

GENERAL ASSEMBLY OF NORTH CAROLINA
SESSION 2011

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SENATE BILL 8
Education/Higher Education Committee Substitute Adopted 2/16/11
Third Edition Engrossed 2/22/11
Fourth Edition Engrossed 2/24/11
House Committee Substitute Favorable 3/16/11
House Committee Substitute #2 Favorable 4/7/11

Short Title: No Cap on Number of Charter Schools.

(Public)

Sponsors:

Referred to:

January 31, 2011

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

13 The General Assembly of North Carolina enacts:

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

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

18 "Part 6A. Charter Schools.

19 **§ 115C-238.29A. Purpose.**

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

- 24 (1) Improve student ~~learning;~~ learning.
25 (2) Increase learning opportunities for all students, with special emphasis on
26 expanded learning experiences for students who are identified as at risk of
27 academic failure or academically ~~gifted;~~ gifted.
28 (3) Encourage the use of different and innovative teaching ~~methods;~~ methods.
29 (4) Create new professional opportunities for ~~teachers,~~ teachers and
30 administrators, including the opportunities to be responsible for the learning
31 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 and shall exercise its powers and functions as provided in
13 this section.

14 (b) Purpose. – The purpose of the Commission is to oversee high-quality public charter
15 schools throughout the State, consistent with the purposes of this Part, and to recommend
16 approval of charter applicants to the State Board of Education.

17 (c) Membership. – The Commission shall consist of the following 13 members:

18 (1) Four members appointed by the Governor.

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

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

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

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

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

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

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

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

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

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

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

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

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

12 (l) 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 recommend policies to the State Board regarding all aspects of charter
17 school operation, including time lines, standards, and criteria for acceptance
18 and approval of applications, monitoring of charter schools, and grounds for
19 revocation of charters.

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

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

26 (5) To make recommendations to the State Board regarding any actions
27 involving a charter school, including renewals of charters, nonrenewals of
28 charters, and revocation of charters.

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

31 (m) The Commission shall submit recommendations as designated proposals to the State
32 Board. The State Board shall adopt or reject a designated proposal within 95 days. If the State
33 Board takes no action on a designated proposal within 95 days, the proposal shall be deemed
34 adopted. The State Board shall not make any substantive changes to any designated proposal of
35 the Commission that the State Board adopts. If the State Board rejects a designated proposal, it
36 shall state with specificity its reasons for rejection; the Commission then may amend that
37 designated proposal and resubmit it to the State Board. The State Board shall not act in an
38 arbitrary and capricious manner in withholding approval of a designated proposal resubmitted
39 by the Commission. The State Board's rejection of a resubmitted designated proposal is subject
40 to judicial review.

41 **"§ 115C-238.29B. Eligible applicants; contents of applications; submission of applications**
42 **for approval.**

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

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

- 1 (1) A description of a program that aligns with State standards and implements
2 one or more of the purposes in G.S. 115C-238.29A.
- 3 (1a) The targeted student population and the community the school intends to
4 serve, as well as evidence of need and community support for the proposed
5 charter school.
- 6 (2) A description of student achievement goals for the school's educational
7 program and the method of demonstrating that students have attained the
8 skills and knowledge specified for those student achievement goals.
- 9 (2a) A description of the school's instructional design, including the type of
10 learning environment, such as classroom-based or independent study, class
11 size and structure, curriculum overview, and teaching methods.
- 12 (2b) The school's plans for identifying and successfully serving students with
13 disabilities, students who are English language learners, academically at-risk
14 students, and academically gifted students, including, but not limited to,
15 compliance with applicable laws and regulations.
- 16 (3) The governance structure of the ~~school—school,~~ including proposed
17 governing bylaws and the names and biographical information of the
18 proposed initial members of the board of directors of the nonprofit,
19 tax-exempt ~~corporation—corporation,~~ and the process to be followed by the
20 school to ensure parental involvement. A local board of education seeking to
21 convert a school to a charter school shall not be required to form a nonprofit,
22 tax-exempt corporation if the local board of education serves as the board of
23 directors of the charter school.
- 24 (3a) The local school administrative unit in which the school will be located.
- 25 (4) Admission policies and procedures.
- 26 (5) A proposed budget for the school for at least the first five years of operation
27 and evidence that the financial plan for the school is economically sound.
- 28 (6) Requirements and procedures for program and financial audits.
- 29 (7) A description of how the school will comply with G.S. 115C-238.29F.
- 30 (8) Types and amounts of insurance coverage, including bonding insurance for
31 the principal officers of the school, to be obtained by the charter school.
- 32 (9) The term of the charter.
- 33 (10) The qualifications required for individuals employed by the school.
- 34 (11) The procedures by which students can be excluded from the charter school
35 and returned to a public school. Notwithstanding any law to the contrary,
36 any local board may refuse to admit any student who is suspended or
37 expelled from a charter school due to actions that would lead to suspension
38 or expulsion from a public school under G.S. 115C-391 until the period of
39 suspension or expulsion has expired.
- 40 (12) ~~The number of students to be served, which number shall be at least 65,~~ The
41 number of students to be served, including the grades to be served each year
42 for the full term of the charter, and the minimum, planned, and maximum
43 enrollment per grade per year for the term of the charter. The number of
44 students to be served shall be at least 50, however, the charter school may
45 serve fewer than 50 students if the application contains a compelling reason,
46 such as the school would serve a geographically remote and small student
47 population, and the minimum number of teachers to be employed at the
48 school, which number shall be at least three. However, the charter school
49 may serve fewer than 65 students or employ fewer than three teachers if the
50 application contains a compelling reason, such as the school would serve a
51 geographically remote and small student population.

