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SENATE BILL 8
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Short Title: No Cap on Number of Charter Schools.

(Public)

Sponsors:

Referred to:

January 31, 2011

A BILL TO BE ENTITLED

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

The General Assembly of North Carolina enacts:

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

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

"Part 6A. Charter Schools.

§ 115C-238.29A. Purpose.

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

- (1) Improve student ~~learning;~~ learning.
- (2) Increase learning opportunities for all students, with special emphasis on expanded learning experiences for students who are identified as at risk of academic failure or academically ~~gifted;~~ gifted.
- (3) Encourage the use of different and innovative teaching ~~methods;~~ methods.
- (4) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~ site.



- 1 (5) Provide parents and students with expanded choices in the types of
2 educational opportunities that are available within the public school
3 ~~system;~~system.
4 (6) Hold the schools established under this Part accountable for meeting
5 measurable student achievement results, and provide the schools with a
6 method to change from rule-based to performance-based accountability
7 systems.
8 (7) Encourage the replication of successful charter schools.

9 **"§ 115C-238.29A1. North Carolina Public Charter Schools Commission established.**

10 (a) Creation. – There is created the North Carolina Public Charter Schools Commission,
11 hereinafter referred to as the Commission. The Commission shall be located administratively
12 under the State Board of Education, but shall exercise its powers and functions independently
13 of the State Board of Education and the Department of Public Instruction except as provided in
14 this section.

15 (b) Purpose. – The purpose of the Commission is to authorize and oversee high-quality
16 public charter schools throughout the State, consistent with the purposes of this Part, and to
17 exercise authority for approval of any charter applicant.

18 (c) Membership. – The Commission shall consist of the following eleven members:

19 (1) Two members appointed by the Governor.

20 (2) Four members, one of whom shall be a teacher, administrator, or board
21 member of a charter school or a parent of a child attending a charter school,
22 appointed by the General Assembly upon the recommendation of the
23 President Pro Tempore of the Senate in accordance with G.S. 120-121.

24 (3) Four members, one of whom shall be a teacher, administrator, or board
25 member of a charter school or a parent of a child attending a charter school,
26 appointed by the General Assembly upon the recommendation of the
27 Speaker of the House of Representatives in accordance with G.S. 120-121.

28 (4) The Superintendent of Public Instruction or the Superintendent's designee.

29 (d) Qualifications of Members. – Members appointed to the Commission shall
30 collectively possess strong experience and expertise in public and nonprofit governance,
31 management and finance, public school leadership, assessment, curriculum and instruction,
32 public charter schools, and public education law. All appointed members of the Commission
33 shall have demonstrated an understanding of and a commitment to charter schools as a strategy
34 for strengthening public education.

35 (e) Terms of Office. – No appointed member shall serve more than seven consecutive
36 years. The terms of office are as follows:

37 (1) The initial term of office for members appointed by the Governor shall be
38 two years until June 30, 2013, and thereafter shall be three years.

39 (2) The initial term of office for the four members appointed by the General
40 Assembly upon the recommendation of the Speaker of the House of
41 Representatives shall be three years until June 30, 2014, and thereafter shall
42 be three years.

43 (3) The initial term of office for the four Commission members appointed by the
44 General Assembly upon the recommendation of the President Pro Tempore
45 of the Senate shall be four years until June 30, 2015, and thereafter shall be
46 three years.

47 (f) Officers. – The Commission shall elect a chair and a vice-chair from among its
48 membership. In the absence of the chair, the vice-chair shall preside over the Commission's
49 meetings. All members are voting members, and a majority of the Commission constitutes a
50 quorum. The Commission shall adopt rules to govern its proceedings.

1 (g) Meetings. – Meetings of the Commission shall be held upon the call of the chair or
2 the vice-chair with the approval of the chair.

3 (h) Expenses. – Members of the Commission shall be reimbursed for travel and
4 subsistence expenses at the rates allowed to State officers and employees by G.S. 138-6(a).

