22, a North Carolina community college, or a
49 combination of these;

50 (2) The owner is not organized or operated for profit and no officer, shareholder,
51 member, or employee of the owner or any other person is entitled to receive

1 pecuniary profit from the owner's operations except reasonable
2 compensation for services;

3 (3) Of a kind commonly employed in the performance of those activities
4 naturally and properly incident to the operation of an educational institution
5 such as the owner; and

6 (4) Wholly and exclusively used for nonprofit educational purposes by the
7 ~~owner or occupied gratuitously by another nonprofit educational institution~~
8 ~~and wholly and exclusively used by the occupant for nonprofit educational~~
9 ~~purposes.~~ any of the following:

10 a. The owner.

11 b. A nonprofit educational institution occupying the building
12 gratuitously.

13 c. A charter school, whether or not the charter school is the owner.

14"

15 **SECTION 4.** G.S. 114-19.2 reads as rewritten:

16 "**§ 114-19.2. Criminal record checks of school personnel.**

17 (a) The Department of Justice may provide a criminal record check to the local board of
18 education of a person who is employed in a public school in that local school district or of a
19 person who has applied for employment in a public school in that local school district, if the
20 employee or applicant consents to the record check. The Department may also provide a
21 criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to
22 the local board of education from National Repositories of Criminal Histories, in accordance
23 with G.S. 115C-332. The information shall be kept confidential by the local board of education
24 as provided in Article 21A of Chapter 115C of the General Statutes.

25 (a1) The Department of Justice may provide a criminal history record check to the North
26 Carolina Public Charter Schools Commission of a person who is employed at a charter school
27 or of a person who has applied for employment at a charter school, if the employee or applicant
28 consents to the record check. The Department may also provide a criminal history record check
29 of school personnel as defined in G.S. 115C-238.29K by fingerprint card to the North Carolina
30 Public Charter Schools Commission from National Repositories of Criminal Histories, in
31 accordance with G.S. 115C-238.29K. The information shall be kept confidential by the North
32 Carolina Public Charter Schools Commission as provided in G.S. 115C-238.29K.

33 (b) The Department of Justice may provide a criminal record check to the employer of a
34 person who is employed in a nonpublic school or of a person who has applied for employment
35 in a nonpublic school, if the employee or applicant consents to the record check. For purposes
36 of this subsection, the term nonpublic school is one that is subject to the provisions of Article
37 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in
38 that Article.

39 (c) The Department of Justice shall charge a reasonable fee for conducting a criminal
40 record check under this section. The fee shall not exceed the actual cost of locating, editing,
41 researching, and retrieving the information.

42 (c1) The Department of Justice may provide a criminal record check to the schools
43 within the Department of Health and Human Services of a person who is employed, applies for
44 employment, or applies to be selected as a volunteer, if the employee or applicant consents to
45 the record check. The Department of Health and Human Services shall keep all information
46 pursuant to this subsection confidential, as provided in Article 7 of Chapter 126 of the General
47 Statutes.

48 (d) The Department of Justice shall adopt rules to implement this section."

49 **SECTION 5.** G.S. 115C-105.37B(a)(2) reads as rewritten:

50 "(a) Notwithstanding any other provision of this Article, the State Board of Education is
51 authorized to approve a local board of education's request to reform any school in its

1 administrative unit which the State Board of Education has identified as one of the continually
2 low-performing schools in North Carolina.

3 If the State Board of Education approves a local board of education's request to reform a
4 school, the State Board of Education may authorize the local board of education to adopt one of
5 the following models in accordance with State Board of Education requirements:

- 6 ...
- 7 (2) Restart model, in which the State Board of Education would authorize the
8 local board of education to operate the school with the same exemptions
9 from statutes and rules as a charter school authorized under Part 6A of
10 Article 16 of this Chapter, or under the management of an educational
11 management organization that has been selected through a rigorous review
12 process. A school operated under this subdivision remains under the control
13 of the local board of education, and employees assigned to the school are
14 employees of the local school administrative unit with the protections
15 provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to
16 increase the maximum number of charter schools provided in
17 G.S. 115C-238.29D(b). No school authorized under this subsection shall
18 count against the limit provided for charter schools in
19 G.S. 115C-238.29D(b)."~~

20 **SECTION 6.** G.S. 115C-426 reads as rewritten:

21 **"§ 115C-426. Uniform budget format.**

- 22 ...
- 23 (c) The uniform budget format shall require the following funds:
- 24 (1) The State Public School Fund.
- 25 (2) The local current expense fund.
- 26 (3) The capital outlay fund.

27 In addition, other funds may be used ~~to account for reimbursements, including indirect costs,
28 fees for actual costs, tuition, sales tax revenues distributed using the ad valorem method
29 pursuant to G.S. 105-472(b)(2), sales tax refunds, gifts and grants restricted as to use, only if
30 necessary to comply with a requirement imposed by the donor or grantor that the school system
31 separately account for trust funds, federal appropriations made directly to local school
32 administrative units, funds received for prekindergarten programs, and federal grants restricted
33 as to use, and special programs. In addition, the appropriation or use of fund balance or interest
34 income by a local school administrative unit shall not be construed as a local current expense
35 appropriation.~~

36 Each local school administrative unit shall maintain those funds shown in the uniform
37 budget format that are applicable to its operations."

38 **SECTION 7.** G.S. 115C-546.2 reads as rewritten:

39 **"§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General
40 Fund; matching requirements.**

41 ...

