

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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HOUSE BILL 247

Short Title: Enhance Charter School Accountability. (Public)

Sponsors: Representatives Glazier, Cotham, Rapp, and Lucas (Primary Sponsors).
For a complete list of Sponsors, see Bill Information on the NCGA Web Site.

Referred to: Education, if favorable, Finance, if favorable, Appropriations.

March 9, 2011

A BILL TO BE ENTITLED

AN ACT TO ELIMINATE THE CAP ON CHARTER SCHOOLS, TO ESTABLISH THE NORTH CAROLINA CHARTER SCHOOL COMMISSION, TO PROVIDE FOR ENHANCED ACCOUNTABILITY FOR CHARTER SCHOOL ACADEMIC PERFORMANCE, AND TO MAKE OTHER CHANGES TO THE CHARTER SCHOOL STATUTES.

The General Assembly of North Carolina enacts:

SECTION 1. G.S. 115C-238.29A reads as rewritten:

"**§ 115C-238.29A. Purpose.**

(a) The purpose of this Part is to ~~authorize~~ establish a North Carolina Charter School Commission to oversee and make recommendations to the State Board regarding a system of charter schools ~~to provide~~ that provides 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 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) Prepare students for career or college.

(b) In carrying out these purposes, it is the intent of the General Assembly that charter schools may through their creation and operation accomplish all of the following:

- ~~(3)~~(1) Encourage the use of different and innovative teaching ~~methods;~~ methods.
- ~~(4)~~(2) Create new professional opportunities for teachers and administrators, including the opportunities to be responsible for the learning program at the school ~~site;~~ site.
- ~~(5)~~(3) Provide parents and students with expanded choices in the types of educational opportunities that are available within the public school ~~system;~~ system.

~~(6)~~(c) ~~Hold the~~ All schools established under this Part shall be accountable for meeting measurable student achievement ~~results, and provide the schools with a method to change from rule-based to performance-based accountability systems.~~ results."

SECTION 2.(a) Part 6A of Article 16 of Chapter 115C of the General Statutes is amended by adding two new sections to read:

"**§ 115C-238.29A1. North Carolina Charter School Commission established.**



1 (a) Creation. – There is established the North Carolina Charter School Commission.
2 The Commission shall exercise its powers and functions independently of the State Board of
3 Education and the Department of Public Instruction, except as provided in this subsection.

4 (b) Membership. – The Charter School Commission shall consist of the following 13
5 members:

6 (1) Four members appointed by the Governor.

7 (2) Four members appointed by the General Assembly on the recommendation
8 of the President Pro Tempore of the Senate, as provided in G.S. 120-121.

9 (3) Four members appointed by the General Assembly on the recommendation
10 of the Speaker of the House of Representatives, as provided in G.S. 120-121.

11 (4) One member appointed by the State Superintendent of Public Instruction.

12 (c) Qualifications of Members. – Of the appointments made pursuant to subdivisions
13 (b)(1), (b)(2), and (b)(3) of this section, one appointment shall be a representative of the charter
14 school community, either a board member or an employee; one appointment shall be a
15 representative of the traditional public schools, either an employee or local board of education
16 member; and one appointment shall represent other constituent communities such as parents,
17 institutions of higher education, or other individuals who have demonstrated a commitment to
18 public education in North Carolina.

19 (d) Terms of Office. – Terms of membership on the Commission shall be for four years,
20 provided that for each of the initial appointments made pursuant to subdivision (b)(1) of this
21 section, one shall be for an initial term of two years and one shall be for an initial term of three
22 years. Provided further that for each appointment made pursuant to subdivision (b)(2) of this
23 section, one shall be for an initial term of two years and one shall be for an initial term of three
24 years; and provided further that for each appointment made pursuant to subdivision (b)(3) of
25 this section, one shall be for an initial term of two years and one shall be for an initial term of
26 three years. After the initial term, all subsequent appointments shall be for four-year terms. An
27 appointee may serve more than one term.

28 (e) Expiration of Terms. – Terms shall expire on June 30 of the applicable year.