5 (i) Removal. – Any member of the Commission, other than the Superintendent of
6 Public Instruction, may be removed by a vote of at least two-thirds of members at any duly held
7 meeting, for any cause that renders the member incapable or unfit to discharge the duties of the
8 office. Whenever a vacancy on the Commission exists, the original appointing authority shall
9 appoint or elect a member for the remaining portion of the term.

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

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

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

16 (2) To adopt policies regarding all aspects of charter school operation, including
17 time lines, standards, and criteria for acceptance and approval of
18 applications, monitoring of charter schools, and grounds for revocation of
19 charters.

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

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

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

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

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

31 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
32 **for approval.**

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

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

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

43 (1a) The targeted student population and the community the school hopes to
44 serve, as well as evidence of need and community support for the proposed
45 charter school.

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

49 (2a) A description of the school's instructional design, including the type of
50 learning environment, such as classroom-based or independent study, class
51 size and structure, curriculum overview, and teaching methods.

- 1 (2b) The school's plans for identifying and successfully serving students with
2 disabilities, students who are English language learners, academically at-risk
3 students, and academically gifted students, including, but not limited to,
4 compliance with applicable laws and regulations.
- 5 (3) The governance structure of the school-school,including proposed governing
6 bylaws and the names and biographical information of the proposed initial
7 members of the board of directors of the nonprofit, tax-exempt corporation
8 corporation. and the process to be followed by the school to ensure parental
9 involvement. A local board of education seeking to convert a school to a
10 charter school shall not be required to form a nonprofit, tax-exempt
11 corporation if the local board of education serves as the board of directors of
12 the charter school.
- 13 (3a) The local school administrative unit in which the school will be located.
- 14 (4) Admission policies and procedures.
- 15 (5) A proposed budget for the school for at least the first five years of operation
16 and evidence that the financial plan for the school is economically sound.
- 17 (6) Requirements and procedures for program and financial audits.
- 18 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 19 (8) Types and amounts of insurance coverage, including bonding insurance for
20 the principal officers of the school, to be obtained by the charter school.
- 21 (9) The term of the charter.
- 22 (10) The qualifications required for individuals employed by the school.
- 23 (11) The procedures by which students can be excluded from the charter school
24 and returned to a public school. Notwithstanding any law to the contrary,
25 any local board may refuse to admit any student who is suspended or
26 expelled from a charter school due to actions that would lead to suspension
27 or expulsion from a public school under G.S. 115C-391 until the period of
28 suspension or expulsion has expired.
- 29 (12) ~~The number of students to be served, which number shall be at least 65, The~~
30 number of students to be served, including the grades to be served each year
31 for the full term of the charter, and the minimum, planned, and maximum
32 enrollment per grade per year for the term of the charter, and the minimum
33 number of teachers to be employed at the school, which number shall be at
34 least three. However, the charter school may serve fewer than 65 students or
35 employ fewer than three teachers if the application contains a compelling
36 reason, such as the school would serve a geographically remote and small
37 student population.
- 38 (12a) The minimum number of teachers to be employed at the school.
- 39 (12b) An organization chart that clearly presents the school's organizational
40 structure, including lines of authority and reporting between the governing
41 board, staff, any related bodies, such as advisory bodies or parent and
42 teacher councils, and any external organizations that will play a role in
43 managing the school.
- 44 (13) Information regarding the facilities to be used by the school and the manner
45 in which administrative services of the school are to be provided.
- 46 (14) Repealed by Session Laws 1997-430, s. 1.
- 47 (15) The process to be followed by the school to ensure parental involvement.
- 48 (16) The school's plans, if any, for providing transportation or food services.
- 49 (17) Explanations of any partnerships or contractual relationships central to the
50 school's operations or mission.

1 (18) A detailed school start-up plan, identifying tasks, time lines, and responsible
2 individuals.

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

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

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

11 (3) The State Board of Education.