- 1 (12a) The minimum number of teachers to be employed at the school.
2 (12b) An organization chart that clearly presents the school's organizational
3 structure, including lines of authority and reporting between the governing
4 board, staff, any related bodies, such as advisory bodies or parent and
5 teacher councils, and any external organizations that will play a role in
6 managing the school.
7 (13) Information regarding the facilities to be used by the school and the manner
8 in which administrative services of the school are to be provided.
9 (14) Repealed by Session Laws 1997-430, s. 1.
10 (15) The process to be followed by the school to ensure parental involvement.
11 (16) The school's plans for providing transportation. The school shall develop a
12 plan for transportation for any student enrolled in the charter school who
13 resides within three miles of the charter school in a household with an
14 income below one hundred eighty-five percent (185%) of the poverty level
15 as defined by the federal government.
16 (17) The school's plans for providing food services. The school shall develop a
17 plan for food services for any student enrolled in the charter school who
18 resides in a household with an income below one hundred eighty-five
19 percent (185%) of the poverty level as defined by the federal government.
20 (18) Explanations of any partnerships or contractual relationships central to the
21 school's operations or mission.
22 (19) A detailed school start-up plan, identifying tasks, time lines, and responsible
23 individuals.
24 (20) For an applicant seeking a charter to operate a virtual charter school,
25 information showing that the school has a physical facility in the State, that
26 the chief administrator of the school is located in the State, and that the
27 teachers serving the virtual charter school are responsible for improving
28 learning by planned instruction, diagnosing learning needs, prescribing
29 content delivery through instructional activities, assessing learning, reporting
30 outcomes to administrators and parents and guardians, and evaluating the
31 effects of instruction.

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

- 36 (1) ~~The local board of education of the local school administrative unit in which~~
37 ~~the charter school will be located;~~
38 (2) ~~The board of trustees of a constituent institution of The University of North~~
39 ~~Carolina, so long as the constituent institution is involved in the planning,~~
40 ~~operation, or evaluation of the charter school; or~~
41 (3) ~~The State Board of Education.~~

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

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

1 (d) ~~Unless an applicant submits its application under subsection (c) of this section to the~~
2 ~~local board of education of the local school administrative unit in which the charter school will~~
3 ~~be located, the~~ applicant shall submit a copy of its application to ~~that local board~~ the local
4 board of education of the local school administrative unit in which the charter school will be
5 located within seven days of its submission under subsection (c) of this section. The local board
6 may offer any information or comment concerning the application it considers appropriate to
7 ~~the chartering entity~~ Commission within a time period imposed uniformly for all applications.
8 ~~The local board shall deliver this information to the chartering entity no later than January 1 of~~
9 ~~the next calendar year.~~ The applicant shall not be required to obtain or deliver this information
10 to the ~~chartering entity~~ Commission on behalf of the local board. The ~~State Board~~ Commission
11 shall consider any information or comment it receives from a local board and shall consider the
12 impact on the local school administrative unit's ability to provide a sound basic education to its
13 students when determining whether to recommend ~~grant preliminary and final approval of the~~
14 ~~charter school.~~

15 **"§ 115C-238.29C. Preliminary approval of Completeness determination for applications**
16 **for charter schools.**

17 (a) ~~The chartering entity that receives a request for preliminary approval of a charter~~
18 ~~school shall act on each request received prior to November 1 of a calendar year by February 1~~
19 ~~of the next calendar year.~~ Commission, subject to the approval of the State Board, shall
20 determine the schedule and deadlines for the submission of charter school applications.