29 (f) Chairperson. – The Superintendent of Public Instruction shall designate a
30 chairperson from the membership of the Commission. This designation shall be approved by a
31 majority of members of the Commission.

32 (g) Vacancies. – In the event a vacancy occurs for any reason, the vacancy shall be
33 filled by appointment by the entity that made the appointment, except that vacancies in
34 appointments by the General Assembly shall be filled under G.S. 120-122. The new appointee
35 shall serve for the remainder of the unexpired term.

36 (h) Diversity of Membership. – Each of the appointing entities shall seek to achieve a
37 balanced membership reflecting, to the maximum extent possible, the diversity of the State as a
38 whole, geographically as well as educationally. The Commission members shall be chosen
39 from among individuals who have demonstrated a commitment to public education.

40 **"§ 115C-238.29A2. Powers and duties of the Commission.**

41 (a) The Commission shall have the following powers and duties:

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

45 (2) To recommend policies for adoption by the State Board of Education
46 regarding all aspects of charter school operation, including time lines,
47 standards, and criteria for acceptance and approval of applications,
48 monitoring of charter schools, and grounds for revocation of charters.

49 (3) To oversee the process for accepting and approving applications for charters
50 and to make recommendations to the State Board of Education for final
51 approval of charter applications.

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

4 (5) To recommend to the State Board of Education any actions regarding a
5 charter school, including renewals of charter, nonrenewals of charter, and
6 revocation of charters.

7 (6) To undertake any of the duties and responsibilities consistent with the above
8 duties and incident thereto, or as directed by the State Board of Education.

9 (b) The Commission shall submit its recommendations under subsection (a) of this
10 section to the State Board. The State Board shall adopt or reject the recommendations. The
11 State Board shall not make any substantive changes to any initial recommendation of the
12 Commission that it adopts. If the State Board rejects the recommendation, it shall state with
13 specificity its reasons for rejection; the Commission then may amend that recommendation and
14 resubmit it to the State Board. After consideration of the Commission's amended
15 recommendations, the State Board shall have final authority to adopt, amend, or reject the
16 recommendations.

17 (c) The Commission is subject to the provisions of Chapter 132 ("Public Records") and
18 Article 33C of Chapter 143 ("Meetings of Public Bodies") of the General Statutes."

19 **SECTION 2.(b)** G.S. 120-123 reads as rewritten:

20 **"§ 120-123. Service by members of the General Assembly on certain boards and**
21 **commissions.**

22 No member of the General Assembly may serve on any of the following boards or
23 commissions:

24 ...

25 (80) The North Carolina Charter School Commission."

26 **SECTION 3.** G.S. 115C-238.29B reads as rewritten:

27 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
28 **for approval.**

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

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

36 (1) A description of a program that implements one or more of the purposes in
37 G.S. 115C-238.29A.

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

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

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

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

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

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

5 Regardless of which chartering entity receives the application for preliminary approval, the
6 ~~State Board of Education shall have final approval of the charter school.~~ the Commission,
7 which shall review and evaluate the application and shall decide whether to give preliminary
8 approval to the application in accordance with G.S. 115C-238.29C. The State Board of
9 Education shall have final approval of the charter school application in accordance with
10 G.S. 115C-238.29D.

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

19 (d) Unless an applicant submits its application under subsection (c) of this section to the
20 local board of education of the local school administrative unit in which the charter school will
21 be located, ~~the~~ The applicant shall submit a copy of its application to that local board
22 of education of the local school administrative unit in which the charter school will be located
23 within seven days of its submission under subsection (c) of this section. The local board may
24 offer any information or comment concerning the application it considers appropriate to the
25 ~~chartering entity.~~ Commission. The local board shall deliver this information to the ~~chartering~~
26 ~~entity~~ Commission ~~no later than January 1 of the next calendar year, within 90 days of receipt of~~
27 the charter school application. The applicant shall not be required to obtain or deliver this
28 information to the ~~chartering entity~~ Commission on behalf of the local board. ~~The State Board~~
29 making its recommendation to the State Board regarding approval of the charter application,
30 the Commission shall consider any information or comment it receives from a local board and
31 shall consider the impact on the local school administrative unit's ability to provide a sound
32 basic education to its students when determining whether to grant preliminary and final
33 approval of the charter school."