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

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

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

37 **§ 115C-238.29C. Preliminary approval of Completeness determination for applications**
38 **for charter schools.**

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

43 ~~(b) The chartering entity~~Commission
44 ~~shall give preliminary approval to the application~~
45 ~~issue a determination that the application is complete if the chartering entity~~Commission
46 ~~determines that (i) the information contained in the application meets the requirements set out in~~
47 ~~this Part or adopted by the State Board of Education,~~Commission.
48 ~~(ii) the applicant has the ability to operate the school and would be likely to operate the school in an educationally and~~
49 ~~economically sound manner, and (iii) granting the application would improve student learning~~
50 ~~and would achieve one of the other purposes set out in G.S. 115C 238.29A. In reviewing~~
51 ~~applications for the establishment of charter schools within a local school administrative unit,~~
52 ~~the chartering entity is encouraged to give preference to applications that demonstrate the~~
53 ~~capability to provide comprehensive learning experiences to students identified by the~~

1 applicants as at risk of academic failure. If the chartering entity approves more than one
2 application for charter schools located in a local school administrative unit, the chartering entity
3 may state its order of preference among the applications that it approves.

4 (e) If a chartering entity other than the State Board disapproves an application, the
5 applicant may appeal to the State Board of Education prior to February 15. The State Board
6 shall consider the appeal at the same time it is considering final approval in accordance with
7 G.S. 115C-238.29D. The State Board shall give preliminary approval of the application if it
8 finds that the chartering entity acted in an arbitrary or capricious manner in disapproving the
9 application, failed to consider appropriately the application, or failed to act within the time set
10 out in G.S. 115C-238.29C.

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

14 **"§ 115C-238.29D. Final approval of applications for charter schools.**

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

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

26 (b) ~~The State Board shall authorize no more than five charter schools per year in one~~
27 ~~local school administrative unit. The State Board shall authorize no more than 100 charter~~
28 ~~schools statewide. If more than five charter schools in one local school administrative unit or~~
29 ~~more than 100 schools statewide meet the standards for final approval, the State Board shall~~
30 ~~give priority to applications that are most likely to further State education policies and to~~
31 ~~strengthen the educational program offered in the local school administrative units in which~~
32 ~~they are located.~~

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

38 (b2) A decision to disapprove an application is exempt from review pursuant to Chapter
39 150B of the General Statutes.

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

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

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

3 ~~It shall not be considered a material revision of a charter application and shall not require~~
4 ~~the prior approval of the State Board for a charter school to increase its enrollment during the~~
5 ~~charter school's second year of operation and annually thereafter (i) by up to ten percent (10%)~~
6 ~~of the school's previous year's enrollment or (ii) in accordance with planned growth as~~
7 ~~authorized in the charter. Other enrollment growth shall be considered a material revision of the~~
8 ~~charter application, and the State Board may approve such additional enrollment growth of~~
9 ~~greater than ten percent (10%) only if the State Board finds that:~~

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

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

28 **"§ 115C-238.29E. Charter school operation.**

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

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

42 (c) A charter school shall operate under the written charter signed by the Commission
43 ~~entity to which it is accountable under subsection (a) of this section~~ and the applicant. A charter
44 school is not required to enter into any other contract. The charter shall incorporate the
45 information provided in the application, as modified during the charter approval process, and
46 any terms and conditions imposed on the charter school by the ~~State Board of~~
47 EducationCommission. No other terms may be imposed on the charter school as a condition for
48 receipt of local funds.

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

1 (e) A charter school's specific location shall not be prescribed or limited by a local
2 board or other authority except a zoning authority. The school may lease space from a local
3 board of education or as is otherwise lawful in the local school administrative unit in which the
4 charter school is located. If a charter school leases space from a sectarian organization, the
5 charter school classes and students shall be physically separated from any parochial students,
6 and there shall be no religious artifacts, symbols, iconography, or materials on display in the
7 charter school's entrance, classrooms, or hallways. Furthermore, if a charter school leases space
8 from a sectarian organization, the charter school shall not use the name of that organization in
9 the name of the charter school.