21 (b) ~~The chartering entity~~ Commission shall ~~give preliminary approval to the application~~
22 issue a determination that the application is complete if the ~~chartering entity~~ Commission
23 determines that ~~(i) the information contained in the application meets the requirements set out in~~
24 ~~this Part or adopted by the State Board of Education,~~ Education. ~~(ii) the applicant has the ability~~
25 ~~to operate the school and would be likely to operate the school in an educationally and~~
26 ~~economically sound manner, and (iii) granting the application would improve student learning~~
27 ~~and would achieve one of the other purposes set out in G.S. 115C 238.29A. In reviewing~~
28 ~~applications for the establishment of charter schools within a local school administrative unit,~~
29 ~~the chartering entity is encouraged to give preference to applications that demonstrate the~~
30 ~~capability to provide comprehensive learning experiences to students identified by the~~
31 ~~applicants as at risk of academic failure. If the chartering entity approves more than one~~
32 ~~application for charter schools located in a local school administrative unit, the chartering entity~~
33 ~~may state its order of preference among the applications that it approves.~~

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

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

44 **"§ 115C-238.29D. Final approval of applications for charter schools.**

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

49 The Commission ~~State Board~~ shall ~~act by March 15 of a calendar year on all applications~~
50 ~~and appeals it receives prior to February 15 of that calendar year.~~ establish a time line approved
51 by the State Board to take final action on applications declared complete under

1 G.S. 115C-238.29C and shall make this information available to applicants. The decision shall
2 be based on the evidence contained in the application or collected following a procedure for
3 application review that is uniform across all applicants and provides opportunities for
4 applicants to respond to questions and requests for further information.

5 ~~(b) The State Board shall authorize no more than five charter schools per year in one~~
6 ~~local school administrative unit. The State Board shall authorize no more than 100-50~~
7 ~~additional charter schools statewide in each calendar year, not including renewals of existing~~
8 ~~charters. If more than five charter schools in one local school administrative unit or more than~~
9 ~~100 schools statewide meet the standards for final approval, the State Board shall give priority~~
10 ~~to applications that are most likely to further State education policies and to strengthen the~~
11 ~~educational program offered in the local school administrative units in which they are located.~~

12 (b1) If the State Board or Commission disapproves an application, it shall provide the
13 applicant with the opportunity to request reconsideration of the decision. However, neither the
14 State Board nor the Commission shall be required to consider any request for reconsideration
15 from an applicant that fails to include additional information not previously presented by the
16 applicant.

17 (b2) A decision to disapprove an application is exempt from review pursuant to Chapter
18 150B of the General Statutes.

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

23 (d) The State Board of Education may grant the initial charter for a period not to exceed
24 10 years and may renew the charter upon the request of the chartering entity for subsequent
25 periods not to exceed 10 years each. The State Board, upon recommendation of the
26 Commission, may include in the charter any standards or requirements it determines are
27 necessary to fulfill the purposes of this Part as well as any other objectives set forth by the
28 charter school applicant. The charter shall set forth clear, measurable, and attainable academic
29 and operational performance standards the chartering entity must meet to earn charter renewal
30 and the type of objective and verifiable data which will be reviewed to evaluate performance.
31 Those standards shall include:

- 32 (1) Measures of student academic achievement status or proficiency.
- 33 (2) Student academic growth, including adequacy of growth toward State
34 standards.
- 35 (3) Achievement gaps among student subgroups identified by the Department of
36 Public Instruction for all public schools.
- 37 (4) Postsecondary readiness and success for high schools.
- 38 (5) Attendance and recurrent enrollment from year to year.
- 39 (6) Financial performance and sustainability.
- 40 (7) Compliance with all applicable laws, regulations, and terms of the charter
41 contract.

42 ~~The State Board of Education-Commission shall review the operations of each charter~~
43 ~~school at least once every five years to ensure that the school is meeting the expected academic,~~
44 ~~financial, and governance standards.~~

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

47 It shall not be considered a material revision of a charter application and shall not require
48 the prior approval of the State Board for a charter school to increase its enrollment during the
49 charter school's second year of operation and annually thereafter (i) by up to ~~ten~~twenty percent
50 ~~(10%)-(20%)~~ of the school's previous year's enrollment or (ii) in accordance with planned
51 growth as authorized in the charter. Other enrollment growth shall be considered a material

1 revision of the charter application, and upon recommendation of the Commission, the State
2 Board may approve such additional enrollment growth of greater than ~~ten~~twenty percent (~~10%~~
3 20%) only if the ~~State Board~~Commission finds that:

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

17 **"§ 115C-238.29E. Charter school operation.**

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

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

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

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

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

49 At the request of the charter school, the local board of education of the local school
50 administrative unit in which the charter school will be located shall lease any available building
51 or land to the charter school unless the board demonstrates that the lease is not economically or

1 practically feasible or that the local board does not have adequate classroom space to meet its
2 enrollment needs. Notwithstanding any other law, a local board of education may provide a
3 school facility to a charter school free of charge; however, the charter school is responsible for
4 the maintenance of and insurance for the school facility.