34 **SECTION 4.** G.S. 115C-238.29C reads as rewritten:

35 "**§ 115C-238.29C. Preliminary approval of Completeness determination for applications**
36 **for charter schools.**

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

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

1 application for charter schools located in a local school administrative unit, the chartering entity
2 may state its order of preference among the applications that it approves.

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

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

13 **SECTION 5.** G.S. 115C-238.29D reads as rewritten:

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

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

19 ~~The State Board shall act by March 15 of a calendar year on all applications and appeals it~~
20 ~~receives prior to February 15 of that calendar year.~~ establish a time line to take final action on
21 applications declared complete under G.S. 115C-238.29C and shall make this information
22 available to applicants. The State Board's decision shall be based on the evidence contained in
23 the application or collected by the Commission following a procedure for application review
24 that is uniform across all applicants and provides opportunities for applicants to respond to
25 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) The State Board shall approve no application for a virtual charter school. For
34 purposes of this subsection, "virtual charter school" means a school with no physical facilities
35 in this State that provides instruction to students only via the Internet or other electronic means.

36 (b2) If the State Board disapproves an application, it shall provide the applicant with the
37 opportunity to request reconsideration of the State Board's decision. However, the State Board
38 is not required to consider any request for reconsideration from an applicant that fails to include
39 additional information not previously presented by the applicant to the State Board.

40 (b3) A decision to disapprove an application is exempt from review pursuant to Chapter
41 150B of the General Statutes.

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

46 (d) The State Board of Education may grant the initial charter for a period not to exceed
47 10 years and may renew the charter upon the request of the chartering entity for subsequent
48 periods not to exceed 10 years each. The State Board may include in the charter any standards
49 or requirements it determines are necessary to fulfill the purposes of this Part as well as any
50 other objectives set forth by the charter school applicant. The State Board of Education shall

1 review the operations of each charter school at least once every five years to ensure that the
2 school is meeting the expected academic, financial, and governance standards.

3 A material revision of the provisions of a charter application shall be made only upon the
4 approval of the State Board of Education.

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

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

26 (e) Projected charter school enrollment shall be determined annually as a part of the
27 development of the Continuation Budget process. A charter school shall be allowed to increase
28 enrollment and grades as requested or authorized in its charter unless the Commission, subject
29 to approval by the State Board, finds any of the following conditions exist:

- 30 (1) The charter school is identified as not meeting clearly established academic
31 standards.
- 32 (2) The charter school has not met established standards for fiscal management.
- 33 (3) The charter school lacks the capacity or capability to manage the growth.
- 34 (4) The charter school has not met other standards established and publicized by
35 the Commission and State Board."

36 **SECTION 6.** G.S. 115C-238.29E reads as rewritten:

37 **"§ 115C-238.29E. Charter school operation.**

38 (a) A charter school that is approved by the State shall be a public school within the
39 local school administrative unit in which it is located. ~~It shall be accountable to the local board~~
40 ~~of education if it applied for and received preliminary approval from that local board for~~
41 ~~purposes of ensuring compliance with applicable laws and the provisions of its charter. All~~
42 ~~other charter schools located and~~ shall be accountable to the State Board for ensuring
43 compliance with applicable laws and the provisions of ~~their~~ its charters, ~~except that any of these~~
44 ~~charter schools may agree to be accountable to the local board of the school administrative unit~~
45 ~~in which the charter school is located rather than to the State Board.~~ charter.

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

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

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

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

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

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

28 **SECTION 7. G.S. 115C-238.29F reads as rewritten:**

29 **"§ 115C-238.29F. General requirements.**

30 ...

