

**GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2019**

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SENATE BILL 522

Short Title: Various Changes to Charter School Laws. (Public)

Sponsors: Senator Tillman (Primary Sponsor).

Referred to: Rules and Operations of the Senate

April 3, 2019

A BILL TO BE ENTITLED
AN ACT TO MAKE VARIOUS CHANGES TO THE LAWS AFFECTING CHARTER
SCHOOLS.

The General Assembly of North Carolina enacts:

**PART I. AUTHORIZE COUNTIES TO PROVIDE CAPITAL FUNDS TO CHARTER
SCHOOLS**

SECTION 1.1. G.S. 115C-218.100(b) reads as rewritten:

"(b) Distribution of Assets. – Upon dissolution of a charter school, all net assets of the charter school purchased with public funds shall be deemed the property of the local school administrative unit in which the charter school is ~~located~~-located, except capital-sourced assets. For purposes of this subsection, capital-sourced assets include (i) capital funds provided to a charter school by one or more counties pursuant to G.S. 115C-218.105(b1) and (ii) net assets purchased or improved with such funds, up to the total amount of the funds provided. Capital-sourced assets shall be deemed the property of the counties or counties providing the funding and, if applicable, divided between the counties in proportion to the funds provided."

SECTION 1.2. G.S. 115C-218.105 is amended by adding the following new subsections to read:

"(b1) Counties may provide funds to charter schools by direct appropriation as set forth in G.S. 153A-458. These funds shall be used only for the following purposes:

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

(b2) If a charter school uses funds provided in subsection (b1) of this section to acquire or improve property, the amount provided by the county must be evidenced by a promissory note and secured by a deed of trust on the property acquired or improved by the funds. The county may subordinate the deed of trust to other liens to facilitate the acquisition or improvement of the property secured by the deed of trust. In the event that a charter school repays the county in the amount of the capital funds provided, the county shall, for the property acquired or improved by the funds, execute and file a deed of release or other documentation of satisfaction showing the charter school repaid the county in the amount of the capital funds provided."



1 **SECTION 1.3.** G.S. 153A-149(c) reads as rewritten:

2 "(c) Each county may levy property taxes for one or more of the purposes listed in this
3 subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred dollars
4 (\$100.00) appraised value of property subject to taxation. Authorized purposes subject to the rate
5 limitation are:

6 ...

7 (8a) Charter Schools. – To provide capital funds for charter schools as authorized
8 by G.S. 153A-458.

9 "

10 **SECTION 1.4.** Chapter 153A of the General Statutes is amended by a new section
11 to read:

12 **§ 153A-458. Charter schools.**

13 Each county is authorized to appropriate funds and lease real property to schools chartered
14 under Article 14A of Chapter 115C of the General Statutes. Counties may provide funds only for
15 the purposes set forth in G.S. 115C-218.105(b1)."

16 **SECTION 1.5.** This Part applies beginning with the 2019-2020 fiscal year.

17
18 **PART II. MAKE CHARTER SCHOOLS ELIGIBLE FOR GRANTS FROM THE**
19 **NEED-BASED PUBLIC SCHOOL CAPITAL FUND**

20 **SECTION 2.1.** Section 5.3 of S.L. 2017-57, as amended by Section 1.1 of S.L.
21 2017-187, Section 1.2 of S.L. 2017-197, Section 1.1 of S.L. 2017-212, Section 5.3 of S.L. 2018-5,
22 and Section 3A.1 of S.L. 2018-80, read as rewritten:

23 **"SECTION 5.3.(a)** The appropriations made from the Education Lottery Fund for the
24 2017-2019 fiscal biennium are as follows:

25 ...

26 **"SECTION 5.3.(d)** It is the intent of the General Assembly to increase the amount of North
27 Carolina Education Lottery net lottery revenue collected that is dedicated to assist local
28 governments in meeting local school capital needs from sixteen and nine-tenths percent (16.9%)
29 of net lottery revenue collected in the 2016-2017 fiscal year to forty percent (40%) of net lottery
30 revenue collected no later than the 2028-2029 fiscal year. To that end, there is created the
31 Needs-Based Public School Capital Fund as an interest-bearing, nonreverting special fund in the
32 Department of Public Instruction. The State Treasurer shall be the custodian of the Needs-Based
33 Public School Capital Fund and shall invest its assets in accordance with the provisions of
34 G.S. 147-69.2 and G.S. 147-69.3. The Needs-Based Public School Capital Fund shall be used to
35 award grants to counties designated as a development tier one area or a development tier two
36 area, as defined by G.S. 143B-437.08, to assist with their critical public school building capital
37 needs. Notwithstanding G.S. 115C-218.105(b), a qualified county may use a grant awarded under
38 this section for building capital needs for an approved charter school, including the acquisition
39 or improvement of a property by the charter school. For the purposes of this section, a qualified
40 county is a county designated as a development tier one area.

41 The Superintendent of Public Instruction shall award grants to counties in accordance with
42 the following priorities:

43 (1) Counties designated as development tier one areas.

44 (2) Counties with greater need and less ability to generate sales tax and property
45 tax revenue.

46 (3) Counties with a high debt-to-tax revenue ratio.

47 (4) The extent to which a project will address critical deficiencies in adequately
48 serving the current and future student population.