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

8 **"§ 115C-238.29F. General requirements.**

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

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

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

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

31 (b) School Nonsectarian. – A charter school shall be nonsectarian in its programs,
32 admission policies, employment practices, and all other operations and shall not charge tuition
33 or ~~fees.~~ fees, except that a charter school may charge any fees that are charged by the local
34 school administrative unit in which the charter school is located. A charter school shall not be
35 affiliated with a nonpublic sectarian school or a religious institution.

36 (c) Civil Liability and Insurance. –

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

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

50 (d) Instructional Program. –

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

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

1 the teacher's name shall be placed on a list of available teachers and that
2 teacher shall have priority on all positions for which that teacher is qualified
3 in accordance with G.S. 115C-325(e)(2).

4 (3a) A teacher employed by a charter school who returns to employment with a
5 local school administrative unit without a break in service shall have unused
6 sick leave from previous employment with a local school administrative unit
7 reinstated. A teacher employed by a charter school who returns to
8 employment with a local school administrative unit without a break in
9 service shall be credited for the years of service at the charter school for the
10 purposes of the salary schedule, longevity pay, and rate of earned leave.

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

28 (f) Accountability. –

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

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

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

38 (g) Admission Requirements. –

39 (1) Any child who is qualified under the laws of this State for admission to a
40 public school is qualified for admission to a charter school. Any charter
41 school that is unable to fill its current enrollment with students qualified
42 under the laws of this State for admission to a public school may enroll
43 persons of school age who are not domiciliaries of the State and charge those
44 students a tuition amount equal to the per pupil allocation of the local
45 appropriation for the county in which the charter school is located and the
46 per pupil State appropriation for that school year. The number of persons of
47 school age who are not domiciliaries of the State who are enrolled in a
48 charter school may not exceed ten percent (10%) of the total number of
49 students enrolled in the charter school.

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

- 1 (3) Admission to a charter school shall not be determined according to the
2 school attendance area in which a student resides, except that any ~~local~~
3 ~~school administrative unit in which a public school converts to a charter~~
4 ~~school shall give admission preference to students who reside within the~~
5 ~~former attendance area of that school.~~ public school converting to a charter
6 school shall adopt a policy giving enrollment preference to students who
7 reside within the former attendance area of that public school for at least the
8 first two years of operation of the charter school.
- 9 (4) Admission to a charter school shall not be determined according to the local
10 school administrative unit in which a student resides.
- 11 (5) A charter school shall not discriminate against any student on the basis of
12 ethnicity, national origin, gender, or disability. Except as otherwise provided
13 by law or the mission of the school as set out in the charter, the school shall
14 not limit admission to students on the basis of intellectual ability, measures
15 of achievement or aptitude, athletic ability, disability, race, creed, gender,
16 national origin, religion, or ancestry. The charter school may give enrollment
17 priority to siblings of currently enrolled students who were admitted to the
18 charter school in a previous year and to children of the school's principal,
19 teachers, ~~and teacher assistants.~~ teacher assistants, and other full-time
20 employees of the charter school. In addition, and only for its first year of
21 operation, the charter school may give enrollment priority to children of the
22 initial members of the charter school's board of directors, so long as (i) these
23 children are limited to no more than ten percent (10%) of the school's total
24 enrollment or to 20 students, whichever is less, and (ii) the charter school is
25 not a former public or private school. If multiple birth siblings apply for
26 admission to a charter school and a lottery is needed under
27 G.S. 115C-238.29F(g)(6), the charter school shall enter one surname into the
28 lottery to represent all of the multiple birth siblings. If that surname of the
29 multiple birth siblings is selected, then all of the multiple birth siblings shall
30 be admitted. Within one year after the charter school begins operation, the
31 population of the school shall reasonably reflect the racial and ethnic
32 composition of the general population residing within the local school
33 administrative unit in which the school is located or the racial and ethnic
34 composition of the special population that the school seeks to serve residing
35 within the local school administrative unit in which the school is located.
36 The school shall be subject to any court-ordered desegregation plan in effect
37 for the local school administrative unit.
- 38 (6) During each period of enrollment, the charter school shall enroll an eligible
39 student who submits a timely application, unless the number of applications
40 exceeds the capacity of a program, class, grade level, or building. In this
41 case, students shall be accepted by lot. Once enrolled, students are not
42 required to reapply in subsequent enrollment periods.
- 43 (7) Notwithstanding any law to the contrary, a charter school may refuse
44 admission to any student who has been expelled or suspended from a public
45 school under G.S. 115C-391 until the period of suspension or expulsion has
46 expired.
- 47 (8) Nothing in this subsection shall be interpreted to preclude the formation of a
48 charter school whose mission is focused on serving students with
49 disabilities, students of the same gender, students who pose such severe
50 disciplinary problems that they warrant a specific educational program,
51 academically at-risk students, or academically gifted students.