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

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

20 "**§ 115C-238.29F. General requirements.**

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

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

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

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

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

47 (c) Civil Liability and Insurance. –

48 (1) The board of directors of a charter school may sue and be sued. The ~~State~~
49 ~~Board of Education-Commission~~ shall adopt rules to establish reasonable
50 amounts and types of liability insurance that the board of directors shall be
51 required by the charter to obtain. The board of directors shall obtain at least

1 the amount of and types of insurance required by these rules to be included
2 in the charter. Any sovereign immunity of the charter school, of the
3 organization that operates the charter school, or its members, officers, or
4 directors, or of the employees of the charter school or the organization that
5 operates the charter school, is waived to the extent of indemnification by
6 insurance.

7 (2) No civil liability shall attach to any chartering entity, to the State Board of
8 Education, the Commission, or to any of their members or employees,
9 individually or collectively, for any acts or omissions of the charter school.

10 (d) Instructional Program. –

11 (1) The school shall provide instruction each year for at least 180 days.

12 (2) The school shall design its programs to at least meet the student performance
13 standards adopted by the State Board of Education and the student
14 performance standards contained in the charter.

15 (3) A charter school shall conduct the student assessments required for charter
16 schools by the ~~State Board of Education~~ Commission.

17 (4) The school shall comply with policies adopted by the State Board of
18 Education for charter schools relating to the education of children with
19 disabilities.

20 (5) The school is subject to and shall comply with Article 27 of Chapter 115C of
21 the General Statutes, except that a charter school may also exclude a student
22 from the charter school and return that student to another school in the local
23 school administrative unit in accordance with the terms of its charter.

24 (e) Employees. –

25 (1) An employee of a charter school is not an employee of the local school
26 administrative unit in which the charter school is ~~located~~ located, except for
27 employees of charter schools converted by a local board of education where
28 a nonprofit, tax-exempt corporation was not required to be formed because
29 the local board of education serves as the board of directors of the charter
30 school. The charter school's board of directors shall employ and contract
31 with necessary teachers to perform the particular service for which they are
32 employed in the school; at least seventy-five percent (75%) of these teachers
33 in grades kindergarten through five, at least fifty percent (50%) of these
34 teachers in grades six through eight, and at least fifty percent (50%) of these
35 teachers in grades nine through 12 shall hold teacher certificates. All
36 teachers in grades six through 12 who are teaching in the core subject areas
37 of mathematics, science, social studies, and language arts shall be college
38 graduates.

39 The board also may employ necessary employees who are not required to
40 hold teacher certificates to perform duties other than teaching and may
41 contract for other services. The board may discharge teachers and
42 noncertificated employees.

43 (2) No local board of education shall require any employee of the local school
44 administrative unit to be employed in a charter school.

45 (3) If a teacher employed by a local school administrative unit makes a written
46 request for a leave of absence to teach at a charter school, the local school
47 administrative unit shall grant the leave for one year. For the initial year of a
48 charter school's operation, the local school administrative unit may require
49 that the request for a leave of absence be made up to 45 days before the
50 teacher would otherwise have to report for duty. After the initial year of a
51 charter school's operation, the local school administrative unit may require

1 that the request for a leave of absence be made up to 90 days before the
2 teacher would otherwise have to report for duty. A local board of education
3 is not required to grant a request for a leave of absence or a request to extend
4 or renew a leave of absence for a teacher who previously has received a
5 leave of absence from that school board under this subdivision. A teacher
6 who has career status under G.S. 115C-325 prior to receiving a leave of
7 absence to teach at a charter school may return to a public school in the local
8 school administrative unit with career status at the end of the leave of
9 absence or upon the end of employment at the charter school if an
10 appropriate position is available. If an appropriate position is unavailable,
11 the teacher's name shall be placed on a list of available teachers and that
12 teacher shall have priority on all positions for which that teacher is qualified
13 in accordance with G.S. 115C-325(e)(2).