31 (e) Employees. –

32 (1) An employee of a charter school is not an employee of the local school
33 administrative unit in which the charter school is located. The charter
34 school's board of directors shall employ and contract with necessary teachers
35 to perform the particular service for which they are employed in the school;
36 at least seventy-five percent (75%) of these teachers in grades kindergarten
37 through five, at least fifty percent (50%) of these teachers in grades six
38 through eight, and at least fifty percent (50%) of these teachers in grades
39 nine through 12 shall hold teacher certificates. All teachers in grades six
40 through 12 who are teaching in the core subject areas of mathematics,
41 science, social studies, and language arts shall be college graduates. If a
42 charter school is deemed low-performing under criteria developed by the
43 State Board under this Chapter, then the Commission, subject to the
44 approval of the State Board, may provide for more stringent teacher
45 certification requirements. No charter school shall employ as a teacher any
46 person whose certification has been revoked by the State Board.

47 The charter school's board of directors shall employ and contract with at
48 least one individual whose major function includes the direct or indirect
49 supervision of teaching or of any other part of the instructional program at
50 the school. This individual must hold or be qualified to hold a certificate in

1 compliance with G.S. 115C-284 and the regulations of the State Board of
2 Education.

3 The board also may employ necessary employees who are not required
4 to hold teacher certificates to perform duties other than teaching and may
5 contract for other services. The board may discharge teachers and
6 noncertificated employees.

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

9 (3) If a teacher employed by a local school administrative unit makes a written
10 request for a leave of absence to teach at a charter school, the local school
11 administrative unit shall grant the leave for one year. For the initial year of a
12 charter school's operation, the local school administrative unit may require
13 that the request for a leave of absence be made up to 45 days before the
14 teacher would otherwise have to report for duty. After the initial year of a
15 charter school's operation, the local school administrative unit may require
16 that the request for a leave of absence be made up to 90 days before the
17 teacher would otherwise have to report for duty. A local board of education
18 is not required to grant a request for a leave of absence or a request to extend
19 or renew a leave of absence for a teacher who previously has received a
20 leave of absence from that school board under this subdivision. A teacher
21 who has career status under G.S. 115C-325 prior to receiving a leave of
22 absence to teach at a charter school may return to a public school in the local
23 school administrative unit with career status at the end of the leave of
24 absence or upon the end of employment at the charter school if an
25 appropriate position is available. If an appropriate position is unavailable,
26 the teacher's name shall be placed on a list of available teachers and that
27 teacher shall have priority on all positions for which that teacher is qualified
28 in accordance with G.S. 115C-325(e)(2).

29 (3a) A teacher employed by a charter school who returns to employment with a
30 local school administrative unit without a break in service shall have unused
31 sick leave and annual leave from previous employment with a local school
32 administrative unit reinstated. A teacher employed by a charter school who
33 returns to employment with a local school administrative unit without a
34 break in service shall be credited for the years of service at the charter school
35 for the purposes of the salary schedule, longevity pay, and rate of earned
36 leave.

37 (4) The employees of the charter school shall be deemed employees of the local
38 school administrative unit for purposes of providing certain State-funded
39 employee benefits, including membership in the Teachers' and State
40 Employees' Retirement System and the State Health Plan for Teachers and
41 State Employees. The State Board of Education provides funds to charter
42 schools, approves the original members of the boards of directors of the
43 charter schools, has the authority to grant, supervise, and revoke charters,
44 and demands full accountability from charter schools for school finances and
45 student performance. Accordingly, it is the determination of the General
46 Assembly that charter schools are public schools and that the employees of
47 charter schools are public school employees. Employees of a charter school
48 ~~whose board of directors elects to become a participating employer under~~
49 ~~G.S. 135-5.3~~ are "teachers" for the purpose of membership in the North
50 Carolina Teachers' and State Employees' Retirement System. In no event
51 shall anything contained in this Part require the North Carolina Teachers'

1 and State Employees' Retirement System to accept employees of a private
2 employer as members or participants of the System.

3 (f) Accountability. –

4 (1) The school is subject to the financial audits, the audit procedures, and the
5 audit requirements adopted by the State Board of Education for charter
6 schools. These audit requirements may include the requirements of the
7 School Budget and Fiscal Control Act.

8 (2) The school shall comply with the reporting requirements established by the
9 State Board of Education in the Uniform Education Reporting System.

10 (3) The school shall report at least annually to the chartering entity and the State
11 Board of Education the information required by the chartering entity or the
12 State Board.