49 **"SECTION 5.3.(e)** Grant funds awarded under this section shall be subject to a matching
50 requirement from the recipient county as follows:

- 1 (1) For a county designated as a development tier one area, the grant shall not
2 exceed three dollars (\$3.00) in grant funds for every one dollar (\$1.00)
3 provided by the county. Grant funds awarded to a county designated as a
4 development tier one area shall not exceed fifteen million dollars
5 (\$15,000,000).
- 6 (2) For a county designated as a development tier two area, the grant shall not
7 exceed one dollar (\$1.00) for every one dollar (\$1.00) in grant funds provided
8 by the county. Grant funds awarded to a county designated as a tier two area
9 shall not exceed ten million dollars (\$10,000,000).
- 10 (3) For a qualified county using grant funds for a charter school, the grant shall
11 not exceed one dollar (\$1.00) for every one dollar (\$1.00) in grant funds
12 provided by the county. Grant funds awarded to the county for this purpose
13 shall not exceed three million dollars (\$3,000,000).

14 ~~Grant~~ Except as otherwise provided for a qualified county using grant funds for a charter
15 school, grant funds shall be used for the construction of new school buildings only. ~~Grant funds~~
16 only and shall not be used for real property acquisition. Grant funds shall be disbursed in a series
17 of payments based on the progress of the project. To obtain a payment, the grantee shall submit
18 a request for payment along with documentation of the expenditures for which the payment is
19 requested and evidence that the matching requirement ~~contained in subsection (b)~~ of this section
20 has been met. Grant funds shall not be awarded to any county that has received an aggregate
21 amount exceeding eight million seven hundred fifty thousand dollars (\$8,750,000) in funds from
22 the Public School Building Capital Fund from the 2012-2013 fiscal year to the 2016-2017 fiscal
23 year. No county may receive grant funds under this section more than once every five years. No
24 portion of grant funds may be used to acquire a Leadership in Energy and Environmental Design
25 (LEED) certification. For fiscal year 2018-2019, for the purposes of this section, a county shall
26 be considered to be designated as a development tier one area if (i) it was so designated by the
27 Department of Commerce in 2017 or 2018 and (ii) the county filed a grant application under this
28 section in 2017.

29 "SECTION 5.3.(e1) A county receiving grant funds pursuant to this section shall enter into
30 an agreement with the Department of Public Instruction detailing the use of grant funds. The
31 agreement shall contain at least all of the following:

- 32 (1) A requirement that the grantee seek planning assistance and plan review from
33 the School Planning Section of the Department of Public Instruction.
- 34 (2) A progress payment provision governing disbursements to the county for the
35 duration of the school construction project based upon the construction
36 progress and documentation satisfactory to the Department that the matching
37 requirement in subsection (e) of this section has been met.
- 38 (3) A provision requiring periodic reports to the Department of Public Instruction
39 on the use of disbursed grant funds and the progress of the school construction
40 project.
- 41 (4) A requirement that matching funds paid by the county pursuant to this section
42 must be derived from non-State and nonfederal funds.
- 43 (5) For a qualified county using grant funds for a charter school, the agreement
44 shall also contain provisions regarding all of the following:
 - 45 a. A property being acquired or improved by grant funds shall be owned
46 by the nonprofit organization which holds the charter. The amount
47 provided by the county in grant funds shall be evidenced by a
48 promissory note and secured by a deed of trust on the property
49 acquired or improved by the funds. The county may subordinate the
50 deed of trust to other liens to facilitate the acquisition or improvement
51 of the property secured by the deed of trust. In the event that a charter

1 school repays the county in the amount of the grant funds provided,
 2 the county shall, for the property acquired or improved by the funds,
 3 execute and file a deed of release or other documentation of
 4 satisfaction showing the charter school repaid the county in the amount
 5 of the grant funds provided.

6 b. The property may not be conveyed to another entity or person without
 7 the approval of the State Board of Education.

8 c. An acknowledgment that upon the dissolution, termination, or
 9 nonrenewal of the charter school, all capital-sourced assets shall be
 10 deemed the property of the county pursuant to G.S. 115C-218.100(b).

11"

12 **SECTION 2.2.** This Part is effective July 1, 2019, and applies to applications for
 13 grant funds submitted on or after that date.

14
 15 **PART III. SUPERINTENDENT OF PUBLIC INSTRUCTION MAY APPROVE**
 16 **CHARTER SCHOOL FACILITY BONDS**

17 **SECTION 3.** Article 14A of Chapter 115C of the General Statutes is amended by
 18 adding a new section to read:

19 **"§ 115C-218.37. Public approval for private activity bonds.**

20 (a) For purposes of this section, the following definitions shall apply:

21 (1) Charter school facility. – Real property, personal property, or both that is used
 22 or intended for use in connection with the operation of a charter school.

23 (2) Applicable elected representative. – An elected official of a governmental unit
 24 having jurisdiction over the area in which a charter school facility is located,
 25 as defined in the Internal Revenue Code.

26 (b) The Superintendent of Public Instruction is hereby designated as an applicable elected
 27 representative who may approve the issuance of one or more private activity bonds to finance or
 28 refinance a charter school facility, after a public hearing following reasonable public notice, in
 29 accordance with Section 147 of the Internal Revenue Code and applicable State and federal laws
 30 and regulations. Procedures for the public hearing shall be determined by the Superintendent of
 31 Public Instruction, and the public hearing shall be conducted by the Superintendent or his or her
 32 designee."

33
 34 **PART IV. CLARIFY CHARTER SCHOOL RENEWAL STANDARDS**

35 **SECTION 4.1.** G.S. 115C-218.6 reads as rewritten:

36 **"§ 115C-218.6. Review and renewal of charters.**

37 (a) The State Board of Education shall review the operations of each charter school at
 38 least once prior to the expiration of its charter to ensure that the school is meeting the expected
 39 academic, financial, and governance standards.

40 (b) The State Board of Education shall renew a charter upon the request of the chartering
 41 entity for subsequent periods of 10 years, unless one of the following applies:

42 (1) The charter school has not provided financially sound audits for the
 43 immediately preceding three years.