1 (h) Transportation. – The charter school may provide transportation for students
2 enrolled at the school. ~~The For charter schools approved after July 1, 2011, the~~ charter school
3 shall ~~develop a transportation plan so that transportation is not a barrier to provide~~
4 transportation for any student enrolled in the charter school who resides in the local school
5 administrative unit in which the school is located within three miles of the charter school in a
6 household with an income below one hundred eighty-five percent (185%) of the poverty level
7 as defined by the federal government. ~~The charter school is not required to provide~~
8 ~~transportation to any student who lives within one and one half miles of the school.~~ At the
9 request of the charter school and if the local board of the local school administrative unit in
10 which the charter school is located operates a school bus system, then that local board may
11 contract with the charter school to provide transportation in accordance with the charter
12 school's transportation plan to students who reside in the local school administrative unit and
13 who reside at least one and one-half miles ~~of from~~ the charter school. A local board may charge
14 the charter school a reasonable charge that is sufficient to cover the cost of providing this
15 transportation. Furthermore, a local board may refuse to provide transportation under this
16 subsection if it demonstrates there is no available space on buses it intends to operate during the
17 term of the contract or it would not be practically feasible to provide this transportation.

18 (h1) Food Services. – For charter schools approved after July 1, 2011, the charter school
19 shall provide food services for any student enrolled in the charter school who resides in a
20 household with an income below one hundred eighty-five percent (185%) of the poverty level
21 as defined by the federal government.

22 (i) Assets. – Upon dissolution of the charter school or upon the nonrenewal of the
23 charter, all net assets of the charter ~~school~~ school, other than real property, purchased with
24 public funds shall be deemed the property of the local school administrative unit in which the
25 charter school is located. Upon dissolution of the charter school or upon the nonrenewal of the
26 charter, State funds used to purchase or improve real property shall be remitted back to the
27 State after all liens on the property are satisfied. Upon dissolution of the charter school or upon
28 the nonrenewal of the charter, a pro rata share of the county funds used to purchase or improve
29 real property shall be remitted back to the county from which the funds originated after all liens
30 on the property are satisfied.

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

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

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

47 **"§ 115C-238.29G. Causes for nonrenewal or termination; disputes.**

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

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

10 (a1) Upon recommendation of the Commission, the State Board shall adopt criteria for
11 adequate performance by a charter school and shall identify charter schools with inadequate
12 performance. The criteria shall include a requirement that a charter school which demonstrates
13 no growth in student performance and has annual performance composites below sixty percent
14 (60%) in any three-year period shall be deemed inadequate. A charter school identified as
15 inadequate shall develop a school improvement plan to meet specific goals for student
16 performance that are consistent with State Board criteria and the mission approved in the
17 charter of the school. The school improvement plan shall be reviewed and approved by the
18 State Board upon recommendation by the Commission. Failure to demonstrate improvement
19 under the school improvement plan shall be cause for termination or nonrenewal of the charter.

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

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

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

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

46 **"§ 115C-238.29H. State and local funds for a charter school.**

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

- 48 (1) An amount equal to the average per pupil allocation for average daily
49 membership from the local school administrative unit allotments in which
50 the charter school is located for each child attending the charter school

1 except for the allocation for children with disabilities and for the allocation
2 for children with limited English proficiency;

3 (2) An additional amount for each child attending the charter school who is a
4 child with disabilities; and

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

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

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

17 (a1) Funds allocated by the State Board of Education may be used to enter into
18 operational and financing leases for real property or mobile classroom units for use as school
19 facilities for charter schools and may be used for payments on loans made to charter schools for
20 facilities or equipment. Funds allocated by the State Board of Education may also be used to
21 acquire equipment, real property, buildings, and mobile classroom units for use as school
22 facilities for charter schools, to enter into operational and financing leases for equipment, and
23 for any other purpose identified in G.S. 115C-426(f). However, State funds shall not be used to
24 obtain any other interest in real property or mobile classroom units. No indebtedness of any
25 kind incurred or created by the charter school shall constitute an indebtedness of the State or its
26 political subdivisions, and no indebtedness of the charter school shall involve or be secured by
27 the faith, credit, or taxing power of the State or its political subdivisions. Every contract or
28 lease into which a charter school enters shall include the previous sentence. The school also
29 may own land and buildings it obtains through non-State sources.