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

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

40 (f) Accountability. –

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

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

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

(g) Admission Requirements. –

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

1 (6) During each period of enrollment, the charter school shall enroll an eligible
2 student who submits a timely application, unless the number of applications
3 exceeds the capacity of a program, class, grade level, or building. In this
4 case, students shall be accepted by lot. Once enrolled, students are not
5 required to reapply in subsequent enrollment periods.

6 (7) Notwithstanding any law to the contrary, a charter school may refuse
7 admission to any student who has been expelled or suspended from a public
8 school under G.S. 115C-391 until the period of suspension or expulsion has
9 expired.

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

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

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

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

38 (1) Sign driving eligibility certificates that meet the conditions established in
39 G.S. 20-11.

40 (2) Obtain the necessary written, irrevocable consent from parents, guardians, or
41 emancipated juveniles, as appropriate, in order to disclose information to the
42 Division of Motor Vehicles.

43 (3) Notify the Division of Motor Vehicles when a student who holds a driving
44 eligibility certificate no longer meets its conditions.

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

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

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

- (1) Failure to meet the requirements for student performance contained in the charter;
- (2) Failure to meet generally accepted standards of fiscal management;
- (3) Violations of law;
- (4) Material violation of any of the conditions, standards, or procedures set forth in the charter;
- (5) Two-thirds of the faculty and instructional support personnel at the school request that the charter be terminated or not renewed; or
- (6) Other good cause identified.

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

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

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

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

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

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

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

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

4 In the event a child with disabilities leaves the charter school and enrolls in a public school
5 during the first 60 school days in the school year, the charter school shall return a pro rata
6 amount of funds allocated for that child to the State Board, and the State Board shall reallocate
7 those funds to the local school administrative unit in which the public school is located. In the
8 event a child with disabilities enrolls in a charter school during the first 60 school days in the
9 school year, the State Board shall allocate to the charter school the pro rata amount of
10 additional funds for children with disabilities.

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

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

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

41 (1) The acquisition of real property for school purposes, including, but not
42 limited to, school sites, playgrounds, and athletic fields.

43 (2) The acquisition, construction, reconstruction, enlargement, renovation, or
44 replacement of buildings and other structures, including, but not limited to,
45 buildings for classrooms and laboratories, physical and vocational
46 educational purposes, libraries, auditoriums, and gymnasiums.

47 (3) The acquisition or replacement of furniture and furnishings, instructional
48 apparatus, and similar items of furnishings and equipment.

49 ~~"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter~~
50 ~~School Advisory Committee.~~

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

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

6 ~~(c) The State Board of Education shall review and evaluate the educational~~
7 ~~effectiveness of the charter school approach authorized under this Part and the effect of charter~~
8 ~~schools on the public schools in the local school administrative unit in which the charter~~
9 ~~schools are located. The Board shall report no later than January 1, 2002, to the Joint~~
10 ~~Legislative Education Oversight Committee with recommendations to modify, expand, or~~
11 ~~terminate that approach. The Board shall base its recommendations predominantly on the~~
12 ~~following information:~~

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

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

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

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

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

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

33 **"§ 115C-238.29J. Public and private assistance to charter schools.**

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

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

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

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

44 **"§ 115C-238.29K. Criminal history checks.**

45 (a) As used in this section:

46 (1) "Criminal history" means a county, state, or federal criminal history of
47 conviction of a crime, whether a misdemeanor or a felony, that indicates an
48 individual (i) poses a threat to the physical safety of students or personnel, or
49 (ii) has demonstrated that he or she does not have the integrity or honesty to
50 fulfill his or her duties as school personnel. These crimes include the
51 following North Carolina crimes contained in any of the following Articles