44 (2) ~~The charter school's student academic outcomes for the immediately~~
 45 ~~preceding three years have not been comparable to the academic outcomes of~~
 46 ~~students in the local school administrative unit in which the charter school is~~
 47 ~~located.~~ The percent of students who scored at or above proficient for all
 48 end-of-grade and end-of-course tests taken in the previous school year, as
 49 required by G.S. 115C-174.11(c)(1), is at least five percentage points lower in
 50 the charter school than in the local school administrative unit where the charter
 51 school is located.

- 1 (3) The charter school is not, at the time of the request for renewal of the charter,
2 substantially in compliance with State law, federal law, the school's own
3 bylaws, or the provisions set forth in its charter granted by the State Board of
4 Education.

5 If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies,
6 then the State Board may renew the charter for a period of less than 10 years or not renew the
7 charter."

8 **SECTION 4.2.** This Part applies to applications for the renewal of the charter of a
9 charter school submitted on or after the effective date of this act.

10 **PART V. APPLICATION BACKGROUND CHECK STANDARDS**

11 **SECTION 5.(a)** G.S. 115C-218.1 reads as rewritten:

12 **"§ 115C-218.1. Eligible applicants; contents of applications; submission of applications for**
13 **approval.**

14 (a) Any nonprofit corporation seeking to establish a charter school may apply to establish
15 a charter school. If the applicant seeks to convert a public school to a charter school, the
16 application shall include a statement signed by a majority of the teachers and instructional support
17 personnel currently employed at the school indicating that they favor the conversion and evidence
18 that a significant number of parents of children enrolled in the school favor conversion.

19 (b) The application shall contain at least the following information:

- 20 (1) A description of a program that implements one or more of the purposes in
21 G.S. 115C-218.
22 (2) A description of student achievement goals for the school's educational
23 program and the method of demonstrating that students have attained the skills
24 and knowledge specified for those student achievement goals.
25 (3) The governance structure of the school including the names of the initial
26 members of the board of directors of the nonprofit, tax-exempt corporation
27 and the process to be followed by the school to ensure parental involvement.
28 A teacher employed by the board of directors to teach in the charter school
29 may serve as a nonvoting member of the board of directors for the charter
30 school.
31 (4) The local school administrative unit in which the school will be located.
32 (5) Admission policies and procedures.
33 (6) A proposed budget for the school and evidence that the financial plan for the
34 school is economically sound.
35 (7) Requirements and procedures for program and financial audits.
36 (8) A description of how the school will comply with G.S. 115C-218.20,
37 115C-218.25, 115C-218.30, 115C-218.40, 115C-218.45, 115C-218.50,
38 115C-218.55, 115C-218.60, 115C-218.65, 115C-218.70, 115C-218.75,
39 115C-218.80, 115C-218.85, and 115C-218.90.
40 (9) Types and amounts of insurance coverage, including bonding insurance for
41 the principal officers of the school, to be obtained by the charter school.
42 (10) The term of the charter.
43 (11) The qualifications required for individuals employed by the school.
44 (12) The procedures by which students can be excluded from the charter school
45 and returned to a public school. Notwithstanding any law to the contrary, any
46 local board may refuse to admit any student who is suspended or expelled
47 from a charter school due to actions that would lead to suspension or expulsion
48 from a public school under G.S. 115C-390.5 through G.S. 115C-390.11 until
49 the period of suspension or expulsion has expired.
50

1 (13) The number of students to be served, which number shall be at least 80, and
2 the minimum number of teachers to be employed at the school, which number
3 shall be at least three. However, the charter school may serve fewer than 80
4 students or employ fewer than three teachers if the application contains a
5 compelling reason, such as the school would serve a geographically remote
6 and small student population.

7 (14) Information regarding the facilities to be used by the school and the manner
8 in which administrative services of the school are to be provided.

9 (15) The process for conducting a weighted lottery that reflects the mission of the
10 school if the school desires to use a weighted lottery.

11 (16) A nationwide criminal background check for each member of the board of
12 directors of the proposed charter school to ensure that the member has not
13 been convicted, at a minimum, of any crime listed in G.S. 115C-332 or a
14 substantially similar crime in another state. The criminal background check
15 shall include all of the following components:

16 a. A social security number trace, including locations returned on at least
17 a county-by-county basis.

18 b. Any known aliases.

19 (17) A certification from each member of the board of directors certifying whether
20 the board member has been convicted of any felony or misdemeanor. If the
21 board member has been convicted of a felony or misdemeanor, the
22 certification shall include a listing of the year of the charge, the charge, and
23 the disposition of the charge.

24 (c) The State Board shall establish reasonable fees of no less than five hundred dollars
25 (\$500.00) and no more than one thousand dollars (\$1,000) for initial and renewal charter
26 applications, in accordance with Article 2A of Chapter 150B of the General Statutes. No
27 application fee shall be refunded in the event the application is rejected or the charter is revoked."

28 **SECTION 5.(b)** This Part applies to applications for initial charters received on or
29 after the effective date of this act.

30 **PART VI. CHARTER SCHOOLS IN THE WORKPLACE**

31 **SECTION 6.(a)** G.S. 115C-218.45 reads as rewritten:

32 **"§ 115C-218.45. Admission requirements.**

33 ...

34 (f) The charter school may give enrollment priority to any of the following:

35 ...

36 (7) Limited to no more than fifty percent (50%) of the school's total enrollment,
37 children of permanent employees of a charter partner in accordance with
38 subsection (f1) of this section. If the number of applications from these
39 children exceed fifty percent (50%) of the school's total enrollment, these
40 children shall be accepted by a separate lottery.