30 (b) If a student attends a charter school, the local school administrative unit in which
31 the child resides shall transfer to the charter school an amount equal to the per pupil share of
32 the local current expense fund, as defined by G.S. 115C-426, of local current expense
33 appropriation to the local school administrative unit for the fiscal year. The amount transferred
34 under this subsection that consists of revenue derived from supplemental taxes shall be
35 transferred to a charter school only if the student resides in the tax district for which these taxes
36 are levied and the charter school is located in the same county as the supplemental tax district.
37 only to a charter school located in the tax district for which these taxes are levied and in which
38 the student resides. The amount transferred under this subsection shall not include special funds
39 of individual schools established pursuant to G.S. 115C-448. The local school administrative
40 unit shall provide a detailed accounting of the funds to be transferred and transfer these funds
41 based on a preliminary projection of charter school enrollment provided to the local school
42 administrative unit by the charter school no later than 15 days after the local school
43 administrative unit receives its local current expense appropriation. Adjustments to this amount
44 shall be made within 30 days of the State Board of Education determining and certifying to the
45 charter school its average daily membership for the school year. If the local school
46 administrative unit fails to comply with the deadlines set forth in this subsection, it shall pay a
47 penalty of one percent (1%) of the amount transferred to the charter school.

48 (c) Counties may provide funds to the nonprofit tax-exempt corporation that holds the
49 charter of a charter school by direct appropriation as set forth in G.S. 153A-457. These funds
50 shall be used only for purposes identified in G.S. 115C-426(f). If a county decides to provide
51 funds, the funds shall be distributed equitably and apportioned according to the average daily

1 membership of each charter school that has requested funds. These funds shall be used only for
2 purposes identified in G.S. 115C-426(f).

3 ~~"§ 115C-238.29I. Notice of the charter school process; review of charter schools; Charter~~
4 ~~School Advisory Committee.~~

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

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

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

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

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

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

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

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

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

37 **"§ 115C-238.29J. Public and private assistance to charter schools.**

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

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

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

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

48 **"§ 115C-238.29K. Criminal history checks.**

49 (a) As used in this section:

50 (1) "Criminal history" means a county, state, or federal criminal history of
51 conviction of a crime, whether a misdemeanor or a felony, that indicates an

1 individual (i) poses a threat to the physical safety of students or personnel, or
2 (ii) has demonstrated that he or she does not have the integrity or honesty to
3 fulfill his or her duties as school personnel. These crimes include the
4 following North Carolina crimes contained in any of the following Articles
5 of Chapter 14 of the General Statutes: Article 5A, Endangering Executive
6 and Legislative Officers; Article 6, Homicide; Article 7A, Rape and Kindred
7 Offenses; Article 8, Assaults; Article 10, Kidnapping and Abduction; Article
8 13, Malicious Injury or Damage by Use of Explosive or Incendiary Device
9 or Material; Article 14, Burglary and Other Housebreakings; Article 15,
10 Arson and Other Burnings; Article 16, Larceny; Article 17, Robbery; Article
11 18, Embezzlement; Article 19, False Pretense and Cheats; Article 19A,
12 Obtaining Property or Services by False or Fraudulent Use of Credit Device
13 or Other Means; Article 20, Frauds; Article 21, Forgery; Article 26, Offenses
14 Against Public Morality and Decency; Article 26A, Adult Establishments;
15 Article 27, Prostitution; Article 28, Perjury; Article 29, Bribery; Article 31,
16 Misconduct in Public Office; Article 35, Offenses Against the Public Peace;
17 Article 36A, Riots and Civil Disorders; Article 39, Protection of Minors; and
18 Article 60, Computer-Related Crime. These crimes also include possession
19 or sale of drugs in violation of the North Carolina Controlled Substances
20 Act, Article 5 of Chapter 90 of the General Statutes, and alcohol-related
21 offenses such as sale to underage persons in violation of G.S. 18B-302 or
22 driving while impaired in violation of G.S. 20-138.1 through G.S. 20-138.5.
23 In addition to the North Carolina crimes listed in this subdivision, such
24 crimes also include similar crimes under federal law or under the laws of
25 other states.

26 (2) "School personnel" means any:

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

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

43 ~~The State Board shall not require members~~ Members of boards of directors of charter
44 schools or employees of charter schools shall not be required to pay for the criminal history
45 check authorized under this section.