1 of Chapter 14 of the General Statutes: Article 5A, Endangering Executive
2 and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred
3 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
4 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
5 or Material; Article 14, Burglary and Other Housebreakings; Article 15,
6 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article
7 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A,
8 Obtaining Property or Services by False or Fraudulent Use of Credit Device
9 or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses
10 Against Public Morality and Decency; Article 26A, Adult Establishments;
11 Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,
12 Misconduct in Public Office; Article 35, Offenses Against the Public Peace;
13 Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and
14 Article 60, Computer-Related Crime. These crimes also include possession
15 or sale of drugs in violation of the North Carolina Controlled Substances
16 Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related
17 offenses such as sale to underage persons in violation of G.S. 18B-302 or
18 driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
19 In addition to the North Carolina crimes listed in this subdivision, such
20 crimes also include similar crimes under federal law or under the laws of
21 other states.

22 (2) "School personnel" means any:

- 23 a. Member of the board of directors of a charter school,
- 24 b. Employee of a charter school, or
- 25 c. Independent contractor or employee of an independent contractor of
26 a charter school if the independent contractor carries out duties
27 customarily performed by school personnel,
28 whether paid with federal, State, local, or other funds, who has significant
29 access to students or who has responsibility for the fiscal management of a
30 charter school.

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

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

42 (c) ~~The Board of Education~~Commission shall require the person to be checked by the
43 Department of Justice to (i) be fingerprinted and to provide any additional information required
44 by the Department of Justice to a person designated by the ~~State Board, Commission,~~
45 local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign
46 a form consenting to the check of the criminal record and to the use of fingerprints and other
47 identifying information required by the repositories. ~~The State Board Commission~~ shall
48 consider refusal to consent when deciding whether to grant final approval of an application
49 under G.S. 115C-238.29D and when making an employment recommendation. The fingerprints
50 of the individual shall be forwarded to the State Bureau of Investigation for a search of the
51 State criminal history record file, and the State Bureau of Investigation shall forward a set of

1 fingerprints to the Federal Bureau of Investigation for a national criminal history record check.
2 The Department of Justice shall provide to the ~~State Board of Education~~Commission the
3 criminal history from the State and National Repositories of Criminal Histories of any school
4 personnel for which the ~~Board~~Commission requires a criminal history check.

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

8 (d) The ~~State Board~~Commission shall review the criminal history it receives on an
9 individual. The ~~State Board~~Commission shall determine whether the results of the review
10 indicate that the individual (i) poses a threat to the physical safety of students or personnel, or
11 (ii) has demonstrated that he or she does not have the integrity or honesty to fulfill his or her
12 duties as school personnel and shall use the information when deciding whether to grant final
13 approval of an application for a charter school under G.S. 115C-238.29D and for making an
14 employment recommendation to the board of directors of a charter school. The ~~State~~
15 ~~Board~~Commission shall make written findings with regard to how it used the information when
16 deciding whether to grant final approval under G.S. 115C-238.29D and when making an
17 employment recommendation.

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

32 (f) All the information received by the ~~State Board of Education~~Commission or the
33 charter school in accordance with subsection (e) of this section through the checking of the
34 criminal history is privileged information and is not a public record but is for the exclusive use
35 of the ~~State Board of Education~~Commission or the board of directors of the charter school. The
36 ~~State Board of Education~~Commission or the board of directors of the charter school may
37 destroy the information after it is used for the purposes authorized by this section after one
38 calendar year.

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

48 **SECTION 3.** G.S. 114-19.2 reads as rewritten:

49 **"§ 114-19.2. Criminal record checks of school personnel.**

50 (a) The Department of Justice may provide a criminal record check to the local board of
51 education of a person who is employed in a public school in that local school district or of a

1 person who has applied for employment in a public school in that local school district, if the
2 employee or applicant consents to the record check. The Department may also provide a
3 criminal record check of school personnel as defined in G.S. 115C-332 by fingerprint card to
4 the local board of education from National Repositories of Criminal Histories, in accordance
5 with G.S. 115C-332. The information shall be kept confidential by the local board of education
6 as provided in Article 21A of Chapter 115C of the General Statutes.