41 (f1) For purposes of this section, the term "charter partner" refers to any legal entity
42 authorized to transact business in this State under Chapter 55, 55A, 55B, 57D, or 59 of the
43 General Statutes and that has, acting individually or as part of a consortium of corporations,
44 donated one or more of the following, valued at a minimum of fifty thousand dollars (\$50,000),
45 to the charter school:

46 (1) The land on which the school is built.

47 (2) The school building or the space the school occupies. If the charter partner is
48 leasing the building or space to the school, the charter school may only give
49 enrollment priority if the lease provides that the building or space is made
50

1 available without cost and if the term of the lease is not less than the duration
2 of the charter.

3 (3) Major renovations to the existing school building or other capital
4 improvements, including major investments in technology. For purposes of
5 this subdivision, a major renovation to the existing school building means
6 changes that provide significant opportunities for substantial improvement,
7 including, but not limited to, a structural change to the foundation, roof, floor,
8 or interior or exterior walls or extension of an existing facility to increase its
9 floor area, or an extensive alteration of an existing facility, such as a change
10 in its function or purpose, even if such renovation does not include any
11 structural change to the facility. A major investment in technology includes,
12 but is not limited to, a donation of hardware, software, Internet access, Internet
13 hardware, enterprise systems, software licenses, smart board technology, or
14 audiovisual equipment. The value of a major renovation or of an investment
15 of technology shall be equal to at least fifty percent (50%) of the State's per
16 pupil allocation for charter schools for that year multiplied by the charter
17 school's average daily membership.

18 (f2) Each year that the charter school provides the children of employees of the charter
19 partner with enrollment priority, as described in subsection (f)(7) of this section, the charter
20 partner and the charter school shall enter into a memorandum of understanding that shall specify
21 the duration of the priority and the methods by which the charter partner shall support the charter
22 school, including, but not limited to, internships for students, career counseling, academic
23 tutoring, or enrichment activities.

24 (f3) The enrollment priority described in subsection (f)(7) of this section shall not be
25 implemented in a way that displaces students who are enrolled at the school at the time the charter
26 application or the material revision providing for the priority is approved by the State Board of
27 Education.

28"

29 **SECTION 6.(b)** G.S. 115C-218.1(b) is amended by adding a new subdivision to
30 read:

31 "(16) Whether the charter school intends to provide enrollment priority to the
32 children of employees of a charter partner in accordance with
33 G.S. 115C-218.45(f)(7) and, if so, identifying information for that charter
34 partner."

35 **SECTION 6.(c)** G.S. 115C-218.7 is amended by adding a new subsection to read:

36 "(e) Adoption of the enrollment priority described in G.S. 115C-218.45(f)(7) shall be
37 considered a material revision of the charter."

38 **SECTION 6.(d)** G.S. 115C-218.15 is amended by adding a new subsection to read:

39 "(b1) Persons affiliated with a charter partner, as defined in G.S. 115C-218.45(f1), are
40 eligible for membership on the board of directors of a charter school that provides enrollment
41 priority to the children of employees of the charter partner, subject to the requirements of
42 subsection (b) of this section, as follows:

43 (1) Persons affiliated with the charter partner shall not constitute a majority of the
44 board.

45 (2) If the charter partner is leasing the building or space to the school, the lease
46 shall provide that the building or space is made available without cost and the
47 term of the lease shall not be less than the duration of the charter."

48 **SECTION 6.(e)** This Part is effective when it becomes law and applies beginning
49 with the 2019-2020 school year.

50

1 **PART VII. PERMIT BOARDS OF TRUSTEES OF CERTAIN INSTITUTIONS OF**
2 **HIGHER EDUCATION TO AUTHORIZE CHARTER SCHOOLS IN**
3 **COLLABORATION WITH THE STATE BOARD OF EDUCATION**

4 **SECTION 7.1.** Article 14A of Chapter of 115C of the General Statutes, as amended
5 by this act, reads as rewritten:

6 "Article 14A.

7 "Charter Schools.

8 **"§ 115C-218. Purpose of charter schools; establishment of North Carolina Charter Schools**
9 **Advisory Board and North Carolina Office of Charter Schools.**

10 ...

11 (a1) Definitions. – For the purposes of this Article, "Higher Education Institution
12 Authorizer" or "HEI Authorizer" shall mean the board of trustees of a community college under
13 the jurisdiction of the State Board of Community Colleges or the board of trustees of a constituent
14 institution of The University of North Carolina designated as participating in the NC Promise
15 Tuition Plan pursuant to G.S. 116-143.11.

16 (b) North Carolina Charter Schools Advisory Board. –

17 ...

18 (10) Powers and duties. – The Advisory Board shall have the following duties:

- 19 a. To make recommendations to the State Board of Education on the
20 adoption of rules regarding all aspects of charter school operation,
21 including time lines, standards, and criteria for acceptance and
22 approval of applications, monitoring of charter schools, and grounds
23 for revocation of charters.
- 24 b. To review applications and make recommendations to the State Board
25 for final approval of charter applications. The Advisory Board shall
26 not review applications submitted to an HEI Authorizer pursuant to
27 G.S. 115C-218.4.
- 28 c. To make recommendations to the State Board on actions regarding a
29 charter school, including renewals of charters, nonrenewals of
30 charters, and revocations of charters.
- 31 d. To undertake any other duties and responsibilities as assigned by the
32 State Board.

33 (11) Duties of the chair of the Advisory Board. – In addition to any other duties
34 prescribed in this Article, the chair of the Advisory Board, or the chair's
35 designee, shall advocate for the recommendations of the Advisory Board at
36 meetings of the State Board upon the request of the State Board.

37 (c) North Carolina Office of Charter Schools. –

38 ...