13 (g) Admission Requirements. –

14 (1) Any child who is qualified under the laws of this State for admission to a
15 public school is qualified for admission to a charter school. Any charter
16 school that is unable to fill its current enrollment with students qualified
17 under the laws of this State for admission to a public school may enroll
18 persons of school age who are not domiciliaries of the State and charge those
19 students a tuition amount equal to the per pupil allocation of the local
20 appropriation for the county in which the charter school is located and the
21 per pupil State appropriation for that school year. The number of persons of
22 school age who are not domiciliaries of the State who are enrolled in a
23 charter school may not exceed ten percent (10%) of the total number of
24 students enrolled in the charter school.

25 (2) No local board of education shall require any student enrolled in the local
26 school administrative unit to attend a charter school.

27 (3) Admission to a charter school shall not be determined according to the
28 school attendance area in which a student resides, except that any local
29 school administrative unit in which a public school converts to a charter
30 school shall give admission preference to students who reside within the
31 former attendance area of that school.

32 (4) Admission to a charter school shall not be determined according to the local
33 school administrative unit in which a student resides.

34 (5) A charter school shall not discriminate against any student on the basis of
35 ethnicity, national origin, gender, or disability. Except as otherwise provided
36 by ~~law or the mission of the school as set out in the charter law~~, the school
37 shall not limit admission to students on the basis of ~~intellectual ability,~~
38 ~~measures of achievement or aptitude,~~ athletic ability, disability, race, creed,
39 gender, national origin, religion, or ancestry. Except as otherwise provided
40 by the mission of the school as set out in the charter, the school shall not
41 limit admission to students on the basis of intellectual ability or measures of

42 achievement or aptitude. The charter school may give enrollment priority to
43 siblings of currently enrolled students who were admitted to the charter
44 school in a previous year and to children of the school's principal, teachers,
45 and teacher assistants. In addition, and only for its first year of operation, the
46 charter school may give enrollment priority to children of the initial
47 members of the charter school's board of directors, so long as (i) these
48 children are limited to no more than ten percent (10%) of the school's total
49 enrollment or to 20 students, whichever is less, and (ii) the charter school is
50 not a former public or private school. If multiple birth siblings apply for
51 admission to a charter school and a lottery is needed under

1 G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the
2 lottery to represent all of the multiple birth siblings. If that surname of the
3 multiple birth siblings is selected, then all of the multiple birth siblings shall
4 be admitted. Within one year after the charter school begins operation, the
5 population of the school shall reasonably reflect the racial and ethnic
6 composition of the general population residing within the local school
7 administrative unit in which the school is ~~located or the racial and ethnic~~
8 ~~composition of the special population that the school seeks to serve residing~~
9 ~~within the local school administrative unit in which the school is~~
10 ~~located.~~ located. The school shall be subject to any court-ordered
11 desegregation plan in effect for the local school administrative unit.

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

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

21 (h) Transportation. – The State Board shall withhold from funds provided to the charter
22 school under G.S. 115C-238.29H any categorical allotment for transportation unless the charter
23 school may provideprovides transportation for students enrolled at the school. school with
24 family income below one hundred eighty-five percent (185%) of the poverty level as defined
25 by the federal government. The school shall develop a transportation plan so that transportation
26 is not a barrier to any student described in the preceding sentence who resides in the local
27 school administrative unit in which the school is located. ~~The charter school is not required to~~
28 ~~provide transportation to any student who lives within one and one half miles of the school.~~ At
29 the request of the charter school and if the local board of the local school administrative unit in
30 which the charter school is located operates a school bus system, then that local board may
31 contract with the charter school to provide transportation in accordance with the charter
32 school's transportation plan to students who reside in the local school administrative unit and
33 who reside at least one and one-half miles of the charter school. A local board may charge the
34 charter school a reasonable charge that is sufficient to cover the cost of providing this
35 transportation. Furthermore, a local board may refuse to provide transportation under this
36 subsection if it demonstrates there is no available space on buses it intends to operate during the
37 term of the contract or it would not be practically feasible to provide this transportation."