46 (c) ~~The Board of Education~~ Commission shall require the person to be checked by the
47 Department of Justice to (i) be fingerprinted and to provide any additional information required
48 by the Department of Justice to a person designated by the ~~State Board~~ Commission, or to the
49 local sheriff or the municipal police, whichever is more convenient for the person, and (ii) sign
50 a form consenting to the check of the criminal record and to the use of fingerprints and other
51 identifying information required by the repositories. ~~The State Board~~ Commission shall

1 consider refusal to consent when deciding whether to ~~grant~~ recommend final approval of an
2 application under G.S. 115C-238.29D and when making an employment recommendation. The
3 fingerprints of the individual shall be forwarded to the State Bureau of Investigation for a
4 search of the State criminal history record file, and the State Bureau of Investigation shall
5 forward a set of fingerprints to the Federal Bureau of Investigation for a national criminal
6 history record check. The Department of Justice shall provide to the ~~State Board of~~
7 Education Commission the criminal history from the State and National Repositories of
8 Criminal Histories of any school personnel for which the ~~Board Commission~~ requires a
9 criminal history check.

10 ~~The State Board shall not require members~~ Members of boards of directors of charter
11 schools or employees of charter schools shall not be required to pay for the fingerprints
12 authorized under this section.

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

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

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

44 (g) There shall be no liability for negligence on the part of the State Board of ~~Education~~
45 Education, the Commission, or the board of directors of the charter school, or their employees,
46 arising from any act taken or omission by any of them in carrying out the provisions of this
47 section. The immunity established by this subsection shall not extend to gross negligence,
48 wanton conduct, or intentional wrongdoing that would otherwise be actionable. The immunity
49 established by this subsection shall be deemed to have been waived to the extent of
50 indemnification by insurance, indemnification under Articles 31A and 31B of Chapter 143 of

1 the General Statutes, and to the extent sovereign immunity is waived under the Tort Claims
2 Act, as set forth in Article 31 of Chapter 143 of the General Statutes."

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

4 "**§ 114-19.2. Criminal record checks of school personnel.**

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

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

21 (b) The Department of Justice may provide a criminal record check to the employer of a
22 person who is employed in a nonpublic school or of a person who has applied for employment
23 in a nonpublic school, if the employee or applicant consents to the record check. For purposes
24 of this subsection, the term nonpublic school is one that is subject to the provisions of Article
25 39 of Chapter 115C of the General Statutes, but does not include a home school as defined in
26 that Article.

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

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

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

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

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

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

45 ...

46 (2) Restart model, in which the State Board of Education would authorize the
47 local board of education to operate the school with the same exemptions
48 from statutes and rules as a charter school authorized under Part 6A of
49 Article 16 of this Chapter, or under the management of an educational
50 management organization that has been selected through a rigorous review
51 process. A school operated under this subdivision remains under the control

1 of the local board of education, and employees assigned to the school are
2 employees of the local school administrative unit with the protections
3 provided by G.S. 115C-325. ~~This subdivision shall not be interpreted to~~
4 ~~increase the maximum number of charter schools provided in~~
5 ~~G.S. 115C-238.29D(b). No school authorized under this subsection shall~~
6 ~~count against the limit provided for charter schools in~~
7 ~~G.S. 115C-238.29D(b)."~~

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

9 **"§ 115C-426. Uniform budget format.**

10 ...

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

- 12 (1) The State Public School Fund.
- 13 (2) The local current expense fund.
- 14 (3) The capital outlay fund.

15 In addition, other funds may be used to account for reimbursements, including indirect costs,
16 fees for actual costs, tuition, ~~sales tax revenues distributed using the ad valorem method~~
17 ~~pursuant to G.S. 105-472(b)(2), sales tax refunds,~~ gifts and grants restricted as to use, trust
18 funds, federal appropriations made directly to local school administrative units, funds received
19 for prekindergarten programs, and special programs. In addition, the appropriation or use of
20 fund balance ~~or interest income~~ by a local school administrative unit shall not be construed as a
21 local current expense appropriation.

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

24 **SECTION 6.** G.S. 115C-448 reads as rewritten:

25 **"§ 115C-448. Special funds of individual schools.**

26 (a) The board of education shall appoint a treasurer for each school within the local
27 school administrative unit that handles special funds. The treasurer shall keep a complete
28 record of all moneys in his charge in such form and detail as may be prescribed by the finance
29 officer of the local school administrative unit, and shall make such reports to the superintendent
30 and finance officer of the local school administrative unit as they or the board of education may
31 prescribe. Special funds of individual schools shall be deposited in an official depository of the
32 local school administrative unit in special accounts to the credit of the individual school, and
33 shall be paid only on checks or drafts signed by the principal of the school and the treasurer.
34 The board of education may, in its discretion, waive the requirements of this section for any
35 school which handles less than three hundred dollars (\$300.00) in any school year.