39 (3) Powers and duties. – The Office of Charter Schools shall have the following
40 powers and duties:

- 41 a. Serve as staff to the Advisory Board and fulfill any task and duties
42 assigned to it by the Advisory Board.
- 43 b. Provide technical assistance and guidance to charter schools operating
44 within the State.
- 45 c. Provide technical assistance and guidance to nonprofit corporations
46 seeking to operate charter schools within the State.
- 47 d. Provide or arrange for training for charter schools that have received
48 preliminary approval from an HEI Authorizer or the State Board.
- 49 e. Assist approved charter schools and charter schools seeking approval
50 from an HEI Authorizer or the State Board in coordinating services
51 with the Department of Public Instruction.

- 1 e1. Assist certain charter schools seeking to participate in the NC
 2 prekindergarten program in accordance with G.S. 115C-218.115.
 3 f. Other duties as assigned by the State Board.

- 4 (4) Agency cooperation. – All State agencies and departments shall cooperate
 5 with the Office of Charter Schools in carrying out its powers and duties as
 6 necessary in accordance with this Article.
 7

8 **"§ 115C-218.2. Opportunity to correct applications; opportunity to address Advisory
 9 Board.**

10 (a) ~~The Except as provided in G.S. 115C-218.4, the~~ State Board of Education and the
 11 Advisory Board shall provide timely notification to an applicant of any format issues or
 12 incomplete information in the initial application and provide the applicant at least five business
 13 days to correct those issues in the initial application. If the applicant submits the corrections
 14 within the five business days, equal consideration shall be given to that application.

15 (b) Before taking action regarding a charter school or charter school ~~applicant, applicant~~
 16 that applies to the State Board pursuant to G.S. 115C-218.5, including recommendations on
 17 preliminary or final approval of charter applications, renewals of charters, nonrenewals of
 18 charters, and revocations of charters, the Advisory Board or a committee of the Advisory Board
 19 shall provide an opportunity for the applicant or charter board member to address the Advisory
 20 Board or its committee, if present, at a meeting.

21 **"§ 115C-218.3. Fast-track replication of high-quality charter schools.**

22 Upon recommendations by the Office of Charter Schools and the Charter Schools Advisory
 23 Board, the State Board of Education shall adopt a process and rules for fast-track replication of
 24 high-quality charter schools currently operating in the ~~State.~~ State, including a charter school
 25 authorized by a Higher Education Institution Authorizer and approved by the State Board of
 26 Education pursuant to G.S. 115C-218.4. The State Board of Education shall not require a
 27 planning year for applicants selected through the fast-track replication process. In addition to the
 28 requirements for charter applicants set forth in this Article, the fast-track replication process
 29 adopted by the State Board of Education shall, at a minimum, require a board of directors of a
 30 charter school to demonstrate one of the following in order to qualify for fast-track replication:

- 31 (1) A charter school in this State governed by the board of directors has student
 32 academic outcomes that are comparable to the academic outcomes of students
 33 in the local school administrative unit in which the charter school is located
 34 and can provide three years of financially sound audits.
 35 (2) The board of directors agrees to contract with an education management
 36 organization or charter management organization that can demonstrate that it
 37 can replicate high-quality charter schools in the State that have proven student
 38 academic success and financial soundness.

39 The State Board of Education shall ensure that the rules for a fast-track replication process
 40 provide that decisions by an HEI Authorizer or the State Board of Education on whether to
 41 grant a charter through the replication process are completed in less than 120 days from the
 42 application submission date. The State Board shall provide a decision on a charter school
 43 authorized by an HEI Authorizer pursuant to G.S. 115C-218.4 or a charter school approved by
 44 the State Board pursuant to G.S. 115C-218.5 no later than October 15 of the year immediately
 45 preceding the year of the proposed school opening.

46 **"§ 115C-218.4. Application to a Higher Education Institution Authorizer for a charter
 47 school.**

48 (a) An applicant for a charter school may submit an application that meets the
 49 requirements of G.S. 115C-218.1 to a Higher Education Institution Authorizer. If the applicant
 50 for a charter school submits the application to an HEI Authorizer, the application shall include
 51 how the HEI Authorizer shall be involved in the planning, operation, or evaluation of the charter

1 school. The HEI Authorizer shall provide timely notification to an applicant of any format issues
2 or incomplete information in the initial application and provide the applicant at least five business
3 days to correct those issues in the initial application. The HEI Authorizer may authorize a charter
4 school if it finds the following:

- 5 (1) The application meets the requirements set out in this Article and such other
6 requirements as may be adopted by the State Board of Education.
- 7 (2) The applicant has the ability to operate the school and would be likely to
8 operate the school in an educationally and economically sound manner.
- 9 (3) Authorizing the application would achieve one or more of the purposes set out
10 in G.S. 115C-218.

11 (b) An HEI Authorizer shall make a final decision on the authorization or denial of an
12 application by August 15 in the year immediately preceding the year in which the charter school
13 proposes to begin operation. An HEI Authorizer that authorizes a charter school shall enter into
14 a written agreement with the charter school incorporating the information provided in the
15 application and any terms and conditions of the HEI Authorizer imposed on the charter school
16 as a condition of authorization. Notwithstanding G.S. 115C-218.100 and G.S. 115C-218.105(b),
17 State funds available to an HEI Authorizer may be used to support the charter school as long as
18 the written agreement with the charter school contains provisions ensuring the return of any assets
19 to the HEI Authorizer to the extent they were purchased with those State funds upon dissolution
20 of the charter school.