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

15 (b) The Department of Justice may provide a criminal record check to the employer of a
16 person who is employed in a nonpublic school or of a person who has applied for employment
17 in a nonpublic school, if the employee or applicant consents to the record check. For purposes
18 of this subsection, the term nonpublic school is one that is subject to the provisions of Article
19 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in
20 that Article.

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

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

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

31 **SECTION 4.** G.S. 115C-105.37B(a)(2) reads as rewritten:

32 "(a) Notwithstanding any other provision of this Article, the State Board of Education is
33 authorized to approve a local board of education's request to reform any school in its
34 administrative unit which the State Board of Education has identified as one of the continually
35 low-performing schools in North Carolina.

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

39 ...

40 (2) Restart model, in which the State Board of Education would authorize the
41 local board of education to operate the school with the same exemptions
42 from statutes and rules as a charter school authorized under Part 6A of
43 Article 16 of this Chapter, or under the management of an educational
44 management organization that has been selected through a rigorous review
45 process. A school operated under this subdivision remains under the control
46 of the local board of education, and employees assigned to the school are
47 employees of the local school administrative unit with the protections
48 provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to~~
49 ~~increase the maximum number of charter schools provided in~~
50 ~~G.S. 115C-238.29D(b). No school authorized under this subsection shall~~

1 count against the limit provided for charter schools in
2 G.S. 115C-238.29D(b)."

3 **SECTION 5.** G.S. 115C-426 reads as rewritten:

4 "**§ 115C-426. Uniform budget format.**

5 ...

6 (c) The uniform budget format shall require the following funds:

- 7 (1) The State Public School Fund.
- 8 (2) The local current expense fund.
- 9 (3) The capital outlay fund.

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

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

21 **SECTION 6.** G.S. 115C-546.2 reads as rewritten:

22 "**§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General**
23 **Fund; matching requirements.**

24 ...

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

- 27 (1) A sum equal to sixty-five percent (65%) of those monies transferred in
28 accordance with G.S. 18C-164 shall be allocated on a per average daily
29 membership basis according to the average daily membership for the budget
30 year as determined and certified by the State Board of Education.
- 31 (2) A sum equal to thirty-five percent (35%) of those monies transferred in
32 accordance with G.S. 18C-164 shall be allocated to those local school
33 administrative units located in whole or part in counties in which the
34 effective county tax rate as a percentage of the State average effective tax
35 rate is greater than one hundred percent (100%), with the following
36 definitions applying to this subdivision:
 - 37 a. "Effective county tax rate" means the actual county rate for the
38 previous fiscal year, including any countywide supplemental taxes
39 levied for the benefit of public schools, multiplied by a three-year
40 weighted average of the most recent annual sales assessment ratio
41 studies.
 - 42 b. "State average effective tax rate" means the average effective county
43 tax rates for all counties.
 - 44 c. "Sales assessment ratio studies" means sales assessment ratio studies
45 performed by the Department of Revenue under G.S. 105-289(h).
- 46 (3) No county shall have to provide matching funds required under subsection
47 (c) of this section.
- 48 (4) A county may use monies in this Fund to pay for school construction
49 projects in local school administrative units and to retire indebtedness
50 incurred for school construction projects incurred on or after January 1,
51 2003.

- 1 (5) A county may not use monies in this Fund to pay for school technology
2 needs.
- 3 (6) Counties receiving funds under this subsection may allocate a portion of
4 funds received each budget year under this subsection to charter schools on a
5 per average daily membership basis according to each such school's share of
6 the average daily membership of the unit. Charter schools may use the
7 monies to pay for school construction projects or to retire indebtedness
8 incurred for school construction projects incurred on or after July 1, 2011,
9 and shall not be subject to the matching fund requirement set forth in
10 subsection (c) of this section."

11 **SECTION 7.(a)** G.S. 135-5.3 reads as rewritten:

12 "**§ 135-5.3. Optional participation for charter schools operated by private nonprofit**
13 **corporations.**

14 ...