42 (d) Monies transferred into the Fund in accordance with Chapter 18C of the General
43 Statutes shall be allocated for capital projects for school construction projects as follows:

- 44 (1) A sum equal to sixty-five percent (65%) of those monies transferred in
45 accordance with G.S. 18C-164 shall be allocated on a per average daily
46 membership basis according to the average daily membership for the budget
47 year as determined and certified by the State Board of Education.
- 48 (2) A sum equal to thirty-five percent (35%) of those monies transferred in
49 accordance with G.S. 18C-164 shall be allocated to those local school
50 administrative units located in whole or part in counties in which the
51 effective county tax rate as a percentage of the State average effective tax

rate is greater than one hundred percent (100%), with the following definitions applying to this subdivision:

- a. "Effective county tax rate" means the actual county rate for the previous fiscal year, including any countywide supplemental taxes levied for the benefit of public schools, multiplied by a three-year weighted average of the most recent annual sales assessment ratio studies.
- b. "State average effective tax rate" means the average effective county tax rates for all counties.
- c. "Sales assessment ratio studies" means sales assessment ratio studies performed by the Department of Revenue under G.S. 105-289(h).

- (3) No county shall have to provide matching funds required under subsection (c) of this section.
- (4) A county may use monies in this Fund to pay for school construction projects in local school administrative units and to retire indebtedness incurred for school construction projects incurred on or after January 1, 2003.
- (5) A county may not use monies in this Fund to pay for school technology needs.
- (6) Counties receiving funds under this subsection may allocate a portion of funds received each budget year under this subsection to charter schools on a per average daily membership basis according to each such school's share of the average daily membership of the unit. Charter schools may use the monies to pay for school construction projects or to retire indebtedness incurred for school construction projects incurred on or after July 1, 2011, and shall not be subject to the matching fund requirement set forth in subsection (c) of this section.

SECTION 8.(a) G.S. 135-5.3 reads as rewritten:

"§ 135-5.3. Optional participation for charter schools operated by private nonprofit corporations.

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Retirement System in accordance with this Article. This election shall be in writing and filed with the Retirement System and with the State Board of Education and is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive approval from the State Board of Education or the North Carolina State Public Charter Schools Commission ~~approval~~ under G.S. 115C-238.29D after 1998.

...."

SECTION 8.(b) G.S. 135-45.5 reads as rewritten:

"§ 135-45.5. Optional participation for charter schools operated by private nonprofit corporations.

...

(b) No later than 30 days after both parties have signed the written charter under G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit corporation shall elect whether to become a participating employer in the Plan in accordance with this Article. This election shall be in writing and filed with the Executive Administrator, the Board of Trustees, and the State Board of Education. This election is effective for each charter school employee as of the date of that employee's entry into eligible service. This subsection applies to charter schools that receive approval from the State Board of Education or

1 North Carolina Public Charter Schools Commission approval under G.S. 115C-238.29D after
2 1998.

3"

4 **SECTION 9.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

5 "(18) The State Board of Education with respect to the disapproval, termination, or
6 nonrenewal of charters under Part 6A of Article 16 of Chapter 115C of the
7 General Statutes."

8 **SECTION 10.(a)** Article 23 of Chapter 153A is amended by adding a new section
9 to read:

10 "**§ 153A-457. Charter schools.**

11 Each county is authorized to appropriate funds and lease real property to schools chartered
12 under Chapter 115C, Article 16, Part 6A of the General Statutes. Counties may provide funds
13 only for the purposes set forth in G.S. 115C-238.29H(c)."

14 **SECTION 10.(b)** G.S. 153A-149(c) reads as rewritten:

15 "(c) Each county may levy property taxes for one or more of the purposes listed in this
16 subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred
17 dollars (\$100.00) appraised value of property subject to taxation. Authorized purposes subject
18 to the rate limitation are:

19 ...

20 (8a) Charter Schools. – To provide capital funding for charter schools as
21 authorized by G.S. 153A-457.

22"

23 **SECTION 11.** Each local board of education shall amend its budget resolution for
24 the 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act.
25 In the event that a local board of education fails to amend its budget resolution for the
26 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act, and
27 therefore fails to include in the local current expense fund all those moneys required under
28 G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of
29 compliance with G.S. 115C-238.29H(b).

30 **SECTION 12.** If in any fiscal year a local board of education approves a budget
31 resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include
32 in the local current expense fund all those moneys required under G.S. 115C-426(e), that
33 budget resolution shall be deemed to have been amended to include all such moneys in the
34 local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

35 **SECTION 13.** Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31
36 are repealed.

37 **SECTION 14.** The State Board of Education shall repeal all adopted policies
38 inconsistent with this act.

39 **SECTION 15.** Beginning in 2012, the North Carolina Public Charter Schools
40 Commission shall prepare an annual report to the Joint Legislative Education Oversight
41 Committee of the General Assembly no later than October 15 of each year. The report shall
42 include, at a minimum, the following information:

- 43 (1) The Commission's strategic vision and plan for charter schools and progress
44 toward achieving the vision and carrying out the plan.
- 45 (2) The academic and financial performance of all operating charter schools
46 overseen by the Commission, according to the performance expectations for
47 charter schools set forth in this act.
- 48 (3) The status of the Commission's charter school portfolio, identifying all
49 charter schools in each of the following categories: approved to open, in
50 operation, renewed, transferred, revoked, not renewed, voluntarily closed, or
51 never opened.

1 **SECTION 16.** Appointments required in Section 2 of this act shall be made no
2 later than October 1, 2011. Sections 6, 11, 12, and 13 of this act are effective when they
3 become law. The remainder of this act becomes effective July 1, 2011.