21 (c) The HEI Authorizer shall file a copy of the application and the written agreement with
22 the charter school with the Office of Charter Schools. Upon receipt of the application and the
23 written agreement with the charter school and upon recommendation of the Superintendent of
24 Public Instruction, the State Board of Education shall approve the operation of the charter school
25 for a period not to exceed 10 years. Except as otherwise specified in this Article for a charter
26 school authorized by an HEI Authorizer, a charter school approved pursuant to this subsection
27 shall be subject to the same requirements of a charter school approved pursuant to
28 G.S. 115C-218.5.

29 (d) Termination, nonrenewal, or assumption of a charter school authorized by an HEI
30 Authorizer pursuant to this section shall not be initiated by the State Board until the State Board
31 has consulted with the HEI Authorizer in accordance with G.S. 115C-218.95(b2).

32 **"§ 115C-218.5. Final approval of applications to the State Board of Education for charter**
33 **schools.**

34 (a) ~~The~~ Except as otherwise provided in G.S. 115C-218.4, the State Board may grant
35 final approval of an application for a charter school if it finds the following:

- 36 (1) The application meets the requirements set out in this Article and such other
37 requirements as may be adopted by the State Board of Education.
- 38 (2) The applicant has the ability to operate the school and would be likely to
39 operate the school in an educationally and economically sound manner.
- 40 (3) Granting the application would achieve one or more of the purposes set out in
41 G.S. 115C-218.

42 In reviewing applications for the establishment of charter schools within a local school
43 administrative unit, the State Board is encouraged to give preference to applications that
44 demonstrate the capability to provide comprehensive learning experiences to students identified
45 by the applicants as at risk of academic failure.

46 ...
47 **"§ 115C-218.6. Review and renewal of charters.**

48 ...
49 (b) The State Board of Education shall renew a charter upon the request of the chartering
50 entity or a Higher Education Authorizer for subsequent periods of 10 years, unless one of the
51 following applies:

- 1 (1) The charter school has not provided financially sound audits for the
2 immediately preceding three years.
- 3 (2) The percent of students who scored at or above proficient for all end-of-grade
4 and end-of-course tests taken in the previous school year, as required by
5 G.S. 115C-174.11(c)(1), is at least five percentage points lower in the charter
6 school than in the local school administrative unit where the charter school is
7 located.
- 8 (3) The charter school is not, at the time of the request for renewal of the charter,
9 substantially in compliance with State law, federal law, the school's own
10 bylaws, or the provisions set forth in its charter granted by the State Board of
11 Education.

12 If one of the conditions set forth in subdivisions (1) through (3) of this subsection applies,
13 then the State Board may renew the charter for a period of less than 10 years or not renew the
14 charter.

15 **"§ 115C-218.7. Material revisions of charters.**

16 (a) A material revision of the provisions of a charter shall be made only upon the approval
17 of the State Board of Education. A Higher Education Institution Authorizer shall submit a
18 material revision of the provisions of a charter authorized pursuant to G.S. 115C-218.4 consistent
19 with the provisions of this section for State Board approval.

20 ...
21 **"§ 115C-218.15. Charter school operation.**

22 (a) A charter school that is approved by the State shall be a public school within the local
23 school administrative unit in which it is located. All charter schools shall be accountable to the
24 State Board and, if applicable, a Higher Education Institution Authorizer, for ensuring
25 compliance with applicable laws and the provisions of their charters.

26 ...
27 (c) ~~A~~ Except as otherwise provided in G.S. 115C-218.4, a charter school shall operate
28 under the written charter signed by the State Board and the applicant. A charter school is not
29 required to enter into any other contract. The charter shall incorporate the information provided
30 in the application, as modified during the charter approval process, and any terms and conditions
31 imposed on the charter school by the State Board of Education. No other terms may be imposed
32 on the charter school as a condition for receipt of local funds.

33 ...
34 **"§ 115C-218.20. Civil liability and insurance requirements.**

35 (a) The board of directors of a charter school may sue and be sued. The State Board of
36 Education shall adopt rules to establish reasonable amounts and types of liability insurance that
37 the board of directors shall be required by the charter to obtain. The board of directors shall obtain
38 at least the amount of and types of insurance required by these rules to be included in the charter.
39 Any sovereign immunity of the charter school, of the organization that operates the charter
40 school, or its members, officers, or directors, or of the employees of the charter school or the
41 organization that operates the charter school, is waived to the extent of indemnification by
42 insurance.

43 (b) No civil liability shall attach to the State Board of Education, the Superintendent of
44 Public Instruction, a Higher Education Institution Authorizer, or to any of their members or
45 employees, individually or collectively, for any acts or omissions of the charter school.

46 ...
47 **"§ 115C-218.45. Admission requirements.**

48 ...
49 (g1) If a procedure for a weighted lottery reflecting the mission of the school has been
50 authorized by a Higher Education Institution Authorizer or approved by the State Board as part

1 of the charter, and a lottery is needed under subsection (h) of this section, the lottery shall be
 2 conducted according to the procedure in the charter.

3 ...

4 **"§ 115C-218.90. Employment requirements.**

5 ...

6 (b) Criminal History Checks. –

7 ...

8 (2) There shall be no liability for negligence on the part of the State Board of
 9 ~~Education~~ Education, Higher Education Institution Authorizer, or the board
 10 of directors of the charter school, or their employees, arising from any act
 11 taken or omission by any of them in carrying out the provisions of this
 12 subsection. The immunity established by this subsection shall not extend to
 13 gross negligence, wanton conduct, or intentional wrongdoing that would
 14 otherwise be actionable. The immunity established by this subsection shall be
 15 deemed to have been waived to the extent of indemnification by insurance,
 16 indemnification under Articles 31A and 31B of Chapter 143 of the General
 17 Statutes, and to the extent sovereign immunity is waived under the Tort
 18 Claims Act, as set forth in Article 31 of Chapter 143 of the General Statutes.