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

23"

24 **SECTION 7.(b)** G.S. 135-45.5 reads as rewritten:

25 "**§ 135-45.5. Optional participation for charter schools operated by private nonprofit**
26 **corporations.**

27 ...

28 (b) No later than 30 days after both parties have signed the written charter under
29 G.S. 115C-238.29E, the board of directors of a charter school operated by a private nonprofit
30 corporation shall elect whether to become a participating employer in the Plan in accordance
31 with this Article. This election shall be in writing and filed with the Executive Administrator,
32 the Board of Trustees, and the State Board of Education. This election is effective for each
33 charter school employee as of the date of that employee's entry into eligible service. This
34 subsection applies to charter schools that receive approval from the State Board of Education or
35 North Carolina Public Charter Schools Commission approval under G.S. 115C-238.29D after
36 1998.

37"

38 **SECTION 8.** G.S. 150B-1(e) is amended by adding a new subdivision to read:

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

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

44 "**§ 153A-457. Charter schools.**

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

48 **SECTION 9.(b)** G.S. 153A-149(c) reads as rewritten:

49 "(c) Each county may levy property taxes for one or more of the purposes listed in this
50 subsection up to a combined rate of one dollar and fifty cents (\$1.50) on the one hundred

1 dollars (\$100.00) appraised value of property subject to taxation. Authorized purposes subject
2 to the rate limitation are:

3 ...

4 (8a) Charter Schools. – To provide capital funding for charter schools as
5 authorized by G.S. 153A-457.

6"

7 **SECTION 10.** Each local board of education shall amend its budget resolution for
8 the 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act.
9 In the event that a local board of education fails to amend its budget resolution for the
10 2010-2011 fiscal year to comply with G.S. 115C-426, as amended by Section 6 of this act, and
11 therefore fails to include in the local current expense fund all those moneys required under
12 G.S. 115C-426(e), such amendments shall be deemed to have been made for purposes of
13 compliance with G.S. 115C-238.29H(b).

14 **SECTION 11.** If in any fiscal year a local board of education approves a budget
15 resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include
16 in the local current expense fund all those moneys required under G.S. 115C-426(e), that
17 budget resolution shall be deemed to have been amended to include all such moneys in the
18 local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

19 **SECTION 12.** Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31
20 are repealed.

21 **SECTION 13.** The State Board of Education shall repeal all adopted policies
22 inconsistent with this act.

23 **SECTION 14.** Beginning in 2012, the North Carolina Public Charter Schools
24 Commission shall prepare an annual report to the Joint Legislative Education Oversight
25 Committee of the General Assembly no later than October 15 of each year. The report shall
26 include, at a minimum, the following information:

- 27 (1) The Commission's strategic vision and plan for charter schools and progress
28 toward achieving the vision and carrying out the plan.
- 29 (2) The academic and financial performance of all operating charter schools
30 overseen by the Commission, according to the performance expectations for
31 charter schools set forth in this act.
- 32 (3) The status of the Commission's charter school portfolio, identifying all
33 charter schools in each of the following categories: approved to open, in
34 operation, renewed, transferred, revoked, not renewed, voluntarily closed, or
35 never opened.
- 36 (4) Composite annual data disaggregated by charter school on the gender, race
37 and ethnicity and disability status of students enrolled in charter schools;
38 testing data disaggregated by the purpose of the charter school, and by
39 gender, race and ethnicity, and disability; the number of students long-term
40 suspended and expelled; the number of students receiving a free and reduced
41 meal plan through a federal subsidy program; the number of students
42 receiving a free and reduced meal plan through means other than a federal
43 subsidy program; and the number of students receiving special education
44 services.

45 **SECTION 15.** Appointments required in Section 2 of this act shall be made no
46 later than October 1, 2011. Sections 5, 10, 11, and 12 of this act are effective when they
47 become law. The remainder of this act becomes effective July 1, 2011.