38 (h1) Nutrition. – The charter school shall provide free and reduced priced meals to
39 students with family income below one hundred eighty-five percent (185%) of the poverty
40 level unless waived by the State Board upon a showing of extraordinary financial hardship by
41 the charter school.

42"

43 **SECTION 8.(a)** G.S. 135-5.3 is repealed. Elections under that statute made prior to
44 the effective date of this act shall continue to be valid.

45 **SECTION 8.(b)** G.S. 135-45.5 is repealed. Elections under that statute made prior
46 to the effective date of this act shall continue to be valid.

47 **SECTION 9.** G.S. 115C-238.29G reads as rewritten:

48 "**§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

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

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

10 (5a) Failure to make a good faith effort to achieve academic diversity, geographic
11 distribution, or community needs or to remove economic barriers to
12 attending the school.
13 (6) Other good cause identified.

14 (a1) The State Board of Education, or a chartering entity subject to the approval of the
15 State Board of Education, shall terminate or not renew a charter for lack of academic
16 performance if the charter school fails to meet or exceed expected growth (as defined by the
17 Board under the provisions of Article 8B of this Chapter) and has a performance composite
18 below sixty percent (60%) for two years in any three-year period.
19 (a2) The State Board of Education, or a chartering entity subject to the approval of the
20 State Board of Education, may terminate or not renew a charter for lack of academic
21 performance if the charter school fails to meet or exceed expected growth (as defined by the
22 Board under the provisions of Article 8B of this Chapter) and has a performance composite
23 below seventy percent (70%) for two years in any three-year period. If the Board decides not to
24 revoke a charter under this subsection, it shall prepare and maintain in a manner accessible to
25 the public (including by posting to the Board's Internet Web site) a report setting forth the
26 reasons for the Board's decision not to revoke the charter despite the school's below-median
27 performance and below-expected growth.

28 (a3) For any school that meets the criteria for charter termination or nonrenewal under
29 subsection (a1) or (a2) of this section, the State Board may issue a request for proposal to
30 replace the school's current board and administration if the school meets both of the following
31 criteria:

- 32 (1) The school is operating at its maximum authorized enrollment.
33 (2) All schools located in the local school administrative unit where the charter
34 school is located and serving the same grades as the charter school fail to
35 meet or exceed expected growth and have a performance composite below
36 seventy-five percent (75%) for any two years in the prior three years.

37 (a4) In calculating expected growth or performance composite for any charter school, the
38 Board shall include in the charter school's composite the test scores of any student who
39 transfers from a charter school to a traditional public school in the 45 student days prior to the
40 administration of the end-of-grade or end-of-course tests in the local school administrative unit.
41"

42 **SECTION 10.** G.S. 115C-238.29H reads as rewritten:

43 **"§ 115C-238.29H. State and local funds for a charter school.**

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

- 45 (1) An amount equal to the average per pupil allocation for average daily
46 membership from the local school administrative unit allotments in which
47 the charter school is located for each child attending the charter school
48 except for the allocation for children with disabilities and for the allocation
49 for children with limited English proficiency;
50 (2) An additional amount for each child attending the charter school who is a
51 child with disabilities; and

- 1 (3) An additional amount for children with limited English proficiency attending
2 the charter school, based on a formula adopted by the State Board.

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

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

13 In the event a child leaves a charter school, for any reason, and enrolls in a public school
14 during the same school year, the charter school shall return a pro rata amount of funds allocated
15 for that child to the State Board, and the State Board shall reallocate those funds to the local
16 school administrative unit in which the public school is located.

17"

18 **SECTION 11.** Beginning in 2012, the North Carolina Public Charter Schools
19 Commission shall prepare an annual report to the Joint Legislative Education Oversight
20 Committee of the General Assembly no later than October 15 of each year. The report shall
21 include, at a minimum, the following information:

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

40 **SECTION 12.** Appointments required in Section 2 of this act shall be made no
41 later than October 1, 2011. The rest of this act becomes effective July 1, 2011, and, with respect
42 to the academic performance standards set forth in G.S. 115C-238.29G as amended by section
43 9 of this act, applies to school academic growth and performance composite data based on
44 testing from the 2009-2010 school year and any subsequent school year.