19 ...

20 **"§ 115C-218.95. Causes for nonrenewal or termination; disputes.**

21 ...

22 (b2) Termination, nonrenewal, or assumption of a charter school authorized by a Higher
 23 Education Institution Authorizer pursuant to G.S. 115C-218.4 shall not be initiated by the State
 24 Board pursuant to this section until the State Board has consulted with the HEI Authorizer. The
 25 State Board may enter into an agreement with an HEI Authorizer and the charter school to
 26 provide an opportunity for the HEI Authorizer and the charter school to address concerns that
 27 could lead to termination, nonrenewal, or assumption of the charter school by another entity
 28 pursuant to this section.

29"

30 **SECTION 7.2.** G.S. 14-33(c)(6)b. reads as rewritten:

31 "b. "Employee" or "volunteer" means:

- 32 1. An employee of a local board of education; or a charter school
 33 authorized under G.S. 115C-218.4 or G.S. 115C-218.5, or a
 34 nonpublic school which has filed intent to operate under Part 1
 35 or Part 2 of Article 39 of Chapter 115C of the General Statutes;
- 36 2. An independent contractor or an employee of an independent
 37 contractor of a local board of education, charter school
 38 authorized under G.S. 115C-218.4 or G.S. 115C-218.5, or a
 39 nonpublic school which has filed intent to operate under Part 1
 40 or Part 2 of Article 39 of Chapter 115C of the General Statutes,
 41 if the independent contractor carries out duties customarily
 42 performed by employees of the school; and
- 43 3. An adult who volunteers his or her services or presence at any
 44 school activity and is under the supervision of an individual
 45 listed in sub-sub-division 1. or 2. of this sub-sub-division."

46 **SECTION 7.3.** G.S. 14-458(a) reads as rewritten:

47 "(a) The following definitions apply in this section:

48 (1) School employee. – The term means any of the following:

- 49 a. An employee of a local board of education, a charter school authorized
 50 under G.S. 115C-218.4 or G.S. 115C-218.5, a regional school created
 51 under G.S. 115C-238.62, a laboratory school created under

1 G.S. 116-239.7, or a nonpublic school which has filed intent to operate
2 under Part 1 or Part 2 of Article 39 of Chapter 115C of the General
3 Statutes.

4 b. An independent contractor or an employee of an independent
5 contractor of a local board of education, a charter school authorized
6 under G.S. 115C-218.4 or G.S. 115C-218.5, a regional school created
7 under G.S. 115C-238.62, a laboratory school created under
8 G.S. 116-239.7, or a nonpublic school which has filed intent to operate
9 under Part 1 or Part 2 of Article 39 of Chapter 115C of the General
10 Statutes, if the independent contractor carries out duties customarily
11 performed by employees of the school.

12 (2) Student. – A person who has been assigned to a school by a local board of
13 education as provided in G.S. 115C-366 or has enrolled in a charter school
14 authorized under G.S. 115C-218.4 or G.S. 115C-218.5, a regional school
15 created under G.S. 115C-238.62, a laboratory school created under
16 G.S. 116-239.7, or a nonpublic school which has filed intent to operate under
17 Part 1 or Part 2 of Article 39 of Chapter 115C of the General Statutes, or a
18 person who has been suspended or expelled from any of those schools within
19 the last year."

20 **SECTION 7.4.** G.S. 20-84(b)(3a) reads as rewritten:

21 "(3a) A motor vehicle that is owned and exclusively operated by a nonprofit
22 corporation authorized under G.S. 115C-218.4 or G.S. 115C-218.5 to operate
23 a charter school and identified by a permanent decal or painted marking
24 disclosing the name of the nonprofit corporation. The motor vehicle shall only
25 be used for student transportation and official charter school related
26 activities."

27 **SECTION 7.5.** G.S. 105-228.90(b)(1) reads as rewritten:

28 "(1) Charter school. – A nonprofit corporation that has a charter under
29 G.S. 115C-218.4 or G.S. 115C-218.5 to operate a charter school."

30 **SECTION 7.6.** G.S. 115C-533 reads as rewritten:

31 **"§ 115C-533. Duty of State Board to operate insurance system.**

32 The State Board of Education shall have the duty to manage and operate a system of insurance
33 for public school property. The State Board may offer a system of property insurance to any
34 charter schools approved pursuant to G.S. 115C-218.4 or G.S. 115C-218.5."

35 **SECTION 7.7.** G.S. 135-5.3(b1) reads as rewritten:

36 "(b1) The board of directors of a charter school operated by a private nonprofit corporation
37 and that has received State Board of Education approval under G.S. 115C-218.4 or
38 G.S. 115C-218.5 may elect to become a participating employer in the Retirement System in
39 accordance with this Article."

40 **SECTION 7.8.** G.S. 136-18(29a) reads as rewritten:

41 "(29a) To coordinate with all public and private entities planning schools to provide
42 written recommendations and evaluations of driveway access and traffic
43 operational and safety impacts on the State highway system resulting from the
44 development of the proposed sites. All public and private entities shall, upon
45 acquiring land for a new school or prior to beginning construction of a new
46 school, relocating a school, or expanding an existing school, request from the
47 Department a written evaluation and written recommendations to ensure that
48 all proposed access points comply with the criteria in the current North
49 Carolina Department of Transportation "Policy on Street and Driveway
50 Access". The Department shall provide the written evaluation and
51 recommendations within a reasonable time, which shall not exceed 60 days.