36 (b) Nothing in this section shall prevent the board of education from requiring that all
37 funds of individual schools be deposited with and accounted for by the school finance officer.
38 If this is done, these moneys shall be disbursed and accounted for in the same manner as other
39 school funds except that the check or draft shall not bear the certificate of preaudit.

40 (c) For the purposes of this section, "special funds of individual schools" includes by
41 way of illustration and not limitation funds realized from gate receipts of interscholastic athletic
42 competition, sale of school annuals and newspapers, and dues of student organizations.

43 (d) Special funds of individual schools shall not be included as part of the local current
44 expense fund of a local school administrative unit for the purposes of determining the per pupil
45 share of the local current expense fund transferred to a charter school pursuant to
46 G.S. 115C-238.29H(b)."

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

48 **"§ 115C-546.2. Allocations from the Fund; uses; expenditures; reversion to General**
49 **Fund; matching requirements.**

50 ...

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

3 (1) A sum equal to sixty-five percent (65%) of those monies transferred in
4 accordance with G.S. 18C-164 shall be allocated on a per average daily
5 membership basis according to the average daily membership for the budget
6 year as determined and certified by the State Board of Education.

7 (2) A sum equal to thirty-five percent (35%) of those monies transferred in
8 accordance with G.S. 18C-164 shall be allocated to those local school
9 administrative units located in whole or part in counties in which the
10 effective county tax rate as a percentage of the State average effective tax
11 rate is greater than one hundred percent (100%), with the following
12 definitions applying to this subdivision:

13 a. "Effective county tax rate" means the actual county rate for the
14 previous fiscal year, including any countywide supplemental taxes
15 levied for the benefit of public schools, multiplied by a three-year
16 weighted average of the most recent annual sales assessment ratio
17 studies.

18 b. "State average effective tax rate" means the average effective county
19 tax rates for all counties.

20 c. "Sales assessment ratio studies" means sales assessment ratio studies
21 performed by the Department of Revenue under G.S. 105-289(h).

22 (3) No county shall have to provide matching funds required under subsection
23 (c) of this section.

24 (4) A county may use monies in this Fund to pay for school construction
25 projects in local school administrative units and to retire indebtedness
26 incurred for school construction projects incurred on or after January 1,
27 2003.

28 (5) A county may not use monies in this Fund to pay for school technology
29 needs.

30 (6) Counties receiving funds under this subsection may allocate a portion of
31 funds received each budget year under this subsection to charter schools on a
32 per average daily membership basis according to each such school's share of
33 the average daily membership of the unit. Charter schools may use the
34 monies to pay for school construction projects or to retire indebtedness
35 incurred for school construction projects incurred on or after January 1,
36 2010, and shall not be subject to the matching fund requirement set forth in
37 subsection (c) of this section."

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 of the General Statutes is amended by
43 adding a new section to read:

44 "**§ 153A-457. Charter schools.**

45 Each county is authorized to appropriate funds and lease real property to schools chartered
46 under Part 6A of Article 16 of Chapter 115C of the General Statutes. Counties may provide
47 funds 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.** If in any fiscal year a local board of education approves a budget
8 resolution that, as amended, fails to comply with G.S. 115C-426 and therefore fails to include
9 in the local current expense fund all those moneys required under G.S. 115C-426(e), that
10 budget resolution shall be deemed to have been amended to include all such moneys in the
11 local current expense fund for the purposes of compliance with G.S. 115C-238.29H(b).

12 **SECTION 11.** Section 3.2 of S.L. 2010-123 and Section 7.17(b) of S.L. 2010-31
13 are repealed.

14 **SECTION 12.** The State Board of Education shall repeal all adopted policies
15 inconsistent with this act.

16 **SECTION 13.** Beginning in 2012, the State Board of Education in conjunction
17 with the North Carolina Public Charter Schools Commission shall prepare an annual report to
18 the Joint Legislative Education Oversight Committee of the General Assembly no later than
19 October 15 of each year. The report shall include, at a minimum, the following information:

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

37 **SECTION 14.** Beginning in 2012, the Department of Public Instruction shall
38 prepare an annual report to the Joint Legislative Education Oversight Committee of the General
39 Assembly no later than October 15 of each year. This report shall also be distributed
40 electronically to each local board of education in the State. The report shall be based on a
41 review of charter school programs throughout North Carolina and shall identify operational,
42 educational, and administrative programs and policies implemented by charter schools that the
43 Department finds could improve the State's public schools, or some subset, based on
44 demographics, academic performance, or other criteria, of the State's public schools. The
45 North Carolina Public Charter Schools Commission shall provide the Department any
46 information needed by the Department to meet the reporting requirement set forth in this
47 section.

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