1 This subdivision applies to improvements that are not located on the school
2 property. The Department shall have the power to grant final approval of any
3 project design under this subdivision. To facilitate completion of the
4 evaluation and recommendations within the required 60 days, in lieu of the
5 evaluation by the Department, schools may engage an independent traffic
6 engineer prequalified by the Department. The resulting evaluation and
7 recommendations from the independent traffic engineer shall also fulfill any
8 similar requirements imposed by a unit of local government. This subdivision
9 shall not be construed to require the public or private entities planning schools
10 to meet the recommendations made by the Department or the independent
11 traffic engineer, except those highway improvements that are required for safe
12 ingress and egress to the State highway system, pursuant to subdivision (29)
13 of this section, and that are physically connected to a driveway on the school
14 property. The total cost of any improvements to the State highway system
15 provided by a school pursuant to this subdivision, including those
16 improvements pursuant to subdivision (29) of this section, shall be reimbursed
17 by the Department. Any agreement between a school and the Department to
18 make improvements to the State highway system shall not include a
19 requirement for acquisition of right-of-way by the school, unless the school is
20 owned by an entity that has eminent domain power. Nothing in this
21 subdivision shall preclude the Department from entering into an agreement
22 with the school whereby the school installs the agreed upon improvements
23 and the Department provides full reimbursement for the associated costs
24 incurred by the school, including design fees and any costs of right-of-way or
25 easements. The term "school," as used in this subdivision, means any facility
26 engaged in the educational instruction of children in any grade or combination
27 of grades from kindergarten through the twelfth grade at which attendance
28 satisfies the compulsory attendance law and includes charter schools
29 authorized under G.S. 115C-218.4 or G.S. 115C-218.5. The term
30 "improvements," as used in this subdivision, refers to all facilities within the
31 right-of-way required to be installed to satisfy the road cross-section
32 requirements depicted upon the approved plans. These facilities shall include
33 roadway construction, including pavement installation and medians; ditches
34 and shoulders; storm drainage pipes, culverts, and related appurtenances; and,
35 where required, curb and gutter; signals, including pedestrian safety signals;
36 street lights; sidewalks; and design fees. Improvements shall not include any
37 costs for public utilities."

38 **SECTION 7.9.** G.S. 160A-307.1 reads as rewritten:

39 **"§ 160A-307.1. Limitation on city requirements for street improvements related to schools.**

40 A city may only require street improvements related to schools that are required for safe
41 ingress and egress to the municipal street system and that are physically connected to a driveway
42 on the school site. The required improvements shall not exceed those required pursuant to
43 G.S. 136-18(29). G.S. 160A-307 shall not apply to schools. A city may only require street
44 improvements related to schools as provided in G.S. 160A-372. The cost of any improvements
45 to the municipal street system pursuant to this section shall be reimbursed by the city. Any
46 agreement between a school and a city to make improvements to the municipal street system
47 shall not include a requirement for acquisition of right-of-way by the school, unless the school is
48 owned by an entity that has eminent domain power. Any right-of-way costs incurred by a school
49 for required improvements pursuant to this section shall be reimbursed by the city.
50 Notwithstanding any provision of this Chapter to the contrary, a city may not condition the
51 approval of any zoning, rezoning, or permit request on the waiver or reduction of any provision

1 of this section. The term "school," as used in this section, means any facility engaged in the
2 educational instruction of children in any grade or combination of grades from kindergarten
3 through the twelfth grade at which attendance satisfies the compulsory attendance law and
4 includes charter schools authorized under G.S. 115C-218.4 or G.S. 115C-218.5."

5 **SECTION 7.10.** This Part applies to applications submitted to establish a charter
6 school on or after the date this act becomes law.
7

8 **PART VIII. REMOVE THE CAP ON ENROLLMENT GROWTH OF VIRTUAL**
9 **CHARTER SCHOOLS PARTICIPATING IN THE VIRTUAL CHARTER SCHOOL**
10 **PILOT PROGRAM**

11 **SECTION 8.1.** Section 8.35(b) of S.L. 2014-100, as amended by Section 7.13 of
12 S.L. 2018-5, reads as rewritten:

13 "SECTION 8.35.(b) The virtual charter schools participating in the pilot program authorized
14 by this section shall be subject to the statutes and rules applicable to charter schools pursuant to
15 Article 14A of Chapter 115C of the General Statutes, except as follows:

- 16 (1) The maximum student enrollment in any participating school shall be no
17 greater than 1,500 in its first year of operation and may increase annually by
18 twenty percent (20%) for each participating school ~~up to a maximum student~~
19 ~~enrollment of 2,592 in the fourth year of the pilot school.~~ The State Board of
20 Education may ~~waive~~ increase this maximum student enrollment threshold,
21 beginning in the fourth year of the school's operation, if the State Board
22 determines that doing so would be in the best interest of North Carolina
23 students.
- 24 (2) The maximum overall ratio of teachers to students for kindergarten through
25 eighth grade shall be 1:50, and for ninth through twelfth grade shall be 1:150.
- 26 (3) A student who regularly fails to participate in courses may be withdrawn from
27 enrollment pursuant to procedures adopted by the virtual charter school. The
28 procedures adopted by the virtual charter school shall ensure that (i) fair notice
29 is provided to the parent and student and (ii) an opportunity is provided, prior
30 to withdrawal of the student by the school, for the student and parent to
31 demonstrate that failure to participate in courses is due to a lawful absence
32 recognized under Part I of Article 26 of Chapter 115C of the General Statutes
33 and any applicable rules adopted by the State Board of Education."

34 **SECTION 8.2.** This Part applies beginning with the 2019-2020 school year.
35

36 **PART IX. EFFECTIVE DATE**

37 **SECTION 9.** Except as otherwise provided, this act is effective when it becomes
38 law.